



2003-2006

Second Report

第二份報告



保護 PROTECTION
COMPASSION 同情
公正 FAIRNESS
INDEPENDENCE 獨立
尊重 RESPECT
ACCESSIBILITY 方便



VISION 願景

The vision of the Guardianship Board is to promote the welfare, interests and protection of mentally incapacitated adults through guardianship.

監護委員會的願景是透過監護令保護精神上無行為能力的成年人，促進他們的福利和利益。



MISSION 使命

To manifest its vision, the Guardianship Board commits to the following mission:

1. To support, protect and advocate the best interests of mentally incapacitated adults by empowering guardians to:
 - (a) facilitate the management of their finances;
 - (b) ensure that their needs for services and medical treatment are met;
 - (c) protect them against abuse, exploitation and neglect;
 - (d) enhance their quality of care.
2. To facilitate the resolution of disputes with relatives and service providers, concerning the best interests of mentally incapacitated adults.
3. To keep the guardianship legislation under continuous review so that it promotes the best interests of mentally incapacitated adults.

使命

為了實現這個願景，監護委員會承諾實踐下列使命：

1. 為了支援、保護及倡導精神上無行為能力成年人的最佳利益，委任監護人：
 - (i) 協助管理他們的財務；
 - (ii) 確保他們得到所需的服務及醫療；
 - (iii) 保護他們免被虐待、榨取金錢和疏忽照顧；
 - (iv) 提升照顧素質。
2. 協助解決親屬與服務提供者之間，就精神上無行為能力成年人的最佳利益問題而產生的爭執。
3. 經常檢討有關監護令的法例，以促進精神上無行為能力成年人的最佳利益。



VALUE 核心價值

The Guardianship Board commits to the following values:

Protection / Compassion / Fairness
Independence / Respect / Accessibility

核心價值

監護委員會持守下列的核心價值：
保護 / 同情 / 公正 / 獨立 / 尊重 / 方便

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This report is also available on the Board's website at www.adultguardianship.org.hk.

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本報告亦已上載於委員會網頁 www.adultguardianship.org.hk。

1. Message from the Chairperson

This is the second report of the Guardianship Board for the years 2003-2006.

The Guardianship Board of Hong Kong was set up in February 1999 under Part IVB of the Mental Health Ordinance, Chapter 136, Laws of Hong Kong. It is a quasi-judicial tribunal determining applications for guardianship for adults who are mentally incapacitated persons. The Board is comprised of currently 56 board members divided into three panels. They are respectively (i) the lawyer members who are solicitors and barristers, (ii) the professional members who are doctors, social workers, nurse specialist, occupational therapist and clinical psychologists and (iii) the community members who are members of the public who have the experience of taking care of mentally incapacitated persons. Each application for appointment of a guardian is heard by a panel consisted of at least one member from each panel, with the lawyer member sitting as the chairman of the hearing. Hearings are conducted in an informal atmosphere with a clear goal to protect and promote the interests of welfare of the concerned person. The result of an application is announced immediately after a hearing. A written order and reasons for order are obliged by law to be delivered within seven days thereafter. The aim of setting up the guardianship regime is to provide an effective and efficient system to appoint a guardian for the concerned person in need. The guardian so appointed will make decisions for the concerned person in respect of his or her welfare, residence, daily care, medical treatment and finance. The practice and procedure of the guardianship has been built up over time and the use of guardianship is getting wide support from all sectors of the society. It is also accepted as a form of ready means with which the welfare of the vulnerable people with cognitive deficits is protected and promoted, particularly as against all kinds of abuses. The guardianship system in Hong Kong remains today as the first of its kind in South-East Asia and East Asia. However, unlike other jurisdictions, the Guardianship Board of Hong Kong Special Administrative Region, albeit its independent status, does not have an unlimited financial jurisdiction. Currently, the monthly maximum financial limit is \$10,000.

On behalf of the Board, I would like to extend my heartfelt gratitude to the Health, Welfare and Food Bureau, Social Welfare Department and Hospital Authority for their past tremendous contribution without which the guardianship system would not have been successful. On behalf of myself and my team, I extend my equal gratitude to all the previous and existing members of Board whose dedicated efforts have been pivotal to the success of our mission to promote and protect the interests of welfare of our subject persons.



Charles CHIU Chung-yeo
Chairperson of Guardianship Board
Year 2006

1. 主席獻詞

這是監護委員會為二零零三年至二零零六年度的工作所擬備的報告。

監護委員會是根據香港法例第136章《精神健康條例》IVB部於一九九九年二月而成立的。委員會是一個類司法審裁機構，為精神上無行為能力的成年人作出監護令。委員會現時有三組共五十六位委員，他們分為律師成員包括律師及大律師；專業成員，包括醫生、社工、專科護士、職業治療師及臨床心理學家；及社區成員，他們是具有照顧精神上無行為能力人士經驗的公眾人士。每宗委任監護人的申請個案會由最少三名分屬不同組別的委員審理，而律師成員須要負責主持有關聆訊。聆訊在不拘謹的氣氛下進行，以達致保障及促進當事人的最佳利益的原則為依歸。申請結果會於聆訊後立即宣布，而書面監護令及命令之理由會根據法例在聆訊後七天內發出。成立監護制度的目的，是藉著一個有效及高效率的制度，為有需要的當事人委任監護人，被委任的監護人可以為當事人在福利、住宿、日常照顧、醫療及財務等事宜上作出決定。監護令的申請和運作，經過多年累積經驗及不斷自我完善後，已確立了固定的規則及程序，而監護令的使用亦日益得到社會上不同層面人士的大力支持和認同。監護令更已被廣泛認定為一種能保障及促進認知能力缺損人士最佳利益的有效途徑，尤其是針對各種的虐待。香港的監護制度至今仍然是東南亞及東亞洲的先河。香港特別行政區的監護委員會是獨立運作，它與其他國家的監護制度有所不同，因為委員會的財務權力是受到限制的，現時每月財務上限為一萬元。

最後，我謹代表委員會衷心感謝衛生福利及食物局、社會福利署及醫院管理局過去為委員會的工作所作出的極大貢獻，促使監護制度得以成功在本港推展。本人同時謹代表自己及委員會秘書處全體同事向歷任及現任的全部委員會委員表達衷心謝意，因他們盡心無私的努力，令委員會得以成功達致「促進及保障當事人利益」的使命。



趙宗義律師

監護委員會主席
二零零六年





2.

The Report

報告

保護 PROTECTION
COMPASSION 同情
公正 FAIRNESS
INDEPENDENCE 獨立
尊重 RESPECT
ACCESSIBILITY 方便

The Work

工作

The Guardianship Board has consistently applied the principles and criteria as set out in the statute in determining guardianship applications and reviews. Amongst all these, the Board always puts the interests of welfare of the subject person as the paramount concern and it considers carefully whether it is in the interests of the subject person to receive him into guardianship. The Board is mindful to particularly observe the principle of the last resort in order that the restriction on the freedom of decision making of the subject concerned can be minimized. In this regard, the Board scrupulously examine in each case whether an informal means has already existed or could be put in place so that a guardianship order, which is by nature intrusive and restrictive, can be dispensed with. Emphasis of the Board is made particularly to the characteristic of informality of guardianship proceedings which is of great advantages to the general members of the public who are, generally, strangers to the legal system. Equally, other characteristics like the inquisitorial nature of the guardianship proceedings, the dispensing with the observation of rules of evidence and the need to follow the rule of natural justice are all contributing to the fluidity of the running of the guardianship regime. Lastly, there is one special feature worthy of mentioning, that is, each guardianship order must be automatically reviewed before its expiration.

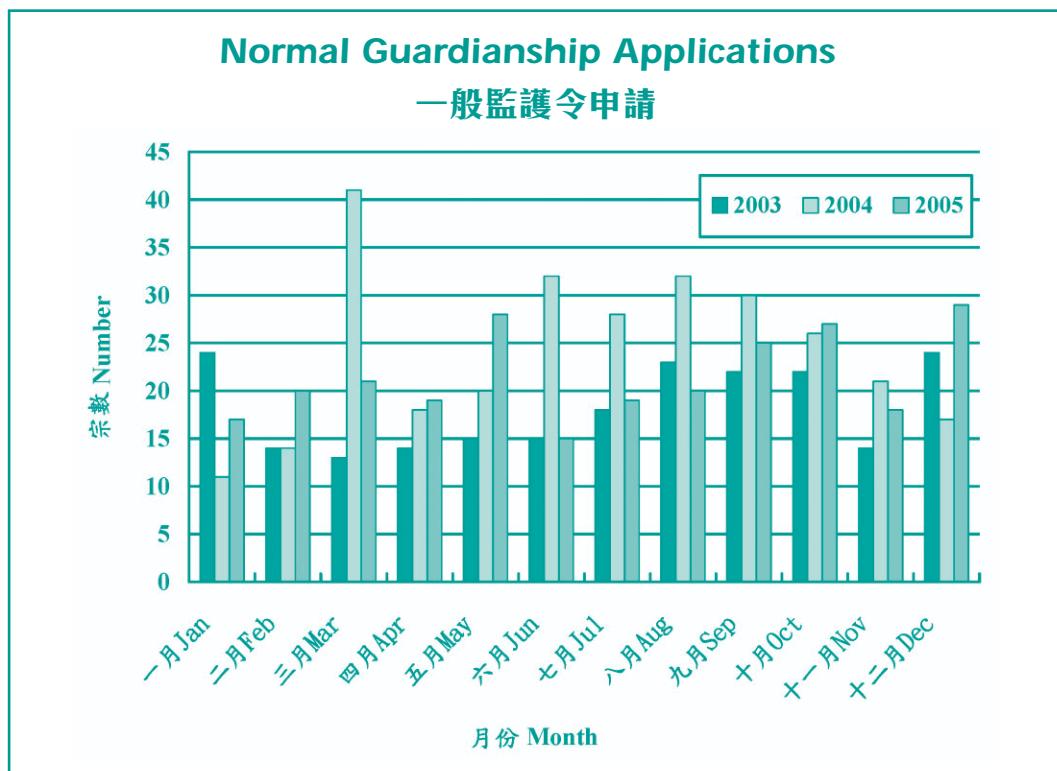


監護委員會一如既往把法例上列有的原則及準則貫徹地應用於作出審批監護令的申請及覆核上，委員會亦常常把當事人的最佳福利作為最大前提，以及認真地考慮一旦把當事人收容監護，是否符合她/他的最佳利益。委員會特別小心地處理及關注有關「最後方法」的原則，希望有其他可用的方法，能把當事人自由作出決定的限制減至最低。在這點上，委員會會小心翼翼地查問每宗個案是否已存在或可引用非正式安排或方法，以免除監護令的介入及限制。另外，須強調的是，監護程序的特色是不拘謹於形式，這對一般很少接觸司法機制的市民是一莫大好處。同樣地，委員會的程序具備其他特色，如監護程序的審訊中的舉證要求，仍須跟隨公平審訊的原則，但法例訂明是不受證據規則的約束，這可幫助監護制度運作流暢。最後，不得不提的是，每宗獲批監護令的個案，必須按法例於監護令期限屆滿前，自動展開覆核程序。

