



Mental Health Tribunal for Scotland

Annual Report 2008



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President, Dr Joe Morrow

Welcome to the 2008 Annual Report of the Mental Health Tribunal for Scotland, ("the Tribunal").

Created under the Mental Health (Care and Treatment) (Scotland) Act 2003, the Tribunal has been operational for three years and this Report covers the period April 2007 – March 2008 (2007/08).

During this time, the Tribunal has developed and grown into a modern, internationally recognised system of Mental Health Law and has had a significant impact on mental health treatment in Scotland.

The aim of the Tribunal is to provide a responsive, accessible, independent and impartial service when making decisions on the compulsory care and treatment of people with mental health problems.

Patients now have a significant opportunity to be involved in and contribute to decisions about their care and this principle remains central to the focus and delivery of the Tribunal's work.

As with any new system, there was some uncertainty from patients and stakeholders when the Tribunal was initially established. This was a pioneering approach which was new not just to Scotland, but to the world.

Mental health is a complex area and there are inevitably issues which arise as we strive to provide the legal wrapping for the treatment of people who are at a stage of their life where they are vulnerable.

However, three years on and the feedback from carers and user groups, professionals and voluntary organisations has been overwhelmingly positive – our Scottish solution is working.

A key target area for the Tribunal in the past year has been to work closely with these groups to ensure that we get the best out of the new system and can address any issues as the Tribunal develops.

The Professional Reference Group and Users' and Carers' Group meet regularly and feedback

and issues discussed at these meetings are taken forward.

A number of these stakeholders have agreed to share their experiences of the Tribunal for the purpose of this Report and their contribution reflects the inclusivity which has been key to the Tribunal's success.

This Annual Report will cover:

- The Tribunal as viewed by a patient, a mental health support group and the Chief Executive of the National Schizophrenia Fellowship Scotland;
- Progress made this year – facts and figures; and
- Future Developments

President

Mental health is an essential component of good general health, helping us all to realise our full potential. It also makes a vital contribution to our communities and to Scotland as a whole. Every Tribunal Member and every member of staff is committed to providing the best possible service to those affected by mental health problems no matter what their sex, sexual orientation, race, ethnicity, religion, age,

physical or mental ability.

The work of the Tribunal is therefore guided by a very clear Aim and powerful Values which encapsulate the standards it is determined to meet.

The aim of the Tribunal is to provide independent judicial decision making which is responsive, accessible, transparent, robust and efficient. The Tribunal is committed to building on and continually improving the unique Scottish mental health law system.

In order to achieve these aims the core values of professionalism, independence and inclusiveness are adopted in:

- handling cases sensitively and responsively;
- taking full account of the needs and rights of individuals;
- ensuring that equality and diversity issues are addressed at all times;
- engaging proactively with stakeholders;
- ensuring hearings environments are fair and impartial;
- providing clear and timely information on our processes; and
- maximising efficient and effective use of public resources.



Hamilton House



Susan

**Susan, 57, from the Highlands
(name changed to protect identity)**

Susan's first experience of the Tribunal as a patient occurred in March 2008 when a voluntary visit to the hospital resulted in her being sectioned.

The 57-year-old, who lives in the Highlands with her husband, suffers from Bipolar disorder and this was the first time she had been sectioned.

She went on to experience three tribunals in Inverness between March and April 2008, before her CTO was subsequently lifted and she was discharged from hospital.

Susan said: "It hadn't occurred to me that I would ever be sectioned so I wasn't prepared for what came next, I didn't have an Advance Statement prepared and although I thought I had nominated a friend as a Named Person while in hospital (as did my solicitor) this wasn't the case and there was a bit of confusion.

"I thought there were many positives in terms of the tribunals and the system around them.

"It was still quite formal, you are still made to feel that it is an important process but I imagine it's better than having to go to court – I think it's inappropriate to have to go to court for a health matter. I was however disappointed that two of my three tribunals were held in the hospital and not the designated venue in Inverness, as I felt I had a lot less privacy in the hospital.

"I was also concerned and annoyed that a nurse from the ward, who was not my primary or associate nurse and whom I did not relate to well, was permitted to attend and give a very negative input into my tribunal. I wish myself, my solicitor and advocate had been more forceful in objecting to this.

"I think having the General Member there is a good thing - there's something reassuring about it. My advocate was given ample time to say what we wanted to say and I was also given the opportunity to speak towards the end of the proceedings. Overall, anyone who has experienced the previous system must find this new set-up much better.

"I think there's still a lack of preparation for patients before the actual tribunal though. For example, I hadn't been warned it would be recorded and lots of people don't realise that so it can be quite daunting to find that out when you're actually at the hearing.

"I also don't think I was prepared enough for not getting the outcome I wanted. I thought I would get off the CTO at my third tribunal and wasn't prepared for this not being the case.

"I thought I had nominated a Named Person but in fact, I hadn't, so my husband became my named person by default. This posed a few problems because I don't agree with the decisions he made at the time so I'm not sure about the process of someone becoming a Named Person by default. I think this is something which is being looked into.

"I didn't have an Advance Statement prepared because, as is often the case, it hadn't occurred to me that I would ever need one. I have made one now."



Frances

Frances Fallon – Lanarkshire Links

"I am the Chairperson of Lanarkshire Links, a mental health service user/carer involvement organisation operating across North and South Lanarkshire.

"In partnership with NHS Lanarkshire, we involve and support mental health service users and their carers in the planning, design and delivery of mental health services both within a health and local authority setting.

"When the Mental Health Tribunal service was being set up we were heavily involved in taking this new service across Lanarkshire to as many organisations and individuals as possible.

"Mental health service users and their carers were consulted about the changes and how they would be affected. I personally sit as member on the Tribunal's Users' and Carers' group which meets regularly across Scotland to continue the exchange and feedback process now that the Tribunal is up and running.

"Mental health service users are very suspicious when it comes to compulsory orders and tribunals and it's fair to say there was uncertainty and suspicion around the setting up of the Tribunal service. Even professionals working in the mental health field were unsure what to expect as it was such a new concept.

"However, there is no doubt that the overwhelming response to the Tribunal and its focus on patient-centred care has been a positive one overall.

"Mental health service users and their carers are now a key part of the process, as are service providers, and this is extremely important.

"There is still a lot of legal jargon at hearings, which baffles mental health service users and their carers, but this seems to be improving and having the hearings in community settings has made a big difference in terms of how comfortable people feel.

"Another key development which has been well received is the allocation of resources at a local level to ensure that if a mental health service user is admitted to hospital under the Mental Health Act, they can access an independent advocate to guide and assist them right away.

"One of the major concerns for service users and carers relates to the completion of an Advance Statement - service users often feel that there is little point in preparing these Advance Statements as there is no obligation for professionals to adhere to their wishes.

"However, at Lanarkshire Links we encourage mental health services users to have an Advance Statement drawn up as it gives them something to refer back to if they want to question their treatment, or service provision.

"As a member of the Users' and Carers' group, I feed the above concerns back to the group and these are taken up by the Tribunal Administration. It is an area which I believe is being looked at seriously, with the tribunal panels now asking medical staff at the tribunals to explain how the wishes of the Advance Statement, as given by the mental health service user, were or were not taken into account, and to give good reason as to why the Advance Statement, was not actioned.

"Lanarkshire Links will continue to work with the Tribunal to support its aims to involve mental health service users/carers in the decisions about the treatment they receive, communicating information on this very important subject to our membership and around our communities throughout Lanarkshire."

Section One: Views of the Mental Health Tribunal for Scotland (continued)



Mary

Mary Weir – National Schizophrenia Fellowship (Scotland)

“For all the practical issues surrounding the Tribunal, I have yet to hear one person say they would want to go back to the Sheriff Court system.

Often patients didn’t even realise there was a Sheriff Court hearing going on and more often than not they didn’t have a meaningful opportunity to attend. The involvement of patients in the Tribunal process is a massive step forward.

The tribunals themselves are much wider in scope than previous hearings were. The idea of a care plan was an after thought with the old system but it is now a requirement and is discussed at the tribunal.

It’s more of a two-way process – if society has the right to compel a patient to do something then it also has a responsibility to make sure that patient receives the best care. The fact that decisions can be appealed is another major step forward.

The present high number of interim Compulsory Treatment Orders is obviously an area for concern and one that is shared by many groups involved in the Tribunal process. As well as the economic costs there can be even more important personal costs for patients (and those close to them) if an interim order is put in place. So I’m very pleased that this is an area being consulted on just now as part of the limited review of the 2003 Act.

I see the Tribunal system as being in its adolescence just now - it’s been up and running for three years and has made considerable head-way in that time but is still

identifying practical difficulties that will need to be resolved before the ‘vision’ of how much better the Tribunals can be for patients is fully realised.”

