



Forensic Leave Panel

Annual Report 2016

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1 September 2017

The Honourable Martin Pakula MP
Attorney-General
Level 26, 121 Exhibition Street
Melbourne VIC 3000

Dear Attorney-General

In accordance with section 63 of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic), I am pleased to submit the annual report on the operations of the Forensic Leave Panel for the year ending 31 December 2016 for tabling in parliament.

A copy of this report has also been provided to the Minister for Mental Health, the Hon. Martin Foley MP, who is also responsible in part for the operation of the Act.

Yours sincerely



The Honourable Justice Kevin Bell
President
Forensic Leave Panel

President's report

I am pleased to present the annual report of the Forensic Leave Panel for 2016 – my second annual report as president of the panel and my third as a judicial panel member.

Members' meeting

On 15 November 2016 I convened a meeting with panel members to discuss changes to the panel ahead of the introduction of the Crimes (Mental Impairment and Unfitness To Be Tried) Amendment Bill 2016.

Panel members were given the opportunity to discuss the proposed changes. Staff from the Department of Health and Human Services' Mental Health Branch were in attendance to assist with discussions.

During the second part of the meeting, Mr Matthew Carroll, President of the Mental Health Tribunal, was in attendance to discuss the transition of the functions of the panel to the tribunal and to answer questions from members about the proposed changes.

Transfer of Executive Officer to Mental Health Tribunal

The Executive Officer to the Panel relocated to the Mental Health Tribunal on 21 November 2016 to facilitate the forthcoming alignment of panel processes with those of the Mental Health Tribunal.

Introduction of CMIA Bill on 6 December

On 6 December 2016 the Attorney-General, the Hon. Martin Pakula MP, introduced the Crimes (Mental Impairment and Unfitness To Be Tried) Amendment Bill 2016 into parliament.

The Bill incorporates reforms recommended by the Victorian Law Reform Commission in 2014. It also transfers the operations of the panel to the Mental Health Tribunal, creating a new Forensic Division of the tribunal and a new category of Psychologist Member to provide disability expertise. Otherwise the constitution of the tribunal is unchanged.

Each Forensic Division will comprise a legal member (providing the legal expertise previously provided by the judicial officers on the panel), a psychiatrist or psychologist member, and a community member. The position of the Chief Psychiatrist and nominees on the panel will not be transitioned to the tribunal because membership would be inconsistent with the new role of the Chief Psychiatrist under the *Mental Health Act 2014*.

Statistical data

This annual report shows that during 2016 the panel conducted 26 sittings (six for forensic residents and 20 for forensic patients) over 21 hearing days.

The number of forensic patients and residents accessing off-ground leave approved by the panel has remained stable.

The panel considered 201 applications for on-ground and limited off-ground leave from 80 forensic patients and residents. There was an 11.7 per cent increase in the number of applications made in 2016 compared with the 180 applications received in 2015. There was a matching increase in the number of requested leave purposes compared with 2015, while the number of requests per application has remained stable.

In 2016 the panel granted 93 per cent of the requests it considered.

There was a significant increase from 14 occasions of legal representation in 2015 to 29 occasions in 2016, returning to numbers last reported in 2014.

The data contained in this report show that the rates of grant and refusal of applications have been fairly constant since 2007 (see Appendix C: Historical data).

Acknowledgements

I acknowledge the expertise and skill of the members of the Forensic Leave Panel and thank them for their invaluable contribution to the operation of the panel.

Judge Gaynor and Judge Davis were both appointed for a third term as judicial members – Judge Gaynor on 2 February 2016 and Judge Davis on 4 October 2016.

Dr Oakley Browne stepped down as a nominee of the Chief Psychiatrist in March 2016.

After serving seven years as a nominee of the Chief Psychiatrist, Dr David Huppert resigned as a member of the panel in 2016.

Appointed in 2014, Dr Fred Stamp resigned as a psychiatrist member of the panel at the end of 2016.

I wish to thank these three members for their strong support of the panel's work and its therapeutic role in the rehabilitation of forensic patients.

I wish to acknowledge the important role of the lawyers from Villamanta Disability Rights Legal Service Inc and Victoria Legal Aid in providing legal representation and advice to applicants at panel hearings. I am pleased to note the increased number of applicants accessing legal representation at hearings in 2016.

I also wish to express my appreciation of the work and commitment of the staff of the Disability Forensic Assessment and Treatment Service, the Thomas Embling Hospital, the Mental Health Branch of the Victorian Department of Health and Human Services, and the Mental Health Tribunal for ongoing administrative and operational support.

