

The IMCA role



The purpose of the IMCA service is to help particularly vulnerable people who lack the capacity to make important decisions about serious medical treatment and changes of accommodation...

...IMCAs will represent their views to those who are working out their best interests.

Mental Capacity Act Code of Practice

The IMCA role

The IMCA role can be described in three ways.

Firstly it is about supporting the person to be involved in the decision and making their own choices and decisions. This could include

- checking the decision maker has taken all practicable steps to help the person gain capacity
- requesting the decision is delayed to allow the person time to make choices or
- by accessing and providing information in a way that the person understands.

This is an essential part of any advocacy relationship and IMCAs should always be thinking about how they can support their partner to make choices and be an active participant in the decision making process.

This is called **supported decision making**.

The IMCA role

Secondly, the IMCA will represent the person through the process that makes decisions which are in their best interests. This means the IMCA will put forward relevant information (such as the person's wishes, outcomes, needs, preferences, etc) in order to help the decision maker work out what is in the person's best interests.

Put another way, the IMCA will gather information to support the decision maker through a **substituted decision making** process.

An IMCA never makes the decision or tells the decision maker what to do - the IMCA simply puts forward what is important to the person so the decision maker can included this as they make a decision.

The IMCA role

Thirdly, the IMCA will look at the decision making process and act in ways that ensures legal duties have been fulfilled.

In other words, the IMCA checks that decision making processes follow the principles and duties introduced within the Mental Capacity Act and Human Rights Act. This could include checking whether the decision maker has considered all possible options, asking whether the proposed option is less restrictive of the person's rights or it could be accessing a person's human rights such as the right to challenge a decision. This can be called an **audit function**.

The IMCA role

The goal of the IMCA is to make sure that the person is fully involved and represented as important decisions are made about their life.

Lets have a look at the three parts of the role in more detail.....

IMCA role - supported decision making

Supported decision making is a simple concept - it essentially refers to the process that takes place when a person receives support to help them make decisions or express preferences or will. This is an essential part of the advocacy relationship and ensures that:

- the person's autonomy is respected
- the person is treated as an individual with unique preferences and desires
- the person is fully included within decision making processes
- the decision is based upon (and reflects) the persons choice(s) - or their likely choice where this cannot be clearly established
- the person feels less isolated
- the principles of participation and involvement (enshrined within the MCA, Human Rights Act and UN Convention on the Rights of Persons with Disabilities) are upheld.

IMCA role - supported decision making

IMCAs will need to think how best to support the person to participate in the decision making process. Depending on the circumstance this could lead the IMCA to:

- request the decision is delayed if this would enable the person to be more involved.
- think carefully about communication methods
- be confident in using augmented communication (such as pictures, Makaton, Talking Mats, Total Communication)
- provide information in an accessible way
- take time to get to know how the person processes information and communicates
- make sure the person has maximum opportunity to make decisions (for example by visiting a care home that is being proposed)
- spending time observing the person in different settings

An effective IMCA will always be thinking about how their partner makes decisions and choices - what do they need in order to make a choice or express a decision?

IMCA role - representing

The second part of the IMCA role is that of representation.

Within all types of non instructed advocacy, the advocate needs to decide the best way to represent the person they are advocating for and the most effective way of putting their views (or likely views) forward.

This can be broken down into three main activities:

- Gathering information and judging its likely impact
- Raising Concerns
- Writing Reports

IMCA role - representing

Gathering information and judging its likely impact

The IMCA will be tasked with researching information so that they can consider how the proposed decision may impact on the person.

The most important person to speak to and observe will be the person at the centre of the decision. Asking them how they feel about the decision, exploring what is important to them and what goals they have is vitally important information.

Gathering information will involve speaking to the decision maker about the proposed decision, why it is being taken, the background and alternative options. It will also involve speaking to people who know the person well (including carers and possibly friends and family where appropriate).

IMCA role - representing

The IMCA will also look at reliable sources (such as NICE, CQC etc) to establish best practice and standards.

If the proposed decision includes a move to a care home, you may want to check the CQC report. If the proposed decision is about SMT, you may want to check the latest NICE guidelines where available.

IMCA role - representing

Part of gathering information, especially when the person cannot clearly instruct the IMCA on their views, is to try and find out what the person's likely views would be where they able to communicate these.

A great deal of information can be gathered by observing the person and by researching health / social care records to look for examples of past choices or expressions of what has been important in the past.

IMCA role - representing

Raising Concerns

Part of representing a person is raising concerns on their behalf whenever

- a) the person indicates they would want to raise a concern or
- b) the IMCA is concerned.

The IMCA in fact, has a legal responsibility to raise any concerns they hold about the decision or decision making process early within the process. This can be done informally by raising concerns directly with the person concerned, formally within the report, or through the steering group, if appropriate, and if concerns persist, ultimately using the Court of Protection.

IMCA role - representing

Writing reports

The result of the IMCAs involvement should always culminate in the production of a report. The purpose of the report is always to present the findings of the IMCAs research and put forward points for the decision maker to consider.

The Code of Practice explicitly requires the decision maker to take the report and its findings into account when making the final decision.

IMCA role - auditing

The IMCA will need to examine decision making processes and look at how the decision making is in line with the requirements and provisions of the Mental Capacity Act. This could include:

- checking whether the decision has been made in the light of the 'best interests' checklist
- checking whether the decision maker has made reasonable attempts to communicate with the client and help them to understand what is happening
- checking the assessment of capacity test has been completed correctly
- requesting the capacity test is redone where there are concerns
- exploring how the process and decision upholds the 5 Mental Capacity Act principles
- checking current clinical protocols of what would be considered best practice in relation to other patients with similar clinical needs
- questioning whether the benefits outweigh the burdens or risks, or vice versa?

This is informally known as the
"check n challenge" job.

You check the process reflects legal requirements and where it doesn't you challenge it.

Elssa

Elssa had an IMCA instructed to support her as her social worker was worried that she wasn't coping at home by herself and may need to move into a care home. As she lacked capacity to make this decision and didn't have any family or friends who could represent her, an advocate was appointed.

The IMCA met Elssa at home and found out she was quite lonely at home and missed her husband who had passed away 5 years ago. Elssa told the advocate she didn't mind where she lived as long as she could visit his grave. The IMCA explained this to the social worker who found 2 residential care homes that were in suitable distance. The IMCA helped Elssa to visit both of the homes and watched how she reacted when she visited. Elssa seemed happier in the smaller home and was able to name this one a few days later when the advocate asked her which home she liked.

The IMCA included all of this information in her report - including other things like how much Elssa liked to have a 'little flutter' on the horses on a Saturday. This ensured that the decision took into account what was important to Elssa.



Stephen

Stephen needed some dental work as his carers were worried he wasn't chewing properly and seemed to be in pain. Stephen lacked the capacity to make decisions about this and so an IMCA was instructed to support him through the decision.

The IMCA was unable to find out exactly what Stephen wanted - but they did find out that he was really frightened of dentists and would often get upset and angry. The IMCA suggested the decision maker consider the dentist meeting Stephen in the GP surgery as Stephen was more relaxed in that setting and that any investigation is done in the quickest time possible.



The IMCA researched the benefits and burdens of the investigative work from Stephen's perspective and put these forward. They also highlighted that it would be important for staff who know Stephen well to accompany him.

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