

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

Tuesday, 31st January, 2017

10.30 am

Darent Room, Sessions House, County Hall, Maidstone



AGENDA

REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE

Tuesday, 31 January 2017 at 10.30 am
Darent Room, Sessions House, County
Hall, Maidstone

Ask for: **Andrew Tait**
Telephone: **03000 416749**

UNRESTRICTED ITEMS

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

**Item
No**

- 1 Substitutes
- 2 Minutes - 26 January 2016 (Pages 5 - 8)
- 3 The Local Authority's Guardianship Register (Pages 9 - 16)
- 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)

John Lynch,
Head of Democratic Services
03000 410466

Monday, 23 January 2017

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.

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 Stour Room, Sessions House, County Hall, Maidstone on Tuesday, 26 January 2016.

PRESENT: Mr A H T Bowles (Chairman), Mrs M Elenor, Mrs S Howes, Mr S J G Koowaree and Mr C P Smith

IN ATTENDANCE: Mrs C Fenton (Head of Mental Health) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**1. Membership**

(Item 1)

(1) The Sub-Committee noted that Mr A H T Bowles had replaced Mr M J Harrison as the Chairman of the Sub-Committee by virtue of being the Chairman of the Regulation Committee.

2. Minutes - 28 January 2015 (To Note)

(Item 3)

(1) RESOLVED that the Minutes of the meeting held on 28 January 2015 be noted.

3. The Local Authority's Guardianship Register

(Item 4)

(1) The Head of Mental Health introduced her report by saying that the Sub-Committee (formerly Panel) had been set up in response to amendments to the Mental Health Act 1983 which had been introduced in 2007. Section 23 (2) of the Act enabled a discharge to be made in respect of a patient who was subject to guardianship by the responsible clinician, by the local Social Services Authority or by the nearest relative. In conformity with Section 23 (4) of the Act, this function had been delegated to this Sub-Committee of the Regulation Committee.

(2) The Head of Mental Health went on to say that the 2007 Amendments to the Act had also introduced the requirement for Elected Members to audit the effectiveness of receipt and scrutiny of documents. She moved on to describe the progress of the officer Working Party which had been set up for this purpose. It consisted of three officers from the Social Care, Health and Wellbeing Directorate and two co-opted independent members. The Working Party had met on four occasions over the previous year. It had carried out a great deal of work to introduce robust processes and guidance in order to review and maintain high quality practice as well as accurate recording and reporting of guardianship orders.

(3) The Head of Mental Health then informed the Sub-Committee that following a review, the Working Party was to be renamed “The Guardianship Quality and Scrutiny Panel” (GQSP) Membership would now be strengthened by the introduction of a *Quality Lead* from the Approved Mental Health Professional Service. The GQSP’s remit would include scrutiny of social circumstances reports and legal documents before they were submitted to KCC, mentoring and training on any identified practice issues. A key role was to provide assurance that the named officers responsible for scrutinising applications for new orders and renewals had done so in a robust and informed manner.

(4) The Head of Mental Health moved on to consideration of the national picture. There had been 212 new Guardianship Orders in 2014/15, representing a decrease of 29% from 2013/14. As at 31 March 2015, 522 people in England had been subject to Guardianship Order. This represented a reduction of 108 (17%) from the same date in 2014. The number of Guardianship Orders had declined for the 10th year in a row. This was probably to be explained in part by the availability of other mental health legislation such as the Mental Capacity Act. The number of Orders coming to an end during 2014-2015 had also reduced slightly (4%) from the previous year, making this the fifth consecutive year where this had happened. The duration of the Guardianship orders which came to an end during 2014-2015 had ranged from less than 3 months to over 10 years. The median duration of a Guardianship order in England was 12 months

(5) During the past 12 months the working party had reviewed and revised the Guardianship Policy in a number of areas including guidance relating to transfers from Guardianship to Section 3 status (i.e. compulsory detention in hospital for treatment); the procedure to follow should a person subject to Guardianship go absent without leave; the transfer of a person from one local social service authority to another; and the process for appeals to the Mental Health Review Tribunal.

(6) The Head of Mental Health concluded her presentation by saying that robust processes were in place for the acceptance and renewal of guardianship orders, ensuring that consideration was given to the least restrictive options available. Since the last annual report to the Panel, there had been no need for Members to be asked to adjudicate a disputed case, nor to discharge an order in accordance with their powers under section 23 (4) of the Mental Health Act 1983 (amended 2007).

(7) The Head of Mental Health replied to a question from Mr Bowles by saying that the apparent disparity in the Kent total (7) following discharges (3) new Orders (2) and renewals (7) had arisen because someone whose Guardianship Order had been renewed might also have been discharged at a later stage during the year.