The Honourable Justice Kevin Bell

President

Forensic Leave Panel

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Definitions

Throughout this report, unless otherwise specified:

- 'the Act' refers to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*
- 'the panel' refers to the Forensic Leave Panel
- 'forensic patient' or 'patient' is a person remanded in custody in a designated mental health service or committed to custody in a designated mental health service under the *Mental Health Act 2014*
- 'forensic resident' or 'resident' is a person remanded in custody in a residential treatment facility or a residential institution or committed to custody in a residential treatment facility or a residential institution under the *Disability Act 2006*
- 'types of leave' refers to on-ground and limited off-ground leave
- 'purpose of leave' refers to activities undertaken while a forensic patient or resident is on leave
- 'DFATS' refers to the Disability Forensic Assessment and Treatment Service, which is a part of the Victorian Department of Health and Human Services
- 'Forensicare' refers to the Victorian Institute of Forensic Mental Health, which is a statutory body established by the Mental Health Act.

The Forensic Leave Panel

Who we are

The Forensic Leave Panel is an independent statutory tribunal established under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* to support the rehabilitation of forensic patients and residents and assist with their reintegration into the community.

The panel comprises members of the judiciary, the Chief Psychiatrist and nominees, psychiatrists, psychologists and members from the community.

What we do

The main role of the panel is to hear applications for on-ground and limited off-ground leave from patients and residents to enable them to participate in a range of activities in the community to aid their rehabilitation. The panel also hears appeals from patients and residents regarding refusal of special leave and transfers from one designated mental health service to another.

How we do it

The panel conducts hearings at the Thomas Embling Hospital campus of Forensicare and at DFATS at Fairfield to consider applications for on-ground and for limited off-ground leave from forensic patients and residents.

The panel considers applications from forensic patients and residents over the duration of their custody or detention.

Over time, the panel may grant incremental increases to a person's leave into the community when it is appropriate to do so. Leave is granted for a maximum period of six months at any one time.

Appendix A: The legal framework provides an overview of how a patient or resident may progress under the Act. It also identifies the panel's responsibilities in the detention, management and release framework.

Our people

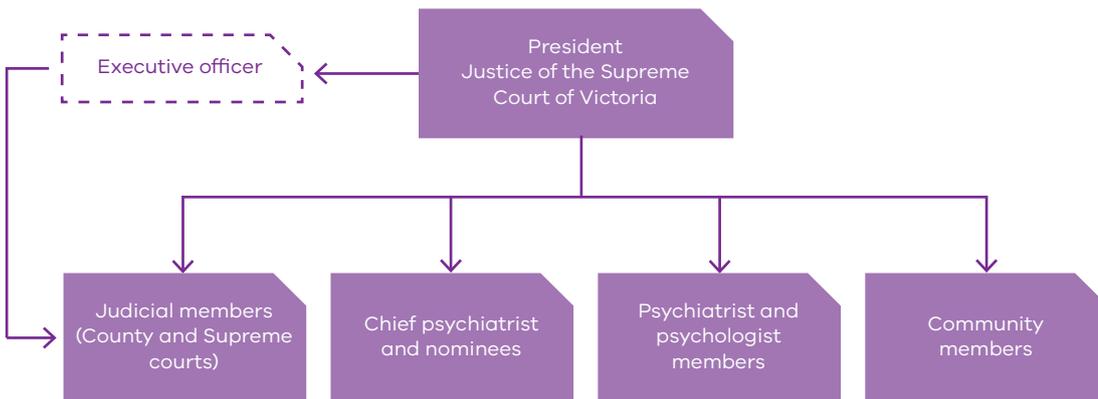
Membership

As at 31 December 2016, the panel comprised:

- five judicial members from the Supreme Court of Victoria
- four judicial members from the County Court of Victoria
- the Chief Psychiatrist
- six nominees of the Chief Psychiatrist
- six registered medical practitioners with experience in forensic psychiatry
- two registered psychologists with experience in intellectual disability and forensic psychology
- seven members to represent the views and opinions of members of the community.

The panel is supported by an executive officer, who works from the Mental Health Branch of the Victorian Department of Health and Human Services.

The structure of the panel is outlined below.



Appendix B: Membership as at 31 December 2016 contains a complete list of members, including their terms of appointment.

Changes to our membership

On 2 February 2016 Her Honour Judge Liz Gaynor was appointed for her third term as a judicial member.

Her Honour Judge Sandra Davis was reappointed as a judicial member on 4 October 2016 for a third term.

