

Assessment of compliance with the Code of Practice for Official Statistics

Statistics on Guardianship under the Mental Health Act, 1983

*(produced by the Health and Social Care Information
Centre)*

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About the UK Statistics Authority

The UK Statistics Authority is an independent body operating at arm's length from government as a non-ministerial department, directly accountable to Parliament. It was established on 1 April 2008 by the *Statistics and Registration Service Act 2007*.

The Authority's overall objective is to promote and safeguard the production and publication of official statistics that serve the public good. It is also required to promote and safeguard the quality and comprehensiveness of official statistics, and good practice in relation to official statistics.

The Statistics Authority has two main functions:

1. oversight of the Office for National Statistics (ONS) – the executive office of the Authority;
2. independent scrutiny (monitoring and assessment) of all official statistics produced in the UK.

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ASSESSMENT AND DESIGNATION

The *Statistics and Registration Service Act 2007* gives the UK Statistics Authority a statutory power to assess sets of statistics against the *Code of Practice for Official Statistics*.

Assessment will determine whether it is appropriate for the statistics to be designated as National Statistics.

Designation as National Statistics means that the statistics comply with the *Code of Practice*. The *Code* is wide-ranging. Designation can be interpreted to mean that the statistics: meet identified user needs; are produced, managed and disseminated to high standards; and are explained well.

Designation as National Statistics should not be interpreted to mean that the statistics are always correct. For example, whilst the *Code* requires statistics to be produced to a level of accuracy that meets users' needs, it also recognises that errors can occur – in which case it requires them to be corrected and publicised.

Assessment reports will not normally comment further on a set of statistics, for example on their validity as social or economic measures. However, reports may point to such questions if the Authority believes that further research would be desirable.

Assessment reports typically provide an overview of any noteworthy features of the methods used to produce the statistics, and will highlight substantial concerns about quality. Assessment reports also describe aspects of the ways in which the producer addresses the 'sound methods and assured quality' principle of the *Code*, but do not themselves constitute a review of the methods used to produce the statistics. However the *Code* requires producers to "seek to achieve continuous improvement in statistical processes by, for example, undertaking regular reviews".

The Authority may grant designation on condition that the producer body takes steps, within a stated timeframe, to fully meet the *Code's* requirements. This is to avoid public confusion and does not reduce the obligation to comply with the *Code*.

The Authority grants designation on the basis of three main sources of information:

- i. factual evidence and assurances by senior statisticians in the producer body;
- ii. the views of users who we contact, or who contact us, and;
- iii. our own review activity.

Should further information come to light subsequently which changes the Authority's analysis, it may withdraw the Assessment report and revise it as necessary.

It is a statutory requirement on the producer body to ensure that it continues to produce the set of statistics designated as National Statistics in compliance with the *Code of Practice*.

Contents

Section 1: Summary of findings

Section 2: Subject of the assessment

Section 3: Assessment findings

Annex 1: Compliance with Standards for Statistical Reports

Annex 2: Summary of assessment process and users' views

1 Summary of findings

1.1 Introduction

- 1.1.1 This is one of a series of reports¹ prepared under the provisions of the *Statistics and Registration Service Act 2007*². The Act requires all statistics currently designated as National Statistics to be assessed against the *Code of Practice for Official Statistics*³. The report covers the set of statistics reported in *Guardianship under the Mental Health Act, 1983*⁴ (*Guardianship*), produced by the Health and Social Care Information Centre (HSCIC). Although *Guardianship* was designated as National Statistics before the Statistics Act came into force – that is, they were ‘legacy’ National Statistics – they were not included within the first round of Assessment. At that time HSCIC made the case for their exclusion because it anticipated substantial changes to the statistics following a review and consultation that were underway.
- 1.1.2 Section 3 of this report adopts an ‘exception reporting’ approach – it includes text only to support the Requirements made to strengthen compliance with the *Code* and Suggestions made to improve confidence in the production, management and dissemination of these statistics. This abbreviated style of report reflects the Director General for Regulation’s consideration of aspects of risk and materiality⁵. The Assessment team nonetheless assessed compliance with all parts of the *Code of Practice* and has commented on all those in respect of which some remedial action is recommended.
- 1.1.3 This report was prepared by the Authority’s Assessment team, and approved by the Regulation Committee on behalf of the Board of the Statistics Authority, based on the advice of the Director General for Regulation..