Advance Statements are clearly a very important aspect of ensuring that people’s views and wishes are known and considered, but much remains to be done to make the provision for Advance Statements in the Act truly effective.

When they were first proposed for inclusion in the 2003 Act, they seemed to be a great idea but the uptake hasn’t been what anyone would have hoped for. One difficulty is that

you need to ‘have capacity’ to make one i.e. you need to be considered well enough to make an informed decision about what you do and don’t want before you can make a valid Advance Statement - yet it’s often not until people are unwell that it becomes apparent that they need one. And after they have recovered, the last thing they may want to do is think back to such a difficult time in their life or consider that it might happen again.

Patients need to be hearing about Advance Statements much earlier, when they are well enough to make one and I think there needs to be more buy-in from everyone involved to make sure this happens.”

Section Two: Progress and Performance

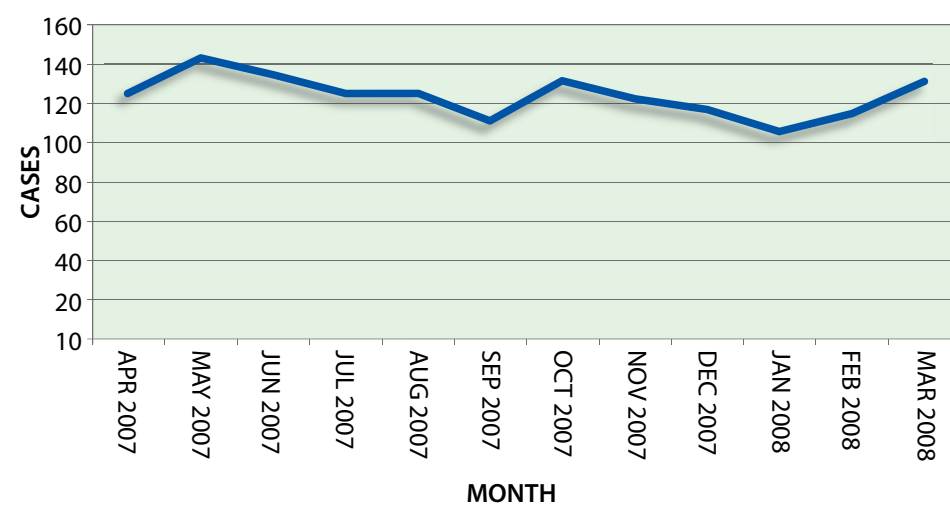
Activity

The number of cases that the Tribunal dealt with during the course of the year increased as the remaining area of the Act dealing with the Two Year Reviews of Civil Patients came into force in October 2007. Hearings dealing with such cases commenced in November 2007 and built up to their full volume in the early months of 2008. The figures reached in March 2008 are expected to be the highest totals the Tribunal will ever deal with. The first cycle of Civil

Two Year Reviews will end in November 2008 and be replaced in part by the second cycle of Forensic Two Year Reviews. Over the next few years both types of Two Year Reviews will spread out across the two year cycle to the point where similar numbers of cases will be dealt with on a monthly and yearly basis.

The number of CTO applications peaked in May 2007 and orders fell gradually before beginning a further rise from January through to March 2008. The reasons for this are not totally clear.

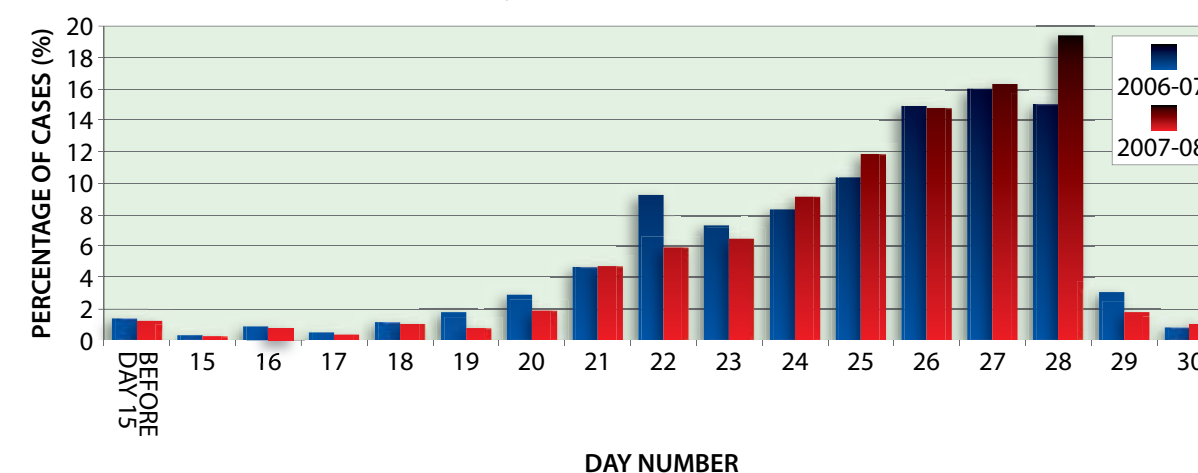
CTO (S.63) Applications Received
April 2007 – March 2008



During the year the average day of receipt of a CTO application by the Tribunal (within the 28 day period of Short-Term Detention) continued to increase. Whilst being a factor in limiting the

number of applications, the limited time afforded to process cases and issue notice of hearings to participants puts a particular strain on the Administration.

CTO (S.63) Applications, Day Number Received
April 2006 – March 2008



Overseas Interest

The Tribunal continued to attract interest from other countries and hosted visitors from The Irish Republic's Forensic Mental Health Tribunal;

from the Justice Department of the Netherlands and from the Australian State of Victoria. In July the President of the Tribunal attended the Conference of the International Academy for Law and Mental Health in Padua, Italy.

Health Boards

The Tribunal has been in regular contact with representatives from the various Health Boards and has continued to build upon the good relations established in order to provide the best facilities possible for patients, panels and attendees.

In 2007 the Tribunal circulated a draft Memorandum of Understanding to Health Boards setting out the responsibilities assumed by both the Health Boards and the Tribunal in relation to the provision of venues and other activity with which the Tribunal and Health Boards are jointly concerned. The Tribunal hopes that the final version of the document will be signed off in 2008/09 and will be followed by a similar document agreed with Local Authorities.

Performance



Members' Training

Approximately 50 new Legal and Medical Members joined the Tribunal in 2007 and all have undergone the full induction training. New Members are now required to observe a hearing as part of their training and they have now joined existing Members sitting on panels throughout Scotland.

Throughout the year the Tribunal has delivered a variety of training courses to the Members, including a highly successful programme on Learning Disability training held during the early part of 2008. As a specialist training event attendance was optional but the course was very well attended with over 100 Members taking part. The course ran in different locations throughout the country and specialist attendees from Scottish Consortium for Learning Disability were present at each event and participated in the workshops. The course provided Members with the opportunity to practise and develop their own skills and attitudes when hearing a case involving patients with learning difficulties.

The Tribunal has implemented a new Appraisers training programme and a team of trained Appraisers drawn from amongst the Members themselves, visited hearings across the country to appraise their colleagues. The Appraisers also reviewed the original objectives and principles of the appraisal system and agreed good practice before carrying out the appraisals to help ensure

Tribunal Members continue to build upon the skills needed to carry out their duties.

Mock tribunals were organised with the inclusion of specific complex points of law or policy. These points were dealt with during the exercise and then general principles and good practices were adopted in the determination writing element of the training. This key area of activity had previously been highlighted by Members as an area which had caused confusion and misunderstanding.

Staff



Bothwell House

During the year the Tribunal Administration concentrated its staff development attention on measures designed to consolidate the experience of a young but maturing organisation with a relatively young and inexperienced management team.

All managers from the most junior to the Chief Executive participated in a programme of Leadership and Management Development provided by the Institute of Directors. This in turn led to some additional training in improving delegation and understanding working styles.

Training was provided to help Administration Staff improve their telephone handling of both vulnerable and assertive callers.

The Tribunal's Finance team have undertaken a wide variety of training to help them improve the Tribunal's financial management both in delivery and security. Members of the Team have commenced training which will lead to qualification as Accounting Technicians.

Other training has taken place which will improve the Tribunal's ability to explain itself; to cope with change; and react to changing circumstances and threats to its ability to deliver. All Administration staff now undergo a training programme focused on Freedom of Information and Data Protection designed to follow on from their induction. The Tribunal has also continued to support Young Enterprise Scotland as a means to enhancing individual management skills and showing its support to the local community.

Information Technology

The Tribunal has embraced information technology from the outset and during 2007/08 has been very keen to use technology to make the best use of the limited time it has to process cases and reduce the costs of distribution for itself and others.

The Tribunal has established a secure method of distributing hearing papers electronically to Members via its web-site. By the end of the March 2008 only three non-shrieval Members continued to receive papers via mail and the President has agreed that Members recruited in the future will have to accept receipt of electronic papers as a condition of appointment.

