

## KENT COUNTY COUNCIL

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### **REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE**

MINUTES of a meeting of the Regulation Committee Mental Health Guardianship Sub-Committee held in the Council Chamber - Sessions House on Tuesday, 12 February 2019.

PRESENT: Mr A H T Bowles (Chairman), Mrs A D Allen, MBE, Mrs C Bell, Mrs P M Beresford, Mrs P T Cole, Ida Linfield and Ms D Marsh

ALSO PRESENT: Mr G K Gibbens

IN ATTENDANCE: Mrs C Fenton (Assistant Director Mental Health) and Mr A Tait (Democratic Services Officer)

#### **UNRESTRICTED ITEMS**

##### **1. Minutes - 19 January 2018**

*(Item 2)*

RESOLVED that the Minutes of the meeting held on 18 January 2018 are correctly recorded and that they be signed by the Chairman.

##### **2. The Local Authority's Guardianship Register**

*(Item 3)*

(1) The Assistant Director Mental Health gave a presentation. The slides are contained within the electronic agenda papers on the KCC website.

(2) The Assistant Director Mental Health said that the Mental Health Guardianship Act 1983 (amended in 2007) was currently under review. It currently applied to people aged 16 and above who suffered from a mental disorder of a nature or degree warranting their reception into Guardianship and it was necessary in the interests of the welfare of the patients or the protection of other persons. It applied to people with a mental health illness, including dementia. A diagnosis of learning disability was not sufficient and needed to be associated with "abnormally aggressive or seriously irresponsible conduct." The Act enabled service users to receive care in the community where it could not be provided without the use of compulsory powers. An application for Guardianship was made by an Approved Mental Health Professional (AMHP) based on 2 medical recommendations. Once made, the application was received by KCC and entered into the Guardianship Register.

(3) The Assistant Director Mental Health continued that the Guardian could require the person subject to Guardianship to live in a certain place; attend medical treatment, occupation, education or training; and allow access by a medical practitioner or other professional. The Local Social Services Authority was usually appointed as the Guardian, but it could appoint someone else. An application for Guardianship could not proceed when the person identified as the nearest relative

objected. A Guardianship Order had to be reviewed regularly and renewed every 6 months and then yearly from the date on which the original Order was accepted.

(4) The Assistant Director Mental Health then said that KCC had the responsibility to receive a person into guardianship; to hold a register and provide a bi-annual report to the DoH detailing the numbers of applications and renewals. She added that the 2007 amendments to the Mental Health Act had introduced the requirement for elected members to “audit the effectiveness of receipt and scrutiny of documents and to approve discharges from Guardianship.”

(5) The Regulation Committee’s Terms of Reference included the function to “discharge persons who are subject to Guardianship, pursuant to Section 23 of the Mental Health Act 1983 on the recommendation of the Director of Disabled Children, Adults Learning Disability and Mental Health. This function was delegated to a Sub-Committee of at least three Members. One of these should be a Member of the Regulation Committee and the others, Members of the Adult Social Care Cabinet Committee.

(6) The Assistant Director Mental Health said that when considering whether to discharge the Sub-Committee should satisfy itself on whether the grounds for continued Guardianship were met and should follow the MHA ‘s Code of Practice and guiding principles. These were:

- The Purpose Principle;
- The Least restriction Principle;
- The Respect Principle;
- The Participation Principle; and
- The Effectiveness, Efficiency and Equity Principle.

(7) The Assistant Director Mental Health broke down the cost of a Guardianship Order over two years. This comprised the Initial Assessment, the three-monthly reviews and the Formal Review with a view to renewal. The total cost was £2508.

(8) The Assistant Director Mental Health then gave anonymised data for the individuals subject to guardianship between April 2017 and December 2018.

(9) The Assistant Director Mental Health moved on to give national statistics. There had been a total of 105 new cases in 2017-18 and 140 in 2016-17. When compared to the 430 new cases in 2007-2008, it could be seen that the use of Guardianship was continuing to decline in England. The number of continuing cases open at the year-end was also falling, as cases closed and fewer new cases were opened. 300 people in England were subject to a Guardianship order in March 2018 representing a 25% reduction from the last time was published in 2015. There were 152 local social services authorities in England of whom only 59 had reported new cases in 2017-2018. She said that the decline in the use of Guardianship orders might, in part, be due to the availability of other mental health legislation.

(10) The Assistant Director Mental Health moved on to give a brief overview of her report. She informed Members that the Working Party (3 officers from the Adult Social Care and Health Directorate and the Quality Lead Officer from the Approved Mental Health Professional (AMHP) Service) had met on two occasions since January 2018. Training relating to the scrutiny role for Guardianship had been

provided to responsible officers and members of the Guardianship Quality and Scrutiny Panel during the year and would be widened in 2019.

(11) The Assistant Director Mental Health drew attention to paragraph 2.5 of her report and underlined the great importance of the function of the Nearest Relative in the Guardianship process. She asked the Sub-Committee to note that the Nearest Relative was entitled to delegate the function to another individual or to Kent County Council.

(12) The Assistant Director Mental Health concluded her presentation by saying that robust processes were in place for the review of guardianship orders.

(13) RESOLVED that the content of the report be noted for assurance together with the list of closed cases since January 2018, the current guardianship registers (set out in Appendix 1) and the activity in 2018 (set out in Appendix 2).