Local Authority Personal Social Services Statistics

Guardianship under the Mental Health Act, 1983

England, 2013

Published 27 September 2013
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Executive Summary

This report contains information on the use of Guardianship under Section 7 and 37 of the Mental Health Act 1983 during the reporting period 1st April 2012 – 31st March 2013. It contains information on new, continuing and closed cases at national, regional and Local Authority levels and includes breakdowns by gender, Guardianship type, and type of Local Authority. Data were collected from all 152 Local Authorities with Social Service responsibilities, including 24 nil returns from organisations which did not have any Guardianship cases to report for this period.

The purpose of Guardianship (under the Mental Health Act 1983) is to enable patients to receive care in the community where it cannot be provided without the use of compulsory powers. It provides a framework, as part of the overall care and treatment plan, for working with a patient to achieve as independent a life as possible. A Guardianship application can be made by an approved mental health professional (AMHP) or a nearest relative, or by court order. Two doctors must confirm that the patient is suffering from a mental disorder of a nature or degree that warrants reception into Guardianship and that it is necessary in the interest of the patient’s welfare or for the protection of others.

A guardian is appointed under the Act with limited powers to take decisions on a person’s behalf where these decisions are in the patients’ best interest. The powers are limited to:

- Decisions about where the person lives.
- Requirement to attend specified places for medical treatment, work, education and training.
- Requirement that a doctor, AMHP or other specified person is able to visit the person where they live.

Guardianship can be provided by either a local social services authority or a named individual. Objections to an order can be made at any time by the nearest relative and a tribunal will then decide whether the order is still applicable.

Key findings for 2012/13 include:

- The number of new Guardianship cases fell for the third consecutive year, from 337 cases in the 2011/12 reporting year to 271 cases in 2012/13 (a fall of 20 per cent). This is a steeper rate of reduction than the 3 per cent fall between 2010/11 and 2011/12, but consistent with the 21 per cent fall during the previous year.

- The number of continuing cases at the end of the year continues to fall and was 619 at 31st March 2013. This is the eighth consecutive year of reduction in continuing cases and is 34 per cent lower than the ten year peak of 937 cases (at the end of the 2004/05 financial year). The number fell 3 per cent from the 641 reported cases at the end of 2011/12.

- Regions across the country showed considerable variations in the rates of Guardianship usage:
  - Local authorities in the North West continued to have the highest number of cases, with 76 new cases reported in 2012/13. This accounted for over a quarter (28 per cent) of all new cases across England.
This also meant that, despite falling from 13 cases per million in the previous year to 11 cases per million of their population during 2012/13, the North West still had the highest proportion of new cases in England as well as the highest proportion of continuing and closed cases during the year.

This was in contrast to the East Midlands, East of England and London which all reported fewer than 2 new cases per million population and represented 3 per cent, 4 per cent and 5 per cent of the total new cases respectively across England for 2012/13.

All regions, with the exception of the North West and North East reported a lower number of continuing cases at the end of the year than in 2011/12.

- As with 2011/12, 16 per cent of the local authorities handled just over 50 per cent of the continuing cases at the end of the year (25 out of 152 authorities).

- Guardianship cases in the East of England had the longest average length (closed cases only), averaging 38.5 weeks, which is 15 weeks longer than the national average of 23.5 weeks. The East Midlands (33.5 weeks) was also considerably higher than the average for England.
Introduction

This report includes the latest statistics regarding cases of Guardianship under Sections 7 and 37 of the Mental Health Act 1983 in England. Information on new, continuing and closed cases is shown at a national, regional and Local Authority level with breakdowns by gender, type of Guardianship and type of Local Authority.

The report will be relevant to anyone responsible for handling Guardianship applications or those involved in monitoring uses of the Mental Health Act and the rights of people with mental disorders. It will be of particular interest to local social services authorities who are the named guardians in the majority of cases and who supply the data used for these statistics.

Guardianship, under the Mental Health Act 1983, provides a framework for the Local Authority or a named individual to provide care for patients in the community. It is intended for individuals aged 16 years or more whose mental disorder is of a nature or degree that such care is necessary for the person’s own welfare or for the protection of others and where this care cannot be provided without the use of compulsory powers (see Background).

