Statement of Reasons

This is an edited version of the statement of reasons issued pursuant to section 756 of the *Mental Health Act 2016*. The patient and persons attending the hearing have been de-identified and, in some cases, may be allocated pseudonyms for privacy reasons. Other details that may lead to the identification of the patient may have also been modified or omitted. The modification or omission of these details does not affect its decision or its reasons for the decision.

Matter:	Treatment Authority Review
Attendees	
Psychiatrist:	Attended
Case Manager:	Attended
Decision	
Decision:	Confirm Treatment Authority – Community Category

The patient is a woman who was placed on a Treatment Authority. The patient did not attend the hearing. The case manager stated the patient had left a telephone message saying that she did not want to attend the hearing. The patient provided a self-report with attached letters of support from friends which the Tribunal considered. The Tribunal finds the patient was absent from the hearing of her own free will and decided to proceed with the hearing in her absence pursuant to s747.

Statutory Framework and Issues to be determined by the Tribunal

Set out in Appendix A to these Reasons is a summary of the principal provisions of the *Mental Health Act 2016* (**Act**) that are relevant to the Tribunal's conducting a review of a person's Treatment Authority. Further reference will be made to these under "Application of evidence before the Tribunal to relevant provisions".

The issues for determination at the review were:

1. whether the treatment criteria in section 12 of the Act continue to apply to the person.
2. whether there is a less restrictive way for the person to receive treatment and care for the person's mental illness.
3. if a Treatment Authority is confirmed, whether the category should be community or inpatient.
4. if the category is community, whether an authorised doctor may, at a future time, reduce the extent of treatment in the community received by the person.
5. if the category is inpatient, whether any limited community treatment is approved or extended for the person. If the Tribunal approves or extends limited community treatment, whether an authorised doctor may, at a future time, reduce the extent of treatment in the community received by the person.
6. what, if any, conditions should be imposed on the Treatment Authority?

Clinical Report

The case manager confirmed that the patient had been given the clinical report within statutory time frames.

<u>Application of evidence before Tribunal to relevant provisions</u>

Treatment Criteria

In order to be satisfied that the person should continue to be subject to a Treatment Authority, all of the treatment criteria in section 12(1) of the Act must apply. The Tribunal considered each of the criteria in turn.

1. Does the person have a mental illness?

According to the clinical report, the patient was diagnosed with delusional disorder.

However, the patient disagreed with the diagnosis and believed it was a misdiagnosis. In summary, the patient explained her situation related to persecution by her husband and others, lies being told by her family and her computer being hacked.

The patient's letters of support from friends and cousin also indicated that the patient had been through difficult circumstances in relation to her divorce and cancer diagnosis and treatment, but she was a loving mother and had put her career on hold to look after the family.

According to the clinical report, years earlier the patient had self-presented to hospital three times, once following an unintentional overdose in the context of conflict with her parents and being treated for cancer and on two other occasions due to stress and depressed mood. Clinical notes recorded the patient was feeling persecuted by things posted on the internet. At the time she was diagnosed with border line personality.

Later she presented to hospital following concerns by her GP of paranoid delusions and risk of self-harm. At the time she was experiencing several stressful events – divorce, cancer treatment and medical complications, and stalking charges. The report noted the patient's persecutory beliefs.

She was admitted to a mental health unit following a decline in social functioning in the context of struggles with tertiary studies. She had been emailing the course provider, government ministers and departments with numerous complaints that were disorganised in thinking with paranoid themes. The patient's family were concerned. They reported erratic verbally aggressive behaviour, increased functional decline and that the patient often felt persecuted (examples of which are contained in the clinical report). The report noted on admission that the patient described delusional symptoms and paranoid beliefs. The patient felt persecuted by a number of different agencies and also by the treating team. She had at least four psychiatrists' opinions all with the same diagnosis, but the patient did not agree with the diagnosis and was unhappy with the recommendations for treatment.

The report noted a stalking charge had been made out against the patient in respect of a male in whom she had a romantic interest. She did not agree with the charges and sought to challenge it in order to pursue her romantic interest.

At hearing, the treating psychiatrist confirmed the diagnosis of delusional disorder. He confirmed the patient's delusions were persecutory and erotomanic. In respect of the letters of support, the treating psychiatrist noted that the friends had not seen what close family have seen in respect of the patient's decline and behaviour. The treating psychiatrist noted the patient was responding well to treatment and had improved in the last 6 months. The treating psychiatrist understood the patient's desire to seek a private female psychiatrist and the treating team would facilitate that if arranged.

