

Independent Mental Capacity Advocacy (IMCA)

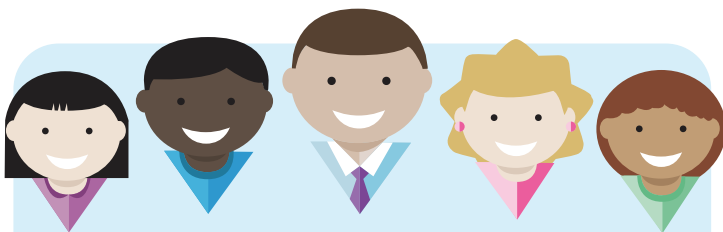
What is Independent Mental Capacity Advocacy?

The aim of the **IMCA** service is to provide independent safeguards for people who **lack capacity** and have **no-one else** (other than paid staff) to support or represent them or be consulted with to make important decisions about either:

- **Serious medical treatment** or
- **Long term move** (a stay in a care home of more than 8 weeks or a stay in hospital for more than 28 days)

An **IMCA** may also be considered for decisions regarding:

- A **review of care** or **accommodation**
- **Safeguarding Adult proceedings** – where the person is victim or alleged perpetrator, regardless of family or friend involvement.



What do Bury Advocacy Hub IMCA's do?

- Support and represent the person in the decision making process
- Try to work out what the person would choose if they were able to make the decision themselves
- Speak up for a person in talks and meetings where decisions are being made
- Consult with others in the persons life including medical staff
- Look at alternative course of action (least restrictive option)
- Ensure the decision complies with the MCA and its in the persons best interest
- Prepare a report (decision maker has a legal duty to consider)
- Challenge the decision (including capacity) if necessary

What is lacking Capacity?

A person who may lack capacity is unable to make a specific decision for themselves if they are unable to:

- Understand the information about the decision
- Retain that information
- Use that information to make the decision
- Communicate their decision

What is meant by serious medical treatment?

Serious medical treatment is defined in the **MCA** (2005) as treatment which involves providing, withdrawing or withholding treatment in a situation where one or more of the following apply:

- Where there is a fine line between the **benefits and burdens** of a treatment
- A decision between a **choice of treatments**
- A risk of **serious consequences**

Legal duty to refer

The Mental Capacity Act (2005) places a legal duty on Health and Social Care professionals to refer eligible people to the **IMCA** service.



The **Mental Capacity Act** states that people must be **given as much help as possible** to make their **own decision**, e.g. having time to understand and process the information and access to interpreters.

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The Mental Capacity Act 2005 (MCA)

The **MCA** is a law to empower and protect people who may be unable to make some decisions for themselves.

There are five main principles of the **MCA** that must be followed:


- Assume a person has capacity unless proven otherwise
- Do not treat people as incapable of making a decision unless you have tried all practical steps to help them
- A person is not incapable of making a decision just because their decision is unwise
- All decisions / action taken must be in the best interest of the person concerned
- Always use the least restrictive action of the persons rights and freedoms

How can I make a referral?

It is the **decision maker** (health or social care professional who is proposing the decision) that has a **legal duty** to decide if the person meets the criteria and to **make the referral**.

We may accept an initial referral from someone other than the decision maker where the referrer believes the person meets the criteria for an **IMCA**. In addition if the decision maker is not readily available to make the referral we can take a referral from another professional e.g. a consultant asking a nurse to refer.

However, in these situations we will need to contact the decision maker to authorise the instruction of an IMCA before we provide the service.



To learn how
Advocacy can help
please get in touch



The Bury Advocacy Hub offers a **SINGLE POINT OF CONTACT**
for all advocacy enquiries in the area

For more information or to make a referral:

Tel: 0300 3030206

Email: referral@buryadvocacyhub.co.uk

Website: www.buryadvocacyhub.co.uk

Online chat: <http://ncompassnorthwest.co.uk/what-we-do/advocacy-service>

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