

1. What is Advocacy?

Advocacy means getting support from another person to express your views and wishes, and help you stand up for your rights.

Someone who helps you in this way is called an Advocate.

2. What is an Independent Mental Capacity Advocate (IMCA)?

The Mental Capacity Act 2005 introduced the role of the IMCA.

IMCAs are a legal safeguard for people who lack the capacity to make specific important decisions, including making decisions about where they live and about serious medical treatment options.

IMCAs are instructed by Public Bodies such as the NHS or a Local Authority to represent people where there is no one independent of services, such as a family member or friend, who is able to represent the person or to be consulted within an MCA S4 best interest process.

In certain circumstances it is a legal requirement for staff to instruct an IMCA

7.

MCA ICON: Caselaw, MCA Code of Practice, Assessment Forms and Proforma Policy, Guidance Tools, IMCA Details, Information Book
[Pages - Mental Capacity Act \(torbayandsouthdev\)](#)

MCA National Directory:

Latest news, Training Material, National Guidance

<https://www.scie.org.uk/mca/directory>

How do I access an IMCA in Torbay ?

The IMCA service is part of Living Options Devon lead agency of Devon Advocacy Consortium.

The IMCA Service is based in Exeter and covers the whole of Devon and Torbay (excluding Plymouth). It is open Monday to Friday 9am to 4.30pm

Referral Forms can be accessed via: [Documents | Devon Advocacy Consortium](#)

Referrals to be submitted to devonadvocacy@livingoptions.org

Devon Advocacy Consortium Enquiry number 0845 2311900

IMCA direct line number 01392 346516 email: imca.devon@nhs.net

If you are the Decision Maker you will be asked to complete an evaluation form once an IMCA has fulfilled the requirements of the referral. Please take the time to fill it in and return it as this will help the Service understand any improvements that they can make.

6. What do I need to know about an IMCA in practice?

- >The IMCA has the right to see the person on their own.
- >The IMCA has the right to access relevant information held upon health and social care records, to photocopy the relevant information and take the information off site. They do not have to request a Freedom of Information notice or seek permission from the Trust.
- >The IMCA does not undertake mental capacity assessments or act in the role of Decision Maker. They will provide the Decision Maker with information to inform decision-making
- >The IMCA service is not available 24/7. In an emergency situation the Decision Maker should not delay decision making. However, any ongoing decision attracting a duty to instruct an IMCA should be completed ASAP.
- >An IMCA will always endeavor to resolve any dispute with a Decision Maker, however, if this is not achieved the IMCA will support the person to access the Court of Protection.

5. What is the role of an IMCA?

The IMCA will:

Gather information: Meet with and interview the person/ Examine relevant health/social care records/ Gain the views of other interested parties/ Gather any other relevant information related to the decision.

Evaluate information Check the person is involved/Identify their wishes, feelings and values that influence the decision/ Identify the available options/Ask for second opinion if necessary within Serious Medical Treatment cases.

Make Representations: Raise any issues or concerns with the Decisions Maker/ Submit a report which the Decision Maker is required to take into consideration when making the decision.

Challenging Decisions: Formally challenge the decision and/or decision making process where felt necessary.

**3. When must I instruct an IMCA?****Legal requirement when:**

>The person is aged 16 or over, lacks capacity to make the decision and there is no-one to consult with or represent them, when:

>Change of Accommodation:

A decision is required about a change in accommodation: **1)** Admissions to any hospital that are likely to last for over 28 days **2)** Moves to care homes that are likely to be longer than eight weeks. **3)** Moves to any other accommodation, funded by the Local Authority or NHS that are likely to be longer than eight weeks.

>Serious Medical Treatment

A decision is required about serious medical treatment: defined in the MCA as treatment which involves giving new treatment, stopping treatment that has already started or withholding treatment that could be offered in circumstances where: **1)** If a single treatment is proposed there is a fine balance between the likely benefits and the burdens to the patient and the risks involved **2)** A decision between a choice of treatment is finely balanced. **3)** What is proposed is likely to have serious consequences for the patient

4. When should I consider instructing an IMCA?**Discretionary power when:**

The Local Authority and the NHS have a discretionary power to instruct an IMCA in the following circumstances, however they must be satisfied that doing so will bring benefit to the person when:

>The person is aged 16 or over, lacks capacity to make the decision and there is no-one to consult with or represent them:

>Safeguarding Adults Procedure:

There is a Safeguarding Adult Process underway even if the person does have family or friends who can be consulted or represent them.

> Care Review

There is a review of the arrangements in place for the person set up by either the NHS or the Local Authority. This power does not apply if the person is required to live in accommodation while detained under the MHA 1983