



AGENDA

REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE

Wednesday, 29 January 2014 at 2.00 pm
Swale 1, Sessions House, County Hall,
Maidstone

Ask for: **Andrew Tait**
Telephone: **01622 694342**

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

**Item
No**

- 1 Substitutes
- 2 Minutes - 30 January 2013 (Pages 3 - 4)
- 3 The Local Authority's Guardianship Register (Pages 5 - 24)
- 4 Other Items which the Chairman decides are Urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

21 January 2014

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

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KENT COUNTY COUNCIL

**REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP
SUB-COMMITTEE**

MINUTES of a meeting of the Regulation Committee Mental Health Guardianship Sub-Committee held in the Wantsum Room, Sessions House, County Hall, Maidstone on Wednesday, 30 January 2013.

PRESENT: Mr M J Harrison (Chairman), Mr R E Brookbank, Mr S J G Koowaree, Mr C P Smith and Mrs P A V Stockell (Substitute for Mr P W A Lake)

IN ATTENDANCE: Ms C Fenton (Learning Disability and Mental Health Officer), Ms C Brodie (Practice Support Manager), Ms M Brown (Administration Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**1. Minutes of the Panel meeting held on 27 January 2012 (for Information)**
(Item 3)

The Minutes of the meeting held on 27 January 2012 were noted, having been previously approved at the Regulation Committee meeting on 15 May 2012.

2. The Local Authority's Guardianship Register
(Item 4)

(1) The Learning Disability and Mental Health Officer reported that the Officer Working Party had met 6 times over the previous year to oversee the cases of every service user on the Guardianship Register and advise Approved Mental Health Professionals in relation to grounds for renewal of Guardianship Orders. This Working Party consisted of three officers from KCC Families and Social Care and two co-opted independent members.

(2) The Learning Disability and Mental Health Office said that there had been 48 names on the Guardianship Register in 2009 and that this figure had now been reduced to 9 (including the closing of 4 cases since the papers had been published.)

(3) The Learning Disability and Mental Health Officer said that it was the Administration Officer's role to both keep the Guardianship Register and to provide the Department of Health with precise data on those subject to Guardianship on an annual basis.

(4) The Learning Disability and Mental Health Officer reported that the Officer Working Party had ensured that a proper audit trail was followed whenever Guardianship was invoked. This encouraged best practice and ensured that a positive decision was taken to remove an individual from the register rather than simply allowing the order to lapse. Each order had to be reviewed every six months over the first year and every twelve months after that.

(5) The Practice Support Manager was reviewing the Information Leaflet for service users, nearest relatives and carers to improve clarity and develop understanding.

(6) The Learning Disability and Mental Health officer concluded her presentation by saying that robust processes were in place for the review and quality assurance of all aspects of Guardianship Orders. She anticipated that these processes would continue to improve.

(7) RESOLVED that the content of the report be noted together with the lists of closed cases since January 2012 and the current guardianship register set out in the Appendices to the report.

By: Head of Mental Health Social Work – Kent County Council

To: Regulation Committee Mental Health Guardianship Panel – 29th January 2014

Subject: The Local Authority’s Guardianship Register

Classification: Unrestricted

Summary: To introduce new members of the Regulation Committee to the duties of Kent County Council in relation to section 7 of the Mental Health Act 1983 (amended in 2007). The list of closed cases since January 2013 and the current guardianship register are enclosed for information.

1. Introduction

- (1.1) The Kent County Council’s Regulation Committee Mental Health Guardianship Panel was instituted in recognition of the duty of the responsible Social Services Authority to review guardianship orders and discharge if appropriate, in compliance with amendments to the Mental Health Act 1983 that were introduced in 2007. Under Section 23(2) an order for discharge can be made in respect of a patient who is subject to guardianship by the responsible clinician, by the Local Social Services Authority or by the nearest relative of the patient. Section 23 (4) sets out the framework for exercising the powers conferred by this section and Kent County Council’s Regulation Committee’s arrangements conform to these provisions.
- (1.2) The amendments to the Mental Health Act in 2007 also introduced the requirement for Elected Members to “audit the effectiveness of receipt and scrutiny of documents”. A working party of officers has been set up to carry out these duties. The acceptance of new guardianship orders or the renewal of existing guardianship orders is undertaken by the Director of Learning Disability and Mental Health on behalf of Kent County Council.
- (1.3) This report is to inform Members of the current state of the authority’s Guardianship Register. It contains the list of closed cases during 2013 at **Appendix 1** and the current guardianship register at **Appendix 2**. A presentation will be provided at the regulation committee meeting of 29th January 2014 to give further details of the powers and duties relating to section 7 Guardianship (Mental health Act 1983, amended 2007) and the work of the working party.

