



Mental Health Tribunal for Scotland

ANNUAL REPORT 2017/2018

**This report covers the period
1 April 2017 to 31 March 2018**

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Dr Joe Morrow CBE QC, President

PRESIDENT'S FOREWORD

I have pleasure in presenting the Annual Report for 2017/2018 in this my tenth year as President of the Mental Health Tribunal for Scotland. The commitment of the members and administrative staff to providing an accessible and patient-centred Tribunal process continues to underpin all the work that we do.

In this report you will again see the result of the hard work of all concerned in endeavouring to achieve our aim, namely **to provide a responsive, accessible, effective, independent and impartial service when making decisions on the compulsory care and treatment of persons in Scotland with mental disorder.** It is fair to say that the environments within which we work are ever changing, but our aim has remained static throughout my period as President of the Tribunal, and I believe that it is by focussing on that aim that we can deliver the most positive outcomes possible for the patients who come before the Tribunal.

I expect this to be the last annual report which I will lay before Parliament, as the new structure for tribunals as established by the Tribunals (Scotland) Act 2014 will come into play during the coming year. In essence, the Mental Health Tribunal for Scotland will cease to exist and will become the Mental Health Chamber of the First-tier Tribunal for Scotland. Despite the important changes which will take place by virtue of the 2014 Act, we are all committed to maintaining our aim of focussing on the patient in all that we do.

As you might expect, the pages of an annual report are filled with statistics, facts and figures. In essence, in the last year the number of cases coming before the Tribunal has increased and, despite the short timescales under which we work, the members and Administration have delivered the cases in compliance with the statutory requirements. This is, in my view, wholly due to the highly skilled members of the Tribunal, many of whom have been appointed for a considerable number of years, and to the continued high quality and efficient administrative staff provided to the Tribunal by the Scottish Courts and Tribunals Service. It should be noted that while in 2011/12 there were around 3,500 cases before the Tribunal, in 2017/18 there were in excess of 4,400 cases.

As in previous years, I have continued to be committed to developing a collaborative approach between the Administration and the judicial members. It is my view that this not only provides the best service for the patient in terms of judicial independence, but also assists in managing the additional demands upon the Tribunal in terms of increased work.

With the introduction of the Mental Health Chamber and the transfer into the First-tier Tribunal for Scotland, it has been necessary during this reporting year to recruit 50 new members – legal, medical and general members. This was due to the fact that those members who will be over 70 years of age upon transfer into the First-tier Tribunal will require to step down as members. This was a major task, which was carried out in a collaborative fashion between the Scottish Government, the Tribunal's Administration and myself. I am pleased to say that we were substantially oversubscribed with regard to the number of applications and that the quality of the members recruited was at the highest level. We are at present in the process of training and integrating those new members into the life and work of the Tribunal. I would wish to put on record my thanks and admiration for the continued commitment over the years which the members who will be stepping down due to the new regulations have given to the Tribunal during their membership. Their experience, common sense and personal qualities have shone through in the decision-making process and they have greatly contributed to enhancing the reputation and effectiveness of the Tribunal over the past 10 years.

I would also wish to record my thanks to the responsive and professional administrative staff who work alongside me at the Tribunal headquarters in Hamilton.

One of the exciting new activities during this reporting year was the confirmation that Edinburgh Napier University, under the leadership of Professor Jill Stavert and Professor Michael Brown, was awarded a substantial research grant to look at the views and experiences of patients and others involved with the Mental Health Tribunal for Scotland. I welcome this development, and it is my hope that the results will provide us with feedback on how we can provide the functions delegated to us under the legislation in a way which can be regarded as an improvement. It is hoped, once the Mental Health Chamber is eventually formed, that some of the results of the research project can be presented at the members' conference which is scheduled to take place in November 2019.

Alongside the annual statistics for this reporting year, the annual report includes a section which deals with statistics and information since the Tribunal's inception in 2005. This information was gathered by the Tribunal for use by the Napier University research team and covers the period from the beginning of 2006 until the end of 2017. It highlights the considerable number of cases before the Tribunal, detailing types of cases, gender, age spread and types of mental disorder. I commend this information to you and encourage you to look out for the results of the research project, which I believe will produce an evidence-based source of information for future development.

We continue to engage with a broad spectrum of individuals who are involved with the Tribunal. Whilst our main focus is on the patient, the Tribunal's regular reference group meetings include carers and users, mental health professionals and advocacy workers. These meetings result in some of the most productive work in terms of improving our understanding of the impact we have on all those who have dealings with the Tribunal. It is also clear that in this reporting year there has been an increased awareness of mental health and the surrounding issues, and it is within this changing environment that the Tribunal operates.

