

# Mental Health Tribunal

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## Quarterly Activity Report

1 January to 31 March 2020

## COVID-19 Report

23 March to 10 May 2020

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## *Notes about the MHT Quarterly Activity Report:*

To enable the community to be informed of the practical operation of the *Mental Health Act 2014* (the Act) the Mental Health Tribunal (the Tribunal) is committed to providing regular and detailed information about the decisions it makes concerning compulsory mental health treatment. Quarterly Activity Reports are produced for the first three quarters of each financial year and the Annual Report captures the full financial year.

## COVID-19 report 23 March to 10 May 2020

In response to the COVID-19 state of emergency, the Tribunal ceased to conduct in person hearings at health services from **Monday, 23 March 2020**. From this date, all Tribunal hearings have and continue to be conducted by teleconference (in a small proportion of matters we are also able to supplement this with videoconference links to facilitate the participation of attendees located at inpatient units or community clinics).

Immediately following this change, the Tribunal's capacity to conduct hearings was reduced by more than 50% and work commenced on developing systems to support and increase our hearing capacity, and develop the processes needed to enable remote hearings. Our action plan involves three phases:

- Phase 1** - Increasing our capacity in order to conduct all required hearings by teleconference.
- Phase 2** - Implement paperless processes to maximise the Tribunal's flexibility and capacity to conduct fully remote teleconference hearings (that is, with all participants participating from separate locations, including their own home if necessary).
- Phase 3** - Adopting a videoconference platform to enable fully remote video hearings.

At the time of this report we have completed phase 1 and are on track to commence roll out of phase 2 within four weeks.

Given the impact of the pandemic the Tribunal also adopted a framework to determine how to allocate its limited capacity across the demand for hearings. At any point when the Tribunal's hearing capacity has been unable to meet demand, we use the following list of priorities to decide which hearings to list:

- Priority 1** - Electroconvulsive treatment (ECT) applications for adults unable to give informed consent and patients under 18 years old to ensure ECT remains available for these patients.
- Priority 2** - Hearings about a treatment order for patients who have not had a Tribunal hearing during their current episode of treatment.
- Priority 3** - Hearings about a treatment order for patients who have had a Tribunal hearing during their current episode of treatment.

**Table 1** on page 4 provides week-by-week figures of the hearings conducted and hearings missed<sup>1</sup> between 23 March and 10 May 2020. We are currently conducting all hearings required under the Act. Should there be significant increases in the levels of demand, there may be times when we are once again unable to conduct all required hearings.

To place this period's hearing figures in a broader context, we have included the number of hearings conducted for the same period in 2019. There were no hearings missed during this period in 2019.

It is important to note that the total number of hearings conducted and missed in 2020 is less than the total number of hearings conducted last year, indicating a reduction in hearing requests since COVID-19 restrictions commenced.

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<sup>1</sup> A missed hearing is one which was required under the Mental Health Act but not able to be conducted by the Tribunal.

Table 1 – Hearings conducted in 2019 and hearings conducted and missed in 2020

2019	Conducted hearings <sup>2</sup>	2020	Conducted hearings	Hearings missed <sup>3</sup>	
				No.	As a % of all hearings that should have been conducted
25/03 - 31/03	167	23/03 - 29/03	101	19	16%
01/04 - 07/04	166	30/03 - 05/04	111	5	4%
08/04 - 14/04	157	06/04 - 12/04	108	24	18%
15/04 - 21/04	182	13/04 - 19/04	96	45	32%
22/04 - 28/04	152	20/04 - 26/04	136	15	10%
29/04 - 05/05	177	27/04 - 03/05	152	0	0%
06/05 - 12/05	174	04/05 - 10/05	144	0	0%
Total to date	1175	Total to date	848	108	11%

The Tribunal and other stakeholders were concerned about the potential impact of teleconference hearings on levels of participation. We have monitored this closely and can confirm<sup>4</sup>:

**Patients** participated in 62% (517) of hearings. They did not participate in 308 hearings. This is an increase on the average patient attendance rate for the past three years of 58%.

**Family** participated in 17% (139) of hearings. They did not participate in 686 hearings. Over the previous three years family have on average attended in 18% of hearings.

**Carers** participated in 4% (30) of hearings. They did not participate in 795 hearings. This is below the average carer attendance rate for the past three years of 5.5%.

**Nominated persons** participated in 2% (20) of hearings. They did not participate in 805 hearings. Over the previous three years nominated persons have on average attended in 2.5% of hearings.

<sup>2</sup> In the period 25 March to 12 May 2019, there were no missed hearings.

<sup>3</sup> Following an audit in July 2020 some numbers in this section of the table have been updated and are different to those previously published.

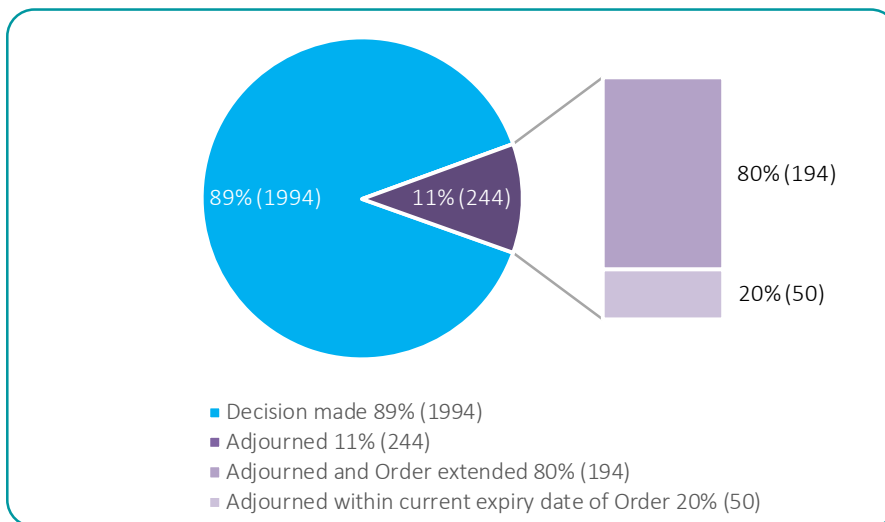
<sup>4</sup> The numbers in this section now include all relevant data for the period 23 March 2020 to 10 May 2020.

## Quarterly Activity Report 1 January to 31 March 2020

### 1. Tribunal hearings

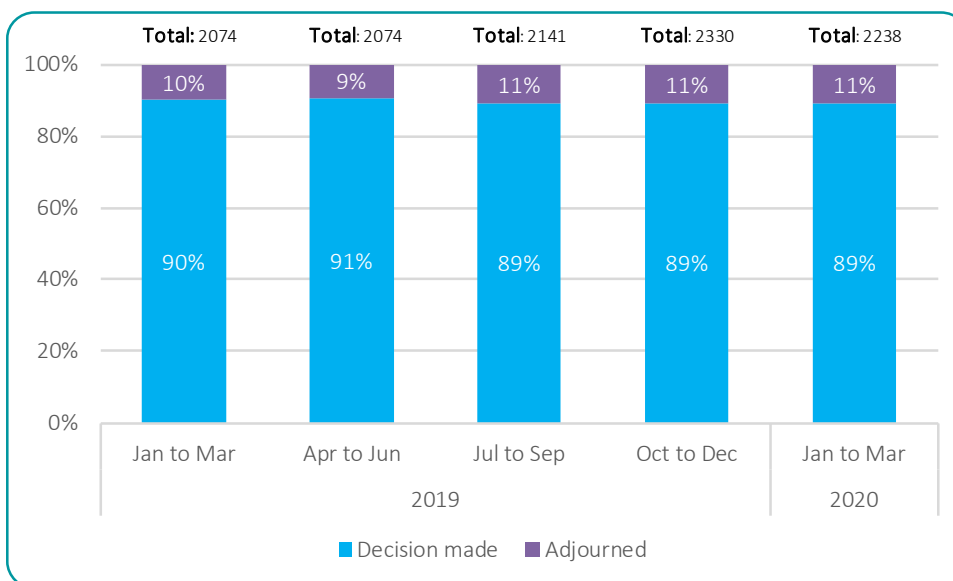
Between 1 January and 31 March 2020, the Tribunal conducted 2238<sup>5</sup> hearings. There were a further 2005 matters which were listed for a hearing but did not proceed, usually as a result of the patient’s Order being revoked (cancelled) or the hearing being rescheduled to another date to facilitate the participation of parties.

