

The IMCA service came into force with The Mental Capacity Act in April 2007.

Mental Capacity Act principles

- * Assume a person has capacity unless proved otherwise.
- * Do not treat people as incapable of making a decision unless you have tried all practicable steps to help them.
- * A person is not incapable of making a decision just because their decision may seem unwise.
- * Act in the best interests of the person concerned.
- * Use the action least restrictive of rights and freedoms.

Capacity Test

A person is unable to make **specific** decision for themselves if they are unable to-

- * understand the information about the decision
- * retain that information
- * use that information to make the decision
- * communicate their decision

Best Interest checklist

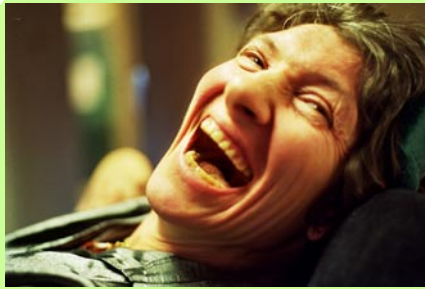
- * Consider if capacity to make that decision may return
- * Involve the person who lacks capacity to make the decision
- * Have regard for their past and present wishes & feelings
- * Consider all relevant circumstances
- * Consult with others who are involved with the person
- * Do not discriminate because of age, condition etc.

Advocacy Partners

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Advocacy Partners Independent Mental Capacity Advocate service



A guide for Local Authority & NHS referrers

Get our referral pack from;
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Rights, Voices and Choices



Who should be referred to the IMCA service?

Local Authority / NHS professionals **must** refer people when;

- * a decision is being made about serious medical treatment, or a long term change in accommodation and
- * the person lacks capacity to make that decision and
- * they do not have friends or family with whom the decision maker feels is appropriate to consult with about the decision.

Local Authorities may also decide to refer for an IMCA for people who may lack capacity to agree to the arrangements when accommodation is being reviewed or adult protection concerns investigated. You will need to check your Local Authority's guidelines about when you can do this.

Who can make the referral?

The decision-maker must decide if the person meets the criteria for an IMCA and make the referral. There is guidance in the Code of Practice, (www.dh.gov.uk/imca).

The decision maker is the NHS or Local Authority professional who will action the decision. E.g. doctor for treatment/ care manager for a move.

In some areas you may need to have the referral signed by an 'authorised referrer'. Please check with your manager if this is needed. There is more information about this on our website (www.advocacypartners.org) and your intranet.

What will the IMCA do?

The IMCA will;

- * support and represent the person
- * check the person's wishes are taken into account
- * check the decision is being made following the Mental Capacity Act.
- * write a report, which the decision maker must take into account before they take the decision



An IMCA has a right to;

- * meet the person in private
- * read and copy relevant social and medical records
- * seek a second medical opinion
- * challenge the decision or the way it was made informally first and through court if necessary. (this includes the decision about the person's capacity to make the decision)

The IMCA does not;

- * make the decision
- * do the capacity test
- * persuade the person what to do
- * fill in gaps in the LA or NHS team
- * have as extensive role as other advocates

Advocacy Partners provides IMCA services for people who are in:

Brighton & Hove, Camden, Croydon, East Sussex, Islington, Merton, Sutton, Tower Hamlets, Wandsworth and West Sussex.