NORTHERN TERRITORY OF AUSTRALIA

MENTAL HEALTH REVIEW TRIBUNAL

30 September 2007

The Honorable Syd Stirling MLA
Attorney-General & Minister for Justice
Parliament House
DARWIN NT 0800

Dear Attorney,

MENTAL HEALTH REVIEW TRIBUNAL ANNUAL REPORT

In accordance with section 140 of the *Mental Health and Related Services Act*, I have pleasure in enclosing the annual report on the exercise of the Tribunal's powers and the performance of the Tribunal's functions for the period 1 July 2006 to 30 June 2007.

Yours sincerely

Vince Luppino
President,
Mental Health Review Tribunal

Encl

NORTHERN TERRITORY OF AUSTRALIA

MENTAL HEALTH REVIEW TRIBUNAL

ANNUAL REPORT FOR THE YEAR ENDED 30 JUNE 2007

In accordance with s140 of the Mental Health and Related Services Act 1988, the Tribunal submits its report on the exercise of its powers and the performance of its functions.

The Department of Justice (DoJ) administers the Tribunal budget. For a report of expenditure incurred by the Tribunal, refer to the DoJ annual report for the year ended 30 June 2007.

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MENTAL HEALTH REVIEW TRIBUNAL

ANNUAL REPORT

2007

SECTION A: INTRODUCTION

The Mental Health Review Tribunal ("the Tribunal") was established under Part 15 of the Mental Health and Related Services Act 1998 ("the Act").

Amending legislation was assented to on 17 May 2007. The amendments have not yet commenced operation.

Commencement of the amending legislation awaits development of appropriate protocols by the Department of Health and Community Services. Current expectations are that the amending legislation will commence by December 2007.

The administration of the Act is shared between the Department of Health and Community Services and the Department of Justice. The Department of Justice has responsibility for the administration of Part 15 of the Act which deals with the Tribunal. The Tribunal budget is administered by the Court Support Services section of the Department of Justice. Details of expenditure in relation to the Tribunal will be contained in the Annual Report of the Department of Justice for the year ending 30 June 2007.

The major function of the Tribunal is to review and make determinations relating to the admission and detention of persons as involuntary patients and determinations in relation to involuntary treatment of patients in the community. The statistics forming part of this Report indicate that determinations relating to the former constituted approximately 58% of the reviews that proceeded to hearing in 2007. Determinations relating to the latter constituted approximately 23% of cases that proceeded to hearing in 2007.

The remaining 19% of determinations consisted of the less contentious determinations required to be made by the Tribunal, such as reviewing discharge reports in respect of Community Management Orders, the issuing of arrest warrants for the assessment of patients, determinations in relation to non-standard treatment (such as electro convulsive therapy) and confirmation of voluntary admissions.

Detailed statistics form part of this Report at Section I.

SECTION B: KEY ISSUES

The review of the Act culminating in the passage of the amending legislation occurred over a period of approximately 5 years. The reforms made by the amending legislation are significant and far reaching. The Tribunal anticipates efficiencies in operation as a result of those amendments. Likewise, the Tribunal expects that many of the concerns referred to in previous Annual Reports dealing with the handling of matters by Mental Health Services ("MHS") will largely be alleviated by the amending legislation. Substantial improvements in patient care and service are also anticipated. Consequently the Tribunal considers that the operation of the Act should commence at the earliest possible time.

There has been a significant increase in the number of determinations made by the Tribunal in the current year. The total number of determinations made by the Tribunal was 380 in 2006. In 2007 however the total number was 476, an increase of 25%. The number of determinations in Alice Springs decreased in 2007 by approximately 14% and the increase in determinations by the Tribunal in Darwin for 2007 was therefore 32%. No obvious reason presents itself for the variation and it may simply be an aberration. This will require monitoring over the next year but for the present, no adverse impact on the Tribunal function is expected given an anticipated set off in the Tribunal's hearing load due to the effects of the amending legislation.

