



Local Authority Personal Social Services Statistics

# Guardianship

Under the Mental Health Act 1983,  
England, 2012

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of health and social care information.

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

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<sup>1</sup> Formerly known as the NHS Information Centre

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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 1<sup>st</sup> April 2011 – 31<sup>st</sup> March 2012. 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. Data was collected from all 152 Local Authorities with Social Service responsibilities, including 21 nil returns from organisations which did not have any guardianship cases to report for this period.

Key findings for 2011/12 include:

- The number of new Guardianship cases fell by 5% between 2010/11 and 2011/12 from 347 to 331 cases. This is a much smaller reduction than between the previous two reporting years, which saw a notable fall of 21%, possibly attributable to the introduction of new Mental Capacity Act Deprivation of Liberty Safeguards and Community Treatment Order legislation. The number of new cases in 2011/12 was 31% lower than in 2002/03 when 477 new cases were reported.
- This is the seventh consecutive decrease in the numbers of continuing cases. The number of cases continuing at the end of the year decreased by 26% (from 923 in 2002/03 to 682 in 2011/12). The number of cases closed during the reporting year was 357; a decrease of 33% since 2002/03 from 534.

- There are large regional variations in the rates of Guardianship usage:

Local Authorities in the North West had the highest 'turnover' of guardianship cases in England during the 2011/12 reporting period, having the highest numbers and proportions of both new cases and closed cases, as well as continuing cases.

There were 13 new cases of guardianship per million population in the North West, and this represents 27% of all new cases in England. The lowest rates of new cases were in the East Midlands (2 per million population; 3% of all new cases), London (3 per million population; 7.3% of all new cases) and the East of England (3 per million population; 4.5% of all new cases).

Twenty six cases per million population in the North West were continuing cases. The North East had the second highest rate at 22 per million. The lowest rates were seen in London, where 4 cases per million population continued at the end of the reporting year.

- Variations in the rate of Guardianship usage are also noticeable across different types of authorities. Metropolitan and Unitary authorities had 11 and 9 new cases per million population during the reporting year, and 19 and 17 continuing cases per million population. The rate of new cases was 3 per million population in both Inner and Outer London, and 4 per million in Shire Counties. The rates of continuing cases were 4 per million in Outer London, 6 per million in Inner London, and 11 per million in Shire Counties.
- 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 (25 out of 152 authorities).

# 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).

The data used in this report is available in a supporting spreadsheet file, which can be found here: [www.ic.nhs.uk/pubs/guardianmh12](http://www.ic.nhs.uk/pubs/guardianmh12)

## Data Collection

These statistics are collected from each Local Authority, via the Health & Social Care Information Centre 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.

## Data Quality Issues

In the previous publication, we reported an issue observed whereby some Local Authorities had been closing continuing cases and then reopening them as a new case whenever a Guardianship order had been renewed. Whilst caution should continue to be exercised when interpreting results in previous publications, we believe we have resolved these problems for the present reporting year, via communication with providers and improved collection guidance.

## 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.

# Commentary

## Changes in Guardianship usage in England in 2011/12

The number of new Guardianship cases has continued to fall; since the previous reporting period, (2010/11), the figures suggest a decrease of 5%, from 347 to 331. However, this is a markedly slower decrease than the 21% shown between 2009/10 and 2010/11.

It was thought that the introduction of alternative legislation which promotes 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, may have contributed to this earlier large fall in new Guardianship cases. Community Treatment Orders (CTOs)<sup>2</sup> were introduced in November 2008 and Deprivation of Liberty Safeguards (DoLS)<sup>3</sup> (under the Mental Capacity Act) in April 2009 and these new figures suggest that uptake of these powers (and the balance between uses of these and Guardianship) are now beginning to stabilise.

Whilst a higher proportion of CTOs had ended during 2010/11 than during the previous reporting year, there was a 30% rise in the number of people subject to a CTO (from 3,325 to 4,291). During 2011/12, 11,393 DoLS applications were made which is a 27% rise on the previous year.

We publish 10 years' data in each annual report and these figures show that since 2002/3, the number of new Guardianship cases has decreased by 31% (from 477 to 331). The number of cases continuing at the end of the year has decreased by 26% (from 923 to 682) over the same period and the current reporting year shows the seventh consecutive decrease in continuing cases with a decrease of 3% since 2010/11. The number of cases being closed each reporting year has decreased by 33% (from 534 to 357) since 2002/03, and by 20% since last year (from 449).

