

By: Alex King, Deputy Leader
Peter Sass, Head of Democratic Services and Local Leadership

To: County Council – 13 May 2010

Subject: Mental Health Act Guardianship Sub-Committee

Classification: Unrestricted

Summary: The Selection and Member Services Committee at its meeting on 23 March 2010 recommend to the County Council the establishment of a Sub-Committee of the Regulation Committee to consider applications under section 23 of the Mental Health Act 1983 to discharge a person from guardianship.

1. (1) Under section 7 of the Mental Health Act 1983 (MHA 1983), applications for guardianship signed by two doctors and an Approved Mental Health Professional (AMHP) are received on behalf of KCC and entered into the Guardianship Register kept at County Hall. KCC as a guardian can require that the person subject to the guardianship lives in a certain place, accesses health professionals and attends appointments relating to their care and treatment.

(2) The Mental Health Act 2007 (MHA 2007) introduced changes in respect of guardianship orders and amended the regime for health authorities in discharging patients subject to guardianship. As a consequence of these changes, the role of Local Authority Social Services departments to actively consider the discharge of such patients came into force. In order to carry out this function it is necessary to establish a Sub-Committee to enable Members to consider applications under section 23 of the MHA 1983 to discharge a person from guardianship.

(4) KCC currently has 55 people who are the subject of guardianship orders across the county. Although no discharges have been made in the last three years, it is necessary for the County Council to have a process for considering any applications that may arise.

(5) The Selection and Member Services Committee considered a proposal that this should come within the remit of the Regulation Committee, allowing it to convene an ad hoc sub-committee of Members to discharge this function. As Members with the most knowledge of social services mental health issues are likely to serve on the Adult Social Services Policy Overview and Scrutiny Committee it was suggested that the majority of the sub-committee be made up of Members from that Committee. The Sub Committee would be supported in coming to its decision by the presentation of reports and advice from an experienced officer from Kent Adult Social Services Directorate.

(6) In accordance with the suggestion of the Selection and Member Services Committee, and subject to the County Council agreeing the recommendation set out below, arrangements will be made to ensure that there is a pool of appropriately trained Members available to fulfil this role.

Recommendation

2. That the County Council approve the following addition to the terms of reference for the Regulation Committee:

“(g) the discharge of persons who are subject to guardianship, pursuant to section 23 of the Mental Health Act 1983 on the recommendation of the Director of Adult Social Services.

(The Council agreed on 13 May 2010 that function (g) could be delegated to a sub-committee of at least three Members one of whom should be a Member of the Regulation Committee and the others to be Members of the Adult Social Services Policy Overview and Scrutiny Committee (who must not also be members of a Foundation Trust). The decision to discharge must be agreed by at least three Members or where there are more Members on the sub-committee by a majority of the Panel)”

Peter Sass
Head of Democratic Services and Local Leadership
01622 694002

Background documents

None