These three years (February 2003 - January 2006) saw a pattern of consistent and steady caseloads, averaged each year as below:

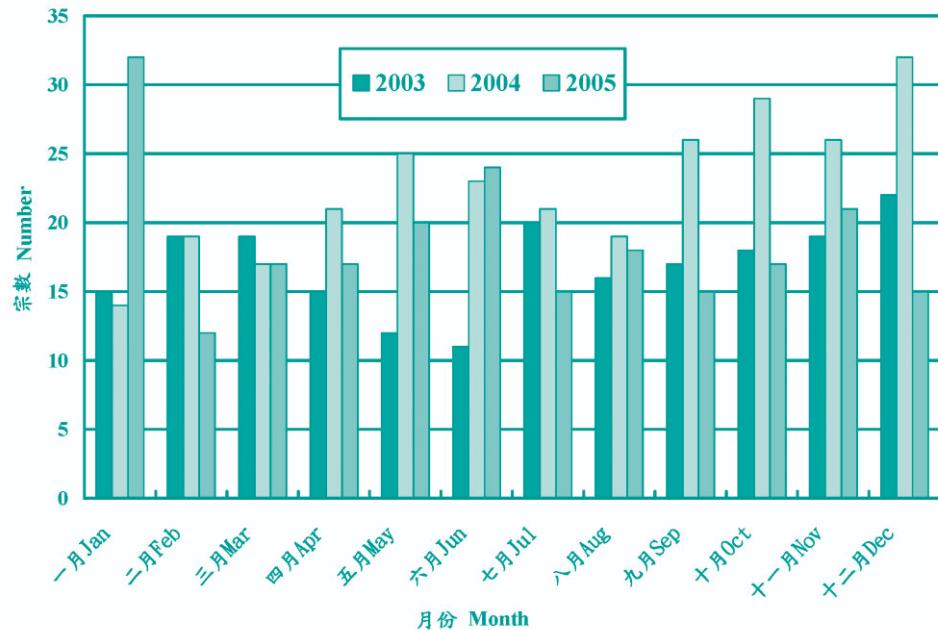
於這三年(二零零三年二月至二零零六年一月)的個案數目是平均及穩定的，而每年的平均數如下：

| Type 類別 | 2003(from Feb) 2003 (2月起) | 2004 | 2005 | 2006(Jan) 2006(1月) | No. of case (average per year) 個案數字 (每年平均數) |
|--|------------------------------|------|------|-----------------------|--|
| Fresh applications 新申請 | 194 | 290 | 258 | 24 | 255.3 |
| Hearings of fresh applications 新申請聆訊 | 188 | 272 | 223 | 9 | 230.6 |
| Hearings of review applications 覆核聆訊 | 183 | 213 | 276 | 28 | 233.3 |
| Hearings of emergency applications 緊急申請聆訊 | 15 | 9 | 3 | 0 | 9 |
| Hearings for directions 指示聆訊 | 0 | 1 | 0 | 0 | 0.3 |



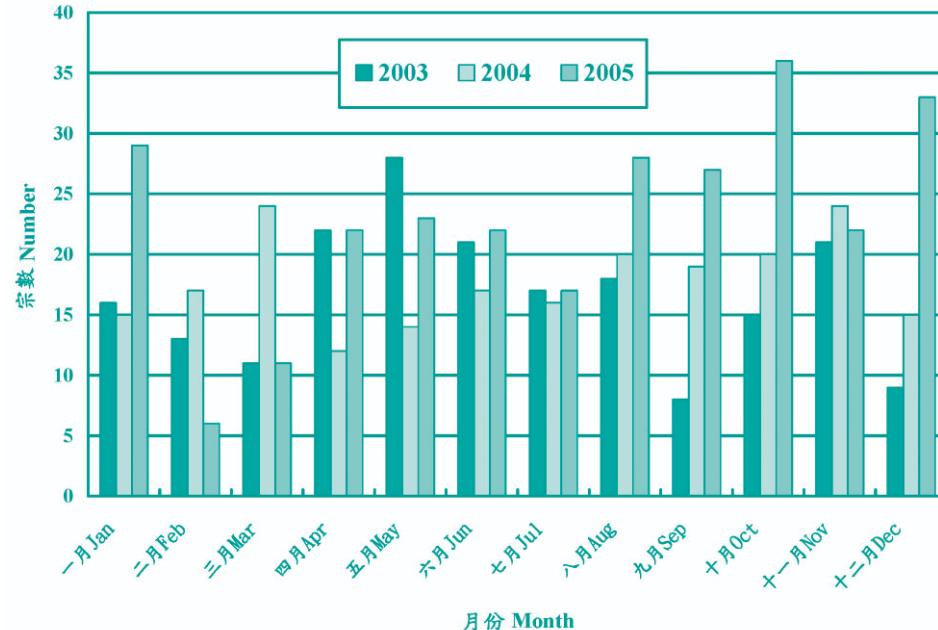
Hearings for Normal Guardianship Applications

一般監護令聆訊



Hearings for Review of Guardianship Orders

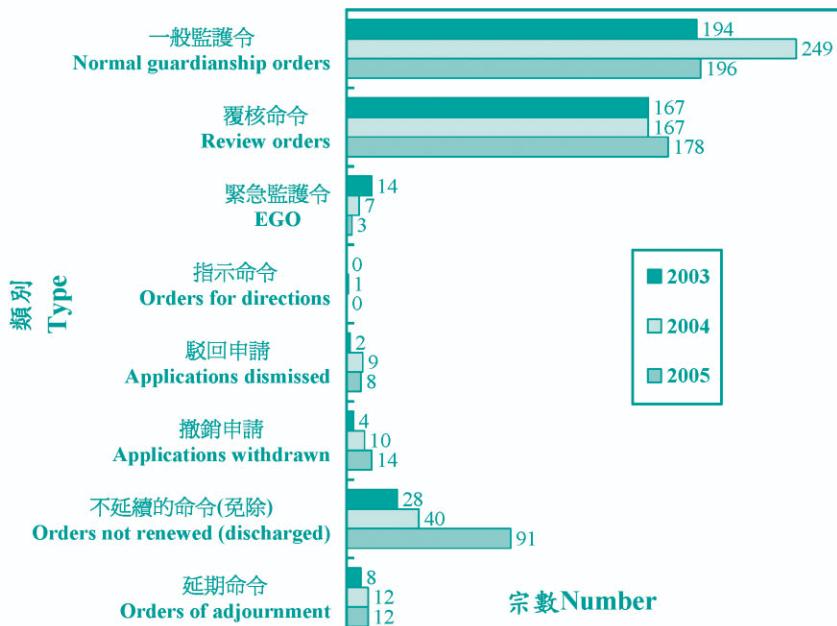
覆核聆訊



Orders Made

命令的類別

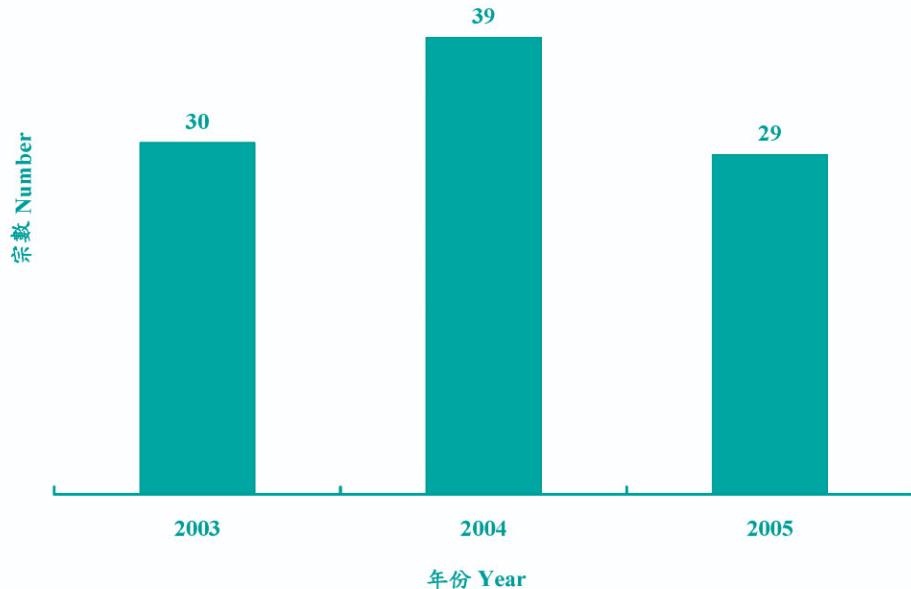
Type of Orders 命令的類別



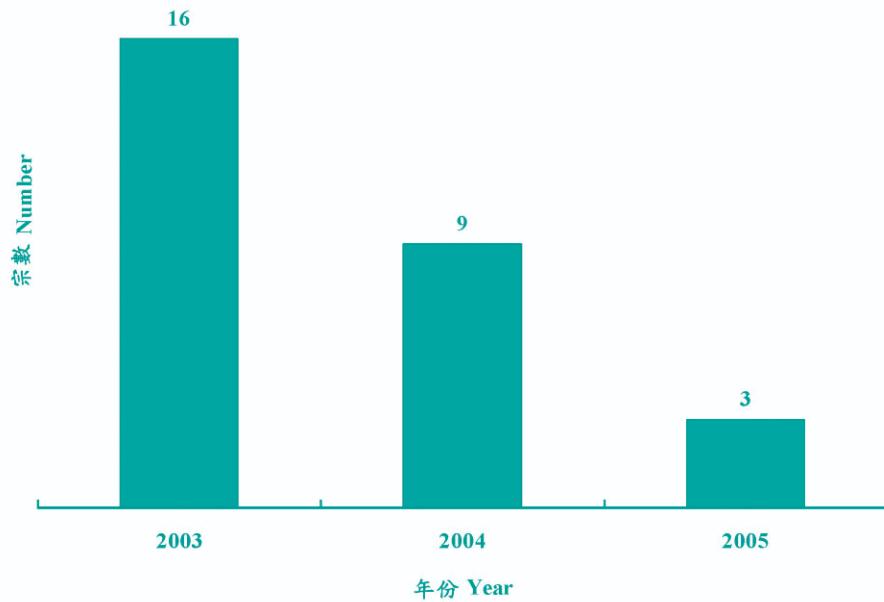
Towards the end of these three years, a decreasing trend is noted regarding applications for medical consent powers and emergency guardianship (EGO) applications. Likely, these are indicators that the guardianship system is well promoted locally and the uses of guardianship are more clearly understood by the community. These are the fruits borne out of the persistent efforts of the Board to devote resources to publicity programs.

