



Mental Health Review Tribunal for Wales Annual Report 2016 – 2017

December 2017

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Foreword

I am pleased to present our Annual Report for the Mental Health Review Tribunal for Wales (MHRTW). The report covers the period April 2016 – March 2017. I hope you find the report informative and user friendly.

We aim to ensure that the Tribunal serves the interests of all those in Wales having applications or referrals falling within our jurisdiction by dealing with any such applications or referrals both efficiently and effectively, within statutory and best practice guidelines.

Any questions or comments arising as to any aspect of the work of the Tribunal, or as to the contents of the Report, are most welcome and should in the first instance be addressed to the Tribunal Secretariat.

Mrs Carolyn Kirby OBE

Chairman

Section 1 – About Us

In this section:

- Basis for the Tribunal
- The Tribunal's Function
- The Tribunal Rules
- Members of the Tribunal
- Appointments
- Training
- Appraisal
- Contacting the Tribunal
- Accessing the Tribunal

Basis for the Tribunal

The Mental Health Review Tribunal for Wales (MHRTW) is an independent judicial body established under the Mental Health Act 1959 operating under the provisions of the Mental Health Act 1983 (as amended). The MHRTW has the responsibility of deciding applications and references concerning patients detained under the Mental Health Act 1983 (MHA), patients subject to community treatments orders (CTOs) and guardianship and patients conditionally discharged from hospital.

The MHRTW as a judicial body is independent of government and members are appointed by the Lord Chancellor.

The Tribunal's Function

The MHRTW provides a significant safeguard for patients who have had their liberty curtailed under the Mental Health Acts. It is for those who believe that a patient should continue to be liable to detention or remain a supervised community treatment patient to prove their case and not for the patient to disprove it. They therefore need to present the tribunal with sufficient evidence to support their case. Clinical and social reports form the backbone of this evidence and these are tested orally at hearings in the presence of the patient. The procedures to be followed are clearly laid down in the MHRTW Rules 2008.

The Tribunal Rules

The Tribunal operates in accordance with the procedures set out in the MHRTW Rules 2008 which can be found at:

www.mentalhealthlaw.co.uk/Mental_Health_Review_Tribunal_for_Wales_Rules_2008

The purpose of the MHRTW Rules 2008 is to ensure that all cases heard by the Tribunal are dealt with fairly, justly, efficiently and expeditiously. The Rules require the Tribunal to ensure, as far as possible, that all parties are able to participate fully in the proceedings.

MHRTW applications and references broadly fall into three categories:

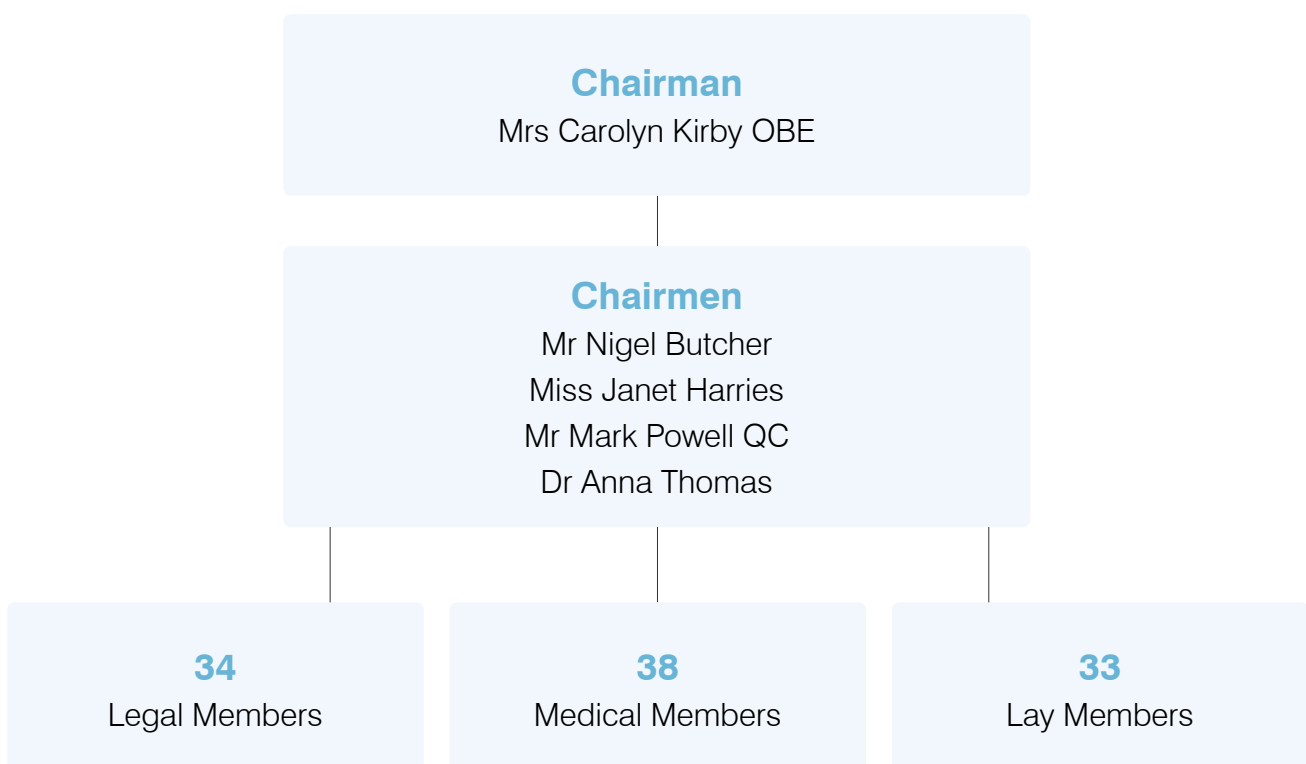
Restricted patients – these are mentally disordered offenders who are detained in hospital for treatment and who are subject to special controls by the Ministry of Justice because of the level of risk they pose. They may in due course become conditionally discharged as part of their gradual return to the community. The MHRTW has jurisdiction to make decisions about the absolute and conditional discharge of restricted patients, as well as the variation of conditions upon them.

