

## **Independent Mental Capacity Advocates are known as ‘IMCAs’. IMCAs are specially trained advocates who support people who lack capacity around certain decisions to ensure their views and wishes are heard and taken into account.**

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Lacking capacity means that someone is unable to make a specific decision at a particular time due to what is called a ‘disturbance or impairment’ of the mind or brain. This may be due to a disability, injury or illness. A person’s capacity may vary over time, or may depend on the decision being made. It is very unusual for someone to lack the capacity to make any decisions at all.

IMCA is a type of statutory advocacy, which means it is set out in law, in this case, the Mental Capacity Act 2005. This legislation only applies to people aged 16 and over.

The Mental Capacity Act says that local authorities and NHS organisations have a duty (they must) refer people for the support of an IMCA if certain criteria are met.

### **Who can have support from an IMCA?**

There are 3 criteria which must **all** be met for someone to have support from an Independent Mental Capacity Advocate. If the criteria are met, then a referral for an IMCA **must** be made.

1. A decision needs to be made about a long-term change of accommodation (for example someone who might need to move from their own home into a care home) or a decision needs to be made about starting or stopping serious medical treatment (this could be for example serious dental work, cancer treatment, medical investigations etc).
2. The person has been assessed as lacking capacity in relation to that specific decision. Usually a social worker or a doctor would carry out an assessment to determine if someone lacks capacity. The assessment must be recent, and it must be about the particular decision that needs to be made.
3. The person has no-one else who is appropriate to consult about the decision. This means they don’t have a family member or friend who can be consulted. A family member or friend might say they don’t want to be involved/consulted, or there might be concerns about if they are acting in the person’s best interest. Someone who is paid (for example a support worker or a social worker) cannot provide this support as they are not independent.

# What is Independent Mental Capacity Advocacy?

FACTSHEET #9

The local authority can (they do not have to) also refer for an IMCA when there are decisions to be made for someone who lacks capacity regarding:

- **Care Reviews** (if the person has been placed in accommodation by the local authority)
- **Safeguarding** – this includes if the person is thought to be at risk themselves, or if they are alleged to have caused harm to someone else. An IMCA may be involved in safeguarding decisions even if there are friends and family members available to consult.

In the cases of care reviews and safeguarding, it may sometime be more appropriate to make a referral for a Care Act advocate. This may depend on the local authorities safeguarding policy. We are happy to advise about this.

In addition, IMCA's are also instructed in relation to **Deprivation of Liberty Safeguards (DoLS)**. The IMCA will be involved in the assessment process of a deprivation of liberty when there is no-one appropriate to consult:

They can also be involved under DoLS:

- When an unpaid representative (RPR) would benefit support from an IMCA
- To fill gaps in appointments of the person's representatives.

## What does an IMCA do?

The IMCA will work to ensure the person's views are heard. Even when someone can't tell their advocate what they want, our advocates will use different ways of working to establish their views and wishes as far as possible and ensure their rights are upheld. (This is called 'non-instructed advocacy'). An IMCA can;

- Meet with the person to try and gain their views, wishes and feelings.
- Support the person to be as involved as possible in the decision-making
- Speak to other people in the person's life (e.g. care workers) to gather information relevant to the decision which may include past wishes.
- Decide whether to ask for a second opinion (for serious medical treatment decisions)
- Write a report for the person responsible for making the decision (usually a social worker or doctor). This report must be considered when the decision is being made.
- Attend best interest meetings about the decision
- Access relevant care and health records.
- Look at alternative options that may not have been considered
- Challenge decisions if it is appropriate (for example the principles of the Mental Capacity Act have not been followed)

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## Who can make a referral for an IMCA?

Referrals need to be made by the local authority or the NHS.

Ideally they should be made by the person responsible for making the decision (usually a doctor or social worker), or someone acting on their behalf (e.g. a secretary or member of nursing staff).

If you think someone should have the support of an IMCA, but you do not work for the local authority or NHS, you can still contact us and let us know. We can then get in touch with the person making the decision to discuss the referral with them.

If someone does not meet the criteria for an IMCA, but still needs advocacy support it may be that another type of advocate can help. This might be provided by Cloverleaf, or another local service.

**Our Contact and Support Team will be able to provide more information about other services available, so please CONTACT US.**



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