Of the 2238 hearings conducted in this period, 89% (1994) were determined and the remaining 11% (244) were adjourned.



#### 1.1 Hearings conducted

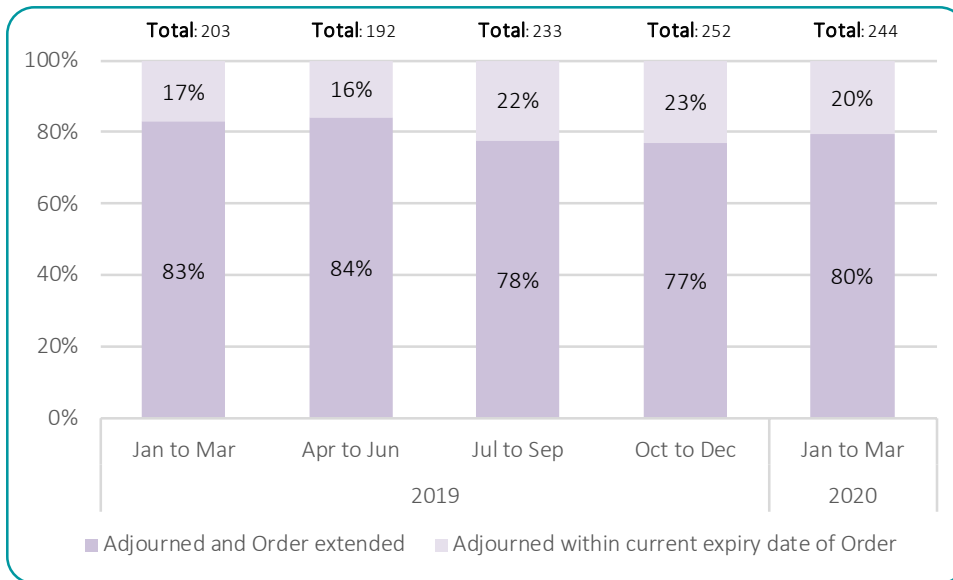
The number of hearings conducted, as well as the split between hearings with a determination and adjournment, has remained relatively consistent over recent quarters.



<sup>5</sup> Total of all Tribunal hearings including Treatment Order, ECT and other hearings.

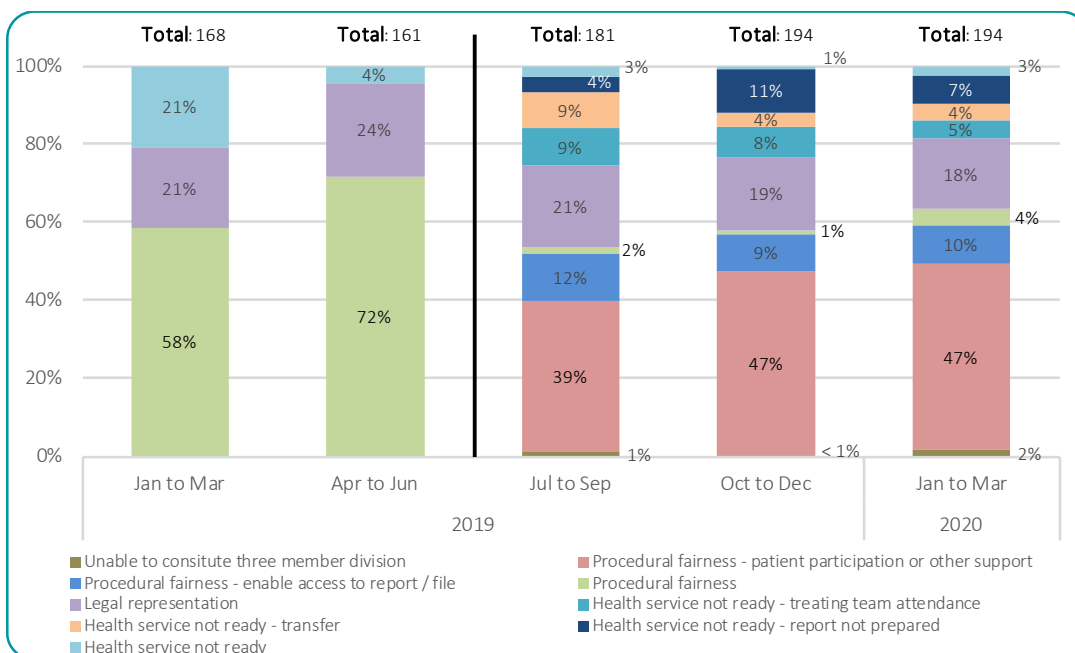
### 1.2 Adjourned hearings

Hearings can be adjourned to a later date with or without the patient’s Order being extended. The proportion of hearings adjourned with an Order extension was 80% between January and March 2020.



### 1.3 Reasons for adjournments with extension of Order

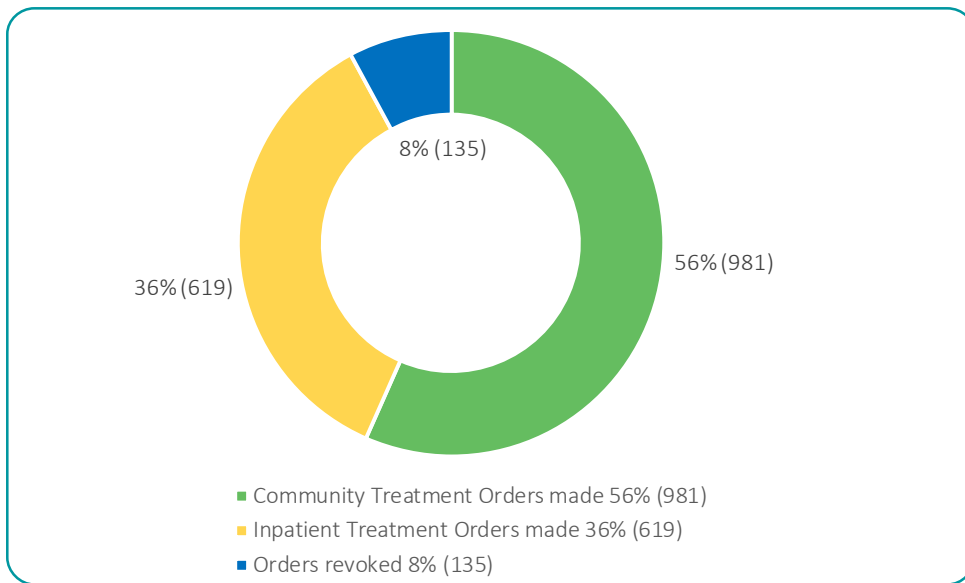
A patient’s hearing can be adjourned and their Temporary Treatment Order or Treatment Order extended by a maximum of 10 business days if the Tribunal is satisfied that exceptional circumstances exist. In July 2019 the Tribunal began to record more detailed reasons for an adjournment, so comparisons with previous quarter results may not be possible.



