

Annual Report 2009

Mental Health Tribunal for Scotland
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Mental Health Tribunal
for Scotland

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President, Dr Joe Morrow

President's Foreword

This year has seen significant and positive changes for the Mental Health Tribunal for Scotland that I believe will contribute to the continued steady improvement of the work of the Tribunal. Our aim remains unchanged: *to provide a responsive, accessible, efficient, independent and impartial service when making effective decisions on the compulsory care and treatment of people affected by mental disorder*. The changes that have already occurred and those that will happen in the coming year will have a positive impact on how we deliver our aim.

At the end of reporting year 2008-09 the Scottish Government's sponsorship and funding of the Tribunal's Administration passed from Health Directorate General to Justice and Communities Directorate General. At the same time the status of the Tribunal's Administration changed from being an Executive Agency to a Delivery Unit of Justice and Communities. Although the policy 'lead' for mental health will rightly stay with Health, it seems entirely sensible that the sponsorship role for a key part of the administrative justice system should now sit with Justice and Communities as the Scottish Government moves forward with its commitment to improve the efficiency and effectiveness of the administration of tribunals.

As part of these changes the responsibilities of the Board of the Tribunal's Administration ended on 31st March 2009, other than for the approval of the Accounts for the year 2008-2009. I would like to take this opportunity of thanking Board members for their valuable assistance during their time in office.

Turning to some of the more notable developments during 2008-09, firstly it is important to record that the Tribunal held 4,299 hearings over the year, an increase of 5% on the figure for 2007-08 and a significant achievement in itself. At the same time an increasing number of hearings were 'doubled-up', assisting increased efficiency and effectiveness. This is a trend I wish to continue in 2009-10 and beyond and I have asked that the Tribunal pilot three hearings a day per venue to assess any additional benefits this might bring.

I am pleased to say that we continued to deliver high quality and relevant training to our Members with a particular focus on the practical implementation and experience of the Mental Health (Care and Treatment) (Scotland) Act 2003 ("the 2003 Act"). Training focused on legal issues for non-legal Members and psychiatry matters for non-medical Members.

We have continued to develop new ways of making effective use of technology to support the work of the Tribunal. We are keen to increase the use of electronic transfer of applications by Local Authorities and Health Boards and to work with solicitors and Curators to increase the secure electronic transfer of papers to them. This builds on the now common practice for Members of the Tribunal to receive their papers electronically.

During the year, we also introduced a new way of appointing Curators. Now, in those cases where the Tribunal decides that the patient does not have the capacity to instruct a solicitor, the Tribunal simply proceeds to appoint a Curator. This is done in many cases prior to a full hearing on the application.

2009-10 promises to be just as eventful. I am committed to improving the way we work with others including the Mental Welfare Commission for Scotland, user and carer groups and professionals to ensure that the work of the Tribunal continues to be patient-focussed. We will also introduce standing and procedural tribunals, examine the more effective use of video-conferencing and explore opportunities for improving and updating application forms.

The limited review of the 2003 Act and the related consultation by the Scottish Government will come to a close during 2009-10. I will be responding for the Tribunal on this crucial exercise and will want to ensure that any changes that come about will improve outcomes for patients and enable the greater efficiency and effectiveness of the operation of the Tribunal and the quality of its decision making.

The Tribunal will also be keen to examine the impact of Lord Gill's review of Civil Justice which will hopefully provide the basis for looking afresh at the relationship between our courts and tribunals and provide opportunity for informed and progressive consideration of the best way of securing better outcomes for patients.

Finally, I am well aware of the Scottish Government's intention to rationalise the administration of Scotland's tribunals in pursuit of high quality service delivery – the Tribunal and its Administration are ready to play a full part in pursuit of this end.

A handwritten signature in dark ink, reading "Joe Morrow". The signature is written in a cursive style with a horizontal line underneath the name.

In last year's Annual Report the Tribunal sought the views of three individuals who represented the views of patients and their carers. In this Report the views of three professionals are presented to give a broader spectrum of experiences in engaging with the Tribunal, its Members and staff.



Frank Irvine, Representing Solicitor

I am delighted to be asked to contribute to the Annual Report of the Mental Health Tribunal for Scotland and to be given the opportunity of expressing my views as a solicitor specialising in representing individuals before the Tribunal.

