

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

Eligibility Table

Applications by the Patient

Part 2 - Patients in Hospital	If	When	Notes
Patients detained for 28 day assessment (section 2 or 4)		A patient may apply once during the 14-day period starting on the day the patient was admitted for assessment. The patient may not apply during the second 14 days of detention.	For patients already in hospital informally, this means the day the hospital received the application for admission. If detention for assessment is extended under section 29 pending county court proceedings to appoint an acting nearest relative, the Secretary of State can be asked to refer the patient under section 67, without waiting 6 months for a Hospital Managers' referral.
Patients detained for treatment (section 3); or treated as if they were so detained following transfer from guardianship or Former CTO patients detained again under section 3 following revocation of their CTO.	A patient is detained following an application for treatment under section 3.	The patient may apply once during the 6-month period starting on the day the patient was admitted for treatment.	For patients already hospital, this means the day when the hospital received the application for admission.
	A patient's detention is then renewed under (or as if under) section 20.	A patient may apply once during the period for which the detention was renewed.	The first renewal period is a further 6 months. Subsequent periods are 12 months. The new right to apply begins when the new period begins.
	A patient's CTO is revoked and the patient is put back	A patient may apply once during the 6-month period starting on the day	The hospital must also refer the case as soon as the CTO is revoked. Multiple sets of proceedings can be consolidated or dealt with

	onto a section 3	the CTO was revoked (as with a new S.3 admission, the first renewal period will also be 6 months).	together.
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Part 2 – Patients in the Community	If	When	Notes
Community patients subject to a CTO.	A section 3 or 37 patient is made subject to a CTO.	The patient may apply once during the 6-month period starting on the day of the CTO.	
	A patient's CTO is then extended under (or as if under) Section 20A the period for which the CTO was extended.	The patient may apply once during the first extension period is 6 months. Subsequent periods are 12 months. The new right to apply begins when the new period begins.	
	A patient's CTO is revoked and the patient is put back into a Section 3.	The patient may apply once during the 6 month period starting on the day the CTO was revoked (as with a new Section 3 admission, the first renewal period will also be 6 months).	The hospital must also refer the case as soon as the CTO is revoked. Multiple sets of proceedings can be consolidated or dealt with together.
Guardianship patients Where a criminal court has	A patient is received into	The patient may apply once during the 6-month	Transfer from hospital to guardianship creates no new rights to apply.

made a Guardianship Order - see Part 3 (Non-Restricted Patients in the Community)	guardianship under Part 2.	period starting on the day the application is accepted.	
	A patient's guardianship is then renewed under (or as if under) section 20	The period for which the guardianship is renewed.	The first renewal period is 6 months. Subsequent periods are 12 months. The new right to apply begins when the new period begins.

Part 3 - Non-Restricted Patients in Hospital	If	When	Notes
Non-restricted patients subject to non-restricted Hospital Orders (for example, section 37 or 51);	A patient's non restricted Hospital Order is renewed under (or as if under) section 20.	The patient may apply once during the period for which detention was renewed.	The first renewal period is 6 months. Subsequent periods are 12 months. The new right to apply begins when the new period begins
Patients treated as if subject to a section 37 order because their Restriction Order no longer applies - notional 37.	A patient's Restriction Order lapses or is lifted.	The patient may apply once during the 6 month period starting on the day the Restriction Order ceased to have effect.	
Former Part 3 CTO patients detained again following the revocation of a CTO made after a non-restricted Hospital Order.	A patient's Part 3 CTO is revoked – so the patient is detained again on the basis of a non-restricted hospital order.	the patient may apply once during the 6 month period starting on the day the CTO was revoked – unless the CTO was revoked within 6 months of the Hospital Order being made by the court, in which case the period starts 6 months after the Hospital Order was made and ends 6 months after	Example: A patient is given a section 37 order on 1 Jan and then put on a CTO on 31 March. The CTO is revoked on 31 May. Application can be made between 1 July and 30 Nov. The hospital must also refer the case as soon as the CTO is revoked. Multiple sets of proceedings can be consolidated or dealt with together. There is no right to apply to the tribunal during the first 6 months after a criminal court has made a non-restricted hospital order.

