

## 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 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

### What do the TSO 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 person's life including medical staff
-  Look at alternative course of action (least restrictive option)
-  Ensure the decision complies with the MCA and it is in the persons best interest
-  Prepare a report (decision maker has a legal duty to consider this)
-  Challenge the decision (including capacity) if necessary

#### 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:

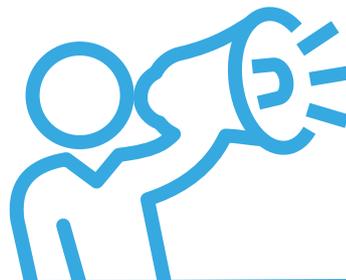
-  Assume a person has capacity unless proven otherwise
-  Do not treat people as incapable of making a decision unless you have tried all practical steps to help them
-  A person is not incapable of making a decision just because their decision is unwise
-  All decisions / action taken must be in the 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 Tameside. Stockport and Oldham Hub offers a SINGLE POINT OF CONTACT for all advocacy enquiries in the area.**

**For more information or to make a referral:**

Tel: **0300 3030 209**

Email: **[referral@tsoimcahub.org.uk](mailto:referral@tsoimcahub.org.uk)**

Website: **[www.tsoimcahub.org.uk](http://www.tsoimcahub.org.uk)**

Online chat: **<https://www.n-compass.org.uk/services/advocacy-service>**