



**AN BORD ATHBHREITHNITHE MEABHAIR-SHLÁINTE
(AN DLÍ COIRIÚIL)**

MENTAL HEALTH (CRIMINAL LAW) REVIEW BOARD

ANNUAL REPORT 2015

**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**

TABLE OF CONTENTS

	Page
1. Chairperson's Foreword	3
2. Function of the Mental Health (Criminal Law) Review Board	6
3. Reviews by the Board	6
4. Most Serious Offence or Alleged Offence	8
5. Orders for Discharge	9
6. Mental Health (Criminal Law) Legal Aid Scheme	10
7. Legal Proceedings	11
8. Tenders for Interpretation Services at Review Hearings	11
9. Expenditure	11
10. Freedom of Information	11
 APPENDICES	
Appendix A - Number of Hearings per Month in 2015/2014	13
Appendix B - Number of Patients Reviewed per Diagnosis in 2015/2014	14
Appendix C - Number of Hearings by Type of Review in 2015/2014	15
Appendix D - Number of Hearings in 2015/2014 per Section of the Criminal Law (Insanity) Act 2006, as amended	16
Appendix E - Average Number of Cases Assigned to Legal Representatives on Legal Aid Panel in 2015/2014	17
Appendix F - Number of Patients Conditionally Discharged in 2015/2014	18
Appendix G - Most Serious Offence or Alleged Offence	19

1. CHAIRPERSON'S FOREWORD

I am pleased as Chairperson of the Mental Health (Criminal Law) Review Board to present the Board's 2015 Annual Report. The report reflects the activities of the Board during the year and is the ninth Annual Report of the Board.

In 2015, the number of review hearings held by the Board increased slightly by comparison with 2014. The Board held 172 hearings compared with 166 the previous year, reviewing the detention of 81 patients. Of these, seven patients were granted conditional discharge, compared with four in 2014.

The Board progressed to holding 21st, 22nd and 23rd reviews into the detention of some patients in 2015.

One application was received by the Board from a conditionally-discharged patient to have the conditions of his Conditional Discharge Order varied or removed. This application was refused. The Board also resumed hearing an application for unconditional discharge which had been adjourned in 2014. This application was also refused by the Board.

In late 2015 the Board was informed by the Clinical Director of the Central Mental that he had recalled a conditionally-discharged patient to the hospital, the Director having satisfied himself that the patient had breached a condition of his Conditional Discharge Order.

A matter of concern which came to the fore in 2015 is the disparity in accommodation facilities at the Central Mental Hospital for male and female patients. There is a far greater number of male patients in the hospital, which enables stratified care and accommodation to be provided for them. Female patients, on the other hand, irrespective of their stage of recovery, are all accommodated on the same Unit. This means that female patients who are acutely ill and those who are on the pathway to recovery are accommodated together. This can have a detrimental effect on those who, while not yet well enough for conditional discharge, are at an advanced stage of recovery and rehabilitation. Having raised this inequality, the Board was disappointed to be informed by the Clinical Director that he is unable to provide a solution to the need for stratified care for female patients at this point. He informed the Board that the Health Service Executive's plan for forensic secure hospital services for female patients is a new 20 bed unit. This will be provided as part of the plan for a new hospital, which the Clinical Director has been informed is scheduled to open in the third quarter of 2018.

The Review Board became partially subject to freedom of information in 2015, following the enactment of the Freedom of Information Act 2014.

I would like on behalf of my colleagues, Ms. Nora McGarry and Dr. Michael Mulcahy, to thank the Clinical Director of the Central Mental Hospital Professor Harry Kennedy and the consultant psychiatrists, nursing, social services and administrative staff of the hospital for their co-operation and assistance during the year. I also thank the legal representatives who represent patients coming before the Board for review. Because of their illness many patients are unable to speak for themselves and their

legal representatives assist them in ways which far exceed their remit. This is much appreciated by the Board.

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

Iarfhlaith O'Neill
Chairperson

April 2016

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

The Mental Health (Criminal Law) Review Board (An Bord Athbhreithnithe Meabhair-Shláinte (An Dlí Coiriúil), was established on 27 September 2006 under Section 11 of the Criminal Law (Insanity) Act 2006. The Board is responsible for reviewing the detention of patients who have been referred to designated centres by a court, having been found 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 Board also reviews the detention of prisoners, including military prisoners, who are 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. Currently the only designated centre under the Act is the Central Mental Hospital.

