



AGENDA

REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE

Tuesday, 12 February 2019 at 10.00 am
Council Chamber - Sessions House

Ask for: **Andrew Tait**
Telephone: **03000 416749**

Membership (13)

Conservative (11): Mr A H T Bowles (Chairman), Mrs A D Allen, MBE, Mrs C Bell, Mrs P M Beresford, Mrs S Chandler, Mrs P T Cole, Ms S Hamilton, Mr P J Homewood, Mrs L Hurst, Ms D Marsh, Mr D D Monk and Mr R A Pascoe

Liberal Democrat (1): Mr S J G Koowaree and Ida Linfield

Labour (1) Dr L Sullivan

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

Item No

- 1 Substitutes
- 2 Minutes - 19 January 2018 (Pages 3 - 6)
- 3 The Local Authority's Guardianship Register (Pages 7 - 12)
- 4 Other Items which the Chairman decides are Urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

**All timings are approximate*

Benjamin Watts
General Counsel

03000 416814

Monday, 4 February 2019

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

KENT COUNTY COUNCIL**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 Friday, 19 January 2018.

PRESENT: Mr S C Manion (Vice-Chairman in the Chair), Mrs A D Allen, MBE, Mrs P M Beresford, Mrs P T Cole, Miss E Dawson, Ms S Hamilton, Mr P J Homewood, Mr S J G Koowaree and Mr P W A Lake

ALSO PRESENT: Mr G K Gibbens

IN ATTENDANCE: Mrs C Fenton (Assistant Director Mental Health), Ms C Brodie (Practice Support Manager) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**1. Minutes - 31 January 2017**

(Item 2)

RESOLVED that the Minutes of the meeting held on 31 January 2017 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 briefly introduced her report by explaining the work of the Officers' Working Group, which she chaired. It consisted of two officers from the Adult Social Care and Health Directorate, the Strategic Commissioning Manager for Social Work Education from the Engagement, Organisational Design and Development Department and the Quality Lead Officer for the Approved Mental Health Professional (AMHP) Service. It was supported by a part time administrator and had met on three occasions during the previous year.

(2) The Assistant Director Mental Health went on to explain that since its creation, the Working Party had introduced robust processes and guidance to review and maintain high quality practice, accurate recording and reporting of guardianship orders.

(3) The Assistant Director Mental Health then informed Members that three guardianship orders had been discharged and two renewed since January 2017. No new guardianship orders had been accepted. There were currently two people subject to guardianship in Kent.

(4) Kent County Council was required to provide data to the Department of Health and Social Care (DHSC) on a bi-annual basis on those subject to guardianship. The last submission of data to the DHSC had been on 21 April 2016, covering the period

from 1 April 2015 to 31 March 2016. During that period, two new orders had been accepted and two discharged.

(5) The Assistant Director Mental Health then described the national picture. She said that the DHSC had moved to bi-annual collection and publication of national Guardianship data. Data for 2016-17 was therefore not yet available. Data for the 2015-16 reporting period showed that there had been 175 new Guardianship orders, representing a decrease of 16% from the previous year. This followed a 29% decrease between 2013-14 and 2014-15. On 31 March 2016, 415 people in England had been subject to a Guardianship order, 18% fewer than at the same point in 2015. This had also been the eleventh consecutive year of decline in continuing cases, from 940 cases in 2004-05 to 415 cases in 2015-16, representing a reduction of 56% cent over this period. She considered that the reason for the reduction was, in part, the availability of other mental health legislation. The number of closed cases had reduced compared to the previous year, with 250 cases closed in 2015-16 compared to 305 in 2013-14 (a reduction of 18%). The number of closed cases had now reduced for six consecutive years, since the peak of 495 cases in 2009-10, which represented an overall reduction of 50 per cent since that year.

(6) The Assistant Director Mental Health said that a business analyst had carried out a process mapping exercise during 2017 in relation to the process and administration of Guardianship. All the recommended improvements had been implemented.

