



When can I apply to or be referred to the Tribunal for a hearing?

Patient applications

Section 2	Patient can apply once during the first 14 days of their section. Patients who have withdrawn their applications can reapply providing they are still in the first 14 days.
Section 3	Patient can apply once during the first six months of their section, once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 5 (CIPA)	Patient can't apply in first six months of being detained. The may apply once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 7 (Guardianship)	Patient can apply once during the first six months of their section, once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 17A (CTO)	Patient can apply once during the first six months of their section, once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 37 Notional (Also known as 41(5))	Patient can apply once during the first six months of their section, once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 37	Patient can't apply in first six months of being detained. The may apply once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.

Section 37/41	Patient can't apply in first six months of being detained. The may apply once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 45(A)	Patient can't apply in first six months of being detained. The may apply once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 47	Patient can apply once during the first six months of their section, once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 47/49	Patient can apply once during the first six months of their section, once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 48	Patient can apply once during the first six months of their section, once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 48/49	Patient can apply once during the first six months of their section, once during the second six months and yearly thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.
Section 75(2) (Conditionally Discharged)	Patient can't apply in first year of being detained. The may apply once during the second year and every two years thereafter. Patients who have withdrawn their applications can reapply within the same period. The patient being referred to the tribunal does not count as them making an application.

Nearest relative applications

Section 2	Nearest relative can't apply
Section 3	Nearest relative can only apply after having first applied to the hospital managers for the patients discharge. If the RC refuses to discharge the patient and issues a barring certificate, the NR can apply.
Section 5 (CIPA)	Nearest relative can't apply

Section 7 (Guardianship)	<p>Nearest relative can't apply, but has unrestricted right of discharge anyway. They just need to write to the Responsible Authority (normally local social services).</p> <p>A displaced nearest relative can apply but only if they were displaced on the following grounds: they either (1) unreasonably objected to the patient's admission to hospital or into guardianship or (2) used or proposed to use his/her or discharge power without due regard to the welfare of the patient or the interests of the public. The tribunal will need to see a copy of the displacement order with their application. The displaced nearest relative may make one application to the tribunal within 12 months of the displacement and a further application within each succeeding 12 month period.</p>
Section 17A (CTO)	Nearest relative can only apply after having first applied to the hospital managers for the patients discharge. If the RC refuses to discharge the patient and issues a barring certificate, the NR may apply.
Section 37	Nearest relative can apply directly to the tribunal, they can't apply in first six months of the patients detention. They may apply once during the second six months and yearly thereafter. They do not need a barring certificate.
Section 37 Notional (Also known as 41(5))	Nearest relative can apply directly to the tribunal. They may apply once during the first six months following the patients move to a notional section 37, once during the second six months and yearly thereafter. They do not need a barring certificate.
Section 37/41	Nearest relative can't apply
Section 45(A)	Nearest relative can't apply
Section 47/49	Nearest relative can't apply
Section 48/49	Nearest relative can't apply
Section 75(2) (Conditionally Discharged)	Nearest relative can't apply

Hospital referrals

The hospital managers can only refer non restricted patients and should do so in compliance with section 68 which requires the managers to refer patients to the tribunal at certain times.

Section 68(2)	A patient should be referred under section 68(2) on the expiration of six months from they day the patient was first detained ONLY IF the
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	<p>patient has not made their own application to the tribunal in that time period (Note: time spent under section 2 counts towards the six months). (Applications made under Section 2 and applications that were withdrawn DO NOT count). The hospital should refer immediately on the expiration of six months, however if they hospital forgets to they can refer the patient at any time after six months providing they still remain subject to section. The hospital can't send in the referral early, this renders it invalid, it can only be sent after six months. Once a patient has been referred under section 68(2) they should not be referred again unless they have been discharged and subjected to a new section. The duty to refer applies to in-patients and patients subject to CTO, but not guardianship patients.</p>
Section 68(6)	<p>A patient should be referred under section 68(6) if three years (one year if patient is under 18) have passed since the patient last had a case considered by the tribunal. The patient must have been continually subject to section for the whole period. The hospital should refer immediately on the expiration of three/one years, however if the hospital forget to they can refer the patient at any time after three/one years providing they still remain subject to section. The hospital can't send in the referral early, this renders it invalid, it can only be sent after three/one years. Once a patient has been referred under section 68(6) they should not be referred again for a further three/one years. (Assuming that they remain subject to section). The duty to refer applies to in-patients and patients subject to CTO, but not guardianship patients.</p>
Section 68(7)	<p>A patient should be referred under section 68(7) if they were previously a CTO patient whose CTO has been revoked. The hospital should refer immediately on the revocation of the CTO, however if the hospital forgets to they can refer the patient at any time afterwards providing they still remain subject to section. The hospital should refer if a CTO is revoked even if the patient already has applications or referrals in progress. The duty to refer under this section applies only to patients who have had their CTO revoked.</p>

MoJ Mental Health casework section (MHCS) referrals

The MHCS can only refer restricted patients and should do so in compliance with section 71 or 75 which requires the MHCS to refer patients to the tribunal at certain times.

Section 71(1)	<p>This section is only used under the authorisation of the Secretary of State for Justice. It allows the Secretary of State to refer any restricted patient at any time, even patients who would normally be unable to apply to the tribunal. It is always valid as long as it relates to a restricted patient.</p>
Section 71(2)	<p>A patient should be referred under section 71(2) if three years have passed since the patient last had a case considered by the tribunal or if the patient has never had a case considered by the tribunal and has been detained for three years. The patient must have been continually subject to section for the whole period. The MHCS should refer immediately on the expiration of three years, however if the</p>

	<p>MHCS forgets to they can refer the patient at any time after three years providing they still remain subject to section. The MHCS can't send in the referral early, this renders it invalid, it can only be sent after three years. Once a patient has been referred under section 71(2) they should not be referred again for a further three years. (Assuming that they remain subject to section). The duty to refer applies to in-patients only.</p>
Section 75(1)(a)	<p>A patient should be referred under section 75(1)(a) if they were previously a conditionally discharged patient who has been recalled to hospital. The MHCS should refer immediately on the recall of the patient, however if they MHCS forgets to they can refer the patient at any time afterwards providing they still remain subject to section and detained in hospital. The MHCS should refer if a patient is recalled even if the patient already has applications in progress. The duty to refer under this section applies only to patients who have been recalled to hospital.</p>

Department of Health referrals

Section 67	<p>This section is only used under the authorisation of the Secretary of State for Health. It allows the Secretary of State to refer any non restricted patient at any time, even patients who would normally be unable to apply to the tribunal. It is always valid as long as it relates to a non restricted patient. Patients, nearest relatives and others can contact the department of health to ask the Secretary of State to refer under section 67.</p>
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