The Tribunal has throughout the year been able to accept applications electronically, unfortunately take up by Local Authorities (the main source of applications) has been disappointing. Sending applications to the Tribunal electronically has the potential for significant cost and time savings for applicants. Dundee City Council has been the only Local Authority that has consistently used this facility.

At the end of the year the Tribunal sought to make use of the Criminal Justice Secure Mail (CJSM) system developed by the Home Office. This system will be used in future to send papers electronically to solicitors, again producing time and cost savings.

Scanning



Scanning Station

The Tribunal has moved to reduce the amount of paper it consumes and the storage required by scanning papers for all cases and moving them electronically. Whilst paper files are currently maintained for forensic cases, paper files are gradually being phased out for civil cases.

Governance

In December 2007 a Framework agreement that governs the relationship between the Scottish Government, the Tribunal and the Tribunal Administration was signed. Consequently a formal schedule of delegation was agreed by the President to direct what functions of the Tribunal can be properly discharged by the Tribunal Administration.

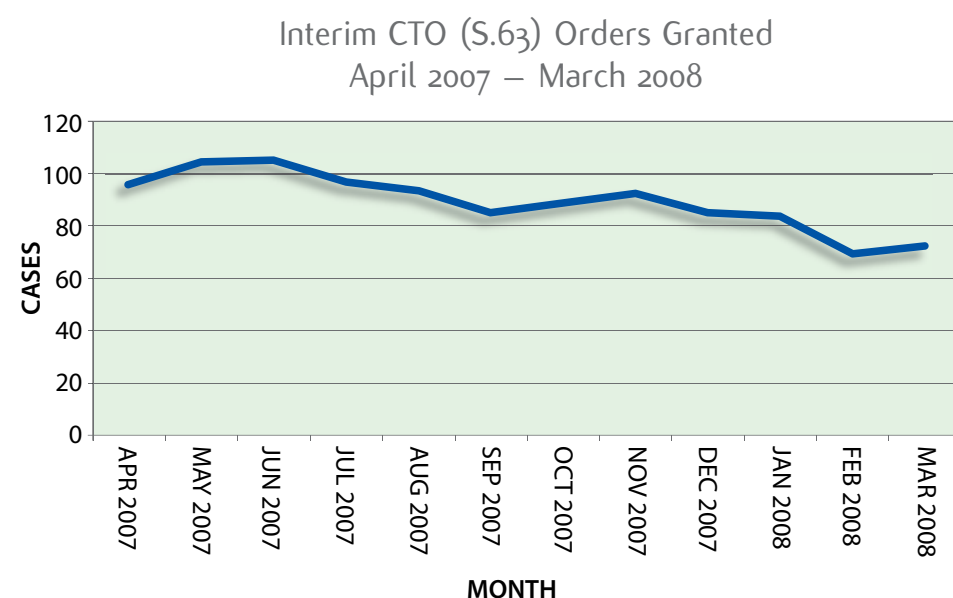
Following earlier recommendations by Audit Scotland and the signing of the Framework Agreement, a non-executive Board was established to oversee the activities of the Tribunal Administration. Hew Mathewson was appointed Chairman in March 2008 and along with three other members, will begin his supervisory role in 2008/09.

A temporary Finance Director has been in post throughout the year and in response to Audit Scotland and the Tribunal's own internal auditors has established sound financial governance procedures, which in the future will be subject to review by the Audit Committee of the Board. A permanent Finance Director will be appointed in 2008/09.

Outcome of Hearings

During 2007/08 a high number of Interim CTOs have remained a feature of the outcomes of Tribunal Hearings. From April 2007 to March 2008, a total of 1,114 CTOs and 1076 Interim CTOs were granted. Interim Orders fell gradually across the year, broadly in line with the pattern of applications.

Section Two: Progress and Performance *(continued)*



There are many reasons for Interim Orders being made. Whilst many of them allow time for the details of a case to be fully and properly explored many others are a direct result of the limited time available for those involved in cases to arrange to attend hearings and to prepare their case. Much of the pressure on time is the result of the way the Act has been drafted and interpreted. Both the Judicial and Administrative sides of the Tribunal have made representations to the

Group set up by the Scottish Government to review the Act and make recommendations for its improvement. These representations, if accepted by the group as recommended and if implemented, should have a considerable effect on reducing the number of Interim Orders that are granted. Similarly the Tribunal has contributed information and ideas to the overall review of the Act that is being undertaken by the Scottish Council for Social Research on behalf of the Scottish Government.

Venues

The Tribunal continued to hold hearings in both hospital and community venues across Scotland throughout the reporting year. A rolling programme has been created to regularly review these venues and a designated clerk has been assigned to continually check that standards are maintained. This enables the Tribunal to act immediately should a problem with a particular venue become apparent.

Between April 2007 and March 2008 a total of five new community venues and three new hospitals were added to the list of available venues. Three venues that failed to meet the required standard were removed bringing the total to 90 venues, 50 of which are community based. By bringing new venues on line and specifically adding extra community venues, the Tribunal continues to work to meet its obligation to hold the majority of Hearings at a location local to the patient. As with the previous reporting year, around 73% of Hearings took place within 50 miles of the MHTS headquarters in Hamilton which largely reflects the density of population and position of suitable facilities across Scotland.



The Old Surgery, Borders



Huntercombe main entrance, Lothian

The establishment of video and teleconferencing facilities has continued to prove useful for linking up with patients or doctors who live in the more remote parts of Scotland, as it removes the stress of unnecessary travel and upheaval. Although this facility was used only in a small number of cases, where it has been used it has been highly effective. The Tribunal remains committed to ensuring that doctors working in remote locations are not away from their posts for longer than necessary and will maintain the provision of this service to help accommodate service users' and/or doctors' needs.

MHTS continues to make every effort to ensure that Hearings venues comply with the Disability Discrimination Act 2005, which contains guidelines on ensuring buildings are fully accessible for people with a disability

Security

Following a review of the Tribunal's security needs during the last reporting period an invitation for tenders took place during early 2007. MHTS awarded the contract for security services to Chubb in April 2007.



Reception, Bothwell House

Tribunal Headquarters

In the summer of 2007 it became apparent that the existing premises at Bothwell House were insufficient to house the workforce of the Tribunal, which had increased to service higher than anticipated levels of demand and the need to employ staff to operate the Members' payroll system. Additional premises were taken in Hamilton House, which is adjacent to the Tribunal's original offices within Bothwell House. In October 2007 the new office opened accommodating a suite for the President and a new and enhanced Tribunal suite, which has improved facilities for Tribunal participants, in particular better meeting rooms for patients and their representatives.

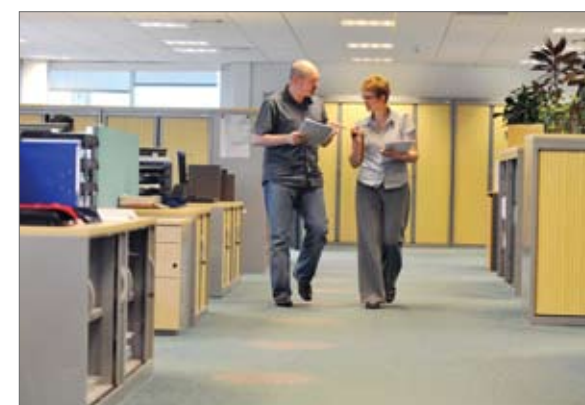
In addition to the offices in Hamilton the Tribunal continues to outstation a number of Hearings Clerks in Scottish Government buildings in Edinburgh, Dundee, the Highlands and the Scottish Borders.

Reporting

The President is accountable to the Scottish Parliament for:

- presiding over the discharge of the Tribunal's functions;
- preparing a written report for each 12 month period as to the Tribunal's discharge of its functions during that period, for the Scottish Ministers to lay before the Scottish Parliament;
- determining the times and places where the Tribunal sits;
- giving directions as to the practice and procedure to be followed by the Tribunal in relation to any matter; and
- giving directions and issuing guidance about the administration of the Tribunal in order to ensure that the functions of the Tribunal are discharged efficiently and effectively.

The Mental Health Tribunal for Scotland Administration ("MHTSA") initially produced a catalogue of statistical reports on its activities. Some of those reports are published on a quarterly basis on the Tribunal's website, whilst others are used within the Tribunal and made available to interested individuals and organisations conducting research into the operation of Mental Health Law or seeking to improve their own systems e.g. Local Authorities. During the year the Tribunal has been engaged in a quality assurance programme to ensure that all its statistical reports are robust.



Equal Opportunities and Dignity at Work

As an Agency of the Scottish Executive, MHTSA is an equal opportunity employer and is committed to treating every member of staff with dignity and respect.

