



The Northern Territory of Australia

Alcohol Mandatory Treatment Tribunal

ANNUAL REPORT

2013-2014

In accordance with section 124 of the *Alcohol Mandatory Treatment Act*, I, Tom Berkley, President of the Alcohol Mandatory Treatment Tribunal of the Northern Territory hereby submit my report on the exercise of the Tribunal's operations for the period from the 1 July 2013 to 30 June 2014.

29 September 2014

The Honourable John Elferink MLA,
Attorney-General and Minister for Justice
Parliament House
State Square
Darwin, Northern Territory 0800

Dear Minister

**ANNUAL REPORT ON THE OPERATIONS OF THE ALCOHOL MANDATORY
TREATMENT TRIBUNAL**

I have pleasure in making the inaugural report of the Alcohol Mandatory Treatment Tribunal, pursuant to section 124 of the *Alcohol Mandatory Treatment Act* (the Act).

The Act came into effect in the Northern Territory on 1 July 2013. On 13 August 2013 the Chief Minister signed an amendment to the Administrative Arrangement Orders requiring that the Alcohol Mandatory Treatment Tribunal (the Tribunal) report to government through you, as the Minister responsible for the operation of the Tribunal

I would be glad to discuss any aspect of this report with you, at your convenience.

Yours sincerely

Tom Berkley

PRESIDENT

Alcohol Mandatory Treatment Tribunal Annual Report

2013-2014

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1. INTRODUCTION

The *Alcohol Mandatory Treatment Act* (the Act) came into effect in the Northern Territory on 1 July 2013. On 13 August 2013 the Chief Minister signed an amendment to the Administrative Arrangement Orders making the Attorney General and Minister for Justice responsible for the operation of the Tribunal.

Thus the administration of the Act is shared between the Department of the Attorney-General and Justice, and the Department of Health. The Department of the Attorney-General and Justice is responsible for Part 6 of the Act, which constitutes the Tribunal. The Tribunal does not administer its own budget

Section 124 of the Act requires the President of the Tribunal to report to “the Minister” by 30 September 2014 on the operations of the Tribunal in the preceding financial year (the reporting period). I have interpreted that section, consequent upon the above-mentioned amendment to the Administrative Arrangement Orders, to require the report to be made to you. Sub-section 124(3) requires you to ensure that a copy of this report is tabled in the Legislative Assembly within 6 sitting days after receiving it.

The reporting period represents the inception year for the Act and the Tribunal. It is too early to identify trends, or make predictions about the future operations of the Act. Some need for legislative amendment has been identified already by the Department of Health review¹, but no changes have been foreshadowed that would affect the operations of the Tribunal.

Sub-part 3.3 of this Report gives a statistical breakdown of the orders made by the Tribunal by type, and by locality. In short, during the reporting period the Tribunal made 435 orders concerning 323 individuals Territory wide. The resources of the Tribunal were generally adequate to deal with this case-load.

The efforts of the Registrar, Mr Scott Lanyon, and the Deputy Registrar, Mrs Wendy Baldwin, have been outstanding in both the setting-up of the Tribunal, its premises, and the management of Tribunal members on top of the case-load.

¹ “Report to the Minister for Alcohol Rehabilitation on the Review of the Alcohol Mandatory Treatment Act (2013)” dated March 2014, esp. Appendix A - Summary of Recommendations for Legislative Amendments to the AMT Act

2. OBJECTS AND PRINCIPLES OF THE ACT

In reporting the operations of the Tribunal during the reporting period it is worthwhile recalling the framework of the Act. The Act creates a therapeutic jurisdiction to be exercised by the Tribunal in accordance with the objects and principles of the Act.

The jurisdiction created by the Act is divorced from both the criminal justice system and the mental health system, as exemplified by the statutory objects.

The objects of the Act are set out in section 3:

“3 Objects

The objects of this Act are to assist and protect from harm misusers of alcohol, and other persons, by providing for the mandatory assessment, treatment and management of those misusers with the aim of:

- (a) stabilising and improving their health; and
- (b) improving their social functioning through appropriate therapeutic and other life and work skills interventions; and
- (c) restoring their capacity to make decisions about their alcohol use and personal welfare; and
- (d) improving their access to ongoing treatment to reduce the risk of relapse.”

The principles for the exercise of any power or function under the Act are set out in section 6:

“6 Principles

The following general principles must be applied by a person when exercising a power or performing a function under this Act:

- (a) involuntary detention and involuntary treatment of a person are to be used only as a last resort when less restrictive interventions are not likely to be effective or sufficient to remediate the risks presented by the person;
- (b) the least restrictive interventions are to be used when a person is being treated or dealt with under this Act;
- (c) any interference with the rights and dignity of a person are to be kept to the minimum necessary.”

