



ANNUAL REPORT 2016

AN BORD ATHBHREITHNITHE MEABHAIR-SHLÁINTE (AN DLÍ COIRIÚIL) MENTAL HEALTH (CRIMINAL LAW) REVIEW BOARD

Mental Health (Criminal Law) Review Board
Montague Court
Montague Street
Dublin 2
D02 FT96
Telephone: (01) 4768602
E-mail: info@mhclrb.ie
Website: www.mhclrb.ie

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1. CHAIRPERSON'S FOREWORD

I am pleased once again to present the Annual Report of the Mental Health (Criminal Law) Review Board. This is the 10th Annual Report of the Board. Before providing an overview of the activities of the Board during 2016, I would first like to pay tribute to Dr. Michael Mulcahy who has been a member of the Board since its establishment in 2006. Toward the end of the year Dr. Mulcahy informed the Minister for Justice and Equality, Ms. Frances Fitzgerald, T.D. of his intention to retire in 2017. Over the years, Dr. Mulcahy has made a huge contribution to the work of the Board. His knowledge, experience and expertise will be greatly missed. On behalf of his colleagues, Dr. Elizabeth Walsh and Ms. Nora McGarry, and on my own behalf, I want to wish Dr. Mulcahy a long and happy retirement.

During 2016, there was a slight increase in the number of review hearings held by the Board. The Board held 175 hearings compared with 172 in 2015, reviewing the detention of 81 patients. Of the patients whose detention was reviewed by the Board, five were granted a conditional discharge. Also in 2016, the Board progressed to holding 24th and 25th reviews into the detention of some patients.

As well as reviewing the detention of patients, the Board held a number of hearings to consider applications for unconditional discharge which were received from patients who were conditionally discharged for 12 months or more. Five such applications were received in 2016. One unconditional discharge was approved by the Board. Three applications were refused and one applicant was awaiting a hearing of his application early in 2017.

Once again, I thank the Clinical Director of the Central Mental Hospital Professor Harry Kennedy and the team of consultant forensic psychiatrists, nursing, social services and administrative staff of the hospital for their assistance and co-operation during the year. I also thank the members of the Board's Legal Representatives Panel who represent patients coming before the Board for review of their detention. Because of their illness, many patients are unable to speak for themselves and many of the legal representatives on the Panel assist their clients in ways which far exceed their remit, which is much appreciated by the Board.

Finally, I would like to thank the staff of the Board Mr. Greg Heylin, Chief Executive Officer, Ms. Catherine Hayes and Ms. Ann Casey for their work throughout the year.

Iarfhlaith O'Neill
Chairperson

March 2017

2. FUNCTION OF MENTAL HEALTH (CRIMINAL LAW) REVIEW BOARD

Section 11 of the Criminal Law (Insanity) Act 2006 established the Mental Health (Criminal Law) Review Board (An Bord Athbhreithnithe Meabhair-Shláinte (An Dlí Coiriúil), which came into being on 27 September 2006.

The Board is responsible for reviewing the detention of patients who have been referred to designated centres arising from a decision by the courts that they are unfit to stand trial or having been found not guilty of an offence by reason of insanity. Under the 2006 Act, as amended, the Board has the power to order the continued detention of patients or to order their conditional or unconditional discharge, having regard to the welfare of the patient and to the public interest. The Central Mental Hospital is currently the only designated centre under the Act.

The Board also reviews the detention of prisoners, including military prisoners, who have been transferred to a designated centre suffering from a mental disorder. The Board can order their continued detention in a designated centre or their return to prison.

The Board is statutorily independent in the exercise of its functions.

3. REVIEWS BY THE BOARD

The Board is required to ensure that the detention of each patient is reviewed at intervals of not greater than six months. Therefore, patients usually have two review hearings per year but some may have more because, outside of the regularly scheduled hearings, a review can be scheduled by the Board on its own

initiative or at the request of a patient. The Clinical Director of the Central Mental Hospital can also request a hearing and the Minister for Justice and Equality can direct the Board to hold a review into the detention of a prisoner who is involuntarily in the hospital.

The number of patients detained in the Central Mental Hospital at any one time under the 2006 Act is approximately 80. However, this number can vary because, apart from the longer-detained patients, patients are transferred from prison, either by consent or involuntarily, for care or treatment which is not available to them in prison. The detention of some of these patients in the hospital may not however be reviewed by the Board as they may transfer back to prison prior to having a review hearing, which is usually scheduled four or five months after a patient is admitted to the hospital.