於這三年屆滿時，委員會察悉提出緊急監護令及獲取同意治療權力的申請個案有明顯下降的趨勢。這很可能表示現行監護制度的推廣已相當成功，而公眾已較為清楚明白監護令的用途，這初步成果，端賴委員會多年來堅持及努力不懈地推廣所致。

**Applications filed asking for the power of consent to treatment
為取得同意治療權力而提出申請的個案**



**Emergency Guardianship Order (EGO) Applications
緊急監護令申請**



Also, due to the aging population of Hong Kong, over 80% of subject persons received into guardianship are people over 60. The purpose for which an application was lodged was predominantly financial in nature. This trend is consistent and self-evident in these three years. In view of the demographic changes due to the aging of the post-war baby boomers, coupled with the low birth rate of the ensuing generation, the need of guardianship is likely to grow consistently in the decade to come.

Age distribution —

Trend of cases on Elderly (Age above 60 years old), Comparison of Years 2003-2005 (Normal & EGO)

No. of applications on elderly: 2003: 176 (75.2%)
2004: 232 (77.6%)
2005: 197 (76.4%)

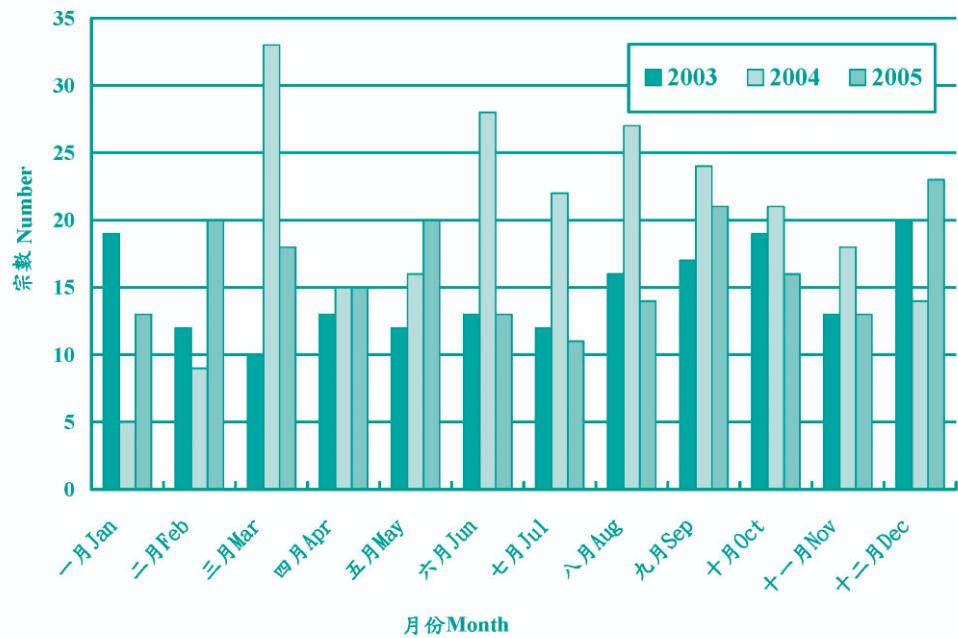
同時，由於香港人口老化，在委員會收到的監護令申請中，有關當事人是六十歲或以上人士佔了百分之八十以上，而明顯地，絕大部份提出申請的主要原因與財務問題有直接關連，上述的均是這三年內明顯而一貫的趨勢。有鑑於第二次世界大戰後出生的嬰兒激增，結合下一代已確定的低出生率，令人口的結構面對巨大的改變，監護令的需求在未來十年必會日漸增加。

年齡分佈 —

有關長者個案的趨勢（年齡於六十歲或以上），2003 年至 2005 年比較（一般及緊急監護令）

長者個案申請數字：2003 年：176 宗（75.2%）
2004 年：232 宗（77.6%）
2005 年：197 宗（76.4%）

**Trend of cases on elderly (Age above 60 years old) in normal guardianship and EGOs
有關長者個案的趨勢（年齡於六十歲或以上）一般及緊急監護令申請**



Distribution of Disability

(Normal & EGO) (Comparison of Years 2003-2005)

No. of Normal applications: 2003: 234

2004: 299

2005: 258

殘疾類別

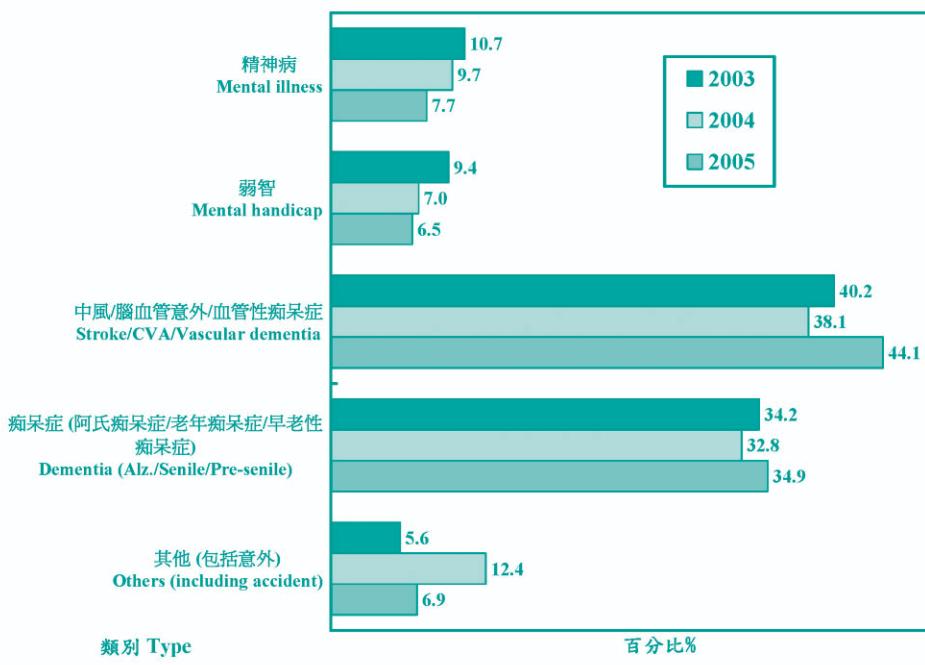
(一般及緊急監護令) (2003 年至 2005 年比較)

一般監護令申請數字： 2003 年 : 234 宗

2004 年 : 299 宗

2005 年 : 258 宗

Type of Disability 殘疾類別





Sittings

聆訊

To cope with the increase of hearings, the number of cases to be heard in each session has increased from two to four. During demanding period, the Chairperson had attempted to sit for whole day or five cases per session in order to shorten the waiting time.

由於聆訊的需求增加，每節聆訊所處理的個案宗數由二宗升至四宗。於一些需求偏高的時期，委員會主席亦已嘗試主持一整天的聆訊或於每節的聆訊中審理五宗個案，以縮短輪候時間。



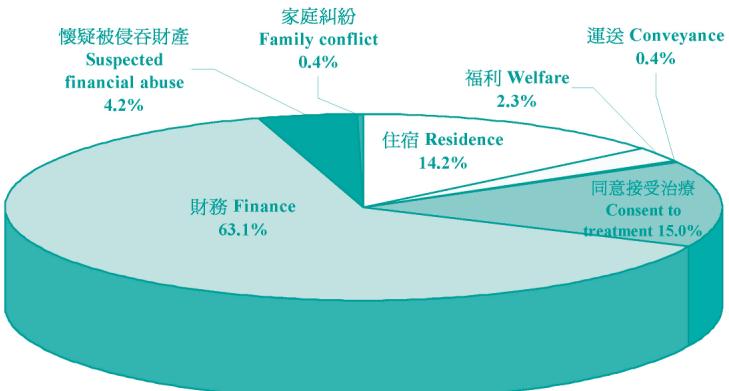
Analysis of reasons of applications

申請原因的分析

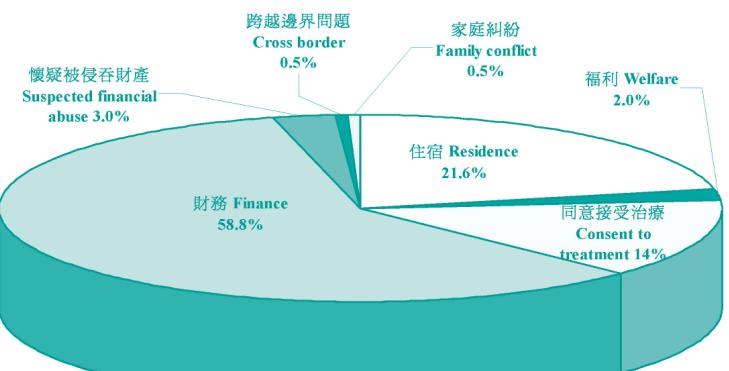
The Board took a specific study on the reasons for applications for the years 2004 and 2005. Resulting from such a study, it is shown that the predominant need for application is rested with financial concerns.

委員會曾對二零零四年及二零零五年的申請原因作出研究。研究結果顯示，主要的申請原因是財務問題。

Reasons for normal guardianship applications in 2004 2004年申請一般監護令的原因



Reasons for normal guardianship applications in 2005 2005年申請一般監護令的原因



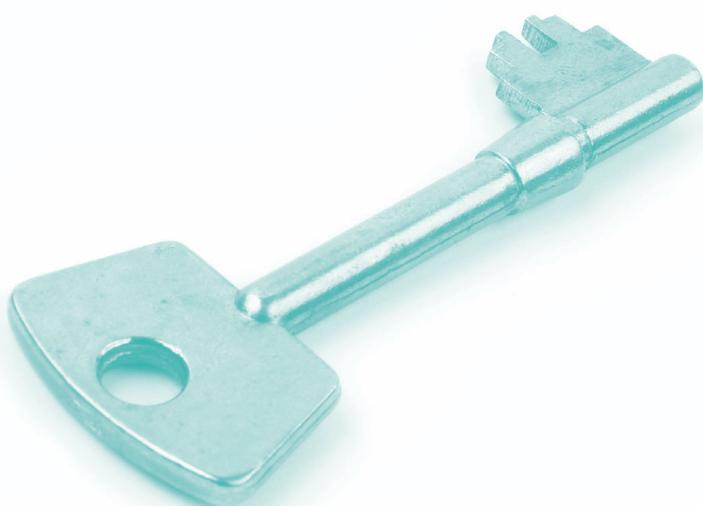


Format and Language of Orders and Reasons

監護令及理由 的格式 及採用的語言

As the population of Hong Kong Special Administrative Region is pre-dominantly Chinese, the Board is mindful to use more Chinese for obvious and good reasons. As an initiative, the Chairperson gave his first Order and Reasons for Order in Chinese on Tuesday, 27 May 2003. So far, around 33% of the Orders and Reasons for Order of the Board are written in Chinese. Also, to enhance precision and clarity, all formal parts of Orders and Reasons for Order have been re-designed.

