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Cardiff and Vale
University Health Board

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MENTAL HEALTH REVIEW TRIBUNAL FOR WALES GUIDANCE

Introduction and Aim

This policy has been developed in line with the Mental Health Act (MHA) 1983 (2007), the Human Rights Act 1998, the Mental Health Review Tribunal for Wales rules 2008, the MHA Regulations 2008 and the MHA Code of Practice for Wales.

Objectives

This document is required to ensure correct procedures are followed in relation to all aspects of MHRT proceedings in accordance with the MHA 1983 and the MHRT for Wales rules 2008.

Scope

This policy is applicable to all employees involved in MHRT proceedings as well as students who may observe Tribunal hearings. This could also be shared with universities where the UHB supports clinical placement.

Equality Impact Assessment

Not required for procedural guidance

Health Impact Assessment

A Health Impact Assessment (HIA) has not been completed

Documents to read alongside this Procedure

Mental Health Act 1983
Mental Health Act 2007
Mental Health Act 1983, Code of Practice for Wales
Mental Health (hospital, guardianship, community treatment and consent to treatment) (Wales) regulations 2008
Mental Health Review Tribunal for Wales rules 2008
The European Convention on Human Rights

Approved by

Mental Health Act Policy Group
Mental Health Clinical Board Quality & Safety Committee

Accountable Executive or Clinical Board Director

Mental Health Clinical Board

Disclaimer

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the [Governance Directorate](#).

Summary of reviews/amendments			
Version Number	Date Review Approved	Date Published	Summary of Amendments
1	10/12/2015		<i>State if either a new document, revised document (please list main amendments). List title and reference number of any documents that may be superseded</i>
2	12/11/2018	28/10/2019	<i>Format of reports – should be a social worker who provides the social circumstance report. CTO replaces SCT. Mental Health (Wales) Measure 2010 replaces Care Programme Approach.</i>
3	21/11/2023	23/04/2024	<i>Added the new application appeal form as it includes tick box for patient to choose the format of the hearing (appendix 2). Added the form ‘request to withdraw an application to the Mental Health Review Tribunal for Wales’ (appendix 3). Added a nursing report template (appendix 4). Expanded on paragraphs throughout for clearer clarity and understanding.</i>

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1. Introduction

The Mental Health Review Tribunal for Wales is an independent judicial body which deals with applications and references by and in respect of qualifying patients detained under the Mental Health Act (MHA), and provides a significant safeguard for detained patients and guidance on the role of the Mental Health Review Tribunal for Wales and the duties placed on the Hospital Managers and others.

2. Information to patients and their nearest relative

When a patient is detained under a qualifying section of the MHA, the Hospital Managers and local social services authority (LSSA) have a duty to ensure that the patient and their nearest relative have been informed of:

- Their rights to apply to the Mental Health Review Tribunal for Wales
- The role of the Mental Health Review Tribunal for Wales
- How to apply to the Mental Health Review Tribunal for Wales
- Their entitlement to free legal advice and representation
- How to contact a suitably qualified solicitor (a list of solicitors who undertake work specifically for the Mental Health Review Tribunal for Wales is available on each ward)
- How to contact any other organisation which may be able to help them make an application to the Mental Health Review Tribunal for Wales
- Their right of access to Advocacy Support Cymru

3. Hospital Managers' duties

The Hospital Managers have a duty to refer cases to the Mental Health Review Tribunal for Wales where patients have not exercised their right to apply for a hearing as set out in Section 68 of the MHA. Hospital Managers or those delegated to undertake this duty on their behalf should ensure that there are robust systems in place to alert them to when references need to be sent to the Mental Health Review Tribunal for Wales.

Hospital Managers must refer cases where:

- Detention under Section 2 is extended pending a decision by the County Court to displace a nearest relative under Section 29;
- If the case has not been heard in the first six months or after three years for patients detained under section 3 or 37;
- As soon as possible after the revocation of a patient's Community Treatment Order (CTO);
- References by Welsh Ministers may take place at any time for qualifying patients under Part 2 of the Act (including CTO patients) and unrestricted Part 3 patients.

The Secretary of State for Justice may at any time refer the case of a restricted patient to the Mental Health Review Tribunal for Wales.

A patient cannot withdraw a reference made to the Mental Health Review Tribunal for Wales by the Hospital Managers, Welsh Ministers or Secretary of State for Justice. However, a

patient may withdraw an appeal application by completing a 'Request to withdraw an application to the tribunal' form (see Appendix 3 below). The President will either deny or approve the withdrawal request. The hearing will only be cancelled if the withdrawal has been accepted by the President.