(7) The Assistant Director Mental Health said that during 2017 KCC officers had continued to work in partnership with colleagues from the Kent and Medway NHS and Social Care Trust to develop policy, protocols and processes to ensure that individuals had a Nearest Relative and to develop a register of those individuals where the Nearest Relative had delegated their functions to the County Council or another individual; where the individual either did not have a Nearest Relative or their Nearest Relative was unable to perform their functions leading to the Court has appointing Kent County Council; or where the individual either did not have a Nearest Relative or had one who could not perform the functions, leading to the appointment of an individual by the court. An Approved Mental Health Professional (AMHP) post had also been created to ensure that applications to the Court to appoint KCC as the Nearest Relative were made in good time. There were currently 8 people on the KCC Nearest Relative Register.

(8) The Assistant Director Mental Health concluded her presentation by saying that since January 2016 there has not been a need for Members to be asked to adjudicate a disputed case or be asked to discharge an order in accordance with their powers under Section 23(4) of the Mental Health Act 1983 (amended 2007).

(9) In response to a question from Mr Lake, the Assistant Director Mental Health said that there had in fact been no cases at all within the UK where elected Members had been asked to adjudicate a disputed case. This was because such cases were normally considered by Mental Health Review Tribunals. If the situation were to arise in Kent, the Panel would be fully supported in carrying out its duty. This would include reference to other bodies' rulings in such cases.

- (9) RESOLVED that the content of the report be noted together with the list of closed cases since January 2017, the current Guardianship register set out in Appendix 1 and the activity during 2017 set out in Appendix 2 to the report.

3. Section 7 Mental Health Guardianship Workshop

(Item 4)

(1) Christine Hutchison, Director of Edge Training and Consultancy Ltd provided training on Mental Health Guardianship to the Committee. The accompanying slides of this presentation were published as supplementary appendices to the agenda papers and can be viewed on the County Council's website for this meeting.

(2) Christine Hutchison's presentation covered a number of topics. She began with a brief outline of the history of mental health Law between 1713 and the Mental Health Act 2007. This was followed by the legal criteria of mental illnesses, covering any disorder or disability of the mind. She continued by setting out the main function of the Mental Health Act which was to "receive, care and treat mentally disordered patients."

(3) Christine Hutchison then turned to Guardianship itself, explaining its grounds and procedures with reference to the Code of Practice. After summarising the grounds when guardianship was most likely to be appropriate, she invited Members to consider some case studies and to discuss whether guardianship would be appropriate in these instances. She then explained the importance of case law before concluding with a summary of national statistics and their overall trend.

(4) RESOLVED to thank Christine Hutchison for her work in leading the Guardianship Workshop and to note the information provided.

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By: Assistant Director Mental Health – Kent County Council

To: Regulation Committee Mental Health Guardianship Sub-Committee
– 12th February 2019

Subject: The Local Authority’s Guardianship Register

Classification: Unrestricted

Summary: To report on the work of the Guardianship Quality and Scrutiny Panel during 2018. A list of closed cases since January 2018 and the current guardianship register are enclosed for information.

1. Introduction

- (1.1) The Kent County Council’s Regulation Committee Mental Health Guardianship Sub-Committee was instituted in recognition of the duty of the responsible Social Services Authority to review guardianship orders and discharge them if appropriate, in compliance with amendments to the Mental Health Act 1983 that were introduced in 2007. Under Section 23(2) an order for discharge can be made in respect of a patient who is subject to guardianship by the responsible clinician, by the Local Social Services Authority or by the nearest relative of the patient. Section 23 (4) sets out the framework for exercising the powers conferred by this section and Kent County Council’s Regulation Committee’s arrangements conform to these provisions. The function is delegated to a sub-committee of at least 3 members. One is a Member of the Regulation Committee and the others, Members of the Adult Social Care and Health Cabinet Committee.
- (1.2) The amendments to the Mental Health Act in 2007 also introduced the requirement for Elected Members to “audit the effectiveness of receipt and scrutiny of documents”. A working party of officers has been set up to carry out these duties. The acceptance of new guardianship orders or the renewal of existing guardianship orders is undertaken by the Assistant Director of Mental Health on behalf of Kent County Council. Guardianship training has been provided for the Regulation Committee. This was last provided on 19th January 2018.
- (1.3) This report is to inform Elected Members of the current state of the authority’s Guardianship Register and the work of the officers’ working party during 2018. It contains the list of closed cases during 2018 and the current guardianship register at **Appendix 1** and a summary of Guardianship activity for the reporting period at **Appendix 2**.