		the CTO was revoked.	
Non-restricted patients given a transfer direction (section 47 or 48). Patients treated as if subject to a non-restricted transfer direction because their limitation direction no longer applies.	A patient becomes subject to a non-restricted Transfer Direction	The patient may apply once during the 6-month period starting on the day the Transfer Direction was given.	The first renewal period is 6 months. Subsequent periods are 12months. The new right to apply begins when the new period begins.
Non-restricted patients subject to hospital directions (section 45A) to which limitation directions no longer apply.	Detention is then renewed under (or as if under) Section 20 Or A restricted patient's restrictions lapse or are lifted	The patient may apply once during the period for which detention is renewed. The 6-month period starting on the day the Restriction or Limitation Direction ceased to have effect.	
Former Part 3 CTO patients detained again following the revocation of a CTO made after an unrestricted transfer or hospital direction.	A patient's Part 3 CTO is revoked	The patient may apply once during the 6-month period starting on the day the CTO was revoked.	The hospital must also refer the case as soon as the CTO is revoked. Multiple sets of proceedings can be consolidated or dealt with together.

Part 3 - Non-Restricted Patients the Community	If	When	Notes
Community patients subject to a CTO who, immediately before getting a CTO were detained under a non-	A patient is discharged onto a CTO from a non-restricted	The patient may apply once during the period starting 6 months after the day the Hospital Order	Example: A patient is given a non-restricted Hospital Order on 1 Jan and a CTO on 1 March. An application can be made between 1 July and 31 Aug.

restricted Hospital Order, Hospital Direction or Transfer Direction.	Hospital Order given by a court within the previous 6 months	was made by the court, and ending 6 months after the CTO was made.	
	Any other Part 3 patient becomes a community patient.	The patient may apply once during the period of 6 months starting on the day the CTO was made.	
	a patient's Part 3 CTO is then extended under (or as if under) section 20A	The patient may apply once during the period for which the CTO was extended.	The first extension period is 6 months. Subsequent periods will be 12 months. The new right to apply begins when the new period begins.
<u>Guardianship</u> patients	a Guardianship Order is made by a criminal court under Part 3	the patient may apply once during the 6 month period starting on the day the Order was made.	Transfer from hospital creates no new rights to apply.
	A patient's guardianship is then renewed under (or as if under) section 20.	The patient may apply once during the period for which the guardianship is renewed.	The first renewal period is 6 months. Subsequent periods will be 12 months. The new right to apply begins when the new period begins.

Part 3 - Restricted Patients in Hospital	If	When	Notes
Patients subject to Hospital Orders section 37 (or 51) together with a restriction Order under section 41.	A patient is detained in hospital under a restricted hospital order has never been conditionally	the patient may apply once during the period starting 6 months after the day the restricted Hospital Order was made and ending 6 after that	Example: A patient given a restricted Hospital Order on 1 January can apply once between 1 July and 31 December and once between 1 January and 31 December each year thereafter.