由於香港特別行政區內主要人口是中國人，故此，委員會認為在處理文書時，亦須較多運用中文。委員會主席於二零零三年五月二十七日首次用中文發出第一個監護令及命令之理由。至今，委員會大約有三十三個百分比的監護令及命令之理由用中文編寫。同時，為增加準確性及清晰性，監護令及命令之理由的部份格式已經簡化及重新整理。





The Board and its Members

委員會 及委員會 委員

The Board feels it important to keep its members updated with the currency of guardianship issues. Therefore, apart from issuing "monthly bulletins", the Board had provided the followings information sessions to its members:

委員會認為將最新的監護資訊發送給委員會委員是很重要的。所以，除了《每月通訊》外，委員會亦為委員舉辦了以下的資訊會議：

| Date 日期 | Event 項目 |
|---------------------------------|--|
| 10 February 2003 二零零三年二月十日 | Panel C members' meeting 丙組委員會議 |
| 21 February 2004 二零零四年二月二十一日 | 5th Anniversary Sharing Workshop cum Luncheon 五週年紀念分享討論會暨午餐 |
| 27 January 2005 二零零五年一月二十七日 | Annual Review & New Members' Briefing 週年回顧及新委員簡報會 |
| 18 January 2006 二零零六年一月十八日 | Spring Reception cum Sharing 春茗暨分享會 |



Appeal 上訴

Since the coming into being of the Board in February, 1999, there were only two appeals lodged with High Court.

1. HCMP 1665/2003 (heard by Lam J. in October 2004)

Madam LO has dementia and lived with her elder nephew, Ah Hoi, who was brought up by the subject. Both of them live on CSSA. A voluntary agency was engaged to provide home help and day care services to the subject, but gradually it found out that Madam LO was sometimes left alone in her unit for a few days without meal or proper clothing. Ah Hoi possessed the subject's cash dispensing card of her bank account into which her public security money (CSSA) was paid. He withdrew her CSSA and used to pay for her necessary expenses. However, he failed to pay for the home help and day care expenses for a few months. This matter was brought to the attention of the social workers of the Social Welfare Department by the agency.

At the hearing, Ah Hoi said that on average, he spent only 2 to 3 nights with the subject as he had a family in Shenzhen, Mainland. He also admitted using up the subject's CSSA, as he thought the subject and himself are of one family and there should be no distinction as to whose money it was. He asserted that no guardian is needed as this will cut off their affective bondage and tie as close relatives.

The Guardianship Board appointed the Director of Social Welfare as the guardian who will keep in view of the future accommodation of Madam LO.

委員會自一九九九年二月成立至今，只得悉有二宗個案的有關人士向高等法院申請上訴。

1. 檔案 HCMP1665/2003 (於二零零四年十月由林文瀚大法官審理)

盧女士患有老年痴呆症，她與大姪 - 亞海同住。亞海自幼由盧女士照顧。他們都是依靠綜援金生活。志願機構為盧女士提供家務助理及日間護理服務，機構員工發現盧女士有時被單獨留在家中數天，並且缺乏食物及衣服。亞海持有盧女士收取綜援金戶口的提款咭，他從戶口中提取盧女士的綜援金支付她的日常開支，但是亞海卻沒有支付家務助理及日間護理服務的費用達數月之久。社會福利署社工透過志願機構的社工得悉這件事情。

聆訊時，亞海指出由於他的家人在深圳居住，所以他平均每星期只有兩至三晚和盧女士一起。亞海亦承認取用了盧女士的綜援金，但他認為盧女士與他是一家人，不應分開彼此的金錢。亞海認為盧女士不需要監護人，因為這會斬斷他們的親情。

監護委員會委任社會福利署署長為盧女士的監護人，並希望監護人計劃安排盧女士到老人院居住。

Ah Hoi appealed to the High Court in April 2003. The appeal was heard in October 2004 and was dismissed on the ground (inter alia) that the appellant raised no new grounds which was not considered by the Board during the hearing at the first instance.

2. HCMP 230/2005 (heard by Lam J. in January 2005)

The subject is 81-year-old with dementia. He used to live with his wife and is taken care of by her. His 8 children had split up into two camps with the mother and the 3rd daughter of one camp. The main question of this case is whether, given the care arrangement now in place and as provided by the wife and the 3rd daughter, a guardian should be appointed for the subject.

The two camps of family members, though genuinely concerned with the welfare of the subject, were in bitter conflict with each other. The communication channel was virtually diminishing since March 2004 and came almost to a standstill sometime after the missing incident of the subject on the 26 May 2004. The evidence at the hearing had made it crystal clear that all health care and financial details of the subject were not disclosed by the wife's side to the (son) applicant's side since in about March 2004. The two sides had, for long, failed to communicate at all on the medical and welfare needs of subject; they dismissed each other with great suspicion. The wife opined that the applicant's act of applying was purely aiming at depriving her of her various rights, including right to manage the finance and take care of the subject. The wife even accused the motive of the applicant in applying as only one for material interests of the property of subject. The wife was very angry at the applicant's side. The applicant's

亞海於二零零三年四月向高等法院提出上訴。該上訴於二零零四年十月開審及被駁回，因為上訴人在上訴聆訊的時候，沒能提出新的理由及委員會未曾考慮過的新觀點。

2. 檔案 HCMP230/2005 (於二零零五年一月由林文瀚大法官審理)

當事人是一位八十一歲患有老年痴呆症人士，他一向與妻子同住並由她照顧。他育有八名子女並分為兩幫，而妻子連同第三位女兒為其中一幫。該個案的主要問題是在妻子及第三位女兒給予當事人的現有照顧及關心以外，是否需要一個監護人。

兩幫的家庭成員都真誠地關心當事人的福利，但他們之間有直接衝突。於二零零四年三月，他們的溝通近乎中止，及於二零零四年五月廿六日當事人的失蹤事件後已完全停頓了。於聆訊期間，委員會清楚知悉大約自二零零四年三月開始，妻子的一幫完全沒有向申請人(即兒子)的一幫披露有關當事人的身體情況及財務資料。兩幫自此長時間沒有商討過有關當事人在醫療及福利上的需要，他們相互之間存在極大疑心。妻子認為兒子申請的目的是純粹想把她的種種權力剝奪，包括管理當事人的財務及照顧當事人。妻子甚至指控申請人的動機只是為了當事人物業上的

side, on the other hand, believed that the wife's attitude had a fundamental change after joining a Christian sect and was being manipulated by the 3rd daughter. The wife could not explain how the large sums of withdrawals from the subject's account were spent.

The acute conflict between them have caused grave concern to the Board as obviously the confrontation of the close family members has undoubtedly caused detriments to the interests of the subject and his needs were under-served. The wife had even, at the verge of frustrations, closed one of her bank accounts into which one of the sons paid the children's monthly contribution towards the wages of the domestic maid. The Board agreed with the recommendation of the maker of the social enquiry report that the Director of Social Welfare, being an impartial and independent public officer, should be appointed without delay in order to safeguard the welfare of the subject. Also, by the intervention of the public guardian, with her professional mediating skills, the family conflict could, as one would hope, be de-escalated and the communicating channel re-built.

The Board has appointed the Director of Social Welfare as the guardian for one year.

Soon after the grant of Guardianship Order, the 3rd daughter and wife each filed a review application and wished the Board to discharge the Order. After a review hearing, the Board dismissed their respective review applications.

The 3rd daughter lodged an appeal which was adjourned sine die and was ordered not to be restored without leave. The High Court further ordered the Guardianship Order so made shall continue to have full effect.

實際利益。妻子對申請人的一幫非常生氣。相反地，申請人的一幫相信當事人的妻子自從加入一個教派後有著明顯的轉變，及兩位年長的父母均被第三位女兒所操縱。妻子亦無法解釋怎樣使用當事人戶口內的多筆大額提款。

家庭成員之間的嚴重衝突令委員會極其擔心，顯然地，家庭成員的對抗肯定會造成當事人福利上利益的損失，致令他的各種需要無法獲得全面照顧。妻子甚至於氣憤時竟把兒子們每月給家傭轉存工資的銀行戶口結束。委員會同意社會背景調查報告擬備人的建議，立即委任公正及獨立的公職人員—社會福利署署長為監護人，認定這樣可以保障當事人的福利。同時，希望藉官方監護人的介入及她的專業調解技能，可以使家人之間的衝突減少及重新建立溝通渠道。

委員會委任社會福利署署長為監護人，為期一年。

監護令發出後不久，第三位女兒及妻子分別申請覆核監護令及希望委員會撤銷命令。覆核聆訊後，委員會分別駁回她們的覆核申請。

第三位女兒提出上訴，但被高等法院命令無限期押後及下令若未首先獲得法庭批准，不得繼續其上訴申請，並著令監護令繼續生效。



Complaints 投訴

The Board used to receive very few complaints from the public or parties of guardianship proceedings. During this period, the Board received only three written complaints. Most of these complaints were primarily related to the result of the hearing and the complainants were advised, in accordance with the Board's Complaint Guidelines, to consider an appeal to the High Court. One of them related to the manner of the panel members conducting the hearing, which was found to be unsubstantiated. The complainant was notified of the Board's finding in this regard.

委員會一向很少收到公眾人士或聆訊各方的投訴。於這期間，委員會只收到三封書面投訴，該些投訴大部份只針對有關的聆訊結果，根據委員會的投訴機制指引，這批人士其實應考慮向高等法院提出上訴。其中一個有關對聆訊委員態度的投訴，經委員會調查後證實該投訴並沒有事實根據，委員會並將有關調查結果告知投訴人。



Publicity and Public Education

推廣及 公民教育

Apart from processing applications and reviews, the Guardianship Board spared no less effort in perusing opportunities to participate and conduct public education programs and promoting publicities relating to guardianship. During these three years, not only launching poster programs with respectively the Mass Transit Railway and the East Rail, attending television interview and putting up articles in various publications, the Board also conducted a total of 38 presentations and seminars for which a total of 3,277 professionals and various focus groups attended.