Since commencing as a psychiatric nurse in 1978, I have witnessed huge changes in the delivery of the care and treatment of individuals who are considered to suffer from mental health difficulties. I am of the view that the creation of the Tribunal has resulted in one of the most significant and meaningful changes with regard to the views of some of the most vulnerable individuals within our community being heard.

It appears that the vast majority of tribunals operate well and discharge their role with a proper balance of the competing requirements of considering a legal test whilst seeking to ensure an environment which is non-challenging to the Service User (also known as 'the patient' or, in the case of representing solicitors, 'the client'). It is incumbent on all professionals involved to keep under review their approach to hearings in order to ensure that the Service User remains the central focus of the proceedings at all times.

One of the most pleasing aspects of the development of the Tribunal has been the movement away from the simple consideration of a legal test (i.e. does the Service User have a mental disorder (tick), is medical treatment available (tick), etc.,) to a more inclusive and dynamic approach to the matters which are before it. The increasing emphasis being shown by many tribunals with regard to considering the current and future care pathways of the Service User is to be welcomed.

Looking to the future I would anticipate that the increasingly active roles being played by General and Medical Members within tribunals would continue to develop.

The challenge for the future is to bring added value by way of evidencing a continuing focus on the inclusion of Service User participation in the tribunal process.

On a final point I would wish to congratulate the Tribunal and its Administration in continuing to deliver an extremely high quality service which is focussed on the needs of the Service User.

Frank J. Irvine
Principal Solicitor
Frank Irvine Solicitors, Glasgow
Honorary Lecturer, University of Glasgow



Jane McLennan, Responsible Medical Officer (RMO)

I am a Consultant Old Age Psychiatrist as well as a Medical Member of the Tribunal. I have been asked to make a contribution to this year's Annual Report from the viewpoint of a RMO.

I have certainly used the 2003 Care and Treatment Act extensively since it came into force. Initially I think we all found it unwieldy and difficult to use, and many of us were resentful of the amount of time it took out of our working week. In the first year or two I was very aware of how strongly legally focused the Tribunals I attended were, and how little they seemed to address patients' circumstances or needs. Many I was involved in seemed more legalistic than the old Sheriff Court system. I recall being instructed to "Take the Oath", with no choice to Affirm, in my first three or four Tribunals.

There also seemed tremendous variation in the process and outcomes of the Tribunals. Some, with an incompetent (or no) patient, no Solicitor, Curator ad Litem or Named Person, would go through at the first hearing, yet others, which seemed much more straightforward, would take three. I found it difficult to see any advantages over the old system, and the concept of the patient in difficulty being at the heart of the hearing was not particularly evident to me.

I have been much more aware in recent years of how the Tribunal has moved on to take more account of the patient, their families, their needs and future care. I never fail to be impressed by the Conveners who do their utmost to make the patient the centre of the proceedings, and take pains to point out that it is **their** Tribunal. I am very aware of how difficult they can be for my patients and their families, no matter how kindly the Tribunal members try to be. Many of my patients and their families had no experience of the old Mental Health Act, but do comment that they feel listened to, even though it can be a very daunting process.

As a Consultant Psychiatrist, I am very aware that I am in a powerful position in relation to my patients. Though initially it is the Mental Health Officer who makes the Application to the Tribunal, it is done on my recommendation. I would often not be applying for compulsory powers to take someone's liberty away if we could agree on a treatment plan and a way forward. No matter how hard I may try to show my patients I listen and take account of their views, the very fact I am disagreeing must make many feel that I am not listening, and that their views are of no value. I see the great importance placed on representation for the patient as being an enormous step forward in trying to publicly

value the individual with mental ill health, which has never been seen in Mental Health Legislation before.

Often my patients' families will ask what the point of ensuring representation is, when the person is perhaps very unwell or dementing and clearly needing care and treatment. I am proud to be able to say that it is an essential part of our Law that the ill person's voice should be heard wherever possible. It is a great step forward from the Lunacy Act of the 1800s.