1.2 Decision concerning designation as National Statistics

- 1.2.1 The Statistics Authority judges that the statistics covered by this report are readily accessible, produced according to sound methods and managed impartially and objectively in the public interest, subject to any points for action in this report. The Statistics Authority confirms that the statistics published in *Guardianship* are designated as National Statistics, subject to HSCIC implementing the Requirements listed in section 1.5 and reporting them to the Authority by April 2015.
- 1.2.2 HSCIC has informed the Assessment team that it has started to implement the Requirements listed in section 1.5. The Statistics Authority welcomes this.

¹ <http://www.statisticsauthority.gov.uk/assessment/assessment-reports/index.html>

² http://www.opsi.gov.uk/Acts/acts2007/pdf/ukpga_20070018_en.pdf

³ <http://www.statisticsauthority.gov.uk/assessment/code-of-practice/index.html>

⁴ <http://www.hscic.gov.uk/catalogue/PUB14853/guar-unde-ment-heal-act-1983-eng-1314-rep.pdf>

⁵ <http://www.statisticsauthority.gov.uk/assessment/assessment/guidance-about-assessment/criteria-for-deciding-upon-the-format-of-an-assessment-report.pdf>

1.3 Summary of strengths and weaknesses

- 1.3.1 *Guardianship* is a statistical report using a long-running series of data and remains the sole source of information about guardianship under the *Mental Health Act 1983* in England. The statistics are used to benchmark the performance of local authorities and to ensure that the rights of people with mental disorders are being upheld. The statistics team has indicated to us that it is building up networks to engage with a wider user base, such as the Care Quality Commission (CQC)⁶ and Mind⁷.
- 1.3.2 HSCIC has not demonstrated publicly its own awareness of the data supply procedures and risks to the quality of *Guardianship* that arise from the data sources. HSCIC does not publish information about the quality assurance and audit arrangements for the administrative data submitted by local authorities.

1.4 Detailed recommendations

- 1.4.1 The Assessment team identified some areas where it felt that HSCIC should strengthen its compliance with the *Code*. Those which are essential for HSCIC to address in order to strengthen its compliance with the *Code* and to enable designation as National Statistics are listed – as Requirements – in section 1.5, alongside a short summary of the key findings that led to each Requirement being made. Other recommended changes, which the Assessment team considers would improve the statistics and the service provided to users but which are not formally required for their designation as National Statistics, are listed – as Suggestions – in section 1.6.

1.5 Requirements for designation as National Statistics

- 1.5.1 This section includes those improvements that HSCIC is required to make in respect of its statistics on *Guardianship* in order to fully comply with the *Code of Practice for Official Statistics*, and to enable designation as National Statistics.

Finding	Requirement	
<i>Guardianship</i> does not include enough information about the reliability of the statistics in relation to use. HSCIC should:	1	Provide detailed information about the quality and reliability of the statistics in <i>Guardianship</i> in relation to the range of potential uses (para 3.3).
HSCIC has not demonstrated publicly its own awareness of the	2	a) Determine the appropriate scale of assurance and documentation required for the administrative data used in <i>Guardianship</i> based on pragmatic and proportionate

⁶ <http://www.cqc.org.uk/>

⁷ <http://www.mind.org.uk/>

<p>risks that are posed by the data sources to the quality of <i>Guardianship</i>. HSCIC does not publish details of the quality assurance and audit arrangements for the administrative data submitted by local authorities. HSCIC should:</p>	<p>judgement about the quality of the data and the public interest profile of the statistics</p> <p>b) communicate this requirement to data suppliers</p> <p>c) publish an appropriate level of detail to inform users about the quality assurance and audit arrangements for the administrative data.</p> <p>HSCIC should take into consideration the Authority's Report <i>Quality Assurance and Audit Arrangements for Administrative Data</i> and the National Statistician's <i>Interim Guidance</i> (para 3.5).</p>
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1.6 Suggestions for extracting maximum value from the statistics

1.6.1 This section includes some suggestions for improvement to *Guardianship*, in the interest of the public good. These are not formally required for designation, but the Assessment team considers that their implementation will improve public confidence in the production, management and dissemination of official statistics.

