

By: Assistant Director Countywide Services – Kent County Council

To: Regulation Committee Mental Health Guardianship Panel – 20 January 2021

Subject: The Local Authority’s Guardianship Register

Classification: Unrestricted

Summary: To report on the work of the Guardianship Quality and Scrutiny Panel during 2020. The current guardianship register is enclosed for information.

1. Introduction

- (1.1) The Kent County Council’s Regulation Committee Mental Health Guardianship Sub-Committee 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 Regulation Committee and the others, Members of the Adult Social Care and Health Cabinet Committee. Should an individual who is subject to Guardianship request that KCC exercise its power to discharge, this sub-committee would be supported by officers.
- (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 Assistant Director Countywide Services on behalf of Kent County Council.
- (1.3) The Assistant Director of Countywide Services on behalf of the Elected Members also reviews whether Guardianship is still required or if the individual should be discharged whenever the Responsible Clinician submits a report for renewal. The Guardianship Panel of officers reviews this decision as soon as practicable following the renewal.
- (1.4) 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 2020.

It contains the current guardianship register and a summary of Guardianship activity for the reporting period at **Appendix 1**.

2. The Working Party

- (2.1) The working party is made up of four officers from the directorate of Adult Social Care and Health. It is supported by an administrator and has met on three occasions since January 2020. 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.
- (2.2) 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 Guardianship was provided to responsible officers during 2020. This is provided annually.
- (2.3) Since January 2020 there has been one Guardianship order accepted and subsequently renewed twice. In addition, there has been a renewal of one other guardianship order. There are two people subject to guardianship in Kent currently.
- (2.4) Kent County Council is required to provide the Department of Health and Social Care with data on those subject to guardianship on a biennial basis. The last submission of data was on 11 June 2018 for the period 1 April 2016 to 31 March 2018. The collection for the period 1 April 2018 to 31 March 2020 which was due in April 2020 was postponed until 2021 due to pressure from the covid-19 pandemic. However, as numbers of new Guardianship cases have reached very low levels nationally there is consultation underway on the future of data collection and subsequent statistical publication.
- (2.5) Data published by The Department of Health for the period April 2016 to March 2018, indicates that the use of Guardianship continues to decline in England. New cases totalled 105 in 2017-18 and 140 in 2016-17, compared to 430 in 2007-2008. Numbers of continuing cases open at the year-end is also falling, as cases close and fewer new cases are opened. As at March 2018, 300 people in England were subject to a Guardianship order, 25% fewer than at the same point the last time the data was published in 2015. This is the eleventh consecutive year of decline in continuing cases. Of the 152 local social services authorities in England only 59 reported new cases in 2017-2018 and 59 in 2016-17. The decline in the use of Guardianship orders may in part be due to the availability of other mental health legislation.
- (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. All those who currently have Guardianship orders in place have an identified "Nearest Relative". The Committee will be pleased to know that,

where there is no “Nearest Relative” identified, Kent County Council have introduced measures to ensure timely applications to the Court to appoint Kent County Council as the “Nearest Relative” where required.

- (2.7) Since the last annual report to the regulation committee in March 2020 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. Conclusion

- (3.1) In summary there are robust processes in place for the review of guardianship orders, including renewals, that consider 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 current Guardianship register and the activity from January – December 2020 (Appendix 1).

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Appendix 1

Guardianship Register as at 12 January 2021

DoH No	Expiry date	Mental Disorder	S3 start date (transfers only)	Guardianship start date	1st Renewal	2nd Renewal (six)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)		Tribunal	Length in years on Register
147	midnight 06.06.21	Mental Impairment	n/a	07/06/2013	07/12/2013	07/06/2014	07/06/2015	07/06/2016	07/06/2017	07/06/2018	07/06/2019	07/06/2020	renewed 07/06/2021	1st Tier 28/10/2020	7.50
157	midnight 07/12/2021	Mental Illness	08/12/2019	04/05/2020	08/06/2020	08/12/2020	Start date if renewed 08/12/21								0.67