委員會除處理監護令申請及覆核外，亦致力參與及舉辦公民教育項目和推廣有關監護知識。於這三年內，委員會不單把有關的海報分別張貼於地下鐵路及九廣鐵路沿線車站月台及行人通道、接受電視台訪問、刊登文章於不同的書籍外，並且在三十八個演講會及研討會作出專題分享，當中共有三仟二佰七十七個專業人員及關注研習小組人員出席。



3.

Board Members

委員會委員



保護 PROTECTION
COMPASSION 同情
公正 FAIRNESS
INDEPENDENCE 獨立
尊重 RESPECT
ACCESSIBILITY 方便

Board Members

委員會委員

Membership up to 31 January 2005 / 委員任期至二零零五年一月三十一日

| Panel A | 甲組委員 |
|-----------------------------------|------------------------------|
| Mr Herman HUI Chung-shing, MH, JP | 許宗盛太平紳士 |
| Mr Joseph KUN Kin-wai | 鄧建偉律師 |
| Dr David KAN Kam-fai | 簡錦輝律師 |
| Mr Robin Miles Bridge | 喬立本律師 |
| Ms Winnie MAK Yan-yan | 麥欣欣律師 |
| Ms Josephine Antonetta PINTO | Ms Josephine Antonetta PINTO |
| Mr William TSUI Hing-chuen, JP | 徐慶全太平紳士 |

| Panel B | 乙組委員 |
|---|-------------|
| Registered Medical Practitioners | 註冊醫生 |
| Dr Derrick AU Kit-sing | 區結成醫生 |
| Dr Dominic LAU Kwok-kwong | 劉國光醫生 |
| Dr Paul SHEA Tat-ming | 余達明醫生 |
| Dr Josephine Grace WONG Wing-san | 王穎珊醫生 |
| Dr CHUNG Wai-sau | 鍾維壽醫生 |
| Dr FAN Tak-wing | 范德穎醫生 |
| Dr Benjamin LAI Sau-shun | 黎守信醫生 |
| Dr Benjamin LAU Shun-tung | 劉信通醫生 |
| Dr LAW Wun-tong | 羅允堂醫生 |
| Dr LEE Chi-chiu | 李子超醫生 |
| Dr Winston LIM Woon-chu | 林桓柱醫生 |
| Dr MIAO Yin-king | 苗燕瓊醫生 |
| Dr PAN Pey-chyou | 潘佩璆醫生 |
| Dr Edwin YU Chi-shing | 余枝勝醫生 |

**Panel B****Clinical Psychologists**

Mrs LAU Yu Po-kwan, JP
 Dr Patrick LEUNG W.L.
 Mrs Rachel POON MAK Sui-man
 Dr Sandra TSANG Kit-man

Social Workers

Ms Christina KAN Pui-har
 Ms Teresa LEE Chui-wah
 Ms Helen LO Tak-ming
 Ms Rebecca WONG Sim-yim
 Ms Anita WONG Yiu-ming
 Ms YEOH Chak-sum
 Mr Stephen CHAN Siu-yuen
 Dr Ray CHOY Yuen-ling
 Ms Emily FUNG Wai-ying
 Ms Kimmy HO Wai-kuen
 Mr Steven LO Kin-shing
 Ms Violet NG Shun-shun
 Mr Andy NG Wang-tsang
 Ms Phyllis WONG Yee-seung
 Mr Silva YEUNG Tak-wah, JP

乙組委員

臨床心理學家
 劉余寶群太平紳士
 梁永亮博士
 潘麥瑞雯女士
 曾潔雯博士

社會工作者

簡佩霞女士
 李翠華女士
 羅德明女士
 黃羨琰女士
 黃耀明女士
 楊澤心女士
 陳紹沅先生
 蔡遠寧博士
 馮慧瑛女士
 何惠娟女士
 老鍵成先生
 吳純純女士
 吳宏增先生
 黃綺湘女士
 楊德華太平紳士

| Panel C | 丙組委員 |
|-----------------------------------|-----------|
| Mrs Eva CHIU | 招莫慧英女士 |
| Ms Christine HO Suet-chun | 何雪珍女士 |
| Ms PUN Kun-lin | 潘觀蓮女士 |
| Mrs Annie YEOH WONG Wing-wo | 楊黃永和女士 |
| Mr Joseph CHAN Kun-sun | 陳更新先生 |
| Mr William CHANG Kwong-chi | 張廣嗣先生 |
| Mrs Goretti CHEUK CHUNG Kwok-yee | 卓鍾國儀女士 |
| Mrs CHUNG CHAN Yuk-yee | 鍾陳鈺意女士 |
| Mr CHUNG Chi-wai | 鍾志煒先生 |
| Mrs Evelyn LAU CHAN Shuk-wah, MH | 劉陳淑華女士 |
| Mrs Julie LEE | 李劉茱麗太平紳士 |
| Mrs Heidi NG SHAM Sook-yin | 伍岑淑賢女士 |
| Mrs TSANG WONG Wai-kuen | 曾黃慧娟女士 |
| Mrs Laura YEUNG YUEN Chi-kwan | 楊袁志群女士 |
| Ms Georgina LI Suk-har (deceased) | 李淑霞女士（已故） |

Membership since 1 February 2005 to present / 委員任期由二零零五年二月一日至今

| Panel A | 甲組委員 |
|-----------------------------------|---------|
| Mr Herman HUI Chung-shing, MH, JP | 許宗盛太平紳士 |
| Mr Joseph KUN Kin-wai | 鄧建偉律師 |
| Dr David KAN Kam-fai | 簡錦輝律師 |
| Mr Walter CHAN Kar-lok, SBS, JP | 陳家樂太平紳士 |
| Mr Norman CHUI Pak-ming | 徐伯鳴律師 |
| Mr SHAW Shun-fat | 邵信發律師 |
| Mr Thomas KWAN Tak-hong | 關德康律師 |
| Ms Christina HUNG Wai-ching | 洪惠貞律師 |

| Panel B | 乙組委員 |
|---|------------------|
| Registered Medical Practitioners | 註冊醫生 |
| Dr Derrick AU Kit-sing | 區結成醫生 |
| Dr Dominic LAU Kwok-kwong | 劉國光醫生 |
| Dr Paul SHEA Tat-ming | 余達明醫生 |
| Dr Josephine Grace WONG Wing-san | 王穎珊醫生 |
| Dr Peter TSOI Ting-kwok, JP | 蔡定國太平紳士 |
| Dr Edward LEUNG Man-fuk | 梁萬福醫生 |
| Dr YIU Yuk-kwan | 姚玉筠醫生 |
| Dr Felix CHAN Hon-wai | 陳漢威醫生 |
| Dr David DAI Lok-kwan | 戴樂群醫生 |
| Dr LIN Wei | 林煒醫生 |
| Dr LO Chun-wai | 勞振威醫生 |
| Dr Karen SHUM Hau-yan | 沈孝欣醫生 |
| Dr CHAN Wah-fat | 陳華發醫生 |
| Dr Rommel HUNG Chi-hong | 孔志航醫生 |
| Dr Henry KWOK Wai-ming | 郭偉明醫生 |
| Clinical Psychologists | 臨床心理學家 |
| Dr Anita LEUNG CHONG Ngai-ngor | 梁莊麗雅博士 |
| Mrs Peggy Roberta MIU LEE | 繆李金碧女士 |
| Dr Amy FUNG Shuk-man | 馮淑敏博士 |
| Dr WONG Chee-wing | 黃熾榮博士 |
| Nurse Specialist (Psychogeriatric) | 老人精神科專科護士 |
| Mr CHUI Sing-kwan | 徐成君先生 |
| Occupational therapist | 職業治療師 |
| Dr Eria LI Ping-ying | 李萍英博士 |

| Panel B | 乙組委員 |
|--------------------------------|--------------|
| Social Workers | 社會工作者 |
| Ms Christina KAN Pui-har | 簡佩霞女士 |
| Ms Teresa LEE Chui-wah | 李翠華女士 |
| Ms Helen LO Tak-ming | 羅德明女士 |
| Ms Rebecca WONG Sim-yim | 黃羨琰女士 |
| Ms Anita WONG Yiu-ming | 黃耀明女士 |
| Ms YEOH Chak-sum | 楊澤心女士 |
| Ms Rita LAM Yu-kiu | 藍宇喬女士 |
| Mr KWOK Lit-tung | 郭烈東先生 |
| Mr Timothy MA Kam-wah | 馬錦華先生 |
| Ms CHAN Pui-yi | 陳佩儀女士 |
| Ms Connie TSANG Fook-yee | 曾福怡女士 |
| Mrs Teresa TSIEN WONG Bik-kwan | 錢黃碧君女士 |
| Mr Christopher SO Kwok-on | 蘇國安先生 |
| Mr CHING Chi-kong | 程志剛先生 |

| Panel C | 丙組委員 |
|--|-----------------------------------|
| Mrs Eva CHIU (membership up to 31 July 2005) | 招莫慧英女士 (任期至二零零五年七月三十一日) |
| Ms Christine HO Suet-chun | 何雪珍女士 |
| Ms PUN Kun-lin | 潘觀蓮女士 |
| Mrs Annie YEOH WONG Wing-wo | 楊黃永和女士 |
| Ms Sally HO Wing-fong | 何永芳女士 |
| Mrs Sonja SHIH CHAN Seung-yan | 史陳尚欣女士 |
| Ms Betty CHU Wai-sum | 朱慧心女士 |
| Mrs Heidi TONG HUI Sim-kiu | 唐許嬪嬌女士 |
| Mrs Margaret KWONG CHEUNG Yuk-yee | 鄺張鈺儀女士 |
| Mrs Delana SHEK SO Kwan-ying | 石蘇群英女士 |
| Mrs Almond WONG LEE Sze-mun | 黃李思敏女士 |
| Mrs FURNISSLAU Mei-ying | 劉美瑛女士 |
| Mr Stephen HO Kam-yu | 何鑑如先生 |



4.

