

By: Assistant Director Countywide Services – Kent County Council

To: Regulation Committee Mental Health Guardianship Sub-Committee -
15 March 2023

Subject: The Local Authority's Guardianship Register

Classification: Unrestricted

Summary: To report on the work of the Guardianship Quality and Scrutiny Panel during January – December 2022. The current Guardianship register is also enclosed for information (Appendix 1).

1. Introduction

- 1.1 The Kent County Council's (KCC) Regulation Committee Mental Health Guardianship Sub-Committee was instituted because of the amendments to the Mental Health Act 1983 (MHA) that were introduced in 2007. These included the Local Authority's statutory duty to review those individuals who are subject to Guardianship and discharge them if appropriate under section 23(2) MHA.
- 1.2 KCC's duty to discharge an individual from Guardianship is delegated to a sub-committee of at least three Cabinet Members. One is a Member of the Regulation Committee, and the others are Members of the Adult Social Care and Health (ASCH) Cabinet Committee. Should an individual who is subject to Guardianship request that KCC exercise its power to discharge them then this sub-committee would be supported by officers of ASCH.
- 1.2 KCC is also required to ensure Guardianship is lawful and 'audit the effectiveness of receipt and scrutiny of documents' (s38.18 & s38.20 MHA Code of Practice). A Guardianship Quality and Scrutiny Panel consisting of ASCH officers was set up to carry out these duties. The scrutiny process to accept a new Guardianship application, a transfer from s3 or a renewal is undertaken by a Service Manager and the Assistant Director Countywide Services on behalf of KCC.
- 1.3 The Assistant Director of Countywide Services on behalf of the Elected Members also reviews whether Guardianship is still required as the 'least restrictive option and maximizing independence' (s1.1 MHA Code of Practice) or if the individual should be discharged whenever the Responsible Clinician submits a report for renewal. The Guardianship Quality and Scrutiny Panel scrutinises, and quality assures all the relevant paperwork as well as, this decision.

- 1.4 This report is to inform Elected Members of the current state of KCC's Guardianship Register (please see **Appendix 1**) and the work carried out by the Guardianship Quality and Scrutiny Panel during the period January – December 2022.

2. The Guardianship Quality and Scrutiny Panel

- 2.1 The Guardianship Quality and Scrutiny Panel is made up of five officers from ASCH including members from the policy and quality assurance, and the practice development teams. The work of the Panel is supported by an administrator.
- 2.2 Since it was established, the Guardianship Quality and Scrutiny Panel has regularly reviewed its scrutiny processes and guidance to ensure they are robust and will achieve 'best practice' and accurate recording. Also, last year the Community Forensic Social Work Service Manager offered to be the Receiving Officer for a six-month period to provide consistency and ensure that new processes were embedded.
- 2.3 The Guardianship Quality and Scrutiny Panel has met on three occasions since January 2022 and there has been a notable improvement in practitioners working jointly with health and the quality of social circumstances reports.
- 2.4 Another requirement of the Guardianship Quality and Scrutiny Panel is to ensure that those authorised 'to receive and scrutinise statutory documents' on behalf of KCC 'are competent to perform these duties, understand the requirements of the Act and receive suitable training' (s25.19 MHA Code of Practice). Usually this is provided annually by a commissioned provider. Given the changes that will be implemented in April as a result of the new Locality Operating Model this will be postponed until later in the year.
- 2.5 Since January 2022 there has been one new Guardianship application which was then discharged within the same year. Also, there are two individuals who were already subject to Guardianship that have been renewed. It is worth noting that one of these individuals who is also subject to a Deprivation of Liberty Safeguard recently applied to the Mental Health Review Tribunal, but Guardianship was upheld.
- 2.6 KCC is required to provide the Department of Health and Social Care (DHSC) with data on those individuals who are subject to Guardianship on a biennial basis. The last submission of data was therefore for the period 1 April 2018 to 31 March 2021.
- 2.7 Data published by the DHSC for the period April 2018 to March 2021, indicates that the use of Guardianship has remained the same with 55 in 2019-20 and 55 in 2020-21. As of 31 March 2021, there was a total of 155 people in England who were reported as subject to Guardianship.

2.8 Since last year's report to the Regulation Committee (January 2022) there has not been the need for Members to be asked to adjudicate a disputed case. Also, they have not been asked to discharge an individual who is subject to Guardianship.

3. Conclusion

3.1 In summary the Guardianship Quality and Scrutiny Panel would like to give the Committee its assurance that there are robust processes in place for the acceptance, transfer and renewal of Guardianship which ensure that this is the least restrictive and maximizing independence option available.

4. Recommendation

4.1 The Regulation Committee Mental Health Guardianship Sub-Committee is invited to note the content of this report including the current Guardianship register (Appendix 1).

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Appendix 1

Guardianship Register as of 27 February 2023

DoH No.	Mental Disorder	Expiry date:	Most recent renewal	Guardianship start date	Length in years on Register
147	Mental Impairment	midnight 06/06/23	07/06/2022	07/06/2013	9.67
157	Mental Illness	midnight 07/12/2023	08/12/2022	04/05/2020	2.75