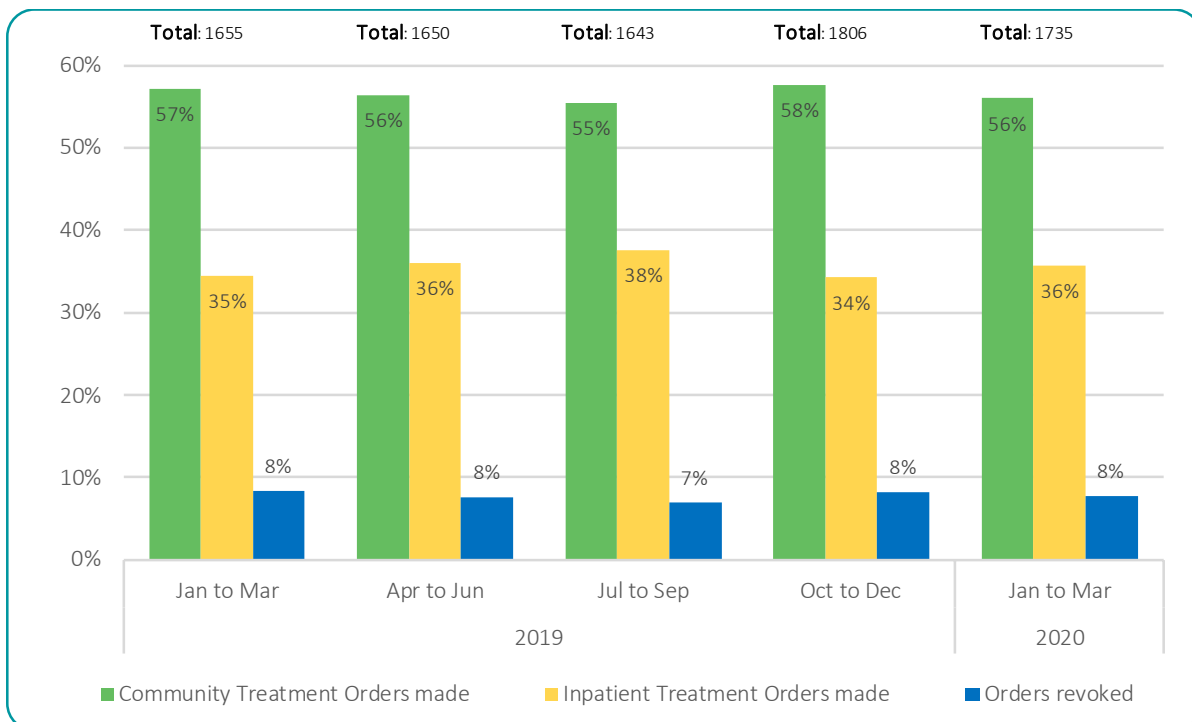
## 2. Treatment Order Hearings

### 2.1 Treatment Orders made and revoked by the Tribunal

In any hearing concerning a Temporary Treatment Order or Treatment Order, the Tribunal must decide whether to revoke an Order or make a further Treatment Order. If it makes a Treatment Order the Tribunal must decide whether it will commence as an Inpatient or Community Treatment Order, based on the circumstances at the time of the hearing. Between January and March 2020, the Tribunal conducted 1735 Treatment Order hearings. In these hearings the Tribunal made 981 Community Treatment Orders, 619 Inpatient Treatment Orders and revoked 135 Orders.



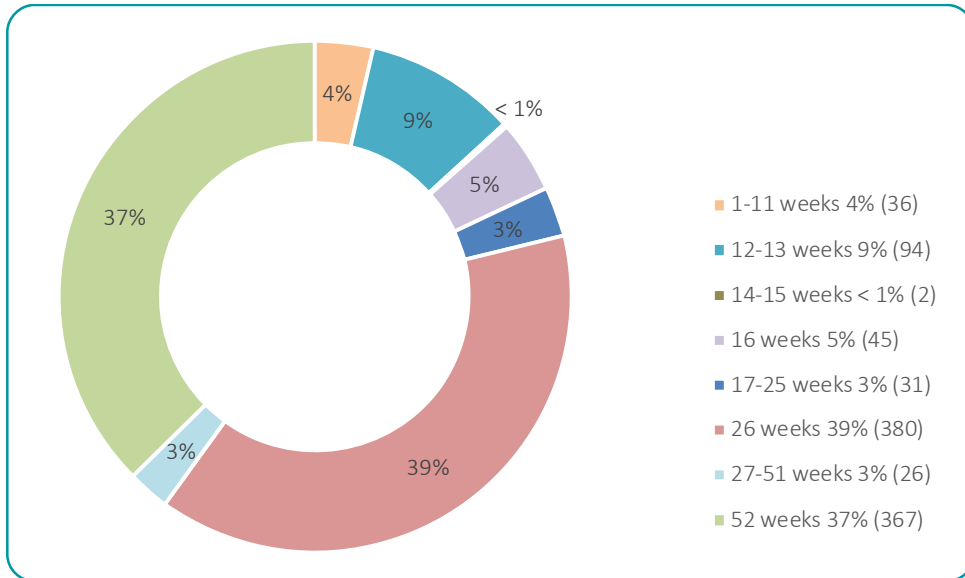
### 2.2 Comparison of Treatment Orders made and revoked



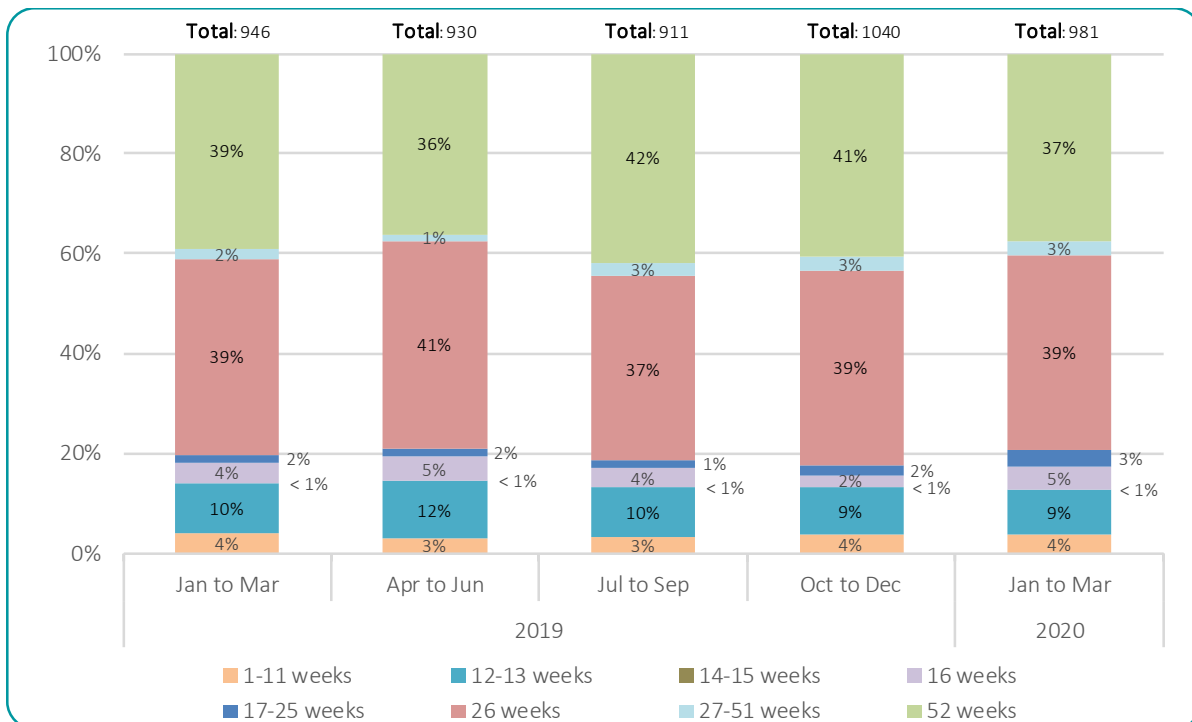
### 2.3 Duration of Treatment Orders made

When the Tribunal makes an Order, the Tribunal must also set the duration of the Order. Inpatient Treatment Orders for adults can have a maximum duration of six months (26 weeks) and Community Treatment Orders for adults can have a duration of up to 12 months (52 weeks). Inpatient and Community Treatment Orders for children can have a maximum duration of 3 months.