The Secretariat 秘書處

保護 PROTECTION
COMPASSION 同情
公正 FAIRNESS
INDEPENDENCE 獨立
尊重、RESPECT
ACCESSIBILITY 方便

The Secretariat

秘書處

**Chairperson of Guardianship Board &
Head of the Secretariat**
監護委員會主席及秘書處首長

Secretary to the Board
委員會秘書

Assistant Secretary to the Board
助理委員會秘書

Personal Secretary to the Chairperson
主席之私人秘書

Clerical Assistant
助理文員

: **Mr Charles CHIU Chung-yee**

趙宗義律師

: **Ms Shera LAM Suet-ching**

林雪貞小姐

: **Miss Catherine YIP Tsui-li**

葉翠莉小姐

: **Ms Angel LEE Pik-sim**

李碧嬪小姐

: **Miss HUI Kit**

許洁小姐

The Secretariat is headed by the Chairperson and supported by four staff, namely, the Board Secretary, the Assistant Board Secretary, the Personal Secretary of the Chairperson and a Clerical Assistant. The staff body remains in its present size since 1999. The staff of the Secretariat is extremely dedicated to the mission of the Board and highly effectively in carrying out all tasks assigned to them during the years under report. The success of the Board would not be made possible without the resilience and commitment of such a dedicated, yet small, team. During these years, the Secretariat duly discharged its various roles including daily administrative duties of the office and the multiple tasks in processing of guardianship applications and review hearings. The Secretariat also took up the duties of answering daily public enquires and implementing various office renovation

秘書處是以主席為首，另有四位職員，包括委員會秘書、助理委員會秘書、主席之私人秘書及助理文員。現有的職員體制自一九九九年始沿用至今。秘書處的職員均能與委員會的使命配合，以及在本報告期間以極高效率完成全部獲分配的工作。若委員會沒有這組極具彈性、積極進取及富使命感的核心隊伍，委員會的工作是無法完成的。這幾年內，秘書處除了處理了各種不同公務，包括日常辦公室行政工作，監護令申請及覆核聆訊程序上的各項相關安排外，秘書處同時肩負回答公眾人士的查詢及電話諮詢及各項辦公室更新工程。不可不提的，是秘書處並竭盡所

projects. The work of the Secretariat would not be completely described without also mentioning the efforts it paid towards promoting the use and concept of guardianship to the public and the focus groups. Some of the major initiatives of the Secretariat are set out below.

能，騰出時間盡力向大眾市民及關注研習小組的參與者推廣監護令的用途及其概念。秘書處的其他主要工作報告如下。

The new website

新網頁

In 2004-2005, the Secretariat planned and worked towards building a new website of the Board. The contents of the website are meant to be user-friendly in order that the public can obtain timely and concise information. Much attention has been devoted towards the Chinese version of the website as well as retaining the original meaning of its English text, for purpose of which it was deliberate to retain no outside translator for the job. The new website was launched on 1 April 2005.

於二零零四至二零零五年，秘書處計劃設計一個全新網頁。網頁設計考慮到使用者的需要，使公眾人士能及時取得有用資料。秘書處把整個網頁翻譯成中文版本，並保留英文版本的原文意思，秘書處並沒有外判有關的翻譯工作。委員會的新網頁於二零零五年四月一日已正式啟用。

| Month of 2005 | 二零零五年 | Hits 點擊 | No. of Visitors 瀏覽人次 |
|----------------------|--------------|----------------|-----------------------------|
| April | 四月 | 91,504 | 4,072 |
| May | 五月 | 106,317 | 3,312 |
| June | 六月 | 75,726 | 2,489 |
| July | 七月 | 68,120 | 2,359 |
| August | 八月 | 111,285 | 4,756 |
| September | 九月 | 116,901 | 4,456 |
| October | 十月 | 99,021 | 4,420 |
| November | 十一月 | 95,555 | 3,081 |
| December | 十二月 | 72,210 | 2,657 |
| Month of 2006 | 二零零六年 | | |
| January | 一月 | 89,996 | 2,784 |



The new set of 13 leaflets

十三份新 的小冊子

In order to bring the information of the Board and the knowledge of guardianship up to date and as another major publicity and public education project, a new set of 13 leaflets, in bilingual versions, was launched in June 2005 (1st-12th leaflets) and March 2006 (13th leaflet).

為使公眾人士能及時取得有關委員會的資料及達致公共教育及宣傳之目的，秘書處於二零零五年六月(第一至十二份小冊子)至二零零六年三月(第十三份小冊子)期間，共推出了十三份全新中英文版的小冊子。

Title

1. Our Work
2. Application Procedure for a Guardianship Order
3. Flow chart for a normal guardianship application
4. This Guide helps you to fill out the application form for guardianship
5. Hearing Process for Guardianship
6. Abbreviated Guide for Private Guardian
7. Application Procedure for Review of a Guardianship Order
8. Application Procedure for Directions of Guardianship
9. Flow chart for URGENT Guardianship Hearing
10. Emergency Guardianship Order - Protecting abused mentally incapacitated adults
11. Flow chart for Emergency Guardianship Application
12. Consent to Medical and Dental Treatment
13. Guide to doctors / dentists - Consent to Medical and Dental Treatment of mentally incapacitated person ("MIP") - in the context of Part IVB & Part IVC, Mental Health Ordinance (Cap. 136)

標題

1. 我們的工作
2. 申請監護令的程序
3. 申請監護令的流程表
4. 填寫監護令申請表格指引
5. 監護令聆訊程序
6. 非官方監護人權責簡介
7. 申請覆核監護令的程序
8. 申請監護指示的程序
9. 緊急監護聆訊的流程表
10. 緊急監護令—保護被虐待的精神上無行為能力的成年人
11. 申請緊急監護令的流程表
12. 同意進行醫療及牙科治療
13. 醫生/牙醫指引—同意為精神上無行為能力的人進行醫療及牙科治療—精神健康條例（第136章）第IVB及第IVC部



Public Enquiries

公眾查詢

The number of public enquiries through telephone calls are consistently high during the last three years.

於過去三年，公眾人士致電秘書處諮詢的電話數量一直保持於高位。

| Year 年份 | No. of enquiries 諮詢次數 |
|---------|-----------------------|
| 2003 | 905 |
| 2004 | 719 |
| 2005 | 693 |

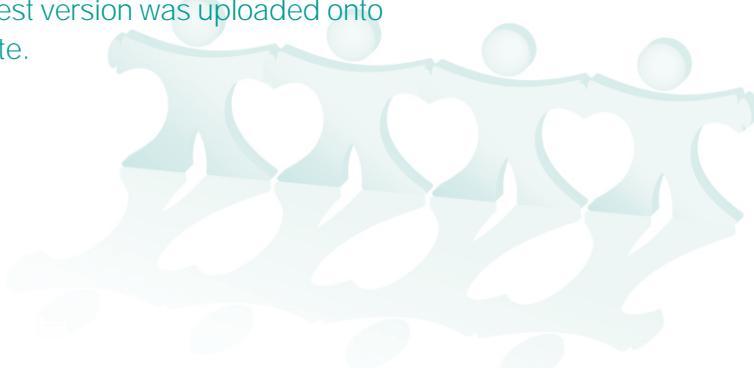


The new medical report formats

新的 醫療報告

For the dual purposes of improving the quality of medical evidence and eliminating the risks of non-compliance of statutory requirement, the Secretariat spared no less effort in continually revising the formats of all types of medical report pro-forma. The latest version was uploaded onto the Board's website.

在改善醫療證據的質量及力求符合法例的特定要求的雙重目標下，秘書處作出不少努力，把全部有關的醫療報告表格不斷完善。最新的版本已上載到委員會網頁。



The imaging storage system and IT hardware enhancement

影像儲存系統 及電腦硬件升級

To gear for future IT expansion, the Secretariat has since September 2004 acquired the necessary equipment and started to store all file documents by way of an imaging system.

為提升電腦設備，秘書處於二零零四年九月已購置所需的文儀設備，並已開始使用影像儲存系統儲存文件。

The new Board room facilities

委員會 會議室 更新設備

With the full support and extra funding from the Health, Welfare and Food Bureau, the Secretariat has successfully completed an upgrade of the audio-visual and digital sound recording systems in the conference room. The system is fully automated. It serves the dual purposes of digitally recording the processes of all hearings as well as enhancing the functions of the conference room. This ties in well with the publicity plan of 2006, as for that year the Board will attempt to pro-actively plan and launch its workshops and seminars at the Board's own conference room for various focus groups.

端賴衛生福利及食物局的全力支持及額外撥款，秘書處成功把會議室內的視聽設施及數碼錄音系統提升。整套系統是全自動化的。該系統不單把全部的聆訊程序錄音，並提升了會議室的多用途功能，這剛好配合二零零六年委員會的推廣計劃，嘗試主動策劃及安排於委員會的會議室內舉辦一些關注研習小組及討論會。



5.

Case Summaries

個案撮要

保護 PROTECTION
COMPASSION 同情
公正 FAIRNESS
INDEPENDENCE 獨立
尊重、RESPECT
ACCESSIBILITY 方便



Case Summaries

個案撮要

1st case — A well-off street sleeper

Mr. WONG, 67 suffering from dementia, was staying in a convalescence hospital at the time of the guardianship application in March 2005. Social enquiry report revealed that:

第一個個案 — 富裕的露宿者

王先生是一位六十七歲患有老年痴呆症人士，於二零零五年三月申請監護令時，他住在復康醫院。社會背景調查報告透露：

"Mr WONG did not receive any formal education and said to be illiterate. Mr WONG said he had mainly worked as a cleaning worker and causal worker in the past. He used to earn a living on his own all along and he had not received any government financial assistance or welfare services in the past. He alleged to become unemployed for a number of years. Mr WONG claimed that he used to live alone in the rented rooms in Yaumatei and Shamshuiipo districts. He had no fixed abode and had become a street sleeper for about a year. He was unable to tell which companies or organizations he had worked for in the past, his previous addresses, why he became a street sleeper or any persons that had knowledge about his background or could provide assistance to him.

「王先生沒有接受過任何正式教育及甚至被稱為文盲。王先生過去的主要工作為清潔工人及散工。他一直習慣單獨居住及過去沒有接受過任何政府財務協助及福利。他聲稱只失業數年。王先生稱他一直獨居於油麻地及深水埗區。這一年來，他沒有固定的居所及成為露宿者。他不能憶述過去他受僱的情況，包括前公司或機構的名稱、他忘記了他以前的地址、成為露宿者的原因及無法提供任何知悉他背景或曾給他提供協助的人之聯絡資料。

On 20 December 2004, Mr WONG was admitted into the AAB Hospital due to cellulites and pneumonia. He was subsequently transferred to the BCC Hospital for treatment since 21 December 2004 until time of application. Mr WONG was also diagnosed to be suffering from syphilis. Mr WONG was assessed by Dr L of BCC Hospital to be suffering from dementia. In the Mini Mental State Examination (MMSE) conducted, Mr WONG scored 20 out of 30. According to the senior occupational therapist of BCC Hospital, the scoring of Mr WONG indicated that he was not suitable for independent living and required supervision and assistance from others on his activities of daily living. Dr D, another doctor, assessed Mr WONG to be of poor orientation and presentation of irrelevant speeches as well as giving inconsistent answers to questions. Given the extent of impairment, Mr WONG's prognosis was considered to be grave. No psychiatric treatment was indicated at this stage.

