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
Case Manager	Attended
Consultant Psychiatrist:	Attended
Decision	
Date of decision:	2020
Decision:	Confirm Treatment Authority (community category)

Background

Approximately one month ago, an authorised doctor assessed the patient and placed him on a treatment authority (TA) under the *Mental Health Act 2016* (Act). The TA stated the patient was thought disordered and had been sleeping outside his unit. He had distressing delusions about his physical health and damage done to his unit and other delusions about communication with higher beings. The patient was assessed as being at imminent risk of inflicting harm to himself related to his somatic complaints, further deterioration of his mental health and of being homeless. He was admitted to hospital and his TA was confirmed by a consultant psychiatrist.

The Tribunal received an application from the patient for a review of his TA. The patient was seeking a revocation of his TA for the following reasons: the delusions did not exist and the TA was enacted because of accidents. The patient stated he has never had a police or court fine nor did he have a history of violence.

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 Act that are relevant to the Tribunal's conducting a review of a person's TA. 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 TA 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 TA?

Clinical Report

The treating psychiatrist told the Tribunal a copy of the clinical report was provided to the patient. The Tribunal is satisfied the patient received a copy of the clinical report within the statutory timeframes.

Summary of evidence and findings

Treatment Criteria

In order to be satisfied that the person should continue to be subject to a TA, 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 clinical report states the patient has a diagnosis of Paranoid Schizophrenia. This diagnosis has been confirmed by several psychiatrists.

The Tribunal is satisfied the patient has a mental illness.

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

According to the clinical report, the treating psychiatrist assessed the patient as having poor insight and fair judgement. He had chronic grandiose delusions, his affect was restricted, his speech monotone with normal rate and volume and his stream of thought was normal. The patient denied any perceptual disturbances or thoughts of harming himself. He described his mood as good and engaged superficially.

During the hearing, the patient read out the most recent mental state examination contained in the clinical report. He said he doesn't agree with some of the information, he doesn't like being on medication and believes he has served his time. The medication leaves him feeling fatigued. He would like to go to the gym but he sleeps during the day and cannot work. He has done nothing wrong and is innocent. He sees being on the TA as a punishment and would like to just see his general practitioner. He does not take drugs and his urine drug screens have been clear. He doesn't want taxpayers to have to pay for his depot medication. He could work but is impaired on the medication. Later in the hearing, the patient said he works from home as a CEO and has a very large amount of money.

The treating psychiatrist told the Tribunal she has explained to the patient on numerous occasions that the TA was implemented because he wasn't taking his oral medication and there were signs of his mental illness relapsing. It was not because of drugs. She said the patient doesn't understand the consequences of ceasing his medication. He has chronic grandiose delusions which he finds distressing when he is not being treated. He can cope with them when he is on medication. She said if the TA was revoked the patient would cease his medication and his mental state would deteriorate.

The clinical report states the patient has had multiple hospital admissions and currently lacks insight. He doesn't believe he has a mental illness or that his symptoms are suggestive of a mental illness. He doesn't believe he needs treatment and is unable to articulate any consequences if he ceased treatment.

The Tribunal accepts the patient doesn't believe he has a mental illness and doesn't need – or want to take – his medication.

The Tribunal is not satisfied the patient understands the nature of his illness, the purpose of his treatment, the benefits of his treatment and/or the consequences of not receiving treatment.

The Tribunal is not satisfied the patient has the capacity to consent to treatment.

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?**

When the patient's mental illness has not been treated in the past he has become verbally abusive, he has a history of violence towards property and has reportedly assaulted a person. Previously, he has suffered from delusions about his physical well-being that are distressing. His speech was pressured and he was vague and perplexed.

The patient has a chronic relapsing mental illness that requires assertive follow up. He does not have the capacity to consent to treatment and if the TA was revoked, the Tribunal is of the view the patient would completely disengage from mental health services and cease his medication. In the absence of involuntary treatment, it is likely the patient would suffer serious mental deterioration.

Relevant Circumstances

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

Mental state and psychiatric history

The clinical report indicates that the patient first became involved with mental health services approximately 25 years ago when he damaged property belonging to his family. The patient had a period of being compliant with oral medications and was discharged from mental health services approximately 15 years ago.

Approximately seven years ago, the patient required hospital admission. He was described as psychotic, disorganised and thought disordered. He claimed he hadn't eaten for over 20 days. The patient expressed grandiose delusions regarding space travel and famous people. The patient had been non-compliant with medication for about 12 months before being placed on the current TA.

The patient has a history of disengaging from mental health services and requiring multiple hospital admissions in the context of medication non-compliance.

Any intellectual disability

The patient does not have any intellectual disability.

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

The case manager said the patient attends his general practitioner for his depot injection. He has no social supports and doesn't want supports in the community. He looks after himself.

The clinical report states the patient lives in his own unit. He has some contact with his family and some friends in the local area.

The evidence before the Tribunal is that the patient has limited social supports in the community.

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

The patient has had a positive response to treatment and his mental state has improved. He no longer believes all the delusions he was expressing at the commencement of the TA. He continues to experience chronic delusions but is less distressed by them. He was started on depot medication and on multiple occasions has refused to have it.

The patient's refusal to have his depot medication is consistent with his belief that he doesn't have a mental illness and doesn't need the medication. The Tribunal is satisfied the patient would cease all treatment for his mental illness if he wasn't on a TA.

Less Restrictive Way

The case manager stated that the treating team attempts to have contact with the patient each fortnight but sometimes they cannot get in touch with him. She said the treating team does not want to be intrusive.

The patient has a chronic mental illness that is susceptible to relapse in the absence of treatment. He requires ongoing treatment and monitoring. He has limited personal and professional supports in the community and, at times, requires assertive management to facilitate compliance with his medication. The Tribunal is satisfied there was no less restrictive way for the patient to receive adequate care and treatment for his mental illness other than under a TA (community category).

Human Rights

The Tribunal acknowledges the *Human Rights Act 2019*. The patient received his clinical report within the statutory requirements and attended his hearing. The Tribunal allocated adequate time to hear the patient's review and considered his oral and written evidence. The Tribunal was satisfied the patient was afforded a fair hearing.

The human rights related to disclosure of personal information and administering medical treatment in the absence of a person's free and full consent, amongst others, are engaged and limited by the process and/or decision of the Tribunal. However, the Tribunal is satisfied

that any restrictions placed on the patient are lawful, proportionate to his circumstances and compatible with the *Human Rights Act 2019*. The Tribunal reached this decision because the human rights engaged have been balanced against the significant likelihood of the patient's mental health deteriorating if he did not receive treatment and care under the TA.

Conclusions of the Tribunal

The Tribunal concluded that the treatment criteria were met. The Tribunal accepted the treating consultant psychiatrist's opinion that the patient has a chronic mental illness – namely Paranoid Schizophrenia – that is susceptible to relapse in the absence of treatment. The Tribunal considered the evidence in relation to the patient's current lack of insight, capacity, diagnosis, lack of community supports and ongoing need for medication and was satisfied that without involuntary treatment it was likely he would suffer serious mental deterioration.

The Tribunal decided to confirm the TA as community category.

The Tribunal also determined that an authorised doctor could reduce the extent of treatment in the community received by the patient in the future.

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.