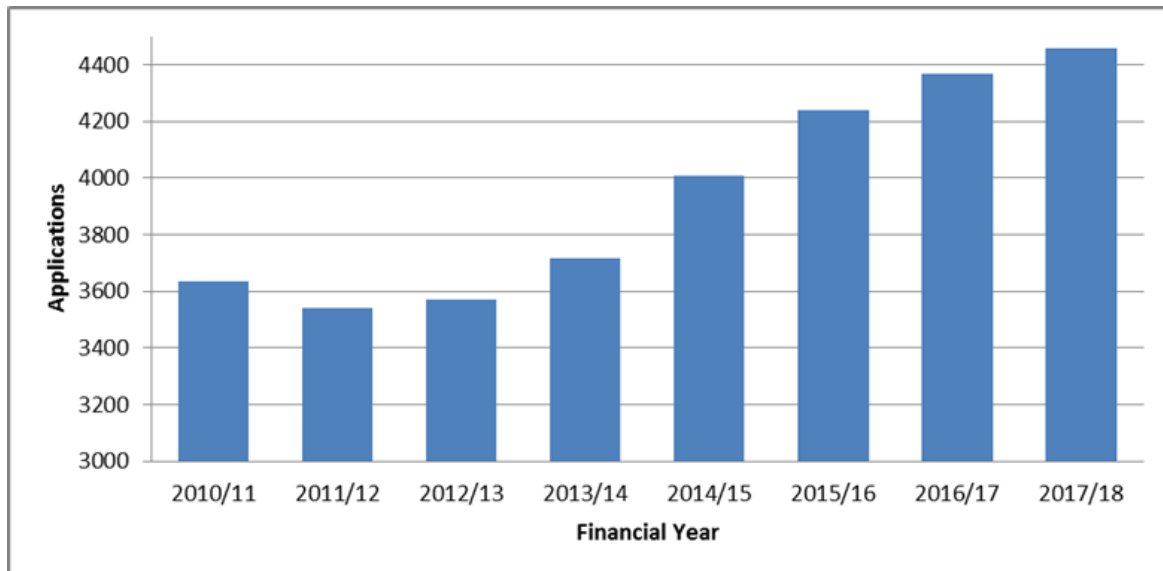
I commend this annual report to you as it reflects my continued aim in pursuit not only of an independent Tribunal, but of a high quality service for all those who appear before the Tribunal.

A handwritten signature in black ink that reads "Joe Morrow". The signature is written in a cursive style with a long horizontal line underneath the name.

Dr Joe Morrow CBE QC
President

TRIBUNAL ACTIVITY

Applications received by the Tribunal in the last 8 years



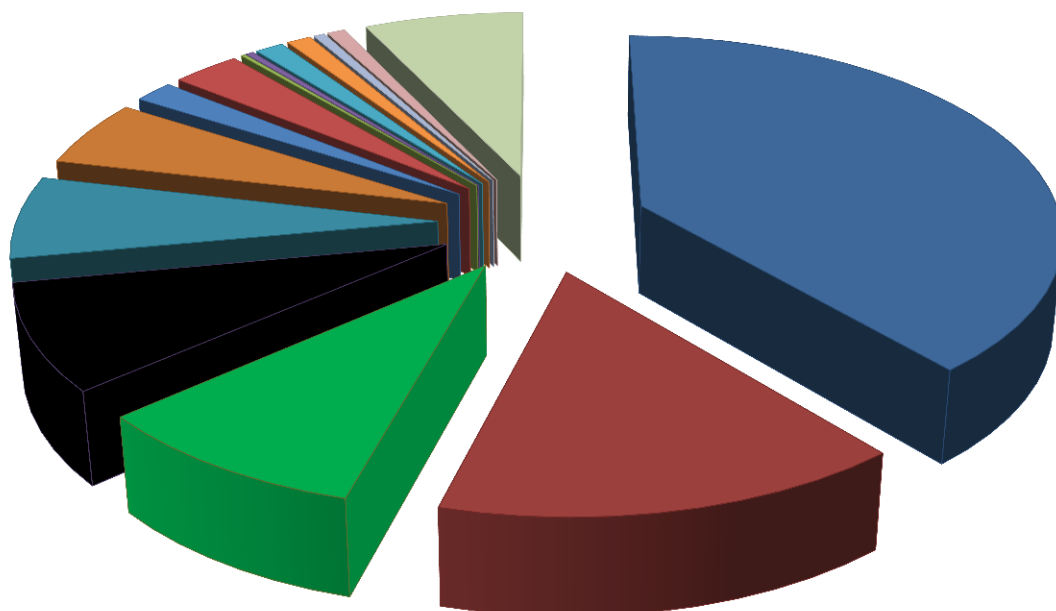
The above graph illustrates how the number of applications received by the Tribunal has increased since 2010/11, resulting in this financial year having the highest figure so far with 4,459 applications received.

Compulsory treatment order (section 63) applications continue to constitute the largest percentage of applications received, followed by applications to revoke short-term detention certificates (section 50).

The Tribunal's Administration continually evaluates staffing levels and skills to ensure that a high quality and efficient service is delivered at all times.

