



Local Authority Personal Social Services Statistics

# Guardianship

Under the Mental Health Act 1983,  
England, 2011

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# Introduction

This report contains the latest statistics about cases of Guardianship under Sections 7 and 37 of the Mental Health Act 1983 in England. It contains information on new, continuing and closed cases at a National, Regional and Local Authority level and includes breakdowns by gender, the type of Guardianship and type of Local Authority.

This will be relevant to anyone with responsibility for handling applications for Guardianship or who is 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).

It has been brought to the attention of the NHS Information Centre (NHS IC) that some Local Authorities have been closing continuing cases and then reopening them as a new case whenever a Guardianship order has been renewed. This will have an impact on the reporting of new, continuing and closed cases and will also impact the reporting of the length of closed cases figures. Therefore caution should be exercised when interpreting the results. Where information relating to this data quality issue has been made available in time, amendments have been made to the results. However, it appears that there may be more cases where data has been submitted incorrectly. Further communications will be sent to try and prevent future errors.

The data used in this report is available in a supporting spreadsheet file, which can be found here: [www.ic.nhs.uk/pubs/guardianmh11](http://www.ic.nhs.uk/pubs/guardianmh11)

# Executive Summary

This report contains information on the use of Guardianship under Section 7 and 37 of the Mental Health Act 1983, supplied by Local Authorities in England. It contains information on new, continuing and closed cases at a National, Regional and Local Authority level and includes breakdowns by gender, the type of Guardianship and type of Local Authority.

Key findings for 2010/11 include:

- The number of new Guardianship cases fell by 22% between 2009/10 and 2010/11 from 435 to 339 cases. This is the largest reduction in new cases since 2001/02, the first year analysed in this report. The number of new cases in 2010/11 was 40 % lower than in 2001/02 when 561 new cases were reported.

It is not clear why there has been a fall in the number of Guardianship cases but we note the introduction of recent legislation which brought in Mental Capacity Act Deprivation of Liberty Safeguards and Supervised Community Treatment.

- For the fifth consecutive year there was a decrease in the number of continuing Guardianship cases open at the end of the year. 755 cases were open on 31 March 2011, compared with 804 on 31 March 2010 (a drop of 6%) and 951 on 31 March 2006 (a drop of 21%)
- There are large regional variations in the rates of Guardianship usage:

Local Authorities in the North West had the highest rates of new cases at 13 per 1,000,000 of the population, whereas the East Midlands, London, the East and South East had the lowest rates at 2, 3, 3 and 3 per 1,000,000 respectively.

These rates show that the North West had 27% of all new cases in England (the highest of all regions), whilst the East Midlands, London, the East and the South East had 3%, 7%, 5% and 8% respectively.

The North West also had the largest rate of continuing cases with 29 per 1,000,000 in the population. In comparison, London, the East, the East Midlands and South East with rates of 4, 7, 10 and 10 per 1,000,000 respectively.

The North West having 27 % of all continuing cases in England (again the highest of all regions) whilst London, the East, the East Midlands and the South East had 5%, 6%, 6% and 12% respectively.

