



Mental Health Tribunal for Scotland

ANNUAL REPORT 2023/2024

**This report covers the period
1 April 2023 to 31 March 2024**

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FOREWORD

I begin this introduction by recording that, in the calendar year July 2023 to June 2024, there were six occasions on which the Tribunal received the distressing news that a serving member had died. Individually and together, this was a huge loss for us. We have paid tribute to those members elsewhere, and their contributions live on in the memories of their many colleagues and friends in the Tribunal.

The year to the end of March 2024 saw a further increase in the number of applications made to the Tribunal in relation to compulsory care and treatment under the Mental Health (Care and Treatment)(Scotland) Act 2003. The overall total was 5,529, compared with 5,314 in the year to the end of March 2023. That increase of around 4% is across the board, though individual categories of application saw different levels of increase. Notably, there were 1000 appeals against short term detention certificates, an increase of around 9% on the previous year, even after the increase in the number of such certificates granted is accounted for. It seems likely that there are a number of reasons for this rise.

The Tribunal continues to attend to the day-to-day work of arranging hearings for almost all applications. A very small number of cases are suitable for handling under rule 58, which allows the Tribunal to determine a case without an oral hearing where certain conditions are satisfied, including that all involved have been offered the opportunity to request such a hearing. Any such request from a patient is automatically granted. This mode of handling a case had been almost unused during the pandemic, and we have been able to reintroduce it to a limited extent. We also continue to offer a small number of video hearings, almost all at either the State hospital or in the mid-Argyll hospital, as was referred to in the foreword to the last Annual Report. We still hold a large number of telephone hearings, though the number of in person hearings has risen further since the figures reported in 2023. During the year from April 2023 to March 2024, the percentage of 'visual' hearings (in person, and also including the small number of video hearings referred to) rose from 22% to 38%. It is still rising. The percentage of visual hearings which is attended by the patient is markedly higher than the overall figures, suggesting that the arranging of a visual hearing either generates, or accords with, a wish on the part of the patient to be actively involved in their own tribunal.

As well as this core activity, the Tribunal also continues to engage with stakeholders at regular forums. These online gatherings are held twice a year for a) service users, carers and advocacy workers and b) responsible medical officers and mental health officers. They are useful exchanges of information, and offer opportunities for discussion for all. In June 2023, we also arranged a forum for solicitors, including those who act as curators ad litem in our hearings. This appeared to be a helpful event, and we will aim to repeat it each summer.

Member training again involved a mix of in person and online events. We held events in person, in Glasgow, Edinburgh, Dundee and Stirling, and repeated the programme online too. There was a reasonably even split of attendance across the eight days. The programme included the participation of mental health officers from Glasgow, who provided input to all eight events. We were enormously grateful to them for this significant contribution. We also examined recorded

matters, on which the Mental Welfare Commission had recently reported. During 2024, we have logged the number of recorded matters made at hearings, to see how this particular provision is being used. We also organised specific evening events on matters relevant to the Tribunal; one was on working with interpreters, both spoken language and BSL, and the other was on the new secure unit for young people at Foxgrove in Ayrshire. Lastly in relation to training, some members again had the opportunity to attend the Tribunal Craft Course run by the Judicial Institute for Scotland, benefiting from the cross-tribunal mix of members and speakers at these events.

As was the case last year, the Tribunal remains an autonomous one, though scheduled to transfer into the First tier Tribunal for Scotland under the provisions of the Tribunals (Scotland) Act 2014. The timescale for this transfer is that it will happen during the lifetime of the current Justice Delivery Plan published by the Scottish Government. That plan runs until March 2026. Before or at the time of transfer, we hope to have a new website; this project is being taken forward by the Courts and Tribunals Service as I write this foreword, in November 2024.

MHTS continues to have its headquarters in Hamilton, as does the Local Taxation Chamber, whose operational staff work alongside our colleagues in casework, scheduling and hearings teams. The work of all who maintain the throughput of our cases is essential. It is carried out with compassion and commitment, and I pay tribute to all who undertake these roles. In the President's Office, I am ably supported by a small and dedicated team, and I am most grateful to them for their unstinting service. Finally, the members of the Tribunal have again shown their willingness to travel around the country in order to attend hearings where people are. In preparing for and conducting those hearings, they strive constantly to determine cases in accordance with the legislation and with our overriding objective. Both individually and as a group, their commitment to the principles on which the system is founded is clear and unwavering.

