

Change of Accommodation Decisions



Introduction

It is a legal requirement to instruct an IMCA in a long term accommodation decision for someone who lacks capacity to make that decision and has no family and friends to consult.

There is also a discretionary power to instruct an IMCA in reviews of accommodation decisions where the person lacks capacity to decide where they live and has no family or friends to consult.

What is a 'long term move'?

A long-term move is defined in the MCA as either:

1. a move arranged by NHS into a hospital or to another hospital for more than 28 days, or
2. a move arranged by NHS or LA into or to another care home for more than 8 weeks.

If a responsible body decides to de-register a residential service in order to provide accommodation and care in a different way, this is also considered a long term move.

If the decision to move the person is an emergency, the responsible body need not instruct an IMCA before the move. They must however, instruct an IMCA as soon as possible after the move if the stay is likely to be more than 28 days in hospital/8 weeks in other accommodation.

Who instructs the IMCA?

For decisions about admission to accommodation in hospital for 28 days or more, the responsible body will be the NHS body that manages the hospital.

For admission to an independent or voluntary sector hospital for 28 days or more, the responsible body will be the NHS organisation arranging and funding the person's care. This function can be delegated to independent and voluntary hospitals. The independent or voluntary hospital must have arrangements in place with the NHS organisation to ensure that an IMCA can be appointed without delay.

Who instructs the IMCA?

For decisions about moves into long-term accommodation (for eight weeks or longer), or about a change of accommodation, the responsible body will be either:

1. the NHS body that proposes the move or change of accommodation (e.g. a nursing home), or
2. the local authority that has carried out an assessment of the person under the NHS and Community Care Act 1990 and proposing the move or change of accommodation. Sometimes NHS organisations and local authorities will make decisions together about moving a person into long-term care.

The organisation that must instruct the IMCA is the one that is ultimately responsible for the decision to move the person.

Mental Health Act and accommodation moves

If the person is required to stay in hospital under the Mental Health Act, an IMCA is not required. However, when the person is discharged and the Local Authority is arranging their accommodation - which includes arrangements under section 117 - if they lack capacity to decide and have no one appropriate to represent them, they have a right to an IMCA.

If they have broader care and support needs that are being assessed or met by the Local Authority they are also likely to be supported by an advocate under the Care Act (for the broader planning process).

If a person is required to live somewhere under guardianship, (section 7 Mental Health Act), or under a Supervised Community Treatment Order there is no requirement for an IMCA to be involved.

Advocacy role in long term change of accommodation decisions

Gathering information

Your role, put simply, is to try and find out which type of living arrangement or care home the person you are supporting would choose if they had capacity to make this decision. In order to establish this you will want to meet with the person to find out what is important to them and their preferences.

Where the person cannot clearly express this to you (for instance they may have an impairment which means they do not understand the proposed move), you will need to gather information about how each proposed option could impact on the person, if you have any concerns about any proposed option and if there are any alternatives.

Gathering information

For accommodation decisions it may be the case that the care plan is yet to be completed pending identification of a potential service. However because the local authority care plan sets out how the person's eligible needs will be met, IMCAs should access this prior to writing their report and the decision being made.

Care plans should be 'person centred'; - i.e. they should respond to the specific needs and wishes of the individual, taking into consideration their values and preferences. One role for the IMCA is to ensure that the local authority assessment has been undertaken appropriately, including having taken into account the person's personal wishes as well as needs.

Contributing to care plans

The IMCA can have a role in ensuring that the care plan appropriately identifies how the person's eligible needs will be met. Undertaking this work is important for many reasons including the following:

- The accommodation options considered will be influenced by what is said in the care assessment and care plan. For example, if the care assessment fails to identify the person's wishes to remain in their own home or to stay local so they can maintain important relationships, these may be overlooked.
- People may not get particular types of support unless they are identified in the assessment and care plan. Once support is identified in the care plan there is a legal requirement for this to be provided. It cannot be withdrawn without a reassessment. Therefore IMCAs may make representations for particular supports to be included in the care plan, such as the level of access to specific activities and the skills of staff supporting the person.

Contributing to care plans

- If the IMCA does not raise concerns about the assessment or care plan, the local authority may assume that the IMCA supports what is said in them.
- If the IMCA formally challenges an accommodation decision the local authority may defend its position by identifying how it meets the needs identified in the care assessment and the care plan. In such cases the IMCA should be able to demonstrate how and when they raised concerns about these documents (for example, emails identifying factors which may not have been considered).
- Future care reviews (which may not involve an IMCA) are likely to focus on ensuring the local authority care plan is being adhered to. The review may be undertaken by someone who has no previous knowledge of the person

Accessing Records

An IMCA has a right to access any records that are relevant to the decision they are supporting and representing the person through. In addition to the local authority care assessments and care plans it is likely that the service provider (e.g. residential home or domiciliary care provider) will hold documents relating to the individual.

These may include:

Assessments

The service provider is likely to have undertaken an assessment to identify the person's needs. There may also be specialist assessments available, for example, from physio-therapists, speech and language therapists, occupational therapists. If you believe a person needs an assessment and this hasn't been arranged, this is something you can request (and raise concerns about where necessary).

Care plans

Where a person is already receiving support, the service should have some documentation which identifies how it will meet the person's needs. This is likely to be called a care plan but may alternatively be called a person-centred plan.