3. OVERVIEW OF THE TRIBUNAL - HEARINGS AND ORDERS

3.1 Hearings by the Tribunal

The Tribunal came into being on 1 July 2013, and its establishment and powers are set out in Part 6 of the Act. The Tribunal operates from premises at the Cascom Centre in Casuarina, from where the Registry also operates. The Tribunal sits *ad hoc*, and in all cases within 96 hours of an application having been made to the Tribunal for an order.

The functions of the Tribunal are set out in section 103 of the Act. The hearings must be conducted in accordance with section 115 of the Act, principally having regard to the confidentiality of the proceedings, and the need to conduct hearings with as little formality and technicality, and with such expedition as the proceedings allow.

It is for this reason that I have not sought to prescribe by Practice Direction the procedure or manner of hearing by the Tribunal, having regard to its differing composition from time to time, and respecting the need for flexibility, subject to the ordinary rules of natural justice. I will make Practice Directions as the need for conformity and or consistency arises. I have informed myself, by personal observation and report, of the conduct of Tribunals not presided over by me, and I am satisfied that they are competent in dealing with all applications that come before the Tribunal.

The proceedings of the Tribunal are not open to the public, so as to protect the privacy of the “affected person”, who is a person about whom an application for an order has been made to the Tribunal, by reason of being held in protective custody 3 times or more in a period of 2 months. Such a person is transported by Police to an assessment centre, where a decision is made by a senior assessment clinician (SAC) to either apply for a mandatory treatment order, or a release order.

Confidentiality is achieved because all of the proceedings of the Tribunal are conducted via audio-visual links to the various assessment centres, where the affected persons are located, and all proceedings are recorded. During the reporting period assessment centres were located at Darwin, Alice Springs, Katherine and Nhulunbuy. Subject to the occasional technical glitches that beset this technology in the Northern Territory, this system works well enough and can only improve if the technology is kept up to date. I have tasked the Registrar to enquire whether it is possible to make the remote audio-visual links more personal.

At the hearing of an application by a SAC, an affected person may represent himself or herself, be represented by a legal practitioner, or, if unrepresented, the President may appoint an advocate, to assist and to represent the best interests of the affected person. The Tribunal is bound by the rules of natural justice.

At each hearing of an application conducted by the Tribunal, the Tribunal is constituted by 3 members. There is a legal member, who presides and decides all questions of law. There is a medical/health member experienced in the care, rehabilitation and treatment of persons who are misusing alcohol, and there is a community member who has a special interest or expertise in the issues facing affected persons who appear before the Tribunal. For convenience, the Tribunal sits with members according to a roster set by the Registrar.

3.2 Types of Orders that can be made by the Tribunal

Before any order, other than a release order, can be made by the Tribunal, the Tribunal must be satisfied on cogent evidence that the criteria for a mandatory treatment order, as set out in section 10 of the Act, are made out. Basically, the affected person must be an adult who is misusing alcohol, with a resultant loss of the ability to make appropriate decisions about alcohol use or personal welfare, and a resultant risk to the health, safety or welfare of the affected person.

In addition, the Tribunal must be satisfied that the affected person would benefit from a mandatory treatment order, and that there are no less restrictive interventions reasonably available to deal with the risks to the health, safety or welfare of the affected person (or their children or others).

Of course, a mandatory treatment order cannot be made, even if an affected person meets all of the criteria for such an order, if the affected person has any of the qualities listed in section 9 of the Act. Briefly, if a person is charged with committing an offence punishable by imprisonment, or is a reportable offender under either of the *Child Protection (Offender Reporting and Registration) Act*, or the *Serious Sex Offenders Act*, or is an involuntary patient under the *Mental Health Act*.

No order can exceed three months in duration (section 49), except for the income management order, which must not exceed 12 months (section 50). The operation of certain orders can be extended by an order of the Tribunal.

The Mandatory Residential Treatment Order (RTO). This is the most restrictive form of intervention, and is made pursuant to section 12 of the Act. An RTO requires the admission to and detention at a specified treatment centre, and requires the affected person to participate in treatment there, and bans the possession, purchase and consumption of alcohol.

The Mandatory Community Treatment Order (CTO). This is a less restrictive form of intervention, and is made pursuant to section 11 of the Act. A CTO requires the participation of the affected person in treatment from a specified community treatment provider, and requires the affected person to participate in treatment there, and bans the possession, purchase and consumption of alcohol. This order has the greatest amount of flexibility because it does not have a residential component, although some treatment providers offer beds.