We suggest that HSCIC:

1	Publish its plans for investigating the needs and the use made of <i>Guardianship</i> by the wider user community, taking into account the points detailed in annex 2 and referring to the Authority's Monitoring Brief <i>The Use Made of Official Statistics</i> (para 3.2).
2	Include a bullet point about the likely impact of other safeguarding activities on guardianship applications in the key findings section of <i>Guardianship</i> to aid interpretation, taking into account the points detailed in annex 1 (para 3.4).

2 Subject of the assessment

- 2.1 The Department of Health (DH) is responsible for the *Mental Health Act 1983*⁸ (the Act) and formally commissions HSCIC to publish statistics and information about people detained under the Act. *Guardianship* notes that, under Sections 7 and 37 of the Act, 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. Two doctors must agree that the patient is suffering from a mental disorder that warrants reception into guardianship and that it is necessary in the interest of the patient's welfare or for the protection of others.
- 2.2 In November 2010, HSCIC was asked by the Outcomes and Information Development Board⁹ (OIDB), which is jointly chaired by DH and the Association of Directors of Adult Social Services (ADASS), to develop and consult on new proposals for adult social care data collections, taking into account the changing context of social care. Therefore, during 2011, HSCIC organised stakeholder groups and undertook a Zero-Based Review (ZBR)¹⁰ to consider what local authority-level adult social care data should be collected by HSCIC. Following on from this ZBR, in summer 2012, HSCIC consulted on a proposal that the three separate national safeguarding returns (Abuse of Vulnerable Adults, Deprivation of Liberty Safeguards and SSSDA702 Guardianship returns) be replaced by a new suite of safeguarding returns. The proposal was that the new suite would replace the Abuse of Vulnerable Adults return, amend the Deprivation of Liberty Safeguards return and bring them together with the Guardianship return. Although the majority of consultation responses favoured all three returns being combined as a single, national safeguarding return, on further investigation and taking into account work undertaken by the Safeguarding stakeholder groups, the OIDB decided that the disparate relationships of the three returns meant that this was not feasible¹¹.
- 2.3 The collection of data on guardianship is statutory, and data are collected from all 152 local authorities with Social Service responsibilities under the *Local Government Act 1972*¹², using the HSCIC Omnibus on-line collection tool, on form SSSDA702, instructions for which are available online¹³. Data are returned by 1 May, covering activity from 1 April of the previous year to 31 March of the current year. For each case of guardianship in force during the period, HSCIC collects: date commenced; date closed; source; gender; and relationship of guardian.
- 2.4 HSCIC publishes *Guardianship* and associated data tables each September. *Guardianship* includes a count of new, continuing and closed cases in the

⁸ <http://www.legislation.gov.uk/ukpga/1983/20/contents>

⁹ From summer 2014 this has been re-named as the Adult Social Care Outcomes and Development Board (ASC-DOB)

¹⁰ http://www.hscic.gov.uk/media/10083/Survey-responses-to-Safeguarding/pdf/8_Safeguarding.pdf

¹¹ http://www.hscic.gov.uk/media/13284/ZBR-Implementation-Surveys-Report-2013/pdf/ZBR_Implementation_Surveys_Report_2013_Final.pdf

¹² <http://www.legislation.gov.uk/ukpga/1972/70/contents>

¹³ http://www.hscic.gov.uk/media/11583/Guardianship-Guidance-2013-14/pdf/SSDA702_Guardianship_Return_2013-14_Guidance.pdf

