



QUEENSLAND
COURTS

SUPREME COURT
BRISBANE

The Honourable Lawrence Springborg MP
Minister for Health
Queensland Health Building
147-163 Charlotte Street
BRISBANE QLD 4000

Dear Minister

Please find enclosed my report, under s 435 of the *Mental Health Act 2000*, detailing the operation of the Mental Health Court and its registry for the period 1 July 2013 - 30 June 2014.

Yours faithfully

The Hon Justice D Boddice

The Mental Health Court

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TABLE OF CONTENTS

INTRODUCTION	1
SITTINGS	1
REFERENCES.....	3
APPEALS FROM MENTAL HEALTH REVIEW TRIBUNAL	3
A COURT EXAMINATION ORDERS	5
MATTERS ADJOURNED AS AT 30 JUNE 2014.....	5
DECISIONS RESERVED AS AT 30 JUNE 2014.....	6
MATTERS PENDING AS AT 30 JUNE 2014.....	6
REGISTRY	7
WEBSITE	7

INDEX TO TABLES

TABLE 1: MATTERS HEARD BY THE MENTAL HEALTH COURT 2013/2014	2
TABLE 2: MATTERS DISPOSED OF BY THE MENTAL HEALTH COURT 2013/2014- REFERENCES	4
TABLE 3: MATTERS DISPOSED OF BY THE MENTAL HEALTH COURT 2013/2014 - APPEALS	5
TABLE 4: MATTERS ADJOURNED BY THE MENTAL HEALTH COURT AS AT 30 JUNE 2014.....	5
TABLE 5: DECISIONS RESERVED BY THE MENTAL HEALTH COURT AS AT 30 JUNE 2014.....	6
TABLE 6: MATTERS PENDING IN THE MENTAL HEALTH COURT AS AT 30 JUNE 2014.....	6

Introduction

The Mental Health Court is constituted under the *Mental Health Act 2000*. It is comprised of a Supreme Court judge who sits with two assisting psychiatrists.

During the year in review the Honourable Justice A Lyons and Honourable Justice D Boddice (from February 2014) President of the Mental Health Court while the Honourable Justice Dalton was a member of the Court.

During the relevant period the panel of assisting psychiatrists consisted of Dr J M Lawrence AM, Dr E N McVie, Dr F T Varghese, Dr J N Chalk, Dr A S Davison, Dr M L Khoo, Dr J J Sundin, Dr J Reddan and Dr S Harden.

The functions of the Court are to determine references concerning questions of unsoundness of mind and fitness for trial in relation to persons charged with offences on indictment, to determine appeals from the Mental Health Review Tribunal, and to inquire into the lawfulness of patients' detention in authorised mental health services.

Sittings

At each sitting video links with regional hospitals and correctional centres were utilised in the hearing of matters. This practice continues to provide a cost effective and efficient means of hearing matters, while also eliminating additional stress for mentally ill patients and defendants.

Patients and defendants retain the right to legal representation, with legal representatives commonly appearing in the Court in Brisbane.

Decisions that are not delivered ex tempore are generally delivered within one month of hearing.

During the 2013/2014 year, the Court sat on 67 days, (compared with 74 days the previous year).

During this period the Court heard a total of 307 matters (compared with 286 matters for the previous year) consisting of 228 references, 75 appeals and 4 Applications.

Table 1: Matters heard by the Mental Health Court 2013/2014

Details of the matters heard by the Court for the year comprise:

	Number of Cases		
	Lodged	Finalised	Active
References			
Director of Mental Health	129	102	128
Director of Public Prosecutions	26	18	6
Director of Forensic Disability	0	0	0
Legal Representative	145	106	148
Defendant	4	2	2
Court of Law	0	0	0
Attorney General	0	0	0
Total References	304	228	284
Amended References			
Director of Mental Health	20	-	-
Director of Public Prosecutions	1	-	-
Director of Forensic Disability	0	-	-
Legal Representative	31	-	-
Defendant	0	-	-
Court of Law	0	-	-
Attorney General	0	-	-
Total Amended References	52	-	-
Appeals			
Director of Mental Health	-	-	-
Legal Representative	8	7	1
Patient	58	50	8
Attorney General	20	18	2
Total Appeals	86	75	11
Amended Appeals			
Director of Mental Health	-	-	-
Legal Representative	-	-	-
Patient	-	-	-
Attorney General	-	-	-
Total Amended Appeals	-	-	-
Applications			
Applications to enquire into detention	0	1	0
Application to move out of Queensland	0	0	0
Application to change forensic order type	1	0	0
Director of Mental Health	1	0	0
Director of Forensic Disability	0	0	0
Total Applications	2	4	0
TOTAL	444	307	295

References

During the period under review the Court heard 228 references (compared with 211 references in the previous year).

The Court dealt with eight references for persons charged with murder or attempted murder.

The Court dealt with references in respect of three persons charged with murder (compared to ten cases in 2012/2013). In one of these references, the Court found the defendant to be of unsound mind and made a forensic order. In one reference, defendant was of unsound of mind but was of diminished responsibility, the defendant was not and unfitness for trial was not of permanent nature. In one references, the Court determined that there was a dispute pursuant to s 268 of the *Mental Health Act 2000* and defendant was found fit for trial.