2. The Working Party

- (2.1) The working party is made up of three officers from the directorate of Families and Social Care and two co-opted independent members who have had recent operational management experience within mental health. It is

supported by a part time administrator and has met on five occasions since January 2013. Since it was established the working party has carried out a great deal of work to introduce robust processes and guidance to review and maintain high quality practice and accurate recording and reporting of guardianship orders. This has included reviewing the Guardianship Register and correcting any administrative errors.

- (2.2) Under section 66 of the Mental Health Act 1983 (amended 2007) a person who is subject to Guardianship may apply to the Mental Health Review Tribunal. Under section 77 of the Mental Health Act 1983 (amended 2007) the Mental Health Review Tribunal may discharge a person from Guardianship if they are not satisfied that the legal requirements and original grounds for reception into guardianship continue to apply. The working group intends to introduce a more robust process to monitor the number and outcome of applications to the Mental Health Review Tribunal during 2014.
- (2.3) Since January 2013 three guardianship orders have been discharged; four guardianship orders have been renewed and five new guardianship orders have been accepted, one of which was transferred from Section 3 of the Mental Health Act (compulsory detention in hospital) into Guardianship. There are currently eight people subject to guardianship in Kent. Kent County Council is required to provide the Department of Health with precise data on those subject to guardianship on an annual basis. The last submission of data was on 4th April 2013 for the period 1st April 2012 to 31st March 2013. At this time it was reported that four new orders had been accepted during this period and one order had been discharged. The next submission is due at the beginning of April 2014.
- (2.4) Since the last annual report to the regulation committee on 30th January 2014 there has been no need for Members to be asked to adjudicate a disputed case, nor indeed have they been asked to discharge an order in accordance with their powers under Section 23(4) of the MHA 1983 (amended 2007).

3. Summary

- (3.1) In summary there are robust processes in place for the review of guardianship orders, including renewals, that gives consideration to the least restrictive options available with the authority to make appropriate recommendations for discharge.

4. Recommendation

- (4.1) The regulation committee is invited to note the content of this report together with the details of the presentation, the lists of closed cases since January 2013 (Appendix 1) and the current guardianship register (Appendix 2).

Cheryl Fenton
Head of Mental Health Social Work
Tel No: (01622) 696146
E-mail: Cheryl.fenton@kent.gov.uk

Appendix 1

Closed Guardianship Cases
January – December 2013

DoH No	Area	Sex	Disorder Category	MHA, 1983 Section	Relationship to Guardian	Date Guardianship Commenced	Renewed Date 1	Renewed Date 2	Renewed Date 3	Renewed Date 4	Renewed Date 5	Date of Expiry
121	David Fisher, Dartford, Gravesham and Swanley	F	Mental Illness	7	LA	12/11/2008	12/05/2009 (signed by James)	12/11/2009 (signed by James)	12/11/2010 (signed by James)	12/11/2011 (Signed by Penny)	12/11/2012 (Signed by Penny)	Order Discharged: 30.07.13
142	Nigel Tompsett is now responsible for DI. Used to be Debra Willingale, Dartford, Gravesend & Swale MHT.	F	Mental Disorder	7	LA	28/09/2012	28/03/13 (signed by Penny)	27/03/2013				Order Discharged: August 2013
141	Kate Cottingham is now responsible for JB, used to be Mark Viner.	F	Mental Disorder	7	LA	10/09/2012	10/03/13 (signed by Penny on)	08/03/2013				Order discharged: 29.08.13

Appendix 2

Current Guardianship Register

DoH No	Expiry date:	Responsible Clinician	Mental Health Professional	Sex	Origin	Date Commenced	Renewed (6 months)	Renewed (6 months)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)
137	midnight 26.05.14	Dr Mohammed Sessay	Fleur Macdonald, Dover/Shepway CMHT 01304 216666	F	White British	27/11/2009 (Section 3)	Transferred from S3 to Guardianship 10/02/2010	27/05/2010	27/05/2011	27/05/2012	27/05/2013	Start date if renewed 27/05/14
143	midnight 18.10.14	Dr Karen Lawson	Gareth Locke, Swale CMHT 01795 418355	M	Not specified	19/10/2012	19/04/2013	19/10/2013	Start date if renewed 19/10/2014			
144	midnight 01.11.14	Dr Philip Barron	Susan-Janette Tostevin - AMHP Kingswood CMHC 01622 766900	M	White British	05/11/2012	02/05/2013	02/11/2013	Start date if renewed 02/11/14			
145	midnight 12.05.14	Dr Philip Barron	Steve Blandford Swale CMHT 01795 418355	M	White British	13/05/2013	13/11/2013	Start date if renewed 13/05/14				
146	midnight 06.12.13	Dr Karen Lawson	Gareth Locke, Swale CMHT 01795 418355	M	Mixed Race	07/06/2013	Start date if renewed 07/12/13					
147	midnight 06.12.13	Dr Philip Barron	Jonathan Tucker, Dover CMHT 01304 216666	M	White British	07/06/2013	Start date if renewed 07/12/14					
148	midnight 05.02.14		Samantha Williams, Swale CMHT 01795 418355	M	Afro-Caribbean	06/08/2013	Start date if renewed 06/02/14					
149	midnight 03.05.14	Dr Babiker, Durhar	Vicky Selman 01795 418355 Swale CMHT	F	White British	04/11/2013 (Section 3)	Transferred from S3 to Guardianship 16/12/13	Start date if renewed 04/05/14				