After seven years as a nominee of the Chief Psychiatrist, Dr David Huppert resigned on 8 July 2016, and Dr Oakley Browne also stepped down as a nominee of the Chief Psychiatrist in March 2016.

After serving as a psychiatrist member for two years, Dr Fred Stamp resigned on 31 December 2016, and his resignation was accepted by the Governor in Council on 12 April 2017.

The leave framework

On-ground leave and limited off-ground leave

The panel has jurisdiction under the Act to grant on-ground and limited off-ground leave to forensic patients and forensic residents.

The maximum period for which on-ground and limited off-ground leave can be granted is six months. At the end of this period, a patient or resident may reapply to the panel.

On-ground leave

On-ground leave allows forensic patients and residents to be absent from the place of custody but within a defined area around the place of custody, known as 'the surrounds'.

Forensic residents at the Plenty Residential Services campus of DFATS make extensive use of on-ground leave. Forensic patients at the Thomas Embling Hospital campus of Forensicare do not require on-ground leave because the hospital has sufficient grounds within the secure perimeter. Accordingly, no grounds have been declared under s. 52 of the Act in relation to Thomas Embling Hospital.

Limited off-ground leave

Limited off-ground leave permits patients and residents to be absent from the place of custody between 6.00 am and 9.00 pm, or outside those hours for a maximum of three days in any seven-day period.

Criteria for granting leave

The panel may grant on-ground or limited off-ground leave if it is satisfied that both:

- the proposed leave will contribute to the patient's or resident's rehabilitation
- the safety of the person or members of the public will not be seriously endangered as a result of the patient or resident being allowed leave.

In determining whether to grant an application for leave or variation of leave, the panel must consider:

- the person's current mental condition or pattern of behaviour
- the person's clinical history and social circumstances
- the person's applicant profile and leave plan or statement, prepared in accordance with the Act.

Conditions attached to leave

The panel can place any conditions on leave that it considers appropriate. Conditions commonly relate to:

- how many, if any, escorts are required
- the duration and frequency of leave
- where a patient or resident may go (or where they may not go)
- the people a patient or resident can meet while on leave
- how a patient or resident is to travel to their leave destination
- drug and alcohol testing following leave.

Purpose of leave

The purpose of leave is to assist the rehabilitation process and provide a gradual progression towards a return to community living that is consistent with the needs of the individual and community safety.

Patients and residents can apply to the panel to participate in a broad range of activities. All leave must form part of an overarching treatment and recovery plan. Common purposes of leave granted include leave to:

- attend medical, legal, dental or allied health appointments
- undertake activities of daily living such as personal shopping, banking and exercise
- build or maintain relationships with family and friends in the community
- participate in therapeutic and rehabilitation groups, activities and programs
- attend educational and vocational activities, groups and courses
- participate in or seek voluntary and/or paid employment.

Progression of leave

The panel takes a graduated approach to granting leave. Initially, a patient or resident is granted a small amount of leave and is escorted by two or three staff members. This could include leave to attend medical appointments, or may allow a patient or resident to attend a nearby facility (such as a park or a café) for one hour a week.

If a patient or resident can successfully participate in leave over a sustained period, the panel may decrease the number of escorts and increase the number of approved locations and purposes, as well as the duration, of further leave periods. This process allows patients or residents to gradually increase their participation in a wide variety of activities that form part of everyday living to prepare them for release back into the community. This slow approach to leave allows for a steady reintroduction into the community and also provides staff with a valuable opportunity to monitor how the person copes and adapts in a community setting.

A patient's or resident's progression depends entirely on individual circumstances. The progression outlined above may not be the path followed by all patients and residents, and some may move back and forward between various stages of this process, depending on their progress and response to treatment.

Suspension of on-ground and limited off-ground leave

Regular monitoring and review of the use of leave take place to ensure the safety of each patient or resident and members of the public is not seriously endangered. Before forensic residents or patients may access leave granted by the panel they are subject to clinical assessment.

The Act contains provisions that allow the Chief Psychiatrist (in the case of patients) and the Secretary to the Department of Health and Human Services (in the case of residents) to suspend leave granted by the panel if they are satisfied that the safety of the person or members of the public will be seriously endangered if leave is not suspended. The panel is required to record and report any suspensions of leave.

In 2016 there were no leave suspensions for residents by the Secretary. Ten patients had their leave partially or wholly suspended by the Chief Psychiatrist during 2016.

The hearing process

Hearings

The panel is required to conduct its hearings at the place where the patient or resident is detained to enable the person to attend and participate fully in the proceedings.