#### 2.3.1 Duration of Community Treatment Orders made

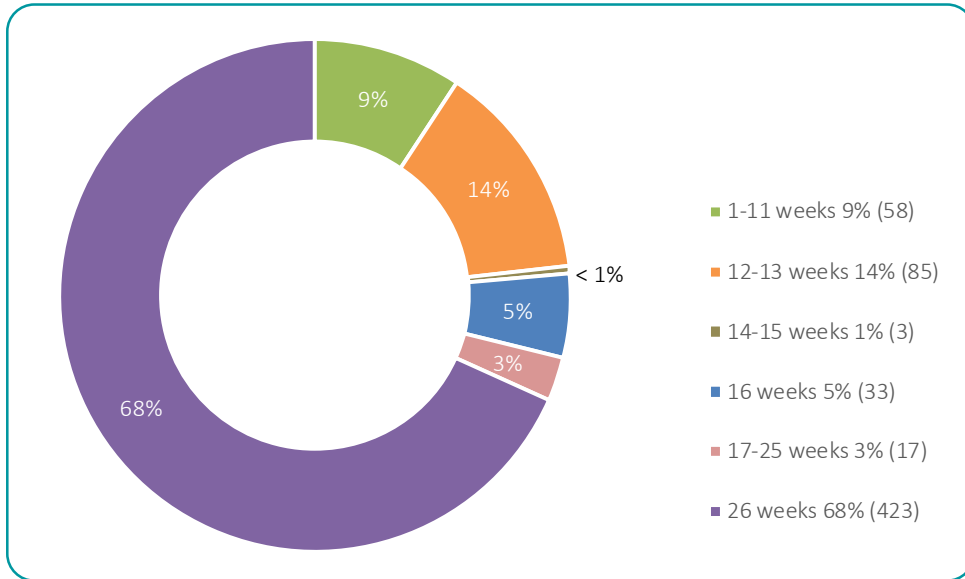


#### 2.3.2 Comparison of Community Treatment Orders made

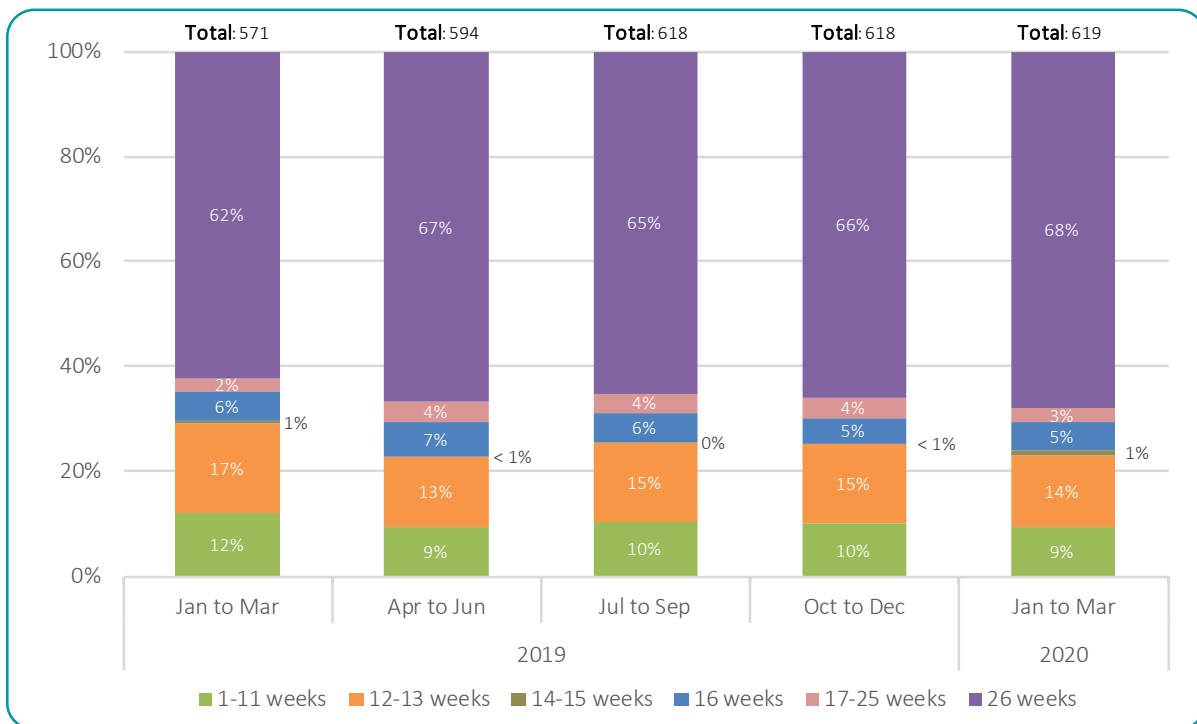




2.3.3 Duration of Inpatient Treatment Orders



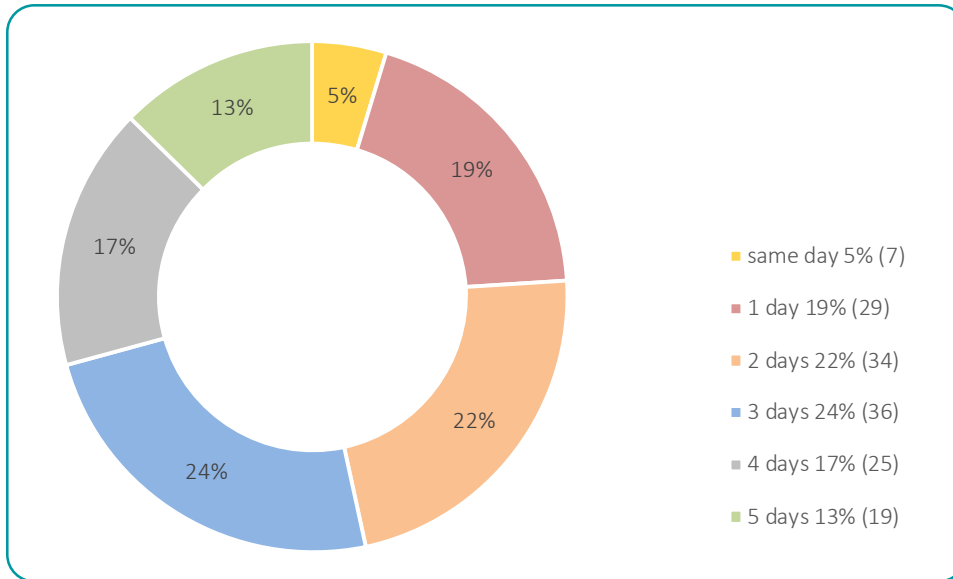
2.3.4 Comparison of Inpatient Treatment Orders made