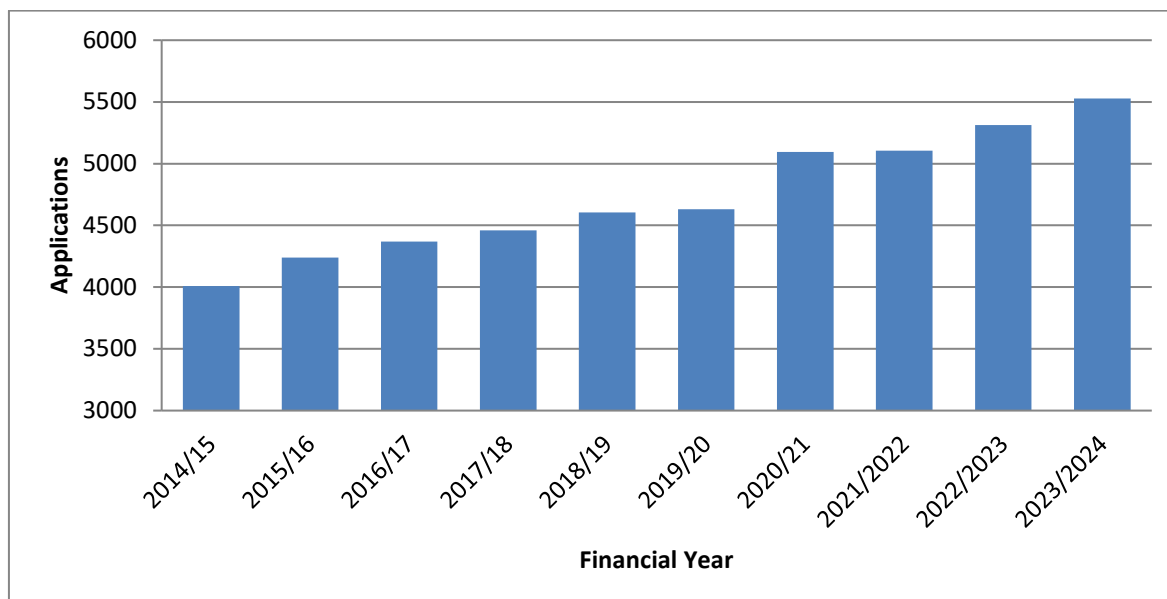
I hope that you find this report of interest. I commend it to you.

A handwritten signature in dark ink, appearing to read 'Laura J. Dunlop'.