The Court also dealt with five references concerning persons charged with attempted murder (compared to four cases in 2012/2013). In three of these references, the Court found the defendants to be of unsound mind and made forensic orders for detention to an authorised mental health service. In one reference, the Court found the defendant to be not of unsound mind, not fit for trial and unsoundness for trial was of a permanent nature. In one references, the Court determined that there was a dispute pursuant to s 268 of the *Mental Health Act 2000* and defendant was found fit for trial.

Appeals from Mental Health Review Tribunal

The *Mental Health Act 2000* provides that patients or their representatives have 60 days after receipt of the decision of the Mental Health Review Tribunal in which to file an appeal. The Director of Mental Health has 60 days from the date of the decision in which to lodge an appeal.

The Office of Legal Aid Queensland continues to fulfil an important role in making representation available to patients on appeals. In addition, the practice of the Director of Mental Health in electing to become a party on appeals also assists the Court.

During the 2013/2014 year, the Court dealt with 75 appeals, (compared with 71 appeals in the 2012/2013 year).

Table 2: Matters disposed of by the Mental Health Court 2013/2014 – references**

Findings and orders of the Mental Health Court	2013/2014
References:	
<ul style="list-style-type: none"> • Of unsound mind - forensic order (Mental Health Court) 	123
<ul style="list-style-type: none"> • Of unsound mind - forensic order (Mental Health Court - Disability) 	6
<ul style="list-style-type: none"> • Of unsound mind - no forensic order 	18
<ul style="list-style-type: none"> • Of unsound mind - non contact order 	2
<ul style="list-style-type: none"> • Not of unsound mind and fit for trial 	35
<ul style="list-style-type: none"> • Reasonable doubt and fit for trial 	17
<ul style="list-style-type: none"> • Reasonable doubt and unfit for trial (unfitness not permanent) - forensic order (Mental Health Court) 	2
<ul style="list-style-type: none"> • Reasonable doubt and unfit for trial (unfitness not permanent) - forensic order (Mental Health Court - Disability) 	1
<ul style="list-style-type: none"> • Reasonable doubt and unfit for trial (unfitness permanent) - forensic order (Mental Health Court) 	5
<ul style="list-style-type: none"> • Reasonable doubt and unfit for trial (unfitness permanent) - no forensic order 	4
<ul style="list-style-type: none"> • Material dispute of facts and fit for trial 	1
<ul style="list-style-type: none"> • Reference struck out 	6
<ul style="list-style-type: none"> • Reference withdrawn 	8
Total	228

Appeals from the Mental Health Review Tribunal were disposed of as follows:

Table 3: Matters disposed of by the Mental Health Court 2013/2014 - appeals

Findings of the Mental Health Court	2013/2014
Appeals:	
• Withdrawn	16
• Dismissed	50
• Allowed	9
Total	75

Court examination orders

Court examination orders are an important function of the Mental Health Court in its deliberations on a reference or on an appeal from the Mental Health Review Tribunal. Such orders are generally made on the recommendation of an Assisting Psychiatrist to the Court. In the year 2013/2014, 181 such orders were made, compared with 150 in 2012/2013.

Matters adjourned as at 30 June 2014

Table 4: Matters adjourned by the Mental Health Court as at 30 June 2014

Type of Matter	2013/2014
References:	
• Adjourned to a date to be fixed	9
Appeals:	
• Adjourned to a date to be fixed	2
Total	12

Decisions reserved as at 30 June 2014
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Table 5: Decisions reserved by the Mental Health Court as at 30 June 2014

Type of Matter	2013/2014
Reference	3
Appeal	0

Matters pending as at 30 June 2014

There are 295 matters pending as at 30 June 2014 compared with 208 matters pending as at 30 June 2013.

Table 6: Matters pending in the Mental Health Court as at 30 June 2014

Type of Matter	2013/2014
References by:	
• Director of Mental Health	118
• Director of Forensic Disability	1
• Director of Public Prosecutions	8
• Legal Representative	153
• Defendant	1
• Court of Law	0
• Attorney General	0
Appeals against the decisions of the Mental Health Review Tribunal by:	
• Director of Mental Health	0
• Legal Representative	1
• Patient	10
• Attorney-General	3
Applications	
• Applications to enquire into detention	0
• Application to move out of Queensland	0
• Application to change forensic order type by:	
Director of Mental Health	0
Director of Forensic Disability	0
Total	295*

* This figure includes a matter part heard where the reference has been finalised with the amended reference still pending.

Registry

All staff have provided dedicated and effective assistance to the Court. The Registry staffs have borne a particularly onerous burden due to the significant reduction as well as high turn over of staff, to which has required staff to assume a demanding workload. During the period of 2013/2014 the Registry has benefited from the expertise and dedication of various staff on secondment from the Supreme Court registry staff. Current registry staff has changed ways of record keeping by moving onto electronic record keeping which has helped registry to become more efficient as well as reducing daily work load.

Website

Information about the Mental Health Court (including a description of its work, contact details, forms and practice notes) is available on the Queensland Courts website (<http://www.courts.qld.gov.au/>). The Court's judgments are published on the internet, subject to relevant restrictions contained in the *Mental Health Act 2000* (<http://www.sclqld.org.au/qjudgment/>).

