

Guardianship Orders

(Mental Health Act 1983, amended 2007)

Presentation to Regulation Committee Mental Health Guardianship Sub Committee

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12th Feb 2019

CF Guardianship presentation 04.02.19



Guardianship

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Guardianship

Section 7 MHA 1983 (amended 2007)

- Applies to people 16 years old and above
- Applies to people suffering from a mental disorder of a nature or degree which warrants their reception into Guardianship and it is necessary in the interests of the welfare of the patients or the protection of the other persons. It therefore applies to people with a mental illness including dementia. A diagnosis of learning disability is not sufficient and needs to be associated with “abnormally aggressive or seriously irresponsible conduct”
- Enables service users to receive care in the community where it cannot be provided without the use of compulsory powers
- An application for Guardianship is made by an Approved Mental Health Professional (AMHP) based on 2 medical recommendations
- The application is received by KCC and entered into the Guardianship Register

Guardianship

Section 7 MHA 1983 (amended 2007)

- The Guardian can require that the person subject to Guardianship:
 - Lives in a certain place
 - Attends for medical treatment, occupation, education or training
 - Allows access to them by a medical practitioner or other professionals
- Usually, the Local Social Service Authority (LSSA) becomes the Guardian, however the LSSA can appoint someone else to be the Guardian
- An application for Guardianship **cannot** proceed when the person identified as the nearest relative exercises their right to object
- A Guardianship order must be reviewed regularly and renewed at intervals of 6 months, 6 months then yearly from the date on which the original order was accepted by the LSSA

Guardianship

KCC and Elected Members Responsibilities

- To receive a person into Guardianship
- To hold a register of those received into Guardianship and provide an annual report to DoH detailing the numbers of applications and renewals
- To act as a Guardian – delegated to a Mental Health Social Worker
- To appoint a Guardian – other than KCC
- The Mental Health Act 2007 introduced the requirement for Elected Members to “audit the effectiveness of receipt and scrutiny of documents and approve discharges from Guardianship.”

Guardianship

KCC and Elected Members Responsibilities

- Regulatory committee terms of reference includes the function to “discharge persons who are subject to Guardianship, pursuant to Section 23 of MHA 1983 on the recommendation of the Director of Adult Social Services.”
- This function is delegated to a sub-committee of at least 3 members. One is a member of the regulation committee and the other, members of the Adult Social Services Policy Overview and Scrutiny Committee
- When considering discharge or circumstances where there is a dispute, the sub committee should satisfy themselves that the grounds for continued Guardianship are met and should follow the MHA Code of Practice and guiding principles:

Guardianship

- **The Purpose Principle:** Decisions under the Act must be taken to minimise the effects of mental disorder, maximise the safety and wellbeing of patients, promote recovery and protect people from harm
- **The Least Restriction Principle:** The restrictions imposed on the patient's liberty must be kept to a minimum, having regard to the purpose for which the restrictions are imposed
- **The Respect Principle:** The diverse needs, values and circumstances of each patient must be respected and recognised. These include their race, religion, culture, age, sexual orientation and disability. There must be no unlawful discrimination.
- **The Participation Principle:** Patients must be given the opportunity to be involved as far as is practicable in the circumstances in planning, developing and reviewing their own treatment and care in order to help ensure that it is as appropriate and effective for them as possible.
- **The Effectiveness, Efficiency and Equity Principle:** People taking decisions under the Act must seek to use the resources available to them and to patients in the most effective, efficient and equitable way in order to meet their needs and achieve the purpose for which the decision was taken.

