

Northwest Advocacy Services

Independent Mental Capacity Advocate Service

Frequently Asked Questions

1. Who can refer to the IMCA Service?

Anyone can refer to the IMCA service; but the IMCA service must also gain instruction from the decision maker involved. At the point of referral Northwest Advocacy Services will require the name and contact details of the Decision Maker, as they will be the main contact for the IMCA service.

2. Who is the Decision Maker?

The decision maker is the person making the decision on behalf of the person who lacks capacity. The decision maker is the person either providing the person with treatment or arranging the placement of someone in cases where a person meets the IMCA criteria.

3. Is the IMCA a Decision Maker?

No. The IMCA does not make decisions and does not provide solutions or choose from the options available to the person. The IMCA does not make decisions on behalf of the client.

4. When are friends or family inappropriate to consult with?

In general terms, the IMCA Service is only available to a person who lacks capacity and has no friends or family to support them, however, there are exceptions. The Act states that if friends and family are not appropriate to consult with the person is also entitled to an IMCA.

It is not possible to give definitive guidance on the situations where friends or family may be available yet considered inappropriate as each case must be judged individually. The following is offered as general guidance on situations where an exception may be considered reasonable.

Friends or family could be considered inappropriate to consult if:

- They are not available, perhaps as a result of geographical distance
- They do not wish to be involved, perhaps as a consequence of relationship breakdown or lack of contact
- There is tangible evidence that there may be a conflict of interest or the person is not working in the person's best interest

Please note that where friends or family are involved, an exception cannot be made solely on the grounds that they disagree with the proposed course of action one or more of the above criteria would also have to apply.

If it is decided, by the Decision Maker, that friends or family are inappropriate to consult, it is the responsibility of the Decision Maker to record the reason why they have made this decision; it is not the responsibility of the IMCA service.

5. Which IMCA Service is instructed when a person lives in one geographical area and is subject to a decision being made in another?

In respect of a person requiring Serious Medical Treatment it is the responsible body who should instruct the IMCA service commissioned in the area where the person is being treated.

In respect of Changes of Accommodation, section 10.12 of the Code of Practice states that "The organisation that must instruct the IMCA is the one that is ultimately responsible for the decision to move the person. The IMCA to be instructed is the one who works wherever the person is at the time that the person needs support and representation".

6. How long will it take for an IMCA to respond to a referral?

Following the referral to Northwest Advocacy Services, if the client is eligible for the IMCA service an IMCA will make contact with the decision maker within 24 hours.

7. What happens if the client refuses the support of an IMCA?

It is a statutory requirement set out in the Mental Capacity Act 2005 that a person lacking capacity receives the support of an IMCA if they meet the criteria, therefore the IMCA's involvement will continue despite the refusal.

8. Can the IMCA have access to the client's information and hospital records?

Yes, under section 35(6) of the Act relevant records can be accessed by an IMCA. This may assist the IMCA to build a picture of the person which will help them support the person through the decision making process, ascertaining the person's views, preferences, values and wishes.

9. What documentation does an IMCA provide to the decision maker?

An IMCA produces a full report which outlines the referral information, client's views on the decision (if gained), actions taken by the IMCA and the IMCA's representation of information and findings to the Decision Maker regarding the proposed decision.

10. How is the IMCA service being monitored and evaluated?

Local Authorities are leading on the commissioning of IMCA but it is a joint commissioning partnership with PCT's. They are responsible for monitoring the

service. Additionally, the Department of Health have developed a database whereby all case details are recorded by IMCA providers, which will provide statistical information, presented to parliament on a yearly basis. The Department of Health have committed to reviewing the IMCA service nationally after the first 12months(April2008).

11. Is the IMCA Service an emergency response service?

No. The service is commissioned 9-5 Monday to Friday. Northwest Advocacy Services will make every effort to be flexible and to provide a quick response where necessary.

12. What training do IMCA's have?

All IMCA's are required to complete a 4 day training course on the IMCA role in relation to the Mental Capacity Act. IMCA's career backgrounds are varied and include experience in advocacy, social work and other relevant health and social care jobs. There is no formal qualification for Advocates currently however there is a national qualification being developed.

13. Where can I find out more about the MCA and IMCA Service?

Most local authorities are providing local training on the Mental Capacity Act, including the IMCA Service. Please contact your manager or the MCA Implementation Lead in your LA for further information.