I no longer resent the time out of my week to attend Tribunals for my patients. I see the 2003 Act and the Tribunal as a tremendous step forward in the care and treatment of people with mental illness in our society. It is certainly a great step forward to put the person with mental illness in the centre of the frame.

Jane McLennan
Consultant Psychiatrist
Royal Victoria Hospital
Edinburgh

I have been a Mental Health Officer (MHO) for 19 years and worked with the previous Mental Health Act, the new Act and the development of the Mental Health Tribunal for Scotland (“the Tribunal”).

I view the Tribunal Service as a great improvement on the previous arrangements but as with most developments there have been some problems from a MHO perspective.

Among the improvements have been:

- ◆ Greater patient empowerment through more rigorous examination of the evidence in a considered and less rushed environment. Some patients have commented to me they feel this is the first time their views have been fully considered in a legal sense.
- ◆ The use of Advocacy has been beneficial for some patients and MHOs actively seek out this support.
- ◆ The Named Person role when dealt with sensitively has brought a different and useful perspective.

The panel members at tribunals have been diligent in their application of the legal and general principles of the 2003 Act. This has provided a considerable learning curve for MHOs who have frequently been required to debate from a legal as well as care view. The

attendance at tribunals of RMOs is strongly desirable and occasionally there have been instances, in the absence of RMO presence, when MHOs have been asked to comment upon medical treatment which in my view is not appropriate.

Attending tribunals as a MHO has been a stimulating experience and much of this has related to a variable set of procedures. On occasions the Convener has opted to lead the examination of evidence, or asked the MHO to lead. There have been variable orders of presentation for example when lawyers have immediately been asked to state their position prior to the leading of evidence.

Most tribunals concerning initial applications have been meticulous when studying the CTO1 application and this has sharpened the focus of MHOs to ensure the CTO1 is clear and precise. There can however be considerable emphasis on the legality of the proceedings and overarching ‘care and treatment’ considerations can seem secondary at times.

The RMOs are treated respectfully and evidence submitted by ‘phone or in writing’ has been acceptable when personal appearance has proven impossible. There have been occasions when MHOs have substituted to cover sickness/holidays with little knowledge of the case and the response of certain

Tribunal members could have been more courteous or understanding.

There continues to be a heavy emphasis upon the medical aspects of the patient's treatment by Tribunal members. Whilst not doubting the importance of this, the lack of weight and scrutiny afforded to the community based non medical alternatives has been a disappointment. MHOs must accept some responsibility for this lack but it is at odds with the spirit of the 2003 Act and the input of general members, with some notable exceptions, has often been very limited.

The advent of the 2003 Act has required greater involvement of MHOs in the care and treatment of mentally disordered offenders. This has been a steep learning curve and the overall breadth of MHO expertise has been considerably stretched in contrast to medical and CPN colleagues who have been able to tailor their existing practice in forensic psychiatry.

Broadly I confirm my view the Tribunal is a positive development and wish the Tribunal success for the future.

David Cruden
Practise Team Leader/Mental Health Officer

Hamilton House



Purpose and Values

The Mental Health Tribunal for Scotland (“the Tribunal”) is a key part of the mental health law system brought into effect by the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”) and is committed to working to develop and improve that system for all who come into contact with it.

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. By examining the facts presented to it, including the evidence given at hearings the Tribunal applies the law according to the principles set out in the 2003 Act, such as maximum benefit to the patient.

In undertaking this crucial task the Tribunal is wholly committed to upholding its core values of professionalism, independence and inclusiveness through:

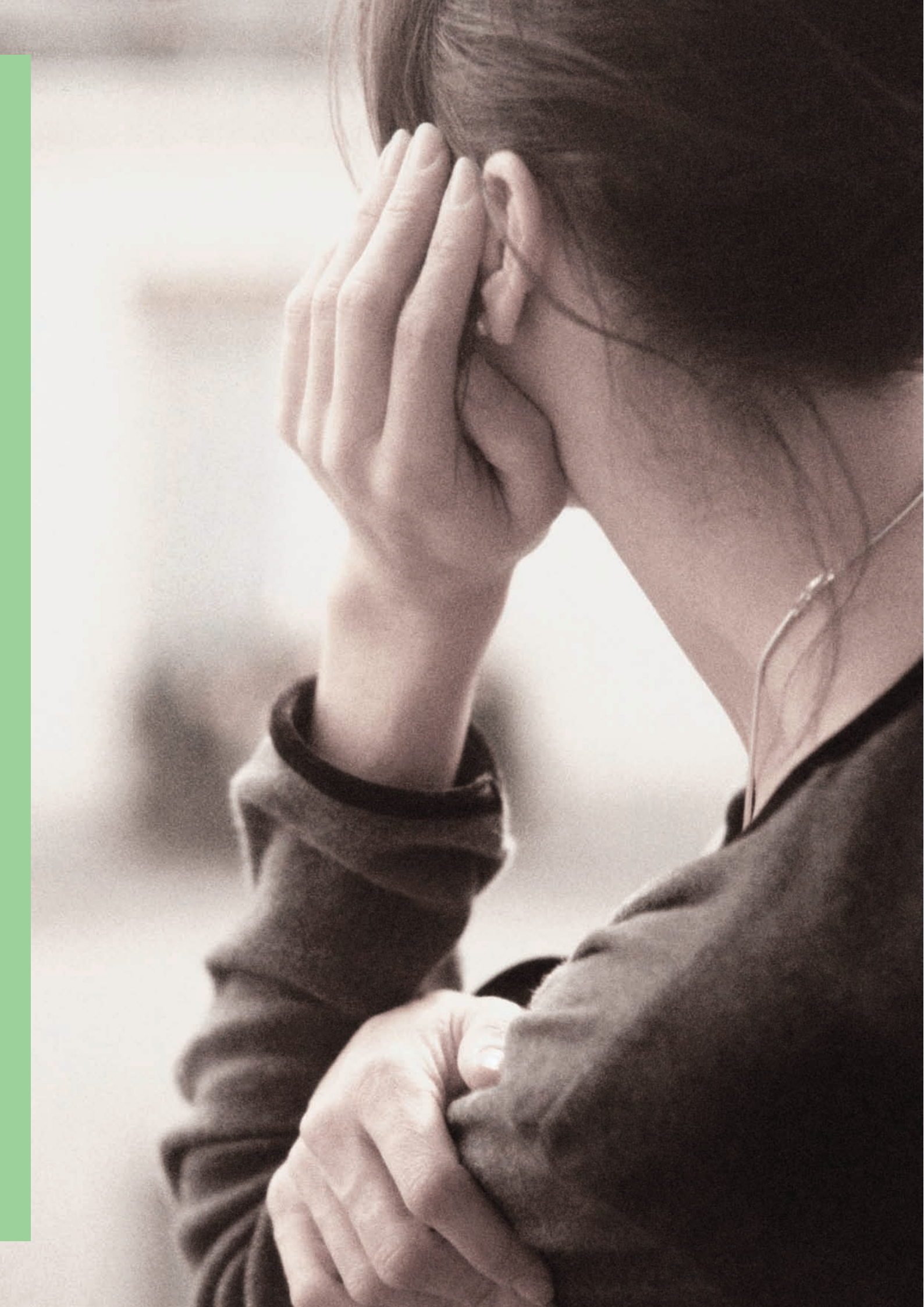
- ◆ handling cases sensitively and responsively;
- ◆ taking full account of the needs and rights of individuals;
- ◆ ensuring that equality and diversity issues are addressed at all times;
- ◆ engaging proactively with stakeholders;
- ◆ ensuring hearings are fair and impartial;

- ◆ providing clear and timely information on our decisions and activities; and
- ◆ maximising efficient and effective use of public resources.

In carrying out its judicial decision making the Tribunal strives to be:

- ◆ responsive;
- ◆ accessible;
- ◆ transparent;
- ◆ robust; and
- ◆ efficient

While it is strongly committed to upholding its judicial independence, the Tribunal acknowledges that it is making an important contribution to the Scottish Government’s Purpose and Strategic Objectives such as living longer, healthier lives and living our lives safe from crime, disorder and danger.