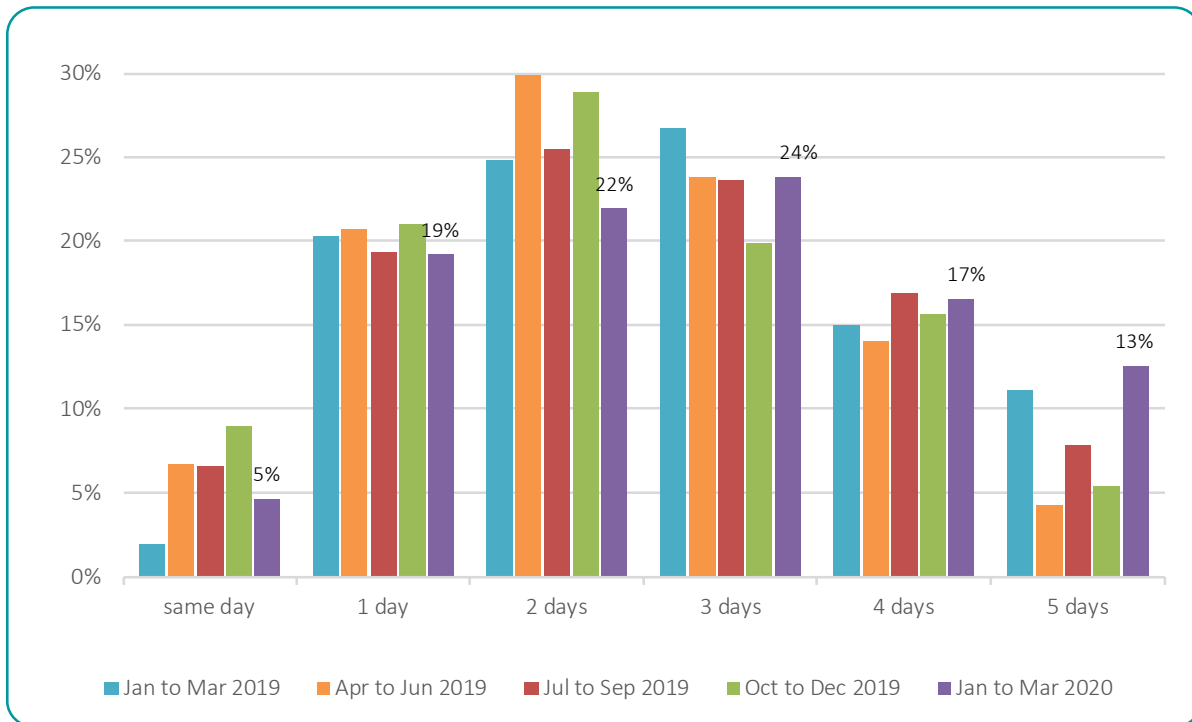
### 3. ECT Orders

#### 3.1 Elapsed time from receipt of ECT application to hearing

The Tribunal must list and complete the hearing of an application for an ECT Order as soon as practicable and within five business days after receiving the application. The Tribunal Registry seeks to balance considerations of clinical urgency alongside procedural fairness and allowing people reasonable time to prepare for a hearing.

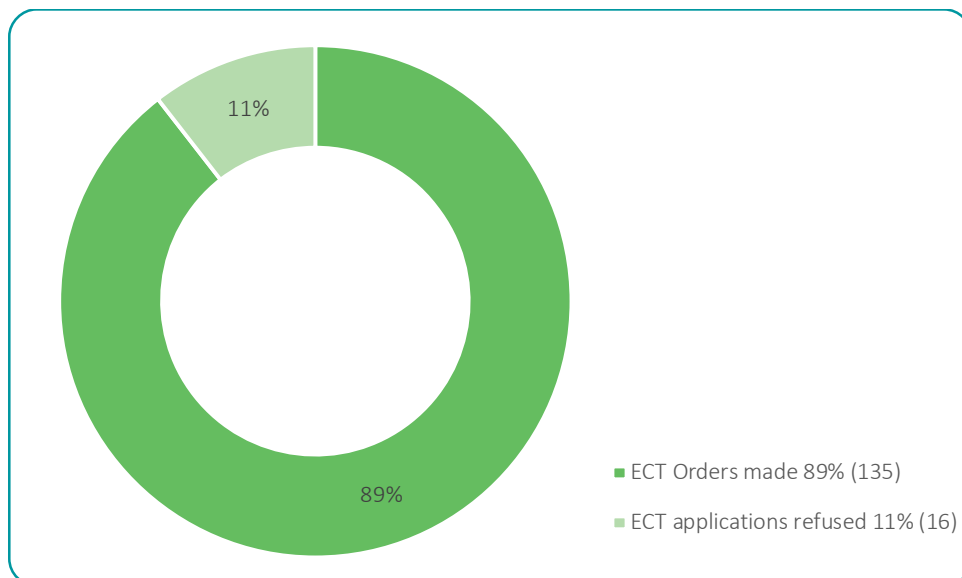


#### 3.2 Comparison of elapsed time from receipt of ECT application to hearing

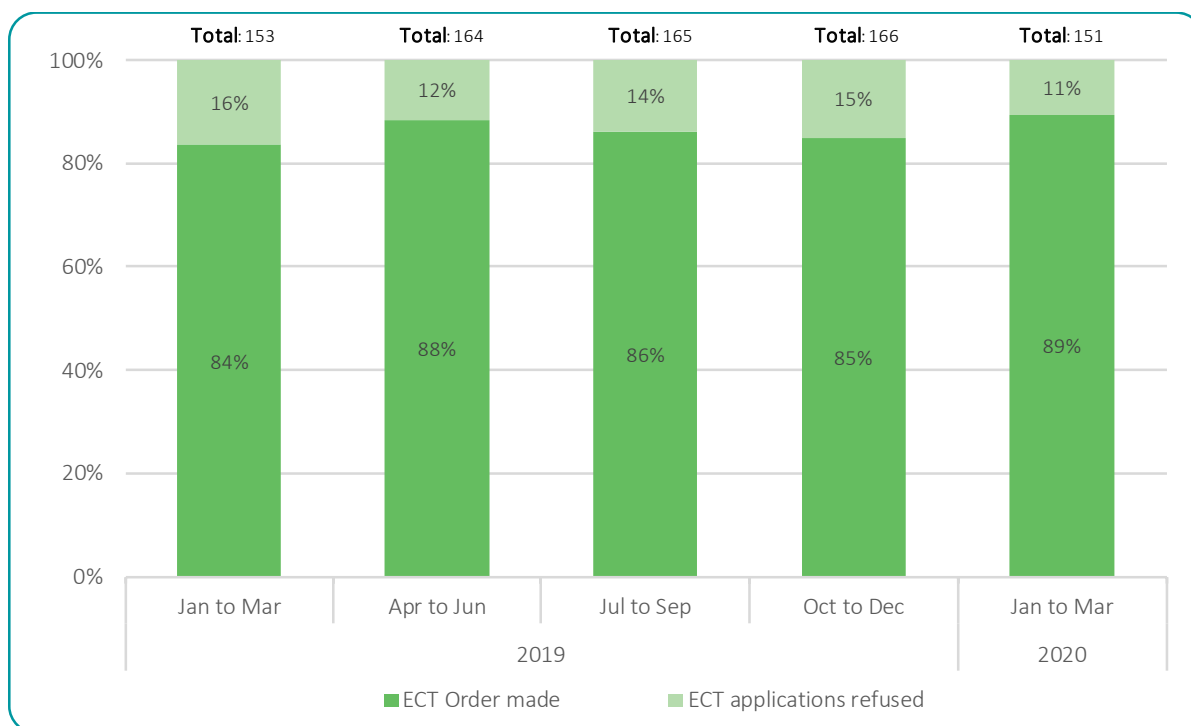


### 3.3 Outcomes of ECT hearings

The Tribunal heard 151 applications for ECT Orders between January and March 2020. Of those, 135 (89%) ECT Orders were made and 16 (11%) ECT applications were refused.