The largest increase was in determinations relating to Community Management Orders. These orders deal with involuntary treatment of patients in the community. The apparently limited use of such orders was an issue specifically referred to by the Tribunal in previous Annual Reports. The current increase is a positive indication of the increased use of Community Management Orders by MHS.

Further efficiencies in the management of Community Management Orders are anticipated with the commencement of the amending legislation. For example, the amending legislation allows for examinations of patients via video link or failing that, by telephone, where a face to face examination is impracticable. The difficulty with the requirement to conduct in person examinations was one of the major issues experienced by MHS, particularly in relation to patients living in remote communities. The issue will also be addressed by the removal of the obligation to conduct an examination every six weeks during the term of a Community Management Order. Similarly as the amendments permit certain functions to be carried out by other than an authorised psychiatric practitioner, the amount of resources required to be committed by the MHS to remote patients will be reduced. This augers well for the use of Community Management Orders as a preferred treatment option.

The problems of monitoring patients with itinerant lifestyles however will continue. Hence, although amendments to the Act will partly alleviate the problem, the only true complete solution is the provision of all necessary resources to MHS.

SECTION C: MATTERS ARISING FROM THE 2006 ANNUAL REPORT

In the previous year the Minister aligned sitting fees paid to medical members to those paid by the New South Wales Tribunal. All bar one of our medical members are based in New South Wales. That request was made only on behalf of medical members with the result that legal members and community members are now paid less in sitting fees than medical members. The possibility of a further separate request on behalf of legal members was referred to in last years Annual Report and such a request was made to the Minister in the current year. The Minister declined that request.

The view of the Tribunal is that a lack of parity in remuneration paid to members is not justified in a Tribunal which relies equally on the expertise of each class of member. This is particularly so in the case of legal and medical members, both of whom are professionally qualified. No one class of member should be seen as being of greater value than another. Remuneration differences cut across the tripartite nature of the Tribunal and are inappropriate. Moreover, as only approximately one quarter of non medical members actually receive a sitting fee, the cost to achieve equality ought not to be significant.

The Minister is respectfully requested to revisit the situation.

There was a reference in the Annual Report for 2006 to an improvement in relationships between medical staff and legal practitioners following earlier tensions. Regrettably, much of the gains made in this regard have been lost. Issues occurred between MHS staff and legal practitioners in Darwin as well as between MHS staff in Alice Springs and Tribunal members. The former was relatively minor, the latter was more significant.

Such a situation is not conducive to the efficient running of the Tribunal, nor is it in the interest of patients appearing before the Tribunal. In an attempt to address this situation the Tribunal arranged for training for MHS staff and for lawyers. In the former case, a training session was conducted both in Darwin and Alice Springs by Professor Jim Greenwood, one of the Tribunal's medical members. Likewise, training of lawyers occurred both in Darwin and Alice Springs. This was conducted by Ms Nihal Danis, a senior lawyer employed by the New South Wales Mental Health Advocacy Services. The response to these sessions was good and the Tribunal is confident that the training has gone a long way towards addressing these tensions and preventing recurrences.

The Tribunal wishes to acknowledge the cooperation and assistance of Ms Bronwyn Hendry, Director of Mental Health, for both recognising the need for training of medical staff and lawyers and for assisting in financing that training.

Last years Report also expressed concern at the lack of suitable facilities for forensic patients while they are incarcerated at Berrimah Prison. Meetings held between the President and Ms Hendry reveals that there are plans for the establishment of separate facilities to accommodate forensic patients. Planning appears to be at a very early stage. This suggests that the establishment of such facility is a number of years away. The President of the Tribunal has inspected the facilities at Berrimah Prison, primarily from the point of view of the facilities available for forensic patients. Noting the present substandard nature of the facilities, the Tribunal urges the Government to accelerate plans for the completion of the facility.

Last years Report also identified the desperate need for long term accommodation in the community for patients requiring full time supervision, all of whom live permanently at the Darwin and Alice Springs facilities for lack of alternative accommodation. Although the

Report last year requested urgent attention to that matter, that situation has not been addressed.