The Hospital Managers should notify the Mental Health Review Tribunal for Wales in the case of a patient who does not have the capacity to instruct a legal representative to represent their case. The Tribunal will assign a legal representative on behalf of the patient in accordance with rule 13 (5)(b)(ii).

4. Role of responsible clinician, social worker/care coordinator at Tribunal hearings

The responsible authorities (the Hospital Managers or the responsible LSSA for a guardianship patient) will be required to produce reports on the patient's mental and physical health. The request for reports will be initiated by the Mental Health Review Tribunal for Wales via the Mental Health Act office, who will write to the responsible clinician, social worker, nursing staff and potentially others to provide reports within 3 days for Section 2 applications and three weeks for all other Sections from the date of the application, at the latest.

To comply with the Mental Health Review Tribunal for Wales rules, reports must be submitted by the due date. Failure to submit reports by the due date may result in a direction from the President of the Mental Health Review Tribunal for Wales. It could also result in the postponement or adjournment of the hearing. If a professional requires an extension of the report due date, this can be requested from the Mental Health Review Tribunal for Wales (MHRT@gov.wales), copying in the Mental Health Act office.

5. Format of reports

In accordance with Mental Health Review Tribunal for Wales rules, information contained within the report must be accurate and up to date. Reports should comprise of no more than one addendum to a previous report and when submitting addendums, it must include a sentence stating "to be read in conjunction with report dated", with the addendum accompanied by the previous/ original report. All reports should have the authors signature and date of signature.

All reports should have the following included on the front page:

- Name of patient;
- Date of birth;
- Legal status;
- Name and grade of professional writing the report;
- Date report completed.

Reports should take the following non-exclusive format:

The responsible clinicians report should include:

- An up-to-date clinical report, prepared for the Tribunal, including the relevant clinical history and a full report on the patient's mental condition;
- The report should also address the statutory criteria relating to the Section to which the patient is subject and the reason why any particular criterion is being relied upon to justify the continuation of the Section.

The social circumstances report should include:

- The patient's home and family circumstances, including the views of the patient's nearest relative or the person acting so;
- The opportunities for employment or occupation and the housing facilities which would be available if the patient were discharged;
- The availability of community support and relevant medical facilities;
- The financial circumstances of the patient;
- The views of the responsible authority on the suitability of the patient for discharge;
- Where provisions of Section 117 MHA may apply to the patient, a proposed after care plan;
- Any other information or observations on the application which the responsible authority wishes to make.

The nursing report should include:

- Current medication including PRN and compliance;
- Events leading to detention (if an inpatient at the time);
- Any relevant information concerning the nearest relative/family/friends e.g. how the patient interacts with them, how supportive they are and would they be if the patient were to be discharged etc.;
- Patients behaviour on the ward;
- Interaction with other patients/staff;
- Any occupational therapy, physiotherapy, speech and language, psychotherapy or activity nurse involvement;
- How the patient spends their day;
- Brief summary of time spent off ward i.e. within the hospital building/ hospital grounds or Section 17 leave escorted or unescorted;
- Has the patient been AWOL;
- Is the patient at risk of self-harm or suicide – provide details of how you reached this opinion. How are the risks managed;
- The nursing team's opinion if the patient would remain in hospital and accept prescribed medication as an informal patient;
- Please state if the content of this report has been shared with the patient.

Any information which is not to be disclosed to the patient should be written on a separate sheet clearly headed "NOT TO BE DISCLOSED TO THE PATIENT".

The social circumstance report should be provided by a social worker. However, if there is no social work involvement and the report is written by the care coordinator (who is not a social worker), the social work lead for the team the patient is allocated to is required to review the report, sign and date it. However, if there is joint Section 117 responsibility, the local authority should complete a report and attend the hearing.

It is important that all reports are dated and signed and are headed with the patient's name, address, date of birth and name of report writer.

When considering relevant patients' cases, the Mental Health Review Tribunal for Wales will expect to be provided with information from the professionals concerned on what after-care arrangements might be put in place for them. After-care for all patients admitted to hospital for treatment for mental disorder should be planned within the framework of the Mental Health Wales Measure (2010) whether or not they are detained or will be entitled to receive after-care under Section 117.

The onus is on the detaining authority to prove the criteria for continued detention is met.