Laura J Dunlop KC
President

TRIBUNAL ACTIVITY

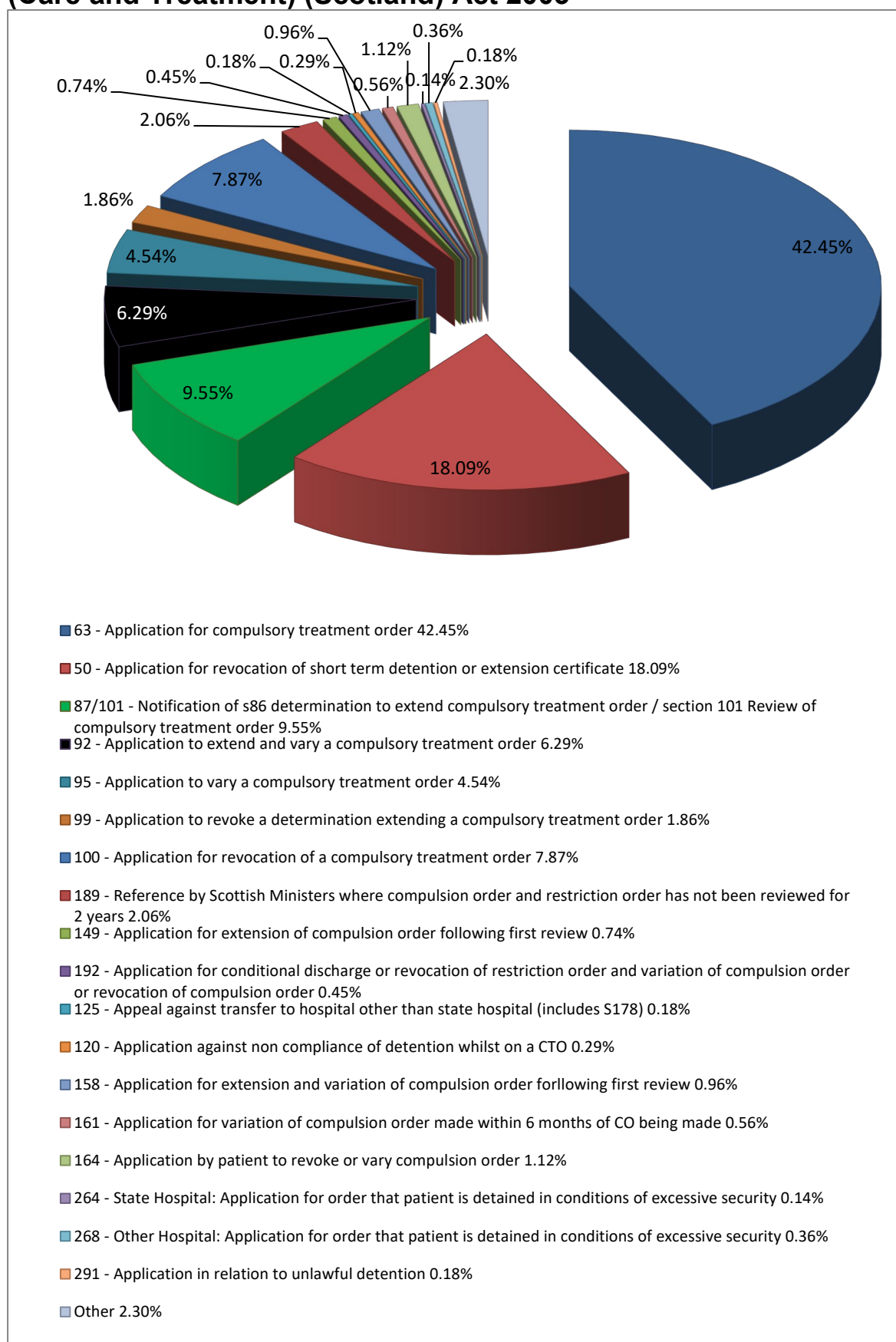
Applications received by the Tribunal in the last 10 years



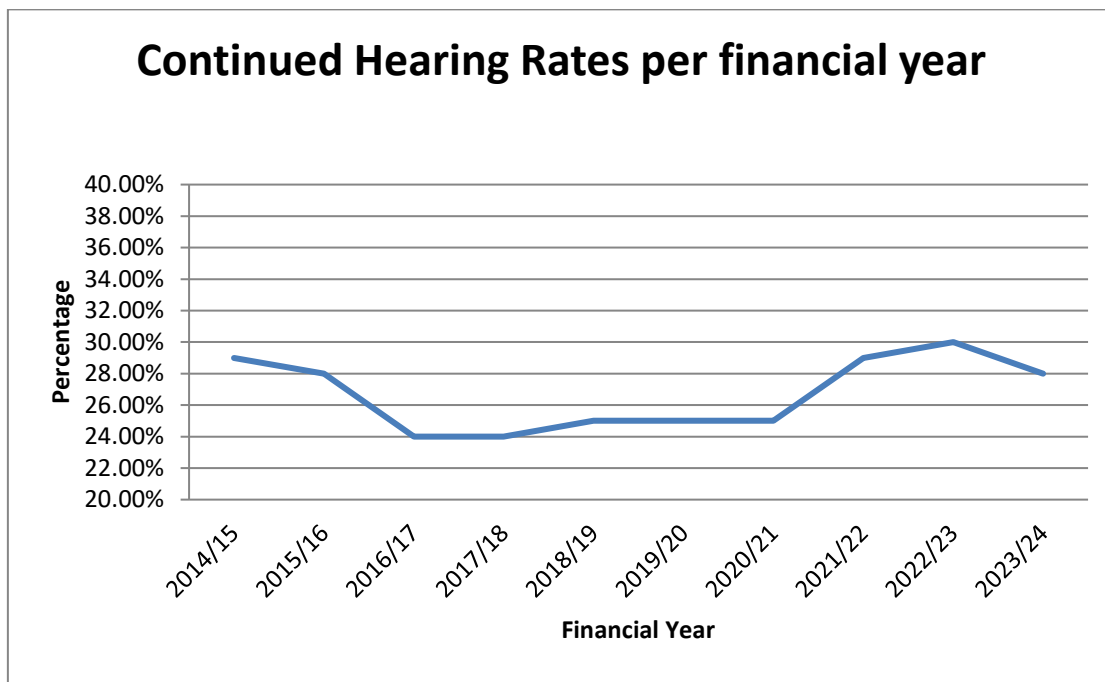
The above graph illustrates how the number of applications received by the Tribunal has increased since 2014/15, resulting this financial year in a total of 5529 applications received. Compulsory treatment order (section 63) applications continue to constitute the largest percentage of applications received, followed by applications to revoke short-term detention certificates (section 50). The proportions of different applications are shown on page 4.