A further example of its flexibility is that a CTO can also require the affected person to undergo alcohol testing, ban the person from associating with certain people or places, or require a person to reside with a specified person or in a specified place. The CTO also allows the Tribunal to impose another form of management that is consistent with the objects of the Act.

Section 39 of the Act allows the Tribunal, in appropriate cases, and on the application of a SAC, to revoke or vary any CTO of the Tribunal.

The Income Management Order. If an affected person, or their partner, is an eligible welfare recipient then the Tribunal must make an income management order pursuant to section 13 of the Act if either on RTO or CTO is made. The usual order is to restrict 70% of the affected person’s income to the Basics Card, thus limiting the amount of money available for the purchase of alcohol, for a period of 12 months.

The Release Order. This is an order made if the affected person does not, or no longer, meets the criteria for the making of a mandatory order. A release order can also be made when an application for an order concerning an affected person is not made within the statutory time frame. Release orders are also made where an affected person has left a specified treatment centre and are unlikely to return.

Revocation and Variation.

Section 46 of the Act allows the Tribunal, in appropriate cases, and on application of an affected person, a SAC or a senior treatment clinician (STC), to vary or revoke a mandatory treatment order (MTO) or replace a MTO with a different type of MTO.

3.3 Types of Orders Actually Made by the Tribunal

Table of Orders Made by Region

| Order Type | Darwin | Alice Springs | Katherine | Nhulunbuy | Total |
|------------------------------|--------|---------------|-----------|-----------|-------|
| RTO | 109 | 68 | 27 | 4 | 208 |
| CTO | 3 | 37 | 25 | 0 | 65 |
| Release | 43 | 35 | 18 | 0 | 96 |
| Adjournments | 4 | 4 | 0 | 0 | 8 |
| IMO Vary | 16 | 0 | 0 | 0 | 16 |
| App Vary Order | 9 | 9 | 0 | 0 | 18 |
| App to revoke | 8 | 12 | 1 | 1 | 22 |
| Out of time | 1 | 0 | 1 | 0 | 2 |
| | | | | | 435 |
| | | | | | |
| Total actual individuals 323 | | | | | |
| | | | | | |

Table of Orders made by Month

| AMT Tribunal | July 2013 | Aug 2013 | Sep 2013 | Oct 2013 | Nov 2013 | Dec 2013 | Jan 2014 | Feb 2014 | Mar 2014 | Apr 2014 | May 2014 | Jun 2014 | TOTAL |
|---|-----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-------|
| Total Number of applications received | 10 | 31 | 59 | 38 | 40 | 27 | 57 | 36 | 34 | 35 | 38 | 30 | 435 |
| Number of hearings conducted | 5 | 34 | 57 | 43 | 38 | 30 | 53 | 34 | 35 | 40 | 39 | 27 | 435 |
| Number of adjournments | 1 | 1 | 2 | 1 | 0 | 1 | 4 | 1 | 1 | 0 | 2 | 1 | 15 |
| Number of Residential Treatment Orders made | 4 | 23 | 28 | 28 | 21 | 19 | 14 | 12 | 15 | 14 | 19 | 11 | 208 |
| Number of Community Treatment Orders made | 0 | 3 | 9 | 10 | 3 | 4 | 8 | 5 | 4 | 7 | 7 | 5 | 65 |
| Number of Release orders made | 0 | 2 | 14 | 5 | 11 | 4 | 8 | 13 | 11 | 10 | 5 | 8 | 91 |
| Number of MTO varied/revoked/replaced applications made | 0 | 1 | 2 | 1 | 0 | 2 | 3 | 2 | 4 | 5 | 1 | 0 | 21 |
| Number of Variation to MTO Applications received | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 2 | 1 | 1 | 3 | 0 | 9 |
| Number of Revocation to MTO Applications received | 0 | 1 | 1 | 0 | 0 | 0 | 5 | 0 | 3 | 3 | 2 | 2 | 17 |
| Number of Replacement to MTO Applications received | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 6 |
| Number of MTO vary/revoke/replace applications dismissed | 0 | 1 | 1 | 0 | 3 | 0 | 3 | 1 | 0 | 1 | 2 | 0 | 12 |
| Number of Exemption Orders made | 0 | 2 | 1 | 0 | 3 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 7 |
| Number persons absconded - hearing did not proceed | 0 | 1 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 |
| Number persons absconded - hearing proceeded ex-parte | 0 | 2 | 0 | 1 | 0 | | 0 | 1 | 1 | 0 | 1 | 0 | 6 |
| Number persons released (Ax or AMTT out of time) | 0 | 2 | 2 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | | 7 |
| Number of IMO variations received | | | | | | | 15 | 1 | 0 | 0 | 0 | 0 | 16 |
| Number of IMO variations made | | | | | | | 5 | 1 | 0 | 0 | 4 | 3 | 13 |

4. OTHER OPERATIONS OF THE TRIBUNAL

The Tribunal has been active in establishing necessary relationships, attending consultations and providing training to stakeholders and operational partners to ensure the effectiveness of the Tribunal's operations.