Lastly, last years Report again alluded to the failure of the Government to put the necessary arrangements in place to facilitate interstate transfer of patients. The amending legislation makes some minor changes to the relevant provisions in the Act but sadly, for reasons which are not apparent, the making of the arrangements which are required before the provisions can be implemented have again been overlooked. This continues to be an impediment to the appropriate treatment of patients in a number of cases. The Tribunal again draws to the attention of the Minister to this situation.

SECTION D: TRIBUNAL FUNCTIONS

The functions of the Tribunal are largely contained within Part 15 of the Act, but with incidental provisions in other parts of the Act. Those functions are:-

1. To conduct periodic reviews of:-

   1.1 the admission and treatment of voluntary patients;
   1.2 the admission and treatment of involuntary patients;
   1.3 patients subject to involuntary treatment in the community.

2. To determine applications to administer:-

   2.1 non-standard treatment;
   2.2 non-psychiatric treatment;
   2.3 major medical procedures.

3. To hear reviews on request in relation to admission and treatment.

4. To review decisions regarding the withholding of certain information from patients.

5. To determine whether a person has capacity to give informed consent.

6. To determine applications for warrants to apprehend persons for assessment purposes.

7. To review reports submitted to the Tribunal and to give any necessary directions to the Chief Executive Officer of the Department of Health and Community Services.

9. To make orders with regard to transfers of patients to and from the Northern Territory.

A more detailed description of selected functions carried out by the Tribunal is set out in Appendix 1.

SECTION E: LEGISLATION

From the Tribunal's perspective, the principal changes made by the amending legislation are:-

1. The Tribunal will have the power to issue Practice Directions.
2. Methods of ensuring patient compliance with Community Management Orders in remote areas have been enhanced.
3. The Tribunal will be able to sit with only two members in exceptional circumstances.
4. Timeframes under the Act have been extended and in particular, the time that a patient can be detained before the Tribunal's intervention has been extended from 7 to 14 days.
5. The Tribunal will have the power to review a determination of its own motion.
6. A patient has the right to refuse legal representation.
7. The provisions dealing with proceeding in the absence of the patient or legal representative have been streamlined.
8. The Tribunal now has the ability to proceed absent the patient and irrespective of the patient's wishes to the contrary.
9. Police powers and functions have been clarified and improved.
10. Examinations of patients by MHS staff are no longer limited to a face to face situation.
11. The requirements and contents of management plans as part of Community Management Orders have been improved.
12. The creation of contempt like offences in relation to Tribunal hearings.

In relation to item 3, currently a determination by the President is a pre-requisite. It is recommended that the President be given the power to delegate the decision to the legal member. The amending legislation requires that there must always be a legal member and situations requiring a sitting with two members may occur at a time and in circumstances when it might not be possible to obtain a determination from the President.

In relation to item 4, it is anticipated that fewer hearings will result from the timeframe changes. Many patients are treated and discharged within 14 days of admission. It will also avoid the need for assessment of patients within a very short time of their admission. At present most admissions occur on the weekend and the need to provide reports to the Tribunal by Tuesday (for the Wednesday hearing day in Darwin) often does not provide sufficient opportunity for MHS staff to properly assess patients and to stabilise them. The possibility of a change of the hearing day to a Thursday to better afford MHS an opportunity to assess and stabilise weekend admissions has been considered. That has been deferred in the expectation that the issue would resolve itself with the timeframe changes.

Increases in efficiency by the Tribunal are also anticipated consequent upon the timeframe changes. The Tribunal is planning arrangements to take advantage of the anticipated reduction in Wednesday hearings in Darwin. Reviews of Community Management Orders in Darwin will be conducted on the same day as for hearings for review of admissions. At present these reviews are conducted on a separate day, necessitating an extra sitting for the Tribunal.

In relation to item 10, this matter is considered to be integral to the ongoing use of Community Management Orders by MHS. Please refer to the comments in the Key Issues section of this Report.