- reporting period. Data on inpatients detained under the Act are collected and reported separately¹⁴.
- 2.5 DH uses the statistics to assess the impact of ongoing mental health policy development and the use of guardianship in the community. HSCIC's website notes that NHS commissioning organisations use the statistics to monitor and plan the impact and coverage of mental health services at a local level. CQC has specific duties to monitor the use of the Act in England and uses *Guardianship* for this purpose.
 - 2.6 *Guardianship* notes that users include local social services authorities (because they are named guardians in the majority of cases) and legal advocates responsible for handling guardianship applications¹⁵. Local authorities use the statistics for benchmarking their own performance, for planning services and for training staff.
 - 2.7 Other users of *Guardianship* include academic researchers and organisations involved in monitoring uses of the Act and the rights of people with mental disorders.
 - 2.8 *Guardianship* includes links to other statistical reports published by HSCIC about the use of legislation in relation to compulsory treatment or care for people with a mental disorder or who lack capacity. Additionally, the release contains a paragraph on comparability and provides links to Mental Health Act statistical reports released for Wales and Scotland, but no link is provided for statistics from Northern Ireland.
 - 2.9 HSCIC estimated the cost of producing the output for 2013/14 at about £8,000.
 - 2.10 *Guardianship* is published annually in PDF, with supplementary tables and charts published in Excel and CSV formats. This equates to a level 3 rating under the Five Star Scheme proposed in the *Open Data White Paper: Unleashing the Potential*¹⁶ and adopted as UK government policy in November 2012¹⁷. Five stars represents the highest star rating within the Scheme.

¹⁴ <http://www.hscic.gov.uk/catalogue/PUB12503>

¹⁵ A Guardianship application can be made by an approved mental health professional, a court or a near relative.

¹⁶ http://data.gov.uk/sites/default/files/Open_data_White_Paper.pdf

¹⁷ <https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles>

3 Assessment findings

- 3.1 In 2010, as part of the Social Care Zero-Based Review of national adult social care data collections, which included those relating to guardianship statistics, users were invited to take part in a consultation to provide feedback. The consultation asked users whether they supported the proposal that the guardianship return remain unchanged in terms of content and data collected. HSCIC's report on the consultation notes that '95 of 109 respondents (91 per cent) were either neutral, partly or fully in support of this proposal – no suggested changes were received.' The governance structure within HSCIC for *Guardianship* is through a working group comprised of key stakeholders including HSCIC representatives, local authorities, DH, representatives from ADASS and CQC. Any proposals for changes to the data for collection are formally evaluated following consultation with key stakeholders and reported back to the working group. Recommendations from the working group are then presented for decision to HSCIC's National Data Collections Programme Board (NDCPB) and signed off by the Data and Outcomes Board¹⁸.
- 3.2 As well as using a range of corporate methods of obtaining feedback from unknown statistics users, the statistics team is interested in broadening the range of *Guardianship* users with which it routinely engages and has initiated a group to develop networks with more stakeholders, such as Mind, a mental health charity. *Guardianship* provides a description of what is being measured, but only broad categories of potential users are listed and little comment is made about uses, other than at the high level of monitoring the Act. We suggest that HSCIC publish its plans for investigating the needs and the use made of *Guardianship* by the wider user community, taking into account the points detailed in annex 2 and referring to the Authority's Monitoring Brief *The Use Made of Official Statistics*¹⁹.
- 3.3 Appendix A in *Guardianship* details the local authorities that have submitted information about cases opened and closed in earlier years, leading to revisions of the previous data. It notes that '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.' In *Guardianship 2012/13*, HSCIC advised that it planned to stop allowing revisions to be submitted for years prior to the guardianship reporting year. The relevant paragraph noted that '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 *Guardianship 2013/14* is published next year.' Some users reported to us that they were not happy with this proposal. During this Assessment, the statistics team indicated to us that it had listened to users' views and would continue to revise the back series of datasets. *Guardianship 2013/14* does indicate the nature and extent of any revisions to data previously submitted by each local authority, as well as providing links to the associated data tables. However, it does not provide detailed information about the impact of any revisions to the statistics, nor

¹⁸ The Data and Outcomes Board is jointly chaired by DH and ADASS

¹⁹ <http://www.statisticsauthority.gov.uk/assessment/monitoring/monitoring-reviews/monitoring-brief-6-2010---the-use-made-of-official-statistics.pdf>

about the quality and reliability of the statistics presented in relation to use. For example, this information could include whether the statistics can be used to compare the performance of local authorities or should be used to review the implementation of guardianship at the national level. As part of the designation as National Statistics, HSCIC should provide detailed information about the quality and reliability of the estimates in *Guardianship* in relation to the range of potential uses²⁰ (Requirement 1).