During 2016, the Board reviewed the detention of 81 patients, 8 of whom or 10% were female and 73 or 90% were male. The Board held a total of 175 review hearings which represents an increase of over 1½% in the number of hearings compared with 2015 when 172 hearings were held. Of the 81 patients whose detention was reviewed by the Board, 68% had been diagnosed as suffering from schizophrenia, 14% were suffering from schizoaffective disorder and 18% were diagnosed with other disorders. This compares with 2015 when the detention of the same number of patients was reviewed by the Board, with 74% having been diagnosed as suffering from schizophrenia, 12% were suffering from schizoaffective disorder and 14% with other disorders. It should be noted that it is

primarily the same core group of patients reviewed by the Board each year. (Appendices A and B refer).

The Board conducted, for the first time, 24th and 25th reviews into the detention of some patients in 2016. Of the 175 hearings, 11 were a 24th review and one was a 25th review. A total of 28% of the hearings were at 21st to 25th review stage. 34% of hearings were at 1st to 5th review stage, the same percentage as in 2015. Of these, 14 reviews or 8% were a 1st review, compared with 2015 when there were 15 such reviews or 9% of the total. (Appendix C refers).

The majority of review hearings were of patients who had been committed to the Central Mental Hospital under Section 5(2) of the 2006 Act, as amended, having been found not guilty of an offence by reason of insanity. In 2016, 115 hearings, which is 66% of the total number of hearings, were into the detention of patients committed under Section 5(2). The number in this category in 2015 was 111, which was 65% of the total number of hearings. 20% of hearings were reviews of the detention of patients committed under Section 15(2) of the Act, being prisoners transferred involuntarily to the Central Mental Hospital for care or treatment which could not be provided in prison. This group accounted for 22% of hearings in 2015. (Appendix D refers).

4. MOST SERIOUS OFFENCE OR ALLEGED OFFENCE

The offences, or alleged offences, with which patients detained in the Central Mental Hospital in 2016 were charged, or convicted, included murder, attempted murder, manslaughter, assault causing serious bodily harm and arson. Of the 81

patients whose detention was reviewed by the Board, 40 had been charged with, or convicted of, murder. The majority of the victims of this offence, or alleged offence, were a family member of the patient. A total of 8 patients were charged with, or convicted of, attempted murder/manslaughter/death by dangerous driving. 16 patients were charged with, or convicted of, assault causing harm/serious bodily harm and 4 with arson. Other offences included sexual assault, threat to kill, harassment, attempted abduction of a child, possession of knives, possession of a firearm, threat to set a Garda station alight, blackmail/extortion, threatening and abusive behaviour and false imprisonment. (Appendix G refers).

5. ORDERS FOR DISCHARGE

During the reporting period, the Board approved the conditional discharge of five patients from the Central Mental Hospital, compared with seven in 2015. The average duration of detention in the hospital for the conditionally discharged patients was 6¼ years. The two shortest durations averaged just over 6 months and the two longest averaged 14 years. It should be noted that the length of time a patient is detained in the hospital is neither a necessary nor a sufficient ground, in itself, for granting a conditional discharge. (Appendix F refers).

The Board received five applications for unconditional discharge in 2016 from patients who had been conditionally discharged for 12 months or more. The Board granted one unconditional discharge, refused three and one applicant was awaiting a hearing of his application at the end of the year.

6. MENTAL HEALTH (CRIMINAL LAW) LEGAL AID SCHEME

Section 12(1)(c) of the 2006 Act, as amended, requires the Board to assign a legal representative to each patient whose detention is the subject of review, unless the patient proposes to engage legal representation at their own expense. To this end, the Board put in place the Mental Health (Criminal Law) Legal Aid Scheme 2006, under which a Panel of legal representatives was established. Patients may if they wish decline the services of an assigned Panel solicitor and request another solicitor from the Panel or they can engage, at their own expense, a non-Panel solicitor to represent them at their review hearing. For continuity, having regard to the fact that patients are suffering from a mental disorder, the Board endeavours to assign the same solicitor to represent a patient for subsequent review hearings.

At the beginning of 2016 there were 24 solicitors on the Legal Representatives Panel. Two additional solicitors were added to the Panel during the year to facilitate requests from patients who wished to be represented at their review hearing by the solicitor who represented them in criminal proceedings. The Board agreed to the patients' request, subject to the solicitors being assigned to represent those patients only.