SECTION F: MEMBERSHIP OF THE TRIBUNAL

Mr Vincent Luppino was appointed President of the Tribunal on 2 November 2006 following the retirement of Mr Hugh Bradley. The service of Mr David Loadman as the President's delegate ended contemporaneously with the appointment of Mr Luppino. Although Mr Loadman continues as a legal member, his permanent move to Melbourne following his retirement as a Magistrate makes it unlikely that opportunities will present for him to sit as a Tribunal member during the balance of his tenure which ends on 2 May 2009.

The Act provides that the composition of the Tribunal is to consist of persons appointed by the Administrator and to be one each of three distinct categories.

Members in the first category, described in the vernacular as "the legal members", are drawn from Magistrates, Judicial Registrars and lawyers who have more than five years experience.

Members in the second category, vernacularly referred to as "the medical members", consist entirely of interstate based consultant psychiatrists, four of whom reside in New South Wales and one from Victoria. All also sit in the equivalent Mental Health Tribunal in their home states. Additionally, Dr Donsworth is a member of the Tribunal in Queensland.

The final category of member is vernacularly known as "the community member". These members are drawn from a broad class of persons who have a special interest or expertise in mental illness or mental disturbance.

A member of the Tribunal holds office for three years and is eligible to be re-appointed. The President is not appointed on a full time basis and there are no full time members.

All members are paid sitting fees, save that members who are employed in the public service, including all Magistrates and Judicial Registrars, are not entitled to receive sitting fees. As a result, only eleven of the thirty members actually receive sitting fees. The sitting fees are paid in accordance with the determination of the Remuneration Tribunal made under the Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act 2006. The exception is in relation to medical members. Please refer to Section F above.

The Tribunal's objective is to maintain membership numbers of each class of member at a level sufficient to meet legislative timeframes. In this regard, Dr Barbara Taylor has been appointed as a fifth medical member (from July 2007) to address a perceived difficulty with regard to the availability of medical members for Tribunal hearings.

The Tribunal currently has sufficient members of each category to ensure that legislative timeframes are met in all cases for the foreseeable future.

The absence of any local medical members means that almost invariably, sittings of the Tribunal involve a video link or a telephone conference. This is not likely to change in the immediate future. Although the Act allows for any suitably qualified medical practitioner to be a "medical member", the sitting fees payable render it unlikely that any local medical practitioner will be willing to be appointed to the Tribunal. The present system however works well, albeit not ideally.

The Tribunal acknowledges the work of its members and thanks all members for their continued valued expertise and commitment.

A General Meeting of all members was held in Alice Springs on 13 September 2007.

Following is a list of current Tribunal members, their location and their period of appointment:-

List of Current Tribunal Members

Legal members

Mr David Bamber	(Katherine)	27 June 2005 – 26 June 2008
Mr John Birch	(Alice Springs)	30 June 2006 – 29 June 2009
Ms Jenny Blokland	(Darwin)	1 February 2006 – 31 January 2009
Mr Hugh Bradley	(Darwin)	1 February 2006 – 31 January 2009
Mr Greg Borchers	(Alice Springs)	12 December 2006 – 11 December 2009
Mr Michael Carey	(Alice Springs)	27 June 2005 – 26 June 2008
Mr Gregory Cavanagh	(Darwin)	1 February 2006 – 31 January 2009
Ms Tanya Fong Lim	(Darwin)	6 December 2005 – 5 December 2008
Ms Melanie Little	(Alice Springs)	30 June 2006 – 29 June 2009
Mr David Loadman	(Darwin)	3 May 2006 – 2 May 2009
Mr John Lowndes	(Darwin)	1 February 2006 – 31 January 2009
Mr Vince Luppino	(Darwin)	30 November 2006 – 29 November 2009
Mr Alasdair McGregor	(Darwin)	1 February 2006 – 31 January 2009
Ms Sarah McNamara	(Alice Springs)	4 April 2006 – 3 April 2009
Ms Sue Oliver	(Darwin)	12 December 2006 – 11 December 2009
Mr Daynor Trigg	(Darwin)	1 February 2006 – 31 January 2009
Mr Richard Wallace	(Darwin)	1 February 2006 – 31 January 2009

