

THE LEGAL BACKGROUND: THE MENTAL CAPACITY ACT 2005

In 2007 the Mental Capacity Act 2005 came into force, and defined procedures and statutory requirements in how NHS and Social Care Staff should treat people over the age of 16 who were assessed as lacking capacity to make decisions for themselves. As part of this legislation, a new type of advocate was created, the IMCA, to safeguard the rights of individuals assessed (via the capacity test defined in the Act) as lacking the capacity to make decisions for themselves and facing a number of situations affecting their care and/or accommodation. It places a *statutory duty* for NHS/Local Authority decision makers to refer such cases to the IMCA, and consider the information that the IMCA presents in their report. In 2009, a further amendment came into force, the Deprivation Of Liberty Safeguards (DOLS). This presents a legal framework/safeguards for people who may need to have their movements curtailed in their best interest.

WHO ARE MATRIX SD&T Ltd?

Matrix Advocacy Service are part of Matrix Service Development & Training, a not for profit company limited by guarantee. Matrix also provides advocacy services for adults/older people with mental health problems, learning disabilities and/or drug issues. A range of training courses and publications are provided by our sister organisation, Matrix Training Associates.

www.matrixsdt.com

www.matrixtrainingassociates.com



Please note: Anybody can make a referral, but only the decision maker can instruct an IMCA to start work.

If you would like to make a referral to the **IMCA Service** please check inside this leaflet for eligibility, then fill in a referral form, available from:

www.matrixsdt.com

imcaberkshire@matrixsdt.com

0845 643 6316

Fax 0700 607 1137

Comments and Complaints

We welcome comments or complaints that allow us to improve the IMCA service.

Please contact in writing:

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Working in partnership with
NHS, PCT, Social Services
and Local Authorities

MATRIX



INDEPENDENT MENTAL CAPACITY ADVOCACY IMCA SERVICE





WHAT DOES AN INDEPENDENT MENTAL CAPACITY ADVOCATE (IMCA) DO?

An IMCA supports and represents a person who lacks capacity to make a specific decision and has no family or friends to represent them

by

Meeting the person and consulting with others significant in both their life and in the best interest decision making process

and

Finding out what their wishes, feelings, values and preferences would be if they had capacity

then

Writing a report which the decision maker has a legal duty to consider when making the best interest decision

WHAT DECISIONS?

Accommodation*

To move to or change to another hospital for more than 28 days

Or

Change of/Provide residential care for more than 8 weeks

**unless the move is via the Mental Health Act 1983 (amended)*

Serious Medical Treatment*

Proposal to perform/withdraw **no duty to refer if it is an emergency*

Care Review

An accommodation review, especially if the IMCA was involved in the original placement

Safeguarding Adults*

The decision maker should give consideration if the person would benefit from IMCA support.

**This is regardless of whether the client is alleged victim/perpetrator or if there is someone appropriate to consult.*

DEPRIVATION OF LIBERTY SAFEGUARDS

From April 2009 IMCAs will be available to support and represent people who lack capacity, have no family and friends to represent them, and who may need to be deprived of their liberty in their

WHO IS A DECISION MAKER?

A statutory professional; a doctor or dentist (for medical treatment) a Social Worker or Care Manager (for accommodation or safeguarding adults)

WHAT IS A BEST INTERESTS DECISION?

Everyone has a right to make their own decisions but not everyone has the capacity to make a decision.

When a person has been assessed to lack capacity to make a specific decision at a specific time, the decision will be made by a team of people in the person's best interests following guidance laid out in the

Mental Capacity Act Code of Practice. This ensures all factors are taken into account, and that the wherever possible the course of action is the less restrictive option.

IMCA Berkshire

Matrix IMCA's have attended Department of Health approved training and have considerable experience of providing non-instructed advocacy for people who lack capacity. Starting in 2009 all IMCAs will convert their DoH training into an advanced module of the National Advocacy Qualification.