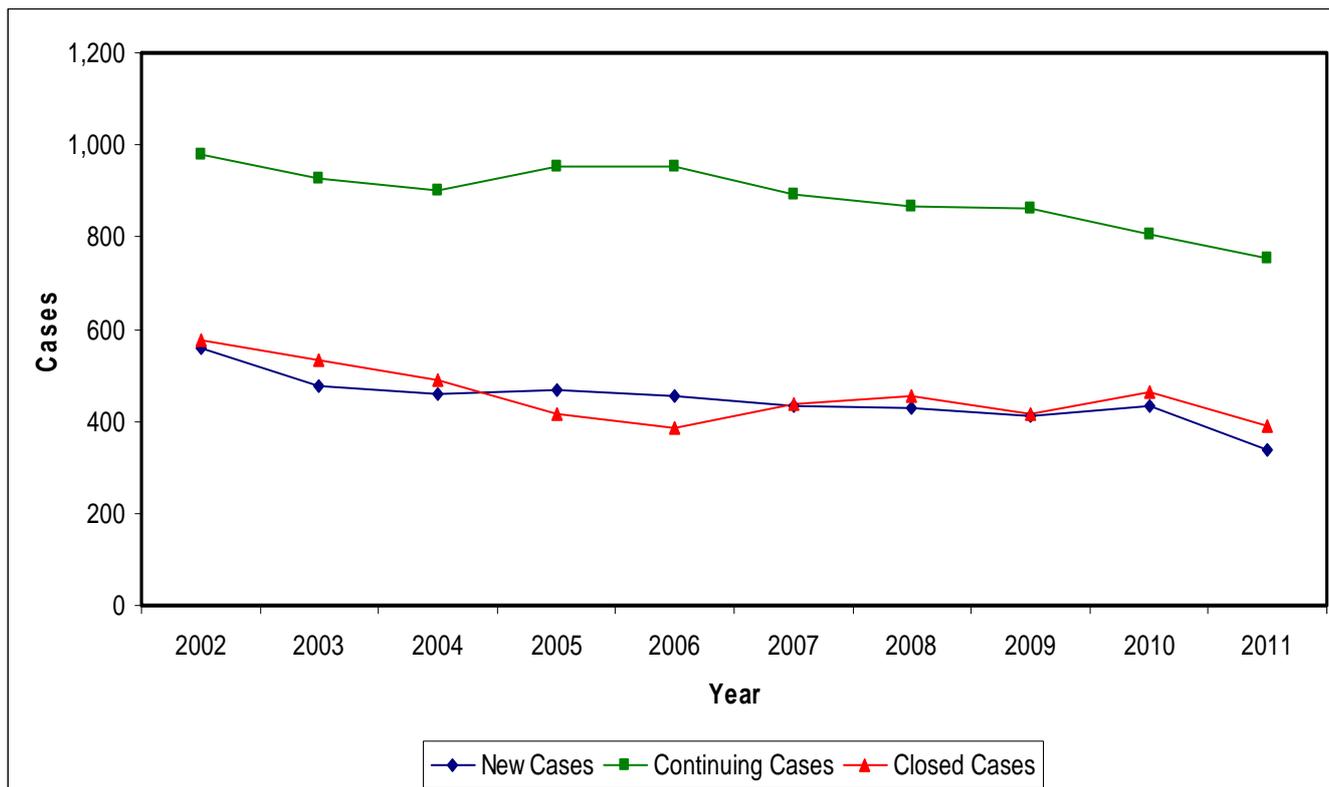
- Variations in the rate of Guardianship usage are also noticeable across different types of authorities. Metropolitan and Unitary authorities had 20 and 19 continuing cases per 1,000,000 in the population respectively, whilst Outer and Inner London had 3 and 6 per 1,000,000 respectively.
- These variations in Guardianship usage are also very apparent at Local Authority level. More than half of continuing cases were dealt with by just 16% of Local Authorities in England (24 out of 152 authorities).

# Commentary

## Changes in Guardianship usage in England in 2010/11

There was a marked decrease in the number of new Guardianship cases compared with previous years, as shown in figure 1 below. The number of new cases fell by 22% between 2009/10 and 2010/2011 and by 40% between 2001/2 and 2009/10. There were 339 new cases in 2010/11 compared to 435 cases in 2009/10 and 561 in 2001/2.

**Figure 1 Continuing, new and closed cases of Guardianship, by year**



Data source: Table 1 in supporting spreadsheet file

It is not clear why there has been a fall in the number of Guardianship cases but we note the recent introduction of Supervised Community Treatment (SCT) and Mental Capacity Act Deprivation of Liberty Safeguards (MCA DoLS). The new legislation which introduced these measures came into effect in November 2008 and April 2009 respectively and provides additional options for promoting the welfare of people who have a mental disorder which presents a risk to themselves or others, or people who lack the capacity to make decisions about their own care or treatment.