Medical Members

Dr June Donsworth	(Sydney)	7 April 2005 – 6 April 2008
Prof James Greenwood	(Sydney)	1 February 2006 – 31 January 2009
Dr Janelle Miller	(Sydney)	7 April 2005 – 6 April 2008
Dr John Woodforde	(Sydney)	4 April 2006 – 3 April 2009
Dr Barbara Taylor	(Melbourne)	25 July 2007 – 24 July 2010

Community Members

Ms Cherie Castle	(Alice Springs)	8 September 2005 – 7 September 2008
Ms Barbara Curr	(Alice Springs)	30 October 2006 – 29 October 2009
Ms Jennie Guinane	(Darwin)	1 February 2006 – 31 January 2009
Ms Jill Huck	(Darwin)	1 February 2006 – 31 January 2009
Ms Patricia Kurnoth	(Darwin)	1 March 2006 – 28 February 2009
Ms Beth Walker	(Darwin)	1 February 2006 – 31 January 2009
Ms Carolyn Woodman	(Alice Springs)	27 February 2006 – 26 February 2009
Mr Don Zoellner	(Alice Springs)	27 June 2005 – 26 June 2008

SECTION G: PROCEDURES OF THE TRIBUNAL

The Tribunal's objectives are:-

1. To conduct hearings within legislative time-frames;

2. To maximise access to the Tribunal across the Northern Territory;

3. To provide quality service to patients and stakeholders by:-

   3.1 conducting hearings in an informal atmosphere;
   3.2 ensuring patients have legal representation where appropriate;
   3.3 ensuring that patient rights are met in regard to assessing records and reports that are before the Tribunal;
   3.4 encouraging attendance at hearings of patients subject of the review wherever practicable;
   3.5 encouraging the attendance of family and other support person, with the consent of the Tribunal clients;
   3.6 ensuring the provision of interpreter services where necessary;
   3.7 ensuring confidentiality of Tribunal proceedings;
   3.8 ensuring fair and equitable hearings and compliance with the principles of natural justice;

4. To maintain workable procedures with MHS;

5. To raise levels of awareness about the Tribunal and its operations.

Meetings as and when required are held between the President and appropriate MHS staff, both in Darwin and in Alice Springs to ensure continuation of workable procedures. Arrangements are in place for the President to attend meetings of the Approved Procedures and Quality Assurance Committee established under Part 17 of the Act as a means of achieving this objective.

Meetings between stakeholders and the President are planned to occur as frequently as may be required. The first occurred in Darwin in August 2007. The meetings provide a forum where issues affecting stakeholders can be discussed with a view to avoiding potential difficulties and, where the circumstances permit, to refine the process for the benefit of all concerned.

The ongoing training sessions facilitated by the Tribunal and conducted with the assistance of the Director of Mental Health also aids in achieving the stated objectives.

SECTION H: HEARINGS

The Tribunal convenes its hearings at the facilities, both in Darwin and Alice Springs. This is for the convenience of MHS staff and to avoid the disruption which would result to a patient's care if the patient were required to travel to and from the facilities for hearing purposes. The concurrence of lawyers appearing before the Tribunal with this practice is acknowledged and appreciated.

As reported earlier, as all medical members are interstate based psychiatrists, the use of video conferencing in all bar a limited number of hearings is necessary. In most cases however, the legal member and the community member are both present at the hearing location with the patient, MHS staff and other relevant parties.

Video conferencing is not the ideal, but in light of the problems of recruiting local medically qualified persons to the Tribunal, there is no practical alternative. On the positive side however, the Tribunal has the benefit of the experience of eminently qualified psychiatrists of the calibre and experience of the current medical members.

Lastly, reliance on interstate based medical members equates to reliance on unfailing technology. Although thankfully there have been no major breakdowns, there continues to be technology problems, particularly in Alice Springs where the equipment is of a poor standard and generally unreliable. Hearings at the Alice Springs venue have had to be completed by telephone on a number of occasions. The video conferencing facilities at both venues are the property of the respective facilities. It is imperative that equipment of sufficient standard and kept in good working order and condition is made available for Tribunal use.

