



Hearing Process for Guardianship

When a valid application form with two medical reports are received, the Guardianship Board's Secretariat will process the application, and obtain a social enquiry report from the Social Welfare Department on the person the application is about and his/her family or friends. The report takes four weeks to prepare. The Board will then hold a hearing to decide on the application. (The normal processing time for an application, from the date of receipt of a duly completed Form 1 and the actual hearing, will be about 3 to 9 months (the actual time will depend on complexities of the case and the current caseload of the secretariat during that period).)

Who is notified of the hearing?

At least 14 days in advance, the parties to the hearing will be notified of the date, time and place of the hearing, that is: -

- the person the application is about;
- the applicant;
- the Director of Social Welfare.

(The above persons are parties to the application and should, unless permitted by the Board on ground of exceptional reason, attend the hearing.)

Notice will also be given to:-

- the proposed guardian;
- any family member that the Guardianship Board thinks should attend;
- witnesses such as the doctors or social worker who prepared reports.

Who makes decisions at a hearing?

The hearing is conducted by at least three members of the Guardianship Board. There must be one person with personal experience of persons with incapacities, one lawyer, and either a doctor, social worker or clinical psychologist. The Chairperson or a lawyer member is the presiding member.

What happens at a hearing?

- The person concerned is encouraged to be present and to participate in the hearing at the office of the Guardianship Board. The applicant, or the Director of Social Welfare may be represented by a lawyer, if necessary. In most cases this will not be necessary.
- Parties to the hearing must furnish any information, and produce any relevant records or papers that the Board requests.

- The presiding member and other Board members will ask the parties to present information about the person concerned. The members will ask questions of the person concerned (if that is practicable), the applicant, and the proposed guardian. They will also ask questions of the relevant family members or friends. They will consider the written medical reports, the social enquiry report, and clinical psychologist's report (if any). They may ask questions of the social worker and the doctors who prepared the reports. The parties can ask questions of each other.
- The Board considers all the information presented at the hearing in order to make their decision. Although hearings are conducted informally, an order will only be made if there is sufficient information to justify it.
- After conducting the hearing, the members will decide:
 - > whether the appointment of a guardian is appropriate and meets the criteria and principles of the law;
 - > who the guardian should be;
 - > what powers the guardian will have; and
 - > the length and other terms and conditions of the order.

Is the hearing held in private or in public?

The Guardianship Board decides, at the beginning of the hearing, whether in the interests of the person concerned, or for some other good reason, it should require all or part of the hearing to be held privately. In any case, it may order those present not to disclose information or identifying details of the parties to the public.

What happens at the end of the hearing?

At the end of the hearing, the presiding member announces the order of the Board. The written order and the reasons for the order are sent to the parties within 7 working days.

For more information, contact the Guardianship Board:

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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.

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