	discharged.	and then once in each subsequent 12 month period.	
	A patient has been conditionally discharged but is then recalled to hospital	the patient may apply once during the period starting 6 months after the day when the patient arrived at the hospital or unit to which they were recalled and ending 6 months after that; and then once in each subsequent 12 month period.	Example: A patient recalled on 1 January who arrives at the relevant hospital on 2 January can apply once between 2 July relevant hospital on 2 January can and 1 January of the following year, and then once between 2 January and 1 January of the next year, and so on each year . The Secretary of State must also refer <u>the</u> case to the tribunal when the patient is recalled . Multiple sets of proceedings can be consolidated or dealt with together.
Patients given Hospital and Limitation Directions by a court (section 4SA)	A patient is detained in hospital under Hospital and Limitation Directions and has never been conditionally discharged.	The patient may apply once during the period starting 6 months after the day when the directions were made and ending 6 months after that; then once in each subsequent 12 month period.	Example: A patient given Hospital and Limitation Directions on 1 Jan can apply once between 1 July and 31 Dec that year and once between 1 Jan and 31 December each successive year.
	A patient has been conditionally discharged but is then recalled to hospital	The patient may apply once during the period starting 6 months after the day the patient arrived at the hospital or unit to which they were recalled and ending 6 months after that; then once in each subsequent 12-month period.	Example: A patient recalled on 1 January who arrives at the relevant hospital on 2 January can apply once between 2 July that year and 1 January the that; then once in each following year; and then once between 2 January and the following 1 January, and so on each year The Secretary of State must also refer the case to the tribunal when the patient is recalled. Multiple sets of proceedings can be consolidated or dealt with together.

Patients given a transfer direction (sections 47 or 48) with a restriction direction (section 49)	A patient is detained under a restricted Transfer Direction and has never been conditionally discharged	The patient may apply once during the 6 month period starting on the day the directions were made; then once during the subsequent 6 month period; then once in each subsequent 12 month period.	Example: A patient given a restricted Transfer Direction on 1 Jan can apply once between 1 Jan and 30 June; once between 1 July and 31 December; and once between 1 January and 31 December each successive year.
	A patient has been conditionally discharged but is then recalled to hospital	the patient may apply once during the period starting 6 months after the day the patient arrived at the hospital or unit to which they were recalled and ending 6 months that; then once in after each subsequent 12 month period.	Example: A patient recalled on 1 January who arrives at the relevant hospital on 2 January can apply once between 2 July that year and 1 January the following year; and then once between 2 January and the following 1 January, and so on each year. The Secretary of State must also refer the case to the Tribunal when the patient is recalled. Multiple sets of proceedings can be consolidated or dealt with together.

Part 3 - Restricted Patients in the Community	If	When	Notes
Patients who are conditionally discharged from restricted Hospital Orders, Hospital and Limitation Directions, or restricted Transfer Directions.	The patient has been conditionally discharged and has not been recalled to hospital.	The patient may apply once during the 12 month period beginning 12 months after the day of the conditional discharge; then once in each subsequent 2 year period.	Example. A patient given a conditional discharge on 1 January 2012 can apply once between 1 January 2013 and 31 December 2013, and then once between 1 January 2014 and 31 December 2015 etc.

Applications by the Nearest Relative

Discharge of Part 2 patients by Nearest Relatives	If	When	Notes
<p>Nearest relatives can discharge Part 2 patients themselves - unless:</p> <ul style="list-style-type: none"> the Responsible Clinician bars a nearest relative's order for the patient's discharge from hospital, or from a CTO; or The nearest relative is displaced as such by the County Court. 			<p>The nearest relative may not discharge a Part 3 patient (although they may apply to the tribunal in certain circumstances) and they may not discharge or make an application in respect of a restricted patient.</p>

Part 2 - Patients in Hospital	If	When	Notes
<p>Applies to nearest relatives of section 3 patients detained for treatment whose order for discharge has been barred.</p>	<p>The Responsible Clinician bars a nearest relative's order for the discharge of a patient detained for treatment under section 3</p>	<p>The nearest relative may apply once during the 28 days period starting with the day on which they are informed about the Responsible Clinician's report that bars discharge.</p>	<p>This is the only case in which a nearest relative who has not been displaced of a Part 2 detained patient may apply to the tribunal. There is not right to apply to the tribunal following the barred discharge of a patient detained for assessment under section 2.</p>
<p>Rights of displaced nearest relatives, where the nearest relative is displaced by the County Court on the grounds* that:</p> <ul style="list-style-type: none"> he or she has unreasonably objected to an application for admission for treatment, 	<p>The nearest relative of a patient detained under section 3 has been displaced.</p>	<p>the displaced nearest relative may apply once during the 12 month period starting on the day of the court's order; and then once in each subsequent 12 months while the order is in force.</p>	<p>* Nearest relatives displaced on other grounds do not have the right to apply to the tribunal.</p>