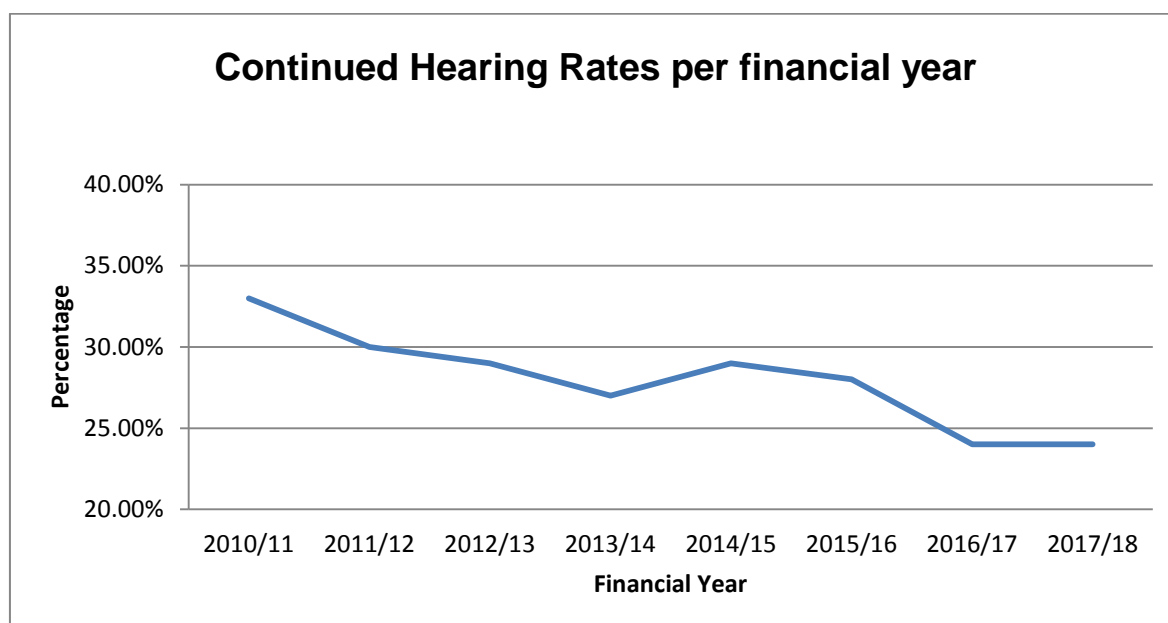
The Key Performance Indicator (KPI) was once again met in 100% of cases in relation to the statutory timescale for holding a hearing for a section 63 application within 5 working days of the expiry of a patient's short-term detention certificate.

Breakdown of the applications, appeals, references and reviews dealt with by the Tribunal in 2017/2018



- 63 - Application for compulsory treatment order
- 50 - Application for revocation of short term detention or extension certificate
- 87/101 - Notification of section 86 determination to extend compulsory treatment order / section 101 review of compulsory treatment order
- 100 - Application for revocation of a compulsory treatment order
- 92 - Application to extend and vary a compulsory treatment order
- 95 - Application to vary a compulsory treatment order
- 99 - Application to revoke a determination extending a compulsory treatment order
- 189 - Reference by Scottish Ministers where compulsion order and restriction order have not been reviewed for 2 years
- 264 - State Hospital: Application for order that patient is detained in conditions of Excessive Security
- 268 - Other Hospital: Application for order that patient is detained in conditions of Excessive Security
- 100 - Application for variation of a compulsory treatment order
- 149 - Application for extension of compulsion order following first review

Interim Orders and Adjournments of Hearings



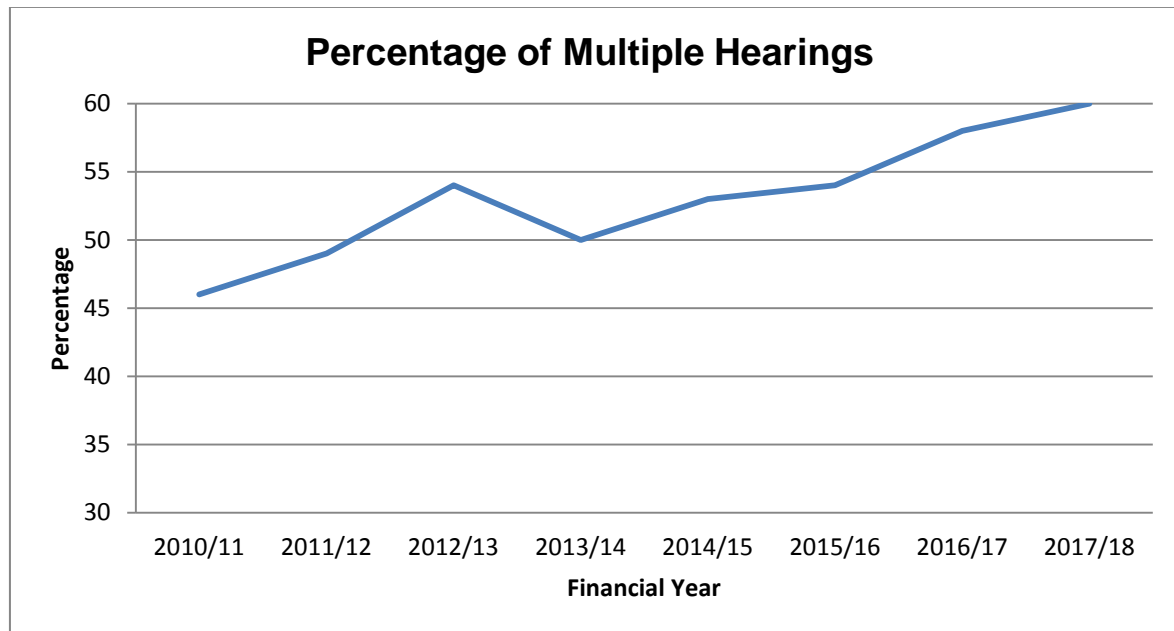
In total, 4,861 hearings were held in the financial year 2017/18, which is a slight increase on the previous year.

