

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

Guidance The Tribunal's Powers

Mental Health Review Tribunal for Wales
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The legal criteria which the tribunal must consider are detailed below.

The Tribunal shall discharge the section or order to which you are subject, if:

Section 2

It is **not** satisfied:

- that you are suffering from mental disorder of a nature or degree which warrants your detention in a hospital for assessment or assessment followed by medical treatment, or;
- that your detention is justified in the interests of your own health or safety, or with a view to the protection of others.

Sections 3 or 37 or 37N

It is **not** satisfied:

- that you are suffering from mental disorder of a nature or degree which makes it appropriate for you to be detained in hospital for medical treatment, or;
- that it is necessary for your health or safety or for the protection of others that you should receive such treatment or;
- that appropriate medical treatment is available for you or;

Where the application was made by your nearest relative it is **not** satisfied that:

- if released you would be likely to act in a manner dangerous to others or yourself.

If the Tribunal decides that you are not ready for discharge, in order to facilitate your discharge on a future date, the Tribunal can recommend that:

- you be granted leave of absence
- you be transferred to another hospital
- you be transferred into guardianship
- your RC considers whether to make a community treatment order

Furthermore, if that recommendation is not complied with, the Tribunal can reconvene to reconsider your case

Section 17A

It is **not** satisfied

- that you are suffering from mental disorder of a nature or degree which makes it appropriate for you to receive medical treatment, or;

- that it is necessary for your health or safety or for the protection of others that you should receive such treatment, or;
- that it is necessary that the responsible clinician should be able to recall you to hospital or;
- that appropriate medical treatment is available for you;

Where the application was made by your nearest relative, it is **not** satisfied:

- that if released you would be likely to act in a manner dangerous to others or yourself.

Other powers to discharge Section 3, 17A or 37

- In exceptional circumstances, and if you are subject to Section 3, or 17A, or 37, the Tribunal has an additional power to discharge the section or order even if the legal criteria above are not met. This is known as a discretionary power.

Guardianship Orders (Sections 7 or 37)

It **is** satisfied:

- that you are not suffering from mental disorder or;
- it is **not** necessary in the interests of your welfare or for the protection of others that you should remain subject to Guardianship.

Section 37/41 or Section 5 CPI (restricted)

The Tribunal shall discharge you subject to conditions

It is **not** satisfied:

- that you are suffering from mental disorder of a nature or degree which makes it appropriate for you to be detained in hospital for medical treatment, or;
- that it is necessary for your health or safety or for the protection of others that you should receive such treatment or;
- that appropriate medical treatment is available for you **and**;

It **is** satisfied:

- that you should remain liable to be recalled to hospital for further treatment.

If the Tribunal is **not** satisfied that you should remain liable to be recalled to hospital for further treatment, it shall discharge you absolutely.

Section 41 (Conditionally Discharged)

The Tribunal can vary the conditions to which you are subject, or if it is not satisfied that you should remain liable to be recalled to hospital for further treatment, it shall discharge you absolutely.

Restriction Directions (transfer from prison)

(Section 47/49, 48/49) The Tribunal has no power to discharge you. It can only notify the Ministry of Justice what it would do if it did have such a power. The Secretary of State then has ninety days in which to consider the Tribunal's findings.

This document 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 Mental Health Review Tribunal in Welsh or English.