<ul style="list-style-type: none"> • he or she has exercised, or is likely to exercise, their power of discharge without due regard to the welfare of the patient or the interests of the public. 			
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Part 2 - Patients in the Community	If	When	Notes
Community patients subject to a CTO.	The Responsible Clinician bars a nearest relative's order for the discharge of a patient from a CTO	the nearest relative may apply once during the 28 day period starting with the day on which they were informed about the Responsible Clinician's report that bars discharge.	Because nearest relatives of patients subject to Part 2 guardianship can discharge patients themselves, they do not have the right to apply to the tribunal (unless displaced – see below).
Rights of displaced nearest relatives, where the nearest relative is displaced by the County Court on the grounds* that: <ul style="list-style-type: none"> • he or she has unreasonably objected to an application for admission for treatment or for guardianship; or • he or she has exercised or is likely to exercise their power of discharge without due regard to the welfare of the patient or the interests of the 	The nearest relative of a CTO or Part 2 guardianship patient has been displaced.	the displaced nearest relative may apply once during the 12 month period starting on the day of the court's order and then one in each subsequent 12 months.	* Nearest relatives displaced on other grounds do not have the right to apply to the tribunal.

public.			
Part 3 – Non-Restricted Patients in Hospital	If	When	Notes
<p>Applies to nearest relatives of:</p> <ul style="list-style-type: none"> • non-restricted patients detained under hospital orders, hospital directions or transfer directions; • patients treated as subject to such an order or direction; • former Part 3 CTO patients detained following revocation of their CTO 	A patient's detention is renewed under (or as if under) section 20.	the nearest relative may apply once during the period for which detention is renewed.	<p>The first renewal period is 6 months. Subsequent periods will be 12 months.</p> <p>The new right to apply begins when the new period begins.</p> <p><i>Note: Even where a patient is permitted to apply during the first 6 months of detention, nearest relatives cannot do so.</i></p>
	A patient's Part 3 CTO is revoked.	the nearest relative may apply once during the 6 month period starting on the day the CTO was revoked, unless the CTO was revoked within 6 months of the hospital order being made, in which case the period starts 6 months after the hospital order was made and ends 6 months after the CTO was revoked.	<p>Example: A patient is given a section 37 order on 1Jan and then put on a CTO on 31 March. The CTO is revoked on 31 May. Application can be made between 1July and 30 Nov. The hospital must also refer the case as soon as the CTO is revoked.</p> <p>Multiple sets of proceedings can be consolidated or dealt with together.</p> <p>Displaced nearest relatives cannot make applications in respect of detained Part 3 patients.</p>
Part 3 – Non-Restricted Patients in the Community	If	When	Notes
Community patients subject to a CTO who, immediately before getting a CTO were	A patient is discharged onto a CTO from a non-	The nearest relative may apply once during the period starting 6	Example: A patient is given a non-restricted hospital order on 1Jan and a CTO on 1 March; an application can be made between 1 July and

detained under a non-restricted hospital order, hospital direction or transfer direction.	restricted hospital order which was given by a court within the previous 6 months.	months after the date the hospital order was made and ending 6 months after the day the CTO was made.	31 August.
	Any other Part 3 patient becomes a community patient.	The nearest relative may apply once during the period of 6 months starting on the day the CTO was made.	
	A patient's Part 3 CTO is then extended under (or as if under) Section 20A.	The nearest relative may apply once during the period for which the CTO was extended.	The first extension period is 6 months. Subsequent periods will be 12 months. The new right to apply begins when the new period begins.
Guardianship patients (Part 3 only)	A guardianship order is made by a criminal	The nearest relative may apply once during the 12 month period starting with the day on which the order was made, and then in any subsequent 12 months.	Displaced nearest relatives cannot make applications in respect of Part 3 CTO or Guardianship patients?

