

By: Assistant Director Countywide Services – Kent County Council

To: Regulation Committee Mental Health Guardianship Panel – 31 March 2022

Subject: The Local Authority’s Guardianship Register

Classification: Unrestricted

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Summary: To report on the work of the Guardianship Quality and Scrutiny Panel during 2021. The current guardianship register is enclosed for information.

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## **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 prior to the expiry.
- 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 2021.

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 five officers from the directorate of Adult Social Care and Health. It is supported by an administrator and has met on three occasions since January 2021. 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 2021. This is provided annually.
- 2.3 Since January 2021 there have been two guardianship renewals. There are two people subject to guardianship in Kent currently. There have not been any new Guardianship cases.
- 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 18 May 2021 for the period 1 April 2018 to 31 March 2021.
- 2.5 Data published by The Department of Health and Social Care for the period April 2018 to March 2021, indicates that the use of Guardianship continues to decline in England. Reported new cases totalled 75 in 2018-19, 55 in 2019-20 and 55 in 2020-21. Since recording began, at their peak in 2006-07 there were 470 new cases in a year. Continuing cases open at the year-end are also falling, as cases close and fewer new cases are opened. As of 31 March 2021, 155 people in England were reported as subject to a Guardianship order, almost 50% fewer than at the same point the last time the data was published in 2018. 115 cases were reported as closed in 2018-19, 80 in 2019-20 and 65 in 2020-21. Of the 152 local authorities in England (including the 21 non-submitters) only 36 reported new cases in 2018-19, 36 in 2019-20 and 35 in 2020-21, whilst 60 local authorities reported having cases remaining open at the end of 2020-21. It should be noted that there are queries over the national data and figures may be slightly lower.
- 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 January 2021 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 2021 (Appendix 1).

Akua Agyepong, Assistant Director Countywide Services.  
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Appendix 1

Guardianship Register as of 21 December 2021

DoH No.	Mental Disorder	Expiry date:	Most recent renewal	Guardianship start date	S3 start date (transfers only)
147	Mental Impairment	midnight 06/06/22	07/06/2021	07/06/2013	n/a
157	Mental Illness	midnight 07/12/2022	08/12/2021	04/05/2020	08/12/2019

