

Review of Guardianship Orders and Directions

For details, please read the Board's Procedural Guidelines. For more information, please contact the Board Secretariat at 2369 1999 or visit our website: www.adultguardianship.org.hk.



There are four types of reviews:

1. Mandatory (or automatic) review prior to expiry of Order;
2. Review initiated by a person other than the Board;
3. Review initiated by the Board; and
4. Reviews related to transfer of guardianship under section 59T of the MHO.

After the review process has been initiated and/or accepted by the Board Secretariat, the procedures for all types of review are similar.

1. Mandatory (or automatic) reviews

- They happen before the Order expires, usually within 1 year or 3 years or any time in between.
- Upon the Board receiving a Progress Social Enquiry Report from the Director of Social Welfare, the Board Secretary will schedule a review hearing and notify the parties of the review hearing date of an Order.

2. Review initiated by a person other than the Board

- The Board is required to review an order at any time prior to the expiry of an Order at the request of any of the following persons: -
 - (a) the MIP who is the subject of the Order ("Subject");
 - (b) the guardian;
 - (c) the Director of Social Welfare;
 - (d) any other person (including a relative of the Subject) who, in the opinion of the Board, has a genuine interest in the Subject's welfare.
- The application is made under Form 2 of the MHO.

3. Review initiated by the Board

The Board may, of its own initiative, and in accordance with such procedures as it thinks fit, review an Order at any time prior to its expiry under section 59U(1).

If, during a review hearing brought under section 59U(2), the Board finds that it wishes to revoke the Order as guardianship was no longer required and the Order had not expired, the Board may invoke section 59U(1) to revoke the Order immediately.

4. Reviews related to transfer of guardianship under section 59T

If section 59T is triggered, the guardian's power will vest in the Director of Social Welfare upon the death of guardians or the receipt of notice from guardians wishing to relinquish their functions, subject to the Board's subsequent review of the Order. The Director of Social Welfare will inform the Board and an early review will be initiated by the submission of a Form 2.

Guardianship Directions

- The Board may give directions to guardians as to the nature and extent of Orders, made through Form 3.
- Specific applications for Guardianship Directions are rare. Most issues facing guardians between Board hearings could be resolved and ratified by the Board at the subsequent review hearings.
- After hearings and in case management, the Board may give directions to parties. These are not considered guardianship.

MHO: Mental Health Ordinance, Cap.136, Laws of the Hong Kong SAR

IMPORTANT NOTE

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