Patient hearings are held at Thomas Embling Hospital, and the panel is made up of:

- a judge from the Supreme or County Court (depending on the patient's original court of disposition)
- the Chief Psychiatrist or nominee
- a registered medical practitioner with experience in forensic psychiatry
- a community member.

Resident hearings are held at DFATS in Fairfield, and the panel is made up of:

- a judge from the Supreme or County Court (depending on the resident's original court of disposition)
- a registered psychologist with experience in intellectual disability and forensic psychology
- a community member.

Applications for leave

A forensic patient or resident may apply to the panel for on-ground and limited off-ground leave. Each type of leave can include one or more purposes of leave.

All applications must specify:

- the type of leave
- the purpose(s) of leave (for example, grocery shopping)
- the duration and frequency of each purpose (for example, two hours, once per week)
- the destination for each purpose (for example, the name of the shopping centre)
- the relationship to the person's rehabilitation (for example, to build or maintain daily living skills).

Supporting documentation

Other documentation required to be submitted to the panel includes:

- an applicant profile
- a report from the consultant psychiatrist or psychologist
- a detailed leave plan prepared by the patient's or resident's treating team.

These are described below.

Applicant profile

The profile must contain the following information:

- the person's impairment, condition or disability
- the relationship between the impairment, condition or disability and the offending conduct
- the person's clinical history and social circumstances
- the person's current mental state or pattern of behaviour
- the offence that led to the supervision order being made
- the date of the supervision order, its nominal term and the day from which the nominal term had been declared to run.

Report from the consultant psychiatrist or psychologist

This report provides information on the person's current mental state, medication, a risk assessment and any conditions that the clinician recommends should be placed on the leave. The clinician will also indicate if they support all or some of the purposes of leave being applied for by the patient or resident.

Detailed leave plan prepared by the patient's or resident's treating team

This plan is intended to demonstrate how any previous leaves have progressed and how the present leave applied for may contribute to the person's rehabilitation goals. The plan also allows the person's treating team to recommend any leave conditions or to recommend that leave should not be granted.

Conduct of hearings

Hearings are closed to the public unless the panel directs otherwise, on the basis that it is in the best interest of the person or is in the public interest. Open hearings rarely occur, although the panel may occasionally allow an observer to be present for training or professional development purposes. No open hearings were conducted in 2016.

The panel must act according to equity and good conscience and is bound by the rules of natural justice.

The panel is not required to conduct its hearings in a formal manner. It is not bound by rules or practice relating to evidence, and may inform itself on matters as it sees fit. This may include requests for additional information or, by way of summons, request that another party attend the panel to assist.

During the hearing the panel discusses the leave application with the patient or resident and their treating team. Discussions focus on such things as the person's current mental state and pattern of behaviour, any notable achievements or incidents since the person's last hearing before the panel and how any previous leaves granted by the panel have progressed.

If the patient or resident requires assistance during a hearing, the panel will engage an interpreter or other specialist, as necessary. During the year, the panel engaged an interpreter on seven occasions, in the following languages:

- Arabic
- Auslan
- Cambodian
- Mandarin.

Applicants have a right to legal representation at hearings. Ten patients and five residents chose to be legally represented over the course of the year on 29 separate occasions. Nine applicants were represented once, three applicants were represented twice, three applicants were represented three times and one applicant was represented five times. The increase from 14 occasions of legal representation in 2015 to 29 occasions in 2016 indicates a return to similar numbers reported in 2014 (30 occasions of legal representation for patients and four occasions for residents).

Decisions regarding leave

At the end of each hearing the panel advises the patient or resident of its decision and gives verbal reasons. A written determination is issued to the patient or resident after the hearing outlining the leave that was granted or refused and any conditions attached to the leave.

A patient or resident has the right to request a written statement of reasons for the decision. In 2016 two patients requested written statements of reasons.

