



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

Tuarascáil Bhliantúil, 2020

An Bord Athbhreithnithe Meabhair-Shláinte
(An Dlí Coiriúil)
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1. RÉAMHRÁ AN CHATHAOIRLIGH

Tá áthas orm arís Tuarascáil Bhliantúil an Bhoird Athbhreithnithe Meabhair-Shláinte (An Dlí Coiriúil) a thíolacadh. Is í seo an 14^ú Tuarascáil Bhliantúil ón mBord Athbhreithnithe, ina leagtar amach gníomhaíochtaí an Bhoird le linn 2020.

In 2020, cruthaíodh deacracht don Bhard Athbhreithnithe maidir lena ghnó a sheoladh ag féachaint do phaindéim CHÓIVID-19 agus na dúshlán go léir a bhain leis sin. I mí an Mhárta thoiligh an tAire Dlí leis an mBord Athbhreithnithe do lesasú a nósanna imeachta chun a chumasú éisteachtaí a sheoladh trí theilea-chomhdháil. Leis seo, cuireadh modh ar fáil lena bhféadfaí leanúint le héisteachtaí athbhreithnithe, á chumasú d’othair agus dá n-ionadaithe dlíthiúla éisteacht a fháil, ag cloí leis na treoirlínte náisiúnta chun leathadh na paindéime a chosc. D’ainmnigh an tAire an Bord Athbhreithnithe freisin, faoi Ailt 29 agus 31 den Acht um an Dlí Sibhialta agus an Dlí Coiriúil (Forálacha Ilghnéitheacha), 2020, chun a fhoráil go bhféadfaí cruinnithe agus éisteachtaí an Bhoird a sheoladh go cianda.

Le linn 2020, tháinig méadú beag ar líon na n-éisteachtaí athbhreithnithe a sheol an Bord. Sheol an Bord 203 éisteacht athbhreithnithe maidir le coinneáil othar arna gcoinneáil sa Phríomh-Ospidéal Meabhair-Ghalar i gcomparáid le 198 an bhliain roimhe sin. Rinne an Bord athbhreithniú ar choinneáil 90 othar i gcomparáid le 91 in 2019. Deonaíodh urscaoileadh coinníollach do sheisear den 90 othar, i gcomparáid le cúig urscaoileadh coinníollach a cheadaigh an Bord in 2019.

In 2020, freisin, chuaigh an Bord ar aghaidh go dtí an 33^ú, an 34^ú agus an 35^ú hathbhreithniú a sheoladh maidir le coinneáil roinnt othar.

Fuair an Bord ceithre iarratas ar urscaoileadh neamhchoinníollach in 2020 agus bhí dhá iarratas nach raibh curtha i gcrích ann ón mbliain roimhe sin. Dheonaigh an Bord trí iarratas ar urscaoileadh neamhchoinníollach, diúltaíodh d'iarratas amháin, cuireadh éisteacht amháin ar atráth le breithniú tuilleadh in 2021 agus tharraing iarratasóir amháin a iarratas siar.

Ar an 6^ú Meán Fómhair 2020, ghlac an Bord páirt sa 5^ú Cruinniú Comhchéime Bliantúil de Ghníomhaireachtaí Dlí agus Cirt agus Comhionannais, a d'óstáil an tAire Dlí agus Cirt.

Ba mhaith liom an deis seo a thapú chun buíochas a ghabháil le Stiúrthóir Feidhmiúcháin Cliniciúil an Phríomh-Ospidéil Meabhair-Ghalar, an tOllamh Harry Kennedy, agus an Stiúrthóir Cliniciúil, an Dr. Brenda Wright, as a gcabhair le linn na bliana. Tuigim gur ghabh dúshlán don ospidéal le paindéim CHÓIVID-19 chun othair agus an fhoireann a choimeád chomh slán agus ab fhéidir, fad a bhí orthu leanúint ar aghaidh le gnáthshaol an ospidéil. Ba mhaith liom aitheantas a thabhairt don chúnamh agus comhoibriú ó bhainistíocht agus foireann an Phríomh-Ospidéil Meabhair-Ghalar maidir le socruithe chun leanúnachas obair an Bhoird a éascú trí mhodh cianda le linn na tréimhse seo. Gabhaim buíochas leis na foirne ildisciplíneacha as a gcuid oibre ag ullmhú tuarascálacha síciatracha roimh éisteachtaí athbhreithnithe. Is eol don Bhord gur obair fhadálach atá san obair sin do gach duine a bhíonn páirteach inti. Tá an Bord buíoch as an gcomhoibriú leanúnach

ó shíciatraithe comhairleacha, altraí, teiripeoirí, seirbhísí sóisialta agus foireann riaracháin an ospidéil.

Ba mhaith liom an deis seo a thapú freisin chun gach rath a ghuí ar fhoireann agus othair an Phríomh-Ospidéil Meabhair-Ghalar in 2021 leis an bplean chun an tSeirbhís Náisiúnta Meabhairshláinte Fóiréinsí a aistriú go dtí a hionad nua i bPort Reachrann.

Gabhaim buíochas freisin le comhaltaí Phainéal Ionadaithe Dlíthiúla an Bhoird a fheidhmíonn go cumasach coinsiasach i gcónaí d'othair ag a gcuid éisteachtaí athbhreithnithe agus as a gcomhoibriú agus éisteachtaí athbhreithnithe á seoladh trí mhodh cianda le linn 2020.

Gabhaim buíochas le foireann an Bhoird, Paula Connolly Uas., Príomh-Oifigeach Feidhmiúcháin, Catherine Hayes Uas. agus Ann Casey Uas., as an tseirbhís shármhaith a thug siad don Bhord le linn na bliana.

Mar fhocal scoir, ba mhaith liom ár n-iarchomhalta uasal, an Dr. Michael Mulcahy, a fuair bás, ar an drochuair, ar an 1^ú Eanáir 2021, a lua. Ba chomhalta luachmhar den Bhord Athbhreithnithe an Dr. Mulcahy ar feadh go leor blianta ó bunaíodh é in 2006 go dtí go ndeachaigh sé ar scor in 2017. Bhí ardmheas air as a ghairmiúlacht mar aon le comhbhá chroíúil ar mhór ag gach éinne í.

Iarfhlaith Ó Néill
Cathaoirleach

Márta 2021

2. FEIDHM AN BHOIRD ATHBHREITHNITHE MEABHAIR SHLÁINTE (AN DLÍ COIRIÚIL)

Bunaíodh an Bord Athbhreithnithe Meabhair-Shláinte (An Dlí Coiriúil) le hAlt 11 den Acht um an Dlí Coiriúil (Gealtacht), 2006, agus tháinig an Bord chun bheith ann ar an 27 Meán Fómhair 2006. Tá an Bord Athbhreithnithe freagrach as athbhreithniú a dhéanamh ar choinneáil othar arna n-atreorú chuig lárionaid ainmnithe ag eascairt as cinneadh ag na cúirteanna nach bhfuil siad inniúil chun trialach nó gur cinneadh iad a bheith neamhchiontach i gcion de dheasca gealtachta. Faoi Acht 2006, arna leasú leis an Acht um an Dlí Coiriúil (Gealtacht), 2010, tá sé de chumhacht ag an mBord a ordú leanúint d'othair a choinneáil, nó a n-urscaoileadh coinníollach, nó neamhchoinníollach, a ordú, ag féachaint do leas an othair agus do leas an phobail. Déanann an Bord athbhreithniú freisin ar choinneáil príosúnach, lena n-áirítear príosúnaigh mhíleata, a ndearnadh iad a aistriú chuig lárionad ainmnithe agus neamhord meabhrach orthu. Féadfaidh an Bord a ordú leanúint dá gcoinneáil nó iad a chur ar ais sa phríosún. Tá an Bord neamhspleách go reachtúil i bhfeidhmiú a fheidhmeanna.

Faoi láthair is lárionad ainmnithe an Príomh-Ospidéal Meabhair-Ghalar, Dún Droma, faoi Acht 2006. I mí Aibreáin 2020, ainmníodh Aonad amháin ar champas nua na Seirbhíse Náisiúnta Meabhairshláinte Fóiréinsí i bPort Reachrann faoin Acht mar gheall ar an ngá cóiríocht bhreise a chur ar fáil de dheasca phaindéim CHÓIVID-19.

3. ATHBHREITHNITHE AG AN MBORD

De ghnáth, bíonn idir 80 agus 90 othar á gcoinneáil aon tráth áirithe sa Phríomh-Ospidéal Meabhair-Ghalar faoin Acht um an Dlí Coiriúil (Gealtacht), 2006, arna leasú.

Tagann athrú ar an líon sin mar go ndéantar, seachas na hothair arna gcoinneáil ar feadh tréimhsí níos faide, othair a aistriú ó phríosún, le toiliú nó dá n-ainneoin, chun go dtabharfar cúram nó cóireáil dóibh nach mbíonn ar fáil dóibh i bpríosún. Féadfaidh sé, áfach, nach ndéanfaidh an Bord athbhreithniú ar choinneáil daoine de na hothair sin mar go bhféadfaidh an Stiúrthóir Cliniciúil iad a aistriú ar ais chuig príosún sula mbeidh éisteacht athbhreithnithe ann.

Ní foláir don Bhord coinneáil gach othar a athbhreithniú i gceann tréimhsí nach faide ná sé mhí. Dá bhrí sin, déantar dhá athbhreithniú d'othair fhadtéarmacha in aghaidh na bliana. Lasmuigh de na héisteachtaí arna sceidealú go rialta, féadfaidh an Bord, dá thionscnamh féin, coinneáil othar a athbhreithniú de réir mar is cuí leis. Féadfaidh othar nó Stiúrthóir Cliniciúil an Phríomh-Ospidéal Meabhair-Ghalar athbhreithniú a iarraidh freisin. Féadfaidh an tAire Dlí agus Cirt a ordú don Bhord freisin athbhreithniú a sheoladh maidir le coinneáil príosúnaigh agus é nó í san ospidéal dá ainneoin nó dá hainneoin.

