

MENTAL HEALTH COURT

ANNUAL REPORT

1 July 2014 to 30 June 2015

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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 Boddice was President of the Mental Health Court, while the Honourable Justice J Dalton was an additional 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 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 hearing 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 which are not delivered *ex tempore* are generally delivered within one month of hearing.

During the 2014/2015 year, the Court sat on 49 days (compared with 67 days the previous year). During this period the Court heard a total of 252 matters (compared with 307 matters for the previous year), consisting of 199 references, 52 appeals and 1 Application.

The sitting days were reduced to ensure the Registry could properly prepare the sittings and attend to a significant backlog of Court examination orders. It is proposed to increase the sitting days in the next period.

Table 1: Matters filed in the Mental Health Court during 2014/2015:

	Number of Cases
	Filed
References	
Director of Mental Health	104
Director of Public Prosecutions	11
Director of Forensic Disability	0
Legal Representative	138
Defendant	2
Court of Law	1
Attorney General	0
Total References	256
Amended References	
Director of Mental Health	37
Director of Public Prosecutions	1
Director of Forensic Disability	0
Legal Representative	30
Defendant	0
Court of Law	0
Attorney General	0
Total Amended References	68
Appeals	
Director of Mental Health	-
Legal Representative	1
Patient	47
Attorney General	12
Total Appeals	60
Amended Appeals	
Director of Mental Health	-
Legal Representative	-
Patient	-
Attorney General	1
Total Amended Appeals	1
Applications	
Applications to enquire into detention	1
Application to move out of Queensland	-
Application to change forensic order type	-
Director of Mental Health	-
Director of Forensic Disability	-
Total Applications	1
TOTAL	387

References

During the period under review the Court heard 199 references (compared with 228 references in the previous year). There were 46 adjournments during the sittings for the 2014/2015 financial year.

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

The Court dealt with references in respect of one person charged with murder (compared to three cases in 2013/2014). In this reference, the Court found the defendant was not of unsound mind and was not of diminished responsibility but the defendant was temporarily not fit for trial. The proceedings were stayed until, on review, the Mental Health Review Tribunal decided the defendant was fit for trial.

The Court also dealt with one reference concerning one person charged with attempted murder (compared to five cases in 2013/2014). In this reference, the Court found the defendant to be of unsound mind. A forensic order was made for the defendant's detention to an authorised mental health service.

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. The practice of the Director of Mental Health in electing to become a party on appeals also assists the Court.

During the 2014/2015 year, the Court dealt with 52 appeals, (compared with 75 appeals in the 2013/2014 year).

Table 2: Matters disposed of by the Mental Health Court 2014/2015 – references

Findings and orders of the Mental Health Court	2014/2015
References	
• Of unsound mind - forensic order (Mental Health Court)	100
• Of unsound mind - forensic order (disability)	5
• Of unsound mind - no forensic order	15
• Of unsound mind - non contact order	0
• Not of unsound mind and unfit (unfitness not permanent) no forensic order	2
• Not of unsound mind and unfit (unfitness not permanent) forensic order	0
• Not of unsound mind and unfit (unfitness permanent) forensic order	11
• Not of unsound mind and unfit (unfitness permanent) forensic order (disability)	9
• Not of unsound mind and unfit (unfitness permanent) no forensic order	5
• Not of unsound mind and fit for trial	49
• Diminished responsibility and fit for trial	2
• Reasonable doubt and fit for trial	23
• Reasonable doubt and unfit for trial (unfitness not permanent) - forensic order	1
• Reasonable doubt and unfit for trial (unfitness not permanent) - forensic order (disability)	1
• Reasonable doubt and unfit for trial (unfitness permanent) - forensic order	2
• Reasonable doubt and unfit for trial (unfitness permanent) - forensic order (disability)	3
• Reasonable doubt and unfit for trial (unfitness permanent) - no forensic order	1
• Material dispute of facts and fit for trial	0
• Material dispute of facts and unfit (unfitness permanent)	1
• Reference struck out	8
• Reference withdrawn	5
Total	243

** includes 31 matters where 2 or more decisions were made.

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

Table 3: Matters disposed of by the Mental Health Court 2014/2015 - appeals

Findings of the Mental Health Court	2014/2015
Appeals:	
• Withdrawn	11
• Dismissed	36
• Allowed	5
Total	52

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 2014/2015, 278 such orders were made, compared with 181 in 2013/2014.

Matters adjourned as at 30 June 2015

Table 4: Matters adjourned by the Mental Health Court as at 30 June 2015

Type of Matter	2014/2015
References:	
• Adjourned to a date to be fixed	7
Appeals:	
• Adjourned to a date to be fixed	0
Total	7

Decisions reserved as at 30 June 2015**Table 5: Decisions reserved by the Mental Health Court as at 30 June 2015**

Type of Matter	2014/2015
Reference	2
Appeal	0

Matters pending as at 30 June 2015

There are 332 matters pending as at 30 June 2015 (compared with 295 matters pending as at 30 June 2014), consisting of 326 references, 6 appeals.

Registry

Currently the Registry structure consists of four full time employees, the two remaining vacant positions having now been permanently appointed during this period.

The difficulties experienced by the Registry during a period of under resourcing in recent years led to the President determining to reduce the sitting days in 2014/2015 to allow the Registry time to address the significant backlog of Court examination orders and to properly prepare for each sittings.

This decision greatly assisted the processing of the Court examination orders (which increased by over 50% in the period). It also meant more references and appeals were able to be finally determined at each sittings.

The Registry staff are now able to concentrate on being proactive and innovative. Efficiencies and the improvement of Registry procedures have meant the Registry has managed to cope with a one week reduction in time between each sitting for the first half of 2015.

Since early 2015, the Registry has also benefited from the employment of a part-time officer dedicated to assist with the backlog of Court Examination Orders.

The Registry staff have provided dedicated and effective assistance to the Court, ensuring each sittings is able to be fully occupied with minimal interruptions.

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* (Qld) (<http://www.sclqld.org.au/qjudgment/>).