All staff have equality of opportunity in their terms and conditions of employment and are able to work in an environment free from harassment, victimisation, discrimination and bullying.

MHTSA is committed to treating all members of staff with respect regardless of sex, marital status, age, race, ethnic origin, sexual orientation, disability, religion or belief, social background, working pattern or any other irrelevant difference.

The Scottish Government policy implemented by MHTSA sets out the responsibilities of both managers and staff to ensure everyone works in an environment free from harassment. It also

details both the range of support options available to staff and the procedures which should be followed in the event of a complaint being made.

Performance Indicators and Objectives

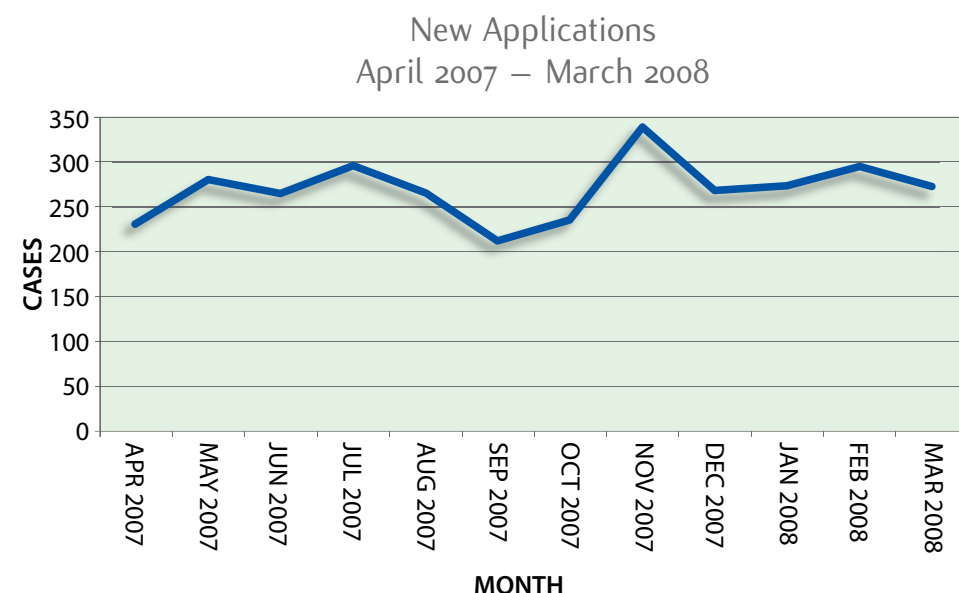
The key performance indicators developed and set by MHTSA as part of its commitment to provide a high quality service, have been effective in allowing staff to review and analyse administrative efficiency and focus on better meeting the needs of patients and participants. Through 2007/08, this allowed the Tribunal to place increasing emphasis on key areas of its own operations and to assist others in improving theirs.

Targets were set in following key areas:

- optimise the time taken to process CTO applications and give notice of Hearings;
- minimise the time between receipt of an application to revoke an order and the Hearing date;
- issue full findings and reasons as speedily as possible following a Hearing;
- improve the flow of information to internal and external stakeholders;
- work closely with patient groups; and
- provide a substantive response to complaints without undue delay.

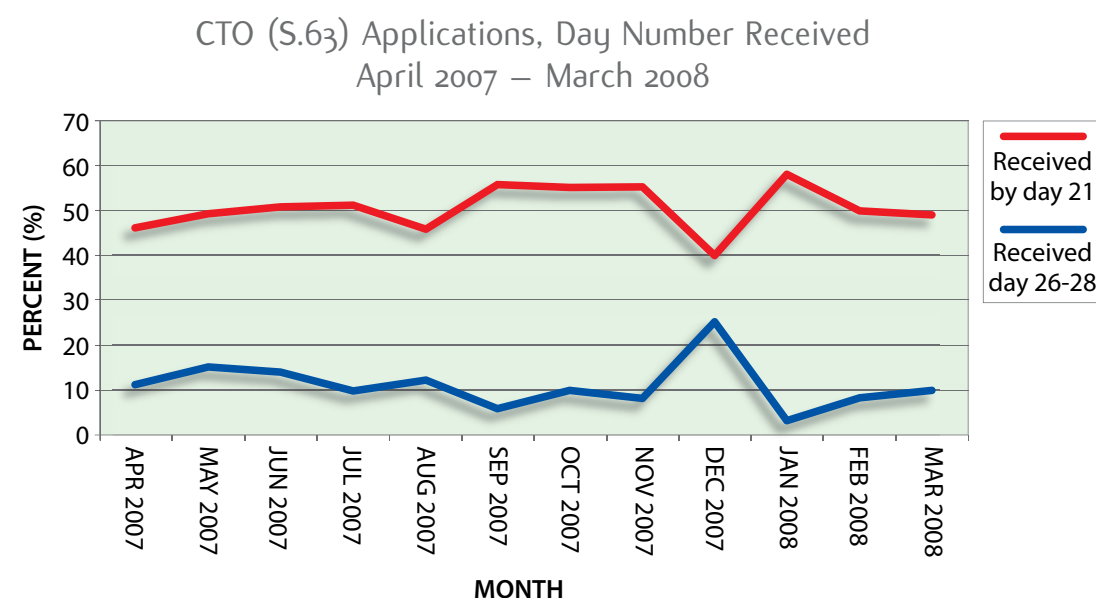
Although some areas saw significant improvements, the trend of applications made at a later date has had an impact on the time it takes to give notice of hearings.

Caseload and Performance



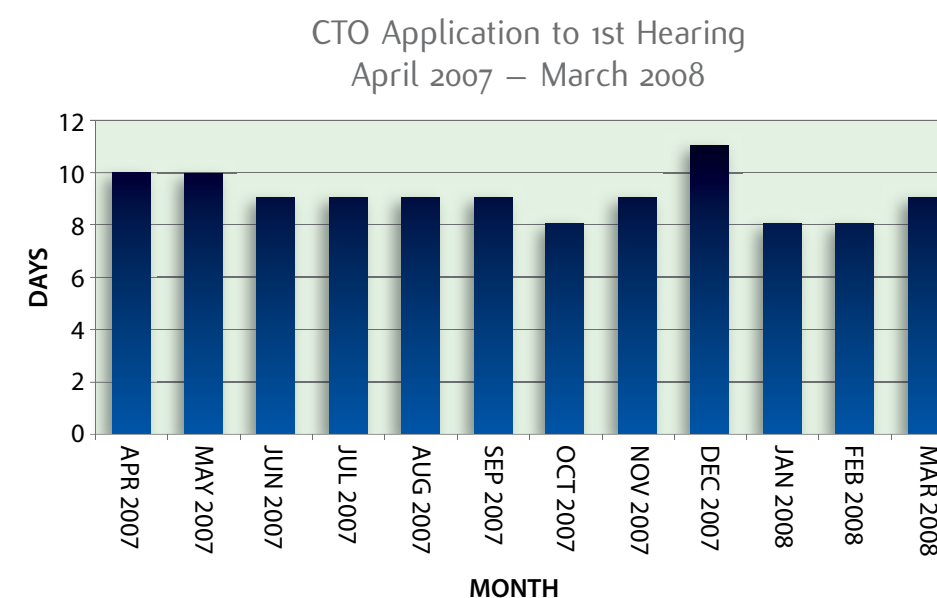
This graph illustrates the flow of all applications into the Tribunal from across the year, a total of 3215 cases. The sudden rise in November is a result of the introduction of Two Year Reviews for Civil Patients from October 2007. Civil and Forensic Two Year Review cases are now on

alternating years and it will take some years until all these cases are spread evenly across the two year cycle. The additional work created by the two year reviews has to a certain extent been offset by a small reduction in the number of CTOs – see below



From inception, MHTSA anticipated between 2,500 and 3,000 Hearings annually. The actual figure was much higher with 3,599 hearings during 2006/07. Through 2007/08 Compulsory Treatment Orders accounted for 57.5% of Hearings and around 50.48% of those

