

All our information sheets are available to download free of charge because we believe that money should not be a barrier to getting the information you need when you need it.

Please see the end of this information sheet for details of how to support us.

We want to make sure our resources are helpful. Please spend a few minutes giving us some feedback:

[Feedback form](#)

Guardianship Order

If detention (section) under the Mental Health Act is suggested for your relative, ask whether a guardianship order is an option. This will allow your relative to receive treatment under the Mental Health Act (Section 7) in the community instead of a mental health service. If approved, a guardianship order is a better option than being detained (sectioned) because it means your relative will have less restrictions placed on them and be able to go about their daily life with more freedom.

Your relative can only be placed under a guardianship order if it is absolutely necessary for their wellbeing or to safeguard other people and must be approved by two doctors

Who can be your relative's guardian

The appointed guardian may be the local social services authority, or someone who has been approved by a social services authority. If the guardian is not a social services authority, they are called a 'private guardian'.



A Guardian has the legal power to tell your relative:

The three As:

Abode

Where they live

Attendance

To attend appointments for medical treatment, work, education or training at set places and at set times

Access

To allow a doctor or another named person to see your relative

How to apply for a guardianship order

- An application is made via an approved mental health professional (AMHP) or the Court is made
- As part of the application process, there is a case conference involving your relative, you (as family carer and/or nearest relative) and all relevant professionals
- The conference will cover how your relative's needs are going to be met and whether a guardianship order is the right decision
- If the application for a guardianship order is agreed by the local authority it will last 6 months. It can then be renewed for another 6 months
- After this, the guardianship order is renewed once a year
- The renewal must happen within the last two months of the guardianship order period

Ending the guardianship order

- Every time the guardianship order is renewed, you (if you qualify as the nearest relative) or mental health professionals can decide whether or not it should be ended. This decision needs to be approved by the local authority
- Each time the guardianship order is extended your relative can appeal to a Mental Health Tribunal to end it
- Sometimes the local authority decides the nearest relative (this could be you)

- cannot discharge your relative. If this happens you can ask a Mental Health Tribunal if they will discharge your relative
- The local authority or your relative's responsible clinician can discharge your relative from a guardianship order at any time
- A guardianship order ends immediately if your relative is detained (sectioned)

Your relative has a statutory entitlement to an Independent Mental Health Act advocate if they are placed under a guardianship order.



[Click here to visit the Mind website](#)



We are the charity for people with severe learning disabilities who display challenging behaviour. We make a difference to the lives of children and adults across the UK by:

- Providing information about challenging behaviour
- Organising peer support for family carers and professionals
- Giving information and support by phone or email
- Running workshops which reduce challenging behaviour

To access our information and support, call 01634 838739, email info@theCBF.org.uk, or visit our website: www.challengingbehaviour.org.uk

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