Le linn 2020, rinne an Bord athbhreithniú ar choinneáil 90 othar san iomlán. As an 90 othar, ba mhná 10 (nó 11%) díobh agus b'fhir 80 (nó 89%) díobh. Seoladh 203 éisteacht san iomlán i gcomparáid le 198 sa bhliain roimhe sin, méadú 2½% ar líon na n-éisteachtaí athbhreithnithe. As an 90 othar, fáthmheasadh scitsifréine a bheith ar 66% díobh, neamhord scitseamhothachtálach a bheith ar 17% díobh agus neamhoird eile a bheith ar 17% díobh, i gcomparáid le 2019 nuair a athbhreithníodh coinneáil 91 othar, agus inar fáthmheasadh scitsifréine a bheith ar 66% díobh, neamhord scitseamhothachtálach a bheith ar 19% díobh agus neamhoird eile a bheith ar 15%

díobh. Is ceart a thabhairt do d'aire go ndéanann an Bord athbhreithniú i leith an chroíghrúpa chéanna othar gach bliain. (Féach Foscríbhinní A agus B maidir leis seo).

Den chéad uair, sheol an Bord an 33^ú, an 34^ú agus an 35^ú hathbhreithniú ar choinneáil roinnt othar in 2020. Den 203 éisteacht athbhreithnithe, an 33^ú hathbhreithniú a bhí i gceist i naoi gcás, an 34^ú hathbhreithniú i gceithre chás agus an 35^ú hathbhreithniú i gcás amháin. Bhí 14% de na héisteachtaí ag an 31^ú go dtí an 35^ú céim ath-bhreithnithe. Bhí 21% de na héisteachtaí ag an 1^ú go dtí an 5^ú céim athbhreithnithe, i gcomparáid le 25% in 2019. Astu sin, an 1^ú hathbhreithniú a bhí i gceist le hocht athbhreithniú, nó 4%, i gcomparáid le 2019 nuair a bhí 10 gcinn d'athbhreithnithe den sórt sin ann, líon a bhí cothrom le 5% den iomlán. (Féach Foscríbhinn C maidir leis seo).

Bhain tromlach na n-éisteachtaí athbhreithnithe le hothair arna gcimiú chun an Phríomh-Ospidéal Meabhair-Ghalar faoi Alt 5(2) d'Acht 2006, mar gur cinneadh iad a bheith neamhchiontach i gcion de dheasca gealtachta. In 2020, bhain 161 éisteacht, sin 79% den líon iomlán, le coinneáil othar arna gcimiú faoi Alt 5(2). 150 an líon a bhí sa chatagóir sin in 2019, sin 76% de líon iomlán na n-éisteachtaí an bhliain sin. Arís in 2020, bhain an dara líon ba mhó de na héisteachtaí athbhreithnithe le hothair arna gcoinneáil faoi Alt 15(2) den Acht, ar phríosúnaigh iad arna n-aistriú dá n-ainneoin chuig an bPríomh-Ospidéal Meabhair-Ghalar chun cúram nó cóireáil nach bhféadfaí a thabhairt sa phríosún a thabhairt dóibh. Bhain 9% de na héisteachtaí athbhreithnithe in 2020 leis an ngrúpa sin, i gcomparáid le 11% in 2019. (Féach Foscríbhinn D maidir leis seo).

4. **AN SCÉIM UM CHÚNAMH DLÍTHIÚIL MEABHAIR-SHLÁINTE (AN DLÍ COIRIÚIL)**

Ceanglaítear ar an mBord, le hAlt 12(1)(c) d'Acht 2006, arna leasú, ionadaí dlíthiúil a shannadh do gach othar ar ábhar d'athbhreithniú a choinneáil nó a coinneáil, mura mbeartaíonn an t-othar ionadaíocht dhlíthiúil a fhostú ar a chostas nó a costas féin. Chuige sin, bhunaigh an Bord an Scéim um Chúnadh Dlíthiúil Meabhair-Shláinte (An Dlí Coiriúil), 2006, faoinar bunaíodh painéal d'ionadaithe dlíthiúla. Féadfaidh othair, más mian leo, seirbhísí de chuid aturnae a shanntar ón bpainéal a dhiúltú agus aturnae eile ón bpainéal a iarraidh, nó féadfaidh siad aturnae nach ón bpainéal a fhostú ar a gcostas féin. Ar mhaithe le leanúnachas d'othair, ag féachaint don fhíoras go bhfuil neamhord meabhrach orthu, déanann an Bord a dhícheall an t-aturnae céanna a shannadh chun feidhmiú don othar ag éisteachtaí athbhreithnithe ina dhiaidh sin.

Sonraítear le hAlt 3.6 de Théarmaí agus Coinníollacha Scéim um Chúnadh Dlíthiúil an Bhoird Athbhreithnithe go ndéanfaidh an Bord athbhreithniú foirmiúil ar Phainéal na nIonadaithe Dlíthiúla gach trí bliana. Ag féachaint don mhéid sin, cuireadh tús le hathbhreithniú ar Phainéal na nIonadaithe Dlíthiúla i mí Iúil 2020, tar éis don athbhreithniú roimhe sin a bheith curtha i gcrích in 2017. Cuireadh tús leis an athbhreithniú trína fhiafraí de chomhaltaí an Phainéil ar mhian leo fanacht ar an bPainéal. Ón athbhreithniú deiridh i leith, d'athraigh líon na gcomhaltaí ó 27 i dtús 2017 go 24 i ndeireadh 2019. Faoi dheiridh 2020, 25 chomhalta a bhí ar an bPainéal. Tháinig athrú ar líon na n-othar ar theastaigh ionadaíocht dhlíthiúil uathu sa tréimhse sin freisin, ó 83 in 2017, 89 in 2018 go 91 in 2019. Bunaithe ar anailís a rinneadh ar líon na n-othar agus ualach oibre na n-ionadaithe dlíthiúla, ghlac an Bord cinneadh

nach bhfuil gá le tuilleadh comhaltaí faoi láthair ach tá sé sin á choimeád faoi athbhreithniú ag an mBord.

I dtús 2020 bhí 24 aturnae ar Phainéal na nIonadaithe Dlíthiúla. Cuireadh aturnae amháin leis an bpainéal le linn na bliana ar iarraidh ó othar ar mhian leis go bhfeidhmeodh an t-aturnae a d'fheidhmigh dó in imeachtaí coiriúla ag a éisteacht athbhreithnithe, rud a thug an líon go 25 i ndeireadh 2020.

Ocht gcás an meánlíon cásanna a sannadh d'aturnaetha ar an bPainéal in 2020. Sannadh meánlíon 15 chás an duine don phríomhcheathairíl d'aturnaetha, i gcomparáid le 13 in 2019. Sannadh meánlíon 9 gcás don dara agus an tríú ceathairíl, i gcomparáid le seacht gcás an bhliain roimhe sin. Sannadh meánlíon 1 chás an duine don bhuncheathairíl in 2020 agus 2019. (Féach Foscríbhinn E maidir leis seo)

5. ORDUITHE UM URSCAOILEADH

Le linn thréimhse an tuairiscithe, cheadaigh an Bord urscaoileadh coinníollach ón bPríomh-Ospidéal Meabhair-Ghalar i leith seisear othar, i gcomparáid le cúigear in 2019. Seacht mbliana an mheánré choinneála san ospidéal do na hothair a urscaoileadh go coinníollach. Mhair an dá cheann ba ghiorra ar feadh ceithre bliana, agus mhair an dá cheann ab fhaide 10 mbliana ar an meán. Is ceart a thabhairt do d'aire nach foras riachtanach ná leordhóthanach é an fad ama, ann féin, a dhéanfar othar a choinneáil san ospidéal chun urscaoileadh coinníollach a dheonú. (Féach Foscríbhinn F maidir leis seo).

Fuarthas ceithre iarratas ar urscaoileadh neamhchoinníollach in 2020 ó othair a rabhthas tar éis iad a urscaoileadh go coinníollach ar feadh 12 mhí nó níos faide. Bhí dhá iarratas nach raibh curtha i gcrích ann ón mbliain roimhe freisin. Dheonaigh an Bord trí urscaoileadh neamhchoinníollach in 2020 agus diúltaíodh d'aon iarratas amháin. Tharraing iarratasóir amháin iarratas siar agus cuireadh éisteacht iarratais eile ar athló, le hatosú in 2021.

6. AN CION, NÓ AN CION LÍOMHNAITHE, BA THROMCHÚISÍ

Ar áireamh sna cionta, nó sna cionta líomhnaithe, inar cúisíodh, nó inar ciontaíodh othair a bhí arna gcoinneáil sa Phríomh-Ospidéal Meabhair-Ghalar bhí dúnmharú, iarracht ar dhúnmharú, dúnorgain, ionsaí ba thrúig mórdhíobhála coirp agus coirloscadh. As an 90 othar a ndearnadh athbhreithniú ar a gcoinneáil, bhí 41 díobh cúisithe, nó ciontaithe, i ndúnmharú. Duine de theaghlach an othair a bhí i mórán d'íospartaigh an chiona nó an chiona líomhnaithe sin. Cúisíodh nó ciontaíodh naoi n-othar in iarracht ar dhúnmharú/dúnorgain/tiomáint chontúirteach ba thrúig bháis. Cúisíodh nó ciontaíodh 24 othar in ionsaí ba thrúig díobhála / mórdhíobhála coirp agus ceathrar díobh i gcoirloscadh. Ar áireamh sna cionta eile bhí ionsaí gnéasach, bagairt duine a mharú, ciapadh, príosúnú neamhdhleathach, iarracht leanbh a fhuadach, foghail a dhéanamh agus scian a shealbhú le hintinn díobháil a dhéanamh, sceana a shealbhú agus imeaglú, agus bagairt stáisiún Gardaí a chur trí thine. (Féach Foscríbhinn G maidir leis seo).