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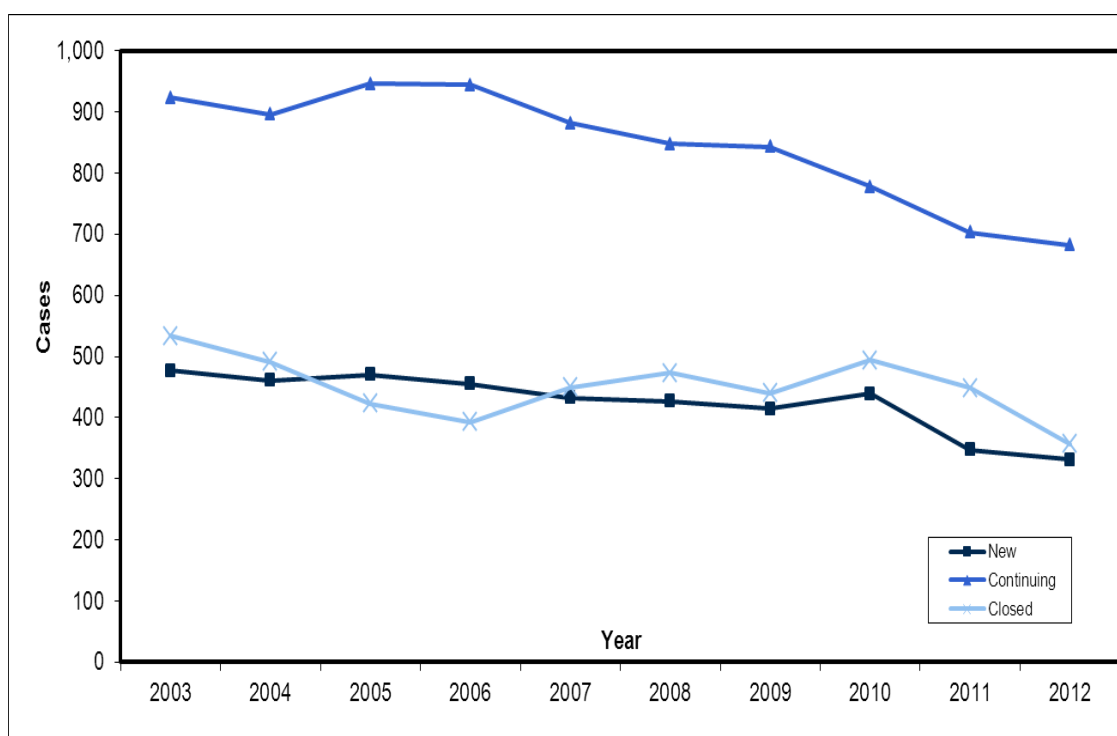
<sup>2</sup> Analyses related to the use of Community Treatment Orders (CTOs) are scheduled for publication in October 2012 in the 'Inpatients formally detained in hospitals under the Mental Health Act 1983, and patients subject to supervised community treatment, Annual figures, England 2012'. The 2011 edition of this report can be viewed here:

<http://www.ic.nhs.uk/pubs/inpatientdetmha1011>

<sup>3</sup> Full analysis of DoLS can be found at:

<http://www.ic.nhs.uk/pubs/mentalcapacity1112annual>

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

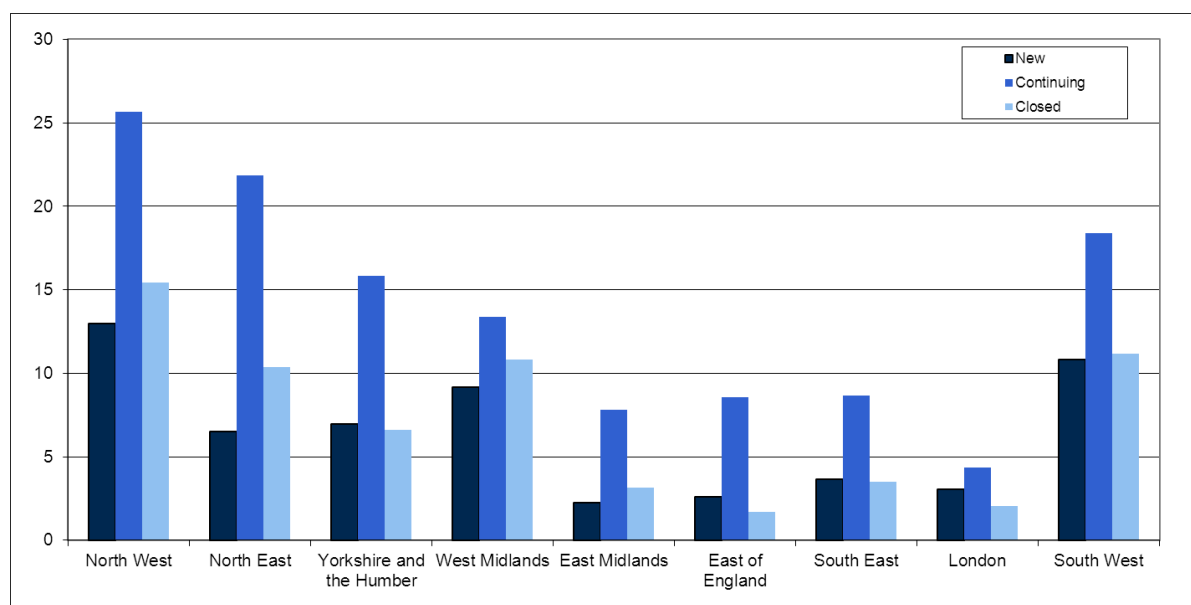


Data source: Table 1 in supporting spreadsheet file

## Variations by region and authority type in 2011/12

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 2010/11 estimates as 2011/12 population estimates were not available at the time of preparation of this report.