The Tribunal considered the patient's views and explanations in her self-report and attached letters of support. The Tribunal accepted the patient had been through some stressful events in the last few years. However, in relation to her mental health diagnosis and treatment, the Tribunal preferred the specialist evidence of the consultant psychiatrist that she suffered delusions of a persecutory and erotomanic nature. Given the clinical history and the treating psychiatrist's evidence, the Tribunal finds that the patient suffered from delusional disorder. That three other psychiatrists had also confirmed the diagnosis further reinforced the diagnosis that the patient suffered from a delusional disorder.

Accordingly, the Tribunal finds the patient suffered a clinically significant disturbance of thought, mood and perception and therefore has a mental illness as defined by s10 of the Act.

2. Does the person have capacity to consent to be treated for the illness?

The patient did not believe she had a mental illness or needed treatment. She believed she was a victim and was being persecuted and had been misdiagnosed.

The treating psychiatrist confirmed at hearing that the patient did not want to engage with the psychiatrist and continued to tell her case manager that she was the victim of a misdiagnosis. The treating psychiatrist stated the patient did not have insight into her illness. She did not accept that she had delusions but considered them reality based.

The report noted that the patient had no insight into her illness. It noted the patient would prefer not to take medications or engage with mental health services as she did not believe she had a mental illness and was unable to relate her illness with her actions and thoughts, despite education about this.

The Tribunal finds on the evidence that the patient did not understand or accept that she had a mental illness or its symptoms or that she needed medication. The Tribunal finds the patient had no insight into her illness. The Tribunal finds the patient did not understand the role of medication or the consequences if not treated. Further, she was unable to weigh up the risks and benefits of treatment.

Accordingly, the Tribunal finds the patient did not have capacity to consent to treatment for her mental illness.

3. Are the person's illness and an absence of involuntary treatment or continued involuntary treatment likely to result in either:
   a. imminent serious harm to the person or others; or
   b. the person suffering serious mental or physical deterioration?

The patient did not consider that she had a mental illness, that she needed any treatment or that there were any risks to herself or others.

The treating psychiatrist stated if the patient was not on the Treatment Authority, the patient would cease medication and her mental health would deteriorate. It would also impact on her physical health as her paranoia extended to male doctors, so may impact on her acceptance of treatment or advice from her other doctors.

The report noted past risks when unwell, were the patient's stalking charges, her estranged relationships and isolation, reputational risk and loss of family relationships due to her derogatory comments on the internet.

It was evident the patient did not believe she needed treatment and only took medication because she was obliged to comply with the Treatment Authority. Accordingly, the Tribunal accepted that if not on the Treatment Authority that the patient would cease her medication and disengage with mental health services

The Tribunal preferred and accepted the evidence of the treating psychiatrist that if untreated the patient's mental health would deteriorate and poor mental health may also impact on her physical health. The Tribunal accepted when unwell there were serious risks to the patient's reputation due to acting on delusional beliefs, as evidenced by the stalking charges. It was also of concern that if unwell her paranoia could extend to not wanting male doctors treating her for serious physical health problems. The Tribunal considered such deterioration and impacts were serious.

The Tribunal accepted the medical evidence that if her illness were not treated there was a risk of isolation, financial disadvantage, deterioration of relationships with family and breakdown, and there

was a risk to her reputation due to escalation of repeated complaints and stalking behaviour.

The Tribunal finds if not on a Treatment Authority the patient would cease her medication. The Tribunal finds with the cessation of her medication it is likely to result in a serious deterioration in the patient's mental health and her physical health.

Accordingly, the Tribunal finds that in the absence of continued involuntary treatment for her mental illness, the patient was likely to suffer serious mental and physical health deterioration.

Relevant Circumstances

In reaching a decision, the Tribunal had regard to the relevant circumstances of the person subject to the Treatment Authority.

The Tribunal had regard to the patient's diagnosis of delusional disorder and her belief that she did not have a mental illness and did not need or want medication and would cease it if not on a Treatment Authority. The Tribunal had regard to the patient's friends' letters of support. While supportive, the Tribunal did not consider them protective as it was not evident that they knew about or understood the patient's illness.

The Tribunal considered the patient had no insight into her illness or need for treatment, which weighed in favour of confirming the Treatment Authority.

Less Restrictive Way and Human Rights Act

Given the patient's limited social supports, lack of insight and risk of mental health deterioration, the Tribunal considered a Treatment Authority, community category was the least restrictive way to receive treatment and care.