In this reporting year, 76% of cases were determined at their first calling, which remains on par with 2016/17.

The Tribunal Administration staff undertake a wide range of tasks prior to a Tribunal hearing taking place in order to ensure that, wherever possible, a case is determined at the first calling.

The Tribunal regularly evaluates existing practices in order to further reduce the number of continued hearings, while keeping in mind the key principles of the Tribunal, with the aim of improving the experience for all stakeholders and reducing financial costs.

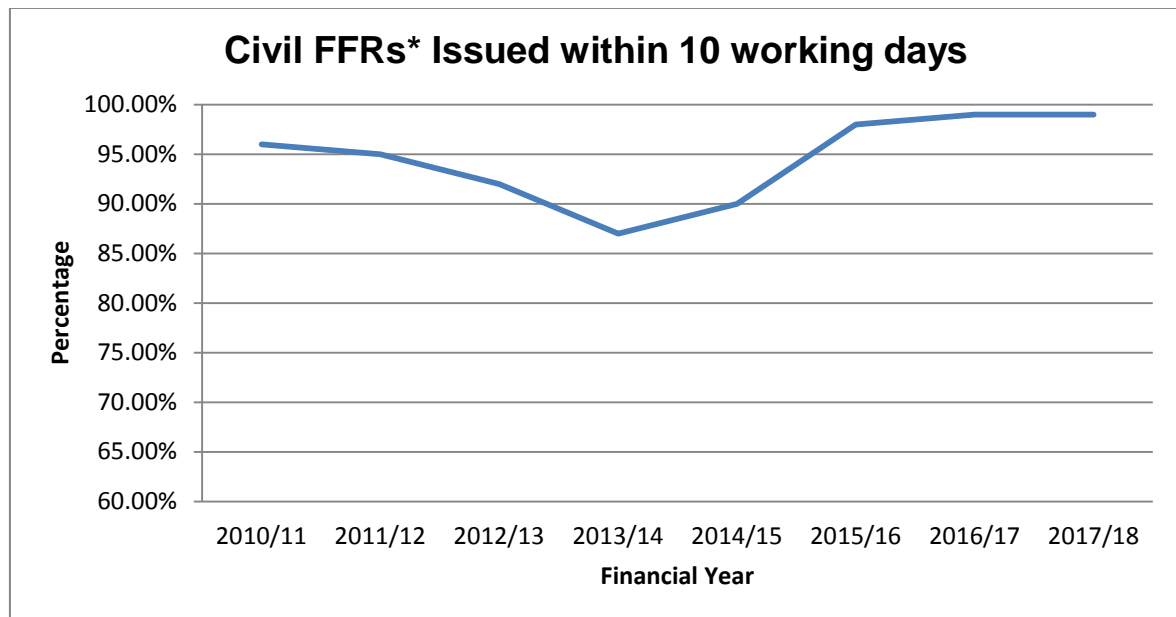
Multiple Hearings



While maintaining a patient-centred approach, the Tribunal continues to focus on reducing the number of days required for hearings through implementation of the multiple hearings initiative, whereby a single Tribunal panel hears more than one case on the same day.

For 2017/18 the percentage of hearings which formed part of the multiple hearings initiative was at a high of 60%, which represents the highest percentage of multiple hearings to date. This was largely due to the hard work of the Tribunal's Administration, who work collaboratively with external stakeholders to ensure that the Tribunal is operating in the most efficient manner in relation to the scheduling of hearings.

Civil Decisions



* FFR is the full statement of facts found by the Tribunal and the reasons for the decision

It is an essential part of the work of the Tribunal's Administration to ensure that parties to Tribunal proceedings receive the final decision paperwork in a timeous manner (within 10 working days of the final hearing in a case).

This KPI is considered a priority for the Tribunal's Administration, and in 2017/18 we have achieved an annual result of 99%.

Statistics and Information since the Tribunal's Inception

The Tribunal recently ran a data gathering exercise as part of the user survey project which is being undertaken by a research team from Napier University. Although the Tribunal gathers certain data on cases every week and every month, this is the first time that a substantial amount of data has been gathered which covers an extended period of time such as this. As such this annual report was thought to provide a good opportunity to share this information.