7. IMEACHTAÍ DLÍ

Mar a tuairiscíodh anuraidh, ghéill an Chúirt Uachtarach, i mí Dheireadh Fómhair 2019, d'iarratas ar chead achomharc a dhéanamh i gcoinne chinneadh na Cúirte Achomhairc

(MC v. An Stiúrthóir Cliniciúil, An Príomh-Ospidéal Meabhair-Ghalar agus an Bord Athbhreithnithe Meabhair-Shláinte (An Dlí Coiriúil) (Fógra- Pháirtí)). D'éist an Chúirt Uachtarach an t-achomharc i mí an Mhárta, 2020, agus thug an Breitheamh Baker breithiúnas aontola na Cúirte ar an 4 Meitheamh, 2020. Ó thaobh an Bhoird Athbhreithnithe de, cuireadh soiléiriú ar fáil leis an mbreithiúnas sin maidir le hAlt 13A den Acht um an Dlí Coiriúil (Gealtacht), 2006, arna leasú. Dúirt an Chúirt go gcuirtear oibleagáid shainordaitheach ar an Stiúrthóir Cliniciúil le hAlt 13A socruithe a dhéanamh maidir le hurscaoileadh coinníollach othair, fiú i gcás nach gcomhaontaíonn an Stiúrthóir Cliniciúil le cinneadh an Bhoird urscaoileadh a dhéanamh go coinníollach. Maidir leis an gcinneadh i dtaobh coinníollacha a fhorchur agus cineál na gcoinníollacha sin, is ní don Bhord é sin go sainráite. ***(Tagairt na Cúirte Uachtaraí S:AP:IE2019:000136).***

8. FAISNÉIS AIRGEADAIS

Maoiníodh an Bord Athbhreithnithe as Fo-cheannteideal B.10 de Vóta Oifig an Aire Dlí agus Cirt. In 2020, fuair an Bord Athbhreithnithe leithdháileadh €288,000 as an mbuiséad. €304,000 an caiteachas iomlán a bhí ag an mBord. Fuair an Bord cead ó Aonad Bainistíochta Airgeadais na Roinne maidir leis an gcaiteachas méadaithe in 2020. Cloíonn an Bord Athbhreithnithe leis an gCód Caiteachais Phoiblí. Is iad seo a leanas na príomh-mhíreanna caiteachais:

Táillí Chomhaltaí an Bhoird	*€103,500
Cúnamh Dlíthiúil in Aisce	€101,645
Táille an Chathaoirligh	**€53,156
Costais dlí	€39,734

*Táillí a bhain le Nollaig 2019 agus a íocadh i mí Eanáir 2020 san áireamh. Níl táillí a bhain le Nollaig 2020 agus a íocadh i mí Eanáir 2021 san áireamh.

**Íoctar táille bhliantúil €70,875 leis an gCathaoirleach i dtráthchodanna ráithiúla. Íocadh an íocaíocht deiridh, a bhain le Nollaig 2020, i mí Eanáir 2021.

9. **SAINFHÁIL**

Tairiscintí le haghaidh Seirbhísí Ateangaireachta ag Éisteachtaí Athbhreithnithe

D'eisigh an Bord Athbhreithnithe cúig thairiscint aon uaire le ríomhphost in 2020 maidir le seirbhísí ateangaireachta a sholáthar d'othair ag éisteachtaí athbhreithnithe.

10. **NOCHTADH COSANTA**

Tá Beartas um Nochtadh Cosanta na Roinne Dlí agus Cirt glactha ag an mBord Athbhreithnithe mar bheartas an Bhoird maidir le nochtaí cosanta san áit oibre. I gcomhréir le ceanglais tuairiscithe, dearbhaítear nach bhfuarthas aon tuairisc nochta chosanta in 2020.

11. **COSAINT SONRAÍ**

Tá beartas um chosaint sonraí na Roinne Dlí agus Cirt glactha ag an mBord Athbhreithnithe. Mar gheall ar mhéid an Bhoird, ní mheastar é a bheith indéanta ag an mBord Oifigeach Cosanta Sonraí dá chuid féin a cheapadh. Tá Oifigeach Cosanta Sonraí na Roinne ceaptha mar Oifigeach Cosanta Sonraí don Bhord.

12. **DUALGAS NA hEARNÁLA POIBLÍ UM CHOMHIONANNAS AGUS CEARTA AN DUINE**

Tá an Bord Athbhreithnithe tiomanta dá chinntiú go gcomhlíontar a fhreagrachtaí faoi alt 42 den Acht fá Choimisiún na hÉireann um Chearta an Duine agus Comhionannas, 2014, lena gcuirtear oibleagáid dhearfach ar chomhlachtaí poiblí, le linn dóibh a bhfeidhmeanna a chomhlíonadh, aird a thabhairt ar an ngá atá ann an t-idirdhealú a dhíchur, comhionannas deiseanna a chur chun cinn agus cearta daonna foirne agus

daoine dá soláthraítear seirbhísí a chosaint. Choimeád an Bord Ath-bhreithnithe an dualgas sin i gcuimhne le linn dó a fheidhmeanna a chomhlíonadh in 2020.

13. RIALACHAS AGUS RIALUITHE INMHEÁNACHA

Comhaltas agus Struchtúr an Bhoird Athbhreithnithe

Is comhlacht garbhreithiúnach é an Bord Athbhreithnithe Meabhair-Shláinte (An Dlí Coiriúil) a dhéanann athbhreithniú ar choinneáil othar a bhíonn á gcoinneáil sa Phríomh-Ospidéal Meabhair-Ghalar faoin Acht um an Dlí Coiriúil (Gealtacht), 2006. Ní bord rialachais é an Bord Athbhreithnithe. Is iad atá ar an mBord Cathaoirleach agus aon líon gnáthchomhaltaí a theastóidh ón Aire Dlí agus Cirt tar éis dó nó di dul i gcomhairle leis an Aire Sláinte. Is Breitheamh scortha den Ard-Chúirt an Cathaoirleach atá ann faoi láthair agus tá triúr gnáthchomhaltaí air, ar síciatraithe sainchomhairleacha beirt díobh agus ar síciteiripeoir comhairleach duine díobh. De réir mar a fhoráiltear le hAcht 2006, is é nó í an tAire a cheapann comhaltaí an Bhoird ar feadh tréimhse cúig bliana. Leagtar amach faoi seo comhaltas an Bhoird in 2020 agus dáta ceaptha na gcomhaltaí:

Comhalta	Dáta ceaptha
An Breitheamh Uasal Iarfhlaith Ó Néill, Cathaoirleach	Meán Fómhair 2014 Athcheaptha Meán Fómhair 2019
An Dr. Katherine Brown, Síciatraí Sainchomhairleach	Bealtaine 2017
Nóra McGarry Uas., Síciteiripeoir Comhairleach	Meán Fómhair 2011 Athcheaptha Meán Fómhair 2016
An Dr. Elizabeth Walsh, Síciatraí Sainchomhairleach	Eanáir 2013 Athcheaptha Eanáir 2018

Cothromaíocht Inscne

Is faoin Roinn Dlí agus Cirt atá sé comhaltaí a cheapadh ar an mBord Athbhreithnithe agus níl aon bhaint ag an mBord le ceapacháin. Amhail ar an 31 Nollaig 2020, bhí fear amháin (25%) agus triúr ban (75%) mar chomhaltaí ar an mBord Athbhreithnithe.

Freastal ar Éisteachtaí agus Táillí

De ghnáth, is le haghaidh éisteachtaí agus pléití réamhéisteachta amháin a thagann an Bord Athbhreithnithe le chéile. Le linn dó athbhreithniú a dhéanamh ar choinneáil othar, suíonn an Bord i bpainéal ar a mbíonn triúr, agus bíonn an Cathaoirleach agus síciatraí sainchomhairleach amháin ar a laghad ar an bpainéal i gcónaí.

Táille €250 a íoctar le gnáthchomhaltaí in aghaidh gach éisteachta athbhreithnithe ar a ndéanann siad freastal. Íoctar an táille chéanna i leith freastal ar éisteachtaí i dtaca le hiarratais ar urscaoileadh neamhchoinníollach agus i dtaca le hiarratais chun coinníollacha a bhaineann le hurscaoileadh a leasú nó a athrú. In 2020, d'fhreastail gach comhalta Boird ar éisteachtaí a raibh siad in ainm freastal orthu. D'fhreastail an Dr. Brown ar 99 éisteacht, d'fhreastail Nóra McGarry Uasal ar 209 éisteacht agus d'fhreastail an Dr. Walsh ar 110 éisteacht.

Is é nó í an Cathaoirleach a bhíonn i gceannas ar gach éisteacht athbhreithnithe agus ar éisteachtaí chun iarratais ar urscaoileadh neamhchoinníollach a bhreithniú agus iarratais chun coinníollacha a leasú. Tugann an Cathaoirleach comhairle agus treoir don Phríomhoifigeach Feidhmiúcháin freisin maidir le gnó an Bhoird a bhainistiú agus maidir le haon chás dlí ar páirtí ann an Bord a bhainistiú. Íoctar táille bhliantúil €70,875 leis an gCathaoirleach.

Fostaithe

Is Leas-Phríomh-Oifigeach sa Roinn Dlí agus Cirt í Príomh-Oifigeach Feidhmiúcháin an Bhoird, Paula Connolly Uas., a chaitheann cuid dá cuid ama le dualgais mar Phríomh-Oifigeach Feidhmiúcháin an Bhoird. Tá an Príomh-Oifigeach Feidhmiúcháin freagrach as gnó agus acmhainní an Bhoird a bhainistiú agus a riaradh ó lá go lá. Ní íoctar táille ar leithligh leis an bPríomh-Oifigeach Feidhmiúcháin as a cuid oibre leis an mBord Athbhreithnithe.