Despite the foregoing issues, the Tribunal has managed to meet legislative time frames in all of its cases in this year.

In all cases heard by the Tribunal, a decision was delivered at the conclusion of the hearing.

There were no appeals to the Tribunal pursuant to section 127 of the Act during the current year. Similarly, there were no appeals to the Supreme Court against a decision made by the Tribunal pursuant to section 142 of the Act during the year.

SECTION I: STATISTICAL REPORT

STATISTICAL REPORT

Number of new Clients

	Number of new Tribunal clients by year			
	2004	2005	2006	2007
TOTAL	**194**	**208**	**191**	**188**

Case numbers by Location

Comprising:

Location	No of cancelled hearings			
	2004	**2005**	**2006**	**2007**
Alice Springs	41	69	76	64
Darwin	290	342	281	282
TOTAL	**331**	**411**	**357**	**346**

Location	No of determinations made by the Tribunal			
	2004	**2005**	**2006**	**2007**
Alice Springs	33	55	56	48
Darwin	392	372	324	428
TOTAL	**425**	**427**	**380**	**476**

Refer to following pages for breakdowns of cases by purpose, outcome and reasons for cancellation. Cancelled hearings relate to matters notified to the Tribunal that do not proceed to hearing.

Purpose of hearings listed – by Location						
Purpose	**2006**			**2007**		
	ASP	**DRW**	**Combined**	**ASP**	**DRW**	**Combined**
Review long term voluntary admission	0	3	3	4	6	10
Review involuntary admission to mental health facility on the grounds of mental illness	55	320	375	55	311	366
Review involuntary admission to mental health facility on the grounds of mental disturbance	29	11	40	21	13	34
Review Tribunal order for involuntary detention	20	204	224	26	213	239
Review treatment – current Tribunal order	0	0	0	0	1	1
Review interim Community Management Order	5	7	12	6	15	21
Review Community Management Order	6	44	50	5	78	83
Review report	3	12	15	2	29	31
Determine application for specific treatment	1	6	7	0	10	10
Determine application for warrant to apprehend a person	2	8	10	0	25	25
Review on request (section 123(4))	0	1	1	0	2	2
Total matters scheduled for determination by the Tribunal	**121**	**616**	**737**	**119**	**703**	**822**

Hearing Outcomes by Location						
Cancelled hearings	**2006**			**2007**		
	ASP	**DRW**	**Combined**	**ASP**	**DRW**	**Combined**
Discharged from facility prior to hearing	18	143	161	21	159	180
Changed status to voluntary patient prior to hearing	49	109	158	39	107	146
Persons whereabouts unknown / AWOL	3	6	9	2	4	6
Person left NT	1	3	4	0	0	0
CMO revoked by MHS	2	4	6	0	1	1
Deceased during term of order	0	1	1	0	0	0
CMO expired	2	14	16	1	10	11
Other	1	1	2	1	1	2
Total hearings cancelled	**76**	**281**	**357**	**64**	**282**	**346**

Determined by Tribunal	2006			2007		
	ASP	DWN	Combined	ASP	DRW	Combined
Confirm admission as voluntary patient	0	4	4	3	5	8
Order for involuntary detention (MI = mental illness) (MD = mental disturbance)	MI 37 MD5	MI 208 MD 4	MI 245 MD 9	MI 27 MD 3	MI 236 MD 5	MI 263 MD 8
Revoke admission and order person be discharged from facility	0	1	1	1	2	3
Community Management Order	5	54	59	7	101	108
Continue current CMO / involuntary detention	0	8	8	1	0	1
Review report – further action	0	1	1	0	7	7
Review report – no further action	3	12	15	2	22	24
Authorise electro convulsive therapy	1	3	4	0	5	5
Authorise non-psychiatric treatment	1	7	8	0	1	1
Authorise major medical procedure	0	4	4	0	4	4
Issue warrant to apprehend a person for assessment	2	8	10	1	24	25
Adjourned	2	10	12	3	16	19
Total determinations made	**56**	**324**	**380**	**48**	**428**	**476**