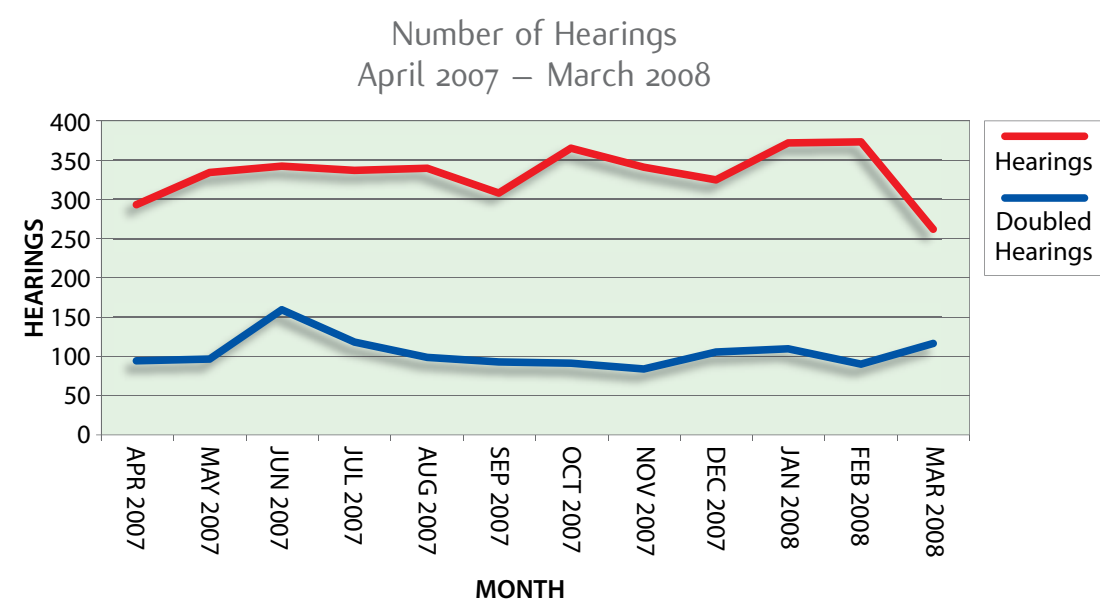
applications gave MHTSA staff less than eight working days to arrange and hold a Hearing. The actual date for submission of applications has gone back from 24.86 days in 2006/07 to 25.25 days, leaving MHTSA staff on average 0.39 fewer days to arrange and hold a Hearing.



The tight timescales set in the Act for the holding of Hearings when applications for CTOs are made remains the same and a first Hearing must be heard within five working days of the expiry of a Short-Term Detention Certificate

(STDC). During the reporting year the Tribunal held 99.5% of CTO Hearings within the given timescales, which is inside the target of 99% agreed with the Scottish Government.

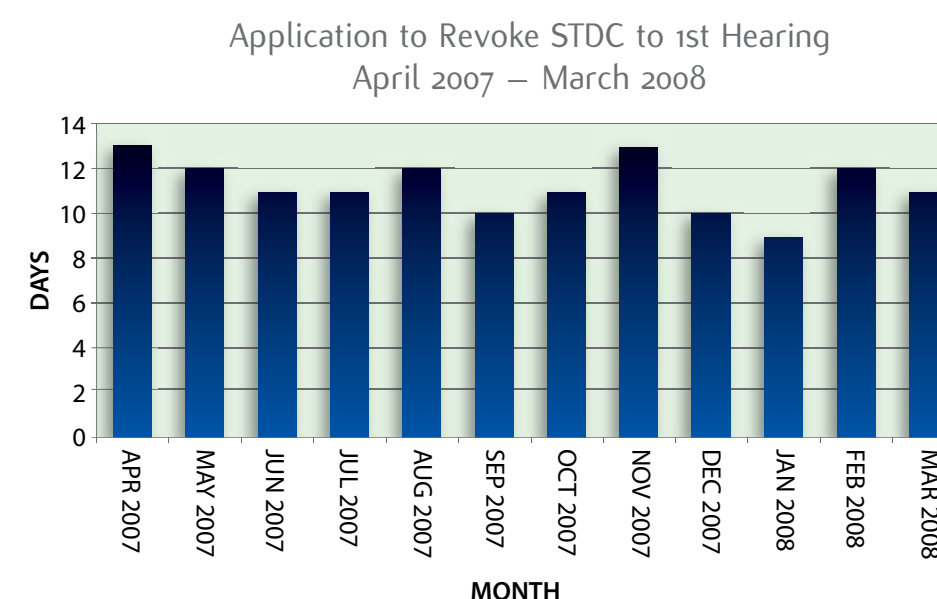
Section Two: Progress and Performance *(continued)*



Hearings had started to plateau towards the end of summer of 2007 but increased again with the commencement of Two Year Civil Reviews in October 2007. Despite a brief decline over the festive period the figures remain at their highest level in the final quarter of the year and at approximately ten hearings per week higher than in the previous year. Hearings are expected to remain at the kind of levels apparent in the final quarter up until the end of the Two Year Civil Review cycle in the third quarter of 2008/09. The Tribunal has attempted to contain the additional costs associated with additional hearings by increasing the number of

doubled-up hearings (two hearings in the same venue with the same panel on the same day). The number of doubled up hearings over the reporting period totalled 1,270 and accounted for 31% of the total number of hearings.

Whilst the length of Hearings still varies considerably, the average time, excluding breaks and paperwork, has dropped from 90 minutes for the period April 2006 to March 2007, to 56 minutes in 25% of cases. Including breaks and paperwork, the average time is now just over 2 hours in 10% of cases.

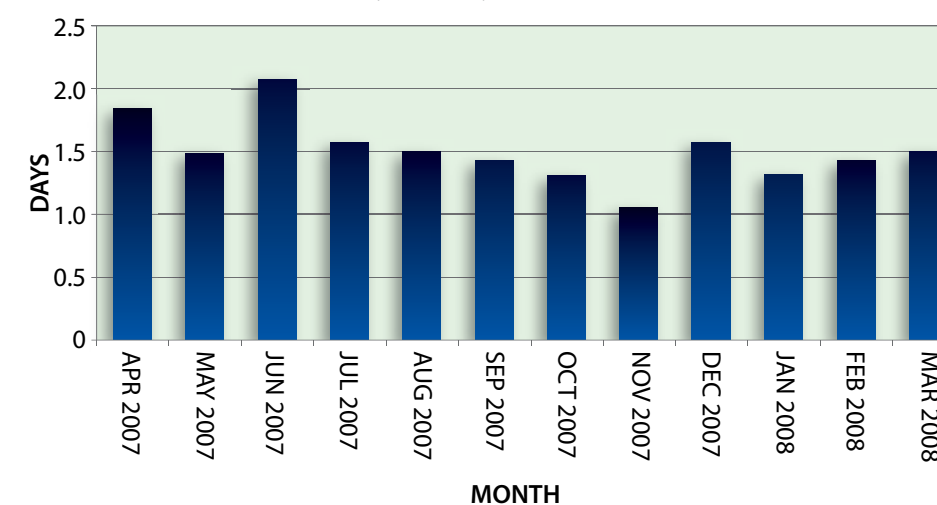


The graph shows that the majority of Hearings held to determine an appeal against a Short-Term Detention Certificate have been held at around 11 days. The figure has remained largely consistent through the reporting year and although a little higher during 2007/08 than in the previous year it is consistent with the

final quarter of 2006/07 and reflects the overall increased activity that the Tribunal was dealing with during the year.

Out of the 357 appeals against Short Term Detention Orders made within the reporting period, 9.8% have been upheld.

CTO Gap Between MHO Signature and Date Received (Average)
April 2007 – March 2008

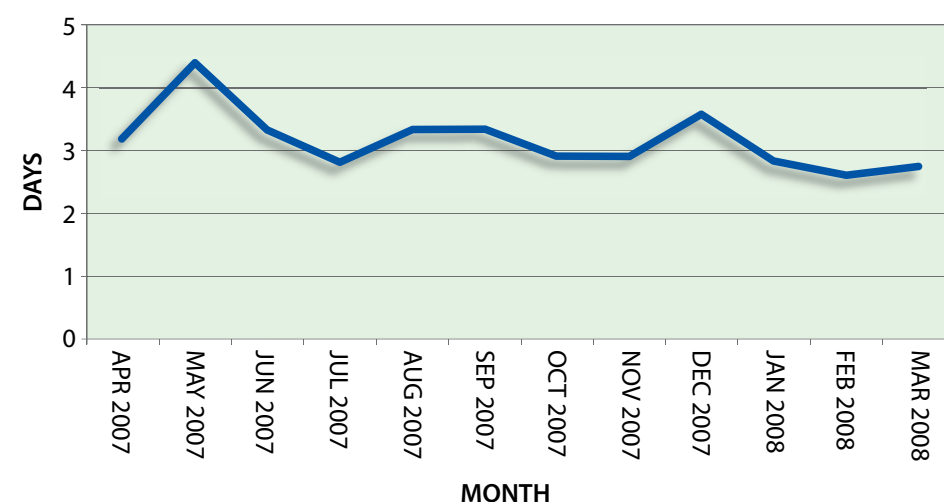


Section Two: Progress and Performance *(continued)*

The average time it takes for applications to reach MHTS has fallen during the second half of the year. The Tribunal believes that if more Local Authorities were to embrace electronic applications then more notice would be available to participants and more preparation time would

be available for those representing patients. In turn this would lead to a reduction in the delays that sometimes occur at the start of hearings and a marginal reduction in the number of Interim Orders.