Tacaíonn Ardoifigeach Feidhmiúcháin agus Oifigeach Cléireachais, atá ar iasacht ón Roinn Dlí agus Cirt, leis an mBord Athbhreithnithe. Is státseirbhísigh atá ar fhoireann an Bhoird Athbhreithnithe agus íoctar rátaí pá iomchuí na státseirbhíse a bhaineann lena ngrád leo.

Déanann Ionad Seirbhísí Comhroinnte Párolla na Roinne Caiteachais Phoiblí agus Athchóirithe íocaíocht tháillí na gComhaltaí Boird a phróiseáil. Déanann Ionad Seirbhísí Comhroinnte Airgeadais na Roinne Dlí agus Cirt íocaíochtaí eile a phróiseáil.

Formhaoirsiú agus Rialuithe Inmheánacha

I gcomhréir leis an *gCód Cleachtais chun Comhlachtaí Stáit a Rialú, 2016*, thángthas ar Chomhaontú Formhaoirsithe don tréimhse 2020 – 2022 leis an Roinn Dlí agus Cirt agus shínigh an Príomh-Oifigeach Feidhmiúcháin é thar ceann an Bhoird Athbhreithnithe. Leanfaidh an Comhaontú i bhfeidhm go dtí deireadh na bliana 2022, le foráil go ndéanfar é a athbhreithniú agus a nuashonrú tuairim is gach 12 mhí, más gá. Tá an fhoráil '*Comhlíon nó Míinigh*' den Chód Cleachtais curtha i bhfeidhm ag an Roinn maidir leis an mBord Athbhreithnithe. Comhaontaítear sa Chomhaontú go ndéanfaidh an

Príomh-Oifigeach Feidhmiúcháin an Tuarascáil Chuimsitheach a cheanglaítear a thabhairt don Aire, i dteannta Thuarascáil Bhliantúil an Bhoird.

Maidir le rialuithe inmheánacha agus bainistiú priacail, déanann an Príomh-Oifigeach Feidhmiúcháin measúnú bliantúil ar phríomhphriacail an Bhoird agus déantar na priacail a shainaitheann a áireamh ar Chlár Priacail an Bhoird. Ar na príomhphriacail atá sainaitheanta tá éisteachtaí athbhreithnithe gan a bheith curtha i gcrích laistigh den teorainn ama reachtúil agus argóint lag a bheith déanta le linn aon dlíthíocht arna tionscnamh i gcoinne an Bhoird a bheith á cosaint. Trí bhearta maolaitheacha a dhéanamh, táthar á chinntiú go gcuirtear athbhreithnithe i gcrích de réir an dlí, go gcoimeádtar rianúchán ar chásanna agus go soláthraítear mionteagasc cuí do chomhairleoirí dlí an Bhoird chun aon dlíthíocht a chosaint.

Ní mheastar gurb indéanta don Bhord Aonad Iniúcháireachta nó Coiste Iniúcháireachta agus Priacail dá chuid féin a bhunú mar gheall ar mhéid an Bhoird. Ina ionad sin, tá socruithe eile curtha ar bun chun a cheadú don Bhord rochtain a bheith aige ar Aonad Iniúcháireachta Inmheánaí agus ar Choiste Iniúcháireachta agus Priacail na Roinne i ndáil le rialachas airgeadais.

Ní chuirtear ceangal leis an reachtaíocht bhunaitheach ar an mBord Athbhreithnithe Ráitis Airgeadais a thabhairt ar aird. Déanann Príomh-Oifigeach Feidhmiúcháin an Bhoird idirchaidreamh le hIonad Seirbhísí Comhroinnte Airgeadais na Roinne Dlí agus Cirt, agus tugann an tIonad tuarascáil ar ioncam agus caiteachas an Bhoird i dtuarascálacha bainistíochta míosúla na Roinne. Déanann an Príomh-Oifigeach Feidhmiúcháin na tuarascálacha míosúla a choimeád faoi athbhreithniú agus tá

nósanna imeachta curtha ar bun chun a chinntiú go n-údaráítear caiteachas de réir threoirlínte na Roinne.

Foilsíonn an Bord Athbhreithnithe staidreamh iomchuí maidir lena aschur ina Thuarascáil Bhliantúil a chuirtear faoi bhráid an Aire Dlí agus Cirt agus a fhoilsítear ar shuíomh gréasáin an Bhoird. Ag féachaint do mhéid an Bhoird agus don bhonn reachtúil atá lena shainchúram, ar sainchúram é nach n-athraítear mura ndéantar reachtaíocht a leasú, níor measadh gur gá don Bhord plean straitéiseach a ullmhú.

Maidir le sainfháil, cinntíonn an Bord gurb é an gnás tairiscintí iomaíocha a lorg ina phróisis sainfhála. Déanann an Bord Athbhreithnithe aon tairiscintí a sheoladh i gcomhairle la hAonad Sainfhála na Roinne Dlí agus Cirt agus cloíonn an Bord le beartais agus treoirlínte na seirbhíse poiblí maidir le sainfháil.

Tabhair do d'aire:

Tá an t-ábhar seo a leanas le fáil ar shuíomh gréasáin an Bhoird (www.mhclrb.ie)

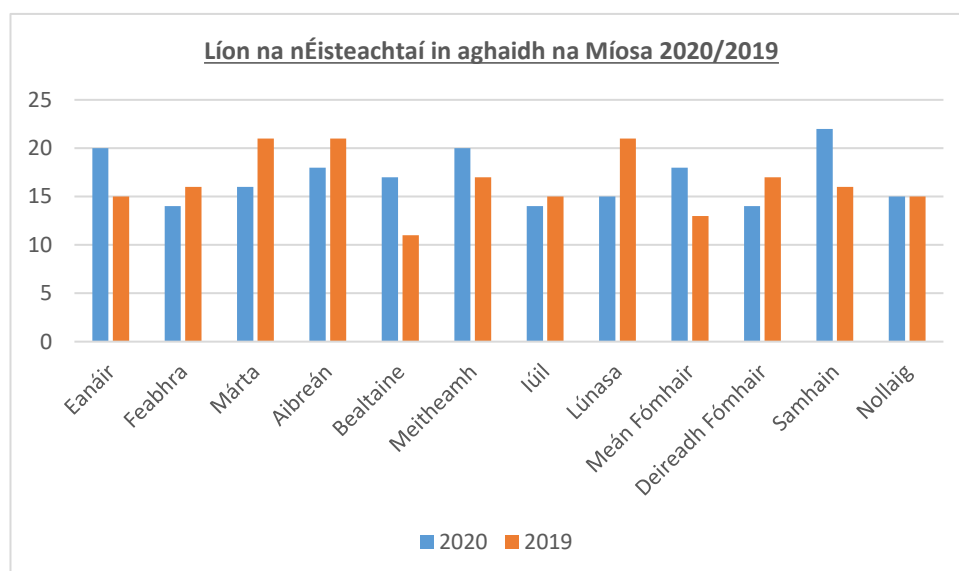
Comhdhlúthú riaracháin ar an Acht um an Dlí Coiriúil (Gealtacht), 2006, arna ullmhú ag an gCoimisiún um Athchóiriú an Dlí; (www.lawreform.ie/fileupload/revisedacts/withannotations/en_act_2006_0011.pdf)

Nósanna Imeachta an Bhoird Athbhreithnithe Meabhair-Shláinte (An Dlí Coiriúil)
<https://www.mhclrb.ie/wp-content/uploads/2020/06/Procedures-MHRB.pdf>

Téarmaí agus Coinníollacha na Scéime um Chúnaimh Dlí Meabhair-Shláinte (An Dlí Coiriúil), 2006
<https://www.mhclrb.ie/wp-content/uploads/2020/06/Terms-Conditions-of-MHCLRB.pdf>

Líon na nÉisteachtaí in aghaidh na Míosa, 2020/2019

Mí	Líon na nÉisteachtaí in 2020	% den Iomlán in 2020	Líon na nÉisteachtaí in 2019	% den Iomlán in 2019
Eanáir	20	10%	15	7%
Feabhra	14	7%	16	8%
Márta	16	8%	21	11%
Aibreán	18	9%	21	11%
Bealtaine	17	8%	11	6%
Meitheamh	20	10%	17	9%
Iúil	14	7%	15	7%
Lúnasa	15	7%	21	11%
Meán Fómhair	18	9%	13	6%
Deireadh Fómhair	14	7%	17	9%
Samhain	22	11%	16	8%
Nollaig	15	7%	15	7%
Iomlán	203	100%	198	100%



Líon na nOthar a Athbhreithníodh in aghaidh Diagnóise in 2020/2019

Diagnóis	Líon na n-othar a athbhreithníodh in 2020	% den Iomlán in 2020	Líon na n-othar a athbhreithníodh 2019	% den Iomlán in 2019
Scitsifréine	60	66%	60	66%
Neamhord Scitseamothachtálach	15	17%	17	19%
Neamhoird eile	15	17%	14	15%
Iomlán	90	100%	91	100%

I measc na Neamhord Eile, tá:

Neamhord Mothachtálach Dé-Pholach

Dúlagar síceoiseach

Neamhord de chuid speictream an uathachais

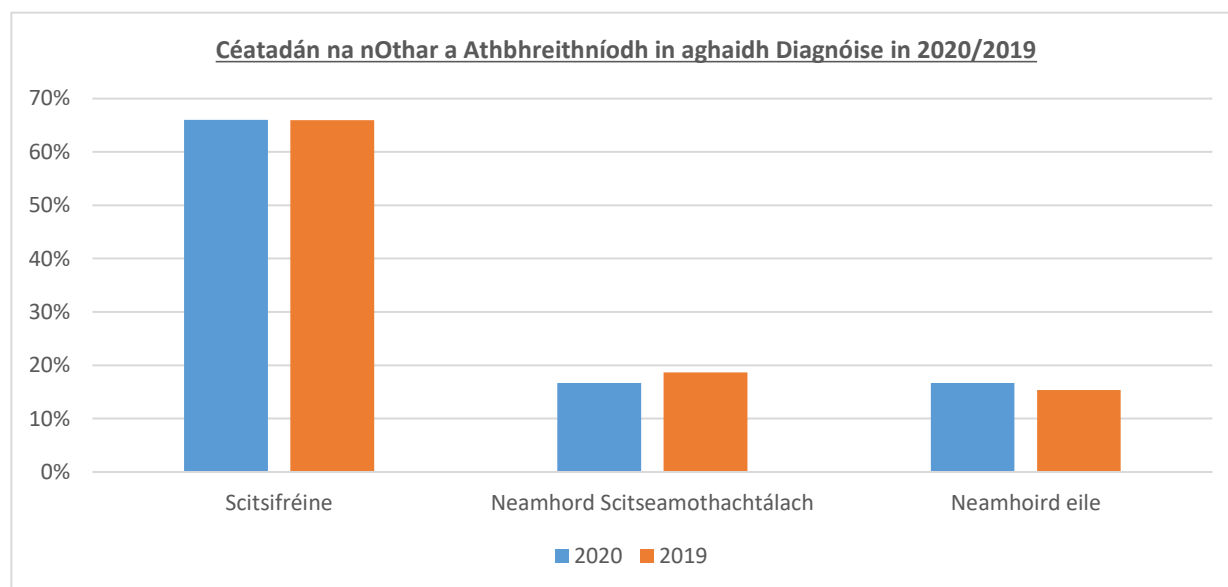
Siondróm Asperger

Síocóis Mhothachtálach

Síocóis Orgánach

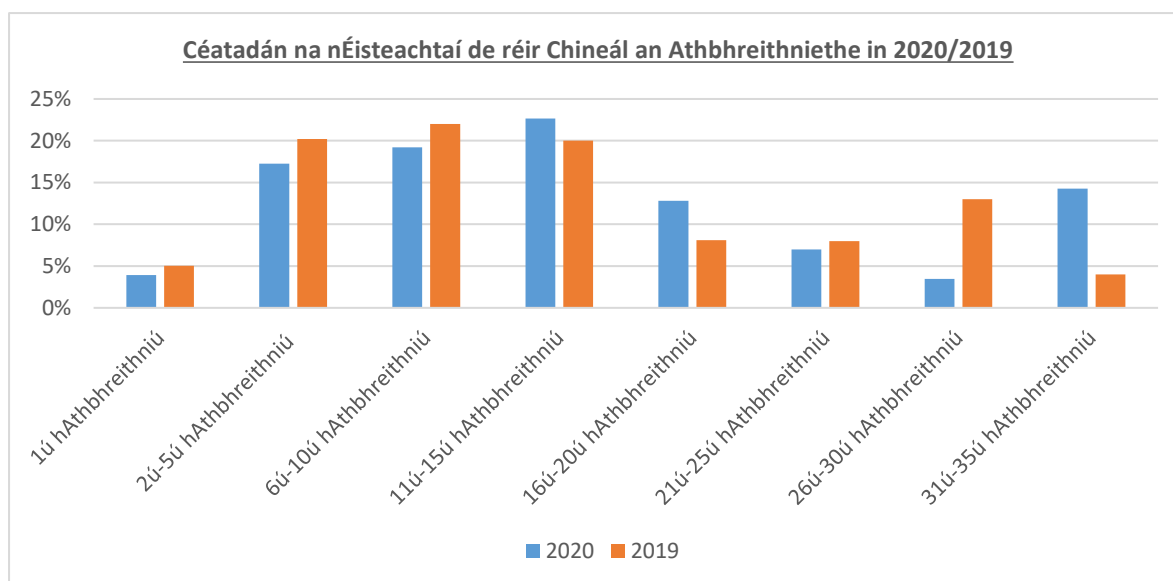
Neamhord Dúlagair Athfhillteach Trom le Gnéithe Síocóiseacha

Taom Síocóise/Géarthaom Síocóise



Líon na nÉisteachtaí in 2020/2019 in aghaidh Chineál an Athbhreithnithe

Cineál an Athbhreithnithe	Líon na Athbhreithnithe in 2020	% den iomlán in 2020	Líon na Athbhreithnithe in 2019	% den Iomlán in 2019
1ú hAthbhreithniú	8	4%	10	5%
2ú-5ú hAthbhreithniú	35	17%	40	20%
6ú-10ú hAthbhreithniú	39	19%	43	22%
11ú-15ú hAthbhreithniú	46	23%	40	20%
16ú-20ú hAthbhreithniú	26	13%	16	8%
21ú-25ú hAthbhreithniú	13	7%	15	8%
26ú-30ú hAthbhreithniú	7	3%	25	13%
31ú-35ú hAthbhreithniú	29	14%	9	4%
Iomlán	203	100%	198	100%

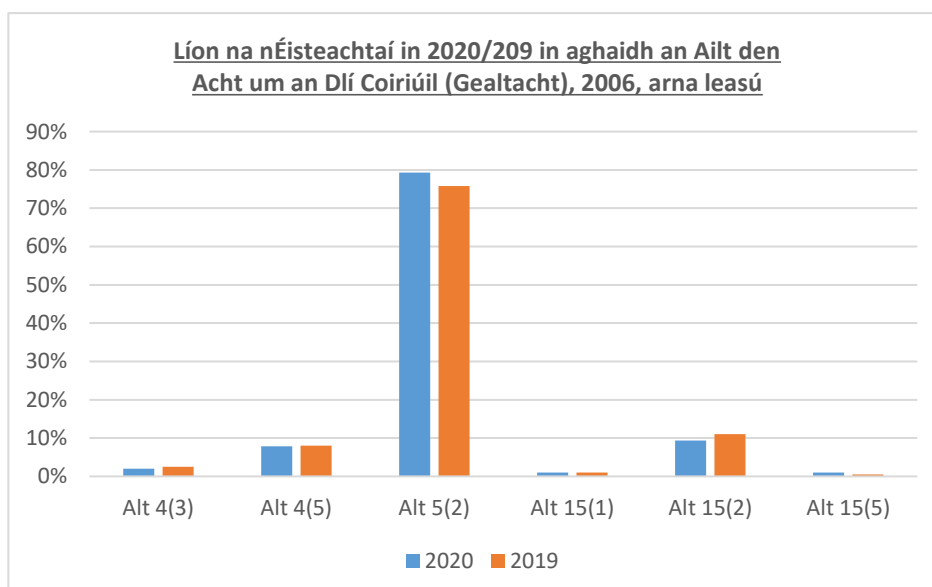


Líon na nÉisteachtaí in 2020/2019 in aghaidh an Ailt den Acht um an Dlí Coiriúil (Gealtacht), 2006, arna leasú

Alt d'Acht 2006	Líon na Éisteachtaí 2020	% na 2020 Iomlán	Líon na Éisteachtaí 2019	% na 2019 Iomlán
Alt 4(3)	4	2%	5	3%
Alt 4(5)	16	8%	17	8%
Alt 5(2)	161	79%	150	76%
Alt 15(1)	1	1%	2	1%
Alt 15(2)	19	9%	23	11%
Alt 15(5)	2	1%	1	1%
Iomlán	203	100%	198	100%

Tabhair do d'aire: Tá othar amháin coinnithe faoi Alt 5(2) agus Alt15(1). Ní dhéantar coinneáil an othair sin a chomhaireamh ach faoi Alt 5(2).

Alt 4(3)	Neamh-inniúil ar Phléadáil, an Cúirt Dúiche
Alt 4(5)	Neamh-inniúil ar Phléadáil, Cúirt Eile
Alt 5(2)	Neamhchiontach de dheasca gealtachta
Alt 15(1)	Aistriú deonach ó Príosún
Alt 15(2)	Aistriú neamhdheonach ó Phríosún
Alt 15(5)	Leanúint d'aistriú deonach ón bPríosún (tar éis diúltú do chúram nó do chóireáil)



**Meánlíon na gCásanna a Sannadh d'Íonadaithe Dlíthiúla
ar an bPainéal um Chúnadh Dlíthiúil in 2020/2019**

Bliain	Líon na nÍonadaithe Dlíthiúla ar an bPainéal	Meánlíon na gcásanna a sannadh	Meánlíon na gcásanna a sannadh An Phríomh-cheathairíl	Meánlíon na gcásanna a sannadh An 2 ^ú & an 3 ^ú Ceathairíl	Meánlíon na gcásanna a sannadh An Bhun-cheathairíl
2020	25**	8	15	9	1
2019	27*	7	13	7	1

* I ndeireadh 2020 bhí 25 comhalta ar an bPainéal. Le linn na bliana, ceapadh comhalta breise amháin.

* I ndeireadh 2019 bhí 24 comhalta ar an bPainéal. Le linn na bliana, ceapadh comhalta breise amháin agus d'éirigh triúr as. Tá na comhaltaí a d'éirigh as san áireamh sna figiúirí de bhrí gur sannadh cásanna dóibh i rith na bliana.