Full analysis of MCA DoLS can be found at: <http://www.ic.nhs.uk/pubs/mentalcapacity1011annual>

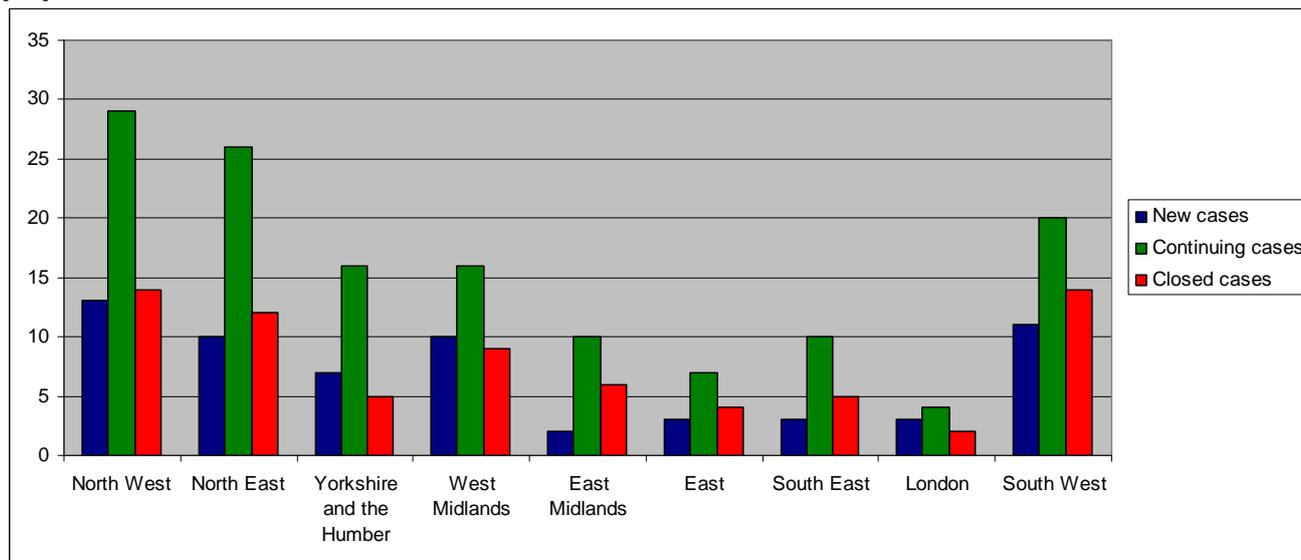
Analysis related to the use of SCT will be published by The NHS IC in the 'In-patients formally detained in hospitals under the Mental Health Act, 1983 - and patients subject to supervised community treatment, Annual figures, England 2011' report, scheduled for October.

- For the fifth consecutive year there was a decrease in the number of continuing Guardianship cases open at the end of the year. 755 cases were open on 31 March 2011, compared with 804 on 31 March 2010 (a drop of 6%) and 951 on 31 March 2006 (a drop of 21%). See Table 1 in the supporting spreadsheet file.

### Variations by region and authority type in 2010/11

- There are large differences in the numbers and rates of Guardianship usage across different regions in England, as shown in Figure 2 below.

**Figure 2 Rates of Continuing, new and closed Guardianship cases per 1,000,000 in the population**



Data source: Table 3 in supporting spreadsheet file

- Local Authorities in the North West had the highest rates of new cases at 13 per 1,000,000 of the population, where as the East Midlands, London, the East and South East had the lowest rates at 2, 3, 3 and 3 per 1,000,000 respectively.

These rates represent the North West having 27% of all new cases in England (the highest of all regions), whilst the East Midlands, London, the East and the South East had 3%, 7%, 5% and 8% respectively.

The North West also had the highest rate of continuing cases at 29 per 1,000,000. The North East had the second highest rate at 26 per 1,000,000. The lowest rates were again in the London, the East, the East Midlands and South East at 4, 7, 10 and 10 per 1,000,000 respectively.