Guidance on statements and reports, including content and layout is available on the Mental Health Review Tribunal for Wales [website](#).

All reports must be sent to the Mental Health Act office by the report due date, unless an extension has been agreed by the Mental Health Review Tribunal for Wales.

6. Content of statements from Responsible Authority and Secretary of State

The responsible authority must send the 'Statement A' to the Mental Health Review Tribunal for Wales office within a reasonable period after receiving the application or reference. This is done by the Mental Health Act office.

The statement provided must include specific information dependent on the legal status of the patient.

7. Tribunal Hearing

The Mental Health Review Tribunal for Wales will set a date for the hearing to take place. The date will be within seven days from receipt of an application for Section 2, eight weeks from receipt of an application for Section 3, 37, 47, CTO and Ministry of Justice recalls, and within 20 weeks of an application for restricted cases. The confirmed date will be sent to all professionals involved as stated on the Statement A and the Mental Health Act office.

The patient has the choice to decide what format the hearing will be – either via video conference, face to face or no preference. The default method will be face to face however, the patient can change their mind up to 2 weeks before the hearing date. Once the method of hearing and venue has been confirmed, this will be sent out to all professional involved as stated on the Statement A.

The responsible clinician and other staff involved in the patient's care must attend the full hearing so they are aware of all the evidence and the decision. The patient should attend the hearing with their relative, carer, solicitor and/or Independent Mental Health Advocate, if they wish.

A request to withdraw an application must be in accordance with Mental Health Review Tribunal for Wales Rule 22(1) – guidance available on the Mental Health Review Tribunal for Wales [website](#).

8. Interpreters

Where necessary, the Mental Health Review Tribunal for Wales will provide interpretation services free of charge for patients. They should be informed as soon as possible if the patient, their nearest relatives and/or their representatives require such services.

9. Attendance at Tribunal hearings

It is important that the responsible clinician, social worker, nursing staff and other relevant staff involved in the patient's care attend for the full hearing, as their evidence will be crucial in the decision reached by the Mental Health Review Tribunal for Wales as to whether the patient still meets the criteria for continued detention or community treatment order under the MHA.

Patients do not need to attend the hearing but should be encouraged to do so, unless it would be detrimental to their mental health or wellbeing.

10. Domestic Violence, Crime and Victims Act 2004

The Domestic Violence, Crime & Victims Act 2004 sections 35-45 allows victims of persons convicted of a sexual or violent offence where the person is made subject to a hospital order (with or without restrictions), hospital limitation and direction orders, transfer direction without

restrictions or restriction direction, to receive information about discharge arrangements for the patient and make representations to the Tribunal via the Victim Liaison Office (VLO).

Professionals should encourage (but cannot require) mentally disordered offenders to share information that will enable victims and victims' families to be informed about their progress. The DVCV Act 2004 also places a duty on hospital managers, this responsibility has been delegated to responsible clinicians, in relation to certain Part 3 patients who have committed sexual or violent crimes, which includes liaising with victims in order to:

- Advise victims if the patient's discharge is being considered or if the patient is about to be discharged;
- Forward representations made by victims to people responsible for making decisions on discharge or CTO and passing information received from those people;
- Inform victims who have asked to be told, if the patient is to go onto a CTO and of any conditions on the CTO relating to contact with them or their family, any variation of the conditions, and the date on which the order will cease; and
- Inform responsible clinicians of any representations made by the victim about the conditions attached to CTO.

11. Decision of the Tribunal

The decision will be communicated verbally to all parties that attended the hearing at the end (although the Mental Health Review Tribunal for Wales may also reserve its decision) if the hearing is face to face. The Mental Health Act office will be notified of the decision for Section 2 face to face hearings by the attending clerk. The Mental Health Act office will receive a 'verbal' decision along with any recommendations stated, via e-mail within 24 hours if the hearing is via video conference or a face to face Section 3 hearing. This will be forwarded to all professionals involved as stated on the Statement A. A formal written decision including the reasons for the decision will be sent out at a later date, usually within 3 days for a Section 2 and within seven days for all other Sections.

12. Appeals

The Upper (First-tier) Tribunal will consider applications for permission to appeal against a Tribunal decision on a point of law under section 78A of the Mental Health Act 1983. The Tribunal office must receive a written application no later than 28 days after the date of the written decision.

The Tribunal may grant permission to appeal, but must comply with Rule 5(b) in the event that permission is refused.

