



This Guide helps you to fill out the application form for guardianship

BEFORE YOU FILL OUT THE APPLICATION FORM (From 1), PLEASE READ THIS GUIDE CAREFULLY.

IMPORTANT NOTES

- (1) Please fill in the application form with **BLACK** pen and in **CAPITAL** letters. If possible, please print your writing on the application form.
- (2) Make sure the application form is signed, dated, all relevant questions are answered and the required information is completed. If not, the form will be returned to you for full completion. This will cause a delay in processing the application.
- (3) Please read the attached Personal Data Notice before you complete this form.
- (4) You may need first to read our leaflet on “*Our Work*”.

Does it cost money to make an application?

The processing of an application and hearing are free services.

Who can make the application?

- a relative of the person concerned;
- a social worker, e.g. from a non-government organization offering social services to the persons concerned;
- a registered medical practitioner; or
- a public officer in the Social Welfare Department, i.e. a social worker.

Do any documents have to be enclosed with the application form?

The law requires that two medical reports **MUST** be enclosed with the application form. One of the medical reports must be prepared by a doctor “approved” by the Hospital Authority. The “approved” doctor has special experience in the diagnosis or treatment of mental disorder, or special experience in the assessment or determination of mental handicap. This usually means that he/she is a psychiatrist or psychogeriatrician. If you do not know any approved doctor, you can obtain the relevant information from the Guardianship Board, the Hospital Authority or the Integrated Family Service Centres or Medical Social Services Units of the Social Welfare Department.

What type of medical reports are needed?

There is a standard medical report form for the approved doctor and a shorter form for the other doctor who does not have to be an approved doctor. This doctor, for example, can be a general practitioner, a geriatrician, or a doctor in a Hospital Authority clinic. These forms can be obtained from the Guardianship Board or you can obtain the relevant information from the Integrated Family Service Centres or Medical Social Services Units of the Social Welfare Department.

Who will pay for the medical report?

There may be fees for the medical reports if produced by a doctor from Hospital Authority. Private psychiatrists are entitled to charge and there is no standard fee. If fees are required by the doctors, then it is the responsibility of the applicant to pay them.

What happens after the application form and medical reports are completed?

Time limit for seeing the person concerned

The law provides that the applicant **MUST** complete the application form **WITHIN THE PERIOD OF 14 DAYS AFTER HE/SHE HAS SEEN THE PERSON CONCERNED**. **Example:** The person concerned was seen on 30 April. The application must be dated and signed between 1st May and before the 14th May.

Time limit for medical report

The law provides that the applicant **MUST** send the form and the two medical reports to the Guardianship Board **WITHIN THE PERIOD OF 14 DAYS BEGINNING WITH THE DATE ON WHICH THE PERSON CONCERNED HAS BEEN EXAMINED BY THE 2nd DOCTOR**. The Guardianship Board cannot accept an application unless the two medical reports are filed with it.

Example: Doctor A examined the person concerned on 5th May and Doctor B examined him on 7th May. Doctor B completes the report on 11th May. The 14 day period starts to run from 7th May and not from either 5th May or 11th May. You must send the application form and the two medical reports to the Guardianship Board on or before 20th May.

Then the Secretariat of the Guardianship Board will check the application form and medical reports. If they are accurate, the application of guardianship can then proceed. If the time limits are not complied with, the Guardianship Board does not have discretion to accept an application.

Who can be the proposed guardian?

The proposed guardian must be a person: -

- who is 18 years or above;
- who is willing and able to act as a guardian;
- who is capable of taking care of the person concerned;
- whose personality is generally compatible with the person concerned;
- whose interests, especially of a financial nature, do not conflict with the person concerned;
- who promotes the interests of the person concerned (including overriding the person concerned's views and wishes where the appointed guardian considers this is in his interests);
- who respects the views and wishes of the person concerned, if they can be determined; and
- who has given written consent to be a guardian.

Can the applicant and the proposed guardian be the same person?

Yes, the applicant and the proposed guardian can be the same person. The guardian can be a person from any of the categories of applicants, or, if none of them is appropriate or available, any other suitable person who has a genuine interests in the welfare of the person concerned. The proposed guardian, if it is a person other than the Director of Social Welfare, must consent to being proposed as guardian.

How long does the Guardianship Order last?

The guardianship order lasts for a period not exceeding one year, and, if it is renewed, for a period not exceeding three years. An emergency guardianship order lasts for a period not exceeding three months. (See our leaflet on "Emergency Guardianship Order – Protecting abused mentally incapacitated adults").

Notes on blanks on the application form

For ease of reference, the numbering of the notes below is identical with the numbering of the blanks to be filled out as appearing in the application form.

Part I

- (1)-(4) You are the applicant. Put in your personal details in and your name in both English and Chinese.
- (5)-(8) Delete these sentences if the applicant is **NOT** the Director of Social Welfare.
- (9)-(11) Put details of the person whom you believe to be in need of a guardian and the name in both English and Chinese.