Operational report

The year in review

| | Forensic patients | | | Forensic residents | | |
|---|-------------------|------|--------|--------------------|------|--------|
| | 2016 | 2015 | Change | 2016 | 2015 | Change |
| Applicant profile | | | | | | |
| Applicants | 74 | 74 | 0 | 6 | 4 | +2 |
| Male applicants | 61 | 60 | +1 | 6 | 4 | +2 |
| Female applicants | 13 | 14 | -1 | 0 | 0 | - |
| Applicants on Supreme Court orders | 53 | 53 | 0 | 1 | 1 | 0 |
| Applicants on County Court orders | 21 | 21 | 0 | 5 | 3 | +2 |
| First-time applicants | 9 | 8 | +1 | 2 | 1 | +1 |
| Hearings | | | | | | |
| Hearing | 20 | 20 | 0 | 6 | 6 | 0 |
| Applications | | | | | | |
| Applications received | 189 | 173 | +16 | 12 | 7 | +5 |
| Individual leave purposes requested | 899 | 823 | +76 | 81 | 51 | +30 |
| Applications for on-ground leave | 0 | 0 | - | 12* | 7 | +5 |
| Applications for limited off-ground leave | 189 | 173 | +16 | 12* | 7 | +5 |
| Panel's decisions | | | | | | |
| Leave granted without modification | 86% | 91% | -5% | 92% | 94% | -2% |
| Leave granted with modification | 7% | 4% | +3% | 8% | 6% | +2% |
| Total leave granted | 93% | 95% | -2% | 100% | 100% | 0% |
| Leave refused | 7% | 5% | +2% | 0% | 0% | - |
| Leave suspensions | | | | | | |
| Leave suspensions by the Chief Psychiatrist | 10 | 14 | -3 | N/A | N/A | - |
| Leave suspensions by the Secretary to the Department of Health and Human Services | N/A | N/A | - | 0 | 0 | - |

* Forensic residents made 12 applications for the year; all were for a combination of on-ground and limited off-ground leave.

| | Forensic patients | | | Forensic residents | | |
|--|-------------------|------|--------|--------------------|------|--------|
| | 2016 | 2015 | Change | 2016 | 2015 | Change |
| Other information | | | | | | |
| Times a patient or resident was assisted by an interpreter | 7 | 8 | -1 | 0 | 0 | - |
| Languages used | 4 | 5 | -1 | 0 | 0 | - |
| Legal representation | 21 | 10 | +11 | 8 | 4 | +4 |
| Appeals against refusal of special leave | 0 | 1 | -1 | 0 | 0 | - |

The panel's statistical information has remained relatively constant over recent years. Although variations occur in the number of hearings, applicants and applications, these differences are consistent with changes in the forensic patient and resident population.

Individual applications for leave increased from 180 in 2015 to 201 in 2016, and requests for distinct leave purposes increased from 874 in 2015 to 980 in 2016. The number of leave purposes requested by patients and residents varied from one to 12, and the average number per applicant increased from 4.8 in 2015 to 4.9 in 2016. Out of the 80 applicants over the calendar year:

- 10 made one application
- 31 made two applications
- 30 made three applications
- six made four applications
- three made five applications.

The majority of applicants made up to three applications over the course of the year. In 2015 a total of 24 applicants made three or more applications, compared with a total of 39 applicants in 2016. This suggests that applicants are making leave requests more than once every six months.

Forensic residents made 12 applications for the year; all were a combination of on-ground and limited off-ground leave.

Appendix C: Historical data contains further information on the number of patients and residents, hearings, leave applications and other demographic data for the period 2007 to 2016.

Our finances

The former Health Service Performance and Programs Division of the Department of Health and Human Services provided all operational support to the panel, managed the panel's budget and maintained accounts and records. The department's audited financial statements include the panel's expenditure, which is reported in the department's annual report.

Appendix A: The legal framework

The Act provides for the management, detention and release of persons found unfit to stand trial or not guilty of committing a crime because of mental impairment.