These rates represent the North West having 27 % of all continuing cases in England (again the highest of all regions) whilst London, the East, the East Midlands and the South East had 5%, 6%, 6.% and 12% respectively.

Some of these findings contrast with analysis of the rates of applications for the MCA DoLS in which the East Midlands had by far the highest rate of applications and the North West had one of the lowest rates. However, in both London and the East there were low rates of both Guardianship cases and DoLS applications.<sup>(1)</sup>

- There are also large differences in the rates of Guardianship usage across different types of authorities. Metropolitan and Unitary authorities had 20 and 19 continuing cases per 1,000,000 in the population respectively, whilst Outer and Inner London had 3 and 6 per 1,000,000 respectively and Shire Counties had 12 cases per 1,000,000. See Table 3 in the supporting spreadsheet file.
- More than half of the Guardianship cases continuing at the end of the year were being managed by just 16% of the Local Authorities in England (24 of the 152 authorities). See Table 5b in the supporting spreadsheet file.
- Twelve Local Authorities in the London region reported no cases of Guardianship. Only 8 others in the country reported no cases. See Table 5b in the supporting spreadsheet file.

### Other findings in 2010/11

- Whilst an almost identical number of continuing cases were for men and women (378 and 377 respectively), 90 % of continuing cases under Section 37 (following a conviction) were for men (36 men compared with 4 women). See Table 2 in the supporting spreadsheet file.
- Cases under Section 37 continue to be a small proportion of the total new (2%) and continuing (5%) cases of Guardianship. See Table 1 in the supporting spreadsheet file.
- 97% of continuing Guardianship cases were conferred on the Local Authority. See Table 1 in the supporting spreadsheet file.

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<sup>1</sup> <http://www.ic.nhs.uk/pubs/mentalcapacity1011annual>

# 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 patient's 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 the guardian with powers to require that:

- the patient lives at a specified place;
- the patient attends specified places for medical treatment, occupation, education or training;
- access be 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 the Mental Health Act 1983, including the introduction of SCT 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, where it is in the 'best interest', of people in general or mental health hospitals or care homes who lack capacity to make decisions about their care or 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.

## Data Collection

These statistics are collected from each authority, via the NHS IC Omnibus on-line collection tool, on form SSDA 702, 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 SSDA 702 form can be found in Appendix B.

## Format

This publication has been produced in the same format as last year's publication. The data tables are supplied in a supporting spreadsheet file, which can be found here:

[www.ic.nhs.uk/pubs/guardianmh11](http://www.ic.nhs.uk/pubs/guardianmh11)

Table 5 is now published in two different formats. Table 5a shows cases by Local Authority ordered by region, Table 5b shows cases order by the number of continuing cases, with the with the most cases at the top.

## Revisions in Data

This year's data submissions included information about cases opened and closed in earlier years that have led to revisions to the published figures for earlier years. These include:

- 51 cases with a commencement date prior to 1<sup>st</sup> April 2010 which were not included in any previous returns. These new cases alter the previously published figures for new and continuing cases. Such cases were received from South Tyneside, Cumbria, Nottingham, Gloucestershire, Birmingham, Portsmouth, Westminster, Walsall, Kent, Sefton and Dorset.
- 53 cases which have been updated in this year's return with a closed date prior to 1st April 2010. These updates alter previously published figures for continuing and closed cases. Such cases were received from Liverpool, Kent, Cumbria, Sefton, Blackburn With Darwen, Sandwell, Staffordshire, Herefordshire, Derbyshire, Nottinghamshire, Harrow, Newham, Poole and Devon.