- 3.4 *Guardianship* is written in straightforward language, which can be widely understood. The explanation of guardianship includes a helpful overarching narrative about the effect of other safeguarding activities in the context of care in the community, such as occurred with the introduction of Community Treatment Orders (CTOs) and Deprivation of Liberty Safeguards (DoLs). *Guardianship* provides links to the official statistics associated with these other safeguarding activities. The commentary in *Guardianship* describes changes in the statistics over time and between local authorities and acknowledges that the statistics team will undertake further investigations to understand the differences in the application of guardianship procedures by local authorities. Chapter 3 provides interesting statistics about the relationship between guardianship and other aspects of safeguarding practice, which could usefully be brought forward in the statistical report. For example, introducing some key analysis about the likely impact of CTOs and DoLs at the start of *Guardianship* would enhance readers' understanding of what the statistics show about local authorities' applications for guardianship. We suggest that HSCIC include a bullet point about the likely impact of other safeguarding activities on guardianship applications in the key findings section of *Guardianship* to aid interpretation, taking into account the points detailed in annex 1.
- 3.5 HSCIC has published a guide to completing the guardianship collection for local authorities. *Guardianship* explains how and why the data are collected, describes the validation routines used during the collection of data and notes that 'providers are encouraged to thoroughly validate their annual data before submission'. *Guardianship* itemises by local authority the number of adjustments made to historic data since the previous data submission, as well as noting any non-responses. HSCIC's Statement of Administrative Sources²¹ (SoAS) notes that, concerning the guardianship data collection, 'it is expected that the local authorities will have robust governance arrangements in place to assure their Board and independent auditors that all data submitted as part of the guardianship return is measured and recorded in accordance with the related guidance.' HSCIC has not demonstrated publicly its own awareness of the risks that are posed by the data sources to the quality of *Guardianship*. HSCIC does not provide information about the quality assurance and audit arrangements for the administrative data submitted by local authorities. As part of the designation as National Statistics, HSCIC should: a) determine the appropriate scale of assurance and documentation required for the administrative data used in *Guardianship* based on pragmatic and proportionate judgement about the quality of the data and the public interest profile of the statistics; b) communicate this requirement to data suppliers; and c) publish an appropriate level of detail to inform users about the quality

²⁰ In relation to Principle 8, Practice 1 of the *Code of Practice*

²¹ <http://www.hscic.gov.uk/pubs/listadminsources>

assurance and audit arrangements for the administrative data, taking into consideration the Authority's Report *Quality Assurance and Audit Arrangements for Administrative Data*²² and the National Statistician's *Interim Guidance*^{23 24} (Requirement 2).

²² <http://www.statisticsauthority.gov.uk/assessment/monitoring/administrative-data-and-official-statistics/quality-assurance-and-audit-arrangements-for-administrative-data---exposure-draft.pdf>

²³ <https://gss.civilservice.gov.uk/wp-content/uploads/2012/12/Interim-Admin-Data-guidance.pdf>

²⁴ In relation to Protocol 3, Practice 5(e) of the *Code of Practice*

Annex 1: Compliance with Standards for Statistical Reports

- A1.1 In November 2012, the Statistics Authority issued a statement on *Standards for Statistical Reports*²⁵. While this is not part of the *Code of Practice for Official Statistics*, the Authority regards it as advice that will promote both understanding and compliance with the *Code*. The comments included in this annex are based on a review of *Guardianship* published in September 2014²⁶ against the statement of standards.
- A1.2 In implementing any Requirements of this report (at paragraph 1.5) which relate to the content of statistical reports, we encourage the producer body to apply the standards as fully as possible.