Unrestricted patients – these are non-offender patients who are detained in hospital, under either Section 2 or Section 3 of the MHA, suffering from a mental disorder of a nature or degree warranting detention. Section 2 of the MHA is used where there is a need for assessment, or assessment followed by medical treatment, for at least a limited period and section 3 of the MHA is used where there is a need for treatment. The task of the Tribunal is to decide whether at the time of hearing the criteria justifying detention continue to be met.

Community patients – these patients are not detained but may be subject to either a Community Treatment Order (CTO) or a guardianship order. The task of the Tribunal is to decide whether at the time of hearing the criteria justifying these orders continue to be met.

Members of the Tribunal

The Lord Chancellor is responsible for the appointment and re-appointment of the Chairman and all members of the MHRTW. Appointments are made following the advertisement of vacancies and competitive interview by the Judicial Appointments Commission.



The role of the legal member – The legal member’s role is to preside (i.e. take the chair) at tribunal hearings. Responsibilities also include making sure that the proceedings are conducted fairly, that the legal requirements of the Mental Health Act are properly observed and advising on any questions of law which may arise. The legal member is also responsible, in consultation with other members of the Tribunal, for drafting the reasons for the decision, and for signing the record of the decision. The legal members are required to have ‘such legal experience as the Lord Chancellor considers suitable’.

The role of the medical member – The tribunal medical member has a dual role to perform. The Tribunal Rules require them to carry out an examination of the patient before the hearing and to take any steps that they consider necessary to form an opinion of the patient’s mental condition. At the hearing, they, together with the other members, have the judicial responsibility of deciding the outcome of the hearing. The tribunal medical member is invariably a consultant psychiatrist of several years’ standing. He or she will be able to advise the other members of the Tribunal on any medical matters.

The role of the lay member – The lay member is not a lawyer or a psychiatrist, but brings to the Tribunal other knowledge and experience relevant to the jurisdiction of the Tribunal. The lay member may contribute knowledge of mental illness, mental health or social services, patient rights, and community issues to the consideration of the patient’s case.

Secretariat – The day-to-day administration is largely delegated to the secretariat which deals with all the preliminary paperwork and the processing of applications and references to the Tribunal. The secretariat consults the Chairman or her deputies on all legal points arising during the preliminary pre-hearing stages of the proceedings and passes on their rulings and directions in writing to the parties. The secretariat acts as a point of contact for all tribunal members and users; members of the secretariat attend some hearings to help with the efficient running of proceedings.

Appointments

There were seven new medical members appointed in 2016/17.

Training

It is important for the efficient and effective functioning of the tribunal that all members are appropriately trained and kept up to date with developments in the field of mental health law and practice. The MHRTW is fully committed to this process and held its Annual Conference for all members in November 2016 at the New House Country Hotel, Cardiff. The conference included an introduction to the new Mental Health Act Code of Practice for Wales 2016 by Mark Powell QC, Nigel Butcher and Janet Harries, focusing on specific areas of practice and procedure in relation the MHRTW. There was also a presentation by Mr Justice Wyn Williams on reforming the justice system, specifically the Ministry of Justice proposals on changing the way that tribunals operate.