Guardianship

Cost of Guardianship

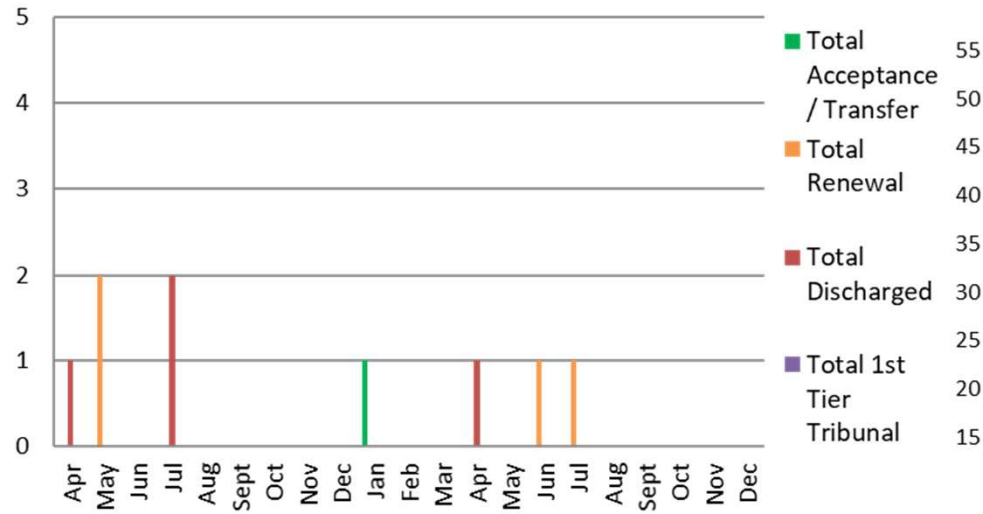
Example: Guardianship order of 2 years duration

Task	Resource	Cost
Initial Assessment	2.5 days AMHP (KR10) 0.5 days backup (KR08)	£448 £67
	Total	£515
Review – at least once every 3 months	8x 0.5 days AMHP (KR10)	£717
	Total	£717
Formal review with a view to renewal	3 x 2 days AMHP (KR10) 3 x 0.5 day Back Up (KR08)	£1076 £200
		£1276
	OVERALL TOTAL	£2508

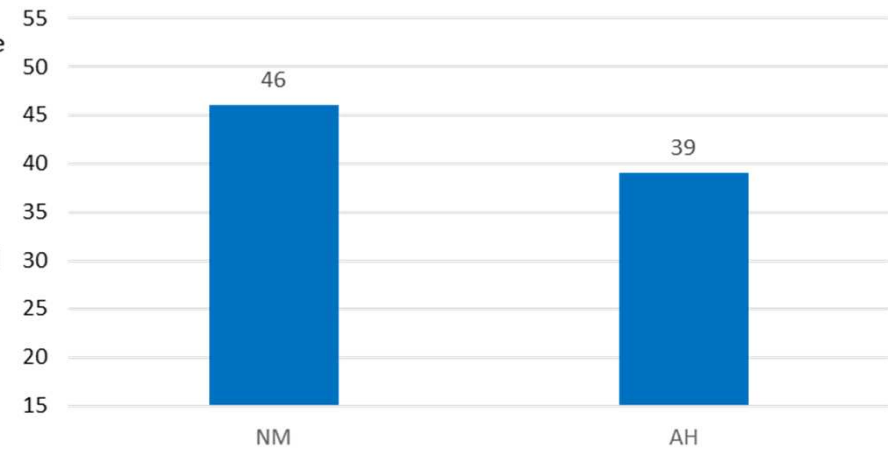
Note: Section 117 MHA “after care” will apply where a person has previously been subject to detention in hospital under sections 3, 37, 45A, 47, 48 of MHA