The Tribunal received its first application in October 2005, however the timespan for which the data was gathered was from January 2006 to December 2017. It made sense to gather the data from full calendar years, hence why the last few months of 2005 were not taken into account when gathering this data.

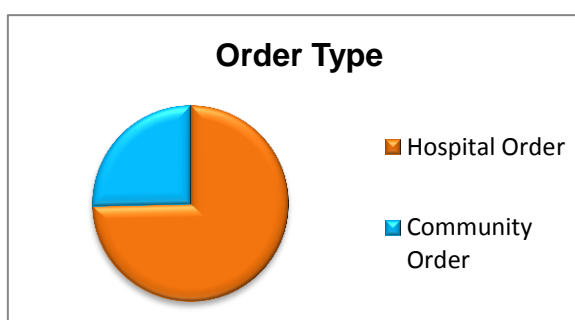
Types of Cases

The data gathered and interrogated was for applications received by the Tribunal under sections 50, 63, 92, 95 and 192 of the 2003 Act as well as references received by the Tribunal under section 189 of the 2003 Act. This accounted for a total of 30,582 cases over the twelve year period for which the data was collected. The split of cases between the above sections was as follows:

Section	Number of Cases	Percentage of Cases
50 Application for revocation of short-term detention certificate	6,043	19.76%
63 Application for compulsory treatment order (CTO)	17,921	58.60%
92 Application to extend and vary a CTO	2,938	9.61%
95 Applications to vary a CTO	2,232	7.30%
189 Reference to the Tribunal by Scottish Minister	1,122	3.67%
192 Application to the Tribunal by a patient/named person regarding CORO	326	1.07%
Total	30,582	100.00%

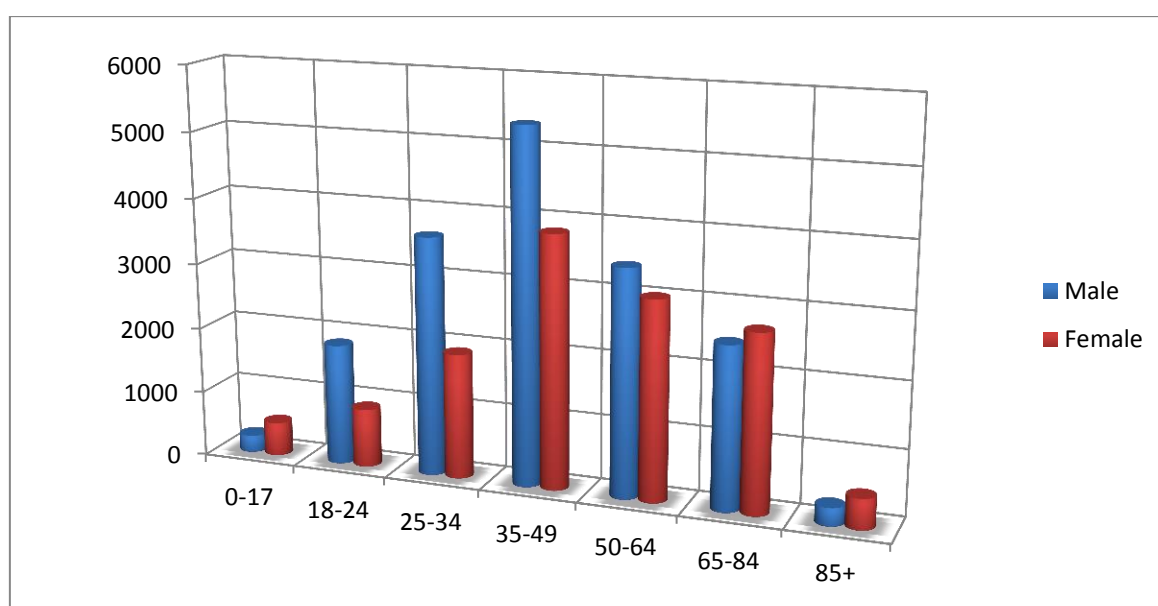
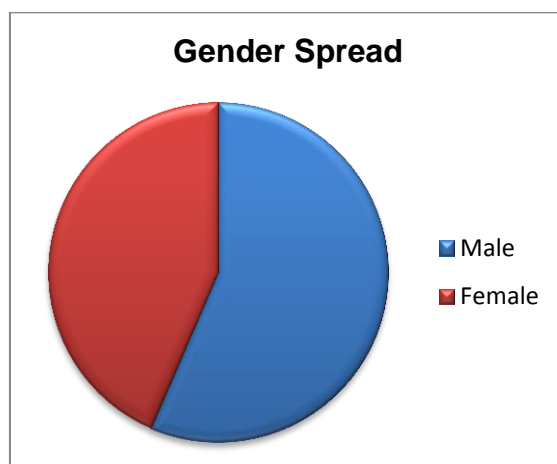
You may not be surprised to see from the above information that section 63 applications account for the highest percentage of the cases for which we gathered data: these accounted for 17,921 cases, which is 58.6% of the 30,582 cases interrogated. This is followed by section 50 applications with 6,043 cases, which make up 19.76% of the total cases. The other types of cases included were section 92 applications with 9.61%, section 95 applications with 7.3%, section 189 references with 3.67%, and finally section 192 applications with 1.07%.