Mr WONG is presently hospitalized at Ward 5A of BCC Hospital. During the enquiry, Mr WONG was observed to lie in bed mostly. He could move his hands yet his lower limbs were weak which made him unable to walk independently. According to the registered nurse of BCC Hospital, Mr WONG's mobility was poor and he could only walk slowly with walking aid and assistance from others for a short distance. Physiotherapy was rendered to Mr WONG in the hospital. Apart from feeding, Mr WONG has to depend on others for bathing, toileting, transferring etc. He used potty for urination and had to wear diaper for defecation. Mr WONG sometimes self-muttered and appeared to be drowsy. He did not exhibit aggressive or disturbing behavior in ward. During the enquiry,

於二零零四年十二月二十日，王先生因組織炎及肺炎入住了第一醫院。其後，由二零零四年十二月二十一日至今，王先生被轉往第五醫院接受治療。王先生亦被確診患有梅毒，經羅醫生評估後，王先生被證實患有老年痴呆症，在簡短智能測驗(MMSE)的表現，王先生只得到二十分，總分為三十分。根據第五醫院高級職業治療師所講，王先生的分數表示他不適合單獨居住，並需要其他人的監管及協助安排其日常生活。另外，丁醫生評定王先生的導向及表達能力很差，同時回答問題時的答案不一致，他認為王先生的精神缺損程度嚴重，但現階段王先生沒有接受任何精神科治療。

王先生現住在第五醫院的5A病房。於探訪期間，王先生只能臥在床上，可以移動他的手，但下身乏力及無法自己行走。根據第五醫院的註冊護士稱，王先生的活動能力很差，他需要利用步行協助器及在其他人的協助下，才可緩慢地行走一個短距離，醫院亦安排物理治療給王先生。除了進食外，王先生在洗澡，如廁，行動等都需要依靠其他人的幫助，他使用便盆小便及尿片排便。王先生有時會自言自語及表現呆滯，在病房

Mr WONG had weak and confused memory and could not give accounts of past events and had difficulties to converse on complex information. He was noted to have generally settled emotion and responded to conversation with simple content."

Although being a street sleeper, Mr WONG was found out, after issuing witness summonses by the Board to various banks, to have been holding a number of bank accounts with a total savings of about \$600,000 and a safe deposit box.

The Board received Mr WONG into guardianship and appointed the Director of Social Welfare as the guardian.

On review a year later, Mr WONG was already discharged from hospital to a private old age home where he lived for ten months. He was found to have adjusted very well. He was attending regular medical follow-ups and maintaining a stable health conditions, with fair walking ability. The Board was pleased to note the progress of the case and the raising of the quality of living of the subject. The Board renewed the Guardianship Order for a further term of three years.

內他沒有表現出侵略性及打擾行為。於探訪期間，王先生表現得虛弱，並把記憶中的過往事情混淆及不能把複雜的資料整理及討論。整體上，王先生的情緒穩定及能就簡單話題應對。」

雖然王先生被發現時為露宿者，但經過委員會行使調查權力發出證人傳票給不同的銀行後，發現王先生的銀行存款金額接近六十萬港元及擁有一個保險箱。

委員會把王先生收容監護及委任社會福利署署長為他的監護人。

於一年後的覆核聆訊，王先生已離開醫院到一所私營安老院居住接近十個月，他適應得很好。他常接受定期跟進治療及保持身體情況穩定，行走能力尚可。委員會欣慰地看到該個案的良好進展及當事人的生活質素得以提升，委員會決定延續監護令三年。

2nd case—A fortune to inherit

Tom, 18, a mild-grade mental handicap, long since lived in a small group home as his natural mother was a mental patient showing no concern to him. Fortunately, Tom's god-sister was caring and was entrusted by Tom's father with several bank passbooks. His father (a Chinese herbalist doctor) passed away in 1999. The Official Solicitor, as sole judicial trustee of the estate, successfully applied for a letter of administration for the estate of subject's late father.

第二個個案 — 財產繼承

亞唐是一位十八歲的輕度弱智人士，他很久之前已住在小組家庭，因為他的親生母親是精神病人及從來沒有表現過關心亞唐。亞唐的契姐一直照顧他，且得到亞唐父親的信任，把銀行存摺簿交託給她，很不幸地亞唐的父親(為一位中醫師)於一九九九年去世，法定代表律師以司法受託人身份申請遺產承辦權。

According to intestacy rules, Tom was entitled to the estate of his late father, which was estimated to be in the region of about one million dollars plus a flat. The Official Administrator refused to take on this case as there was apparent conflict between the god-sister and the natural mother of Tom. The Official Solicitor indicated that she would further apply for a Committee (a receiver) order in respect of Tom's inheritance. The Official Solicitor was of the view that there should be someone to safeguard the welfare of Tom and thus she suggested the Director of Social Welfare to apply for guardianship. A guardianship application was filed in August 2002.

One of the technicalities at the hearing was to deal with the statutory definition of "mental handicap". Section 2(1) of the Mental Health Ordinance provided that "mental handicap"

根據無遺囑遺產繼承法律，亞唐可繼承他父親於境內的遺產，估計約一佰萬元及一所物業，但遺產管理官拒絕接受處理該個案，因為亞唐的親生母親與契姐之間出現衝突，而法定代表律師建議委任產業受託監管人(即受託人)，處理亞唐從繼承得來的產業。法定代表律師又認為亞唐需要一個可保障他福利的人，所以建議社會福利署署長申請監護令，監護申請於二零零二年八月提出。

該個案的其中一個技術問題是關於「弱智」的法定定義，《精神健康條例》第 2(1)條規定「弱

means "sub-average general intellectual functioning with deficiencies in adaptive behaviour". Further, it provided that "sub-average general intellectual functioning" means "an IQ of 70 or below according to the Wechsler Intelligence Scales for Children or an equivalent scale in a standardized intelligence test".

However, Tom's psychological report in September 2002 showed that full scale IQ was 80 ± 6 (Verbal IQ = 76 ± 6 and performance IQ = 89 ± 9). The Director of Social Welfare through her legal representative and her clinical psychologist, the Official Solicitor and the psychiatrist have made tremendous assistance to the Board at the hearing and the Board was persuaded to accept that, amongst standard deviations, IQ tests did not test socialization, self-direction and adaptive functioning, the last of which was the second statutory component for testing mental handicap. The Board also accepted the view of another clinical psychologist's recent report which confirmed the definite incapacity of Tom in social and responsible decision-making. In addition, accepting the medical opinion of the treating psychiatrist Dr KWOK, the Board agreed that a doctor did not just look at IQ but took account of all IQ assessment, profile of education and training, his disability in performance etc. The Board also accepted the view of the clinical psychologist from the Social Welfare Department in that full scale IQ has to be interpreted with caution and the significant discrepancy between verbal and performance subtests and an uneven profile would greatly diminish the importance of

智」指「低於平均的一般智能並帶有適應行為上的缺陷」，再者，「低於平均的一般智能」指「按照魏克斯勒兒童智力測量表或按照任何標準化智力測驗中的同等智力測量表是 70 或低於 70 的智商」。

亞唐的心理報告指他於二零零二年九月的智力測量分數為 80 ± 6 (口述智力 = 76 ± 6 及表現智力 = 89 ± 9)，對於這個技術上的困難，社會福利署署長及她的臨床心理學家，法定代表律師及主診精神科醫生於聆訊時向委員會提供極大的協助，委員會信納測驗的標準普遍存在誤差，以及智力測量沒有包括社交、自我導向及適應能力的測試。委員會亦接受另一位臨床心理學家最近的報告，該文件確定亞唐於社交及決定責任的事情上，是沒有行為能力。同時，委員會亦接受主診精神科醫生—郭醫生的醫療意見，郭醫生指不應單看智力，而是考慮整體的智力評估，例如教育及訓練等資料，及當事人的各種表現能力等等。委員會亦同意社會福利署臨床心理學家意見，必須審慎詮釋一個全面的智能評分中出現於各組成部份的小測量中的重大差異，特別指分別於口述及表現小測驗中出現的不規則及不平均情況，這大大減低了該全面的智能總評分作為評定當事人全面智力的系數的重要性。於整體的證供上，委員會判斷亞唐是一位弱智人士，屬於委員會司法管轄範圍內，及後批出監護令。

a full scale IQ as an index of one's level of intelligence. On the whole of evidence, the Board held that Tom was a mentally handicap within the statutory meaning and Guardianship Order was accordingly made.

On the second review of the case in November 2004 Tom's welfare was rather settled. However, he went into trouble as he, due to sex urge, always stared at little girls. He was caught by the police once for touching a little girl in a train platform. The Board refused the Director of Social Welfare's recommendation to discharge the case and urged the case social worker to keep up with his work as necessary, particularly with Tom's wealth, he should be given more personalised rehabilitative training. On the third review in October 2005, the Board learnt that intensive counseling were given to Tom during the past year respectively by the hospital clinical psychologist and hostel social worker. As a result, Tom behaved well in the past months and gained insight into the consequences should he not control his sex urges properly. The Board decided, finally, to discharge the Guardianship Order.

於二零零四年十一月第二次覆核時，亞唐的福利已被安排好，但因為亞唐的性慾衝動而常常凝視著小女孩們以致引起其他麻煩。一次亞唐於鐵路月台上觸摸小女孩被警方拘捕。但社會福利署署長竟建議不須延續監護令，委員會予以拒絕，及要求個案社工按需要繼續工作，特別需要運用財務權，安排亞唐接受適切個人需要的復康訓練。於二零零五年十月的第三次覆核聆訊時，委員會得悉在過去一年，由於醫院的臨床心理學家及宿舍社工都給予亞唐緊密的輔導，令他在過去數月內的行為轉好及理解到若他不好好控制自己性慾望的後果。最後，委員會決定不延續有關的監護令。



3rd case — What a gift !

Eleanor is a 74 years old woman with dementia and bipolar affective disorder living in a mental hospital since 1995. The normal guardianship application was filed by a medical social worker of the hospital. The subject was suspected to be financially abused by her friend who is a male volunteer of the same mental hospital (who in fact was a discharged patient himself).

第三個個案 — 大禮物！

綺女士是一位七十四歲的婦人，患有老年痴呆症及兩極化情緒病。自一九九五年起已住在精神科醫院。該醫院的醫務社工為當事人申請監護令，因為懷疑當事人被一名醫院的男義工侵吞財產。

The subject had had two properties in mid-levels, one was sold in November 2002 before the date (November 2003) on which she was certified by the doctor to be mentally unfit to make statement. Part of the sale proceeds, about \$200,000, was given to the abuser as a gift according to the abuser's own admission.