(8) The Head of Mental Health also confirmed that after a Guardianship Order was discharged, the individual would continue to receive care and support for their health and social care needs from a multi-disciplinary team of mental health professionals.

(9) RESOLVED that the content of the report be noted together with the list of closed cases since January 2015 (set out in Appendix 1), the current guardianship register (Appendix 2) and the activity during 2015 (Appendix 3).

This page is intentionally left blank

By: Head of Mental Health – Kent County Council

To: Regulation Committee Mental Health Guardianship Panel – 31st January 2017

Subject: The Local Authority’s Guardianship Register

Classification: Unrestricted

Summary: To report on the work of the Guardianship review panel during 2016. A list of closed cases since January 2016 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 them 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. The function is delegated to a sub-committee of at least 3 members. One is a member of the regulatory committee and the others, members of the Adult Social Services Policy Overview and Scrutiny Committee.
- (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 Disabled Children , Adults Learning Disability and Mental Health on behalf of Kent County Council. The Head of Mental Health has provided Guardianship training for the Regulation Committee in the past. A half day training workshop is being commissioned for members of the Regulation Committee. This is planned for the early spring of 2017.
- (1.3) This report is to inform Elected Members of the current state of the authority’s Guardianship Register and the work of the officers’ working party during 2016. It contains the list of closed cases during 2016 at **Appendix 1**, the current guardianship register at **Appendix 2** and a summary of Guardianship activity for the reporting period at **Appendix 3**.

2. The Working Party

- (2.1) The working party is made up of three officers from the directorate of Social Care, Health and Wellbeing, two co-opted independent members who have had recent operational management experience within mental health and the manager and quality lead officer for the Approved Mental Health Professional (AMHP) service. It is supported by a part time administrator and has met on three occasions since January 2016. 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) During 2016/2017 the terms of reference of the working party have been amended. The name of the group has changed to The Guardianship Quality and Scrutiny Panel, in order to better reflect its role. A key role of the working group is to provide assurance that the named officers responsible for scrutinising applications for new orders and renewals have done so in a robust and informed manner. Training relating to the scrutiny role for Guardianship has been arranged for members of the Guardianship Quality and Scrutiny Panel. This is planned for the early spring of 2017.
- (2.3) Since January 2016 three guardianship orders have been discharged; seven guardianship orders have been renewed and one new guardianship order has been accepted. There are currently five people subject to guardianship in Kent. Kent County Council is required to provide the Department of Health with data on those subject to guardianship on an annual basis. The last submission of data was on 21 April 2016 for the period 1st April 2015 to 31st March 2016. At this time it was reported that two new orders had been accepted during this period and two orders had been discharged. The next submission is due at the beginning of April 2017. This data can be seen at Appendix 3.
- (2.4) Nationally for the 2015-16 reporting period there were 175 new Guardianship orders, a decrease of 16 per cent from the previous year. This follows a 29 per cent decrease between 2013-14 and 2014-15. As at 31 March 2016, 415 people in England were subject to a Guardianship order, 18 per cent fewer than at the same point in 2015. This is also the eleventh consecutive year of decline in continuing cases, from 940 cases in 2004-05 to 415 cases in 2015-16, a reduction of 56 per cent over this period. The decline in Guardianship might be in part to the availability of other mental health legislation. The number of closed cases reduced compared to the previous year, with 250 cases closed in 2015-16 compared to 305 in 2013-14 (a reduction of 18 per cent). The number of closed cases has now reduced for six consecutive years, since the peak of 495 cases in 2009-10. This represents an overall reduction of 50 per cent since 2009-10.

- (2.5) During the last 12 months a business analyst has worked with officers responsible for the Guardianship register and the assessment and renewal processes to carry out a process mapping exercise in order to identify areas for improvement. It is expected that this will provide a better quality of service for the service user as well as, more clarity to the roles and responsibilities of those involved. This work is near to conclusion.
- (2.6) An essential right for individuals under the Mental Health Act is to have a “Nearest Relative” whose views are sought and who has powers under the Act. During 2016 officers of Kent County Council have worked in partnership with colleagues from the Kent and Medway NHS and Social Care Trust to develop a register of those people where :
- the Nearest Relative has delegated their functions to the Kent County Council
 - the Nearest Relative has delegated their functions to another individual
 - the individual either does not have a Nearest Relative or their Nearest Relative cannot perform the functions and therefore the Court has appointed Kent County Council
 - the individual does not have a Nearest Relative or their Nearest Relative cannot perform the functions and therefore the Court has appointed an individual

In addition Kent County Council officers, including those from the legal department have worked with colleagues from Kent and Medway NHS and Social Care Trust to introduce more robust processes particularly, in relation to when Kent County Council is appointed as the Nearest Relative. Two training sessions were commissioned on the role of the Nearest Relative to provide additional support to the Approved Mental Health Professionals in carrying out their duties under the Mental Health Act.