2. The Working Party

- (2.1) The working party is made up of three officers from the directorate of Adult Social Care and Health and the quality lead officer for the Approved Mental Health Professional (AMHP) service. It is supported by an administrator and has met on two occasions since January 2018. Since it was established the working party has carried out a great deal of work to introduce robust processes and guidance to review and maintain high quality practice and accurate recording and reporting of guardianship orders.
- (2.2) A key role of the working group is to provide assurance that the named officers responsible for scrutinising applications for new orders and renewals have done so in a robust and informed manner. Training relating to the scrutiny role for Guardianship was provided to responsible officers and members of the Guardianship Quality and Scrutiny Panel during 2018. This is provided annually.
- (2.3) Since January 2018 one guardianship order has been discharged and one guardianship order has been renewed. There has been one new guardianship order accepted. There are currently two people subject to guardianship in Kent. Kent County Council is required to provide the Department of Health with data on those subject to guardianship on a bi-annual basis. The last submission of data was on 11 June 2018 for the period 1st April 2017 to 31st March 2018. At this time, it was reported that one new order had been accepted during this period and three orders had been discharged.
- (2.4) The Department of Health have moved to bi-annual collection and publication of national Guardianship data. The latest data available is for the period April 2016 to March 2018. This indicates that the use of Guardianship continues to decline in England. New cases totalled 105 in 2017-18 and 140 in 2016-17, compared to 430 in 2007-2008. 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 last time the data was published in 2015. This is the eleventh consecutive year of decline in continuing cases. Of the 152 local social services authorities in England only 59 reported new cases in 2017-2018 and 59 in 2017-18. The decline in the use of Guardianship orders may in part be due to the availability of other mental health legislation.
- (2.5) An essential right for individuals under the Mental Health Act is to have a "Nearest Relative" whose views are sought and who has powers under the Act. During 2018 officers of Kent County Council have worked in partnership with colleagues from the Kent and Medway NHS and Social Care Trust to finalise the policy, protocols and processes to ensure individuals have a Nearest Relative and to establish a register of those individuals where:
- the Nearest Relative has delegated their functions to the Kent County Council
 - the Nearest Relative has delegated their functions to another individual

- the individual either does not have a Nearest Relative or their Nearest Relative cannot perform the functions and therefore the Court has appointed Kent County Council
- the individual does not have a Nearest Relative or their Nearest Relative cannot perform the functions and therefore the Court has appointed an individual

In addition, Kent County Council have introduced measures to ensure timely applications to the Court to appoint Kent County Council as the Nearest Relative where required. There are currently 21 people for whom Kent County Council is appointed the Nearest Relative.

- (2.6) Since the last annual report to the regulation committee on 19th January 2018 there has not been the need for Members to be asked to adjudicate a disputed case, nor indeed have they been asked to discharge an order in accordance with their powers under Section 23(4) of the MHA 1983 (amended 2007).

3. Summary

- (3.1) In summary there are robust processes in place for the review of guardianship orders, including renewals, that gives consideration to the least restrictive options available with the authority to make appropriate recommendations for discharge.

4. Recommendation

- (4.1) The Mental Health Guardianship Sub- Committee is invited to note the content of this report together with the list of closed cases since January 2018, the current Guardianship registers (Appendix 1) and the activity during 2018 (Appendix 2).

