



# Advocacy for All

bigger voices - better lives

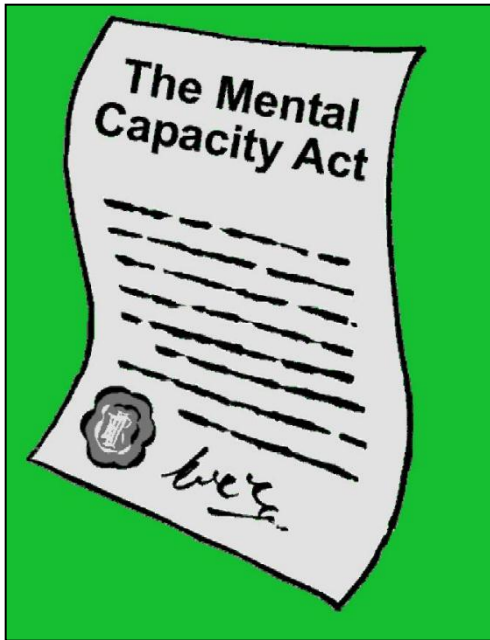


IMCA Service

Bromley - Bexley - Lewisham - Greenwich

## An Introduction to the IMCA Service

# What is the IMCA service?



- Statutory advocacy service
- Operates under The Mental Capacity Act 2005
- Stands for Independent Mental Capacity Advocate

# Who does the MCA 2005 apply to?

**Adults (16 and over)** and includes people with

- dementia
- learning disability
- brain injury
- severe mental illness
- effects of alcohol and drug misuse
- an impairment or disturbance in the functioning of the mind or the brain

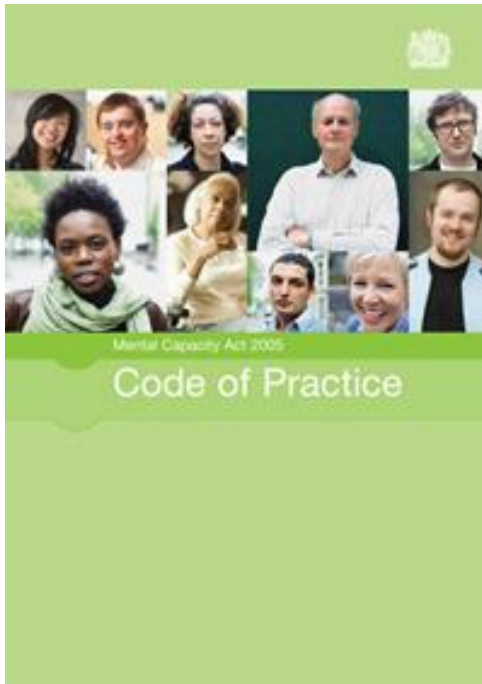


# What does the MCA 2005 seek to achieve?



- to put the **needs and wishes** of a person who lacks capacity at the **centre** of any decision making process about them
- to be '**Enabling and Supportive, not Restrictive or Controlling**'

# The 5 Principles of the MCA 2005



1. A person must be assumed to have capacity unless it is established that they lack capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity must be done, or made, in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

# What is the role of an IMCA

- The Mental Capacity Act Code of Practice says:
- **10.32** “The IMCA’s role is to support and represent their client. They may do this through asking questions, raising issues, offering information and writing a report. They will often take part in a meeting involving different healthcare and social care staff to work out what is in the person’s best interests. There may sometimes be cases when an IMCA thinks that a decision-maker has not paid enough attention to their report and other relevant information and is particularly concerned about the decision made. They may then need to challenge the decision.”

# Who can be an IMCA



- Must be have relevant experience
- Must have integrity and good character.
- Must be able to act independently
- Must undertake a IMCA specific training course, with a further DoLS course if practising as a DoLS IMCA.
- Must work towards and gain the National Qualification in Advocacy with IMCA and DoLS specialisms, leading to a Diploma in Advocacy

# IMCA Decisions Types



Decisions must relate to:

- Change of Accommodation\*
- Serious Medical Treatment\*
- Care Review
- Adult Safeguarding

- \* Legal Duty to instruct an IMCA when eligibility criteria fulfilled



# In detail: Proposed Change of Accommodation

- Referral **must** be made if:
- The local authority or NHS (whomever is funding) propose a move (of more than 8wks in a care home or 28 days in a hospital).
- + the person lacks capacity to decide for themselves.
- + the person has no friends or family who are willing, available and appropriate to consult.