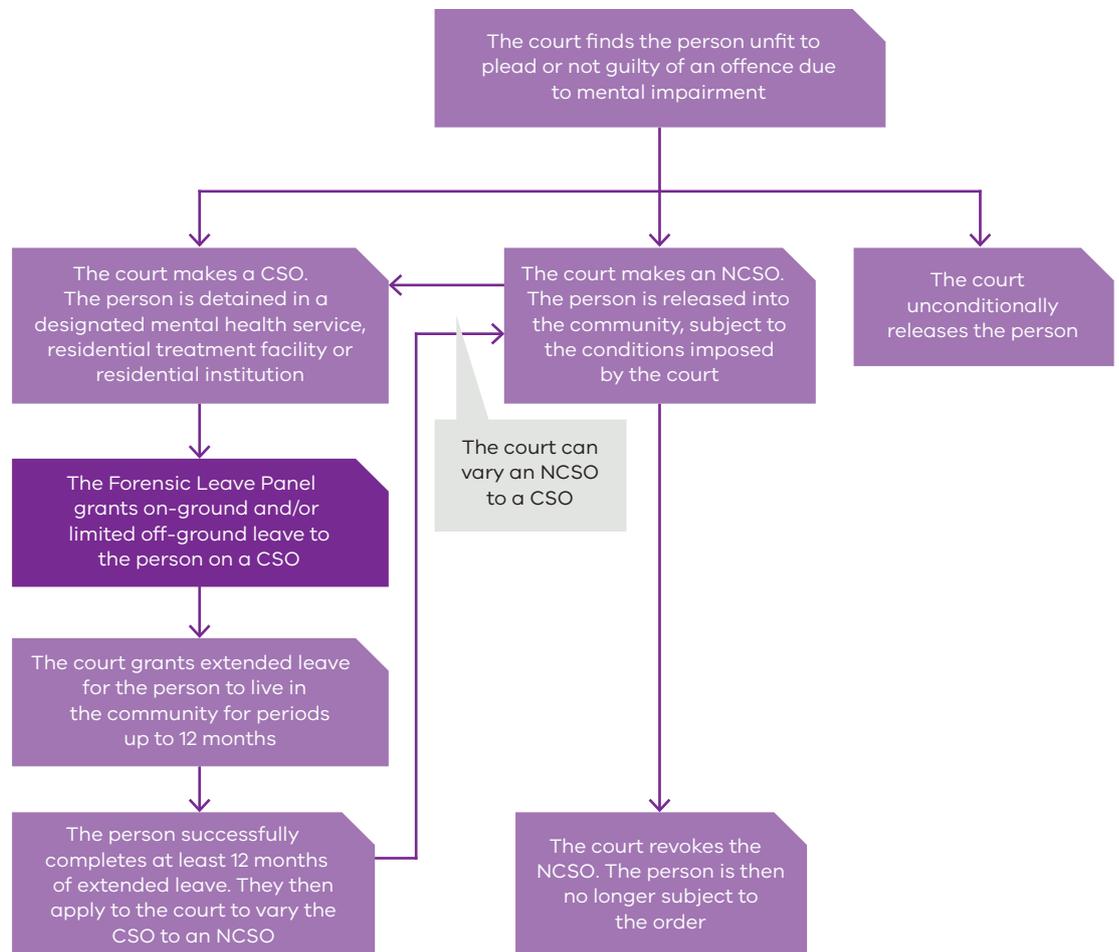
Under the Act, a court can impose several different supervision orders if it finds a person unfit to plead or not guilty because of mental impairment:

- custodial supervision orders (CSOs), which commit a person to custody in a designated mental health service under the *Mental Health Act 2014*, or a residential treatment facility or residential institution under the *Disability Act 2006*
- CSOs, which commit a person to custody in a prison but only if the court is satisfied that no practicable alternative exists
- non-custodial supervision orders (NCSOs), which allow the person to live in the community, subject to conditions decided by the court and specified in the order.

The court also has the discretion to release a person unconditionally.

The diagram below presents a brief overview of how a person may progress through the system under the Act and also demonstrates where the panel resides within this framework.

Legal framework for progression under the Act



Appendix B: Membership as at 31 December 2016

| Member of the panel | Term of appointment | |
|---|--|--|
| | From | To |
| Supreme Court judges | | |
| The Honourable Justice Kevin Bell President of the Forensic Leave Panel from February 2015 | 1 April 2014 | 31 March 2019 |
| The Honourable Justice John Forrest <i>Previous term of appointment</i> | 4 March 2013 <i>4 March 2008</i> | 3 March 2018 <i>3 March 2013</i> |
| The Honourable Justice Terry Forrest | 26 February 2013 | 25 February 2018 |
| The Honourable Justice Christopher Beale | 17 February 2015 | 16 February 2020 |
| The Honourable Justice Michael Croucher | 17 February 2015 | 16 February 2020 |
| County Court judges | | |
| Her Honour Judge Liz Gaynor <i>Previous terms of appointment</i> | 2 February 2016 <i>25 May 2010 3 May 2005</i> | 1 February 2021 <i>24 May 2015 2 May 2010</i> |
| Her Honour Judge Sandra Davis <i>Previous terms of appointment</i> | 4 October 2016 <i>4 October 2011 5 September 2006</i> | 3 October 2021 <i>3 October 2016 4 September 2011</i> |
| Her Honour Judge Susan Pullen <i>Previous term of appointment</i> | 20 November 2012 <i>20 November 2007</i> | 19 November 2017 <i>19 November 2012</i> |
| His Honour Judge Frank Saccardo | 1 May 2012 | 30 April 2017 |
| Chief Psychiatrist and nominees | | |
| Dr Neil Coventry (Chief Psychiatrist) | 20 November 2014 | Ongoing |
| Dr Paul Hantz | 26 May 2003 | Ongoing |
| Dr Steve Macfarlane | 9 November 2012 | Ongoing |
| Dr Richard Yeatman | 7 November 2014 | Ongoing |
| Assoc. Prof. Peter Burnett | 18 December 2015 | Ongoing |
| Dr Daniel O'Connor | 27 April 2016 | Ongoing |
| Dr Vinay Lakra | 18 July 2016 | Ongoing |

