

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

Guidance Provision of statements and reports to the Tribunal

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The Mental Health Review Tribunal for Wales Rules 2008 (“the Rules”) set out the procedure for provision of reports.

It is important that sufficient information is available to the Tribunal to enable it to make a proper decision without the need to adjourn for further information. Adjournments can cause distress to patients and their families and can also be frustrating for others involved. Responsible authorities must ensure that reports which comply with the Rules are provided by the due date so that the Tribunal does not need to adjourn because someone has failed in their legal duty to provide all the evidence that Tribunals must have to reach a decision.

This guidance booklet spells out the minimum requirements and time limits for the provision of reports; compliance is compulsory and not optional.

Who has the duty to ensure that reports are prepared, written and submitted on time

The Authority responsible for the Section or Order has this duty, except in cases involving patients on a conditional discharge, where the Ministry of Justice has the duty to request and provide reports from the responsible clinician and social care supervisor.

Who is the Responsible Authority

Patient detained in hospital under the Mental Health Act 1983 (Section 3/37).

The Trust Authority or Board, currently responsible for the Section or Order to which the patient is subject.

Community Patient (Section 17a)

Unless responsibility has been assigned elsewhere, it would be the Trust, Authority or Board for the hospital where the patient was liable to be detained immediately before the Community Treatment Order was made.

Guardianship (Section 7 & Section 37)

Local Authority, Social Services Department.

What must the Responsible Authority do?

The relevant responsible authority must identify itself by stating the full name of the Trust, Authority or Board on all covering correspondence.

It should quote the patient’s full name and date of birth, the relevant hospital and the section of the Mental Health Act to which the patient is subject.

The responsible authority must request and provide the statement, reports and other documentation to the Tribunal by the due date.

What Information and Reports are required

The documents to be provided are detailed in the Rules (also see guidance booklet MHRTW11 – Report layout and content (link to page 1.4)

The Schedule to the Rules sets out what information about the patient must be provided to the tribunal by the Responsible Authority.

Section 2 applications - Rule 15 (3)

The Responsible Authority should provide:

- the application for admission;
- the written medical recommendation or recommendations, as the case may be, of the registered medical practitioners on which the application is founded;
- such of the information specified in Part A of the Schedule as is within the knowledge of the responsible authority and can reasonably be provided in the time available; and
- such of the reports specified in Part B of the Schedule as can reasonably be provided in the time available.

All other cases (except for conditionally discharged patients) – Rule 15(5)

The responsible authority must provide **within 3 weeks** of a request from the Tribunal:

- The information specified in Part A of the Schedule. This is usually provided in the form of a statement from the mental health act administrator or by the social worker in respect of someone subject to Guardianship.
- The report specified in paragraph 1 of Part B to the Schedule (clinical report)
- The other reports specified in Part b of the Schedule (social circumstances report, care plan etc.)

The Tribunal has the power to direct the provision of further information.

Conditionally discharged patients – Rule 15(4)

The information specified at Part C of the Schedule must be provided by the Ministry of Justice together with the reports specified in Part D, namely:

- Where there is a clinician responsible for the care and supervision of the patient in the community, an up to date report prepared for the Tribunal including the relevant history and a full report on the patient's mental condition.
- Where there is a social worker, probation officer or community psychiatric nurse responsible for the patient's care and supervision in the community, an up to date report prepared for the Tribunal on the patient's progress in the community since discharge from hospital
- A report on the patient's home circumstances.
- The views of the Secretary of State on the suitability of the patient for absolute discharge

- Any other observations on the application which the Secretary of State wishes to make.

Information not for Disclosure

Where an author considers that information contained in a report may cause serious harm to someone if it were to be disclosed, the Tribunal can make a direction to withhold it. In order for the Tribunal to consider making a non-disclosure direction, the author of the relevant report should:

- Leave such information out of the main report;
- Provide it separately, in a document clearly marked “**Not to be disclosed to the patient without the express permission of the Tribunal**” and state from whom it should be withheld;
- Include written reasons why this information should not be disclosed, in particular the reasons should state how disclosure would be likely to cause serious harm and to whom.

The Tribunal will make the decision whether or not the information should be disclosed. If a direction to withhold is made, all those present at the hearing must abide by it.

Deadlines for the Submission of Reports

Reports for Section 2 applications may be submitted on the day of the hearing.

Under Rule 15 (5) of the Rules, reports for all other cases must be received within **3 weeks** of the responsible authority receiving the Tribunal’s acknowledgement and request for reports. The due date will be stated in the correspondence from the Tribunal

What Must the Statement and Reports Contain?

This will depend on the type of case. Further information on report layout and content can be found in our guidance booklet MHRTW-11

Part A Statement:

- clinical report;
- social circumstances report;
- care plan;
- whilst a nursing report is not required to be provided under the Wales Rules, the Tribunal often finds it helpful to receive one.

How should the statement, reports and documents be sent?

They must be sent safely and securely. The Tribunal prefers and encourages the responsible authority to submit the statement and reports by secure email to mhrtw@wales.gsi.gov.uk. If secure email is not possible or practicable, documents should be sent by first class recorded delivery post.

What happens if reports do not comply or are late?

It is in everyone's interests to avoid the Tribunal having to adjourn for further information and the have to meet again on another day.

If reports do not comply with the Rules, you will be asked to provide supplementary information.

If reports are late, there is a risk of the Hearing being postponed. The patient's legal representative could take legal action against the Responsible authority for not providing the necessary reports

It is essential when further time is required to complete reports that a formal request is made to the Tribunal.

The request must state how much further time is required and the reason for requesting it. Any such requests will be considered by the Tribunal Chairman individually. The overriding objective is for the Tribunal to deal with cases fairly, efficiently and expeditiously and therefore it must not be presumed that an extension will be granted.

The Tribunal can also give directions as to the issues on which it requires evidence or submissions. If a party has failed to comply with a direction or summons the Tribunal may take such action it considers just.

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.