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	
Patient:	Attended
Psychiatrist:	Attended
Case Manager:	Attended
Decision	
Date of decision:	
Decision:	The Treatment Authority is CONFIRMED. 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.

The patient is a male with a diagnosis of paranoid schizophrenia and a secondary diagnosis of mental and behavioural disorders due to the use of tobacco dependence syndrome. His contact with mental health services goes back approximately 17 years when he was diagnosed with drug-induced psychosis.

The patient has had prior admissions approximately 9, 7 and 3 years ago respectively. The patient was in the care of the homeless team until approximately 2 years ago after which he was treated by the community care team. His Treatment Authority was approximately 1 year ago.

His current Treatment Authority was made after being brought in by the Queensland Police Service and then sent home, with an intent to contact community care. Subsequently, he was admitted to the acute unit, with increasing suspiciousness and voicing bizarre paranoid ideas about aliens.

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; and,
6. what, if any, conditions should be imposed on the Treatment Authority?

Clinical Report

It was noted that the clinical report was left in the patient's mailbox. The patient stated that he had read the clinical report and he wished to proceed with the hearing. The Tribunal decided to proceed even though the patient may not have read the clinical report until a few days after it was left in his mail box. This is the patient's first Tribunal hearing for his current Treatment Authority and it was scheduled within 28 days of the Treatment Authority being made in compliance with section 413(1) of the Act.

<u>Summary of evidence and findings</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?

The evidence from the clinical report is that when the patient is unwell he shows a decline in social and occupational functioning with bizarre paranoid ideation and hears voices. The treating psychiatrist who has known the patient for years gave evidence that the patient's mental state and functioning had been worsening over two weeks prior to his recent admission. This was in the context of medication non-compliance. He was hearing voices and became convinced that everyone around him were aliens and a threat to himself. The patient was on the verge of being charged with public nuisance because of his behaviour.

The case manager reported that after the patient was discharged he maintained his concerns, although his voices had decreased. The case manager reported that he continued to maintain he did not have a mental illness.

The patient's evidence to the Tribunal was that he did not have the illness paranoid schizophrenia and did not require medication. He stated that he had the right to refuse treatment and claimed that he was wrongfully placed in the mental health unit.

The Tribunal gave weight to the evidence of the treating psychiatrist as she has known this patient over years and his symptoms are consistent with his diagnosis, in particular the voices telling him that others were aliens out to harm him. The Tribunal disagreed that the patient had been admitted wrongfully to the mental health unit and also rejected his claim that his Treatment Authority prevented him from working.

The Tribunal concluded that the patient does suffer from a diagnosable mental illness, namely paranoid schizophrenia.

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

The treating psychiatrist gave evidence that the patient had very poor insight into his mental illness. She mentioned a history of medication non-compliance motivated by his beliefs that he does not have a mental illness and does not need any medication. Despite a number of admissions over the years, the patient has maintained his perspective and non-compliance with oral medication was a factor in his recent relapse and admission. The treating psychiatrist stated that the patient does not have the capacity to voluntarily take treatment and thus stay well.

The case manager noted that she agreed with the perspective of the treating psychiatrist. She mentioned that the patient had a history of becoming noncompliant when an order was revoked. The case manager stated that the patient could not understand why his calls and communication with a range of organisations to whom he had reported hazards, were inappropriate or annoying.

The patient stated he was adamant he did not have a mental illness. He was unable to say why he had been admitted recently but said it was wrong

The Tribunal accepts the treating psychiatrist's and the case manager's evidence that the patient has poor insight into his mental illness and lacks capacity to consent to treatment. In arriving at that conclusion, the Tribunal noted the patient's long-standing belief that he does not have a mental illness nor require medication – which he expressed explicitly at the hearing. The Tribunal also noted the patient's tendency to be noncompliant with medication when he is made voluntary. The patient could offer no reasonable explanation for his recent admission nor for the symptoms he experienced.

The Tribunal reached the conclusion that the patient does not have capacity to consent to be treated for his 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?

Both the treating psychiatrist and the case manager agreed that the patient was at high risk of incurring charges of public nuisance should his hazard identification and subsequent communications about hazards, continue. He is at high risk of incurring a forensic record due to misadventure and of damage to his own reputation.

The evidence at the hearing and in the clinical report is that when the patient has been a voluntary patient he has ceased his medication and become unwell. The patient was explicit at the hearing that without the Treatment Authority he would not take medication.

There is evidence in the clinical report that when unwell, the patient has been irritable and aggressive. The Tribunal noted that the patient's family was instrumental in getting him to the mental health unit for the latest admission, so his family members are at risk from his irritability and/or aggression when he is unwell.