- (2.7) Since the last annual report to the regulation committee on 26th January 2016 there has not been the 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 list of closed cases since January 2016 (Appendix 1), the Current Guardianship registers (Appendix 2) and the activity during 2016 (Appendix 3).

Cheryl Fenton Head of Mental Health
Tel No: (03000 415310)
E-mail: Cheryl.fenton@kent.gov.uk

Appendix 1

Discharged Guardianship Cases Jan – Dec 16

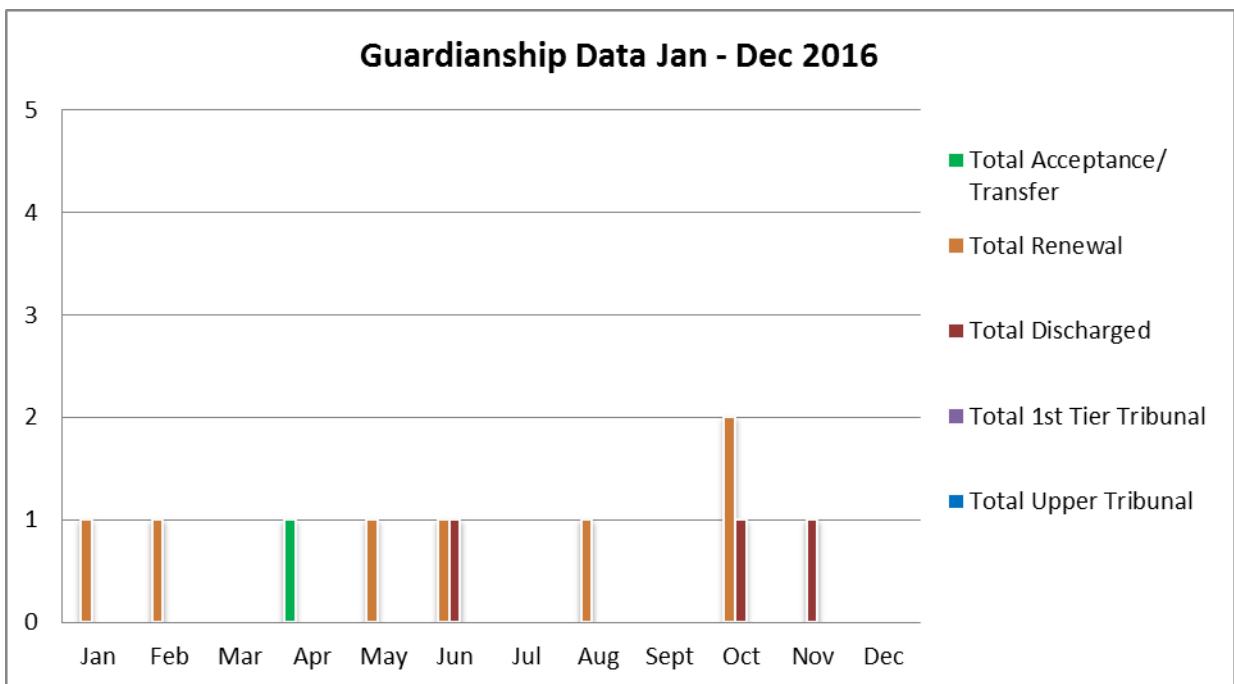
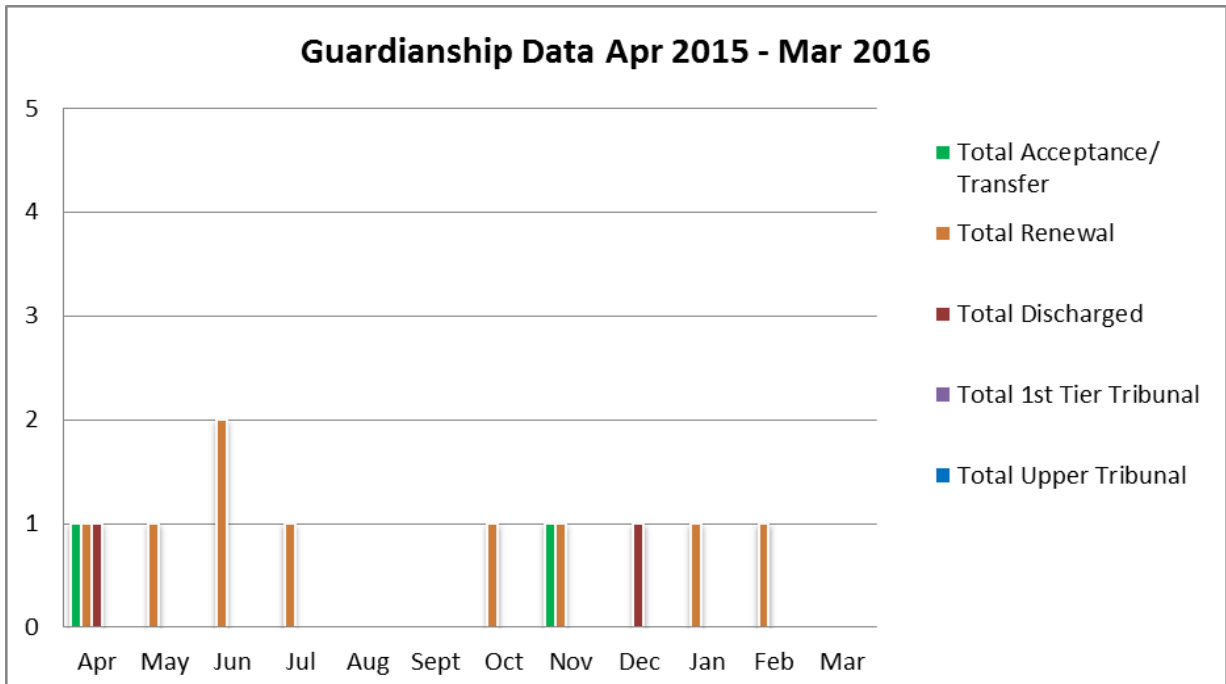
| Status | DoH No. | Expiry date: | Diagnosis | Sex | Origin | Length in years on Register | Date Commenced | Renewed (6 months) | Renewed (6 months) | Renewed (yearly) | Renewed (yearly) | Renewed (yearly) |
|--------|---------|----------------------|-------------------|-----|---------------|-----------------------------|----------------|--------------------|--------------------|--------------------------|------------------------|------------------------|
| Closed | 144 | midnight 01.11.16 | Mental Impairment | M | White British | 4.17 | 05/11/2012 | 02/05/2013 | 02/11/2013 | 02/11/2014 | 02/11/2015 | Discharged 12/10/16 |
| Closed | 146 | midnight 06.06.16 | Mental Illness | M | Mixed Race | 3.58 | 07/06/2013 | 07/12/2013 | 07/06/2014 | 07/06/2015 | Discharged 01/06/16 | |
| Closed | 152 | midnight 07/01/17 | Mental Illness | F | White British | 1.75 | 07/04/2015 | 08/07/2015 | 08/01/2016 | Discharged 22/11/2016 | | |

