

# Independent Mental Capacity Advocates

## Description

Independent Mental Capacity Advocates (IMCAs) are a legal safeguard for people who lack capacity to make important decisions and don't have family or friends who can represent them. IMCAs must be involved in serious medical treatment decisions, including decisions not to provide treatment which will in some cases include end of life care. IMCAs must also be involved if the person is expected to be moving into an hospital, hospice or care home for a lengthy period.

## Key elements

- A person must be assessed as lacking capacity to make specific decisions before action can be taken in their best interests
- Where best interest decisions are being made, there is a requirement to consult the person's family and friends where possible
- If the person does not have family or friends who can represent them, an IMCA must be instructed to support the person if the decision involves serious medical treatment or moving
- Serious medical treatment includes decisions not to provide, or to stop medical treatment which would have serious consequences for the person
- An IMCA must be instructed if the person is moving to a care home for longer than eight weeks, or their stay in hospital will last more than four weeks
- IMCAs are instructed by the local authorities or NHS bodies who have a responsibility for the person's care or treatment
- The IMCA should meet the person and speak to professionals and other staff involved
- IMCAs have a right to see and take copies of relevant health and social care records
- IMCAs write a report which must be considered before decisions are made
- IMCAs can challenge decisions using local complaints procedures or take legal action
- IMCAs can also be involved in care reviews or where a person is the focus of safeguarding adults proceedings
- There are additional IMCA roles linked to the Deprivation of Liberty Safeguards

**Website**      Social Care Institute for Excellence: Mental Capacity Act  
[www.scie.org.uk/mca](http://www.scie.org.uk/mca)

IMCA web pages:  
[www.scie.org.uk/IMCA](http://www.scie.org.uk/IMCA)

## Associated links / documents

[www.endoflifecareforadults.nhs.uk](http://www.endoflifecareforadults.nhs.uk)

## **What are serious medical treatment decisions?**

The Mental Capacity Act says that serious medical treatment covers giving, not giving or stopping treatment when either:

- It is difficult to decide on what the best treatment would be
- or the decision is likely to have serious consequences for the person

Serious consequences includes where a person may be in a lot of pain or distress.

The following are possible examples of serious medical treatment decisions when an IMCA may need to be instructed:

- Chemotherapy
- Major surgery (such as open-heart surgery or brain/neurosurgery)
- Major amputations (for example, loss of an arm or leg)
- Treatments that will result in permanent loss of hearing or sight
- Withholding or stopping artificial nutrition and hydration
- Do Not Attempt to Resuscitate orders

An IMCA is not required for emergency treatment decisions.

**The IMCA must be instructed by a representative of the NHS body making the treatment decision. Usually this will be the doctor/consultant who is clinically responsible.**

## **When must an IMCA be instructed for accommodation decisions?**

An IMCA must be instructed if a best interests decision is to be made about moving a person (who has no family or friend who can represent them) either to:

- A care home where they are likely to be for over eight weeks
- An hospital where they are likely to be for over four weeks

If the person was admitted to hospital or care home for a short period, an IMCA should be instructed if their stay is extended.

**The IMCA must be instructed by the NHS body or local authority which is arranging the service.**

## **When can an IMCA be instructed for care reviews?**

There is the option to involve an IMCA in care reviews for people staying in hospitals, hospices or care homes. This applies for people who lack capacity to decide where they stay and don't have family or friends who can represent them. Good practice is to expect an IMCA to be involved in care reviews.

**Instruction would need to be made by the NHS body or local authority arranging the accommodation.**

**For contact details of local IMCA services follow "Find an IMCA" on [www.scie.org.uk/imca](http://www.scie.org.uk/imca)**