In a series of training workshops this year, including 1 in Llandudno and 2 in Cardiff, members focused on issues faced at recent hearings through detailed case studies. One of the workshops was for legal members, offering practical help on completing various decision templates that had recently been introduced. The second two workshops dealt with tribunal skills for medical and lay members focusing on questioning, decision-making skills and judicial conduct. Although these workshops were aimed primarily at medical and lay members some legal members took advantage of the training.

Appraisal

40 tribunal members received appraisals during 2016/17 in accordance with the scheme to appraise all members every 2 years.

Contacting the Tribunal

Mental Health Review Tribunal for Wales

Ground Floor, Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Tribunal Helpline: 03000255328

Tribunal E-mail: mhrt@gov.wales

Website: www.mentalhealthreviewtribunal.gov.wales

Accessing the Tribunal

The Tribunal is happy to communicate with users in English or Welsh. If a Welsh speaker is not immediately available one will be arranged to make contact as soon as possible.

Patients can choose to have a tribunal hearing conducted in Welsh or English. If the first language is not Welsh or English an interpreter in the requested language can be arranged to be present at the hearing. If a sign language interpreter is needed to attend the hearing this can also be arranged.

If anyone attending the hearing has any access requirements that may affect arrangements for the hearing provisions will be made. To enable arrangements for interpreters to be made, or to make provisions for any additional needs of attendees, sufficient notice must be given to the secretariat.

Section 2 – Performance and Progress

In this section:

- Numbers and Statistics
- Appeals
- Statutory and Best Practice Targets
- Complaints

Numbers and Statistics

A tribunal year runs from April to March.

The following statistics are collated:

2.1: Number of applications and references received

2.2: Number of applications and references finalised at first hearing

2.3: Number of applications and references which did not proceed to a hearing and reasons

Table 2.1 Number of applications and references received

Month	Total	Restricted	Community	Unrestricted
April	173	12	19	142
May	168	20	16	132
June	193	21	18	154
July	152	12	11	129
August	183	13	10	160
September	169	15	20	134
October	186	20	14	152
November	168	17	17	134
December	154	12	13	129
January	185	13	27	145
February	155	13	11	131
March	148	15	15	118
	2034	183	191	1660

Section 2 applications 592

Community applications and referrals 191

Restricted applications and referrals 183

Unrestricted applications and referrals (excluding Section 2) 1068

Total 2034

2.2 Number of applications and references finalised at first hearing

The total number of cases that proceeded to an outcome at the first hearing was 1088. 182 cases were adjourned (to be heard at a later date), before proceeding to a final decision. Applications and references that are received in one year may not be concluded until the following year.

2.3 Number of applications and references which did not proceed to a hearing and reasons

Reason for Not Proceeding to Hearing	Number of Cases
Patient made informal (patient discharged by the detaining authority before proceeding to a hearing)	355
Withdrawn (application withdrawn by the patient before proceeding to a hearing)	417
Deceased (patient died before proceeding to a hearing)	1
Postponed (applications or references postponed before proceeding to a hearing)	194
No jurisdiction (applications or references incorrectly made to the MHRTW)	18
Patient transferred out of area (patient transferred out of Wales before proceeding to a hearing)	17
Total	1002

Appeals

There is no statutory provision for the MHRTW to review a decision, only to decide whether to give permission to appeal to the Upper Tribunal. Parties can ask permission from the Chairman to appeal a tribunal decision to the Upper Tribunal on grounds of an error of law. If the Chairman refuses permission to appeal the party may apply directly to the Upper Tribunal for permission to appeal.

Over the period of this report 8 requests were made to the Chairman for permission to appeal to the Upper Tribunal. 1 was granted.

Statutory and Best Practice Targets

The MHRTW has four statutory deadlines to meet.

Section 2 cases listed within 7 days of receipt
(but no less than 3 days due to the duty to provide 3 days notice)

Restricted recall referrals listed between 5-8 weeks

Section 2 decisions issued within 3 working days

All other decisions issued within 7 calendar days

The MHRTW has three best practice deadlines to meet.

All cases acknowledged within 2 working days

Non-restricted cases listed within 8 weeks

Restricted cases listed within 12 weeks

Complaints

The Tribunal received 5 formal complaints during the course of the year. 1 was partially upheld; no others were upheld. Each complaint was dealt with by the Chairman in accordance with the Tribunal's complaints policy.

Section 3 – Expenditure

In this section:

- Expenditure for 2016-17

Expenditure for 2016-2017

Content	Amount
Members' fees and expenses for tribunal proceedings	£2,472,437
Members' training	£80,369
Total	£2,552,806

MHRTW hearings take place either within the hospitals where the patient is detained or for community patients at venues close to where they live. All tribunal members therefore undertake very significant travel to fulfil their duties.