Independent Mental Capacity Advocacy Factsheet

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When would an Independent Mental Capacity Advocate (IMCA) become involved?

An IMCA can be referred for in the case of serious medical treatment (where there could be a significant or life limiting impact on someone if treatment were given/withheld), when a clinician is completing a DNACPR form and there is no-one to consult, in the case of a change of accommodation lasting over 28 days, in safeguarding cases where protective measures for the client are being proposed, or in a care review where it's likely a change of accommodation could be the outcome. Each of these are individual instructions we receive from the decision maker (usually social workers, and health professionals) and we treat each one as a separate decision.

An IMCA is usually required in these cases when someone has nobody around them, such as friends and family, to consult. It's also common to receive an IMCA referral where it's thought that the client or decision maker may have a different view to the friend/family.

IMCA work is decision specific, and so the IMCA will only be involved in supporting a client around the particular decision you've assessed they need an IMCA for, it is not an open ended relationship.

What is the IMCA's role?

The IMCA will try and identify what the wishes, thoughts and beliefs of the client would be or would have been, were they to have the capacity to make the decision themselves.

IMCAs do this by speaking to people who know the client including social workers, family, friends and neighbours, care and medical staff and anyone else who might have played a role in the client's life. They also consult documents such as care plans, health and social care records, supported self-assessments and support plans, daily notes and even documents such as photographs which might tell us something about the client and their wishes.

They also observe the client in their current environment; whether this is their home, hospital, a care home or somewhere else. They will observe how the client interacts, how people interact with the client, their daily routines, and how they express themselves; whether this is verbally or non-verbally.

The IMCA then collates all of this information, reviews it and looks at the evidence to draw conclusions about what the client may wish to do in the circumstances.

The IMCA reviews the options available for the client, and balances whether these are:

- the least restrictive options available
- in the client's best interests based on information gathered about the client.

The IMCA may also:

- ask for other options to be considered.
- make other recommendations that the IMCA knows are important to the client (e.g. a move to a care home with outside space the client can access).
- Ensures that the decision making process is in accordance with requirements of the Mental Capacity Act 2005

Once we've done this, we complete a report that we send to the decision maker in the case. We will aim to provide you with this in advance of meetings, if a reasonable timescale has been allowed. In some cases this won't be possible, and we will provide you with a post-decision report that looks at the decision that was taken, and what the client's views and wishes would be. However, in this instance, we will still feedback findings to the decision maker verbally to inform the decision-making process, in advance of submitting a written report.

What isn't the IMCA's role?

The IMCA will not make a best interests decision, but will inform you of what the client might want in the circumstances.

The IMCA will not communicate difficult decisions, or make decisions about someone's care, support or treatment. The IMCA will not investigate safeguarding cases, or be involved in decisions other than those set out by mental capacity legistlation.

The right to challenge

The IMCA has a right to challenge a decision where they feel the client would not wish for that decision to be taken ,and it does not appear to be the least restrictive option available, or in the client's best interests.

What we need from you

- Please send us your mental capacity assessment when you send your referral. We need this to act lawfully as an IMCA can only be instructed when it has been determined someone lacks the capacity to make a specific decision, and we need to evidence this has been undertaken.
- Please give as much time as you can in advance of any best interests meetings, decisions to be taken. We know timescales are tight, but the client has a right to an advocate and advocates have heavy caseloads. They need time to be able to meet the client, often more than once and to consult with a wide range of people and undertake observations. Sometimes we need to visit a few times to ensure we really have got the best understanding of the client.