The average number of cases assigned to solicitors on the Panel in 2016 was 7. The top quartile of solicitors was assigned an average of 11 cases each in 2016, compared with 12 in 2015. The second and third quartiles combined were assigned an average of 8 cases in 2016, compared with 7 the previous year. The bottom quartile was assigned an average of 2 cases each in 2016. This number was 3 in 2015. (Appendix E refers).

7. LEGAL PROCEEDINGS

As reported last year, the Board was named as a notice party in judicial review proceedings against the Clinical Director of the Central Mental Hospital (***MC v. Clinical Director, Central Mental Hospital and Mental Health (Criminal Law) Review Board (Notice Party)***). Judgment in these proceedings was delivered by Mr. Justice Eagar on 20th June and 25th July 2016. An appeal has been lodged by the applicant to the Court of Appeal.

8. TENDERS FOR INTERPRETATION SERVICES AT REVIEW HEARINGS

The Board issued five once-off tenders during 2016 for the provision of interpretation services at review hearings.

9. EXPENDITURE

Total expenditure by the Board in 2016 was €408,546. Of this, €100,333 was expended on pay, €101,236 on the provision of free legal aid and €206,977 on other expenses.

Note:

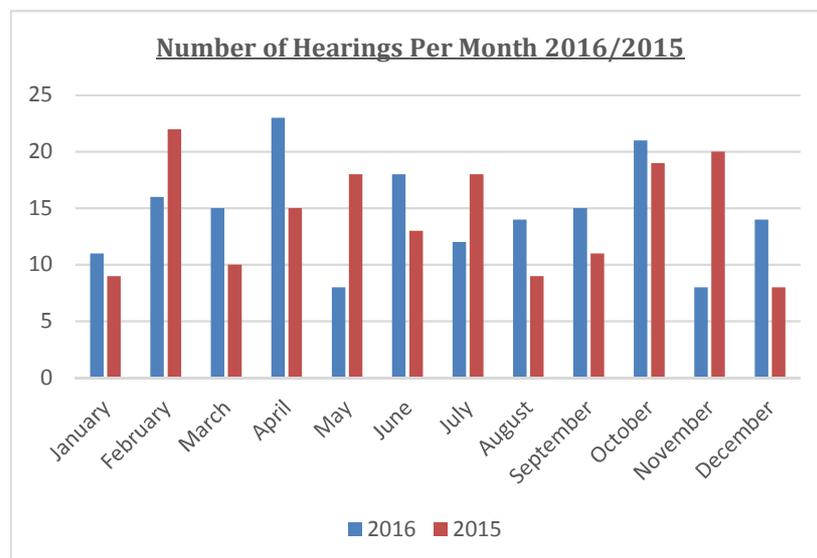
An administrative consolidation of the Criminal Law (Insanity) Act 2006 prepared by the Law Reform Commission

Procedures of the Mental Health (Criminal Law) Review Board and

Terms and Conditions of the Mental Health (Criminal Law) Legal Aid Scheme 2006 are available on the Board's new website (www.mhclrb.ie)

Number of Hearings per Month 2016/2015

Month	No. of Hearings 2016	% of 2016 Total	No. of Hearings 2015	% of 2015 Total
January	11	6%	9	5%
February	16	9%	22	13%
March	15	9%	10	6%
April	23	13%	15	9%
May	8	5%	18	10%
June	18	10%	13	8%
July	12	6%	18	10%
August	14	8%	9	5%
September	15	9%	11	6%
October	21	12%	19	11%
November	8	5%	20	12%
December	14	8%	8	5%
Total	175	100%	172	100%