Hospital orders accounted for 22,824 cases, which equates to 74.63%, and community orders accounted for 7,758 cases, which equates to 25.37%.



Gender and Age Spread

The following information provides detail of the gender spread for the cases, as well as the gender split at each age range, which is detailed in the column graph below:

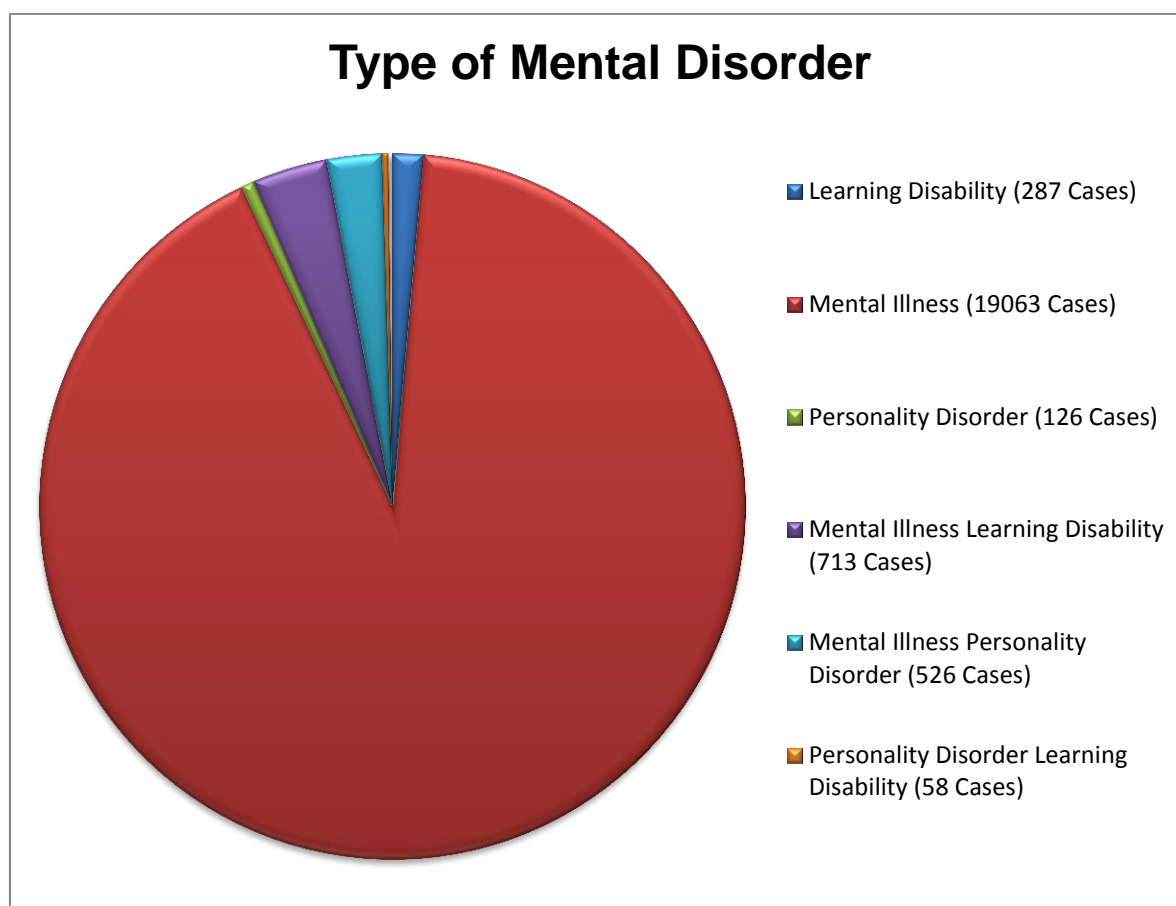


The majority of the 30,582 cases involved male patients, accounting for 17,268 of the cases. Female patients accounted for 13,316 of the cases. This gives a 56.46% – 45.54% split. When looked at in more detail, however, the gender majority varies at different age ranges. There were more cases for female patients than for male patients between the age of 0-17 (512 female to 260 male), 65-84 (2,687 female to 2,467 male), and 85 years of age and older (466 female to 275 male). There were, however, more cases for male patients than there were for female patients between the age of 18-24 (1,848 male to 894 female), 25-34 (3,628 male to 1,904 female), 35-49 (5,355 male to 3,834 female), and 50-64 (3,435 male to 3,019 female).

This information shows that the most common age range of a patient at the time an application was submitted to the Tribunal was between the ages of 35 and 49 years old. This age range accounted for 9,190 cases and made up 30.05% of the 30,582 cases which were interrogated.