13. Complaints

Complaints from service users about the Mental Health Review Tribunal for Wales should be sent to the Tribunal office:

Address –

Mental Health Review Tribunal for Wales
2nd Floor
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Phone –
0300 025 5328

E-mail –
MHRT@gov.wales

Mental Health Review Tribunal Applications and referrals eligibility table			
Section	Application by patient	Application by nearest relative	Automatic reference by Hospital Managers (section 68), Welsh Ministers or Secretary of State for Justice (section 67)
Section 2 Admission for assessment	Within the first 14 days	No right to apply	Not applicable
Section 3 Admission for treatment	Within the first six months of detention, during next six months and then during each subsequent period of one year.	Within 28 days from the Responsible Clinician issuing a report barring their request to discharge the patient.	If no MHRT in the first six months of section (including any time detained under section 2 if it runs consecutively and no appeal held), then every three years. One year for a child under 18 years of age.
Section 7 Reception into guardianship	Within the first six months of reception, during next six months and then yearly.		
Section 19 Transfer from guardianship to hospital	Within six months of the day on which the patient was transferred.		If no MHRT in first six months of transfer; thereafter every three years.
Section 17A Community Treatment Order	Within the first six months of supervision, during next six months and then yearly.	Within the first six months of supervision, during next six months and then yearly.	If patient has not applied within the first six months, then every three years. One year from date case last considered.
Section 29 Nearest relative displaced by Court (Part 2 patients only)		Within one year after Court orders displacement and subsequently in each period of a year for which order is in force.	Welsh Ministers may be asked to refer the patient to the Tribunal under section 67.
Section 37 Hospital Orders without restrictions	Between six and 12 months of the Order and then yearly.	Between six and 12 months of the Order and then yearly.	If three years have elapsed since last MHRT (one year for patients under age 18).
Section 37 Guardianship Order (by Court)	Within first six months of Order, during next six months and then yearly	Within one year of Order being made and then in each period of one year.	
Restricted Hospital Order (s.37/41) and CP I (5)	Between six and 12 months after the making of the order or direction and then yearly		Reference by Secretary of State for Justice if no appeal within the last three years.
Recall of a conditionally discharged patient	Between six and 12 months period of re-admission, then each subsequent 12 month period.		Reference by Secretary of State for Justice within one month of recall to hospital.
Restricted patient who has been conditionally discharged	Between one and two years after conditional discharge and then every subsequent two-year period thereafter.		

Section 17F Revocation of CTO	Within first six months of the order being revoked.		The Hospital Managers must refer the case as soon as possible after the CTO is revoked.
Transfers of prisoners with restrictions	Within first six months of warrant being made, six monthly then yearly.		Reference by Secretary of State for Justice if no appeal within the last three years.

MHRTW-01

Tribiwnlys Adolygu | Mental Health Review Iechyd Meddwl Cymru | Tribunal for Wales

Application Form Subject to a Section of the Mental Health Act 1983

It is important that you read our guidance booklet **How to apply to the Tribunal (MHRTW-06)** before filling in this form.

If printed, please write clearly in **BLACK** ink.

Please complete this form as far as you are able. If you require assistance, please ask the ward staff, your advocate, social worker, care co-ordinator or legal representative. This application form is also available in Welsh.

The Mental Health Review Tribunal for Wales welcomes receiving correspondence in Welsh or English. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding. The Tribunal also welcomes phone calls in Welsh or English. You may submit forms, documents and make written representations to the tribunal in Welsh or English and your hearing can be held in Welsh if you wish.

Please put a tick in the appropriate box to confirm your language of choice.

Welsh English

Section 1 – Your Information

Title: Surname: First names:

Date of Birth:

Section or Order of the Mental Health Act to which you are subject:

Date the Section/Order commenced:

Hospital / Current Address (including postcode):

Ward Name:

Name of Responsible Clinician:

Section 2 – Information about your Legal Representative

You do not have to have a legal representative, but if you do, please provide their details below:

Title: **Surname:** **First Names:**

Email address:

Address (including postcode):

Telephone:

I do not want to be legally represented:

I wish to be legally represented, please send a list of mental health solicitors:

Section 3 – Tribunal Hearing Preferences

How would you prefer to have your tribunal hearing conducted? (Please tick)

In person

By video

No preference

Whilst the Tribunal will attempt to arrange hearings in accordance with your preference, this cannot always be guaranteed.