3. REVIEWS BY THE BOARD

At any one time there are approximately 80 patients detained in the Central Mental Hospital under the Criminal Law (Insanity) Act 2006, as amended. This number fluctuates as patients are transferred from prison, either by consent or involuntarily, for care or treatment which is not available to them in prison and are then returned to prison. Also, patients who have been conditionally discharged do not come before the Board for review as they are no longer detained in the hospital. All review hearings take place in the Central Mental Hospital.

The Board must review the detention of each patient at intervals of not greater than six months. Outside of the regularly scheduled review hearings, the Board can on its own initiative, review the detention of a patient as it considers appropriate. A review may also be requested by a patient and, in certain circumstances, a review can be triggered by the Clinical Director of the Central Mental Hospital. The Minister for Justice and Equality can also direct the review of the detention of a prisoner transferred from prison to the Central Mental Hospital.

The Board reviewed the detention of 81 patients in 2015, holding a total of 172 review hearings. This represents an increase of over 3½%, compared with the previous year when the Board held 166 review hearings. Of the 81 patients, 74% had been diagnosed as suffering from schizophrenia, 12% were suffering from schizoaffective disorder and 14% were diagnosed with other disorders. This compares with 2014 when the detention of 80 patients was reviewed, with 71% having been diagnosed as suffering from schizophrenia, 16% were suffering from schizoaffective disorder and 13% 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).

For the first time in 2015, the Board conducted 21st, 22nd and 23rd reviews into the detention of some patients. Of the 172 hearings, 18 were a 21st review, 8 were a 22nd review and one was a 23rd review. A total of 16% of the hearings were at 21st to 23rd review stage. 34% of hearings were at 1st to 5th review stage, compared with 33% in 2014. Of these, 15 reviews or 9% were a 1st review, compared with 2014 when there were 20 such reviews or 12% of the total. (Appendix C refers).

As in previous years, 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. That group accounted for 111 hearings compared with 106 in 2014, representing 65% and 64% respectively of the overall total number of hearings. Again in 2015 the second largest number of review hearings was of patients detained 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 compared with 23% in 2014. (Appendix D refers).

4. MOST SERIOUS OFFENCE OR ALLEGED OFFENCE

The type of offence, or alleged offence, with which patients detained in the Central Mental Hospital in 2015 were charged, or convicted, varied from the most serious offence of murder, to offences such as harassment, theft and robbery. Of the 81 patients whose detention was reviewed by the Board in 2015, 42 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 7 patients were charged with, or convicted of, attempted murder/manslaughter/death by dangerous driving. 17 patients were charged with, or convicted of, assault causing harm/serious bodily harm and 6 with arson. Other offences included sexual assault, threat to kill, harassment, robbery, theft and possession of knives. In a minority of instances there was more than one victim of offences with which a patient was charged, or convicted. (Appendix G refers).

5. ORDERS FOR DISCHARGE

The Board approved the conditional discharge of seven patients from the Central Mental Hospital in 2015, compared with four in 2014. The average duration of detention for the conditionally discharged patients was 8 years. The two shortest durations averaged just less than 6 years and the two longest averaged almost 11 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 one application from a conditionally-discharged patient to have the conditions of his Conditional Discharge Order varied or removed. The Board refused the requested variation of conditions.

The Board convened a hearing to continue its consideration of an application for unconditional discharge, the hearing of which the Board had adjourned in 2014. The Board refused the application for unconditional discharge.

One conditionally-discharged patient was recalled to the Central Mental Hospital by the Clinical Director in December 2015. The Director informed the Board that he had formed the view that the patient was in material breach of a condition of his Conditional Discharge Order and required inpatient care and treatment in the hospital.

6. MENTAL HEALTH (CRIMINAL LAW) LEGAL AID SCHEME

The Board is required under Section 12(1)(c) of the 2006 Act 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 established a panel of legal representatives under the Mental Health (Criminal Law) Legal Aid Scheme 2006. Patients may if they wish decline the services of an assigned panel solicitor and request another solicitor from the panel or they can engage a non-panel solicitor at their own expense. The Board endeavours, for continuity for patients, to assign the same solicitor to represent a patient for subsequent review hearings.