Appendix 2

Guardianship Register as at 19/01/2016

| Status | DoH No. | Expiry date: | Diagnosis | Sex | Origin | Length in years on Register | Date Commenced | Renewed (6 months) | Renewed (6 months) | Renewed (yearly) | Renewed (yearly) | Renewed (yearly) | Renewed (yearly) |
|--------|---------|----------------------|-------------------|-----|---------------|-----------------------------|----------------|--------------------|-----------------------------------|-------------------------------------|------------------|-----------------------------------|-----------------------------------|
| Open | 143 | midnight 18.10.17 | Mental Impairment | M | White British | 4.25 | 19/10/2012 | 19/04/2013 | 19/10/2013 | 19/10/2014 | 19/10/2015 | 19/10/2016 | Start date if renewed 19/10/17 |
| Open | 145 | midnight 12.05.17 | Mental Impairment | M | White British | 3.67 | 13/05/2013 | 13/11/2013 | 13/05/2014 | 13/05/2015 | 13/05/2016 | Start date if renewed 13/05/17 | |
| Open | 147 | midnight 06.06.17 | Mental Impairment | M | White British | 3.58 | 07/06/2013 | 07/12/2013 | 07/06/2014 | 07/06/2015 | 07/06/2016 | Start date if renewed 07/06/17 | |
| Open | 153 | midnight 10/08/17 | Mental Illness | M | White British | 1.17 | 17/11/2015 | 11/02/2016 | 11/08/2016 | Start date if renewed 11/08/2017 | | | |
| Open | 154 | midnight 28/04/17 | Mental Illness | M | White British | 0.67 | 29/04/2016 | 29/10/2016 | Start date if renewed 29/04/17 | | | | |

Appendix 3



This page is intentionally left blank