Section 4 – Your signature

This application must be signed by you (or someone you have authorised to sign on your behalf)

Signed

Print Name

Date

If you are signing on behalf of the applicant named in Section 1, please confirm they have authorised you to do so and confirm your relationship to them.

I confirm that the applicant named in Section 1 has authorised me to sign on their behalf (tick)

Relationship to applicant

Section 5 - Sending us the application

Once you have filled in this form, please make sure that you have made a copy of it for your own records and that you have signed it.

Please send the application to us at:

Mental Health Review Tribunal for Wales
PO Box 1134
Cardiff
CF11 1WX

Alternatively, the form can be submitted via email MHRTApplicationsReferrals@gov.wales

If you need to contact us by telephone our number is: **0300 025 5328**

Tribiwnlys Adolygu | **Mental Health Review**
Iechyd Meddwl Cymru | **Tribunal for Wales**

REQUEST TO WITHDRAW AN APPLICATION TO THE TRIBUNAL

Please complete this form as far as you are able.
 If you require assistance please ask the ward staff, your advocate,
 social worker, CPN or legal representative

1. APPLICANT'S DETAILS

Title:	Mr / Mrs / Ms / Miss (delete as applicable)	Other:
Full name:		
Date of Birth:		Section:
		Date Section commenced:
Hospital/Current Address:		
Ward Name:		Responsible Clinician's Name:

2. LEGAL REPRESENTATIVE'S DETAILS

Legal representative's name and address: (if applicable)	
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3. APPLICATION TO WITHDRAW (to be completed by patient)

I wish to withdraw my application to the Tribunal.

Reasons:

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.....P.T.O

3. (continued)

I confirm that:

- a. I make this request to withdraw my application of my own free will,
- b. I am aware of my right to free legal representation, and
- c. I have taken the advice of my legal representative whose details are given above in relation to this application or
- d. I do not wish to be legally represented but I am aware of my rights under the Mental Health Act to make a further application to the Tribunal within the statutory time limits.

Signature:

Name:

Date:

4. To be completed by Legal Representative

I confirm that I have interviewed my client (name) _____ who has instructed me that (s)he wishes to withdraw her/his application to the Tribunal which was made on (date) _____ for the Reasons given in Section 3 above. I confirm that I have advised my client of her/his rights under the Mental Health Act 1983 (as amended) and that I am satisfied that her/his application is made with understanding of those rights and without coercion or undue influence from any other person or body.

Any other relevant information:

Signed:

Name:

Date:

5. Sending us the withdrawal request

Once you have completed and signed this form please send it to:

MHRT Wales
2nd Floor
Crown Building
Cathays Park
Cardiff, CF10 3NQ Or:

e-mail it to: mhrt@wales.gsi.gov.uk

Contact number: 03000255328

Fax: 03000256331

Nursing Report: Mental Health Review Tribunal/Managers Hearing	
Name of the Patient	
Date of Birth and Age	
Status under the MHA	
Date Section Commenced	
Name of Ward and Specialty	
Current Home Address	
Primary Nurse	
Responsible Clinician	
Name and designation of Author	
Independent Mental Health Advocate (include involvement)	
Communication requirements (Eg is an interpreter required, sign language used)	
Sources of information used in completing the report	

1. Are there any factors that might impact on the patient's understanding or ability to participate in the tribunal/hearing? Are there any additional adjustments that could be considered to facilitate a fair hearing?	
2. Describe the nature of nursing care being delivered, including medications, care plans and indicate the level of engagement and compliance the patient demonstrates.	
3. What are the levels of nursing observations for the patient? Please give rationale.	
4. Please describe the patient's social network, levels of support and the nature of relationships with family and friends, as an inpatient and when in the community.	
5. What professional support is available to the patient when in the community?	
6. Summarise the patients progress. Please consider: insight, behaviour on ward, activities of daily living, daily structure, levels of engagement with treatment, interactions with staff and peers.	
7. What are the patient strengths?	
8. Has the patient ever been absent without official leave or failed to return from leave? Please provide dates. Describe the patient views of these incidents.	
9. Has the patient engaged in violence or aggression to property or person? Please give details.	
10. Has the patient harmed themselves or expressed suicidal ideation? Please give details.	
11. Please state the nursing view of future engagement, risks and compliance if the patient were to be discharged from hospital. Include medication compliance, engagement with professional services, whether the patient would be a risk to themselves or others and how risks might be mitigated.	
12. Please state the nursing recommendations to the Tribunal/Hearing.	
Signed, including designation:	
Dated:	