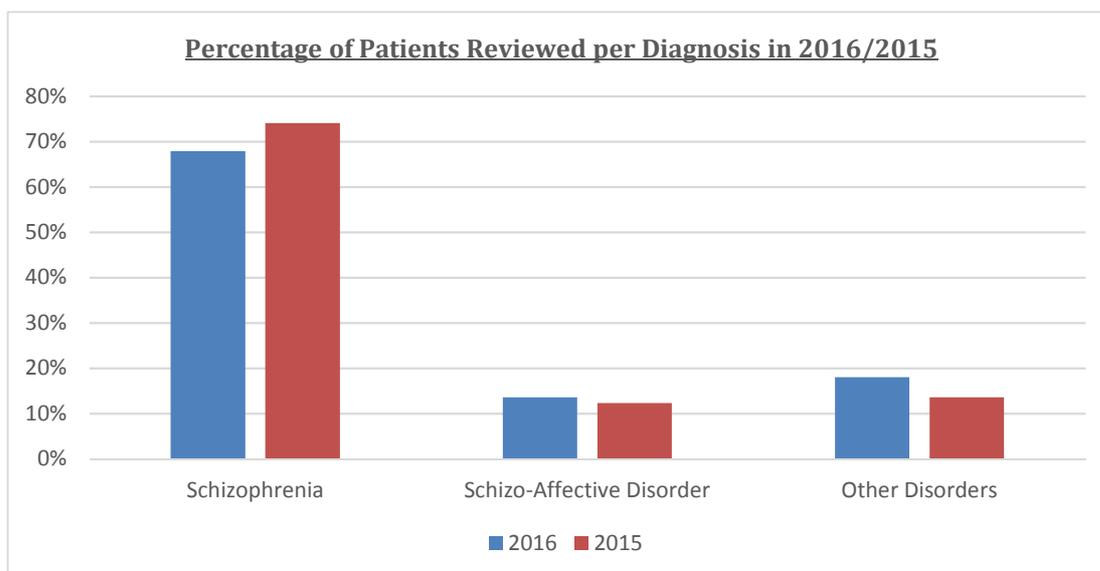


Number of Patients Reviewed per Diagnosis in 2016/2015

Diagnosis	No. of patients reviewed 2016	% of 2016 Total	No. of patients reviewed 2015	% of 2015 Total
Schizophrenia	55	68%	60	74%
Schizo-Affective Disorder	11	14%	10	12%
Other Disorders	15	18%	11	14%
Total	81	100%	81	100%

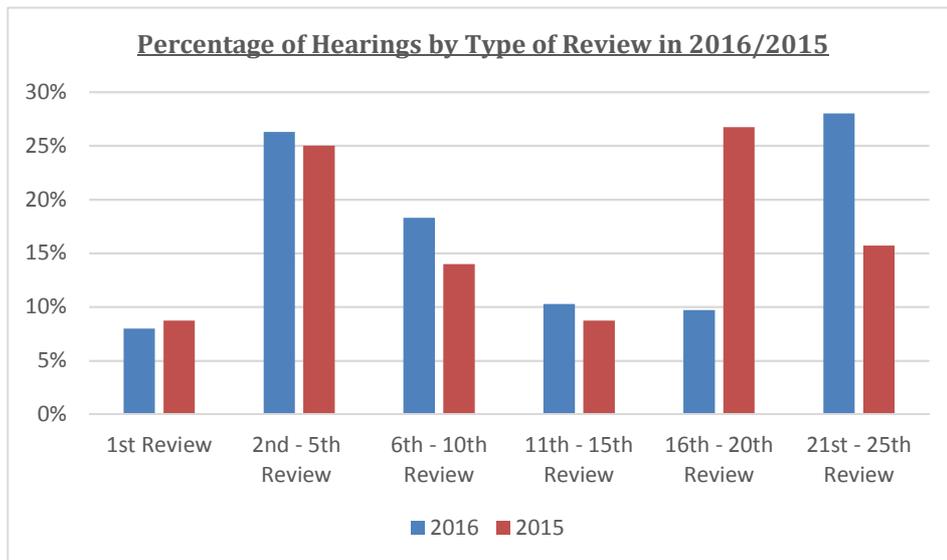
Other Disorders include:

Bi-Polar Affective Disorder
 Recurrent Depressive Disorder
 Psychotic Depression
 Autistic Spectrum Disorder
 Severe Depression with Psychotic Features
 Depressive Episode
 Asperger's Syndrome
 Substance-Induced Psychotic Disorder
 Mood Disorder
 Manic Episode with Psychosis
 Adjustment Disorder with Depressive Episode



