

APPLICATIONS TO THE FIRST-TIER TRIBUNAL (MENTAL HEALTH)

Summary of when and by whom applications may be made to the First-tier Tribunal. The table does not detail every circumstance giving rise to an application being made; some are extremely rare. Note: this table is for guidance only – it is not intended as a definitive statement of the law.

Civil (Part 2) Patients

	Circumstance	Patient may apply	Nearest relative may apply
1	Patient detained for assessment (section 2 or section 4) ¹	Once in the first fourteen days of detention starting with the day on which the patient is admitted.	No
2	Patient detained for treatment ¹ (section 3)	Once in the first six months of detention starting with the day on which the patient is admitted; once during the second six months and then once in every year after that.	Yes, but only where the nearest relative's decision to discharge the patient is blocked by the responsible clinician (see below).
3	Patient received into guardianship (section 7)	Once in the first six months of guardianship starting with the day on which the application is accepted; once during the second	No

¹ Where an application is made by a patient detained for assessment under section 4 of the 1983 Act, in practice by the time the hearing is held, the patient would either have been discharged or detained under section 2.

		six months and then once in every year after that. ²	
4	Patient transferred from detention in hospital to guardianship (section 19)	Once in the first renewal period and once in every further renewal period.	No
5	Patient transferred from guardianship to detention in hospital for treatment under section 3 (section 19)	Once during the six months of detention starting with the day on which the patient is admitted. They may also apply once in every period for which their detention is renewed.	Yes, but only where the nearest relative's decision to discharge the patient is blocked by the responsible clinician (see column 8 below).
6	Patient placed on supervised community treatment (community treatment order) (section 17A) ³	Once during the first six months starting with the date that the community treatment order comes into effect, once during the second six months and then once in every year after that.	Yes, but only where the nearest relative's decision to discharge the patient is blocked by the responsible clinician (see column 8 below).
7	Patient's supervised community treatment (community treatment order) is revoked (section 17F)	See detained for treatment (section 3) above. For these purposes, detention starts on the day on which the community treatment order is revoked. The hospital managers must also refer the patient's case to the Tribunal as soon as the community treatment order is revoked.	
8	Responsible clinician bars discharge by nearest relative of section 3 patient or SCT patient.	No	Once in the 28 days starting with the day on which they are told of the responsible clinician's report.
9	Nearest relative barred on certain grounds from acting as such by Order of the County Court (section 29) ⁴	No	Once in the first 12 months of an Order and then once in every year in which the Order is in force.

² For patients transferred from Northern Ireland, Channel Islands, Isle of Man, the application is deemed to have been accepted on the day of their arrival at the place where they are due to live in England.

³ Patients transferred from Scotland, Channel Islands or Isle of Man are treated as if placed on a community treatment order when they arrive at the place where they are due to reside.

⁴ This only applies where the nearest relative has been displaced on the grounds that they:
a) have acted unreasonably in objecting to an application for admission for treatment (under section 3 or for guardianship); or
b) have exercised the power to discharge the patient from detention, supervised community treatment (SCT) or guardianship, or are likely to do so, without due regard to the welfare of the patient or the interests of the public.

Forensic (Part 3) Patients

	Circumstance	Patient may apply	Nearest relative may apply
1	Patient detained by the courts under section 37 (hospital order) without restrictions	May not apply during the six months starting with the day the court made the hospital order. ⁵ After that, may apply once during the next six months and then once in every year after that.	May not apply during the six months starting with the day the court made the hospital order. After that, may apply once during the next six months and then once in every year after that.
2	Patient transferred from a guardianship order onto a hospital order.	Once during the six months starting with the day on which they are admitted. They may also apply once in every period for which their detention is renewed.	Once during the six months starting with the day on which the patient is admitted. They may also apply once in every period for which the patient's detention is renewed.
3	Patient detained by the courts under sections 37 & 41 (restricted hospital order) or section 45A (hospital and limitation directions)	May not apply during the six months starting with the day the court made the hospital order or direction ⁶ After that, may apply once during the next six months and then once in every year after that.	N/A No nearest relative
4	Patient transferred from prison to hospital by the Secretary of State under sections 47 or 48 (transfer directions) without restrictions.	Once during the first six months starting with the day the directions were given, once in the next six months; and once in every year after that.	Once during the first six months starting with the day the directions were given, once in the next six months; and once in every year after that.