- (12) The person concerned must be 18 years old or above. If you know his age, please state on the provided space and delete “OR” and its following sentence.
If you do not know his/her age but believed that he/she is at least 18, then delete “OR” and the previous sentence.
- (13) **The applicant must complete this sentence.** “Relationship” means your relationship with the person concerned, e.g. parent, brother, sister, doctor, social worker or public officer of the Social Welfare Department.
- (14) If you are a relative, there is no need to fill in this box. If you are not a relative, you must answer this question.
If you have completed the first question on this page, then you must delete “OR” and the following sentence.
- (15) **The applicant must answer this question.** State the date which you last saw the person concerned. You must have personally seen him/her within the period of 14 days before the date of the application.
- (16) Delete this question if the person is not detained under the Mental Health Ordinance.
- (17) Only answer this question if the Mental Health Review Tribunal have made a recommendation.
- (18) You must give some reasons to support your application for guardianship, if there is not enough room, give them in a letter accompanying the application.
- (19) Please write down the name of the proposed guardian.
- (20)-(27) The medical reports **MUST** be sent with the application form to the Guardianship Board **within 14 days of the date of the last medical examination.**
One of the medical reports must be prepared by an approved doctor, who has special experience in the diagnosis or treatment of mental disorder, or special experience in the assessment or determination of mental handicap (S. 2(2) of Mental Health Ordinance).
- (28)-(29) You **MUST** sign your name here and write down the date.

Part II

- (30)-(33) Part II **MUST** be completed where the applicant is proposing a person other than the Director of Social Welfare to be the guardian. Put in details of the proposed guardian and the name in both English and Chinese.

Part III

- (34) Part III is only completed where the applicant is **NOT** applying for the Director of Social Welfare to be the guardian. Write down the name of the proposed guardian.
- (35) “Relationship” means the relationship between the proposed guardian and the person concerned, e.g. parent, brother, sister, friend, doctor, social worker, etc.
- (36)-(37) The proposed guardian **MUST** sign here to give written consent to be the guardian and write down the date.

For more information, contact the Guardianship Board:

Address : Unit 807, 8/F, Hong Kong Pacific Centre, 28 Hankow Road,
Tsimshatsui Kowloon, Hong Kong

Tel : 2369 1999

Fax : 2739 7171

E mail : gbenquiry@adultguardianship.org.hk

Webstie : www.adultguardianship.org.hk

Important notes : The information in this leaflet is for general guidance only and does not purport to be legal advice given by the Guardianship Board.

Notice on collection of personal data under the Personal Data (Privacy) Ordinance Cap. 486

Please read this notice before you provide any personal data to the Guardianship Board.

Purpose of Collection

- (1) The Guardianship Board is a statutory body established under the Mental Health Ordinance (Cap. 136). You will be asked by our staff members to provide personal data or to obtain such data from an appropriate third party. The data supplied by you will be used by the Guardianship Board to discharge our statutory duties and to provide an appropriate service, which includes monitoring and review of our service, and conducting surveys, education, and requiring statistics.

Classes of Transferees

- (2) The personal data you provide will be made available to persons working in the Secretariat of the Guardianship Board and members of the Guardianship Board for the purposes mentioned in paragraph 1, or directly related purposes, and then only on a need to know basis. Apart from this, they may only be disclosed to the relevant parties listed below for the purposes listed in paragraph 1: -
 - (a) appropriate persons in the Guardianship Office or other relevant offices of the Social Welfare Department, Hospital Authority, relevant government bureaus/departments, statutory bodies such as Equal Opportunities Commission, legal advisers, banks, or non-government organizations, but only if they are involved in the assessment of, or provision of service/assistance to you;
 - (b) where you have given consent to such disclosure; or
 - (c) where such disclosure is authorized or required by law.

Example : The Guardianship Board cannot process an application for a Guardianship Order without two medical reports on the mentally incapacitated person. This may involve liaison with the Hospital Authority or private doctors. The Guardianship Board is authorized by law to request a social enquiry report from the Social Welfare Department on a mentally incapacitated person. This will include information collected from the relatives of the mentally incapacitated person and the proposed guardian.

Access to Personal Data

- (3) Apart from exemptions provided under the Personal Data (Privacy) Ordinance, you have a right of access to and correction of personal data held on you. Your right of access includes the right to obtain a copy of your personal data subject to payment of a fee. Applications for access to and correction of data should be made either on an application form or by a letter. Application forms are available at the Guardianship Board Secretariat's office.

Exemption from access to personal data

- (4) The Guardianship Board is exempt from the requirement to allow you access to personal data relating to your physical or mental health, if by doing so it would be likely to cause serious harm to your physical or mental health or the physical or mental health of others.

Enquiries, access to and correction of personal data

- (5) If you have enquiries concerning your application for assistance/service or if there are changes in the data you provide, please contact us.
- (6) Requests for access to personal data collected by us and correction of data obtained from a data access request should be addressed to:

Post title: Secretary to the Board

Address: Unit 807, Hong Kong Pacific Centre, 28 Hankow Road, Tsimshatsui, Kowloon.

Tel No.: 2369 1999 Fax No. : 2739 7171

(Note: This notice may be modified to include the post title or tel. no. of the officer referred to paragraph 6 and to add classes of transferees if they are applicable for a particular type of service/application.)