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.

Decision made prior to 1 January 2020 so *Human Rights Act 2019* not applicable

Matter:	Treatment Support Order Review
Attendees	
Patient:	Attended
Psychiatrist:	Attended
Case Manager:	Attended
Decision	
Decision:	The Treatment Support Order is revoked. No further order is made.

The patient was made subject to a Forensic Order by the Mental Health Court on the basis that he was of unsound mind when the index offences were allegedly committed. At a subsequent review, the Mental Health Review Tribunal revoked the Forensic Order and made a Treatment Support Order. A scheduled review of the Treatment Support Order was set down but adjourned at the request of the treating psychiatrist. It was relisted and this statement of reasons relates to the decision made at the relisted hearing.

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 Forensic Order. 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 Support Order for the patient should be confirmed or revoked.
2. if the Treatment Support Order is confirmed, should the category be community or inpatient?
3. if the category is community, should the authorised doctor be able to change the extent of treatment in the community to the extent and subject to the conditions set by the Tribunal?
4. if the category is inpatient, what is the extent and conditions of limited community treatment? If limited community treatment is approved or extended, should an authorised doctor be able to reduce the extent of treatment in the community received by the person?
5. what, if any, conditions should be imposed on the Treatment Support Order?
6. if the Treatment Support Order is revoked, is there a further authority that should be made?

Clinical Report

The patient received the first clinical report in compliance with the requirements of the Act. The patient had not been given a copy of the second clinical report. The treating team indicated that it had been amended to include the Assessment and Risk Management Committee (ARMC) minutes and a doctor's correspondence. The patient said that he trusted his treating team and that he wished for the hearing to proceed. He indicated that he understood the proceedings and the request by the treating team to revoke the Treatment Support Order. The Tribunal considered that it was appropriate to proceed with the hearing given the patient's wishes and the minor nature of the amendments that had been made to the clinical report.

Application of evidence before Tribunal to relevant provisions

The Tribunal must confirm the Treatment Support Order if the Tribunal considers the order is necessary, because of the person's mental condition, to protect the safety of the community, including from risk of serious harm to other persons or property.

1. The relevant circumstances of the person subject to the order

Mental state and psychiatric history

The clinical report details the history of the patient's mental illness, namely paranoid schizophrenia, where he was first admitted to hospital for treatment approximately 15 years ago. There were further admissions in later years. For a period, the patient was under the care of a private psychiatrist and had no contact with public mental health services.

The patient had an inpatient admission a few months after the index offence, wherein he was placed on depot medication. There was a further admission the following year due to his self-presentation to hospital. There had been no further hospital admissions and the patient has been treated in the community since that time. Following that last admission, the patient chose to abstain from illicit substances. He has been compliant with treatment and been seeing a private psychiatrist monthly.

Any intellectual disability

Not applicable.

Social circumstances, including, for example, family and social support

The patient lives in a men's only lodge. He receives a disability support pension which he values. He has completed higher education studies. The patient has limited social supports and does not have contact with his family. He contacts a telephone helpline if he is experiencing anxiety. He hopes to move to other accommodation at some stage.

Response to treatment and care and the person's willingness to receive appropriate treatment and care

The patient has been abstinent from illicit substances since his last hospital admission. He is compliant with treatment, without the need for reminders and attends appointments punctually. He attends upon a private psychiatrist. The patient seeks out assistance when he requires it.

If relevant, the person's response to previous treatment in the community

The patient has a history of prior non-compliance with treatment, however, has been compliant with the current treatment since his last admission.

2. The nature of the relevant unlawful act and the period of time that has passed since the act happened

The index offences consisted of a charge of going armed so as to cause fear and also willful damage. At the time of the review, the offences had occurred almost 5 years ago. Despite the serious nature of the offences, they were committed at a time where the patient had been unwell for some time and non-compliant with medication.

3. Any victim impact statement relating to the relevant unlawful act

Not applicable.

4. If the Mental Health Court made a recommendation about an intervention program for the person – the person's willingness to participate in the program offered to the person

Not applicable.