Page 8

Signed off by Committee Members:

Dated: _____

Mike Harrison

Chairman of the Regulation Committee

Guardianship Mental Health Act 1983 Information for patients

Introduction

This leaflet gives you information for patients under guardianship (section 7 of the Mental Health Act).

What is Guardianship?

Guardianship is used to enable a person to receive care outside of hospital where it cannot be done without the use of the powers of the Mental Health Act (Section 7).

Why am I under Guardianship?

You are under guardianship because you have been assessed as having a mental disorder and the doctors and other professionals responsible for your care feel that it is in the best interests of your welfare.

As part of the process of deciding whether you should be under guardianship you will have been assessed by an Approved Mental Health Professional (AMHP) and two doctors.

What does Guardianship mean?

You may well have already been involved in meetings about what guardianship will mean for you.

However, in most cases guardianship will mean the following:

- You will need to live at a specified address.
- You will need to be seen regularly by professionals involved in your care, for example, a nurse, social worker, or a doctor.
- You will need to attend a place specified for treatment, occupation, education or training.
- The period of guardianship will last for six months and it will then be reviewed by the doctors and other professionals in charge of your care.

What can I do if I am unhappy about being under Guardianship?

You have the right to appeal against guardianship.

You can do this by asking your named care coordinator for assistance in requesting an appeal.

If you do not know who your named Care Co-ordinator is, please ask the Approved Mental Health Professional (AMHP) who is involved in your care.

The care coordinator will be able to provide you with advice about how to contact the Mental Health Review Tribunal.

The Tribunal will consider whether guardianship can be ended.

What is the Mental Health Review Tribunal?

The Tribunal can take place any time in the next 6 months.

If at the end of your current period of guardianship your doctor thinks that you need to stay under guardianship for a further 6 months, you can apply again to the Tribunal.

After that, you can apply every year you are still kept under guardianship.

There are usually three people on the Tribunal—a lawyer, a psychiatrist (doctor) and a third person who is not a doctor. If you ask the Tribunal to look at your case the Tribunal will probably ask to see you and your doctor.

If the Tribunal sees you, they will be able to make sure that they have full details of the case, and you can tell the Tribunal why you want to leave guardianship.

You do not have to see the Tribunal if you do not want to. The Tribunal will listen to what you and your doctor say, and to what everyone else says, and then decide if you can leave guardianship.

You can also ask someone, including a solicitor, to help you to ask the Tribunal to look at your case and to help you put your views to the Tribunal.

Because of the legal advice and assistance scheme this solicitor's help may be free or it may only cost you a little.

What is meant by the term Nearest Relative?

The AMHP in who has a role in your care will have consulted your Nearest Relative about the use of Guardianship.

The term nearest relative is defined under the Mental Health Act 1983 and it is not the same as the next of kin.

Who is the Nearest Relative?

The following definition should be taken as guidance only and for further clarification you may wish to discuss this with your AMHP.

The nearest relative can apply to a Tribunal once each year you are held under guardianship.

The nearest relative can change with a person's social circumstances, e.g. who the person lives with and/or who provides care on a regular basis. However, generally the nearest relative is the eldest of whoever appears first on this list:

- husband, wife or civil partner
- daughter or son
- father or mother
- sister or brother
- grandparent
- grandchild
- uncle or aunt
- niece or nephew

Non-relatives can be defined as being the nearest relative where they have lived with the patient for five or more years. Co-habitees/partners of more than six months will count as husband, wife or civil partner.

Who do I speak to for more information?

If you need any further information please speak to the Approved Mental Health Professional (AMHP) involved in your care. They can help you find out further information.

This publication is available in other formats and can be explained in a range of languages.

Please call 0300 333 5540 or Text Relay 18001 0300 333 5540 for details.

Guardianship Mental Health Act 1983 Information for patients

Easier to read version



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