At the beginning of 2015 there were 23 solicitors on the Legal Representatives Panel. One additional solicitor was added to the Panel during the year to facilitate a request from a patient who wished to be represented before the Board by a solicitor who was representing him in criminal proceedings. The Board agreed to the patient's request and added the solicitor's name to the Panel, subject to the solicitor being assigned to represent that patient only. The average number of cases assigned to solicitors on the Panel in 2015 was 7. The top quartile of solicitors was assigned an average of 12 cases each in 2015, compared with 11 in 2014. The second and third quartiles combined were also assigned an average of 7 cases in 2015, the same number as in 2014. The bottom quartile was assigned an average of 3 cases each in 2015. This number was 2 in 2014. (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)***). The Applicant, a conditionally-discharged patient, is seeking a judicial review of the Clinical Director's refusal to make arrangements to facilitate their compliance with a variation of the conditions of their Conditional Discharge Order. The proceedings were on-going at the end of 2015 and were listed for hearing in the High Court in January 2016.

8. TENDERS FOR INTERPRETATION SERVICES AT REVIEW HEARINGS

The Board issued four once-off tenders during 2015 for the provision of interpretation services at review hearings.

9. EXPENDITURE

The Board's total expenditure in 2015 was €383,048. Of this, €100,317 was expended on pay, €96,559 on the provision of free legal aid and €186,172 on other expenses.

10. FREEDOM OF INFORMATION

Following the enactment of the Freedom of Information Act 2014, the Review Board became partially subject to freedom of information in April 2015. Records in relation to the review of the detention of patients, their conditional or unconditional discharge or their recall from conditional discharge, are excluded from the scope of the Act.

The Board does however furnish every patient whose detention is the subject of

review, and their legal representative, with a copy of all documentation received by the Board in connection with the review of their detention, in compliance with Section 12(6)(c) of the Criminal Law (Insanity) Act, 2006, as amended.

Note:

The Criminal Law (Insanity) Act 2006

The Criminal Law (Insanity) Act 2010

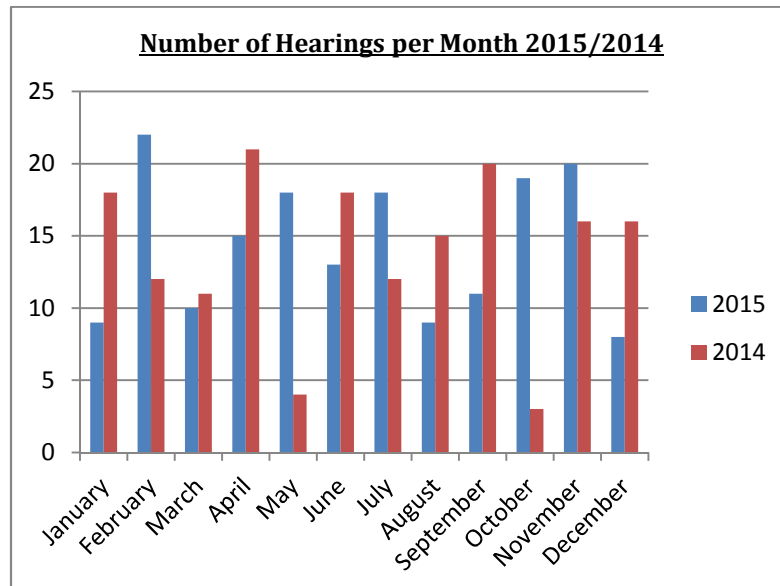
Procedures of the Mental Health (Criminal Law) Review Board, and

Terms and Conditions of the Mental Health (Criminal Law) Legal Aid Scheme 2006

are available on the Board's website (www.mhclrb.ie)

Number of Hearings per Month 2015/2014

Month	No. of Hearings 2015	% of 2015 Total	No. of Hearings 2014	% of 2014 Total
January	9	5%	18	11%
February	22	13%	12	7%
March	10	6%	11	6%
April	15	9%	21	13%
May	18	10%	4	2%
June	13	8%	18	11%
July	18	10%	12	7%
August	9	5%	15	9%
September	11	6%	20	12%
October	19	11%	3	2%
November	20	12%	16	10%
December	8	5%	16	10%
Total	172	100%	166	100%

