

TOWARD THE HORIZON TRIBUNALS OF THE FUTURE

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Are you being served? Emerging challenges for Victoria's Mental Health Tribunal

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The principles and objectives in the Victorian *Mental Health Act 2014* (the Act) emphasise voluntary treatment in preference to compulsory treatment and state that 'persons receiving mental health services should have their individual needs ... recognised and responded to' (s. 11(1)(g) of the Act). The treatment criterion under section 5(d) of the Act is that 'there is no less restrictive means reasonably available to enable the person to receive the immediate treatment'. Thus the Tribunal must consider whether there are other supports that will enable the person to receive the immediate treatment without a compulsory Treatment Order.

While the Tribunal's jurisdiction is confined to decisions about compulsory mental health treatment, hearings concern a broad range of legal and social problems including housing, family violence, unemployment, government welfare payments, use of illicit substances and addiction. Despite Tribunal hearings being *solution focused*, the Tribunal does not have the legal power to make decisions that provide direct solutions to all of the person's needs. For example, the Tribunal can suggest a person link with relevant services but cannot direct a person to undertake those services, nor can the Tribunal ensure that these services are provided.

This paper will discuss emerging challenges for the Tribunal in the context of the individual and social welfare problems experienced by people with serious mental illness. It will explore the increasingly complex issues that arise for the Tribunal in delivering health justice services to people with serious mental illness.