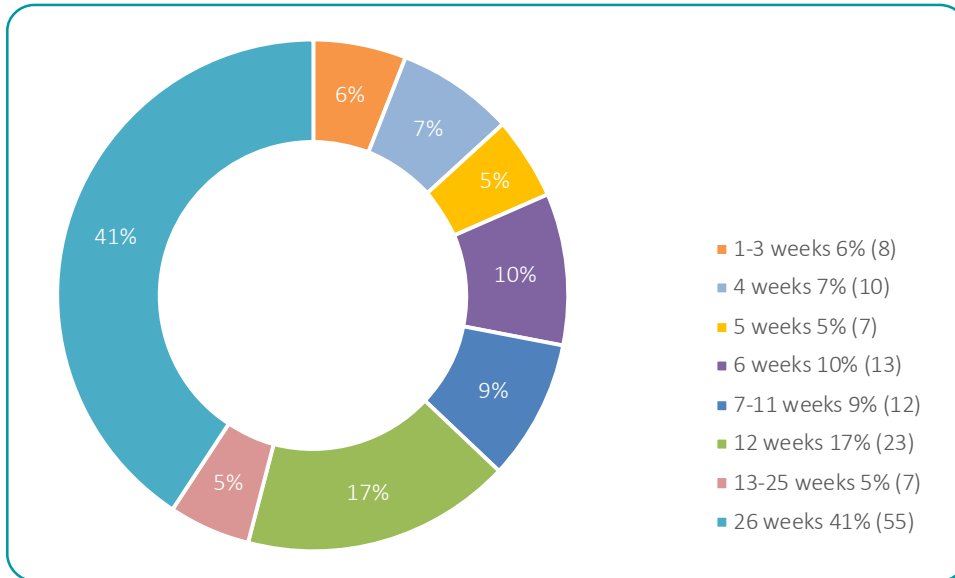


### 3.4 Comparison of Tribunal ECT determinations

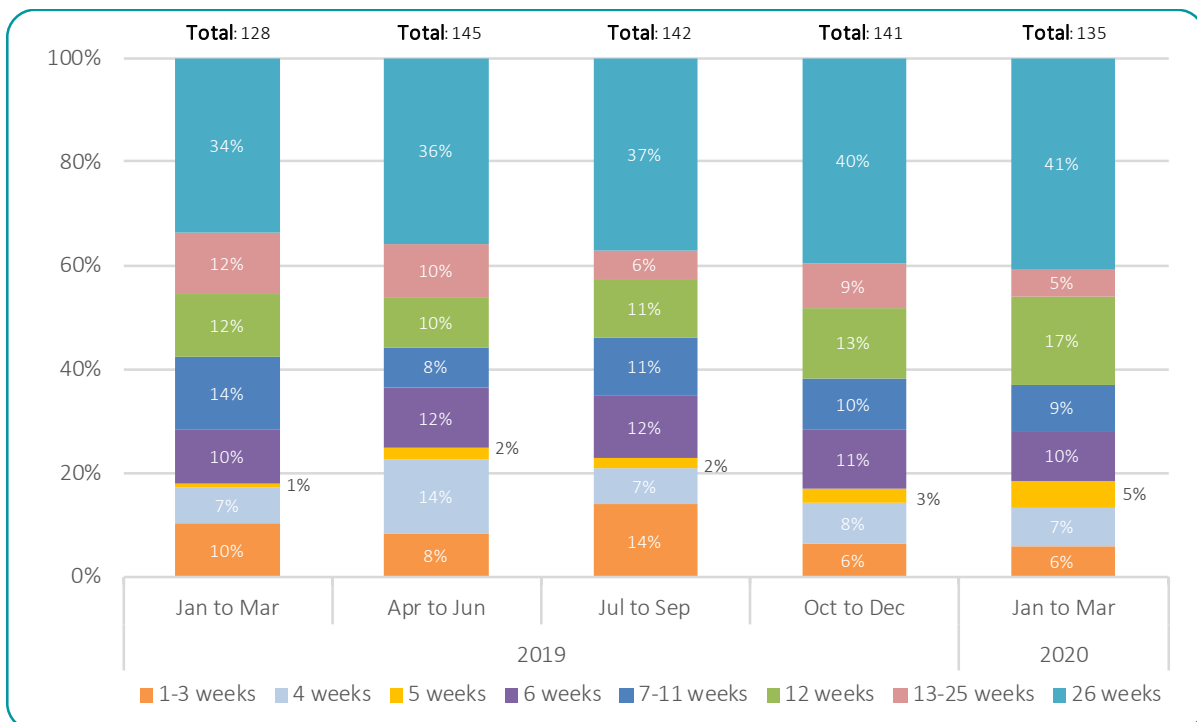


### 3.5 Duration of ECT Orders

When making an ECT Order, the Tribunal must set the duration of the Order up to a maximum of six months (26 weeks).