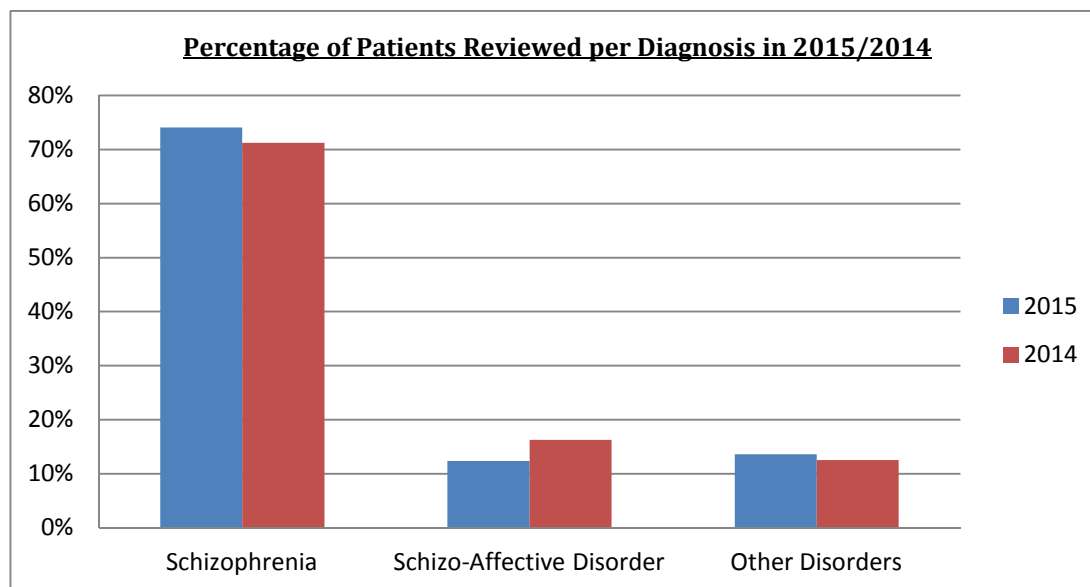


Number of Patients Reviewed per Diagnosis in 2015/2014

Diagnosis	No. of patients reviewed 2015	% of 2015 Total	No. of patients reviewed 2014	% of 2014 Total
Schizophrenia	60	74%	57	71%
Schizo-Affective Disorder	10	12%	13	16%
Other Disorders	11	14%	10	13%
Total	81	100%	80	100%

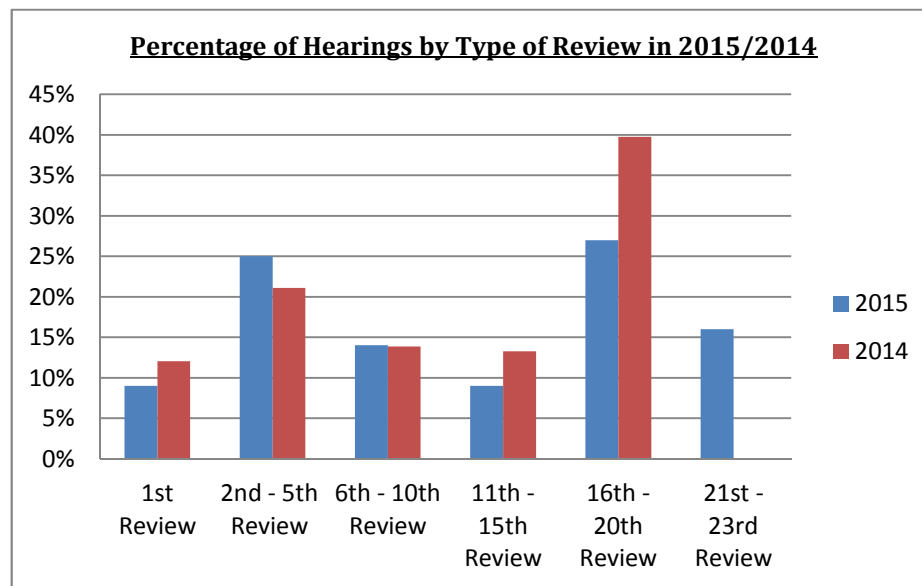
Other Disorders include:

Bi-Polar Affective Disorder
 Intellectual Disability
 Recurrent Depressive Disorder
 Psychotic Depression
 Autistic Spectrum Disorder
 Severe Depression with Psychotic Features
 Abnormal Grief Reaction / Prolonged Depressive Reaction
 Acute Psychotic Episode
 Depressive Episode
 Asperger's Syndrome
 Substance-Induced Psychotic Disorder



Number of Hearings by Type of Review in 2015/2014

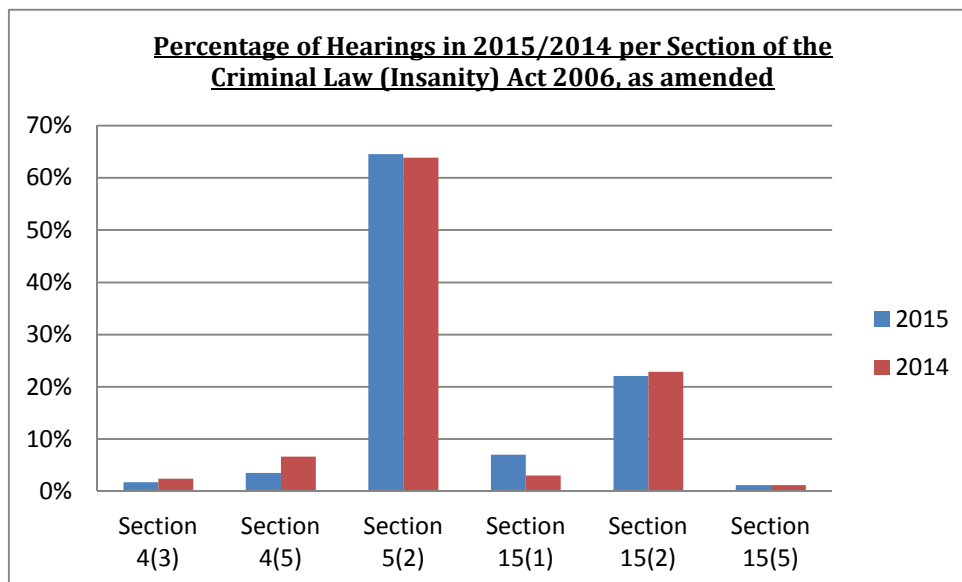
Type of Review	No. of Reviews 2015	% of 2015 Total	No. of Reviews 2014	% of 2014 Total
1st Review	15	9%	20	12%
2nd - 5th Review	44	25%	35	21%
6th - 10th Review	25	14%	23	14%
11th - 15th Review	15	9%	22	13%
16th - 20th Review	46	27%	66	40%
21st - 23rd Review	27	16%		
Total	172	100%	166	100%



**Number of Hearings in 2015/2014 per Section of the
Criminal Law (Insanity) Act 2006, as amended**

Section of 2006 Act	No. of Hearings 2015	% of 2015 Total	No. of Hearings 2014	% of 2014 Total
Section 4(3)	3	2%	4	2%
Section 4(5)	6	3%	11	7%
Section 5(2)	111	65%	106	64%
Section 15(1)	12	7%	5	3%
Section 15(2)	38	22%	38	23%
Section 15(5)	2	1%	2	1%
Total	172	100%	166	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 and 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 2015/2014

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
2015	24*	7	12	7	3
2014	25**	7	11	7	2

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

**for part of the year (one member was removed in July and one member resigned in November)

Number of Patients Conditionally
Discharged in 2015/2014

Month of Conditional Discharge Order	No. of Patients 2015	No. of Patients 2014
January	1	1
March	1	1
April	1	
July	2	1
September	1	
December	1	1
Total	7	4

Most Serious Offence or Alleged Offence of patients whose
detention was reviewed in 2015

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	42	26 10 6
Attempted Murder/Manslaughter/Death caused by dangerous driving of which victim was family member/known to patient of which victim was stranger	7	4 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	17	6 4 7
Arson	6	
Other	9	
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, harassment, robbery, theft and possession of knives.