The data used in the report are available in a supporting spreadsheet file as reference tables, which can be found here: http://www.hscic.gov.uk/pubs/guardianmh13. A file of underlying data is also published on the same page.

Data Collection

These statistics are collected from each Local Authority, via the Health & Social Care Information Centre Omnibus on-line collection tool, on form SSDA702, which lists for each case of Guardianship in force during the period:

- Date Guardianship commenced
- Date Guardianship closed (if applicable)
- Source (by application or conviction)
- Gender
- Relationship of guardian (Local Authority, other person)

A copy of the SSDA702 form can be found in Appendix B.

Revisions in Data

As with previous data collections on Guardianship, in provider submissions we have accepted information about cases opened and closed in earlier years that have led to revisions to the published figures for earlier years. Further details can be found in the data quality and methodology document accompanying this publication.

Users should bear this in mind if comparing these data to information published in previous reports; the most recent reporting period should be taken as the authoritative representation of the data.

Unless we receive objections, we are planning to stop allowing revisions to be submitted for years prior to the Guardianship reporting year. The Guardianship collection is now part of a suite of collections on social care (as from April 2013) and it is possible that our reporting requirements (based on the needs of our statistical data users) will broaden as a result. It is therefore very important that data are finalised after each collection period to enable us to
better report on metrics on a year to year basis. Providers are encouraged therefore to thoroughly validate their annual data before submission. Any inaccuracies submitted will be reported on in the data quality statement which accompanies the publication but will not be adjusted in the dataset. We invite comments on this decision and will publish a methodological change paper before the 2013/14 Guardianship report is published next year.

Please provide any comments via the following email address, quoting ‘Guardianship revisions’ in the subject line’:

enquiries@hscic.gov.uk

All comments must be received by the 31st December.
Commentary

Changes in Guardianship usage in England in 2012/13

The number of new Guardianship cases continued an annual pattern of year-on-year reduction with 66 fewer cases reported than in 2011/12 (a fall of 20 per cent). This was a steeper decline than last year’s 3 per cent reduction but was in line with the 21 per cent fall in 2010/11. The decline may be linked to alternative legislation which promotes the welfare of people who have a mental disorder which presents a risk to themselves or others (Community Treatment Orders (CTOs) and people who lack the capacity to make decisions regarding their own care or treatment (Deprivation of Liberty Safeguards (DoLS)).

11,887 DoLS applications were made in 2012/13 which represents a 4 per cent increase over the previous year. This equates to a 66 per cent increase on the figures reported for 2009/10 (7,157) following their introduction in April 2009 (under the Mental Capacity Act). Community Treatment Orders (CTO’s) were introduced in November 2008 as part of alternative legislation promoting the welfare of people who have a mental disorder which presents a risk to themselves or others, or people who are not able to make decisions regarding their own care or treatment. CTO figures for 2012/13 will be released in October, but for 2011/12, the number of CTO’s increased a further 11 per cent to 4,764, which was on top of the 29 per cent increase for 2010/11.

10 years’ data are published in each annual report and these figures show than since 2003/4, the number of new Guardianship cases has reduced by 41 per cent (from 461 to 271). Similarly only 296 cases were closed, a figure 22 per cent lower than during 2011/12 and the lowest recorded in our time series, where between 381 and 491 were closed during each preceding reporting period.

The number of cases continuing at the end of the year has decreased by 31 per cent (from 893 to 619) over the same period. This is the eighth consecutive year of reducing volumes of continuing cases from their peak of 937 at the end of 2004/05 (an overall decrease of 34 per cent).

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Figure 1 Continuing, new and closed cases of Guardianship, by year (2003/04 – 2012/13)

Data source: SSDA702 (Table 1 in reference tables)

Variations by region and authority type in 2012/13

There are large differences in the numbers and rates of Guardianship usage across different regions in England, as shown in Figure 2 below. Rates are based on mid-2012 population estimates.2

Figure 2 Rates of Continuing, new and closed Guardianship cases per million population (2012/13)

Data source: SSDA702 (Table 3 in reference tables) and Office for National Statistics, Mid-Year Population Estimates (2011 census based)

2 Office for National Statistics, Mid-Year Population Estimates (2011 census based)
Local authorities in the North West continued to have the highest number of cases, with 76 new cases being reported in 2012/13. This accounted for 28 per cent of all new cases across England.

