

By: Assistant Director Mental Health – Kent County Council

To: Regulation Committee Mental Health Guardianship Panel – 19<sup>th</sup> January 2018

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 2017. A list of closed cases since January 2017 and the current guardianship register are enclosed for information.

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## 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 (who chairs the meeting) 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 Director of Disabled Children , Adults Learning Disability and Mental Health on behalf of Kent County Council. The Assistant Director, Mental Health has provided Guardianship training for the Regulation Committee in the past. Further training will be provided on 19<sup>th</sup> 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 2017. It contains the list of closed cases during 2017 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 two officers from the directorate of Adult Social Care and Health, 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 is supported by a part time administrator and has met on three occasions since January 2017. 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) During 2017 the terms of reference of the working party have been reviewed and updated. 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 2017.
- (2.3) Since January 2017 three guardianship orders have been discharged and two guardianship orders have been renewed. There have not been any new guardianship orders 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 21 April 2016 for the period 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016. At this time it was reported that two new orders had been accepted during this period and two orders had been discharged.
- (2.4) The Department of Health have moved to bi-annual collection and publication of national Guardianship data. The data for 2016-17 is therefore not yet available. National data for the 2015-16 reporting period indicated that there were 175 new Guardianship orders, a decrease of 16 per cent from the previous year. This follows a 29 per cent decrease between 2013-14 and 2014-15. As at 31 March 2016, 415 people in England were subject to a Guardianship order, 18 per cent fewer than at the same point in 2015. This is also the eleventh consecutive year of decline in continuing cases, from 940 cases in 2004-05 to 415 cases in 2015-16, a reduction of 56 per cent over this period. The decline in Guardianship might be in part to the availability of other mental health legislation. The number of closed cases reduced compared to the previous year, with 250 cases closed in 2015-16 compared to 305 in 2013-14 (a reduction of 18 per cent). The number of closed cases has now reduced for six consecutive years, since the peak of 495 cases in 2009-10. This represents an overall reduction of 50 per cent since 2009-10.
- (2.5) A business analyst has carried out a process mapping exercise in order to identify areas for improvement in relation to the process and administration of

Guardianship. This concluded during 2017 and the improvements have been implemented.

(2.6) 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 2017 officers of Kent County Council have continued to work in partnership with colleagues from the Kent and Medway NHS and Social Care Trust to develop policy, protocols and processes which will ensure individuals have a Nearest Relative and to develop 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 has created a specialist Approved Mental Health Professional ( AMHP) post to ensure timely applications to the Court to appoint Kent County Council as the Nearest Relative where required. There are currently 8 people on the Kent County Council Nearest Relative Register.

(2.7) Since the last annual report to the regulation committee on 26th January 2016 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 regulation committee is invited to note the content of this report together With the list of closed cases since January 2017, the current Guardianship registers (Appendix 1) and the activity during 2017 (Appendix 2).

Cheryl Fenton Assistant Director Mental Health

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## Appendix 1

### Discharged Guardianship Cases Jan – Dec 2017

Status	DoH no.	Year of Birth	Origin	Gender	Expiry date:	Mental Disorder	Guardianship start date	1st Renewal	2nd Renewal (six months)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Discharge Date	Length in years on Register
Closed	143	1983	White British	M	midnight 18.10.17	Mental Impairment	19/10/2012	19/04/2013	19/10/2013	19/10/2014	19/10/2015	19/10/2016	28/07/2017	4.75
Closed	153	1986	White British	M	midnight 10/08/17	Mental Illness	17/11/2015	11/02/2016	11/08/2016	Discharged 18/07/17			18/07/2017	1.67
Closed	154	1947	White British	M	midnight 28/04/17	Mental Illness	29/04/2016	29/10/2016	Discharged 12/04/2017				12/04/2017	0.92

### Guardianship Register as at 19/01/2017

Status	DoH No.	Year of Birth	Origin	Gender	Expiry date:	Mental Disorder	Guardianship start date	1st Renewal	2nd Renewal (six months)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Renewed (yearly)	Length in years on Register
Open	145	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	Start date if renewed 13/05/18	4.50
Open	147	1972	White British	M	midnight 06.06.18	Mental Impairment	07/06/2013	07/12/2013	07/06/2014	07/06/2015	07/06/2016	07/06/2017	Start date if renewed 07/06/2018	4.42

Appendix 2