5. Is the Treatment Support Order necessary, because of the person's mental condition, to protect the safety of the community, including from the risk of serious harm to other persons or property?

The recommendation of the treating team was for the Treatment Support Order to be revoked. The treating psychiatrist, in oral evidence, stated that she had known the patient for 12 months. She said that over that period, the focus of the treating team had been on the patient's insight. The treating psychiatrist said that the patient has a good understanding of his mental illness and has become more open in talking about it in recent times. She said that he understands the need and role of medication. She considered that the patient was very independent and did not require any prompting for appointments. Further, the patient attended upon a private doctor independently and has done so regularly for a sustained period.

The treating psychiatrist stated that the patient is aware that he was unwell at the time of the index offences. She said that he is aware that the medication keeps him stable and helps him make decisions. She opined that the patient has capacity to consent to medical treatment.

When asked about the patient's request for a reduction in medication dose, the treating psychiatrist said that occurred some time ago and followed another psychiatrist making a comment to him. She said that although he had asked for a reduction, they had a conversation about his medication and the patient was satisfied with no changes being made.

The treating psychiatrist stated that the risks to the community were closely related to the patient's mental state and that there had not been any re-offending since the index offences. She said that even at the time of the index offences, the patient had an awareness that he was unwell and had tried to seek help. She also said that at the time, he had been non-adherent with treatment. In her opinion, the Forensic Order and Treatment Support Order had provided the stability that had allowed the patient to develop his insight. She said that the patient was now open to contacting people for help. The treating psychiatrist said that he had a good relationship with a private doctor and that the hope was that once the patient was a voluntary patient, he would make an Advance Health Directive.

The transition plan detailed by the treating psychiatrist was over a three-month period and the treating team would continue to work with the private doctor. The treating psychiatrist said that the risks to the community were low and adherence to treatment was an important factor in mitigating that risk. She said that the patient had the occasional beer but she was not concerned by this and there was no evidence or issues with intoxication. She said that the ARMC were aware that the patient continued to have auditory hallucinations and had supported the treating team's recommendations. The treating psychiatrist said that the patient had been candid about his residual symptoms and had found a good way to cope and live with the auditory hallucinations. She said that her only concerns would be if the patient was to stop taking medication and lose his insight.

The patient told the panel that he had no intention of stopping his treatment with his private doctor. He said that he did not have an issue with making an Advance Health Directive. He spoke candidly to the panel about the auditory hallucinations he experiences and the way that he copes with these symptoms. The patient said that he knew that if he stopped his medication, his life would get to him and he would go into a downward spiral. He said that he learnt that lesson years ago. The patient said that the medication allows him to maintain a quality of life.

The Tribunal accepted the evidence of the treating psychiatrist and the patient. The panel, in considering the evidence before it, noted that the patient had been compliant and co-operative with the treating team. The panel accepted that the patient had been abstinent from illicit substances for an extended period and that there were no concerns in relation to his occasional use of alcohol. The panel considered that although the patient had residual symptoms of his mental illness, he had good insight and judgement. The panel accepted that the patient had developed coping mechanisms for the ongoing auditory hallucinations he experienced.

The panel noted that the recommendation of the treating team to revoke the Treatment Support Order was supported by the ARMC. In considering the risk of safety to the community, the panel accepted the evidence that the current risk of safety to the community was low and that the oversight of a Treatment Support Order was no longer required. It noted that the risk was mitigated by the patient's stable mental state; his ability to identify symptoms and seek help; his continued abstinence from illicit substances; his understanding of the benefits of medication for a stable mental state; his attendance upon his private doctor; and his ongoing compliance with prescribed treatment. The panel considered that the patient's mitigating factors would continue in the absence of the Treatment Support Order.

Given the evidence, the Tribunal determined that a Treatment Support Order was no longer necessary to protect the safety of the community and revoked the Treatment Support Order. There was no recommendation for a Treatment Authority by the Authorised Psychiatrist. Accordingly, the Tribunal made no further orders.

6. If limited community treatment has been approved, is the Tribunal satisfied there is not an unacceptable risk to the safety of the community, because of the person's mental condition, including the risk of harm to other persons or property?