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

Applications, Appeals, References and Reviews dealt with by the Tribunal in 2022/2023, by individual sections of the Mental Health (Care and Treatment) (Scotland) Act 2003



Interim Orders and Adjournments of Hearings



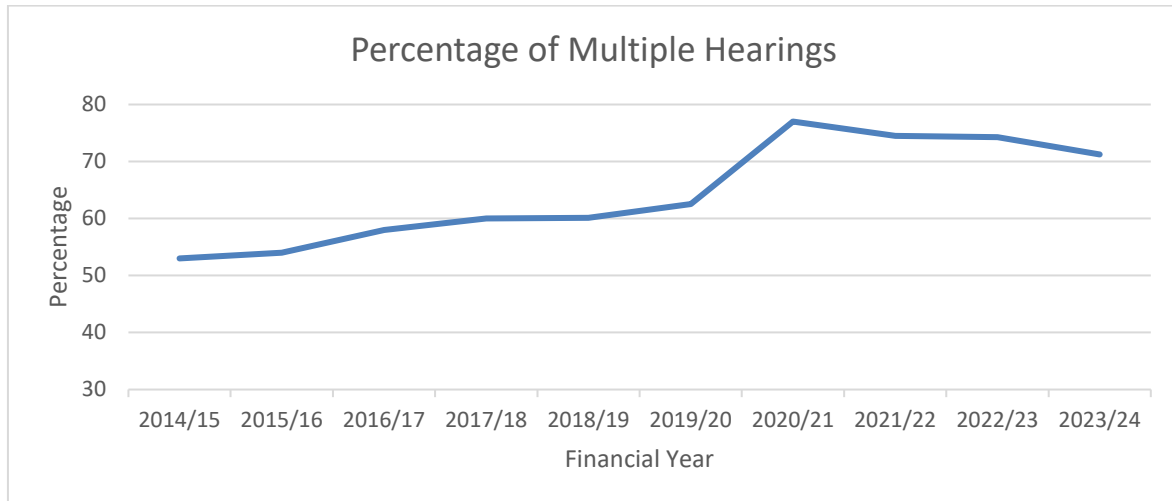
In total, 6,147 hearings were held in the financial year 2023/24, which is a decrease of 48 hearings on the previous year.

In this reporting year, 72% of cases were determined at their first calling, which is consistent with the previous year.

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 reduce further the number of continued hearings, whilst keeping in mind the key principles of the Tribunal, with the aim of improving the experience for all stakeholders and reducing financial costs.

