

Application Procedure and Road Map for an Emergency Guardianship Order

What power does the Guardianship Board have to urgently protect persons against abuse or harm?

Section 59Q of the Mental Health Ordinance gives power to the Guardianship Board to make an Emergency Guardianship Order (“EGO”) where it has reason to believe that:

- (a) a person is in danger, or is being, or likely to be, maltreated or exploited;
- (b) the person is incapable of making reasonable decisions in relation to his personal circumstances; and
- (c) it is necessary to make immediate provision to protect him.

What are the procedures for applying for an EGO?

An application for guardianship must first or simultaneously be filed.

The forms are available from the Board’s offices and website.

- Form 1 Guardianship Application
- Form 4 Emergency Guardianship Order Application.
- Notwithstanding the urgency, you will still need medical reports supporting the application to confirm that the person in need is a mentally incapacitated person.
- A case summary or statement in support is required from the Applicant.

Features of an EGO

Because of the urgency of the application, the Board may not have time to request for a social enquiry report and interview the applicant, proposed guardian, affected individuals and the Subject. Therefore, it is most likely that the Director of Social Welfare will be the guardian under an EGO.

The Emergency Guardianship Order lasts for a maximum of three months, during which the Board shall convene again to consider if guardianship should continue.

No urgency

If the matters under an EGO application are found not to be urgent, the EGO application may be heard together with the guardianship application and the Applicant would be informed of this.

Road Map for an Emergency Guardianship Application



A guardianship application must first or simultaneously be filed (Form 1) together with an emergency guardianship application (Form 4)



Applicant obtains the application forms from the website or office of Guardianship Board and confirms if he/she is qualified to be the applicant



Applicant completes and submits Form 4 with information to justify the application: -

- (i) the Subject is in danger, or is being or likely to be maltreated or exploited;
- (ii) he/she has mental incapacity to make reasonable decisions; and
- (iii) in need for immediate protection

A case summary or statement in support is required from the Applicant.



Applicant tells the Subject about the application (unless there may be harm or risk in telling the Subject)



Board normally requires an urgent report from Social Welfare Department if there is insufficient time to wait for a Social Enquiry Report



If the matters are not considered urgent, the date, time and venue of the hearing is fixed and notified to all parties



Hearing conducted



The Board makes a decision

For more information, please contact the Board Secretariat at 2369 1999 or visit our website: www.adultguardianship.org.hk.

IMPORTANT NOTE

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