Key Developments

- ◆ Dr Joe Morrow was appointed President of the Tribunal by the Scottish Ministers in October 2008.
- ◆ A Memorandum of Understanding between the Tribunal and all Health Boards in Scotland was established in the autumn of 2008. The Tribunal is now working towards reaching a similar agreement with all Scottish Local Authorities.
- ◆ The Tribunal extended its use of doubled-up hearings (two hearings in the same venue with the same panel on the same day) from 31% in 2007-08 to 42% in 2008-09.
- ◆ A Tribunal Members' Training Committee was appointed early in 2009. The Members of the committee are Heather Baillie (Legal Member), Dr Alison Jones (Medical Member) and Evelyn Weir (General Member). The committee quickly sought to establish the training needs and wishes of Members via a questionnaire sent out in January 2009 and which achieved a high response rate.
- ◆ A pilot two day training course for new Members on writing decisions was designed and delivered.
- ◆ A series of one day topic based training sessions were provided to Members aimed at the cross training of Members in areas outside their expertise. For example legal Members undertook training in psychiatry.
- ◆ The President of the Tribunal undertook an extensive programme of visits and presentations to interested groups from MHOs to voluntary bodies, listening to their concerns and interests and explaining the work of the Tribunal whilst gaining intelligence for the future development of the Tribunal.
- ◆ The Tribunal co-operated with the Mental Welfare Commission for Scotland in a survey of patients' and carers' views of the Tribunal process. Useful feedback was received which is being taken into account as the Tribunal seeks to find ways of improving the experience of patients and their carers.
- ◆ The Tribunal made representations to the McManus Committee charged with reviewing the 2003 Act. Its representations covered a wide range of topics including improving timescales for all involved in Tribunal processes and the need to reduce the number of Interim Orders that are made thereby reducing the cost in time, inconvenience, discomfort and resources that result.

- ◆ The Tribunal maintained its relationships with stakeholder interests with subject specific meetings and via the Professional Reference Group and the Service Users' and Carers' Group. The Tribunal successfully trialled changes in the format of meetings and with their location, holding meetings in Edinburgh, Hamilton, Inverness and Dumfries.
- ◆ Two In-house Conveners were appointed in January 2009. They act as Conveners in cases on interim or preliminary matters which require judicial decisions or which require judicial case management. As a result of the appointments the following two new processes were introduced from 3 February 2009:
 - **Standing Tribunals** – The In-house Conveners sit on Standing Tribunals held twice a week and consider any matters which a Convener sitting alone may determine e.g. the appointment of a Curator ad Litem.
 - **Casework Surgeries** – The In-house Conveners hold casework surgeries twice a week with caseworkers for the purpose of legal case management.
- ◆ During the year the Tribunal rolled out 3G broadband to a number of remotely based Tribunal Clerks. This has greatly reduced the processing time of decisions following a Tribunal hearing.
- ◆ The Tribunal has extended its practice of storing civil case papers electronically to forensic cases and the use of Criminal Justice Secure eMail (CJSM) has been extended to all solicitors who act as Curators ad Litem to the Tribunal.
- ◆ The Tribunal has increased the number of hearings held at its Hamilton Headquarters. The Tribunal suite has also been used by witnesses who wish to give evidence at hearings but do not wish to attend the actual hearing. The use of video conferencing has been a huge benefit in these types of cases.

Business Activity

The Tribunal received a total of 3,190 applications under the provisions of the 2003 Act in 2008-09 (265.8 per month) a slight reduction on the 3,215 received in 2007-08.

	All Applications	Compulsory Treatment Orders
2008-09	3,190	1,385
2007-08	3,215	1,488
2006-07	2,863	1,599

Compulsory Treatment Order (CTO) (section 63) applications represent the largest single proportion of all applications made to the Tribunal. These applications are generally made in advance of the expiry of a Short Term Detention Certificate (STDC). These also show a slight reduction on previous years.

The flow of applications varied between 236 and 320 per month. Since the workload of the Tribunal is demand-led it has little, if any, control on the monthly variability or number of applications received.

During 2008-09 CTOs accounted for 50.1% of Tribunal hearings. A total of 1,026 CTOs were granted which is 7.9% below the previous year. The number of CTO applications in common with previous years varied considerably from week to week (16 to 37) and month to month (100 to 140).

