

Application for a Guardianship Order under the Mental Health Ordinance (MHO), Cap 136

The Guardianship Board

The Guardianship Board is a legal quasi-judicial tribunal of Hong Kong Special Administrative Region. Its central statutory role is to conduct hearings in order to make guardianship orders for people aged 18 years and over with decision making incapacities [collectively known as Mentally Incapacitated Persons (MIP) in the Mental Health Ordinance (MHO)].

The Board is an independent body corporate and operates under Part IVB of MHO, which provides functions and powers of the Board, most of the orders it can make, the principles and criteria to be applied when the Board is making decisions.

Members of the Guardianship Board are appointed by the Chief Executive. The Board comprises a Chairperson with legal experience and other members from relevant professions including barristers/ solicitors, medical practitioners/ social workers/ clinical psychologists, and persons with personal experience with MIPs such as parents and relatives of the MIP.

What is a Guardianship Order

The functions and powers of the Guardianship Board laid down in the Mental Health Ordinance include: considering and determining applications for the appointment of guardians, making and reviewing guardianship orders and giving directions to guardians as to the nature and extent of the relevant guardianship orders in order to promote the interests of the MIP 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 Rehabilitation and Medical Social Services Branch 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. The detailed procedures, criteria of making a Guardianship Order, list of approved doctors and applications forms etc. have already been uploaded onto the website of the Guardianship Board: <http://www.adultguardianship.org.hk> for the public's access.

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

The Rehabilitation and Medical Social Services Branch

Social Welfare Department

Address: Room 901, 9/F
Wu Chung House
213 Queen's Road East
Wan Chai, Hong Kong

Tel: 2892 5596

Fax: 2893 6983