Accessing Records

Daily logs

It is common for both residential and domiciliary care providers to maintain daily logs of some kind for each individual. The logs report on the support that has been provided and the opportunities available to the person.

When IMCAs are involved in care reviews they should read these logs as a way of evidencing whether the care plan is being followed. They are also a good way of getting an insight into the priorities of the care provider. For example, do they just focus on personal care tasks, are they dominated by what the person eats or do they show that the person is involved in making choices including having access to a wide range of activities? It can be difficult to determine the relationship between what is written down and what has happened. It is worth asking the care provider what their expectations are in relation to this for their staff.

Accessing Records

Care Quality Commission Reports

One of the functions of the Care Quality Commission (CQC) is to regulate health and adult social care services, whether provided by the NHS, local authorities, private companies or voluntary organisations. By searching their website it is possible to find assessment reports for the providers of health and social care including residential care homes, domiciliary care providers, hospitals and mental health units.

Good practice is for IMCAs to access the most recent report for the service. These reports will provide a more objective picture of the quality of the home than the IMCA is likely to be able to gain from one or two visits. For residential care homes a four star system is used rating a service as outstanding, good, requires improvement and inadequate.

Accessing Records

In addition to looking at the overall rating the IMCA should identify if there are any particular issues raised in the CQC report which may indicate whether the service would be particularly suitable or unsuitable for the person. For example, if the report raised concerns about the giving of medication and the person had complex needs in this area, additional attention should be given to whether the service was able to meet these needs. Particularly if a service is rated only as “adequate”, the IMCA will want to clarify what other factors are present for the best interests case to be satisfied. For example, the location may be particularly important, or the person has a good relationship with people involved in the service.

The CQC website is also a useful tool to identify potential services for an individual. It is possible to search by postcode and or type of service. However, IMCAs should not rely on these assessments. Care homes can change quickly, particularly if senior staff leave or there are staff shortages

Exploring Options

Part of the IMCA's role within accommodation decisions is to ask questions to ensure that all appropriate options for that person have been explored including the possibility of living at home with support or using an individual budget.

As an IMCA you need to be aware of the full range of housing options available and keep abreast of developments in this area, for example, how the personalisation agenda is impacting on accommodation options.

Below are some of the accommodation options IMCAs should be aware of:

Exploring Options

Supporting the person to remain in their home

Where a person is living in their own home which is either privately owned or rented, the first option which needs to be considered is whether support could be provided for the person to continue to live there. This may include adaptations to the property. Giving the person the opportunity to stay in their own home will often be the least restrictive option under the best interests framework.

Exploring Options

Sheltered housing

Sheltered housing offers a range of services to help people live independently with the added security of having someone to call on in emergencies. Sheltered accommodation is different from other housing because typically a scheme manager or warden lives on the premises or nearby. They can be contacted through an alarm system if necessary. They do not normally provide care services or tasks like cleaning. Sheltered housing can be combined with a care package to cover these needs. Some schemes are designed specifically for people with disabilities and offer specialist facilities.

Exploring Options

Extra care sheltered housing

Extra care sheltered housing offers a greater level of care. It can be ideal for people who are less able to manage on their own, but who do not need the level of care available in a residential home. Services offered will vary between schemes, but meals and some personal care are often provided.

Exploring Options

Care homes

Care homes (sometimes called residential homes), are intended for people who can no longer manage in their own home. Care homes provide meals and help with personal care like bathing and dressing. Staff should be available 24 hours a day. People are expected to pay their own fees where they have funds above a threshold.

Care homes with nursing

If a person needs nursing care on a frequent basis a care home with nursing might be an option. A qualified nurse will be on duty 24 hours a day.

Specialist care homes

Some care homes provide specialist care for particular disabilities or needs. This might include specially trained staff or adapted facilities. The local council should have lists of specialist care homes or ones that might offer services

Care Review

The power to appoint an IMCA to support and represent a person through the review of the Accommodation move decision is a discretionary one. This means that a responsible body can instruct an IMCA in a care review where they are satisfied that it would be of particular benefit to the person (and they lack capacity to make accommodation decisions, and have no one with whom it is appropriate to consult)

The responsible body is not under any obligation to instruct an IMCA in the review, but they should have a policy which helps them decide whether or not to involve an IMCA in the review. IMCA organisations can support their local authorities to develop a policy through their local implementation network. It can be particularly useful to get agreement that where an IMCA has been involved in the initial decision to move the person to a service, and the IMCA expressed concerns about how well the service would meet the person's needs, they would be instructed for the first review. This could be recommended regardless of whether the IMCA undertakes a formal challenge of the decision.

Checklist

The following are key tasks to consider when involved in accommodation decisions:

- Contact the decision maker, get time scales and clarify role.
- Meet the person – try to discover their wishes and preferences and what is important to them.
- Explore how you and others can enable the person to be as involved as much as possible.
- Consult with friends, family, carers, key staff, OT, nurses, doctors etc.
- Read the current community care assessment and care plan and nursing needs assessments and check they include the person's preferences.
- Access any assessment and care plans produced by the service in relation to the individual. Also access general information produced by the service e.g. its brochure.
- Check whether block funding/ blanket policies are restricting options.
- Check if less restrictive options, including supporting the person to remain in their home, have been fully considered.
- Visit proposed homes (preferably with the client) and read any CQC reports.
- Try to evidence that the support identified in the care plan will be provided. For example, does the residential service have particular expertise, or are they providing similar support to someone with equivalent needs?
- Explore what alternative options exist?

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