During the year the average day of receipt of a CTO application by the Tribunal within the 28 day period of a STDC has again slipped back. The average date for submission of applications has moved from 25.25 days in 2007-08 to 25.43 days, leaving Tribunal staff less time to arrange and hold a Hearing. Although a small change for each application when taken across 1,400 or so CTO applications received it represents 252 (0.18 days multiplied by the number of applications) fewer days in which the Tribunal has to arrange hearings. However, the proportion of applications delivered towards the end of the period of a STDC is thought to be partly attributable to practitioners waiting until the last minute to decide whether an application is necessary at all. Also, by waiting until the latest possible time to lodge an application, there may be less likelihood that it will be withdrawn before the case gets to a hearing.



MHTS Administration

The timescales set in the 2003 Act for the holding of Hearings once applications for CTOs are made are very demanding for the Tribunal. (A first Hearing must be heard within five working days of the expiry of a STDC.) During 2008-09 the Tribunal held 99.1% of CTO hearings within the given timescales; a significant achievement considering the level

of preparation required before a hearing can proceed.

It should be noted that nearly a quarter of all CTO applications were received on day 28 in 2008-09 placing a greater pressure on the Tribunal's Administration compared to previous years.





Scheduling activity Bothwell House

1,019 Interim Orders were granted in 2008-09 which, although 4.6% lower than in 2007-08, they remain a cause of concern as this is mainly an indication that the Tribunal has insufficient information to allow it to come to a final decision on the application. Although the Tribunal would prefer that it held just one hearing for each case, if for no other reason than to give greater certainty to the patient, an Interim CTO does mean that there will need to be at least one further hearing to consider whether a full CTO is required or not.

	Interim Compulsory Treatment Orders Granted
2008-09	1,019
2007-08	1,076
2006-07	1,063

The Tribunal continued to hold hearings in both hospitals (42 available) and community venues (47 available) across Scotland. The Tribunal's venue review programme has ensured that standards remain largely high. As a range of new bespoke venues become available improvements in standards are set to continue. One venue failed to meet the required standard and was taken out of use.



Entrance to Gartnavel Hospital

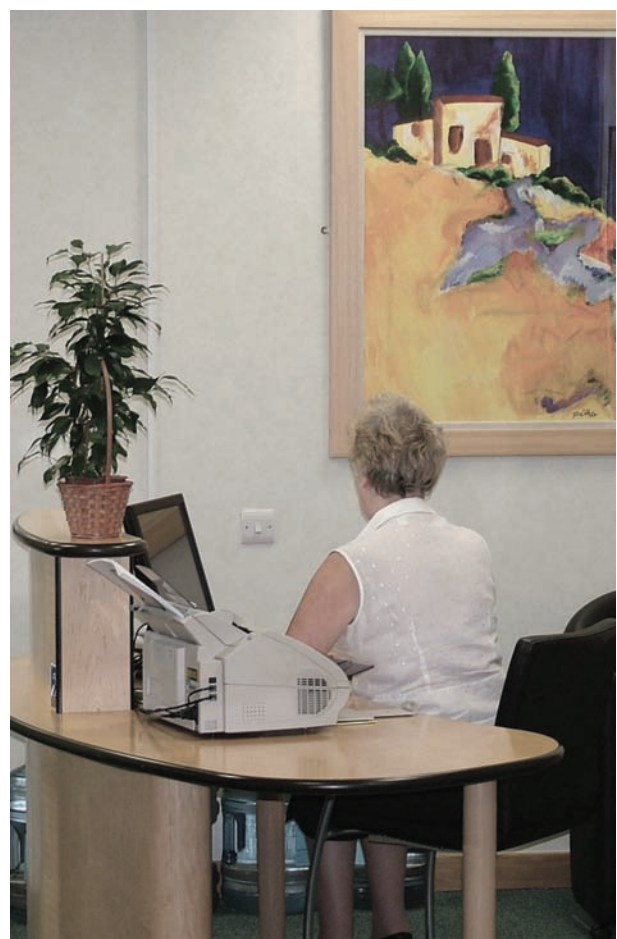
The number of hearings the Tribunal held continues to vary considerably from week to week (39 to 111) and month to month (318 to 390), making planning and deployment of resources an administrative challenge.

