

General Information

Do you want to find out more about the IMCA service?

PRINCIPLES

- A person is assumed to have capacity unless it is proved otherwise;
- A person cannot be treated as lacking capacity until all practical steps have been taken to help the person to make the decision;
- Any decision made on behalf of someone lacking capacity must be in the person's best interests;
- Consideration must be given to finding the least restrictive option;
- An unwise decision does not indicate lack of capacity.

TWO-STAGE TEST OF CAPACITY

1. Is there an impairment of, or disturbance in, the functioning of the person's mind or brain? **IF SO**
2. Is that impairment or disturbance sufficient to make the person unable to make the decision in question at the time it has to be made?

CONTACT DETAILS

A referral form is available on our website www.gettingheard.org or may be emailed upon request. For any questions please:

Telephone: 0300 343 5718
Email: advocacy@gettingheard.org
Write to: IMCA Service
Getting Heard
Barton Neighbourhood Centre
Underhill Circus
Headington OX3 9LS

More information on the Mental Capacity Act 2005 can be found on www.publicguardian.gov.uk. This independent service is funded by Oxfordshire County Council.

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Independent

Mental

Capacity

Advocacy

www.gettingheard.org
Formerly Oxfordshire Advocacy

Independent Mental Capacity Advocacy

Who are IMCAs?

IMCAs

- Are independent of the authority making the decision;
- Provide support for the person who lacks capacity;
- Represent the person's wishes, feelings, values and beliefs and ensure these are considered in the decision that has to be made.

Who instructs an IMCA?

THE DECISION MAKER

The person who instructs an IMCA is the professional who will have to make the final decision (the decision maker) about serious medical treatment or a change of accommodation, or is responsible for a care review or an adult protection case.

Who is eligible for an IMCA?

ELIGIBILITY

According to the Mental Capacity Act (MCA) 2005, an IMCA must be involved and consulted for people who:

- Are 16 years old or over;
- Have been assessed as lacking mental capacity to make the specific decision;
- Have no family or friends who it is appropriate to consult.

When should an IMCA be involved?

An IMCA should be involved whenever:

- A Health Body is proposing to provide, withdraw or withhold serious medical treatment
- A Health Body or Local Authority is proposing to arrange a change of accommodation to a hospital or residential care

AND

- The person will stay in hospital for longer than 28 days

OR

- They will stay in the care home for more than 8 weeks

It is at the decision-maker's discretion to instruct an IMCA to represent someone who lacks capacity to make a decision about: Care reviews: (where no other appropriate person is available to be consulted) and Safeguarding Cases (even if family, friends or others are available to be consulted). These will now normally be dealt with under the Care Act 2014 by an Independent Care Act Advocate (ICAA).

Are there any exceptions?

TWO EXCEPTIONS

- Urgent decisions such as emergency medical treatment to save an individual's life;
- When an individual would be homeless unless they were provided with accommodation e.g. at a care home.

What will an IMCA do?

IMCAs will

- See the person in private, if possible;
- Have access to care and health records relevant to the decision;
- Consult with professionals and others who know the person;
- Ascertain the person's views, wishes, beliefs and values;
- Find out what has been done to help the person make a decision;
- Consider alternative options;
- Write a report on their findings to the decision maker.

IMCAs may

- Challenge the judgements of the decision-maker;
- In cases of proposed serious medical treatment, seek a second medical opinion.

What an IMCA will not do.

IMCAs will not

- Assess capacity;
- Make decisions on behalf of the person who lacks capacity;
- Make decisions on behalf of the decision-maker;
- Continue to provide support once the decision is made.