Type of Mental Disorder

When gathering the data regarding the type of mental disorder with which the patient in each case was diagnosed, our system only generated 20,812 returns out of 30,582 cases. The following information is based on the 20,812 cases in which a return was received.



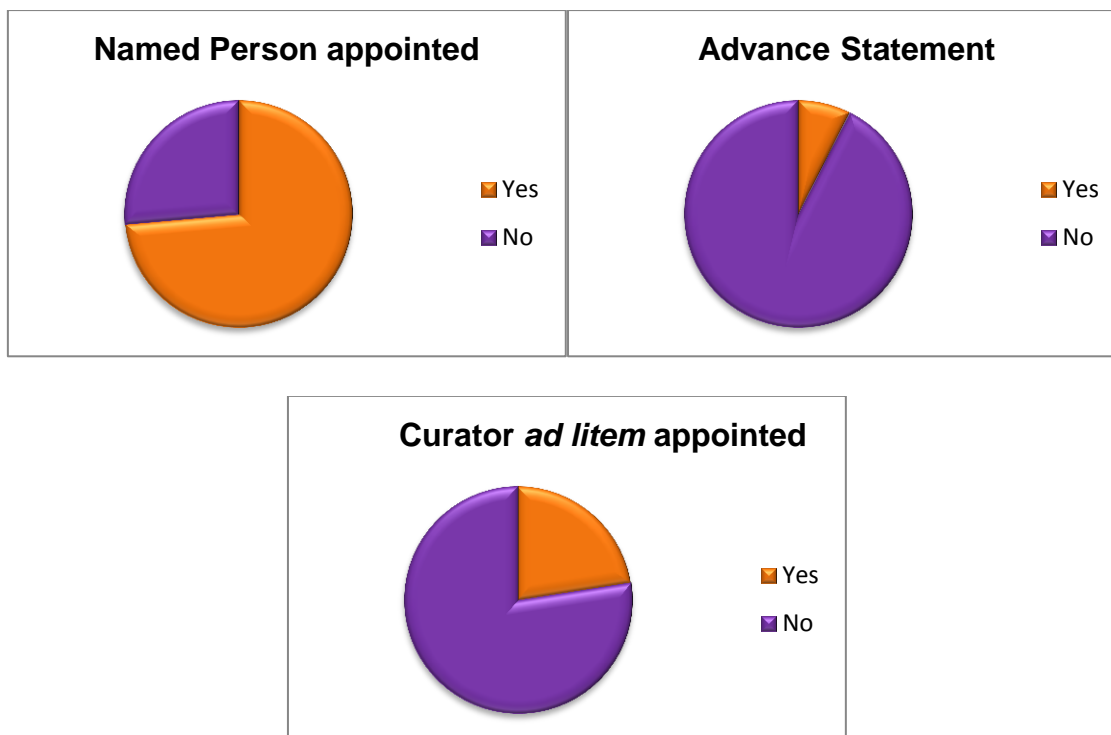
For the vast majority of the 20,812 cases for which a return was received the mental disorder diagnosis was a mental illness, accounting for 91.60% of the 20,812 cases. The second highest number of cases involved patients with both a mental illness and a learning disability, accounting for 3.43% of the cases. The third highest number of cases involved patients with both a mental illness and a personality disorder, accounting for 2.53% of the cases.

1.38% of the 20,812 cases, 287, involved a diagnosis of a learning disability only. There were 126 cases (0.61%) where the case involved a personality disorder diagnosis only.

It is also worth noting that for the cases involving a learning disability only, the number of male patients far outweighed the number of female patients – by 207 to 80. In cases involving a personality disorder only, however, the number of female patients far outweighed the number for male patients – by 108 to 18.

Further Information

Below is some further information that was gathered during this process. The information includes: cases where a named person was in place, cases where the patient submitted an advance statement, and cases where a curator *ad litem* was appointed by the Tribunal.



Of the 30,582 cases, there were 22,507 where a named person was in place and 8,075 where there was no named person. This represents a 73.6% – 26.4% spread. There is an expectation, however, that this spread may change over the coming years and the percentage of cases where a named person is in place may decrease. The implementation of the Mental Health (Scotland) Act 2015 (**the 2015 Act**) means that there will no longer be named persons appointed by default for a patient (except for patients under the age of 16). This will likely see some decrease in how many patients have a named person – although it is not clear at the moment how much or how little impact the change in legislation will have.

There were 2,279 cases where the patient had an advance statement in place at the time the application was submitted to the Tribunal. This represented only 7.45% of the 30,582 cases. The 2015 Act introduced new legislation around advance statements, but it is too early at this point to know whether or not this will assist in increasing the amount of advance statements made by the patients.

The Tribunal appointed a curator *ad litem* for the patient in 6,890 cases – which accounted for 22.53% of the 30,582 cases. The appointment of curators *ad litem* will continue to play an important part in ensuring that patients' interests are represented appropriately in proceedings before the Tribunal.