The majority of hearings held to determine an appeal against a Short-Term Detention Certificate (STDC) have been held at around 11 days from receipt of the application.

Out of the 393 appeals made against STDCs within the reporting period (357 were made in 2007-08), 7.4% have been upheld – a fall of 2.4% on the previous year.

On average hearing notices are issued within four days of receipt of application and many participants will have been made aware of the hearing in advance. Peaks in August and December are features of the flow of work which increases during peak holiday periods and when applications tend to be received a little earlier.

The Tribunal issued 46.2% of Facts and Findings (the written Tribunal decision) within ten days (an improvement on the 32.2% in 2007/08) and issued 80.7% (70.3%) within 20 days.



Hamilton House, Reception

Complaints

During the period 2008-09 65 complaints were recorded (representing complaints in 2% of all cases, although multiple complaints are sometimes received and recorded about the same case) this is a 12% fall from the previous year which had 74 complaints. There is no discernible trend in either the type or source of complaint that requires special attention or which indicates particular system failings. Complaints are classified against the following broad headings.

The average date of a substantive response to a complaint was 26 working days which is indicative of the need for thorough investigation of the circumstances surrounding a complaint.

A copy of the complaints procedure can be found on the Tribunal's website at www.mhtscotland.gov.uk/mhts/451.html.

Members	Staff	Facilities	Systems	Paperwork	Outcomes
10	13	2	6	23	11

For the coming year further developments are planned to improve the work of the Tribunal.

- ◆ A Legal Casework Management process will be introduced in June 2009 with casework teams having the support of either an In-house Convener or a Legal Secretary (a solicitor employed by the Tribunal). Cases will be legally managed and any outstanding matters dealt with to improve the progression of individual cases before hearings.
- ◆ The Tribunal will be seeking further improvements in its deployment of resources, in particular seeking to extend further the number of doubled-up hearing days and introduce triple hearing days in some instances.
- ◆ The President will review the operation of the new In-house Conveners' service early in 2010 and seek to address issues that have emerged including the need for:
 - improved general guidance to the Tribunal's Administration;
 - improved guidance to Tribunal Members;
 - regular training for Administration staff;
 - investigation of how non-compliance with a Tribunal recorded matter is handled;
- ◆ In consultation with others, the Tribunal will seek to make best use of existing video-conferencing facilities and where appropriate extend their use. The Tribunal hopes that via the use of such facilities it will be able to minimise disruption to participants and assist with generating greater efficiencies without in any way affecting the rights and convenience of patients.
- ◆ The Tribunal will continue to engage with stakeholders to improve the use of information and communication technology to deliver our service more effectively and will be seeking to extend electronic communication even further. The Tribunal will also start to look at the prospect of on-line applications.
- ◆ Following consultation with the existing Professional and User and Carer Reference Groups and others, the Tribunal will change the way it convenes the groups in an attempt to make it easier for local groups and individuals (both service users and professionals) to make their views known and be consulted on the development and delivery of the service.
- ◆ The first all Tribunal Members' Training Event will be held on 22 September 2009 in Dunblane.

- ◆ An e-learning program on Equality & Diversity will be released to Tribunal Members in April 2009.
- ◆ The revised Members' Competency Framework will be published in May 2009.
- ◆ The Tribunal Administration's training department will review and improve the induction programme received by new staff. The move to the Justice and Communities Directorate General, opportunities will open up to improve the broader learning and development opportunities available to Administration staff.
- ◆ The Tribunal will be seeking to respond to the Scottish Government sponsored limited review of the 2003 Act, working towards ensuring that the outcome of the review results in improvements in efficiency and service whilst preserving the Tribunal's independence.
- ◆ The Tribunal's dedicated website which can be found at www.mhtscot.gov.uk will undergo significant changes in 2009-10. The website will provide an accessible source of information for those who come into contact with the Tribunal as well as providing the means of electronic delivery of papers and other useful information to Members.



Bothwell House



Hamilton House, Tribunal Suite

Finance and Corporate Structure

The Scottish Ministers appoint the President of the Tribunal. The President presides over the discharge of the Tribunal's functions. At the end of 2008-09 the Tribunal had 379 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.