## Appendix A: List of tables

The supporting spreadsheet file contains the following tables and can be accessed here: [www.ic.nhs.uk/pubs/guardianmh11](http://www.ic.nhs.uk/pubs/guardianmh11)

Table	Title
Table 1	Cases of Guardianship under the Mental Health Act 1983, by year, section and relationship of guardian
Table 2	Cases of Guardianship under the Mental Health Act 1983, by gender, section and relationship of guardian, 2010-11
Table 3	Cases of Guardianship under the Mental Health Act 1983, by region and type of Local Authority 2010-11
Table 4	Duration of closed Guardianship cases under the Mental Health Act 1983, by region and type of Local Authority 2010-11
Table 5 a	Cases of Guardianship under the Mental Health Act 1983, by Local Authority, 2010-11 (including duration of closed cases)
Table 5 b	Cases of Guardianship under the Mental Health Act 1983, by Local Authority, 2010-11 (ordered by number of continuing cases)

### Related Publications

The NHS IC 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:

Inpatients formally detained in hospitals under the Mental Health Act 1983 and patients subject to supervised community treatment, Annual figures, England 2009-10  
<http://www.ic.nhs.uk/pubs/inpatientdetmha0910>

Mental Capacity Act 2005, Deprivation of Liberty Safeguards Assessments (England) - Second report on annual data, 2010/11  
<http://www.ic.nhs.uk/pubs/mentalcapacity1011annual>

These publications can be obtained from the NHS IC's website at [www.ic.nhs.uk](http://www.ic.nhs.uk)

# Appendix B: SSSA 702 form and guidance notes

The Information Centre for health and social care - Local Authority Social Services Statistics

SSSA 702

## GUARDIANSHIP UNDER THE MENTAL HEALTH ACT 1983

Guardianship open as of 31st March 2008

Please read the notes BEFORE completing this section							
A Reference Number	B Date Case Commenced	C Section of the Act	D Sex (M/F)	E Relationship of guardian to client (if not LA)	F Date case Closed		
1	12345	15/06/2005	7	M		dd/mm/yyyy	Delete

New Guardianship cases opened from 1st April 2008 - 31st March 2009

Please read the notes BEFORE completing this section							
A Reference Number	B Date Case Commenced	C Section of the Act	D Sex (M/F)	E Relationship of guardian to client (if not LA)	F Date case Closed		
1		dd/mm/yyyy	Select... ▾	Select... ▾		dd/mm/yyyy	Delete

Add New Row

Add Multiple Rows

# Guidance Notes

## Notes on completing return SSDA 702

- 1) This return relates to those subject to guardianship under Section 7 or 37 of the Act. It currently shows the data supplied by the Local Authority to cover the period 1st April 2007 to 31st March 2008. Please update the listed cases to cover the period 1st April 2008 to 31st March 2009 and use the blank table to record new cases.
- 2) Include all cases where your local authority is responsible for accepting or approving the guardianship application or order; that is, where:
  - your local authority is guardian, or
  - a person other than a local authority is the guardian and that person resides in your local authority (irrespective of whether the client lives there).
- 3) **Cases which are current at the start of the period:**  
Included on this return are all those cases which appeared on the previous year's return from your local authority, and were not closed during the period covered by that return. (If the relationship of the guardian to the client has changed or if the case is now closed, please amend)
- 4) **Cases commencing during the period 1st April 2008 to 31st March 2009:**  
Record on the blank table details of any cases which commenced during the period 1st April 2008 to 31st March 2009.
- 5) **Cases closed during the period 1st April 2008 to 31st March 2009:**  
Please complete column F for all cases closed whether current at the start of the period or a new case.

### Column A - Reference number

Enter a unique number which you can use to identify the case; number in sequence continuing from the last number used. Do not re-use reference numbers of cases closed.

### Column B - Date case commenced

Enter the date on which the case commenced. If the exact date is not known, enter 1st of the month, month and the year.

### Column C - Section of the Act

Enter the section of the Mental Health Act 1983 under which the guardianship order was made; this should be 7 or 37. Please select the relevant section from the drop down list. Do not enter other sections of the Act in this column.

### Column D - Sex (M/F)

Enter M for Male, F for female. Please select the relevant sex from the drop down list.

### Column E - Relationship of guardian to the client

Specify the relationship of the guardian to the client, e.g. spouse, parent, child. If guardianship has been conferred on the local authority, leave column E blank.

### Column F - Date case closed

If the case has closed enter the date on which it closed. If the exact date is not known, please give an estimate of the date from the records available to you.

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