This also meant that, despite falling from 13 cases per million population during the previous year to 11 cases per million during 2012/13, the North West still had the highest number of new cases per million. This was in contrast to the East Midlands, East of England and London which all reported fewer than 2 new cases per million population, representing a respective 3, 4, and 5 per cent of the total new cases across England for 2012/13.

The rate of cases being closed during the reporting year has dropped from 7 to 6 per million population overall between the 2011/12 and 2012/13 reporting periods. There is some regional variation; for the Yorkshire and the Humber, East of England, South East England and London regions the rate was higher than for 2011/12 but for the North West, North East, East Midlands, West Midlands, East of England and South West regions it was lower.

All regions, with the exception of the North West and North East, reported a lower number of continuing cases at the end of the year, compared to 2011/12.

Contrary to some of these findings, the North West had one of the lower rates of DoLS (third lowest after London and Yorkshire and the Humber) applications at 25 per 100,000 population vs. a National average of 28. The East Midlands has the highest DoLS application rate at 49 per 100,000 population. Please see the DoLS publication for further details.

**Other findings in 2012/13**

- There were slightly more new cases for women than men in 2012/13 (139 vs. 132) but there were more men with continuing cases at the end of the year compared with women (325 and 294). See Table 2 of the supporting spreadsheet file.

- Cases under Section 37 continue to be a small proportion of the total new (2 per cent) and continuing (5 per cent) cases of Guardianship. See Table 1 of the supporting spreadsheet file.

- 99 per cent of new and 98 per cent of continuing Guardianship cases were conferred on the Local Authority. See Table 1 of the supporting spreadsheet file.

- 50 per cent of the Guardianship cases continuing at the end of the year were being managed by just 16 per cent of the Local Authorities in England (25 out of 152 authorities). See Table 5 in the supporting spreadsheet file.

- Guardianship cases in the East of England had the longest average length (closed cases only), averaging 38.5 weeks, which is 15 weeks longer than the national average of 23.5 weeks. The East Midlands (33.5 weeks) was also considerably higher than the average for England. See Table 4 of the supporting spreadsheet file.

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• Metropolitan Districts have the highest number of new cases per million population with a rate of 8 per million while Outer London has just 1 new case per million population. Metropolitan Districts also have the highest rate of closed cases, again being 8 per million population which leaves this type of local authority with the most outstanding cases per million population (20). The rate of closed cases for Unitary Authorities is also 8 per million population, which is double the rate of Inner London and the Shire Counties while Outer London has a rate of just 1 per million population.
Background

The use of Guardianship under the Mental Health Act, 1983

The purpose of Guardianship is to enable patients to receive care in the community where it cannot be provided without the use of compulsory powers. It provides a framework, as part of the overall care and treatment plan, for working with a patient to achieve as independent a life as possible. Guardianship applies to patients who are at least 16 years old and who are suffering from a mental disorder of a nature or degree which warrants reception into Guardianship.

Under the Act a guardian can be appointed with limited powers to take decisions on a person’s behalf where these decisions are in the patients’ best interest. Section 7 of the Mental Health Act 1983 provides that Guardianship can be provided by either a local social services authority or a named individual. A Guardianship application can be made by an approved mental health professional or a nearest relative. Two doctors must confirm that the patient is suffering from a mental disorder of a nature or degree that warrants reception into Guardianship and that it is necessary in the interest of the patient’s welfare or for the protection of others.

Under Section 37 a court can also make a Guardianship order.

Section 8 of the Act provides that guardian with power to require that:

- The patient lives in a specified place
- The patient attends specified places for medical treatment, occupation, education or training
- Access is given to the patient by a doctor, approved mental health professional or other specified person

A Guardianship order initially lasts for six months and can be renewed for a further six months and then annually.

Legislative Reform

The Mental Health Act 2007 received Royal Assent on 19 July 2007. It made a number of significant changes to Mental Health Act 1983, including the introduction of Community Treatment Orders for certain patients on discharge from detention in hospital.

It did not make any fundamental changes to the operation of Guardianship under the Act, but it abolished the need to categorise each patient’s mental disorder as being mental illness, psychopathic disorder, severe mental impairment or mental impairment. The majority of the amendments to the 1983 Act were implemented in November 2008.