# In detail: Proposed Serious Medical Treatment

- Referral **must** be made if:
- NHS decision maker proposes to start, stop or with hold serious medical treatment.
- Serious means a finely balanced decision or likely to have serious consequences for the person
- + the person lacks capacity to decide for themselves.
- + the person has no friends or family who are willing, available and appropriate to consult.

# In detail: Care Review

- Referral **can** be made if:
- The responsible body has previously arranged accommodation for the person.
- They aim to review those arrangements.
- + the person lacks capacity to decide for themselves about their accommodation/care.
- + the person has no friends or family who are willing, available and appropriate to consult.
- + there is a benefit to the person in involving an IMCA

# In detail: Adult Safeguarding

- Referral **can** be made if:
- The person has been a victim/perpetrator of abuse.
- The responsible body is proposing to take protective measures (in response to that abuse)
- + the person lacks capacity to decide for themselves about the proposed protective measures.
- + there is a benefit to the person in involving an IMCA
- There is no restriction on accessing the IMCA service for people who have friends or family.

# What does an IMCA do?



- **support** and represent
- **ascertain** wishes, feelings, preferences and values
- **evaluate** information (right to access relevant records - Section 35(6) MCA 2005)

# What does an IMCA do?



- **ascertain** alternative courses of action (**least restrictive option** and in **best interests**)
- **check** MCA principles and best interest checklist are followed and person is supported during the Decision making process

# What does an IMCA do?

- **seek** further medical opinion (if necessary)
- **prepare** a report (Decision Maker has a legal duty to consider)
- **challenge** the Decision (informally and/or through Court of Protection)



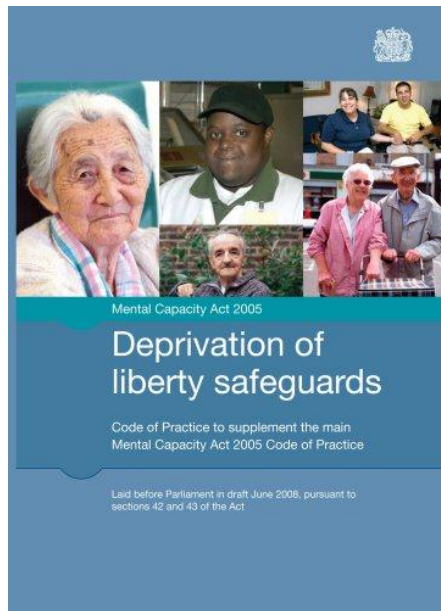
# What does an IMCA not do?

- **Assess Capacity**
- **Make the best interest decision**
- **Mediate or resolve disputes**
- **Operate outside of their remit**





# A quick note about Deprivation of Liberty Safeguards (Dols)



- Deprivation of Liberty Safeguards (DoLS) were introduced to prevent breaches of the European Convention on Human Rights.
- DoLS were added and implemented within the MCA 2005 on 1<sup>st</sup> April 2009
- Only apply to people in Hospital or a Care Home
- Created a legal process to authorise/review/appeal Deprivations of Liberty for those who meet the criteria.

# Specific DoLS IMCA roles

- Three roles - **39a** DoLS IMCA, **39c** DoLS IMCA, **39d** DoLS IMCA
- **39a DoLS IMCA** – Instructed by the Supervisory Body to **support and represent** the person through the **assessment** process of an **urgent and standard** authorisation when there are no other friends or family to consult.
- **39c DoLS IMCA**- Instructed by the Supervisory Body to provide RPR **cover** during a period of absence (whilst new RPR is put in place).
- **39d DoLS IMCA** – Instructed by the supervisory body on **demand** when they feel that the person and/or their unpaid RPR needs support or where the person and/or their RPR requests support (support relates to understanding the DoLS process, calling a review or raising an appeal).

**Your IMCA Service is provided  
by:**



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**Contact us:**

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**Questions?**

# Thankyou for listening



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