

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

# Guidance Information for nearest relatives

Mental Health Review Tribunal for Wales  
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## What is the Mental Health Review Tribunal for Wales (MHRTW)?

The MHRTW is an independent judicial body that reviews the need for a person to be subject to the Mental Health Act (sometimes referred to as “sectioned”). Patients, and in some cases, their Nearest Relative, may apply to have the Section or Order reviewed by the Tribunal (see form MHRTW2 under the guidance and forms section of our website). The Responsible Authority for a Section or Order, and the Ministry of Justice, also has a duty to make a referral to the Tribunal in certain circumstances.

The Tribunal’s authority is limited to considering whether the section/order to which your relative is subject should remain in place. In certain circumstances, for patients subject to for example Section 3 or 37 of the Act it can make recommendations

## Who is the Nearest Relative

‘Nearest Relative’ is a legal term which means the patient’s spouse, civil partner or family member who lives with or cares for the patient. It is not necessarily the same as the patient’s next of kin. The Nearest Relative has certain rights and powers under the Act.

## Nearest Relative’s Rights

Your rights include:

- The right to ask for your relative to be detained in hospital or placed on guardianship.
- The right to ask for an approved mental health professional to see your relative.
- The right to be told that your relative is subject to the Act.
- The right to be given information.
- The right to be told if your relative is to be discharged.
- The right to discharge your relative from Section/Order.
- The right to apply to the Mental Health Review Tribunal if your discharge of your relative has been barred by the RC.
- The right to object to your relative being made subject to certain orders under the Act.

## What is the role of the Nearest Relative?

As the Nearest Relative you may play an important part under the Mental Health Act, which gives you the right to make certain applications in respect of your relative’s admission to hospital.

If your relative makes an application or is referred to the Tribunal and agrees that we can contact you, you will be told the date and time of their Tribunal hearing and invited to take part at the Tribunal panel’s discretion. You do not have to attend if you would prefer not to.

You can write to the Tribunal before the hearing to express your views about your relative’s detention. If you feel that part or all of your letter should not be made known to your relative

you should explain the reasons why. The Tribunal panel will then decide whether this information should or should not be disclosed to your relative.

Whether or not you decide to write to the Tribunal you can attend the hearing, if the Tribunal agrees. Subject to the Tribunal agreeing you can also be accompanied by another person, in both cases you must inform the Tribunal that you wish to attend by completing the appropriate attendance form (MHRTW03).

You also have the right to direct the discharge of your relative if they have been admitted for assessment or treatment or are subject to a CTO. However, the RC may, within 72 hours, issue a notice barring the discharge in which case, if your relative is subject to section 3 or a CTO, you may make an application to the Tribunal yourself."

## **Who is 'on the Tribunal'?**

The Tribunal panel consists of three members. The Legal member presides at the hearing, the Medical member is a psychiatrist, and the Lay member often has expertise in mental health matters, for example as a social worker or community psychiatric nurse (CPN). The Tribunal is independent and none of the members are connected with the Section or Order to which your relative is subject.

## **What do they do?**

The Tribunal will consider the legal grounds for the section or order to which your relative is subject and if it is not satisfied that they are met will discharge your relative from the section or order. If the Tribunal does not discharge a detained patient it can sometimes make recommendations to assist a possible discharge at a future date.

If the Tribunal is considering an application by you following the issue of a barring certificate by the RC it will discharge your relative unless it considers that they would act in a way which was dangerous to themselves or others.

## **What happens at the Tribunal hearing?**

The hearing is normally held in private and is usually attended by your relative, the doctor responsible for their care, a social worker, a nurse if your relative is being treated in hospital, and any legal representatives.

At the beginning of the hearing the Tribunal chair will explain how the Tribunal intends to conduct the proceedings. It is usual for the panel to ask questions of the care team and your relative. The panel may also ask for your views as Nearest Relative.

It is unusual for a Nearest Relative to be represented except in circumstances where they made the original application to the Tribunal.

## **What happens after the Tribunal hearing?**

The Tribunal usually announces its decision on the day of the hearing. If you made the original application, you will receive a written copy of the Tribunal's decision from the Tribunal office around a week after the hearing.

In certain circumstances you may have the right to seek to appeal the decision; these rights will be explained in writing and forwarded to you with the Tribunal's decision.

If you did not make the application but you attended the hearing, you will probably hear the decision announced on the day.

If you are invited to attend but are unable or decide not to attend, you will be informed by the hospital of the outcome.

## **Can I claim expenses?**

If you attend the Tribunal hearing as an applicant or a witness you can request reimbursement of certain expenses from the Tribunal. Further information can be obtained from our website or from guidance booklet MHRTW 12 which can also be requested from the address above.

## **Further information**

If you require more information about how the nearest relative is appointed, your role and rights, MHRTW can provide details of solicitors specialising in mental health and signposting to helpful information and organisations please contact the Tribunal at the above address or check our useful resources page on our website.

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.