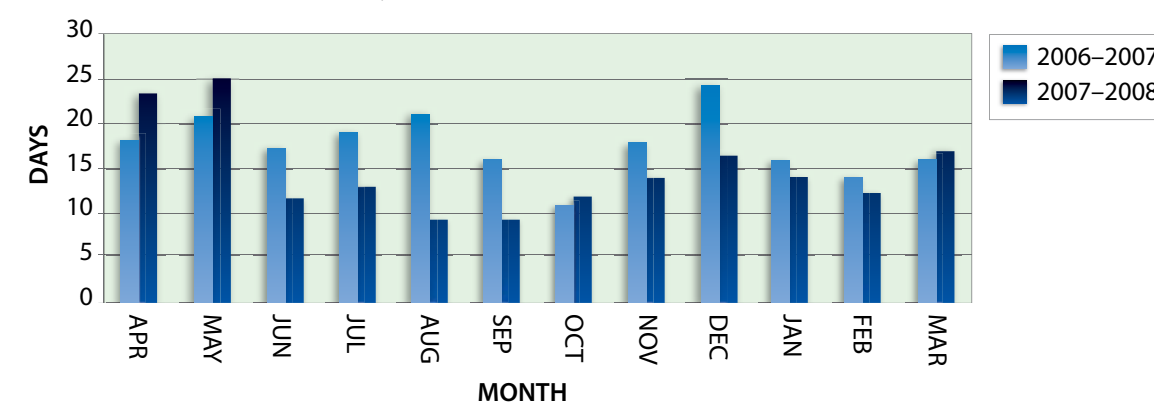
CTO Application Received to Issue of Hearing Notice (Average)
April 2007 – March 2008



The table illustrates the average time it takes from the point where an application is received to the issuing of letters to all involved, advising them of the date of the Hearing. The figures for April and May show an unusually high proportion (13 and 15 compared to an average of 7.5) of cases where the patient concerned was

not subject to detention. In such cases the lack of required urgency means the Tribunal is able to spend more time accommodating the needs of parties attending the hearing. On average hearing notices are issued within three days of receipt and many participants will have been made aware of the hearing in advance.

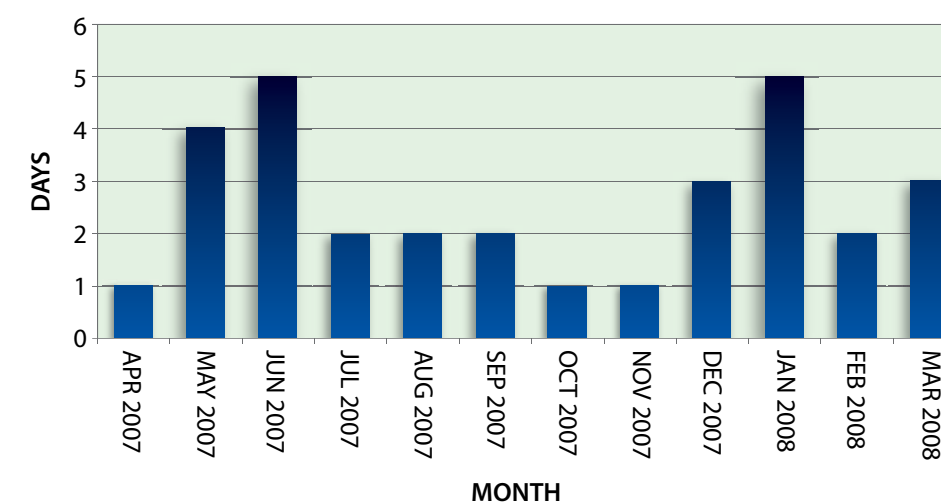
Hearing Date to Findings (Average)
April 2006 – March 2008



The Tribunal has been unable to meet its own target for issuing the full Record of Findings and Facts to parties in 80% of cases within ten days and in 98% of cases within 20 days. Unfortunately, the Tribunal was only able to issue 32.2% of Facts and Findings within ten days and 73.8% within 20 days. Although performance has continued to lag behind the target figure there has been an overall improvement on the previous year's

performance (28.7% and 69.8% respectively). Decisions from individual Hearings are issued to participants on the day of the Hearing, but clearly it is important that participants receive the full findings as soon as possible. The Tribunal has made several attempts to improve these figures, but has been thwarted by having to concentrate available staff resource on activity that allows hearings to take place within the legal deadlines.

Average Time to Complete All Work
April 2007 – March 2008

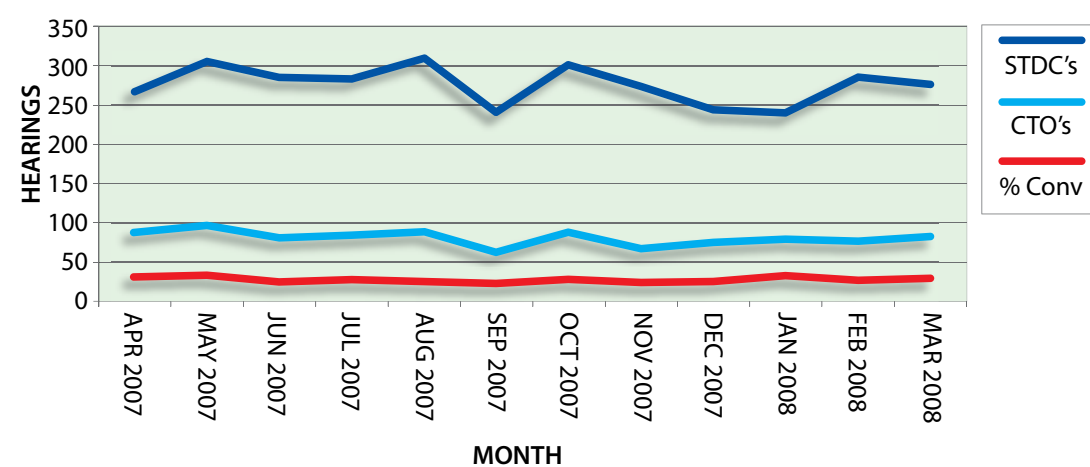


Section Two: Progress and Performance *(continued)*

During the first eighteen months the Tribunal set itself a slightly over ambitious target of seven days or less for the issuing of Hearing notices for 95% of applications (excluding forensic and excessive security cases, CTO applications and 2 year review cases). In 2007/08 the target date was met in 64.7% of cases. In 75.3% of cases the hearing notice was sent within 10 actual days and in 84% of cases the notice was sent within 14 actual days. There continues to be a number of reasons why the performance indicator was missed; the most common still being the

need to ensure that as many parties to a case as possible can attend a Hearing, which can involve working with the diaries of a number of individuals. However, the introduction of the 2 year review cases has increased workloads in general and it can be difficult to meet the availability of all parties. Where a statutory timescale does not exist, the Tribunal will seek dates for Hearings which allows for the greatest possible attendance of the parties. To do otherwise risks the possible need to hold a further Hearing.

STDC to CTO Conversion
April 2007 – March 2008



29% of patients subject to a STDC go on to have a full CTO. (Please note that the basis on which this information has been recorded differs

from that used in the previous Annual Report.) The rate of "conversion" has remained largely constant throughout the year.

Complaints

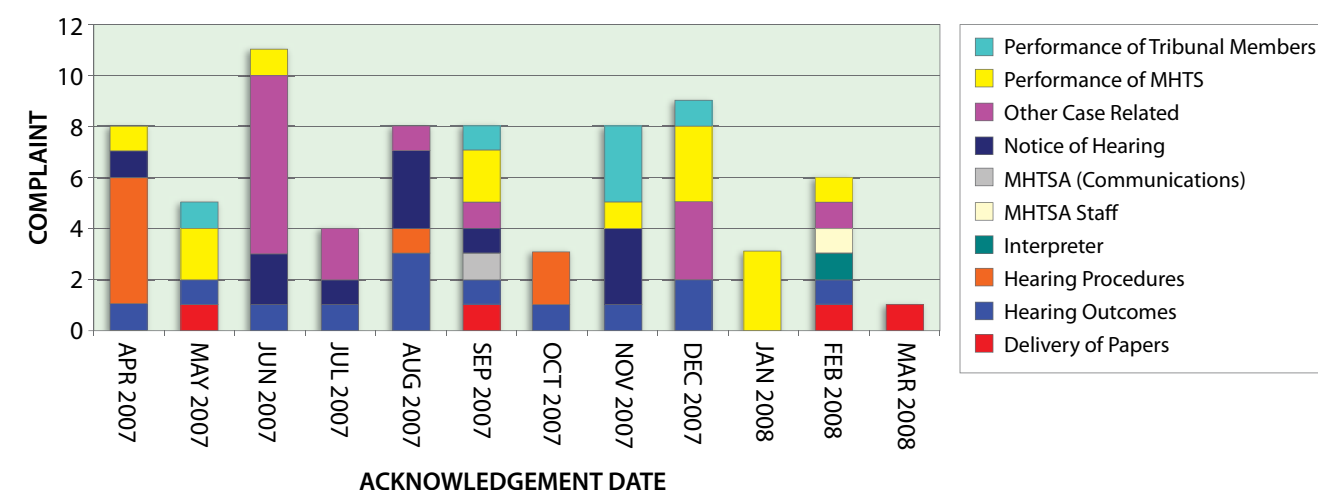
A copy of the complaints procedure can be found on the Tribunal's website at www.mhtscot.gov.uk

