

Criteria and Advocacy Pathway

The Mental Capacity Act 2005 introduced the role of the independent mental capacity advocate (IMCA).

IMCAs are a legal safeguard for people who lack the capacity to make specific important decisions: including making decisions about where they live and about serious medical treatment options. IMCAs are mainly instructed to represent people where there is no one independent of services, such as a family member or friend, who is able to represent the person.

IMCA provision requires a written referral to be completed and either faxed, emailed into the service.

Eligibility Individuals:

- Over 16
- Lack capacity in relation to an IMCA or DoLS Decision/Authorisation

(There must have been a 2 stage capacity assessment carried out in relation to the decision)

- Has no one able to support them or unwilling to

Eligibility Criteria:

- Must be an eligible decision type, Serious Medical Treatment, Change of Accommodation – Local Authorities/Health have a Duty to instruct, Safeguarding and care/accommodation review have a power to instruct.
- **For DoLS (Deprivation of Liberty Safeguards), referrals will be sent from the Local authority Supervisory Body**
- **For RPR referrals will be sent from the Local authority Supervisory Body**

Eligible Issues:

- SMT - Serious Medical Treatment, including DNAR (Do Not attempt resuscitation)
- COA – Change of accommodation, a move arranged by NHS from one hospital to another for more than 28 days, a move arranged by NHS or local authority into another care home for more than 8 weeks.
- ACR –accommodation/care reviews – this is a power of the local authority to instruct. Where accommodation has been provided for over 12 weeks.
- Safeguarding - this is a power of the local authority to instruct. Where there is a protective measure in place.
- DoLS – 39A IMCAs are instructed when there is an assessment in response to a request for a standard authorisation, or a concern about a potentially unauthorised deprivation of liberty
- DoLS - 39C IMCAs cover the role of the relevant person's representative when there is a gap between appointments.
- DoLS - 39D IMCAs support the person, or their relevant person's representative, when a standard authorisation is in place.
- RPR – Paid Representative, for a period of authorisation (up to 12 months)

Criteria

- Young people and adults over 16
- person who lacks capacity in relation to an IMCA or DoLS Decision/Authorisation
- Must be an eligible decision type, Serious Medical Treatment, Change of Accommodation
- Local Authorities/Health have a Duty to instruct
- Safeguarding and care/accommodation review have a power to instruct
- For DoLS (Deprivation of Liberty Safeguards), referrals sent from the Local authority Supervisory Body
- For RPR referrals will be sent from the Local authority Supervisory Body

Enquiry

- An enquiry can be made by telephone, email, fax, letter, website or in person at our Stoke office 01782 845584 or 0300 800 1000 for local rates if calling from outside the area
- An advocate will provide information, signpost and confirm eligibility for advocacy services

Referral

- referrers can use the online 'Making a referral to the IMCA Service' link via the asist website to request an advocacy referral: www.asist.co.uk
- Referrals can be returned by fax 01782 746647 or email imca@asist.co.uk

Allocation

- Referrals are acknowledged within 24 hours of receipt
- Referrals are allocated to an advocate within 2 working days, there is no waiting list
- Allocated referrals are confirmed by the advocate with the advocacy partner / referrer
- All referral / contact details are instantly recorded on a secure online data system

Meeting

- The advocate meets with the Advocacy Partner to explain the advocacy role / remit
- Current issues are discussed and advocacy tasks identified
- Non instructed advocacy (watching brief policy) is pursued if required

Engage

- The advocate will try and establish a view from the person about the decision, read case notes and speak to staff where appropriate to find out more about the person
- The advocate will make contact with others via telephone/ email to find out information
- The advocate researches information about the decision itself

Review

- The advocate writes a report, which includes 'considerations' that the decision maker may wish to consider before the decision is made
- Progress is discussed with the Advocacy Partner
- Instructed / Non instructed advocacy is reviewed during advocacy supervision

Feedback

- Feedback is reported to the appropriate individual / organisation re advocacy work
- The Advocacy Partner/professionals involved are asked for feedback re the quality of the work
- Feedback re the advocacy process is sought from the Advocacy Partner / professionals involved

Close

- The advocacy work is finalised and advocacy records are stored using a secure online data system re the Data Protection Act 1998

