

GUARDIANSHIP ORDER

(Section 37 of the Mental Health Act 1983)

1. Patient's name	
2. Your guardian's 2.1 Name	
2.2 Address	
2.3 Telephone no.	
3. Your responsible local social services authority	

What is guardianship?

Under section 37 of the Mental Health Act 1983, the Court has made an order that you should have a guardian to help you. This is called a "guardianship order".

Your guardian may be your local social services authority, or someone who has been approved by a social services authority. If your guardian is not a social services authority, they are called a "private guardian".

Your guardian has legal powers to tell you:

- where you must live
- to attend appointments for medical treatment, work, education or training at set places and at set times
- to allow a doctor, or another named person to see you.

Why do I need a guardian?

Two doctors think that you need help to live in the community as you have a mental disorder and you need a guardian for your own welfare or to protect other people.

How long does it last?

Guardianship lasts for up to six months at first.

Your guardianship may be renewed for a further six months, and again for a further year at a time, if your responsible clinician or your nominated medical attendant thinks this is necessary. They will talk to you about this nearer the time.

Your responsible clinician is the doctor, or other person, asked by the local social services authority to say whether you still need a guardian. If you have a private guardian, this will be done by a doctor called your “nominated medical attendant” instead.

Can I appeal?

Yes. You can appeal to the Court against the guardianship order. If you want to appeal you will have to do it quickly and it is best to ask a solicitor to help you. Ask your guardian or social worker about this and they will give you another leaflet.

If you want to stop having a guardian, you should talk to your guardian, your social worker, your responsible clinician or your nominated medical attendant.

You can also write to the social services authority to ask them to end your guardianship. Someone from the social services authority may want to talk to you before deciding whether you still need a guardian.

You and your nearest relative can also ask a Tribunal to say that you should not have a guardian any more. This leaflet explains further down who your nearest relative is.

What is a Tribunal and what happens?

The Tribunal is an independent panel which can decide whether you still need a guardian. It will hold a meeting with you and with staff who know you. This meeting is called a “hearing”. You can ask someone else to come to the hearing to help you, if you want. Before the hearing, the members of the Tribunal will read reports about you and your guardianship. One of the members of the Tribunal will also come to talk to you.

When can I apply to the Tribunal?

You can apply to the Tribunal once at any time during the first six months of your guardianship. You can then apply again once during the next six months and then once in every year that you are still under guardianship.

Your nearest relative can apply to the Tribunal once at any time during the first year of your guardianship and then again once in every year that you are still under guardianship.

If you want to apply to the Tribunal you can write to:

The Tribunals Service
PO BOX 8793
5th Floor
Leicester
LE1 8BN

Tel. 0845 2232022

You can ask a solicitor to write to the Tribunal for you and help you at the hearing. Your social services authority and the Law Society have a list of solicitors who specialise in this. You will not have to pay for help from a solicitor with this. It is free of charge under the Legal Aid scheme.

Help from an independent mental health advocate

You are entitled to help from an independent mental health advocate if you want it. These advocates are independent of people involved in your care. They can help you get information about your care [and any treatment you may be receiving], why you are under guardianship and what it means. They can help you understand what you are told by people involved in your care. If you want, they can help you talk to these people or they can talk to them for you. They can also help you with the Tribunal.

You can contact the independent mental health advocacy service yourself. The telephone number for the advocacy service is:

If you do not want to contact the advocacy service yourself, you can ask the person who gave this leaflet to contact the advocacy service for you. You can also ask your nearest relative to contact the advocacy service for you.

Letting your nearest relative know

A copy of this leaflet will be given to the person the Mental Health Act says is your nearest relative.

There is a list of people in the Mental Health Act who are treated as your relatives. Normally, the person who comes highest in that list is your nearest relative. Your social services authority can give you a leaflet which explains this and what rights your nearest relative has in connection with your care and treatment.

In your case, we have been told that your nearest relative is:

If you do not want this person to receive a copy of the leaflet, please tell your guardian, social worker or the person who gave you this leaflet.

Changing your nearest relative

If you do not think this person is suitable to be your nearest relative, you can apply to the County Court for someone else to be treated as your nearest relative instead. Your social services authority can give you a leaflet that explains this.

Code of Practice

There is a Code of Practice that gives advice about the Mental Health Act to people involved in your care. They have to consider what the Code says when they take decisions about your care. You can ask to see a copy of the Code, if you want.

How do I complain?

If you want to complain about anything to do with your guardianship, please speak to the person who gave you this leaflet. They may be able to sort the matter out. They can also give you information about your local social services authority's complaints procedure, which you can use to try to sort out your complaint. They can also tell you about any other people who can help you make your complaint, for example an independent mental health advocate (see above).

You can go to the Local Government Ombudsman as well, even if the local council is still looking into your complaint. If you have access to the internet, the Local Government Ombudsman website, www.lgo.org.uk, tells you how to complain about local councils. Or you can telephone them on 0845 602 1983.

You can also complain to an independent Commission. This is called the Care Quality Commission and it monitors how the Mental Health Act is used, to make sure it is used correctly and that patients are cared for properly while they are under guardianship. You can ask for another leaflet explaining how to contact the Commission.

Further help and information

If there is anything you do not understand about your care, please ask your guardian, your social worker or someone else involved in your care. Please also ask them to explain if there is anything in this leaflet you do not understand or if you have other questions that this leaflet has not answered.

Please ask if you would like another copy of this leaflet for someone else.