The Tribunal formed the view that there was clear evidence that the patient would cease his treatment if he was a voluntary patient and subsequently relapse with risks to his mental health and reputation and risk of aggression to others.

The Tribunal concluded that an involuntary Treatment Authority was required to prevent imminent serious harm to the patient and members of his family, and that without the Treatment Authority he was likely to suffer serious mental deterioration.

Relevant Circumstances

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

<u>Mental state and psychiatric history</u>

The clinical report describes a history of mental illness when he was diagnosed with drug induced psychosis. The patient had numerous admissions, as well as ongoing contact with community care teams. His previous Treatment Authority was revoked inand he became noncompliant leading to his latest presentation and admission.

The treating psychiatrist conducted a mental state assessment on the day of discharge. She reports that the patient expressed that he was not happy about taking medication but reluctantly agreed. At the time of the hearing, the patient had not yet had his second depot and it was the view of the treating psychiatrist that at least three depots would be necessary to stabilize the patient. The patient had refused any oral medication.

<u>Any intellectual disability</u>

The Tribunal is unaware of any intellectual disability for the patient.

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

The clinical report notes that the patient lives on his own in a rented unit. His family see him regularly. He is fairly socially isolated and the fortnightly monitoring from his case manager is necessary to monitor his mental state and risks.

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

As evidenced from the history in the clinical report and the evidence from the treating psychiatrist and the case manager, the patient has maintained his view across time that he does not have a mental illness and does not require medication. The patient stated explicitly at the hearing that without the Treatment Authority he would cease all medication.

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

From the clinical report and evidence of the treating psychiatrist there is a long history of noncompliance with medication whenever the patient has been made a voluntary patient. This is motivated by his rejection of the diagnosis and need for medication and leads to mental deterioration, relapse of his illness and a period of time in an acute mental health unit. That pattern appears to have been the case in his recent admission.

Human Rights

The Tribunal notes that there were no submissions made to the hearing relating to limitations of the patient's human rights

The Tribunal considered the relevant human rights set out in the *Human Rights Act 2019*. The patient's human rights are engaged as per section 17 in that he is compelled to accept treatment including medication, under his Treatment Authority. Given the patient's lack of capacity to consent to treatment and his rejection of his diagnosis and the need for medication, the Tribunal considers that the Treatment Authority is lawful, has a purpose, is necessary and fair in the interests of maintaining his mental health and managing the risks to himself and others.

The patient's human rights are engaged as per section 26 as his Treatment Authority is lawful, has a purpose, is necessary and fair in the interests of helping to protect his family who are at risk of aggression when he is unwell. The patient has demonstrated that he cannot maintain his mental health as a voluntary patient.

The Tribunal does not consider the patient's human rights are curtailed under section 19 as his Treatment Authority community category does not restrict his movement unduly.

The Tribunal considers that confirmation of the Treatment Authority is lawful and meets criteria under the Act. Confirming the Treatment Authority as community category, is considered the least restrictive way in which the patient can receive treatment to maintain his mental health, and in which the risks to himself and others are minimised.

Less Restrictive Way

The Tribunal considered whether the patient could manage his treatment as a voluntary patient and concluded that was not the case. The reasons for that conclusion include his poor insight, lack of capacity to consent to treatment and expressed view that without the Treatment Authority he would cease medication. There are no family members able or willing to take the responsibility for ensuring the patient receives the appropriate treatment The Tribunal thus considers that there is no less restrictive way for the patient to receive treatment and care.

Conclusions of the Tribunal

The Tribunal was satisfied that the patient met the treatment criteria. He has a diagnosed mental illness, does not have the capacity to consent to treatment and there are risks to himself and others should he become unwell. An important consideration was that the patient expressed explicitly at the hearing that without the Treatment Authority he would cease all treatment which in all likelihood would lead to a relapse and an admission. The patient's rejection of the diagnosis, his need for treatment, and the need for a Treatment Authority were taken into account but not accepted due to his lack of insight and lack of capacity. The evidence of the treating psychiatrist and the case manager along with the patient's mental health history were considered to be important and valid.

The Tribunal decided that the category for the Treatment Authority is community. The patient is on a depot medication thus ensuring medication compliance with appropriate case management monitoring. His symptoms while still present had decreased during his admission and can be monitored in the community, thus risk to the patient and others are also decreased

The Tribunal made no other orders nor set any conditions on the Treatment Authority.

For these reasons, the Tribunal decided to confirm the Treatment Authority, community category, an and providing that an authorised doctor may at a future time, reduce the extent of treatment in the community received by the patient.

Community 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.