Continued...

| Member of the panel | Term of appointment | |
|--|---|---|
| | From | To |
| Psychiatrist members | | |
| Dr Michael Epstein <i>Previous terms of appointment</i> | 24 October 2014 24 October 2010 24 October 2006 10 September 2002 21 April 1998 | 30 June 2018 23 October 2014 23 October 2010 9 September 2006 20 April 2002 |
| Dr Teresa Flower <i>Previous term of appointment</i> | 30 August 2013 30 August 2009 | 29 August 2017 29 August 2013 |
| Dr Diane Neill <i>Previous term of appointment</i> | 6 July 2014 6 July 2010 | 30 June 2018 5 July 2014 |
| Dr Sally Wilkins <i>Previous term of appointment</i> | 2 June 2015 14 August 2012 | 1 June 2019 24 May 2015 |
| Dr Fred Stamp | 15 July 2014 | 30 June 2018 |
| Dr Jennifer Torr | 2 June 2015 | 1 June 2019 |
| Psychologist members | | |
| Ms Catherine Leigh-Smith <i>Previous terms of appointment</i> | 24 October 2014 24 October 2010 24 October 2006 10 September 2002 21 April 1998 | 30 June 2018 23 October 2014 23 October 2010 9 September 2006 20 April 2002 |
| Ms Janina Tomasoni <i>Previous terms of appointment</i> | 24 October 2014 24 October 2010 24 October 2006 10 September 2002 | 30 June 2018 23 October 2014 23 October 2010 9 September 2006 |
| Community members | | |
| Mr Paul Newland <i>Previous terms of appointment</i> | 30 August 2013 30 August 2009 30 August 2005 12 December 2000 21 April 1998 | 29 August 2017 29 August 2013 29 August 2009 11 December 2004 20 April 2000 |
| Ms Kathleen Bragge <i>Previous terms of appointment</i> | 30 August 2013 30 August 2009 30 August 2005 | 29 August 2017 29 August 2013 29 August 2009 |
| Mr Jack (Kyriakos) Nalpantidis <i>Previous terms of appointment</i> | 24 October 2014 24 October 2010 24 October 2006 | 30 June 2018 23 October 2014 23 October 2010 |
| Ms Patricia Harper AM <i>Previous term of appointment</i> | 30 August 2013 30 August 2009 | 29 August 2017 29 August 2013 |
| Dr Genevieve Grant <i>Previous term of appointment</i> | 30 August 2013 30 August 2009 | 29 August 2017 29 August 2013 |
| Mr John Leatherland | 30 August 2013 | 29 August 2017 |
| Mr Jie (George) Jiang | 15 July 2014 | 30 June 2018 |

Appendix C: Historical data

The table below provides information on the number of patients and residents, hearings, leave applications and other demographic data for the period 2007 to 2016.

| Application information | 2016 | 2015 | 2014 | 2013 | 2012 | 2011 | 2010 | 2009 | 2008 | 2007 |
|---|------|------|------|------|------|------|------|------|------|------|
| Forensic patients | 74 | 74 | 76 | 75 | 69 | 67 | 65 | 70 | 73 | 66 |
| Forensic residents | 6 | 4 | 3 | 3 | 2 | 2 | 3 | 3 | 3 | 3 |
| Hearings ¹ | 26 | 26 | 21 | 24 | 18 | 22 | 19 | 22 | 23 | 17 |
| Hearing days ² | 21 | 21 | 18 | 18 | 18 | 19 | 18 | 18 | 20 | 16 |
| Total leave applications made to the panel | 201 | 180 | 227 | 216 | 181 | 184 | 182 | 179 | 158 | 178 |
| Average leave applications made per hearing | 7.7 | 6.9 | 10.8 | 9 | 10 | 8.4 | 9.6 | 8.13 | 7.9 | 11.1 |
| Average leave applications by each forensic patient or resident | 2.5 | 2.3 | 2.9 | 2.8 | 2.5 | 2.6 | 2.6 | 2.5 | 2.08 | 2.6 |
| Average leave purposes per application | 4.9 | 4.8 | 5 | 4.7 | 5 | 5.2 | 4.3 | 4 | 4.3 | 4.2 |
| Type of leave applications: | | | | | | | | | | |
| • on-ground | 12 | 7 | 6 | 6 | 5 | 4 | 5 | 9 | 9 | 6 |
| • off-ground | 189 | 173 | 221 | 210 | 176 | 180 | 177 | 170 | 149 | 172 |
| • combined on-ground and limited off-ground leave ³ | 12 | 7 | 6 | 6 | 5 | 4 | 5 | 9 | 2 | 0 |
| Leave purposes (total) | 980 | 874 | 1139 | 1023 | 913 | 962 | 786 | 724 | 686 | 761 |

