

How Will the IMCA Carry Out Their Duties?

The IMCA will decide how best to represent and support the person who lacks capacity. They will;

- Confirm that the person instructing them has the authority to do so
- Interview in private the person who lacks capacity
- Examine relevant health and social care records
- Get the views of professionals and paid workers providing care and treatment for the person
- Get the views of anyone else who can give information about the wishes, feelings, beliefs and values of the person
- Find out what support the person has had to help them make the specific decision
- Find out what alternative options there are
- Consider whether they have concerns about the outcome of the assessment process
- Attend meetings

We provide the IMCA DoLS service for;

Blaenau Gwent, Caerphilly, Cardiff, Merthyr Tydfil, Monmouthshire, Newport, Rhondda Cynon Taff, The Vale of Glamorgan, Torfaen.

To refer, or if you have any queries, in the first instance contact;

ADVOCACY SUPPORT CYMRU

 029 2054 0444

Referral forms can be found on our website

 www.ascymru.org.uk

Completed forms can be sent via email to

 info@ascymru.org.uk

or faxed to

 029 2073 5620

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Independent Mental

Capacity Advocacy

(IMCA) and the

Deprivation of Liberty

Safeguards (DoLS)

Information for Health and Social Care Professionals

This leaflet will tell you who must be referred to the IMCA service, the responsibilities of professionals when referring and the rights and role of the Independent Mental Capacity Advocate (IMCA).

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The Independent Mental Capacity Advocacy Service and the Deprivation of Liberty Safeguards (IMCA DoLS)

The Deprivation of Liberty Safeguards were introduced by the Mental Capacity Act 2005 and came into effect in April 2009.

The safeguards focus on some of the most vulnerable people in our society; those who for their own safety and in their best interest need to be accommodated under care and treatment regimes that may have the effect of depriving them of their liberty, but who lack the capacity to consent.

If someone is going through the Deprivation of Liberty process and does not have someone who is appropriate to consult, an IMCA must be instructed in certain situations during the process.

What are your Legal Responsibilities as Professionals?

The Mental Capacity Act 2005 clearly sets out the duties placed on health and social care professionals in relation to instructing an IMCA during the DoLS process.

An IMCA **must** be instructed and consulted whenever;

- The supervisory body receives an application to deprive someone of their liberty and the relevant person has no appropriate family member or friend to consult with for the best interests assessment (**39A IMCA**)
- There is a gap between the relevant persons representative leaving and the appointment of another (**39C IMCA**)
- A person has an unpaid representative and either they or their representative asks for the support of an IMCA (**39D IMCA**)
- The supervisory body believes that without the help of an advocate the relevant person or their representative would be unable to exercise their rights (**39D IMCA**)

Advocacy Support Cymru will provide paid relevant person's representative when required

Who is Responsible for Instructing an IMCA?

The supervisory body is responsible for instructing an IMCA if there is nobody other than those engaged in providing care and treatment for the relevant person in a professional capacity.

What Rights Does the IMCA Have?

The IMCA has a statutory responsibility to ensure that the person who lacks capacity is enabled, as much as possible, to participate in decisions that affect their lives. In order to do this the IMCA has the right to;

- Give information or make submissions to the DoLS assessors, which they must take into account in carrying out their assessments.
- Receive copies of any assessments from the supervisory body
- Receive a copy of the standard authorisation given by the supervisory body
- Be notified by the supervisory body if a standard authorisation has not been authorised because one or more of the assessments did not meet the qualifying requirements
- Receive a copy of any urgent authorisation from the managing authority
- Receive from the managing authority a copy of any notice declining to extend the duration of an urgent authorisation
- Receive from the supervisory body a copy of any notice that an urgent authorisation has ceased to be in force
- Apply to the Court of Protection if the IMCA feels this is required
- Attend meetings