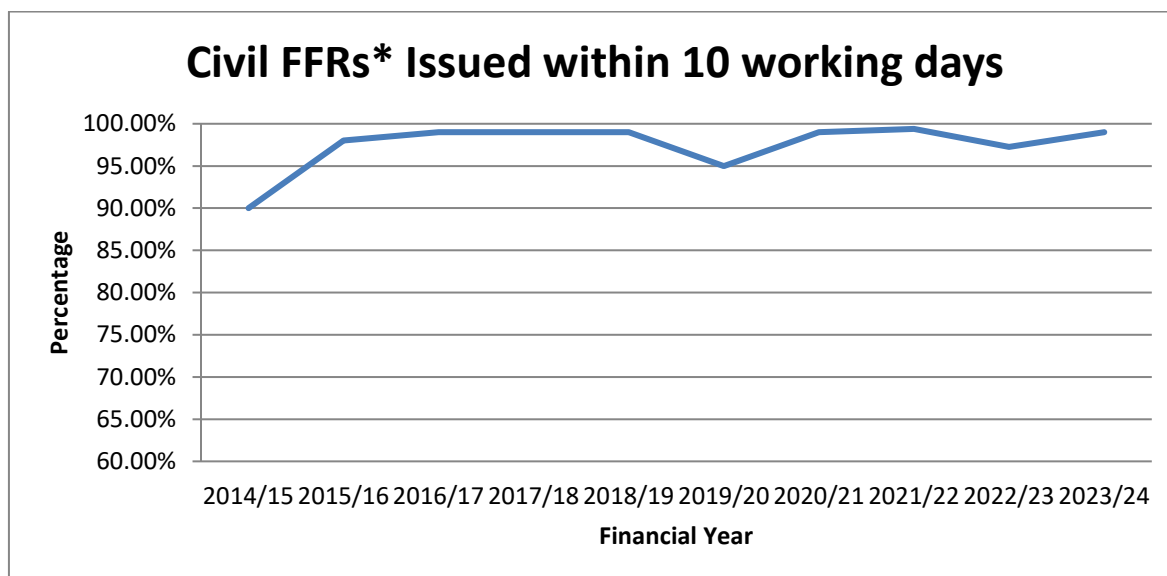
Multiple Hearings



Whilst 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 some years now, the Tribunal has recorded the percentage of hearings which are held as part of a multiple hearing day. It is apparent from the table that there has been a steady increase in this percentage year on year since 2014/15. However, in 2020/21 there was a marked increase in the figure – from 63% in 2019/20 to 77% in 2020/21. The main reason for this increase was the greater potential for doubling up of hearings. This was not restricted by geographical location, given that the majority of our hearings were held by teleconference during 2020/21. In the reporting year 2021/22 there was a drop in this percentage, as we started to re-introduce more in-person hearings. The percentage remained more or less stable in the year to March 2023, but dropped by a further 3% in the reporting year 2023/24. The numbers of in-person hearings continue to increase.

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 2023/24 we have achieved an annual result of 99.01%. This is attributable to the diligence of members, particularly legal members, in formulating the written decisions promptly after the conclusion of a hearing, and to efficient administration in distributing these documents.

Complaints and Appeals to the Tribunal under the Mental Health (Care and Treatment) (Scotland) Act 2003

Appeals

Appeals were lodged with Sheriffs Principal by or on behalf of four individuals during the reporting period. Of those, one was successful and the Sheriff Principal substituted her own decision for that of the Tribunal, one was withdrawn and two were abandoned by the appellant.

During the reporting period, the Tribunal defended one Inner House appeal. The oral argument took place in June 2024 (after the end of the reporting year). The appellant was successful and the case was remitted back to a differently constituted tribunal.

The Tribunal received intimation of two Judicial Reviews. One was defended and the decision is outstanding and the other was withdrawn at an early stage.

Complaints

One complaint about a judicial member was received and remitted to the Judicial Office and subsequently withdrawn. In relation to the conduct of hearings, concerns were received in respect of six tribunals and all of them were resolved by correspondence. There were two complaints in relation to administrative processes and apologies were issued in each. There were no complaints received in relation to a Curator ad Litem during the reporting period.

Communications from individual tribunal users which raised queries or concerns were either investigated and resolved in-house by the Legal Secretary and the Tribunal President or redirected to the appropriate body.