STATISTICS – OTHER

	2004	2005	2006	2007
Percentage of matters scheduled where client was female	**41%**	**31%**	**37%**	**40%**
Percentage of matters scheduled where client was male	**59%**	**69%**	**63%**	**60%**
Percentage of matters scheduled where client was of Aboriginal or Torres Strait Islander background	**40%**	**38%**	**38%**	**57%**
Percentage of hearings conducted where Tribunal clients were legally represented	**96%**	**95%**	**96%**	**96.5%**
Percentage of Tribunal clients under Adult Guardianship Orders	**2%**	**2%**	**2%**	**2%**
Percentage of hearings conducted with interpreter	**5.5%**	**8%**	**10%**	**6%**

No of cases scheduled – by age of client

	0-17 yrs	18-25 yrs	26-35 yrs	36-45 yrs	46-55 yrs	56-65 yrs	Over 65	Total
2004	**13**	**196**	**286**	**139**	**92**	**24**	**6**	**756**
2005	**24**	**209**	**311**	**184**	**84**	**20**	**6**	**838**
2006	**23**	**201**	**253**	**124**	**86**	**38**	**12**	**737**
2007	**20**	**160**	**302**	**178**	**93**	**53**	**16**	**822**

End Statistical Report

APPENDIX 1

Jurisdiction of the Tribunal

Appendix 1

Note: As the amending legislation has not yet commenced operation, the following summary is based on the Act as in force at the date of this Report.

Jurisdiction of the Tribunal

- **Continuing admission and treatment of long term voluntary patients (including prisoners).**

  The Tribunal may confirm the admission where it finds the person is able to give informed consent.

  If the Tribunal finds that the person fulfils the criteria for involuntary admission it may determine that the person be detained on those grounds for a period not exceeding three months, in accordance with section 122(b) or section 122(c) of the Act, and fix a date for further review.

  If the Tribunal finds that the person meets the criteria for involuntary treatment in the community, it may make a community management order in relation to the person for no longer than six months, in accordance with section 122(d) of the Act. Prisoners may be made subject to a community management order whilst serving their sentence in prison.

  Where the Tribunal makes an order for involuntary treatment it must authorise the treatment that may be administered under the order.

  If the Tribunal is not satisfied that the person will benefit from continuing to be admitted as a voluntary patient, or does not fulfil the criteria for involuntary admission or involuntary treatment in the community, then it must order that the person be discharged. Prisoners will be discharged back to the prison if their sentence has not yet expired.

- **Continuing admission and treatment of involuntary patients, and community management orders.**

  The Tribunal has a timeframe of seven days to conduct a review from the date a person is admitted as an involuntary patient, or is placed on an interim community management order.

  If the Tribunal is satisfied that the person fulfils the criteria for admission on the grounds of mental illness, it may order that the person be detained as an involuntary patient on those grounds for not longer than three months. It must also authorise the treatment that may be administered to the person under the order.

  If the Tribunal is satisfied that the person fulfils the criteria for admission on the grounds of mental disturbance, it may order that the person be detained as an involuntary patient on those grounds for not longer than 14 days. It must also authorise the treatment that may be administered to the person under the order.

If the Tribunal is satisfied that the person fulfils the criteria for involuntary treatment in the community, it may make a community management order in relation to the person for not longer than six months.

Where the Tribunal makes an order under any of the above-named criteria, it must fix a date for the order to be again reviewed.

If the Tribunal is not satisfied that a person fulfils either the criteria for admission as an involuntary patient or the criteria for involuntary treatment in the community, it must revoke the order admitting the person as an involuntary patient or revoke the interim community management order, as the case may be.

Where the Tribunal revokes an order it must then order that the person be immediately discharged, or discharged within seven days if arrangements need to be made for their care.

- **Applications to administer non-standard or non-psychiatric treatment.**

  The Act provides that approval of either the Tribunal or another specified person or body is required in order to administer any of the following treatments to involuntary patients:

  - Non-psychiatric treatment, such as a surgical procedure;
  - Major medical procedure;
  - Clinical trials and experimental procedures;
  - Electro-convulsive therapy, except where it is deemed immediately necessary.