MCA DoLS came into force on 1 April 2009. These provide a framework for the lawful deprivation of liberty, ensuring that this is only done where there is no other way to care for them or safely provide treatment. They were introduced as an amendment under the Mental
Health Act 2007 but, since they involve only people who lack capacity, form part of the Mental Capacity Act.
Appendix A: List of Tables

The supporting spreadsheet file contains the following tables and can be accessed here: http://www.hscic.gov.uk/pubs/guardianmh13

<table>
<thead>
<tr>
<th>Table</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 1</td>
<td>Cases of Guardianship under the Mental Health Act 1983, by year, section and relationship of guardian, 2002 - 03 to 2012 - 13</td>
</tr>
<tr>
<td>Table 2</td>
<td>Cases of Guardianship under the Mental Health Act 1983, by gender, section and relationship of guardian, 2012-13</td>
</tr>
<tr>
<td>Table 3</td>
<td>Cases of Guardianship under the Mental Health Act 1983, by region and type of local authority, 2012-13</td>
</tr>
<tr>
<td>Table 4</td>
<td>Duration of closed Guardianship cases under the Mental Health Act 1983, by region and type of local authority, 2012-13</td>
</tr>
<tr>
<td>Table 5</td>
<td>Cases of Guardianship under the Mental Health Act 1983, by local authority, 2012-13 (including duration of closed cases)</td>
</tr>
</tbody>
</table>

Related Publications

The Health and Social Care Information Centre publishes two other statistical releases about the use of the legislation in relation to compulsory treatment or care for people with a mental disorder or who lack capacity. The latest reports are shown below (the next publication of Mental Health Act statistics is currently scheduled for October 2013).

Inpatients formally detained in hospitals under the Mental Health Act 1983, and patients subject to supervised community treatment, Annual figures, England, 2011/12
http://www.hscic.gov.uk/catalogue/PUB08085

http://www.hscic.gov.uk/pubs/mentcap1213annual

These publications can be obtained from the HSCIC’s website at: http://www.hscic.gov.uk/home
Appendix B: SSDA702 form

Guidance on completing this return form can be found here: http://www.hscic.gov.uk/datacollections/guardianship

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<table>
<thead>
<tr>
<th>Reference Number</th>
<th>Date Case Commenced</th>
<th>Section of the Act</th>
<th>Sex (M/F)</th>
<th>Relationship of Guardian to client (if not LA)</th>
<th>Date Case Closed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2011</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Please ensure you have only one Omnibus window open at a time, even if you are logged in as different organisations. Opening more than one window can cause data to be saved incorrectly and lead to errors in your organisation's return.

GUARDIANSHIP UNDER THE MENTAL HEALTH ACT 1983

If the relationship of guardian to client has changed for any of the cases listed below, please amend column E. Please note this should be left blank if the relationship is Local Authority.

If any of the cases below closed between 1st April 2011 and 31st March 2012, please enter the date in the format dd/mm/yyyy in column F (Date Case Closed).

### Table 1: Guardianship cases open as of 31st March 2011

You can add rows either individually or specify the number of rows. Please **DO NOT** submit blank rows.

If any of the new cases are still open, please delete dd/mm/yyyy from column F (Date Case Closed).

If you have 0 new cases please enter:

- Enter "999999" in column A, Reference Number
- Delete "DD/MM/YYYY" from column B, Date Case Commenced
- Select "7" from column C, Section of the Act
- Select "M" from column D, Sex (M/F)
- Leave column E, Relationship of guardian to the client blank
- Delete "DD/MM/YYYY" from column F, Date Case Closed

Further notes on how to complete each field can be found in the Guidance Notes section of the Omnibus System.

### Table 2: New Guardianship cases opened between 1st April 2011 and 31st March 2012

Thank you for taking the time to complete the Guardianship 2012 return.

Please note: Dates for "Cases Commenced" and "Cases Closed" must be entered in the format dd/mm/yyyy. If cases are still open, please remove "dd/mm/yyyy" from column F before submitting your return.

Please ensure that you click the "Release Final" button to submit your data to the Health and Social Care Information Centre.

Your data must be valid in order to successfully release your data.
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This publication may be requested in large print or other formats.

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