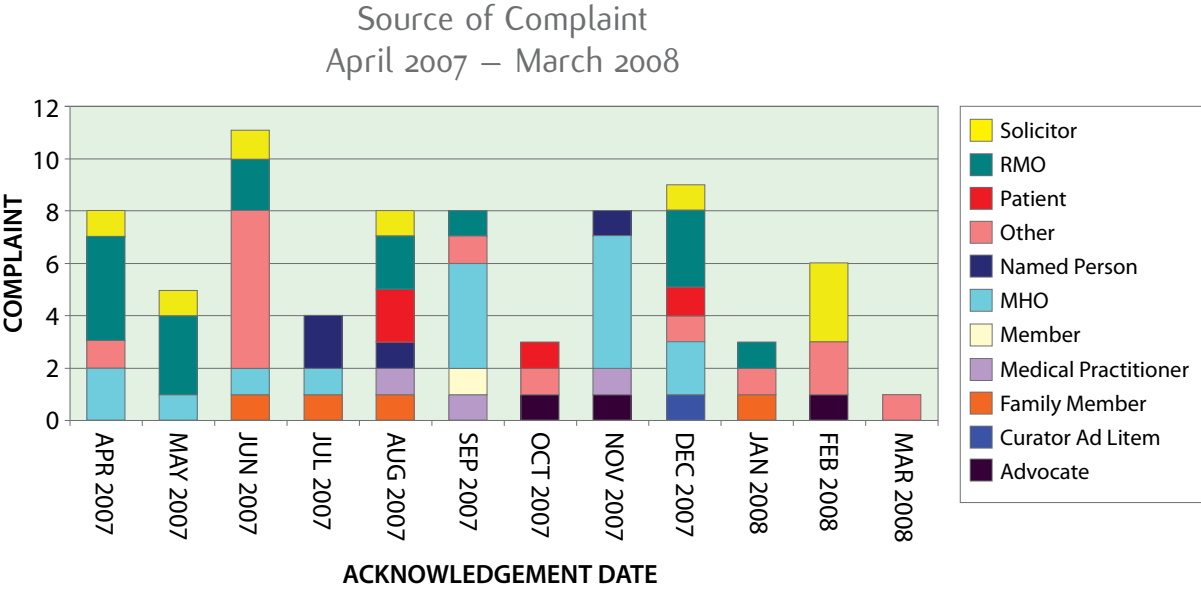
During the period 2007/08, 74 complaints were recorded. A new complaints procedure was introduced with complaints now being allocated from a central source to either the President's Office or the Deputy Chief Executive, depending on the nature of the complaint.

The low level of complaints reflects the fact that many participants are now used to the processes and timescales involved with dealing with the Tribunal and accept that whilst they

may still cause them some inconvenience there is little the Tribunal can do to improve the situation as it affects them. Whilst MHOs and RMOs are the most regular complainants to the Tribunal there is no one dominant source or type of complaint. Some complaints have lead to MHTS modifying its practices e.g. when caseworkers began sending electronic paperwork to members, the Tribunal received complaints from panel Members unable to source their paperwork which had been placed in a secure area within the Members' section on the Tribunal's website. The Tribunal's IT Team identified the problem which was quickly addressed by extending the period in which papers remained available to Members.

Reasons for Complaint
April 2007 – March 2008





When the Tribunal established its complaints procedure, it also put in place a target to issue a substantive response to individual complaints within 20 working days. Statistical returns show that the Tribunal has improved on the previous

60.4% response rate with 78% of responses issued within 20 working days. The actual average date of response over the reporting period was 17.5 working days.

Training

Members

A number of one day topic based sessions are scheduled to take place in 2008. The sessions will be aimed at cross training Tribunal Members in areas outwith their expertise; with Legal Members undertaking training in psychiatry and General and Medical Members taking part in additional legal training.

The Tribunal will also continue to build upon its solid start by continuing to meet its obligations to hold Hearings within prescribed timescales. The Tribunal will also continue to work towards increasing the use of modern technology and develop strong working relationships with others.

Areas for Improvement – Objectives

Tribunal Service

Maintain an independent judicial process which inspires and maintains the respect of the patients, carers and the professionals involved.

Tribunal Members

Ensure Tribunal Members are fully equipped with the necessary knowledge and range of skills to conduct and decide cases before them and to keep abreast of developments in the tribunal service.

Staff

Continue to make best use of the intelligence and enthusiasm of staff and encourage their development and provide career enhancing opportunities which will ensure a caring and efficient service.

Other Resources

Increase productivity in the use of our human, IT and physical resources, including the exploration and delivery of opportunities for joint working.

Relationships

Continue to encourage effective dialogue, information sharing and joint working with interested individuals and organisations to ensure continued confidence in the Tribunal Service and to improve, where appropriate, the quality of health care experience.

Ecological Footprint

Continue to promote the use of electronic systems and work towards reducing our ecological footprint for the Tribunal system.

Corporate Governance

Develop as an organisation and continue to strive for continuous improvement and a culture of accountability and openness.

Website

The Tribunal's dedicated website can be found at www.mhtscot.gov.uk. The site has been developed continually throughout 2007/08 and further development is planned during 2008/09. During 2007, the site was restructured and several new sections introduced to take account of users' varying needs. From January 2008, the Acting President fulfilled the statutory obligation to publish tribunal decisions by publishing them on the Tribunal's website, detailing the case number, type of application and the decision.

Working with Stakeholders

The Administration has maintained relations with both the Professional Reference Group and the Service Users' and Carers' Group through

2007/08. Both groups meet quarterly and discuss any issues that affect either the Tribunal; Service Users; or Professionals. Minutes of these meetings are published on the Tribunal's website.

In 2008/09 the Tribunal will be taking the meetings of the Service Users' and Carer's Group around the country to allow smaller local groups to take part and voice their opinions on the Tribunal service.

Both groups were involved in the production of the guide for Service Users which was published in 2007. Similarly both groups will be invited to contribute to a guide aimed at Carers and Named Persons which will be produced within the next reporting year.

Judicial

Dr Joe Morrow at the request of the Scottish Ministers took on the role of Acting President of the Tribunal in October 2007. Following a selection process, Dr Morrow accepted the permanent position of President in October 2008. The President sits at the head of the Tribunal, which is a Judicial Non Departmental Public Body. The Tribunal now has some 360 part-time Tribunal Panel Members who have been appointed by the Scottish Ministers. The Panel Members are responsible for the judicial functioning of the Tribunal Hearings.

Each case is heard by a Panel comprising three Members; a Legal Member who acts as Convener, a Medical Member who is a consultant psychiatrist and a General Member who has experience of working with, caring for or having been a patient. At the end of March 2008, MHTS had 117 Legal Members, 110 Medical Members and 134 General Members.

Administration

By the end of March, the Mental Health Tribunal for Scotland Administration (MHTSA) had a staff of 80 civil servants and temporary



Seating area, Hamilton House

staff (an increase of eight over the figure in 2007). Administration staff are responsible for carrying out the administrative and corporate functions of the Tribunal.

The Chief Executive and the management team are included within the MHTSA, as civil service members of the Scottish Government.

The MHTSA is an Executive Agency of the Scottish Government Health Directorates (SGHD) established to support the work of the Tribunal. MHTSA has delegated authorities from the SGHD in respect of some aspects of its operation; namely finance, human resources and organisational delegations within the spending, policy and legal framework established by Ministers. The work of the Tribunal is funded by the Scottish Ministers, from the Health Budget through the SGHD, and all funds are provided to and managed by MHTSA.

The summary financial results for the MHTSA for the year ended 31st March 2008 are shown on pages 36 and 37. The Independent Auditor's statement on the summary financial results is on page 38.

The Audited Annual Accounts for the year ended 31st March 2008 provide more details on the financial performance of the MHTSA and a copy may be obtained by request through the Chief Executive.

This annual report contains an overview of the work of the Administration within the Tribunal and I am delighted that it demonstrates that we continue to deliver a high level of responsiveness and service.

2007/08 saw the Tribunal enter its third year of operation and allowed us to mature our systems for dealing with the natural peaks and troughs of our work while still maintaining the high levels of service patients, stakeholders and hearing participants expect of us.

