

Mental Capacity Act Principles

- » A person is assumed to have capacity until it is proved otherwise;
- » A person cannot be treated as lacking capacity until all practical steps have been taken to help the person to make the decision;
- » Any decision made on behalf of someone lacking capacity must be in the person's best interests;
- » Consideration must be given to finding the least restrictive option;
- » An unwise decision does not indicate lack of capacity.

Two - Stage Test of Capacity

- » Is there an impairment of, or disturbance in the functioning of, the person's mind or brain? If so,
- » Is that impairment or disturbance sufficient to make the person unable to make the decision in question at the time it has to be made?

How to find us

IMCA main phone: 07825 549 191
IMCA email: imca@kag.org.uk

Kingston Office
KAG Advocacy
Siddeley House
50 Canbury Park Road
Kingston upon Thames
Surrey KT2 6LX
Tel: 020 8549 1028
Email: rights@kag.org.uk

Web: www.kag.org.uk

IMCA SERVICE

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Independent
Mental
Capacity
Advocate

SERVICE

IMCA SERVICE

An IMCA must

An IMCA will

The Mental Capacity Act 2005 has created this new **statutory** service. It is provided by organisations that are **independent** of the NHS and local authorities.

The aim of the IMCA service is to provide additional **safeguards** for **people who lack the capacity** to make certain important decisions at the time the decision needs to be made, and who have no families or friends appropriate to consult.

An IMCA will

- » Be independent of the authority making the decision;
- » Provide support for the person who lacks capacity;
- » Represent the person's wishes, feelings, values and beliefs and ensure that these are considered in the decision that has to be made.

be appointed for someone who lacks capacity, **for the particular decision that has to be made** if that person has **no one** (other than paid staff) **with whom it is appropriate to consult** whenever:

- » An NHS body is proposing serious medical treatment *;
- » An NHS body or local authority is proposing to arrange or change accommodation in a hospital, care home or other long term accommodation and,
 - the person will stay in hospital for a period longer than 28 days or
 - the person will stay in the care home for more than 8 weeks.

An IMCA may also be appointed for someone who lacks capacity in Safeguarding Adults cases or in care/accommodation reviews.

* 'Serious medical treatment' includes providing, withdrawing, withholding treatment in circumstances where there is a fine balance between benefits and burdens, where there is a balance between the choice of treatments and where what is proposed would be likely to have serious consequences for the person

- » See the person in private, if possible;
- » Have access to care and health records relevant to the decision;
- » Consult with professionals and others who know the person;
- » Ascertain the person's likes and dislikes, wishes, beliefs and values;
- » Find out what has been done to help the person make the decision;
- » Consider alternative options;
- » Write a report on their findings to the decision maker.

An IMCA may

- » Challenge the judgements of the decision maker;
- » In cases of proposed serious treatment, seek a second medical opinion.

To promote, protect and uphold the rights of vulnerable people