The Act provides that psychosurgery and coma-therapy are not allowed to be performed on anyone in the NT. Sterilisation is not allowed to be performed on a person as a treatment for mental illness or mental disturbance.

- **Request for review of a decision**

  The Tribunal may review an order made under the Act on being requested to do so by the person in respect of whom the order is made or by a person who has a genuine interest in, or with a real and immediate concern for the welfare of, the person.

- **Appeals**

  Appeals may be made to the Tribunal against certain decisions made under the Act as outlined in section 127.

  Following an appeal the Tribunal may:

  - Affirm, vary or set aside the decision or order;
  - Make any decision or order that the authorised psychiatric practitioner may have made;
  - Refer the matter back to the authorised psychiatric practitioner for further consideration; or
  - Make any other order it thinks fit.

After conducting a review or appeal, the Tribunal may order that an application for another review or appeal in relation to the same matter may not be made before a date determined by the Tribunal.

- **Determining capacity for informed consent.**

  The Tribunal must determine whether a person is capable of giving informed consent, where it is requested to do so on application by an authorised psychiatric practitioner.

- **Assessment warrants**

  Following an application by an authorised mental health practitioner or a member of the police force, the Tribunal may issue a warrant to apprehend a person where it is satisfied that:

  - The person may be unable to care for himself or herself;
  - The person may meet the criteria for involuntary admission on the grounds of mental illness or mental disturbance; and
  - All other reasonable avenues to assess the person have been exhausted.

  A warrant authorises the police to apprehend the person named in the warrant and to take them to an approved person or approved facility for assessment to determine whether they are in need of treatment under the Act.

  For the purposes of issuing a warrant to apprehend a person, the Tribunal may be constituted by the President, or by a legal member delegated to exercise the powers and perform the functions of the President.

- **Review of certain decisions of authorised psychiatric practitioners.**

  The Act provides that an authorised psychiatric practitioner must inform the Tribunal when it is decided that certain information about a patient's admission, treatment or discharge plan is to be withheld from the patient.

  The Tribunal must review the decision and may either uphold the decision or substitute its own decision for that of the authorised psychiatric practitioner.

- **Review of reports**

  The Tribunal must review a report forwarded to it under the Act as soon as is practicable. For example, a report in line with section 66(4) where electro convulsive therapy is performed without the authorisation of the Tribunal is required to be provided to the Tribunal. Following the review, the Tribunal:

  - may give a written direction to the Chief Executive Officer of the Department of Health and Community Services relating to a matter contained in the report; and
  - where it considers that a person may be guilty of professional misconduct, must notify the relevant professional body.

- **Interstate mental health orders and interstate transfer orders**

The Tribunal has jurisdiction under the Act to make orders in relation to the transfer of persons subject to involuntary orders in and out of the Territory.

The Tribunal cannot exercise its powers in these matters because no inter-government agreements exist between the Northern Territory and any other interstate jurisdiction. This is a matter for the early attention of the appropriate Department.

- **Reviews, Requests for Reviews and Appeals**

Reviews are automatically conducted by the Tribunal within timeframes that are specified in the Act. Reviews of admission as an involuntary patient and reviews of interim orders for involuntary treatment in the community must be conducted within seven days of the date of admission or of the interim order being made. Further review dates are determined by the Tribunal when it makes an order in accordance with sections 122, 123, 124 or 127 of the Act.

Requests for review of an order made under the Act are heard on the next hearing date following lodgement of the request with the Tribunal. Requests for review may be lodged by the person subject to the order, their legal or other representative, or a person with a genuine interest in, or real and immediate concern for the welfare of the patient, in accordance with section 123(4) of the Act.

Appeals are initiated by the patient, their legal or other representative, or a person with a genuine interest in, or real and immediate concern for the welfare of the patient, in accordance with section 127 of the Act. Appeals to the Tribunal will be heard on the next hearing date following lodgement of the appeal with the Tribunal.

Appeals against decisions made by the Tribunal may be made to the Supreme Court in accordance with section 142 of the Act.