Continued...

| Application information | 2016 | 2015 | 2014 | 2013 | 2012 | 2011 | 2010 | 2009 | 2008 | 2007 |
|---|------|------|------|------|------|------|-------|-------|------|-------|
| Leave purposes⁴ | | | | | | | | | | |
| • granted | 86% | 91% | 90% | 85% | 86% | 87% | 87.7% | 91.7% | 94% | 91.3% |
| • modified and granted | 7% | 4% | 4% | 6.7% | 5.4% | 4.5% | 3.3% | 1% | 6.1% | 2.4% |
| • refused | 7% | 5% | 6% | 7.3% | 7.8% | 5.5% | 9% | 7.2% | 6% | 5.6% |
| Times applicants were assisted by interpreters | 7 | 8 | 18 | 13 | 14 | 11 | 13 | 13 | 11 | 12 |
| Times applicants were legally represented | 29 | 14 | 36 | 11 | 7 | 6 | 2 | 7 | 8 | 4 |
| Number of occasions patients or residents who had off-ground leave were suspended | 10 | 14 | 10 | 12 | 16 | 9 | 11 | 6 | 11 | 3 |
| Appeals against refusal to grant special leave by the authorised psychiatrist or the Secretary to the Department of Health and Human Services | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Appeals against the transfer of a forensic patient from one designated mental health service to another | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Patients and residents granted extended leave by a court | 9 | 6 | 6 | 8 | 9 | 4 | 4 | 10 | 12 | 9 |
| Revocation of extended leave by the court | 0 | 1 | 0 | 1 | 1 | 1 | 0 | 1 | 2 | 0 |

Continued...

| Application information | 2016 | 2015 | 2014 | 2013 | 2012 | 2011 | 2010 | 2009 | 2008 | 2007 |
|-----------------------------------|------------------|------------------|------------------|------|------|------|------|------|------|------|
| Applicant demographics | | | | | | | | | | |
| Gender | | | | | | | | | | |
| • male | 67 | 64 | 67 | 65 | 57 | 58 | 59 | 63 | 69 | 59 |
| • female | 13 | 14 | 12 | 13 | 12 | 11 | 9 | 10 | 7 | 7 |
| Average age of applicants (years) | 43.1 | 42.5 | 42.7 | 41.9 | 41.3 | 40 | 40 | 41.5 | 41.2 | 41.7 |
| Sentencing court | | | | | | | | | | |
| • County Court | 26 | 24 | 24 | 21 | 17 | 20 | 21 | 19 | 24 | 21 |
| • Supreme Court | 54 | 54 | 55 | 57 | 52 | 49 | 47 | 54 | 51 | 48 |
| Average length of custody (years) | 9.0 ⁵ | 9.0 ⁵ | 8.2 ⁵ | 8.6 | 8.2 | 7.1 | 7.2 | 7.1 | 7.4 | 7.2 |
| Longest period of custody (years) | 40.4 | 39.4 | 38.4 | 40.4 | 39.4 | 38 | 37 | 36 | 35 | 34 |

- 1 The number of hearings held for forensic residents and the number of hearings held for forensic patients.
- 2 Hearings at Thomas Embling Hospital and the adjacent Disability Forensic Assessment and Treatment Service are scheduled (when possible) to coincide so that relevant members of a division of the panel can attend both hearings.
- 3 Forensic residents made the on-ground leave applications as part of an application, which included limited off-ground leave. In practice, forensic patients do not require on-ground leave because Thomas Embling Hospital has sufficient grounds within the secure perimeter.
- 4 The percentage of leaves granted, modified or refused by the panel may not always total 100 per cent because at hearings applicants may withdraw leave requests, the panel may grant modified leave requests or, on occasion, grant additional leave requests.
- 5 The reference date used to calculate the average length of custody was 31 December 2016. Previously, the reference date is likely to have been the undefined year, accounting for the increase in 2012.