**Líon na nOthar a Urscaoileadh go Coinníollach
in 2020/2019**

Mí an Ordaithe um Urscaoileadh Coinníollach	Líon na nOthar 2020	Líon na nOthar 2019
Feabhra	1	
Márta		1
Aibreán		1
Meitheamh	2	2
Samhain	2	1
Nollaig	1	
Iomlán	6	5

An Cion, nó an Cion Líomhnaithe, ba Thromchúisí a rinne othair a ndearnadh athbhreithniú ar a gcoinneáil in 2020

Cineál an Chiona nó an Chiona Líomhnaithe	Líon na n-othar a cúisíodh, nó a ciontaíodh, i gcion	
Dúnmharú i gcás inar dhuine den teaghlach an t-íospartach i gcás ina raibh aithne ag an othar ar an íospartach i gcás inar strainséir an t-íospartach	41	22 9 10
Iarracht ar Dhúnmharú / Dúnorgain/Tiomáint chontúirteach ba thrúig bháis i gcás inar dhuine den teaghlach an t-íospartach / ina raibh aithne ag an othar ar an íospartach i gcás inar strainséir an t-íospartach	9	5 4
Ionsaí ba thrúig díobhála/mórdhíobhála coirp i gcás inar dhuine den teaghlach an t-íospartach i gcás ina raibh aithne ag an othar ar an íospartach i gcás inar strainséir an t-íospartach	24	5 4 15
Coirloscadh	4	
Eile	12	
Iomlán	90	

Tabhair do d'aire

- 1) Maidir le hothair a ciontaíodh, nó a cúisíodh i níos mó ná cion/cion líomhnaithe amháin, cuireadh i gcatagóir iad de réir an chiona/an chiona líomhnaithe ba thromchúisí.
- 2) I líon beag de na cásanna, bhí níos mó ná íospartach amháin i gceist sa chion inar cúisíodh nó inar ciontaíodh an t-othar.
- 3) Áirítear sa chatagóir “Eile” ionsaí gnéasach, bagairt duine a mharú, ciapadh, príosúnú neamhdhleathach, iarracht leanbh a fhuadach, foghail a dhéanamh agus scian a shealbhú le hintinn díobháil a dhéanamh, sceana a shealbhú agus imeaglú, bagairt Stáisiún Gardaí a chur trí thine.



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

Annual Report 2020

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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 14th Annual Report of the Review Board, which sets out the activities of the Board during 2020.

In 2020, the Review Board was presented with the difficulty of conducting its business having regard to the COVID-19 pandemic, with all of the challenges that this brought. In March the Minister for Justice gave consent for the Review Board to amend its procedures to allow for hearings to be conducted via tele-conferencing. This provided a means by which review hearings could continue, enabling patients and their legal representatives to be heard, while adhering to the national guidelines for the prevention of the spread of the pandemic. The Review Board was also designated by the Minister under Sections 29 and 31 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020, to provide that meetings and hearings of the Board could be conducted remotely.

During 2020, there was a slight increase in the number of review hearings held by the Board. The Board conducted 203 review hearings into the detention of patients detained in the Central Mental Hospital compared with 198 the previous year. The number of patients whose detention was reviewed by the Board was 90 compared with 91 in 2019. Of the 90 patients, six were granted a conditional discharge. By comparison in 2019, five conditional discharges were approved by the Board.

Also in 2020, the Board progressed to holding 33rd, 34th and 35th reviews into the detention of some patients.

The Board received four applications for unconditional discharge in 2020 and there were two outstanding applications from the previous year. Three unconditional discharges were granted by the Board, one application was refused, one hearing was adjourned for further consideration in 2021 and one applicant withdrew his application.

On 6th September 2020 the Board participated in the 5th Annual Justice and Equality Agency Roundtable which was hosted by the Minister for Justice.

I would like to take this opportunity to thank the Executive Clinical Director of the Central Mental Hospital Professor Harry Kennedy and the Clinical Director Dr. Brenda Wright for their assistance during the year. I am aware that the COVID-19 pandemic presented challenges for the hospital in keeping patients and staff as safe as possible, while endeavouring to continue with the normal life of the hospital. I would like to acknowledge the assistance and co-operation of the management and staff in the Central Mental Hospital with arrangements to facilitate the continuation of the work of the Board by remote means during this time. I thank the multi-disciplinary teams for their work in preparing psychiatric reports prior to review hearings. The Board is mindful that this work is time consuming for all involved. The Board is appreciative of the continued co-operation of the consultant psychiatrists, nursing, therapists, social services and administrative staff of the hospital.

I would also like to take this opportunity to wish the staff and patients in the Central Mental Hospital well in 2021 with the planned move of the National Forensic Mental Health Service to its new location in Portrane.

I also thank the members of the Board's Legal Representatives Panel who continue to ably and conscientiously represent patients at their review hearings and for their cooperation in the conduct of review hearings by remote means during 2020.

I thank the staff of the Board Ms. Paula Connolly, Chief Executive Officer, Ms. Catherine Hayes and Ms. Ann Casey for their excellent service to the Board during the year.

Finally, I would like to mention our esteemed former colleague, Dr. Michael Mulcahy, who sadly passed away on the 1st of January 2021. Dr. Mulcahy was a valued member of the Review Board for many years since its establishment in 2006 until his retirement in 2017. He was highly respected for his professionalism coupled with a warm empathy that was appreciated by all.

Iarfhlaith O'Neill
Chairperson

March 2021

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 Review 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 by the Criminal Law (Insanity) Act 2010, the Board has the power to order the continued detention of patients or to order either 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 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.

The Central Mental Hospital, Dundrum, is currently a designated centre under the 2006 Act. In April 2020, one Unit on the new National Forensic Health Service campus in Portrane was also designated under the Act due to the necessity to provide additional accommodation due to the COVID-19 pandemic.

3. REVIEWS BY THE BOARD

The number of patients detained at any one time in the Central Mental Hospital under the Criminal Law (Insanity) Act 2006 Act, as amended, usually varies from between 80 to 90 patients. This number fluctuates 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. However the detention of some of these patients in the Central Mental Hospital may not be reviewed by the Board as they may be transferred back to prison by the Clinical Director prior to having a review hearing.

The Board must review the detention of each patient at intervals of not greater than six months. Therefore, long-term patients usually have two review hearings per year. Outside the regularly scheduled 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 or by the Clinical Director of the Central Mental Hospital. The Minister for Justice can also direct the Board to hold a review into the detention of a prisoner who is involuntarily in the hospital.

During 2020, a total of 90 patients had their detention reviewed by the Board. Of those 90 patients, 10 or 11% were female and 80 or 89% were male. A total of 203 review hearings were held compared with 198 the previous year which is a 2½% increase in the number of review hearings. Of the 90 patients, 66% had been diagnosed as suffering from schizophrenia, 17% were suffering from schizoaffective disorder and 17% were diagnosed with other disorders. This compares with 2019 when 91 patients had their detention reviewed, with 66% having been diagnosed as suffering from schizophrenia, 19% were suffering from schizoaffective disorder and 15% were diagnosed with other disorders. It should be noted that primarily the same core group of patients are reviewed by the Board each year. (Appendices A and B refer).

For the first time, the Board conducted 33rd, 34th and 35th reviews into the detention of some patients in 2020. Of the 203 review hearings, nine were a 33rd review, four were a 34th review and one was a 35th review. A total of 14% of the hearings were at 31st to 35th review stage. 21% of hearings were at 1st to 5th review stage, compared with 25% in 2019. Of these, eight reviews or 4% were a 1st review, compared with 2019 when there were 10 such reviews, which is 5% 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, having been found not guilty of an offence by reason of insanity. In 2020, 161 hearings, which is 79% of the total, were into the detention of patients committed under Section 5(2). The number in this category in 2019 was 150 which is 76% of the total number of hearings that year. Again in 2020 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 9% of review hearings in 2020 compared with 11% in 2019. (Appendix D refers).

4. 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 a non-panel solicitor at their own expense. For continuity for patients, having regard to the fact that they are suffering from a mental disorder, the Board endeavours to assign the same solicitor to represent a patient at subsequent review hearings.

Section 3.6 of the Terms and Conditions of the Review Board's Legal Aid Scheme stipulates that the Legal Representatives Panel will be formally reviewed by the Board every three years. Having regard to this, a review of the Panel of Legal Representatives began in July 2020, the previous review having been completed in 2017. The review was commenced by enquiring of Panel members if they wished to remain on the Panel. Since the previous review, the number of members fluctuated from 27 at the beginning of 2017 to 24 at the end of 2019. By the end of 2020 there were 25 Panel members. The number of patients requiring legal representation during that period also fluctuated from 83 in 2017, 89 in 2018 to 91 in 2019. Based on an analysis of the number of patients and the workload of legal representatives, the Board decided that additional members are not currently required, but is keeping this under review.

At the beginning of 2020 there were 24 solicitors on the Legal Representatives Panel. During the year one solicitor was added to the Panel at the request of a patient who wished to be represented at his review hearing by the solicitor who represented him in criminal proceedings, bringing the total at the end of the 2020 to 25.

The average number of cases assigned to solicitors on the Panel in 2020 was eight. The top quartile of solicitors was assigned an average of 15 cases each, compared with 13 in 2019. The second and third quartiles combined were assigned an average of nine

cases, compared with seven the previous year. The bottom quartile was assigned an average of one case each in 2020 and 2019. (Appendix E refers)

5. ORDERS FOR DISCHARGE

During the reporting period, the Board approved the conditional discharge of six patients from the Central Mental Hospital, compared with five in 2019. The average duration of detention in the hospital for the conditionally discharged patients was seven years. The two shortest durations averaged four years and the two longest averaged 10 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).

Four applications for unconditional discharge were received in 2020 from patients who had been conditionally discharged for 12 months or more. There was also two outstanding applications from the previous year. The Board granted three unconditional discharges in 2020 and one application was refused. One application was withdrawn by the applicant and the hearing of another application was adjourned, to be resumed in 2021.