⁵ Patients who are treated as being subject to this order on transfer from Scotland, Northern Ireland, the Channel Islands or the Isle of Man (with the exception of those transferred under section 84 of the 1983 Act) may also apply once during the first six months starting on the date of their admission to hospital in England. Similarly, patients who are treated as being subject to this order as a result of a direction under the Repatriation of Prisoners Act 1984 may also apply once during the first six months starting on the date of that direction.

⁶ For patients transferred from Scotland, Northern Ireland, the Channel Islands or the Isle of Man, the six months start on the day of their admission to hospital in England.

5	Patient transferred by the Secretary of State from prison under section 47 or 48 with restrictions under section 49 (restricted transfer directions)	Once during the first six months starting with the day the directions were given ⁸ , once during the next six months; and once in every year after that	N/A No nearest relative
6	Patient whose restrictions have ended (including “notional section 37” patients)	Once during the first six months after the restrictions end; once during the next six months, and then once in every year after that.	Once during the second six months after the patient’s restrictions end, and then once in every year after that
7	Patient discharged from hospital orders, hospital directions or transfer directions onto supervised community treatment (community treatment orders) – Part 3 SCT patients	<p>Once during the first six months starting with the date that the community treatment order comes into effect, once during the second six months; and then once in every year after that</p> <p>But patients who were detained under section 37 (hospital orders) before going onto SCT cannot apply until six months have passed since the court first made the hospital orderⁱⁱ.</p>	<p>Once during the first six months starting with the commencement of the community treatment order, once during the second six months, and then once in every year after that.</p> <p>But if the patient is not allowed to apply until six months have passed since the court first made a hospital order, nor may the nearest relative.</p>
8	Part 3 SCT patient whose supervised community treatment (community treatment order) is revoked	<p>Once during the first six months starting with the day the community treatment order is revoked, then once during the next six months, and then once in every year after that.</p> <p>But patients who were detained under section 37 (hospital orders) before going onto SCT cannot apply until six months have passed since the court first</p>	<p>Once during the first six months starting with the day the community treatment order is revoked, then once during the next six months, and then once in every year after that.</p> <p>But if the patient is not allowed to apply until six months have passed since the court first made a hospital order, nor may the nearest relative.</p>

		made the hospital order ⁷ . The hospital managers must also refer the patient's case to the Tribunal as soon as the order is revoked.	
9	Restricted patient who has been conditionally discharged	May apply for an absolute discharge only after they have been on conditional discharge for a year. They may then apply once during the second year they are on conditional discharge, and then once in every two year period after that.	N/A No nearest relative
10	Restricted patient who is recalled to hospital from conditional discharge	If the Secretary of State recalls a conditionally discharged patient to hospital, the Secretary of State must automatically refer the patient's case to the Tribunal. Patients cannot apply to the Tribunal themselves until six months after their return to hospital. They can then apply once during the next six months and then once in every year after that.	N/A No nearest relative
11	Patient on guardianship order (section 37)	Once in the first six months starting with the day the court makes the guardianship order ⁸ ,	May apply once during the first year, and then once in every year after that.

⁷ This rule does not apply to those who were treated as being subject to an unrestricted hospital order on transfer from Scotland, Northern Ireland, the Channel Islands or the Isle of Man, or as a result of a direction under the Repatriation of Prisoners Act 1984, or who were previously subjected to restricted hospital orders, but where the restrictions have ended.

⁸ For patients transferred onto a guardianship order from detention in hospital, the six months starts on the day of the hospital order, hospital direction or transfer direction (as applicable) under which they were

		once during the next six months, and then once in every year after that.	
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detained before the transfer. For patients treated as being subject to a guardianship order on transfer from Northern Ireland, the Channel Islands or the Isle of Man, the six months start on the day of their arrival at the place where they are to live in England.