Number of Hearings by Type of Review in 2016/2015

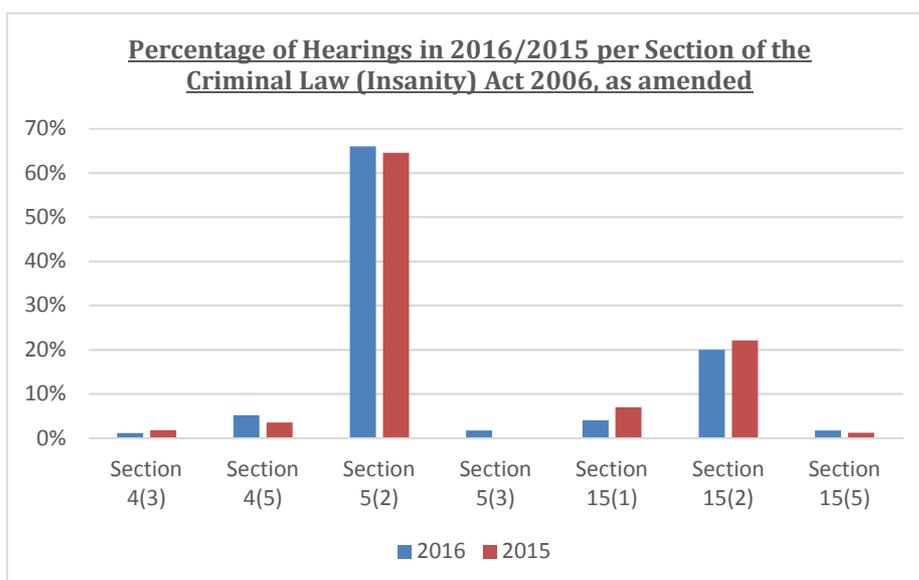
Type of Review	No. of Reviews 2016	% of 2016 Total	No. of Reviews 2015	% of 2015 Total
1st Review	14	8%	15	9%
2nd - 5th Review	46	26%	44	25%
6th - 10th Review	32	18%	25	14%
11th - 15th Review	18	10%	15	9%
16th - 20th Review	17	10%	46	27%
21st - 25th Review	48	28%	27	16%
Total	175	100%	172	100%



**Number of Hearings in 2016/2015 per Section of the
Criminal Law (Insanity) Act 2006, as amended**

Section of 2006 Act	No. of Hearings 2016	% of 2016 Total	No. of Hearings 2015	% of 2015 Total
Section 4(3)	2	1%	3	2%
Section 4(5)	9	5%	6	3%
Section 5(2)	115	66%	111	65%
Section 5(3)	3	2%		
Section 15(1)	7	4%	12	7%
Section 15(2)	36	20%	38	22%
Section 15(5)	3	2%	2	1%
Total	175	100%	172	100%

Section 4(3)	Unfit to Plead, District Court
Section 4(5)	Unfit to Plead, Other Court
Section 5(2)	Not guilty by reason of insanity
Section 5(3)	Examination & report in relation to not guilty by reason of insanity
Section 15(1)	Voluntary transfer from Prison
Section 15(2)	Involuntary transfer from Prison
Section 15(5)	Continuation of voluntary transfer from Prison (after refusal of care or treatment)



Average Number of Cases Assigned to Legal
Representatives on Legal Aid Panel in 2016/2015

Year	No. of Legal Representatives on Panel	Average no. of cases assigned	Average no. of cases assigned Top Quartile	Average no. of cases assigned 2nd & 3rd Quartiles	Average no. of cases assigned Bottom Quartile
2016	26*	7	11	8	2
2015	24**	7	12	7	3

* at end of year (two additional members were appointed during the year)

** at end of year (one additional member was appointed during the year)

**Number of Patients Conditionally
Discharged in 2016/2015**

Month of Conditional Discharge Order	No. of Patients 2016	No. of Patients 2015
January		1
March		1
April		1
May	2	
June	1	
July	1	2
September		1
November	1	
December		1
Total	5	7

Most Serious offence or Alleged Offence of patients whose
detention was reviewed in 2016

Type of Offence or Alleged offence	No. of patients charged with, or convicted of, offence	
Murder of which victim was family member of which victim was known to patient of which victim was stranger	40	25 10 5
Attempted Murder/Manslaughter/Death caused by dangerous driving of which victim was family member/known to patient of which victim was stranger	8	5 3
Assault causing harm/serious bodily harm of which victim was family member of which victim was known to patient of which victim was stranger	16	6 4 6
Arson	4	
Other	13	
Total	81	

Note

- 1) Patients convicted of, or charged with, more than one offence/alleged offence, have been categorised according to the most serious offence/alleged offence.
- 2) In a minority of instances there was more than one victim of the offences with which a patient was charged, or convicted.
- 3) The category “**Other**” includes sexual assault, threat to kill, attempted abduction of a child, possession of knives, threat to set a Garda station alight, harassment, possession of a firearm, blackmail/extortion, threatening and abusive behaviour and false imprisonment.