Include an impartial narrative in plain English that draws out the main messages from the statistics

- A1.3 The language used is straightforward and impartial and can be widely understood. It includes an executive summary that provides a short introduction and highlights a small number of key findings. The explanation of guardianship includes a helpful overarching narrative about the effect of other safeguarding activities, such as occurred with the introduction of Community Treatment Orders and Deprivation of Liberty Safeguards. However, *Guardianship* does not take the opportunity to include the likely impact of CTOs and DoLs on guardianship applications in the key findings section.
- A1.4 The commentary describes changes in the statistics and acknowledges that the statistics team will undertake further investigations to understand the differences in the application of guardianship procedures by local authorities.
- A1.5 The statistical report includes appropriate comparisons: over time; analysis by region and types of local authority; and includes figures that are relevant to people (cases per million population).

Include information about the context and likely uses of the statistics

- A1.6 *Guardianship* provides a good description of what is being measured and an explanation of guardianship within the context of care in the community. However, only broad categories of potential users are listed and little comment is made about uses, other than at the broad level of monitoring the Act.

Include information about the strengths and limitations of the statistics in relation to their potential use

- A1.7 *Guardianship* links to HSCIC's revisions procedure and indicates the nature and extent of any revisions to data previously submitted by each local authority, providing links to the associated data tables. The report also includes information about other data quality issues, although there is no description in the report of potential impacts of the changes or limitations for use.

²⁵ <http://www.statisticsauthority.gov.uk/news/standards-for-statistical-reports.html>

²⁶ <http://www.hscic.gov.uk/catalogue/PUB14853/guar-unde-ment-heal-act-1983-eng-1314-rep.pdf>

Be professionally sound

A1.8 Charts and tables are included to illustrate the trends discussed in the commentary. Time series data are included for 11 years in the statistical report, though it is not clear why this rolling cut-off point is chosen.

Include, or link to, appropriate metadata

A1.9 *Guardianship* provides links to information about definitions, data sources and methods available on HSCIC's website. *Guardianship* links to the dataset and supporting tables on which the commentary is based. The dataset is provided in an open data format and documents on the website can be viewed in accessible formats.

A1.10 *Guardianship* provides links to websites with statistics about monitoring safeguarding activities from Wales and Scotland, but no link is provided to statistics from Northern Ireland. Users are advised to compare these statistics with caution, since the data are unlikely to be comparable due to differences in Mental Health legislation and recording.

A1.11 *Guardianship* names the responsible statistician, and although the contact details provided are a generic email address and telephone number, the statistics team told us that queries are referred to them appropriately and promptly.

Annex 2: Summary of assessment process and users' views

- A2.1 This assessment was conducted from February to September 2014.
- A2.2 The Assessment team – Caroline Jones and Pat MacLeod – agreed the scope of and timetable for this assessment with representatives of HSCIC in February. The Written Evidence for Assessment was provided on 21 March 2014. The Assessment team subsequently met HSCIC during July to review compliance with the *Code of Practice*, taking account of the written evidence provided and other relevant sources of evidence.

Summary of users contacted, and issues raised

A2.3 Part of the assessment process involves our consideration of the views of users. We approach some known and potential users of the set of statistics, and we invite comments via an open note on the Authority's website. This process is not a statistical survey, but it enables us to gain some insights about the extent to which the statistics meet users' needs and the extent to which users feel that the producers of those statistics engage with them. We are aware that responses from users may not be representative of wider views, and we take account of this in the way that we prepare Assessment reports.

A2.4 The Assessment team received seven responses from the user consultation. The respondents were grouped as follows:

Central government	1
Local government	3
NHS	1
Academia	1
Regulatory body	1

A2.5 Local authorities use the statistics for benchmarking their own performance, for data quality assurance, for planning services and for training staff. DH uses the data to assess the impact of ongoing mental health policy development and the use of guardianship in the community. CQC uses the statistics to monitor the implementation of the Act in England. Social researchers and organisations involved in monitoring uses of the Act and the rights of people with mental disorders also use the statistics.

A2.6 Users were content with the frequency of publication of *Guardianship* and had good working relationships with the team at HSCIC. Users were generally satisfied with the commentary and some users raised the point that they would like to see more granular data about the following areas:

- the type of mental disorder
- how many people challenge the application of guardianship
- more information on patient pathways, such as those linking with DoLS and CTOs
- the percentage of applications by population of local authority.

Key documents/links provided

Written Evidence for Assessment document