6. MOST SERIOUS OFFENCE OR ALLEGED OFFENCE

The offences, or alleged offences, which patients detained in the Central Mental Hospital in 2020 were charged with, or convicted of, included murder, attempted murder, manslaughter, assault causing serious bodily harm and arson. Of the 90 patients whose detention was reviewed, 41 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 nine patients were charged with, or convicted of, attempted murder/manslaughter/death by dangerous driving. 24 patients were charged with, or convicted of, assault causing harm/serious bodily harm and four with arson. Other offences include sexual assault, threat to kill, harassment, false imprisonment, attempted abduction of a child, trespass and possession of a knife with the intention to cause harm, possession of knives and intimidation, and threat to set a Garda station alight. (Appendix G refers).

7. LEGAL PROCEEDINGS

As reported last year, an application for leave to appeal the decision of the Court of Appeal was granted by the Supreme Court in October 2019 (*MC v. Clinical Director, Central Mental Hospital and Mental Health (Criminal Law) Review Board (Notice Party)*). The appeal was heard by the Supreme Court in March 2020 and the unanimous judgement of the Court was delivered by Ms. Justice Baker on 4 June 2020. From the Review Board's perspective, this judgement provided clarification of Section 13A of the Criminal Law (Insanity) Act 2006, as amended. The Court said that Section 13A imposes a mandatory obligation on the Clinical Director to put arrangements in place for the conditional discharge of a patient, even if the Clinical Director disagrees with the Board's decision to conditionally discharge. The decision as to whether conditions are to be imposed and the nature of those conditions is expressly a matter for the Review Board (*Supreme Court reference S:AP:IE2019:000136*).

8. **FINANCE INFORMATION**

The Review Board was funded from Subhead B.10 of the Vote of the Office of the Minister for Justice. In 2020, the Review Board received a budget allocation of €288,000. The Board's total expenditure was €304,000. The Board received sanction from the Department's Financial Management Unit for the increased expenditure in 2020. The Review Board adheres to the Public Spending Code. The main expenditure items are as follows:

Board members' fees	*€103,500
Free Legal Aid	€101,645
Chairperson's fee	**€53,156
Legal costs	€39,734

*Includes fees for December 2019 which were paid in January 2020. Does not include fees for December 2020 which are paid in January 2021.

**The Chairman is paid an annual fee of €70,875 in quarterly instalments. The last payment in December 2020 was paid in January 2021

9. **PROCUREMENT**

Tenders for Interpretation Services at Review Hearings

Five, once-off, e-mail tenders were issued by the Review Board in 2020 for the provision of interpretation services for patients at review hearings.

10. **PROTECTED DISCLOSURE**

The Review Board has adopted the Protected Disclosure Policy of the Department of Justice as its policy on protected disclosures in the workplace. In line with reporting requirements, it is confirmed that there were no protected disclosure reports received in 2020.

11. DATA PROTECTION

The Review Board has adopted the data protection policy of the Department of Justice. Because of its size it is not deemed feasible for the Board to appoint its own Data Protection Officer (DPO). The Department's DPO has been appointed as DPO for the Board.

12. PUBLIC SECTOR EQUALITY AND HUMAN RIGHTS DUTY

The Review Board is committed to ensuring it fulfils its responsibilities under Section 42 of the Irish Human Rights and Equality Commission Act 2014 which places a positive obligation on public bodies to have regard, in the performance of their functions, to the need to eliminate discrimination, promote equality of opportunity and protect the human rights of staff and persons to whom services are provided. The Review Board was mindful of this duty in the performance of its functions in 2020.

13. GOVERNANCE AND INTERNAL CONTROLS

Membership and Structure of the Review Board

The Mental Health (Criminal Law) Review Board is a quasi-judicial body which reviews the detention of patients detained in the Central Mental Hospital under the Criminal Law (Insanity) Act 2006. The Review Board is not a governance board. The Board consists of a Chairperson and any number of ordinary members as the Minister for Justice, having consulted with the Minister for Health, may require. The current Chairperson is a retired High Court Judge and there are three ordinary members, two of whom are consultant psychiatrists and one is a counsellor psychotherapist. As

provided by the 2006 Act, Board members are appointed by the Minister for a period of five years. Membership of the Board in 2020 and the date of appointment of members is set out beneath:

Member	Appointed
Mr. Justice Iarfhlaith O'Neill, Chairperson	September 2014 Re-appointed September 2019
Dr. Katherine Brown, Consultant Psychiatrist	May 2017
Ms. Nora McGarry, Counsellor Psychotherapist	September 2011 Re-appointed September 2016
Dr. Elizabeth Walsh, Consultant Psychiatrist	January 2013 Re-appointed January 2018

Gender Balance

The appointment of members of the Review Board is a matter for the Department of Justice and the Board has no input into appointments. As of 31 December 2020, the Review Board had one male (25%) and three (75%) female members.

Attendance at Hearings and Fees

The Review Board usually convenes only for hearings and for pre-hearing discussions. When reviewing the detention of patients, the Board sits in a panel of three, with the Chairperson and at least one consultant psychiatrist always on the panel.

Ordinary members are paid a fee of €250 per review hearing attended. The same fee is paid for attendance at hearings in connection with applications for unconditional discharge and applications to amend or vary conditions of discharge. In 2020 all Board members attended hearings which they were scheduled to attend. Dr. Brown attended 99 hearings, Ms. McGarry attended 209 hearings and Dr. Walsh attended 110 hearings.

The Chairperson chairs all review hearings and hearings to consider applications for unconditional discharge and applications to amend conditions. The Chairperson also advises and guides the CEO in the management of the business of the Board and in managing any legal cases to which the Board is a party. The Chairperson is paid an annual fee of €70,875.

Employees

The Chief Executive Officer of the Board, Ms. Paula Connolly, is an Assistant Principal Officer in the Department of Justice who devotes a portion of her time to the duties of CEO of the Board. The CEO is responsible for the day-to-day management and administration of the business and resources of the Board. The CEO is not paid a separate salary for her work with the Review Board.

The Review Board is supported by a Higher Executive Officer and a Clerical Officer, seconded from the Department of Justice. The staff of the Review Board are civil servants and are paid the appropriate civil service pay rates for their grade.

The processing of the payment of Board members' fees is provided by the Payroll Shared Services Centre of the Department of Public Expenditure and Reform. Other payments are processed by the Financial Shared Services Centre of the Department of Justice.

Oversight and Internal Controls

In accordance with the *2016 Code of Practice for the Governance of State Bodies*, an Oversight Agreement for 2020-2022 was reached with the Department of Justice and

signed on behalf of the Review Board by the CEO. The Agreement remains in force until the end of 2022 with a provision for a review approximately every 12 months and update, if necessary. The '*Comply or Explain*' provision of the *Code of Practice* has been applied by the Department to the Review Board. In the Agreement, it is agreed that the CEO will furnish the required Comprehensive Report to the Minister, in conjunction with the Board's Annual Report.

Regarding internal controls and risk management, the CEO carries out an assessment of the principal risks of the Board on an annual basis and risks identified are included in the Board's Risk Register. Some of the principal risks identified are review hearings not being completed within the statutory time limit and poorly-argued defence of any litigation taken against the Board. Mitigating measures taken are ensuring that reviews are completed in accordance with the law, maintaining tracking of cases and providing appropriate briefing to the Board's legal advisors for the defence of any litigation.

It is not deemed feasible for the Board to establish its own Audit Unit or Audit and Risk Committee because of its size. Instead, alternative arrangements have been put in place to allow the Board to have access to the Department's Internal Audit Unit and Audit and Risk Committee in relation to financial governance.

The Review Board is not required to produce Financial Statements by its founding legislation. The CEO of the Board liaises with the Financial Shared Services Centre of the Department of Justice which reports on the Board's income and expenditure in the Department's monthly management reports. The monthly reports are kept under

review by the CEO and procedures are in place to ensure that expenditure is authorised in accordance with the Department's guidelines.

The Review Board publishes relevant statistics with regard to its output in its Annual Report which is submitted to the Minister for Justice and is published on the Board's website. Having regard to the Board's size and the statutory basis for its remit, which does not change unless legislation is amended, it has not been deemed necessary for the Board to prepare a strategic plan.

Regarding procurement, the Board ensures competitive tendering as standard in its procurement processes. Tendering conducted by the Review Board is done in consultation with the Procurement Unit of the Department of Justice and the Board adheres to public service procurement policies and guidelines.

Note:

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

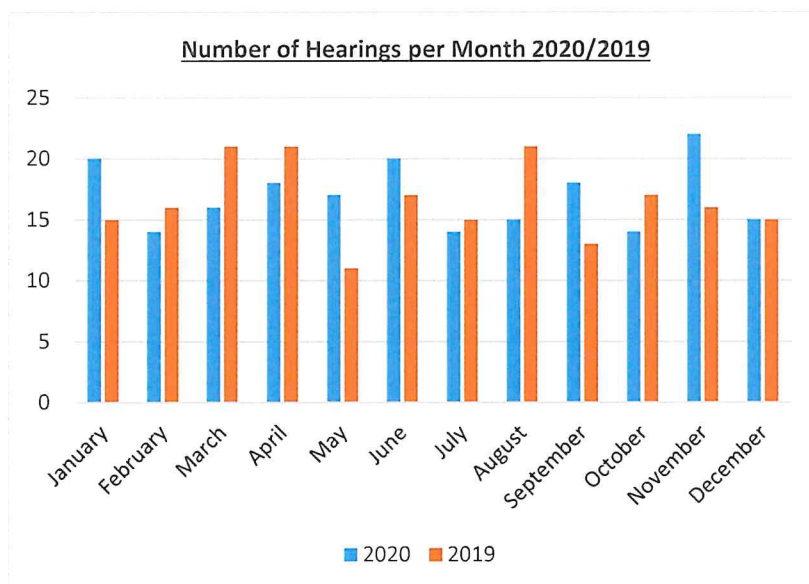
An administrative consolidation of the Criminal Law (Insanity) Act 2006, prepared by the Law Reform Commission; (www.lawreform.ie/fileupload/revisedacts/withannotations/en_act_2006_0011.pdf)