During 2008-09 the Tribunal Administration was an Executive Agency of the Scottish Government Health Directorate General (SGHDG). The Administration is responsible for carrying out the administrative and corporate functions of the Tribunal as delegated to them by the President. The President may delegate certain of his functions to the Tribunal's staff such as determining when and where the Tribunal shall sit and selecting the panel members for each hearing. The Tribunal also had delegated authorities from the SGHDG in respect of some aspects of its operation; namely finance, human resources and organisational issues 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 SGHDG.

By the end of March 2009 the Tribunal's Administration had a staff of 83 civil servants and temporary staff under a Chief Executive.

A non-executive Board was established to oversee the activities of the Tribunal Administration early in 2008. Throughout the bulk of the year the Board acted in a supervisory role to oversee the functions of the Tribunal's Administration.

A new permanent Finance Manager, Robert Dickie, Chartered Management Accountant, was appointed to the Tribunal Administration in January 2009.

The summary financial results for the Tribunal Administration for the year ended 31st March 2009 are shown on pages 25 and 26. The Independent Auditor's statement on the summary financial results is on page 27.

Audit Scotland has confirmed this extract is consistent with the statutory financial statements. Audit Scotland have issued a report under Section 22(3) of the Public Finance and Accountability (Scotland) Act 2000 in relation to the Tribunal's accounts. This report relates to the financial provisions made for the former President of the Tribunal. The Audited Annual Accounts for the year ended 31st March 2009 provide more details on the financial performance of the Tribunal Administration and a copy may be obtained by request to the Tribunal's Finance Manager or from the Tribunal's website www.mhtscotland.gov.uk.

Annex i

Financial Results

The Mental Health Tribunal for Scotland Administration Operating Cost Statement for the year ended 31st March 2009

2008 £000		2009 £000
<u>6,359</u>	Tribunal Costs	<u>6,521</u>
	Administrative Costs	
1,948	Staff	2,122
129	Depreciation	168
<u>1,337</u>	Other Costs	<u>1,706</u>
<u>3,414</u>		<u>3,996</u>
–	Rental Income Received	-49
<u>9,773</u>	Net Operating Costs	<u>10,468</u>

Note:-

The financial allocation provided to the Tribunal for 2008-09 was £9.5m (£8.0m in 2007-08), giving rise to an overspend of £968k (2007-08 £1,773k).

The Tribunal's budget was demand-led and the major cost element was the cost of holding hearings and therefore annual costs were largely dependent on the number of Tribunals held during the year. It is difficult, however, to predict with a high degree of accuracy the number of hearings likely to be held in any year. Therefore, increased demand for Tribunal services can lead to a significant over-spend in the Tribunal's budget.

In 2008-09 a budget of 4,000 hearings was set based on previous anticipated demand and experience. In the event, there was greater demand for the Tribunal's services with 4,299 hearings being held during the year. This increase in Tribunals beyond budget contributed to the consequential effect on the financial outturn, resulting in a spend for the year of £10.47m – an overspend of £0.97m (10.2%) against the £9.5m budget.

Annex ii

The Mental Health Tribunal for Scotland Administration Balance Sheet As at 31st March 2009

2008 £000		2009 £000
	Fixed Assets	
626	Tangible Fixed Assets	459
3	Intangible Assets	2
<u>629</u>		<u>461</u>
	Current Assets	
54	Debtors	70
	Creditors	
(596)	Amounts due within 12 months	(554)
(100)	Amounts due after more than one year	–
(642)	Net Liabilities	(484)
	Provisions	
–	Presidents' Pensions Provisions	(366)
<u>(642)</u>	Total net liabilities	<u>(850)</u>
(13)	Fixed assets less total net liabilities	(389)
(13)	Total net liabilities	(389)
	Taxpayers' equity	
(13)	General fund	(389)

Annex iii

Independent auditor's statement on summary financial statement of the 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 only 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 the board's full annual financial statements describes the basis of my opinion on those financial statements.

Opinion

In my opinion the summary financial statement is consistent with the full audited annual financial statements of the MHTSA for the year ended 31 March 2009.

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
Assistant Director of Audit (Health)
Audit Scotland
7th floor, Plaza Tower
EAST KILBRIDE

8 December 2009