Cheryl Fenton Assistant Director Mental Health
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Appendix 1

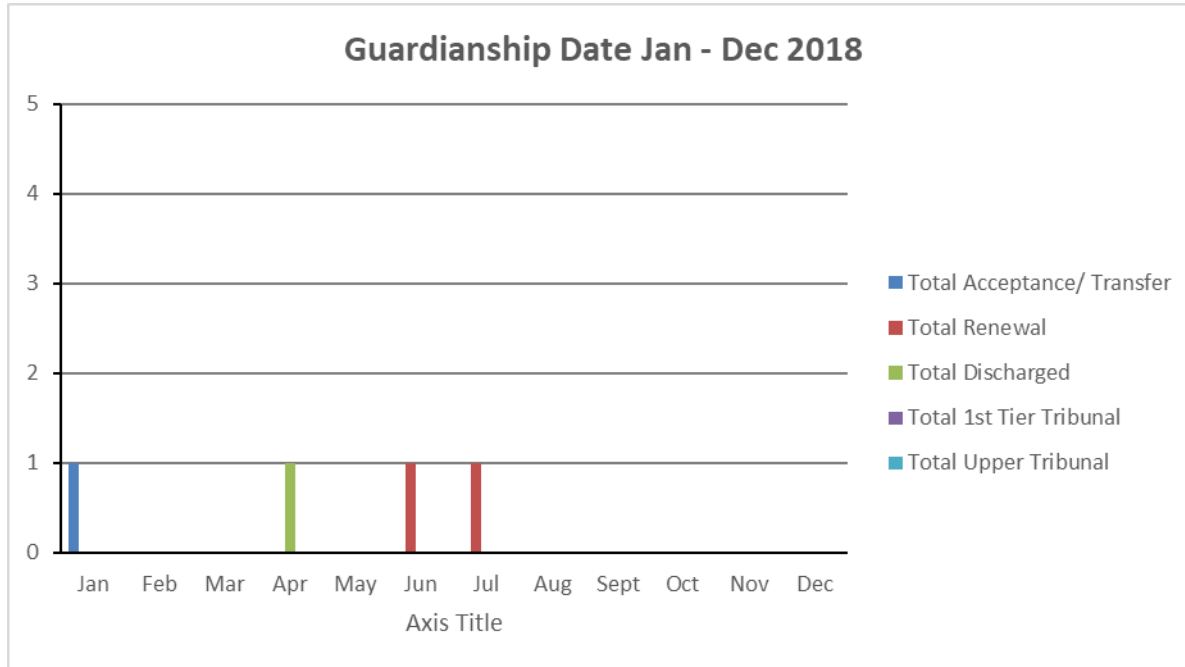
Discharged Guardianship Cases Jan – Dec 2018

Status	DoH No.	DOB	Origin	Gender	Expiry date:	Mental Disorder	Guardianship start date	1st Renew	2nd Renewal (six months)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Discharge Date	Length in years on Register
Closed	145	05/05/1993	White British	M	midnight 12.05.18	Mental Impairment	13/05/2013	13/11/2013	13/05/2014	13/05/2015	13/05/2016	13/05/2017	Discharged 11/04/2018	11/04/2018	4.83

Guardianship Register as at 21/01/2019

Status	DoH No.	DOB	Origin	Gender	Expiry date:	Mental Disorder	Guardianship start date	1st Renew	2nd Renewal (six months)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Discharge Date	Length in years on Register
Open	147	14/03/1972	White British	M	midnight 06.06.19	Mental Impairment	07/06/2013	07/12/2013	07/06/2014	07/06/2015	07/06/2016	07/06/2017	07/06/2018		5.58
Open	155	04/05/1979	White British	F	midnight 25/01/20	Learning Disability	26/01/2018	26/07/2018	26/01/2019	Start date if renewed 26/01/2020					0.92

Appendix 2



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