2007/08 has also seen a number of significant developments within MHTSA:

The full scope of the Act is now in force – including all civil and forensic review cases – which means that the Administration is now operating at full capacity and still delivering a high level of service.

The advisory board which will oversee the governance of the Administration has now been set up and all the consequential governance arrangements which flow from this, such as the audit committee for example, are now in place.

The year ahead will allow us to build on the knowledge which 30 months of service has given us. We now more clearly understand the behaviours, needs and expectations of patients and other participants in relation to the Tribunal. We will use that knowledge to ensure that the patient remains at the core of everything we do. The system works, but it can work better, more efficiently, effectively and more flexibly to meet the needs of each patient more closely.

We will begin a systematic review of all of our Administrative processes and behaviours.



Patricia Lewis – Chief Executive

This initiative is designed not only to benefit the Tribunal and improve its systems, but to ensure that the time of all participants in Tribunals is optimised allowing them to contribute to the highest possible level in the Tribunal process without unnecessarily impacting on their other roles in the provision of mental health services and the support of patients.

The delivery of the high standard of service reflected in this annual report and the commitment to keep improving in the future would not be possible without the enthusiasm, diligence and expertise of all of the staff at MHTSA. I would like to take this opportunity to express my sincere thanks to all of those who helped prepare this report and to all of the staff for their contribution throughout the year.

Patricia Lewis

Chief Executive

Annex i
Financial Results

The Mental Health Tribunal for Scotland Administration
Operating Cost Statement
for the year ended 31st March 2008

2007 £'000		2008 £'000
<u>5,400</u>	Tribunal costs	<u>6,359</u>
	Administrative Costs	
1,854	Staff	1,948
99	Depreciation	129
<u>1,042</u>	Other costs	<u>1,337</u>
<u>2,995</u>		<u>3,414</u>
<u>8,395</u>	Net Operating Cost	<u>9,773</u>

Note:-
The financial allocation provided to the MHTSA for 2007/08 was £8,000K (2006/07 - £7,500K), giving rise to an overspend of £1,773k (2006/07 - £895k).

The major portion of expenditure (around 80%) continues to relate to the costs of organising and holding the Hearings, i.e. fees and expenses incurred by the Tribunal Members attending the Hearings and their internal administration costs. If a Hearing must be held, the cost of that Hearing is generally predictable; it is the number of Hearings anticipated to be held over the year which is not. The Tribunal cannot refuse to hold a Hearing once an application or appeal has been received. In setting the annual funding allocation, the annual number of Hearings can only be estimated.

While the Net Operating Costs for 2007/08 was close to the anticipated level of expenditure, the overspend continued the trend against the funding allocated by the Scottish Government Health Department. The process of setting the allocation will be developed during 2008/09 to ensure that the financial requirements for operating the MHTSA are fully considered.

Annex ii

The Mental Health Tribunal for Scotland Administration
Balance Sheet
As at 31st March 2008

2007 £'000		2008 £'000
	Fixed assets	
495	Tangible fixed assets	626
<u>4</u>	Intangible assets	<u>3</u>
<u>499</u>		<u>629</u>
	Current assets	
	Debtors	54
	Creditors	
(639)	Amounts due within 12 months	(596)
<u>(64)</u>	Amounts due after more than one year	<u>(100)</u>
<u>(703)</u>	Total Creditors	<u>(696)</u>
<u>(662)</u>	Net current liabilities	<u>(642)</u>
<u>(163)</u>	Total assets less current liabilities	<u>(13)</u>
<u>(163)</u>	Taxpayers' equity – General Fund	<u>(13)</u>

Annex iii

**Independent auditor’s statement on the summary financial statements of
Mental Health Tribunal for Scotland Administration (MHTSA)**

I have examined the summary financial statement which comprises the Operating Cost Statement and the Balance Sheet.

This report is made solely to the parties to whom it is addressed in accordance with the Public Finance and Accountability (Scotland) Act 2000 and for no other purpose. In accordance with paragraph 123 of the Code of Audit Practice approved by the Auditor General for Scotland, I do not undertake to have responsibilities to members or officers, in their individual capacities, or to third parties.

Respective responsibilities of the MHTSA and Auditor

The MHTSA is responsible for preparing the summary financial statement within the Annual Report in accordance with guidance issued by the Scottish Government Health Directorates.

My responsibility is to report to you my opinion on the consistency of the summary financial statement with the full audited financial statements of the MHTSA.

I also read the other information contained in the Annual Report and consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the summary financial statement. The other information comprises the note to the Operating Cost Statement.

Basis of opinion

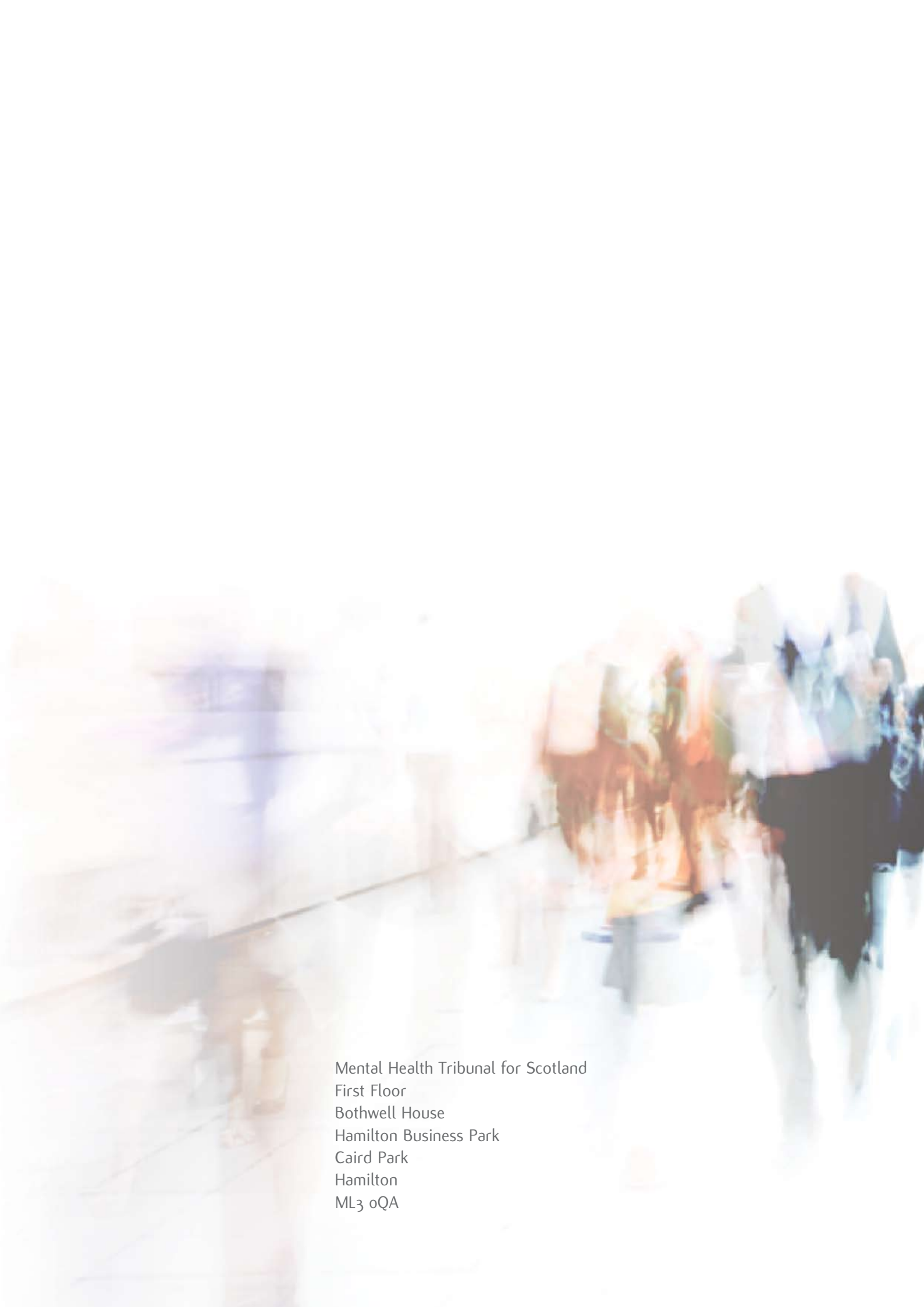
I conducted my work having regard to Bulletin 2008/3 ‘The auditor’s statement on the summary financial statement’ issued by the Auditing Practices Board. My report on MHTSA’s full annual financial statements describes the basis of my opinion on those financial statements and the Management Commentary.

Opinion

In my opinion the summary financial statement is consistent with the full audited annual financial statements of MHTSA for the year ended 31 March 2008.

I have not considered the effects of any events between the date on which I signed my report on the full financial statements and the date of this statement.

David McConnell
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