

How to Apply for a Guardianship Order under the Mental Health Ordinance

What is a Guardianship Order

The Mental Health Ordinance empowers an independent Guardianship Board to consider, make and review guardianship orders in respect of mentally handicapped or mentally disordered persons [collectively known as Mentally Incapacitated Persons (MIP) in the Ordinance] to promote their interests or for the protection of others. A guardianship order will specify the appointment of a guardian for the MIP and the powers conferred. The guardian will then make personal decisions for the MIP such as where to live or whether to consent to medical or dental treatment.

Who is in need of a Guardianship Order

Not every MIP is in need of a guardianship order. The Guardianship Board must be satisfied that :

- the person has attained age 18 years or above
- the person is suffering from mental disorder or has a mental handicap (with an IQ of 70 or below according to the Wechsler Intelligence Scales for Children or an equivalent scale in a standardized intelligence test)
- because of the mental disorder or mental handicap, the person cannot make reasonable decisions on a substantial proportion of issues that affect his daily living or well-being
- guardianship order is necessary in the interests of the welfare of the person or for the protection of other persons
- the person needs a guardian as no other less restrictive or intrusive means is available

Who can Apply

The following persons can make a guardianship application to the Guardianship Board :

- a relative of the MIP
- a registered social worker
- a registered medical practitioner
- a public officer in the Social Welfare Department

How to Apply

Application can be made in the specified forms which are available from the Guardianship Board, the Guardianship Office or service units of the Social Welfare Department. Each application should be accompanied by 2 written reports prepared by registered medical practitioners and at least one of them should be approved under the Mental Health Ordinance. Enquiry on whether the medical practitioners are approved for the purpose can be made to the Guardianship Board or the Guardianship Office.

Application should be made within 14 days after the MIP is last personally seen by the applicant and examined by the registered medical practitioners.

Upon the receipt of an application, the Guardianship Board will arrange a date for hearing. A Notice of Hearing stating the date, time and location of the hearing, and relevant documents will be sent to the applicant, the MIP, relatives concerned, and the Director of Social Welfare. The Guardianship Board will conduct a hearing in which Board members will examine all the information and evidence collected, interview the MIP and relevant witnesses to reach a decision.

If you need more information on the above, please contact the following bodies :

Guardianship Board

Address: Room 807-809, 8/F
Hong Kong Pacific Centre
28 Hankow Road
Tsim Sha Tsui, Kowloon
Tel: 2369 1999
Fax: 2739 7171

Guardianship Office

Social Welfare Department

Address: Room 901, 9/F
Wu Chung House
213 Queen's Road East
Wan Chai, Hong Kong
Tel: 2892 5154
Fax: 2893 6983