

By: Assistant Director Countywide Services – Kent County Council

To: Regulation Committee Mental Health Guardianship Sub-Committee -  
18 January 2024

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 January – December 2023. The current Guardianship register is also enclosed for information (Appendix A).

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## **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.
- 1.3 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).
- 1.4 This report is to inform Elected Members of the current state of KCC's Guardianship Register and the work carried out by the Guardianship Quality and Scrutiny Panel during the period January – December 2023.

## **2 The Guardianship Quality and Scrutiny Panel**

- 2.1 A Guardianship Quality and Scrutiny Panel was set up to carry out these statutory duties. The Panel is made up of ASCH officers from Approved Mental Health Professional Service, the policy and quality assurance team, the practice development team, and Community Teams. It is Chaired by the Assistant Director County Wides Services, and the work of the Panel is supported by an administrator.

- 2.2 The scrutiny process for all new Guardianship applications, transfers from s3 MHA or a renewal is initially undertaken by the Community Forensic Social Work Service Manager who has previous mental health experience and received additional training in Guardianship. This is to provide consistency and ensure that new processes are fully embedded.
- 2.3 The Guardianship Quality and Scrutiny Panel scrutinises, and quality assures all the relevant paperwork as well as, the recommendation. It, therefore, ensures 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.
- 2.4 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. Recently, one of the social circumstances reports presented to the Panel was of such a high quality that it was shared with the rest of ASCH as an example of best practice.
- 2.5 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). This year the panel member from the policy and quality assurance team met with the relevant practitioners and managers involved to provide a bespoke training session.
- 2.6 Throughout 2023 KCC's Guardianship register has only consisted of two individuals who have both been subject to the renewal process.

Jean (not her real name) is a 62-year-old white British woman who has a long history of mental health difficulties dating back to 1995 and numerous admissions to hospital under the MHA. She lived with her mother who cared for Jean until her death. Jean's mental health subsequently deteriorated resulting in her significantly self-neglecting and placing herself at risk. She has always had very limited insight into her needs and has refused to engage with services. Jean was placed in supported accommodation but continued to return to her family home even when this had been sold. Guardianship has proved to be effective by enabling Jean to be returned to her supported accommodation and to better engage with services. It is hoped that there will come a time when Guardianship is no longer needed.

Tom (not his real name) is a 52-year-old white British man who has a learning disability, mental health difficulties and a forensic history dating back to 1995, which included arson, assault, and inappropriate sexual behaviour towards children. He has been subject to Guardianship since 2005 and is also subject to Deprivation of Liberty Safeguards. Guardianship has been particularly effective as it has enabled Tom to be placed in an environment that offers him the least restrictive option and the provision of the necessary services he

requires whilst also protecting the public which would not be possible otherwise.

- 2.7 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 triennial basis. The last submission of data was therefore for the period 1 April 2018 to 31 March 2021.
- 2.8 Nationally, data published by the DHSC has indicated that for the past 5 years the number of new applications for Guardianship has remained consistent with 55 people in England who were reported as subject to Guardianship. Whilst the number of those who have continued to be subject to Guardianship has significantly dropped to 50% fewer than in 2018.
- 2.9 Since last year's report to the Regulation Committee Mental Health Guardianship Sub-Committee (March 2023) there has not been the need for Members to be asked to adjudicate a disputed case or 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 at Appendix A.

Akua Agyepong,  
Assistant Director Countywide Services.  
akua.agyepong@kent.gov.uk  
03000 415762

Catriona Brodie  
Policy and Quality Assurance Officer  
Catriona.Brodie@kent.gov.uk

Appendix A

Guardianship Register as at 08/01/2024

DoH No.	Mental Disorder	Expiry date:	Guardianship start date	Length in years on Register
147	Mental Impairment	midnight 06/06/24	29/07/2005	18.42
157	Mental Illness	midnight 07/12/2024	04/05/2020	3.67