TRIBUNAL MEMBERSHIP

Total Number of Members* as at 1 April 2023	Legal Members	Medical Members	General Members	Part-time Sheriffs (also Tribunal Members)	Part-time Sheriffs (not Tribunal Members)
335	102	115	118	8*	7
These members are included in the total number of legal members					

As mentioned in the foreword, during the calendar year July 2023 to June 2024, the Tribunal received the distressing news that six serving members had died. Four of those losses were in the financial year covered by this report. Also in the financial year 2023/24, the Tribunal received the resignations of 14 members. Of the 18 individuals referred to, 4 were general members, 6 were medical members and 8 were legal members.

During training year 2023/24, the Tribunal delivered a total of 10 member events, as more fully explained in the foreword. Eight of the events were the one day of mandatory training for members consisting of a mix of 5 in person dates and 3 virtual dates, with members having the choice to attend either in person or virtually. The 2 remaining events were talks and presentations attended by members on a voluntary basis. The Tribunal continues to use the WebEx platform to host various stakeholder and member forums.

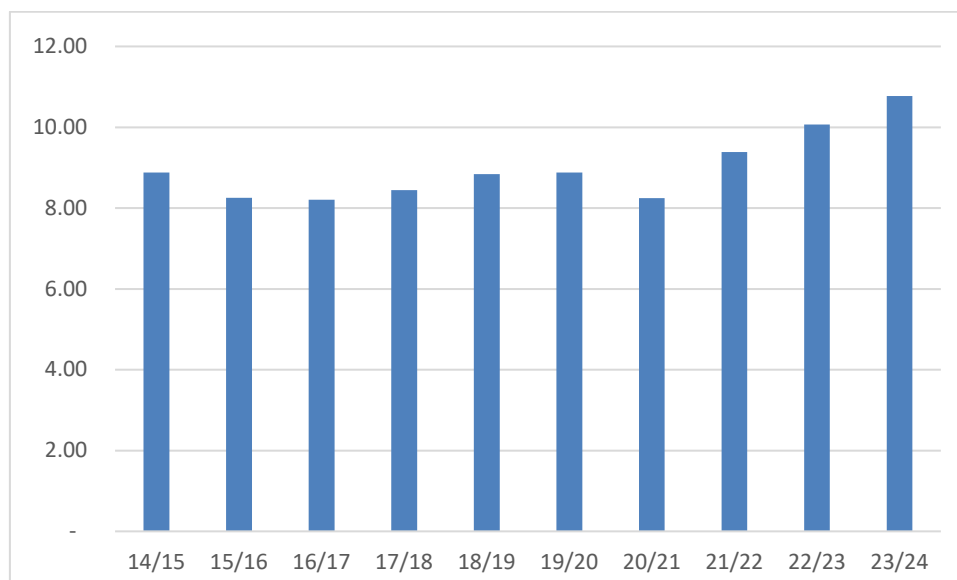
CORPORATE STRUCTURE AND FINANCES

Expenditure relating to public relations, overseas travel, hospitality and entertainment and external consultancy by the Tribunal during 2023/24:

Public relations	Nil
Overseas travel	Nil
Hospitality and entertainment	£200
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

Mental Health Tribunal Expenditure

COSTS IN £M



FINANCIAL RESULTS

Scottish Courts and Tribunals Service

Operating Cost Statement for the year ended 31 March 2024

2022/23		2023/24	
£000s		£000s	
7,010	Tribunal Costs	7,464	
	Administrative Costs		
2,848	Staff	3,128	
207	Other Costs	177	
<hr/> 3,056 <hr/>		<hr/> 3,306 <hr/>	
10,066	Net Operating Costs	10,770	

Financial Performance

Costs have increased in 2023/24 by £704k. This rise is attributable to increases in both Tribunal costs and in staffing. The number of hearing days rose by 1% and the average cost per hearing day also rose, by around £100. Curator costs increased by around 20%, which is out of line with movement in hearings. Together, these factors account for the rise in Tribunal costs. The increase in staff costs relates to three additional posts, to support the growing workload, combined with the annual pay award.