Scott Blythe
Tribunal Liaison Officer

TRIBUNAL MEMBERSHIP

Total Number of Members	Legal Members	Medical Members	General Members	Part-time Sheriffs (also Tribunal Members)	Part-time Sheriffs (not Tribunal Members)
368	115	125	128	7	9

There has been an increase in the membership as a result of recruitment of all member types in 2017. Fifty new members were recruited and received induction training in March 2018. This recruitment anticipates the retirement of a number of members following the move into the First-tier Tribunal once the changes made by the Tribunals (Scotland) Act 2014 take effect.

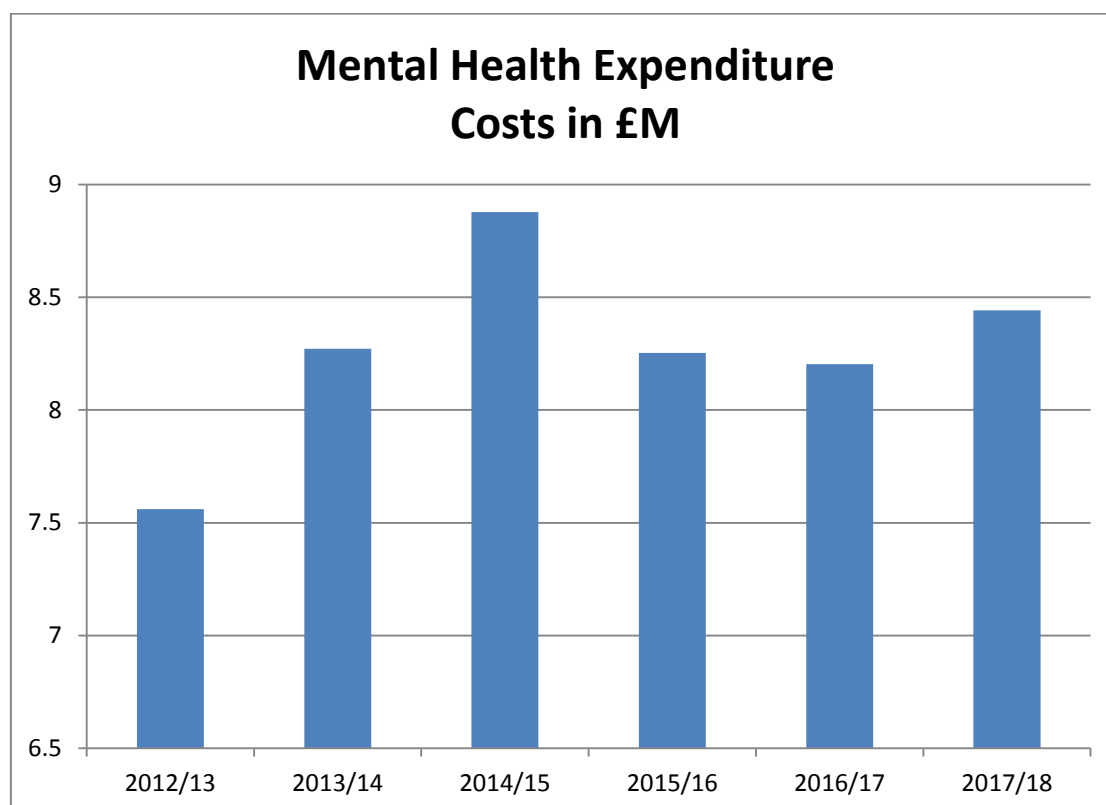
CORPORATE STRUCTURE AND FINANCES

Expenditure relating to public relations, overseas travel, hospitality and entertainment and external consultancy by the Tribunal during 2017/18:

Public relations	Nil
Overseas travel	1,520*
Hospitality and entertainment	50**
External consultancy	Nil
Members and members of staff of the Tribunal who received remuneration in excess of £150,000	Nil
Payments with a value in excess of £25,000	Nil

*IALMH Congress, July 2017 – Attendance of the President

**Gift voucher to Speaker at Induction Training for New Members



FINANCIAL RESULTS

Scottish Courts and Tribunals Service Operating Cost Statement for the year ended 31 March 2018

2016/17		2017/18
£000s		£000s
5,982	Tribunal Costs	6,191
	Administrative Costs	
2,026	Staff	2,082
194	Other Costs	169
<hr/> 2,221 <hr/>		<hr/> 2,251 <hr/>
8,203	Net Operating Costs	8,442

Financial Performance

Costs have increased during 2017/18 by approximately £239,000. Around 50 percent of this increase relates to members' fees and includes induction training for new members, increased cancellation claims and increased part-time sheriff costs.

Despite an increase in the number of hearings, the number of hearing days has remained steady due to an increase in multiple hearings. A year on year increase has arisen in relation to staff costs, which is due to recruitment to consolidate the operational staffing structure. The above figure includes 80 percent of Operational Support staff costs. Other running costs have decreased, such as a reduction of the temporary staff requirement and reduced travel and subsistence costs for staff due to continuing efficiencies.