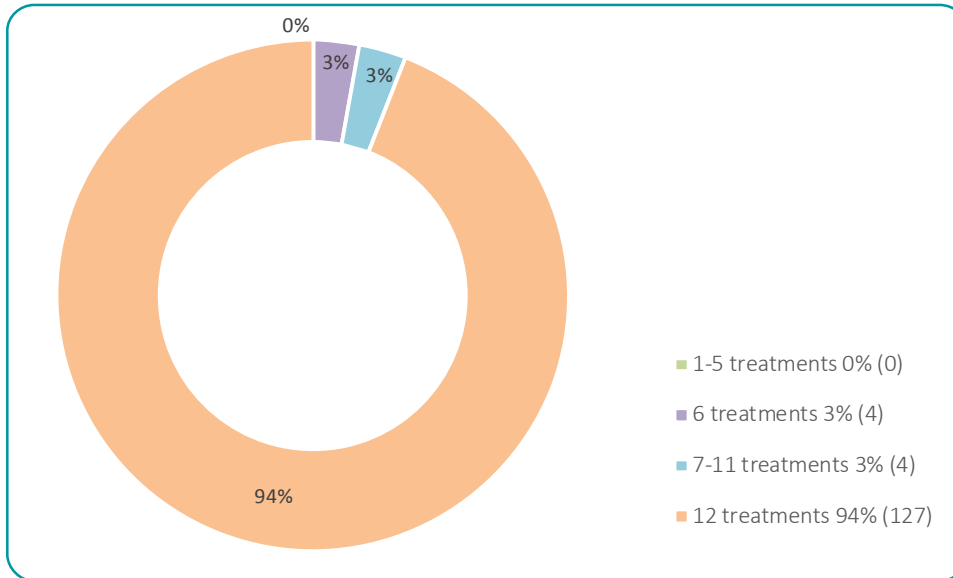


### 3.6 Comparison of ECT Order duration

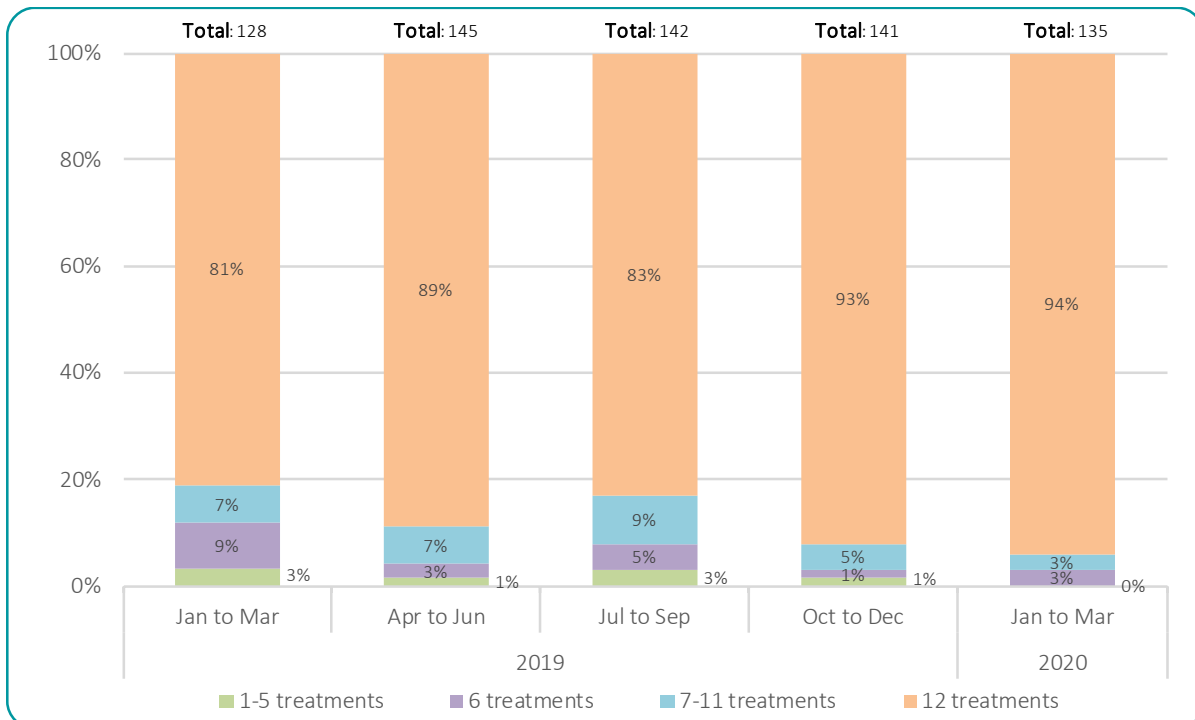


### 3.7 Number of treatments authorised by ECT Orders

When making an ECT Order, the Tribunal must authorise a maximum number of treatments that can be administered up to a maximum of 12.

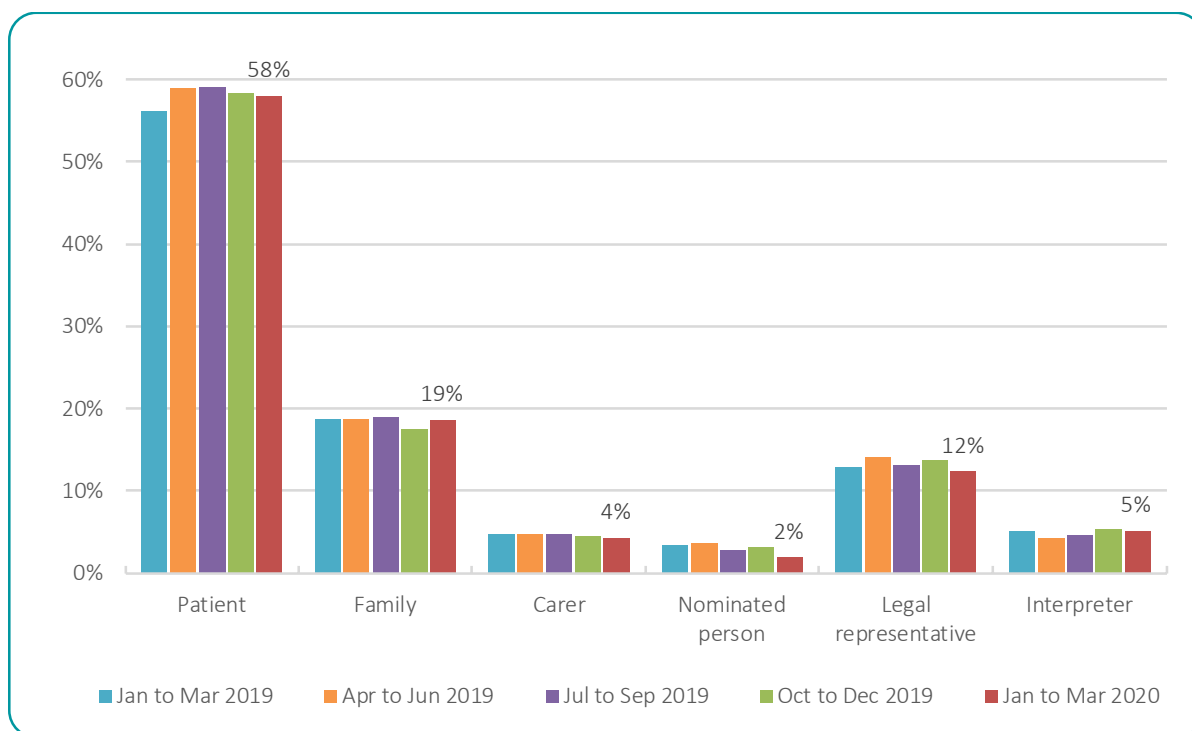


### 3.8 Comparison of treatments authorised by ECT Orders



## 4. Attendance at hearings<sup>6</sup>

The Tribunal is committed to promoting and encouraging the participation of patients and the people who support them in hearings. The Tribunal seeks to maximise the notice period as much as possible to allow people to attend.



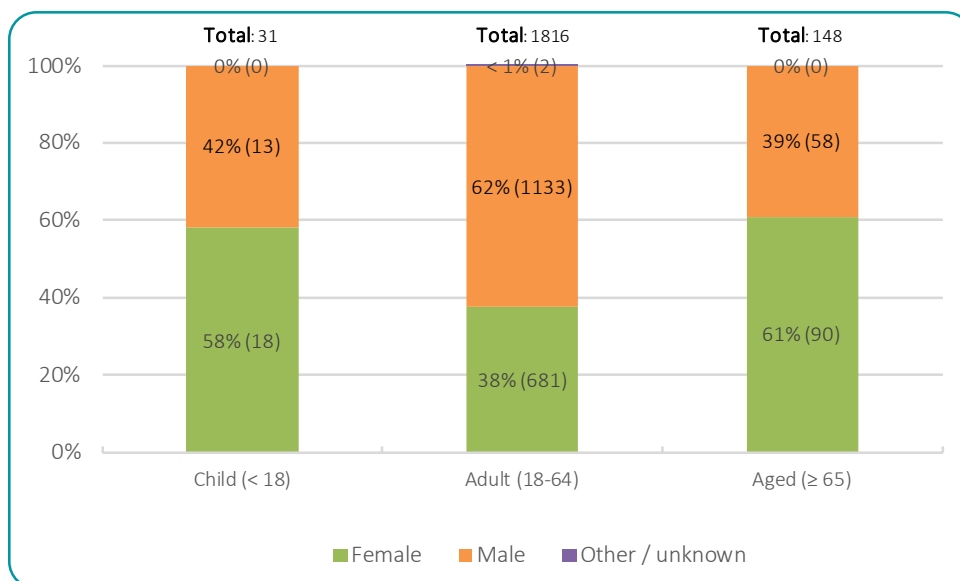
<sup>6</sup> Attendance of patients includes instances where the Tribunal visited the patient on the ward.