The Tribunal had regard to the *Human Rights Act 2019* (Qld) (HRA). The Tribunal considered s17(c) of the HRA – the right not to be subjected to treatment without full, free and informed consent – was applicable. The Tribunal considered that human right was limited due to the patient receiving medical treatment under the Treatment Authority. However, the patient was not able to give full and informed consent for treatment as she did not have capacity. Further, the Tribunal considered that limitation was reasonable and justified because it was lawful and in accordance with the Act, because the patient could not give full and informed consent as she was deprived of capacity to consent to treatment. Further, the treatment was necessary to treat her mental illness and manage the risks of harm to herself (mental and physical health deterioration) and there was no less restrictive way. The Tribunal considered the benefit of treatment outweighed the limitation and was in the patient's best interests. Therefore, the Tribunal finds the limitation of the patient's human right in that regard was reasonable and justified (s13 of HRA).

The Tribunal finds the decision is compatible with human rights as defined in s8 of the HRA.

Conclusions of the Tribunal

The Tribunal was satisfied that the treatment criteria were met as the patient had a mental illness, did not have the capacity to consent to be treated for the illness, and in the absence of involuntary treatment for that illness was likely to result in her suffering serious mental health deterioration.

For these reasons, the Tribunal has decided that the Treatment Authority is confirmed, and the category of the Treatment Authority is community. An authorised doctor may at a future time, reduce the extent of treatment in the community received by the patient.

Presiding Member

Appendix A

Statement of the law regarding Treatment Authorities

The main objects of the *Mental Health Act 2016* (**Act**) are set out in section 3(2) and must be achieved in the way outlined in sections 3(2) and 3(3).

Section 413(1) of the Act provides the Mental Health Review Tribunal (**Tribunal**) must review a Treatment Authority within 28 days after it is made, each 6 months for the first year, and at intervals of not more than 12 months thereafter (a ***periodic review***).

Also, the Tribunal must review a Treatment Authority on application by the patient subject to the authority, an interested person for the patient or the chief psychiatrist (an ***applicant review***). Section 413(3) empowers the Tribunal, on its own initiative, to carry out a review of the Treatment Authority (a ***tribunal review***).

Section 419 provides that on a periodic review, the Tribunal must decide to confirm or revoke the Treatment Authority. On an applicant review, the Tribunal must decide whether to make the orders sought by the applicant, and on a tribunal review, the Tribunal must decide any particular matter stated in the notice given under section 418(3) and make orders under Chapter 12, Part 2, Division 4 as it considers appropriate.

Section 421 provides that on a review of a Treatment Authority, the Tribunal must revoke the authority if the Tribunal considers the treatment criteria no longer apply to the patient subject to the authority or there is a less restrictive way for the person to receive treatment and care for their mental illness. However, the Tribunal does not have to revoke the Treatment Authority on the basis that the patient has capacity if the Tribunal considers the patient's capacity to consent is not stable.

Section 412 provides that in making a decision in relation to a review of a Treatment Authority under Chapter 12, Part 2, the Tribunal must have regard to the relevant circumstances of the person subject to the authority. The Act defines **relevant circumstances** of a person, as each of the following:

(a) the person's mental state and psychiatric history;
(b) any intellectual disability of the person;
(c) the person's social circumstances, including, for example, family and social support;
(d) the person's response to treatment and care and the person's willingness to receive appropriate treatment and care;
(e) if relevant, the person's response to previous treatment in the community.

Sections 423 and 428 provide that the Tribunal may change the category of the Treatment Authority from inpatient to community or from community to inpatient depending on the applicable conditions in those sections.

If the category of the Treatment Authority is community, the Tribunal must decide whether an authorised doctor may, at a future time, reduce the extent of treatment in the community received by the person the subject of the authority.

If the category of the authority is inpatient, the Tribunal may approve limited community treatment, or an extension of limited community treatment for the person. In deciding whether to do this, the Tribunal must have regard to the purpose of limited community treatment.

If the Tribunal approves or extends limited community treatment, it must also decide whether an authorised doctor may, at a future time, reduce the extent of treatment in the community received by the person.

Section 426 provides that the Tribunal may change, remove or impose a condition on the Treatment Authority. However, the Tribunal may not impose a condition on the Treatment Authority that requires the person to take a particular medication or dosage of that medication.

The Tribunal may order a Treatment Authority patient's transfer to another authorised mental health service under section 427.