

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 (gov.uk/government/publications/mental-capacity-act-code-of-practice).

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.

We may accept referrals from a professional other than the decision maker, however, they will be required to provide the decision maker's details so we can contact them to authorise the referral.

IMCA is part of our wider Care and Support Statutory Advocacy service, which also includes Care Act Advocacy. For more information, please visit our website.

 0300 222 5947



General enquiries: CWAdvocacy@voiceability.org
(do not use this email address for referrals unless following the secure referral instructions on our website)



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IMCA

Independent Mental Capacity Advocacy

A guide for health and social care staff



Independent

Free

A service to safeguard adults who lack capacity to make decisions about serious medical treatment or accommodation

Confidential



Independent Mental Capacity Advocacy in Warwickshire and Coventry

Who should be referred to the IMCA service?

The local authority/NHS decision maker **MUST** refer any person who has no 'appropriate' family and friends and lacks capacity to make a decision about either:

- 1 serious medical treatment
- 2 long term moves (more than 28 days in hospital/8 weeks in a care home)
- 3 Deprivation of Liberty Safeguards.

The local authority/NHS decision maker **MAY*** refer any person who lacks capacity to make a decision about either:

- 4 care review - with no 'appropriate' family or friends
- 5 safeguarding referral - victim or alleged perpetrator, regardless of family and friends.

*Advocacy under the Care Act Guidance provides clarity to the situations where an advocate may be needed under the Care Act versus the Mental Capacity Act with respect to safeguarding or care reviews.

For Deprivation of Liberty Safeguards, it is the responsibility of the supervisory body to make the referral. In some boroughs we also provide the Relevant Person's Representative role.

You will need to check your local authority guidelines about when you can refer for care reviews and safeguarding of vulnerable adult proceedings.

It is the decision maker's responsibility to confirm whether family and friends are 'appropriate' to consult. Additional guidance on this can be found on our website or requested via the IMCA helpline.

The IMCA will:

- be independent of the decision maker
- ascertain the person's wishes, feelings, beliefs and values and what they would probably be if they had capacity
- support and represent the person without capacity in any discussions to work out whether the proposed decision is in the person's best interests
- get the views of professionals and paid workers providing care or treatment for the person who lacks capacity
- provide information to professionals and the person to help work out what is in the person's best interests
- check the decision is being made in line with the Mental Capacity Act
- write a report, which the decision maker must take into account before they make 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 has been made informally first and through court if necessary.

The IMCA does not:

- make the decision
- do the capacity test
- persuade the person what to do
- decide who is 'appropriate' to consult
- have a role as extensive as other advocates.

