

From: Principal Social Worker & Assistant Director, Policy, Practice & Quality Assurance, Strategic Safeguarding & DoLS – Kent County Council

To: Regulation Committee Mental Health Guardianship Sub-Committee - 11 March 2026

Classification: Unrestricted

Subject: The Local Authority's Guardianship Register

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**Summary:**

To report on the work of the Guardianship Quality and Scrutiny Panel during January 2025 – December 2025.

**Recommendation:**

The Regulation Committee Mental Health Guardianship Sub-Committee is asked to note the content of this report.

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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 (CoP)).
- 1.4 This report is to inform Members of the current state of KCC's Guardianship Register and the work carried out by the Guardianship Quality and Scrutiny Panel (the Panel) during the period January 2025 – December 2025.

## 2 The Guardianship Quality and Scrutiny Panel

- 2.1 A Panel was set up to carry out these statutory duties. The core membership of the Panel is currently made up of ASCH officers from the Approved Mental Health Professional Service, the policy and quality assurance team and the practice development team. It is Chaired by the Principal Social Worker & Assistant Director, Policy, Practice & Quality Assurance, Strategic Safeguarding & DoLS, and the work of the Panel is supported by an administrator and the policy and quality assurance officer.
- 2.2 The scrutiny process for all new Guardianship applications, transfers from s3 MHA or a renewal was undertaken by the Area Operational Managers who have previous mental health experience and received additional training in Guardianship.
- 2.3 The 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 CoP) or if the individual should be discharged.
- 2.4 Since it was established, the Panel has regularly reviewed its scrutiny processes and guidance to ensure they are robust and will achieve 'best practice' and accurate recording. Two Panel members (policy and quality assurance officer and the Guardianship Administrator) are currently in the process of reviewing all of the processes and documentation in view of the structural changes which were implemented by the New Ways of Working.
- 2.5 Another requirement of the 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 CoP). This year the Panel member from the policy and quality assurance team met with all the relevant practitioners and managers involved to provide a bespoke training session.
- 2.6 Throughout 2025 KCC's Guardianship register has only consisted of two individuals. One has been subject to Guardianship for 20 years, the other has just been renewed after their first six month term. Please see below for the pen picture for these two individuals whose real names have not been used.

*Tom 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. He has also been subject to a Community Deprivation of Liberty (Community DoL) as he requires supervision when outside of his placement as well as, control and supervision of his phone, social media and access to the internet. Tom was the test case for the use of this combination and the deprivation of his liberty (NM v Kent County Council [2015] UK 125 (ACC)). Guardianship has been particularly effective as it has enabled Tom to be placed in an environment*

*that offers him the least restrictive option within the community whilst also protecting the public. He wishes to move and therefore, has made an application with the Court of Protection appealing against his Community DoL. This is still waiting for an outcome.*

*Jeremy is a 25-year-old white British man who has atypical autism, selective mutism and depression. He was previously known to Child and Adolescent Mental Health Services and then admitted to hospital under the Mental Health Act 1983 when he was aged 18 years. He has remained in hospital since then but was transferred to the National Autism Unit after his first year. Since then Jeremy has absconded a few times and been aggressive towards staff when he has been returned. More recently, attempts to discharge Jeremy have failed as he has refused to move and expressed a wish to remain in hospital. But the Court of Protection decided in July 2025 that his needs would be better met in a supported living placement and therefore, authorised a Community DoL. Given the risks Jeremy has posed in the past an application for Guardianship was also made to ensure a smooth transition from hospital to the community.*

- 2.7 Nationally, data published by the Department of Health and Social Care (DHSC) has indicated that for the past 5 years the number of new applications for Guardianship has remained consistent namely, 55 people. Whilst the number of those who have continued to be subject to Guardianship has significantly dropped to 50% fewer than in 2018.
- 2.8 KCC is required to provide the DHSC with data on those individuals who are subject to Guardianship on a triennial basis. The last submission of data was 31 March 2024.
- 2.9 Locally, during the past 5 years the number of people under Guardianship has been 6. They have mainly been men (2 women) and have tended to only require a short period of time in order to ensure a smooth transition. This has been in stark contrast to the number of people who have been subject to a Community Treatment Order which has risen to 498.
- 2.10 Since last year's report to the Regulation Committee (January 2025) 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 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.
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## 4. Recommendation

- 4.1 The Regulation Committee Mental Health Guardianship Sub-Committee is asked to note the content of this report.
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## 5. Contact details

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