References to the Tribunal

Referral after 6 Months from Date of Original Detention	If	When	Notes
Hospital managers must refer certain patients to the tribunal.	Since the patient was first detained, six months have passed without a relevant application or referral being made to the		<p>Note 1: The duty to refer applies even if patients have already had a hearing as a result of an application made while they were detained for assessment (unless the application was made by a displaced nearest relative).</p> <p>Note 2: Some other applications are not covered by section 68(3) (a).</p>

	tribunal.		<p>Note 3:The hospital managers' duty to refer is not affected by applications of references that are made but then withdrawn.</p> <p>Note 4: Applications or referrals to MHRT (Wales) count.</p>
This means that, whilst detained or subject to a CTO, no patient originally detained under Part 2 will have to wait more than 6 months before his or her case is put to the tribunal.	Part 2 Section 3 or CTO patient. (Also, section 2 patients where detention extended under section 29).	<p>Unless a relevant application or reference has already been made to the tribunal, reference must be made 6 months after the date of admission to hospital.</p> <p>Note: If originally admitted for assessment under section 2 (or 4) the time runs from the date of the original admission.</p>	The duty falls on the managers of the hospital where the patient is detained or, if a CTO patient, the managers of the responsible hospital.
	Part 3 patient originally made subject to a Guardianship Order by a criminal court, and then transferred to hospital under a Hospital Order	<p>Unless a relevant application or reference has already been made to the tribunal, reference must be made 6 months after the date of the transfer from guardian ship.</p>	This also applies if the patient has then gone onto a Part 3 CTO from the Hospital Order.

Referral after 3 years (or 1 year if the patient is under 18)	If	When	Notes
Hospital managers must also refer all non-restricted	More than 3 years (or 1 year for		Note: Hearings before the MHRT (Wales) count.

detained patients and CTO patients (whether Part 2 or Part 3)	patients under 18) have elapsed from the date the patient's case was last considered by the tribunal.		
In the case of non-restricted Part 3 patients whose cases have never been heard by the tribunal.	If the Patient was not previously a restricted patient	The 3 year (1 year) period runs from the date of the Hospital Order/Transfer Direction.	
In the case of non-restricted Part 3 patients whose cases have never been heard by the tribunal.	If the Patient was previously a restricted patient.	The 3 year (1 year) period runs from the date on which the patient's restrictions ended or were lifted.	The duty falls on the managers of the hospital where the patient is detained or, if a CTO patient, the managers of the responsible hospital.

Other Referrals – Non- Restricted Patients

If a patient's CTO is revoked, the managers of the hospital where the patient is then detained hospital must refer the case as soon as possible after the revocation. The patient can also apply during the 6-month period starting on the day the CTO was revoked. Multiple sets of proceedings can be consolidated or dealt with together.	If a patient is absent without leave when the hospital managers are required to refer their case to the tribunal, the duty to make the reference does not apply until the patient is taken into custody and returned to hospital or returns voluntarily.
Discretionary referral by the Secretary of State for Health	The Secretary of State for Health may at any time refer the case of to the tribunal.

Other Referrals – Restricted Patients

Mandatory referral by the Secretary of State for Justice	<p>The Secretary of State for Justice must refer a restricted patient's case to the tribunal if the patient is detained in hospital and three years have passed without the patient's case having been considered by the tribunal (or the MHRT (Wales)).</p> <p>The Secretary of State for Justice must also refer to the tribunal the case of every <u>conditionally discharged patient recalled to hospital</u>. The Secretary of State must make the reference to the tribunal immediately, and in any case within one month of the patient arriving at, or being brought to, the hospital to which they are recalled.</p>
Discretionary referral by the Secretary of State for Justice	<p>The Secretary of State for Justice may at any time refer the case of a restricted patient to the tribunal. This includes patients who have been conditionally discharged.</p>

This document is also available in Welsh.

The Mental Health Review Tribunal 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.