Chronology of Other Operations of the Tribunal

25 October 2013 – President and Registrar met with the Anti-Discrimination Commissioner to develop protocols in relation to the appointment of the advocate whose position sits within the Community Visitor Program.

15 November 2013 – Registrar attended a Department of Human Services Stakeholder Forum to provide an overview of the Alcohol Mandatory Treatment Program and the role the Tribunal plays in the process.

25 November 2013 – Several members of the Tribunal visited Darwin Alcohol Assessment and Treatment Services (DAATS) to meet with staff and view the facilities.

10 January 2014 – Registry staff met with consultant appointed by Department of Health to review the AMT Program.

17 January 2014 – President and Registry staff provided input into a Focus Group session regarding the review of the Alcohol Mandatory Treatment Act.

31 January 2014 – President conducted a catch-up with Tribunal members who were able to attend. Looked at how the Tribunal had operated in the first 7 months and discussed the outcome of the first appeal.

11 March 2014 – Registrar met with the Deputy Chief Executive of the Department of the

Attorney-General and Justice to outline the Tribunal's input into the review of the AMT Act. This was requested as the Registry was in the process of being transferred to AGD.

12-13 March 2014 – President, registrar and health member, Paul Rysavy, travelled to Alice Springs to visit treatment facilities at Central Australian Aboriginal Alcohol Programs Unit (CAAAPU), Drug and Alcohol Services Alice Springs (DASA), Central Australian Aboriginal Congress (CAAC) as well as viewing the assessment facilities and meeting with clinical staff. A meeting with CAALAS and NTLAC was also held to attempt to facilitate legal representation of affected persons in Central Australia.

18 March 2014 – President and Registrar met with senior Department of Health staff at DAATS.

15 - 17 April 2014 – Registrar attended a conference in Sydney organized by the Australasian Institute of Judicial Administration titled Assisting Unrepresented Litigants – A Challenge for Courts and Tribunals.

8 May 2014 – Registry staff met with a consultant appointed by Department of Health to look into and provide a report on the Aftercare Plan regime.

14 May 2014 – Registrar and Health Member Paul Rysavy attended a workshop involving Senior Assessment and Treatment Clinicians from Darwin, Alice Springs and Katherine – this provided an opportunity for the Tribunal to discuss issues they had experienced with inconsistent assessments being undertaken as well as to address issues the clinicians had with the workings of the Tribunal.

15 May 2014 – Registrar had initial discussions with Department of Health regarding the Minister of Health's request that panels of advocates be established to service e Darwin, Alice Springs, Katherine and Tennant Creek.

28 June 2014 – Health Member Paul Rysavy and Community Member John Boneham facilitated training sessions for Tribunal members – this training provided an introduction to key concepts associated with alcohol addiction such as harm minimization, theories and patterns of use, motivation, assessment tools and treatment matching. The session also looked at the different treatment models available to deal with misuse of alcohol.

The Tribunal has been fortunate in being able to call upon a great deal of health and community experience from leaders in those fields. I particularly congratulate health member Mr Paul Rysavy, and community member Mr John Boneham, for their contributions to the successful operation of the Tribunal during the reporting period by providing guidance and training to assessment centre staff and members of the Tribunal.

5. MEMBERSHIP OF THE TRIBUNAL

The staffing of the Registry is currently the Registrar of the Tribunal, and the Deputy Registrar.

The Tribunal operates from a room adjacent to the Registry. Membership of the Tribunal appears below.

| | |
|-------------------|----------------------|
| President | Tom Berkley |
| Deputy President | Alan Woodcock |
| Legal members | Chris Delaney |
| | Tass Liveris |
| | Gabrielle Martin |
| | Amanda Nobbs-Carcuro |
| Health members | Paul Rysavy |
| | Louise Samways |
| | Peter Newbery |
| | Phil Walcott |
| Community Members | Garry Bell |
| | John Boneham |
| | Suzie Kapetas |
| | Heather King |
| | Beth Walker |
| | Garry Lambert |
| | Martin Blakemore |
| Registrar | Scott Lanyon |
| Deputy Registrar | Wendy Baldwin |

It is proposed that a co-ordinator position will be added to the Registry during the current financial year to co-ordinate the provision of advocacy services to affected persons throughout the Northern Territory.

Tom Berkley
President