

report



meeting COUNTY COUNCIL

date 21 OCTOBER 2010

agenda item number **8**

REPORT OF THE CHIEF EXECUTIVE

MENTAL HEALTH ACT GUARDIANSHIP PANEL

1. Purpose of Report

- 1.1 To propose arrangements for exercising the authority's responsibilities as guardian under the Mental Health Act 1983, including the establishment of a panel to take decisions on the renewal and discharge of guardianship.

2. Background

- 2.1 A guardian can be appointed with limited powers to take decisions on a person's behalf under sections 7-10 of the Mental Health Act. The purpose is to enable patients to receive care outside hospital when it cannot be provided without the use of compulsory powers. The guardian cannot authorise treatment, and has no control over a person's money or property. It is an offence to mistreat or willfully neglect a person subject to a guardianship order.
- 2.2 A guardianship order initially lasts for six months and can be renewed for a further six months and then annually. At some point during the final two months of each period of guardianship, the "responsible clinician" must examine the person in order to decide if they meet the criteria for renewal. If the responsible clinician decides the conditions are met, they must submit a report, which effectively renews the guardianship. At this point, the local social services authority must consider if the Guardianship should be discharged.
- 2.3 Decisions on discharge or renewal may be taken on behalf of the local social services authority by three or more members of the authority or by a committee or subcommittee that the authority authorises for the purpose. If the decision is taken by three people, they must be

unanimous in their decision to discharge. Unless the authority decides to discharge the person, they must inform them of the renewal.

- 2.4 It is proposed to establish a small, politically balanced, pool of members, from whom a panel of three members can be drawn. A gender balance is desirable. The panels would be administered by the Adult Social Care and Health Department, follow procedures developed by the Service Manager - Mental Health, and be supported by officers from the department. It is anticipated that there would be approximately 12-14 guardianship renewals to consider each year.
- 2.5 A pool of sixteen members (nine Conservative, three Labour, two Liberal Democrat and two Independent) is suggested. A half day of training would be provided.
- 2.6 It is also suggested that the first year's operation of the panel be regarded as a trial period, and that the Strategic Director, Adult Social Care and Health review the procedures after the first year.

3. RECOMMENDATION

- 3.1 That a pool of sixteen members (nine Conservative, three Labour, two Liberal Democrat and two Independent) be established, from which a Mental Health Guardianship Panel can be formed, to make decisions on renewal and discharge of guardianship under the Mental Health Act 1983.
- 3.2 That appropriate training be provided for the members of the pool.
- 3.3 That the panels be administered by the Adult Social Care and Health Department, and that the Strategic Director, Adult Social Care and Health review the procedures after the first year.

Mick Burrows
Chief Executive

4. Statutory and policy implications

- 4.1 This report has been compiled after consideration of implications in respect of finance, equal opportunities, personnel, crime and disorder and those using the service. Where such implications are material, they have been described in the text of the report.

5. Legal Services' Comments

- 5.1 The proposals contained in the report are within the powers of Council to determine. There are no other legal issues arising from the report that call for specific comment. [PE 2.7.10]

6. Background Papers Available for Inspection

- 6.1 None

7. Electoral Division(s) and Member(s) Affected

- 7.1 All