### Introduction and Aim
This procedure has been developed in line with the Mental Health Act (MHA) 1983 (2007), the Human Rights Act 1998, the MHRT for Wales rules 2008, the MHA Regulations 2008 and the MHA Code of Practice for Wales.

### Objectives
This procedure is required to ensure correct procedures are followed in relation to all aspects 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.

### 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 Regulations for Wales
- Mental Health Review Tribunal for Wales rules 2008

### Approved by
- Mental Health Act Policy Group
- Mental Health Clinical Board Quality & Safety Committee

3 **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

<table>
<thead>
<tr>
<th>Version Number</th>
<th>Date Review Approved</th>
<th>Date Published</th>
<th>Summary of Amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10/12/2015</td>
<td>16/12/16</td>
<td>New Procedure</td>
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APPENDIX 1 – Mental Health Review Tribunal Applications/referrals
APPENDIX 2 – Application to the Mental Health Review Tribunal for Wales – English
APPENDIX 3 – Application to the Mental Health Review Tribunal for Wales - Welsh
1. **Introduction**

The Mental Health Review Tribunal for Wales (MHRTfW) is an independent judicial body which deals with applications and references by and in respect of qualifying patients detained under the Act, and provides a significant safeguard for detained patients and guidance on the role of the Tribunal 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 Mental Health Act 1983, 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 for a Mental Health Review Tribunal
- The role of the Mental Health Review Tribunal
- How to apply to the Mental Health Review Tribunal
- How to contact a suitably qualified solicitor (a list of solicitors who undertake Tribunal work is available on each ward)
- Entitlement to free legal advice and representation
- 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 the advocacy service

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 Act. 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 Tribunal.

Hospital Managers must refer cases where:

- Detention under section 2 is extended pending a decision by the County Court under section 29
- The patient lacks capacity to make an application
- 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)
Referrals by Welsh Ministers may take place at any time for qualifying patients under Part 2 of the Act (including SCT 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 referral made to the Tribunal by the Hospital Managers, Welsh Ministers or Secretary of State for Justice.

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, Approved Mental Health Professional/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 Clerk to the Tribunal via the Mental Health Act Administrator, who will write to the responsible clinician, approved mental health professional and others to provide reports three weeks from the date of the application, at the latest.

To comply with the Tribunal rules, reports must be submitted by the due date. Failure to submit reports by the due date may result in a direction from the Chairman of the Mental Health Review Tribunal for Wales. It could also result in the postponement or adjournment of the hearing.

5. Format of reports

In accordance with Mental Health Tribunal Rules, reports should take the following format:

The Responsible Clinicians report should include:
- Relevant medical history
- Full report on the patient’s medical condition

The social circumstances report should include:
- The patient’s home and family circumstances, including the attitude of the patient’s nearest relative or the person so acting
- 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

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”.

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. Reports for Mental Health Tribunals.pdf
When considering relevant patients’ cases, the Tribunal will expect to be provided with information from the professionals concerned on what after-care arrangements might be put in place for them under section 117 should the patient be discharged.

After-care for all patients admitted to hospital for treatment for mental disorder should be planned within the framework of the Care Programme Approach, 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 conditions for continued detention exist.

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

The responsible authority must send a statement to the Tribunal office within three weeks of receiving a copy of the application or referral.

The statement provided to the Tribunal 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 a section 2 application, 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.

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

A request to withdraw an application must be in accordance with Mental Health Review Tribunal Rule 22(1).

8. Interpreters

Where necessary, the Tribunal will provide interpretation services free of charge for patients. The Tribunal should be informed as soon as possible if the patient and their representatives require such services.

9. Attendance at hearings

It is important that the responsible clinician and other relevant staff involved in the patient’s care should attend for the full hearing, as their evidence will be crucial in the decision reached by the Tribunal as to whether the patient still meets the criteria for continued detention or supervised community treatment (SCT) under the Act.

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

11. **Decision of the Tribunal**

The decision will be communicated verbally to all parties at the end of the hearing (although the Tribunal may also reserve its decision) and written copies of the reasons for the decision will be sent out at a later date, usually within seven days.

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 Tribunal should be sent to the Tribunal office, whose address is:

Mental Health Review Tribunal for Wales
2nd Floor
Crown Buildings
Cathays Park
Cardiff CF10 3NQ
## APPENDIX 1

### Mental Health Review Tribunal Applications/referrals

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

Application to the Mental Health Review Tribunal for Wales

Please complete this form as far as you are able. If you require any assistance please ask the Ward Staff or Mental Health Act Administrator for assistance.

I am detained under a Section of the Mental Health Act 1983 and wish to apply to The Mental Health Review Tribunal for Wales.

Mr/Miss/Mrs/Ms (please delete as appropriate)

Surname:         First Name(s):

Date of Birth:

Section detained under: Date current Section commenced

Name and Address of Hospital/Residence

Name of Ward:

Name of Responsible Clinician

Name and Address of Solicitor/Representative:

If you do not have a solicitor we can send you a list of solicitors who are able to represent you under the Legal Aid Scheme.

Yes please send me a list/No I do not wish to be represented (please delete as appropriate)
Signed:………………………………………………………………………………………………
Dated:………………………………………………..

Please return this form to:
Mental Health Review Tribunal for Wales
4th Floor
Crown Buildings
Cathays Park
Cardiff    CF10 3NQ

APPENDIX 3

Cais i Drobwnlys Adolygu Iechyd Meddwl Cymru

Llenwch gymaint o’r ffurflen hon ag y medrwnch. Os bydd angen unrhyw gymorth arnoch, gofynnwnch i Staff y Wardiau neu'r Swyddog Cofnodion Meddygol.

Rwy'n cael fy nghadw o dan un o Adranau Deddf Iechyd Meddwl 1983 a hoffwn wneud cais i Drobwnlys Adolygu Iechyd Meddwl Cymru.

Mr/Miss/Mrs/Ms (dileer yn ôl y gofyn)

<table>
<thead>
<tr>
<th>Cyfenw:</th>
<th>Enw(au)</th>
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<tbody>
<tr>
<td></td>
<td>Cyntaf:</td>
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<table>
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<tr>
<th>Dyddia:</th>
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<table>
<thead>
<tr>
<th>Wedi’ch cadw o dan Adran:</th>
<th>Dyddiad cychwyn y cyfnod cadw:</th>
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</thead>
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<table>
<thead>
<tr>
<th>Enw a Chyfeiriad yr Ysbyty/Cartref:</th>
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<tr>
<th>Enw'r Ward:</th>
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<thead>
<tr>
<th>Enw'r Swyddog aethau clinigwyr:</th>
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</thead>
</table>

<table>
<thead>
<tr>
<th>Enw a Chyfeiriad eich Cyfreithiwr/Cynrychiolydd:</th>
</tr>
</thead>
</table>
Os nad oes gennych gyfreithiwr, gallwn anfon rhestr o'r cyfreithwyr all eich cynrychioli o dan y Cynllun Cymorth Cyfreithiol.

Anfonwch restr ataf/Nid wyf am gael fy nghynrychioli (dileer yn ôl y gofyn)

**Llofnod:** ................................................................. Dyddiedig: ..........................  

Anfonwch y ffurflen hon at:  
Tribiwnlys Adolygu Iechyd Meddwl Cymru  
4'r Llawr  
Adeiladau'r Goron  
Parc Cathays  
Caerdydd CF10 3NQ