

Independent Mental Capacity Advocate Service

Does the person need one?

	Does the person have a condition which is affecting their ability to make decisions?
	Is the person facing a decision about serious medical treatment or a change of accommodation? Or are there decisions relating to Adult Protection Proceedings or A care/accommodation review where it is felt that the person would benefit from IMCA?
	Is the person 16 years or older?
	Does the person lack capacity to make the particular decision?
	Is there nobody (other than paid workers) whom the decision-maker considers are willing and able to be consulted about the decision? (This does not apply for Adult Protection Proceedings – people can have family and still be eligible).

If you would like to discuss whether a person is eligible for the IMCA service please contact:

The IMCA Service on 01752 753718

THE MENTAL CAPACITY ACT 2005

**What you need to know and do on
April 2 2007**

The five underpinning Principles

You must:

1. Assume the person has capacity unless proved otherwise
2. Not treat people as incapable of making a decision unless you have tried all practicable steps to try to help them
3. Allow people to make what may seem to you an unwise decision
4. Always do things, or take decisions for people without capacity in their best interest
5. Ensure that when doing something to someone, or making a decision on their behalf you choose the least restrictive option

The two-stage test of capacity

You must use the following test to assess if the person has capacity:

1. Is there an impairment of, or disturbance in the functioning of the person's mind or brain? If so,
2. Is the impairment or disturbance sufficient that the person lacks the capacity to make that particular decision?

The person is able to make a decision and therefore has capacity if they:

- a. Understand the information relevant to the decision,
- b. Retain the information,
- c. Use or weigh that information a part of the process of making the decision, or
- d. Communicate his/her decision either by talking, signing, or any other means

Best Interest Checklist

Where a person lacks capacity all decisions must be made in the best interest of that person. The checklist below gives some common factors that you must always take into account where a decision is being made, or an act is being done for the person who lacks capacity.

- Involve the person who lacks capacity
- Be aware of the person's past and preset wishes and feelings
- Consult with others who are involved in the care of the person
- Do not make assumptions based solely on the person's age, appearance, condition or behaviour
- Is the person likely to regain capacity to make the decision in the future

You must record your decision by completing the MCA Checklist template and store this within the service users' electronic file.

For more information on the Mental Capacity Act contact your named lead or visit <http://www.dce.gov.uk/legal-policy/mental-capacity/index.htm>

ROLE OF THE INDEPENDENT MENTAL CAPACITY ADVOCATES (IMCA)

You must involve an IMCA in the following situations and where the person you are representing lacks capacity and has no relative, friend or unpaid carer

An NHS body is proposing:

- Serious medical treatment
- A stay of more than 28 days in hospital or 8 weeks in a care home
- Change to a person's accommodation to another hospital for more than 28 days or more than 8 weeks

A local authority is proposing:

- To change or provide residential or supported accommodation for more than 8 weeks

An IMCA would not necessarily be involved if:

- The treatment needed to be provided as a matter of urgency
- If the person lacking capacity would be made homeless unless they were admitted to a care home

AN IMCA may also be involved in:

Accommodation reviews where there are concerns about the suitability of the placement and where the following three requirements are met:

1. The LA or NHS has arranged the original accommodation
2. The person lacks capacity

3. There is no other person appropriate to consult

Adult protection cases if the two following criteria are met:

1. Where protective measures are being put in place in relation to the protection of a vulnerable adult from abuse; and
2. Where the person lacks capacity

AN IMCA may also be involved where the person who lacks capacity is abusing another person.

An IMCA will not normally be used in accommodation reviews or adult protection cases where there is already appropriate family support or where an advocate is currently involved.

If you are in doubt about whether or not you should involve an IMCA please contact the IMCA Service on 01752 753718 for advice.

March 2007



Plymouth 
Teaching Primary Care Trust