The Procedures of the Mental Health (Criminal Law) Review Board
<https://www.mhclrb.ie/wp-content/uploads/2020/06/Procedures-MHRB.pdf>

The Terms and Conditions of the Mental Health (Criminal Law) Legal Aid Scheme 2006
<https://www.mhclrb.ie/wp-content/uploads/2020/06/Terms-Conditions-of-MHCLRB.pdf>

Number of Hearings per Month 2020/2019

Month	No. of Hearings 2020	% of 2020 Total	No. of Hearings 2019	% of 2019 Total
January	20	10%	15	7%
February	14	7%	16	8%
March	16	8%	21	11%
April	18	9%	21	11%
May	17	8%	11	6%
June	20	10%	17	9%
July	14	7%	15	7%
August	15	7%	21	11%
September	18	9%	13	6%
October	14	7%	17	9%
November	22	11%	16	8%
December	15	7%	15	7%
Total	203	100%	198	100%



Number of Patients Reviewed per Diagnosis in 2020/2019

Diagnosis	No. of patients reviewed 2020	% of 2020 Total	No. of patients reviewed 2019	% of 2019 Total
Schizophrenia	60	66%	60	66%
Schizo-Affective Disorder	15	17%	17	19%
Other Disorders	15	17%	14	15%
Total	90	100%	91	100%

Other Disorders include:

Bi-Polar Affective Disorder

Psychotic Depression

Autistic Spectrum Disorder

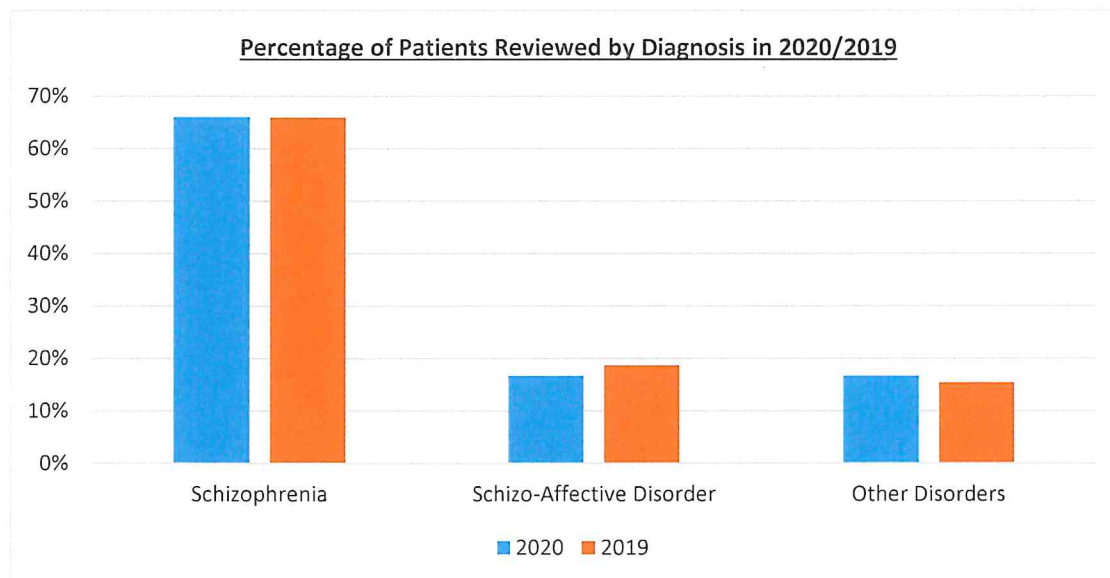
Asperger's Syndrome

Affective Psychosis

Organic Psychosis

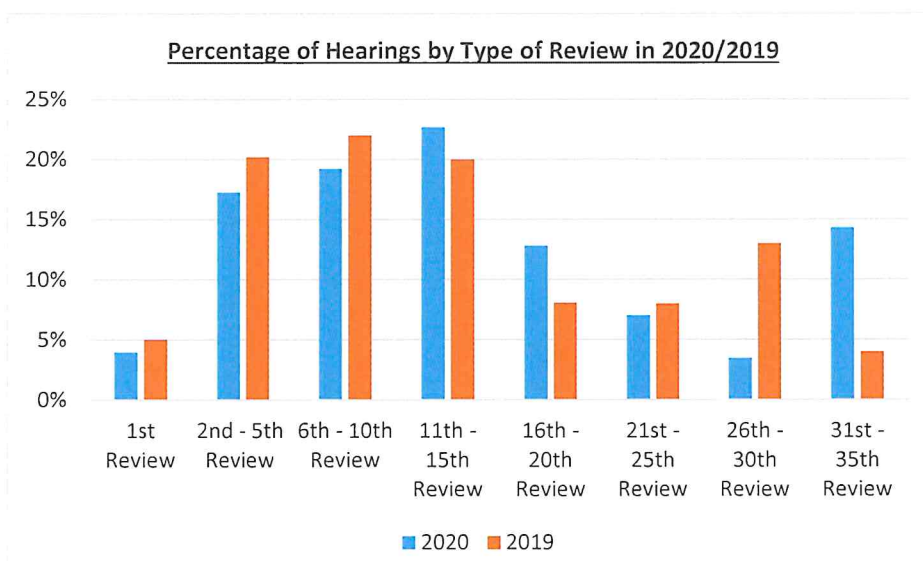
Recurrent Severe Depressive Disorder with Psychotic Features

Psychotic Episode / Acute Psychotic Episode



Number of Hearings by Type of Review in 2020/2019

Type of Review	No. of Reviews 2020	% of 2020 Total	No. of Reviews 2019	% of 2019 Total
1st Review	8	4%	10	5%
2nd - 5th Review	35	17%	40	20%
6th - 10th Review	39	19%	43	22%
11th - 15th Review	46	23%	40	20%
16th - 20th Review	26	13%	16	8%
21st - 25th Review	13	7%	15	8%
26th - 30th Review	7	3%	25	13%
31st - 35th Review	29	14%	9	4%
Total	203	100%	198	100%

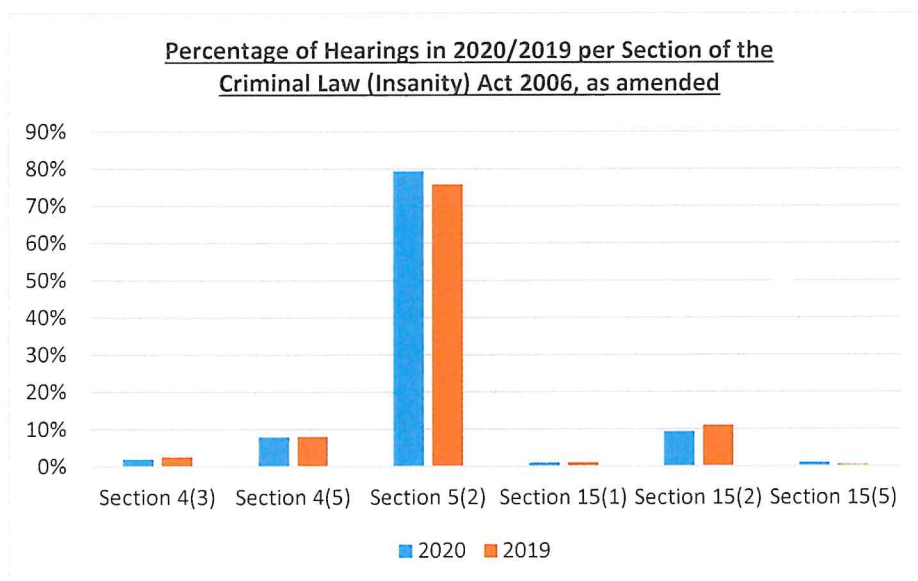


**Number of Hearings in 2020/2019 per Section of the
Criminal Law (Insanity) Act 2006, as amended**

Section of 2006 Act	No. of Hearings 2020	% of 2020 Total	No. of Hearings 2019	% of 2019 Total
Section 4(3)	4	2%	5	3%
Section 4(5)	16	8%	17	8%
Section 5(2)	161	79%	150	76%
Section 15(1)	1	1%	2	1%
Section 15(2)	19	9%	23	11%
Section 15(5)	2	1%	1	1%
Total	203	100%	198	100%

Note: One patient is detained under Section 5(2) and Section 15(1). The detention of that patient is counted under Section 5(2) only.

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 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 2020/2019**

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
2020	25**	8	15	9	1
2019	27*	7	13	7	1

**At the end of 2020 there are 25 Panel members. During the year one additional member was appointed.

* At the end of 2019 there were 24 Panel members. During the year one additional member was appointed and three resigned. The members who resigned are included in the figures as they were assigned cases during the year.

**Number of Patients Conditionally
Discharged in 2020/2019**

Month of Conditional Discharge Order	No. of Patients 2020	No. of Patients 2019
February	1	
March		1
April		1
June	2	2
November	2	1
December	1	
Total	6	5

**Most Serious Offence or Alleged Offence of patients whose
detention was reviewed in 2020**

Type of Offence or Alleged offence	No. of patients charged with, or convicted of, offence	
Murder	41	
of which victim was family member		22
of which victim was known to patient		9
of which victim was stranger		10
Attempted Murder / Manslaughter/Death caused by dangerous driving	9	
of which victim was family member/known to patient		5
of which victim was stranger		4
Assault causing harm/serious bodily harm	24	
of which victim was family member		5
of which victim was known to patient		4
of which victim was stranger		15
Arson	4	
Other	12	
Total	90	

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 offence with which a patient was charged, or convicted.
- 3) The category "**Other**" includes sexual assault, threat to kill, harassment, false imprisonment, attempted abduction of a child, trespass and possession of a knife with intent to cause harm, possession of knives and intimidation, threat to set a Garda station alight.