Guardianship Data

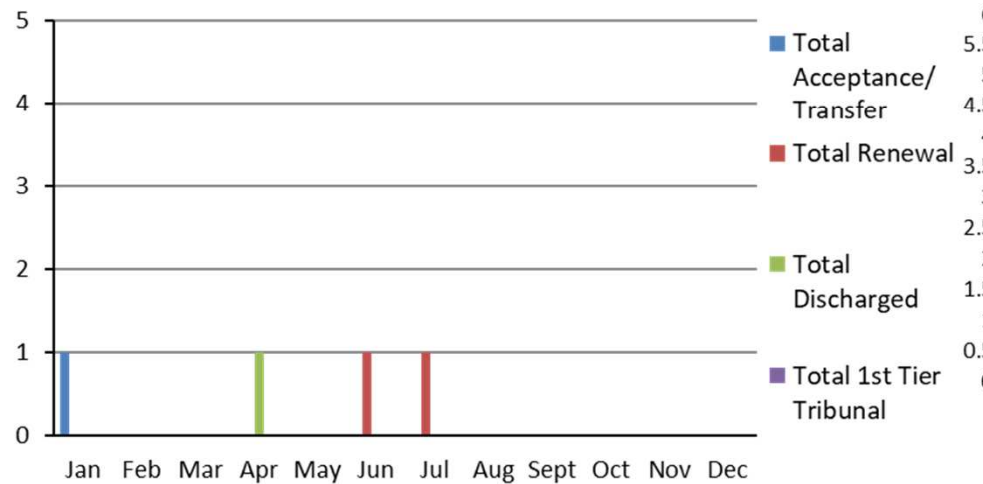
Guardianship Data Apr 17 - Mar 18



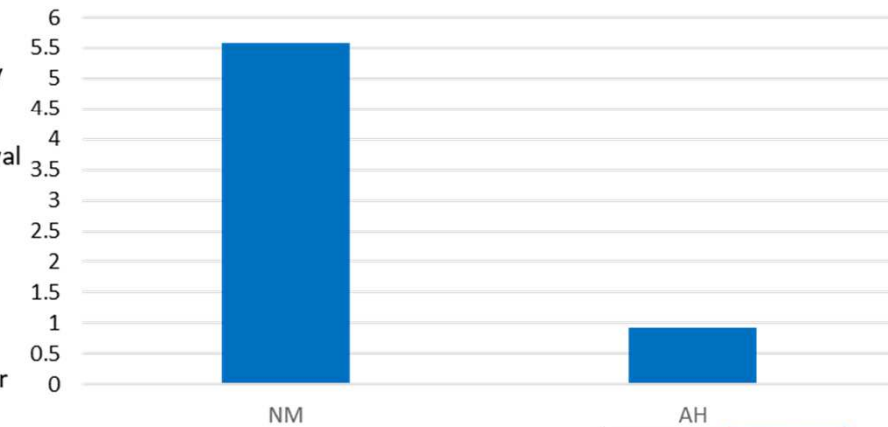
Current Guardianship Register by Age



Guardianship Data Jan - Dec 2018



Current Length of Time on Guardianship Register In Years



National Prevalence Data

- New case totalled 105 in 2017-18 and 140 in 2016-17 , compared to 430 in 2007-2008 , indicating that Guardianship continues to decline in England.
- Numbers of continuing cases open at the year-end is also falling, as cases close and fewer new cases are opened. As at March 2018, 300 people in England were subject to a Guardianship order, 25% fewer than at the same point the data was published in 2015.
- Of the 152 local social services authorities in England only 59 reported new cases in 2017-2018.
- The decline in the use of Guardianship orders may in part be due to the availability of other mental health legislation.

Guardianship

Case Study: Julie

- 62 year old woman referred to MH services while sleeping in a multi- story car park with no access to money, occasionally accepting help and food from a charity
- Admitted to acute mental health care , detained under the Mental Health Act after several years of homelessness & disengaging from services. She became an informal patient once she had settled
- She has a diagnosis of schizophrenia for which she receives medication but has long standing delusions regarding owning several properties and being of royal German descent. She has no identity papers & believes that she does not have any living relatives & so cannot substantiate her beliefs
- An application for LA housing failed , she refused to live in certain areas, she did not meet the criteria for residential care , applications were made to 6 supported accommodation providers but were unsuccessful due to her level of need. She was finally accepted by a supported accommodation provider. She however continues to state that she would like to move to one of her properties
- She is considered to have capacity
- Julie was assessed at being of high risk of self neglect and exploitation by others

Guardianship : Case Study: Julie

- Julie's mental health remained unstable and it was thought that she could relapse
- An application for Guardianship was made to
 - Provide statutory authority for Julie to be returned to the placement should she go absent. The residence power allows the Guardian to discourage a patient from sleeping rough
 - Provide Julie with community based occupation and activity to encourage integration with the community
 - To ensure access to Julie by support workers to help her to improve her self care and hygiene
- Principles :
 - Purpose : settled in community with improved quality of life
 - Least restrictive : freedom in the community whilst being kept safe
 - Respect : choice to not return to an area she did not like
 - Participation : Julie's wishes were taken into account. She agrees with the Guardianship order but would like regular reviews
 - Effectiveness , Efficiency and Equality : Cost effective. Placement funded via housing benefit
- Julie was discharged from Guardianship following a period to settle her in her new accommodation. The onward plan is for her to be supported to live more independently.