The main issue was whether the sale of the remaining property was a premeditated scheme of the alleged abuser ("the abuser") to unlawfully and dishonestly deprive the subject of the property. The subject has signed a general power of attorney in favour of the abuser on 13 September 2003, just 2 months before the doctor certified her unfit to make statement. In October 2003, the subject was found to be unable to recall the amounts of withdrawals from bank after returning from an outing with the abuser. The subject was not allowed to have further outings since then by the medical team.

第一所物業

綺女士於半山擁有兩所物業，其中一所於二零零二年十一月已售出，該物業售出時，實早於醫生證實當事人為無精神行為能力之前（即二零零三年十一月之前）。下述侵吞者稱部份出售該物業的金額（即港幣二十萬元），是當事人以禮物形式送了給他的。

第二所物業

此宗個案主要的爭議是有關當事人出售第二所物業時，該義工（懷疑侵吞者「侵吞者」）是否早有預謀，過程是否涉及非法及不誠實的行為，以致當事人的財產被侵吞。案情透露，當事人於二零零三年九月十三日被帶到一所律師事務所簽署了授權書給侵吞者（後者一直向醫院隱瞞這事），簽署授權書的日期是醫生證實當事人無行為能力的前兩個月。於二零零三年十月，當事人被發現未能記起與侵吞者出外時，有否在銀行戶

The applicant - social worker had, as early as 5 November 2003, informed the abuser personally that the subject was certified unfit and warned him not to further receive monies from the subject. In light of the sequence of events, the Board felt that there was absolutely no reason at all why the abuser had, as he did, continued to use the powers of attorney and to proceed with the signing of the sale agreement in January 2004 in respect of the remaining property as an attorney.

The attending psychiatrist gave evidence at the hearing that the moderate grade dementia from which the subject suffered definitely has vitiated the subject from having the necessary capacity to execute respectively the said power of attorney and the assignment (the transfer) of the property on 6 February 2004. However, the fact remained that the solicitor's clerk and the abuser attended the execution of the transfer documents at the garden of the mental hospital. The balance of sale proceeds of \$362,500 was all paid by the solicitor to the abuser. Moreover, the property was sold to the watchman of that building at a gross undervalue without reference to the current market value or retaining a property agent. The market value of which should probably be doubled.

At the hearing, the abuser frankly admitted that he spent all the monies as those were all 'his' monies which were given to him by the subject as a gift. However, the subject interrupted him three times during and in the course of his giving evidence and stayed adamant that the monies were never intended to be gifts to him, those were meant to be gifts to her younger brother only.

口內提取金錢及有關款額。隨後，醫院不容許當事人再次外出。

於二零零三年十一月五日，作為監護令申請人的社工已通知侵吞者有關當事人已被證實為無行為能力，及警告他不可以再接受當事人的金錢，委員會認為於通知日計起，他亦無合法理由行使上述的授權書，但侵吞者竟於日後（二零零四年一月）以授權人身份簽署有關的物業買賣合約。

於聆訊日，精神科醫生稱當事人患有中度老年痴呆症，無能力簽立有關的授權書及於二零零四年二月六日簽署樓契，而律師樓文員及侵吞者是於精神科醫院的花園內與當事人完成轉售文件，而出售物業的餘額共港幣三十六萬二仟五佰元是由律師交給侵吞者。此外，侵吞者在沒有查看物業的市場價格或委託任何物業代理人的情況下，把物業賣給該大廈的保安員。而該物業當時的市場價格估計相當於賣出金額的雙倍價錢。

聆訊時，侵吞者曾承認已花光了全部「他」的金錢，因為該筆款項是當事人送給他的禮物。但是，在聆訊中當侵吞者口述證供時，當事人三次打斷侵吞者的講話，稱她從沒有意圖送錢給他，她只是想把錢送給她的弟弟。

During the course of the hearing, the Board enquired with him if he would deposit back the unspent money of \$261,357 into the subject's account. He did so at the recess of the hearing. The Board appointed the Director of Social Welfare as guardian. The Board recommended the public guardian to obtain court's authorization to set aside the transaction of the property, and to seek damages against all parties concerned. The Board also recommended the police to investigate this matter and the abuser to return a further sum of \$143,143 as balance of the sales proceeds into the subject's bank account. Subsequently on 31 August 2004, when the public guardian filed her application to appoint a Committee (a receiver) of subject's estate, the High Court ordered, as an urgent provision under section 10D of the Mental Health Ordinance, the public guardian as interim receiver to issue a protective writ in order to pursue the claims as recommended by the Board and for the purpose of land registration.

在聆訊中，委員會追問他是否願意把未用的金錢港幣二十六萬一千多元立即存入當事人的戶口，他於休會期間辦妥了此事。委員會委任社會福利署署長為監護人，並建議官方監護人應到法庭申請撤銷該宗物業買賣，及向有關人等，包括代表當事人處理這宗交易的律師，索取賠償。委員會亦建議警方展開調查，及要求侵吞者把物業買賣的餘款，合共港幣十四萬三仟一佰四十三元交出及存入當事人的戶口。

其後於二零零四年八月三十一日，當官方監護人提出委任產業受託監管人(即受托人)的申請時，高等法院根據《精神健康條例》第 10D 條的條款，緊急命令官方監護人以臨時受託人的身份發出保護性令狀，以便追討委員會建議的賠償及達致把該令狀進行土地註冊目的。

4th case — There is nothing wrong with my body weight

Shirley, an intelligent young lady pursuing university education, is suffering from anorexia nervosa. At that time, Shirley had a self-induced weight loss from 50 kg to 32 kg, the resultant body mass index was 12.6. Her condition kept deteriorating secondary to weight loss so much so that she was increasingly lethargic and malaise with frequent fainting attacks, generalized muscle and bone aches. She had difficulties to stand up from a squatting, cold intolerance and amenorrhoea. She strongly denied her mental illness and refused medical intervention both overseas and in Hong Kong.

第四個個案 — 我的體重無問題

莉小姐是一位大學生並患有厭食症，當時，她體重由五十公斤自誘性下降至三十二公斤，身體質量指數為十二點六。莉小姐的體重急劇下降後，身體情況一直轉差，例如體重嚴重過輕，常常感到昏暈、全身性的肌肉痛及骨痛，和變得越來越多昏睡及感到全身不舒服。莉小姐甚至於蹲下後難以再站起、無法忍受寒冷及有閉經症。她堅持自己並沒有患上精神病及拒絕接受任何於香港或海外的治療。

Shirley was under guardianship since mid-2001. Her case was under regular reviews by the Board, at intervals ranging from 4 months, 6 months or 1 year. During the entire period, the medical team and the legal guardian has decided to continue treatment and rehabilitation of Shirley at the out-patient clinic of the hospital. Over time, the subject became more and more receptive to medical advice. Before the third review, her treating psychiatrist was of the view that Shirley has been able to attend outpatient clinic regularly and maintain her body weight at a normal range. She has also attempted to try a more balanced diet. Her menstruation was resumed shortly before the review hearing took

莉小姐由二零零一年中旬開始接受監護，她的個案由委員會分別於四個月，六個月及一年內定期覆核。於整個期間，醫療隊伍及法定監護人決定莉小姐需要繼續到醫院的門診部接受治療及復康訓練。時間過去，莉小姐越來越願意接受治療的建議。於第三次覆核監護令前，莉小姐的主診精神科醫生確定她能夠定期到精神科門診部覆診，及她可以維持自己的體重於正常水平。莉小姐正努力嘗試均衡飲食，她的月經於覆核聆訊前已回復正常。於監護期內，可喜的是，莉小姐完

place. During the guardianship period, she was also able to complete her degree course and now started well with her career and enjoyed great job satisfaction. Her physical conditions improved a lot and she gained insight into her overall conditions and mental illness. Her family also provided continual and satisfactory care to Shirley. Both Shirley and the treating doctor have confidence that her health conditions would be well monitored without a guardianship order. Therefore, in 2003, the Board decided not to renew the Order.

成了她的大學學位課程，並且在工作上得到很大的滿足感。莉小姐的身體狀況已經改善了很多，並能有意識地掌握自己的精神健康及身體上的整體狀況，家人亦答應會繼續用心地照顧她。莉小姐及主診醫生都認為她的健康情況已獲得改善，及有信心日後在沒有監護令下仍然可以取得良好的進展，所以，委員會決定不再延續監護令。



5th case — How guardianship order help in improving budgeting skills?

Cathy, a young woman suffering from grandiose delusions of soon marrying a rich and lucrative doctor and getting billions of dollars. She started an over-spending habit over these 10 years. Even with a regular employment and monthly salaries, she spent in an uncontrolled manner and ended up in owing credit card companies and obtaining personal loans for over \$160,000.

第五個個案 — 監護令如何改善理財能力

年輕的嘉芙患有精神分裂症，她妄想自己快將與一位富有的醫生結婚及擁有數億元的資產。於十年前，她開始有揮霍金錢的習慣。雖然嘉芙有一份固定工作及月薪，但她卻拖欠超過十六萬元的信用卡款項及私人貸款。

Her treating psychiatrist wished to have a guardian appointed to monitor her rehabilitation and budgeting skills including managing her spending habits. A guardianship application was filed and the Director of Social Welfare was appointed as the legal guardian.

With the encouragement of the legal guardian, Cathy participated well in the training, particularly in budgeting exercises of spending and saving of money under the assistance of her treating psychiatrist, and the social workers in the half-way-hostel. During the period of guardianship, she managed to save some money to partially repay the banks. Her insight into

嘉芙的主診精神科醫生希望監護人能夠監控她的復康進展及改善她的揮霍習慣，於是提出監護申請，委員會委任了社會福利署署長為法定監護人。

在監護人的鼓勵、主診精神科醫生的指導及中途宿舍社工的協助下，嘉芙參與了有關如何使用金錢的訓練。在監護期內，她開始養成儲蓄習慣，並且歸還部份借款給銀行。她不但對自己的病情和胡亂花費的習慣有更深入的認知和掌握，並能減少花費及適當地使用金錢。

money and mental illness has significantly improved and that she spent less and spent realistically.

The delegated guardian was of the view that with continuing and close supervision of the hostel staff and the case social worker, the subject's interests and welfare needs could be met even without a guardianship order. The Board therefore decided not to renew the guardianship order.

轉授監護人認為若嘉芙能繼續得到宿舍社工及個案社工的緊密監督，在沒有監護令的情況下，她的利益及福利仍然可以得到保障。所以，委員會決定無須延續監護令。



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