**Figure 2 Rates of Continuing, new and closed Guardianship cases per million population**



Data source: Table 3 in supporting spreadsheet file

Local Authorities in the North West had the highest 'turnover' of guardianship cases in England, having the highest numbers and proportions of both new cases and closed cases, as well as continuing cases, during the 2011/12 reporting period.

In the North West there were 90 new cases of guardianship (13 per million population), which represents 27% of all new cases in England. The lowest rates of new cases were in the East Midlands (10 new cases; 2 per million population and 3% of all new cases), London (24 new cases; 3 per million population and 7% of all new cases) and the East of England (15 new cases; 3 per million population and 5% of all new cases)

Twenty six cases per million population (178 cases in total) in the North West were continuing cases. The North East had the second highest rate at 22 per million (57 cases). The lowest rates were seen in London, where 4 per million of cases (34 cases) continued at the end of the year.

The rate of closed cases in the North West was 15 per million population (107 cases in total); this compared with the lowest rate of 2 per million cases seen in East of England (10 cases) and London (16 cases).

Some of these findings contrast with analysis of the rates of applications for DoLS in which the East Midlands had the highest rate of applications and the North East 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>(4)</sup>

There are also large differences in the rates of Guardianship usage across different types of authorities. Metropolitan and Unitary authorities had 11 and 9 new cases per million population during the reporting year, and 19 and 17 continuing cases per million population. The rate of new cases was 3 per million population in both Inner and Outer London, and 4 per million in Shire Counties. The rates of continuing cases were 4 per million in Outer London, 6 per million in Inner London, and 11 per million in Shire Counties.

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 (25 of the 152 authorities). See Table 5b in the supporting spreadsheet file.

Fourteen Local Authorities in the London region reported no cases of Guardianship. Only 7 others in the country reported no cases. See Table 5b in the supporting spreadsheet file.

## Other findings in 2011/12

- Whilst an almost identical number of continuing cases were for men and women (342 and 340 respectively), 83% of continuing cases under Section 37 (following a conviction) were for men (30 men compared with 6 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.
- 98% of new and 98% of continuing Guardianship cases were conferred on the Local Authority. See Table 1 in the supporting spreadsheet file.

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<sup>4</sup> <http://www.ic.nhs.uk/pubs/mentalcapacity1112annual>



# 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 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 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, 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.ic.nhs.uk/pubs/guardianmh12>

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, 2011-12
Table 3	Cases of Guardianship under the Mental Health Act 1983, by region and type of Local Authority 2011-12
Table 4	Duration of closed Guardianship cases under the Mental Health Act 1983, by region and type of Local Authority 2011-12
Table 5 a	Cases of Guardianship under the Mental Health Act 1983, by Local Authority, 2011-12 (including duration of closed cases)
Table 5 b	Cases of Guardianship under the Mental Health Act 1983, by Local Authority, 2011-12 (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. The latest reports are shown below (the next publication of Mental Health Act statistics is scheduled for October 2012).

Inpatients formally detained in hospitals under the Mental Health Act 1983 and patients subject to supervised community treatment, Annual figures, England 2010-11:

<http://www.ic.nhs.uk/pubs/inpatientdetmha1011>

Mental Capacity Act 2005, Deprivation of Liberty Safeguards Assessments (England) - Third report on annual data, 2011/12:

<http://www.ic.nhs.uk/pubs/mentalcapacity1112annual>

These publications can be obtained from the NHS IC's website at:

<http://www.ic.nhs.uk>.

# Appendix B: SSDA 702 form

Guidance on completing this return form can be found here:

<http://www.ic.nhs.uk/services/omnibus-survey/using-the-service/data-collections/ssda702-guardianship>

The Health and Social Care Information Centre - Local Authority Social Services Statistics  
SSDA702

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 1<sup>st</sup> April 2011 and 31<sup>st</sup> 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

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	<input type="text" value="dd/mm/yyyy"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="dd/mm/yyyy"/>	<input type="button" value="Delete"/>

Please enter below **ALL** new cases that opened between the period 1<sup>st</sup> April 2011 and 31<sup>st</sup> March 2012.

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 **NO** new cases please enter:

- Enter '99999' 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

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	<input type="text" value="99999"/>	<input type="text"/>	7 <input type="button" value="v"/>	M <input type="button" value="v"/>	<input type="text"/>	<input type="button" value="Delete"/>

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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