Not applicable.

Conclusions of the Tribunal

The Tribunal accepted the evidence of both the patient and the treating team. The Tribunal considered the relevant circumstances of the patient, including the positive steps he had taken towards his recovery. It considered the recommendations of the treating team, supported by the ARMC, particularly in relation to the risks to the community and the mitigation of those risks given the patient's stable mental state, protective factors and compliance with prescribed medication.

The Tribunal considered whether a Treatment Support Order was necessary due to the patient's mental condition to protect the safety of the community. The Tribunal concluded that the patient had demonstrated stability in his mental state and compliance with his treatment regime. Consequently, there had been a reduction in risk to the community since the making of the Forensic Order and subsequent Treatment Support Order. The Tribunal formed a view that the Treatment Support Order was not necessary to protect the safety of the community.

For these reasons, the Tribunal has decided to revoke the Treatment Support Order.

Presiding Member

APPENDIX A
Statement of the law regarding Treatment Support Orders

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 465 provides that the Mental Health Review Tribunal (**Tribunal**) must conduct a **periodic review** of the Treatment Support Order:

(a) within 6 months after the order is made; and
(b) at intervals of not more than 6 months.

The Tribunal must also review the Treatment Support Order on application (an **applicant review**) by the person subject to a Treatment Support Order, an interested person for that person and the chief psychiatrist. Section 433(3) provides that the Tribunal may, on its own initiative, review a Treatment Support Order (a **tribunal review**).

Section 472(1) provides that on a periodic review, the Tribunal must decide to confirm or revoke the Treatment Support Order for the patient. Section 472(2) provides that on an applicant review, the Tribunal must decide whether to make the orders sought and may make orders under Division 4 that it considers appropriate. Section 472(3) provides that on a tribunal review, the Tribunal must decide any matter that was stated in a notice given under section 471(3) and may make orders under Division 4 that it considers appropriate.

Section 473 requires the Tribunal to confirm the Treatment Support Order if the Tribunal considers the order is necessary, because of the person's mental condition, to protect the safety of the community, including from the risk of serious harm to other persons or property. Also, the Tribunal must confirm the Treatment Support Order if a finding of unfitness has been made for the person and the person has not been found fit for trial by the Tribunal and the proceeding for the relevant offence has not been discontinued.

The Tribunal may make a Treatment Support Order if they revoke a Forensic Order (mental health). Section 450(1) provides that the Tribunal must decide to make a Treatment Support Order for the person if the tribunal considers a Treatment Support Order, but not a Forensic Order, is necessary, because of the person's mental condition, to protect the safety of the community, including from risk of serious harm to other persons or property.

If the Tribunal confirms the Treatment Support Order, the Tribunal may change the category of the Treatment Support Order. If the category of the Treatment Support Order is inpatient, the Tribunal must change the category of the order to community unless the Tribunal considers that 1 of more of the following cannot reasonably be met if the category of the order is community:

(a) the person's treatment and care needs;
(b) the safety and welfare of the person;
(c) the safety of others.

If the Tribunal decides the category of the Treatment Support Order is community, or approves limited community treatment for the person, the Tribunal must also decide whether an authorised doctor may amend the person's Treatment Support Order to reduce the extent of treatment in the community received by the person.

If the category of the treatment support order is inpatient, the Tribunal may approve limited community treatment or an extension of limited community treatment. If the Tribunal approves or extends limited community treatment, the Tribunal must also decide whether an authorised doctor may, under section 2016(1), amend the person's Treatment Support Order to reduce the extent of treatment in the community received by the person.

Section 483 applies if the Tribunal decides to revoke a Treatment Support Order. The Tribunal may:

(a) make no further order for the person; or
(b) make a Treatment Authority for the person.

Further, the Tribunal may make a Treatment Authority for the person only on the recommendation of an authorised psychiatrist who considers, after examining the person, that:

(a) the treatment criteria apply to the person; and
(b) there is no less restrictive way for the person to receive treatment and care for the person's mental illness.