## 5. Patient demographics

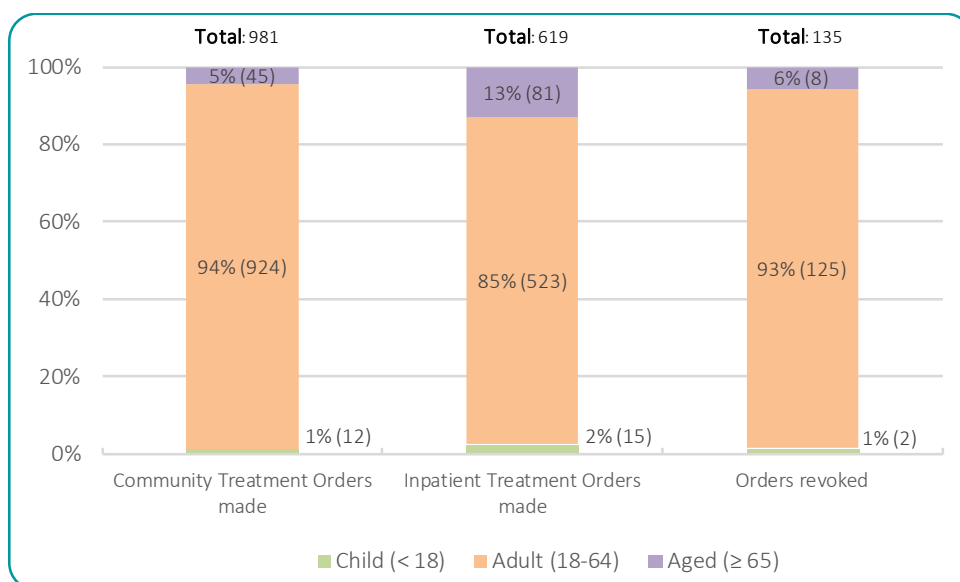
The following information provides patient demographic information for the period 1 January to 31 March 2020.

### 5.1 Treatment Orders

#### 5.1.1 Treatment Order hearings by gender and age



#### 5.1.2 Treatment Orders made and revoked by age

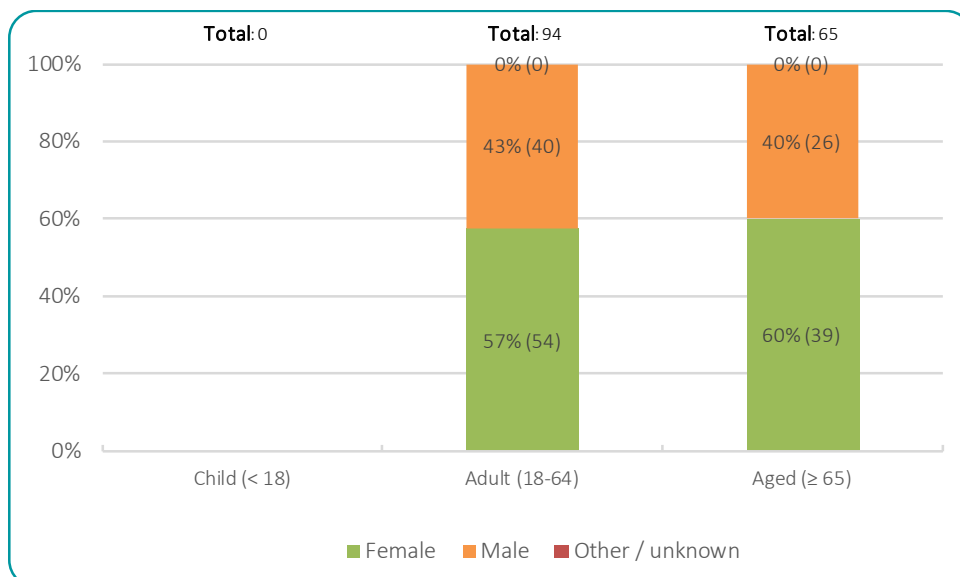


#### 5.1.3 Treatment Orders made and revoked by gender

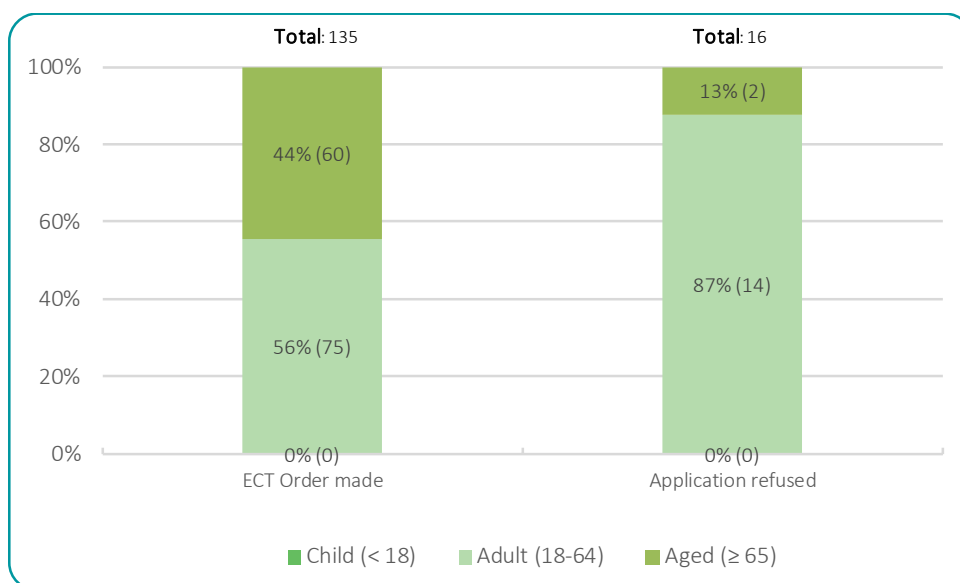
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## 5.2 ECT

### 5.2.1 ECT hearings by gender and age

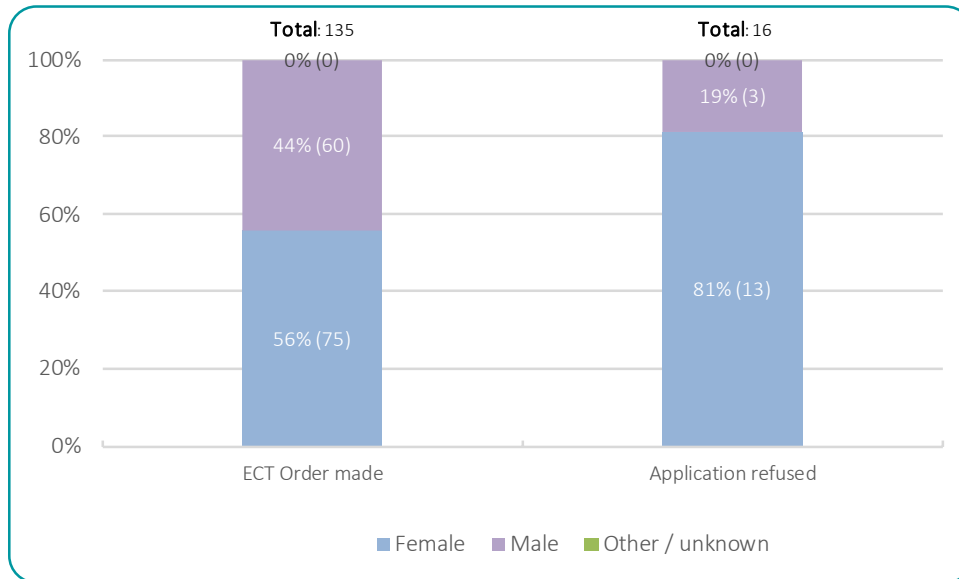


### 5.2.2 ECT Orders made and refused by age





### 5.2.3 ECT Orders made and refused by gender



## 6. Feedback

During the quarter, the Tribunal received two complaints. The complaints related to –

- An error in a determination regarding the setting of a patient’s treatment order
- Cancellation of a patient’s hearing due to COVID-19.

Both complaints have been responded to in accordance with the Tribunal’s feedback and complaints process which is available on the Tribunal’s website.