

# Independent Mental Capacity Advocacy

## Fact Sheet

### What is an Independent Mental Capacity Advocate (IMCA)?

An Independent Mental Capacity Advocate (IMCA) is a person, independent of North Somerset Council, who provides independent safeguards for people who have been assessed as not having the capacity to make certain important decisions. IMCAs place the views, feelings, wishes and opinions of the people they advocate for at the heart of everything they do. An IMCA will:

- Meet and speak with the person they are supporting to discuss their wishes and feelings, beliefs, and values.
- Work within the principles of the Mental Capacity Act and take account of the [Code of Practice](#).
- Gather information from the persons records.
- Gather the views of professionals and paid workers.
- Gather the views of anybody else who can give information about the wishes and feelings, beliefs, or values of the person.
- Gather other information which may be relevant to the decision that needs to be made.
- Check that the person has been supported to be involved in making decisions.
- Make sure that different options, in relation to the decision being made, has been considered.
- Decide whether to ask for a second medical opinion where decisions need to be made about medical treatment.
- Write a report on their findings for the decision maker to consider.



## When do North Somerset Council have a duty to consider making an IMCA available?

North Somerset Council has a duty under the Mental Capacity Act (2005) to instruct an IMCA when the eligibility criteria is met.

An IMCA **must be** instructed for people in the following circumstances:

- The person is aged 16 or over, and
- a decision needs to be made about
  - providing, withholding, or stopping serious medical treatment provided by the NHS ([excluding treatment regulated under Part 4 of the Mental Health Act 1983](#)), or
  - arrangements for accommodation (or a change of accommodation) in hospital or a care home, and
  - the person will stay in hospital longer than 28 days, or
  - the person will stay in the care home for more than eight weeks, and
- the person has been assessed as lacking capacity to make decisions related to the above, and
- there is no one independent of services who is “appropriate to consult”. This applies where:
  - there is no network of support, such as close family or friends, who take an interest in the persons welfare, or
  - no family or friends are willing to be consulted about the best interest’s decision, or
  - family members or friends are too ill or frail to engage in the process, or
  - circumstances make it impractical to consult with the family members or friends, or

- the family member or friend are under suspicion of perpetrating violence or abuse against the person.

IMCAs must also be instructed for people who are being assessed in relation to any deprivation of their liberty, where there is no-one else appropriate to consult.

An IMCA **may also** be instructed to support someone who lacks capacity to make decisions concerning:

- care reviews, where no-one else is available to be consulted, and
- adult protection cases, whether or not family, friends or others are available to be consulted.

The IMCA will stop supporting a person once a decision has been finalised and they are satisfied that the proposed action has been carried out.

## When does the duty to make an IMCA available not apply?

An IMCA **cannot** be instructed if the person who lacks capacity:

- Requires immediate serious medical intervention, for example in life-threatening circumstances (however, if further serious treatment follows an emergency, there will be a need to instruct an IMCA).
- Is undergoing treatment which is regulated by Part 4 of the Mental Health Act (1983).
- Requires accommodation urgently. If the placement or move is urgent, an IMCA does not need to be immediately instructed. However, an IMCA must be instructed as soon as possible if the person is likely to stay in hospital longer than 28 days or longer than eight weeks in other accommodation. Has restrictions placed on their accommodation under the Mental Health Act.
- Had previously named a person that should be consulted about decisions that affect them, and that person is available and willing to help.

- Has appointed an attorney, either under a Lasting Power of Attorney or an Enduring Power of Attorney (Health and Welfare only), and the attorney continues to manage the person's affairs.
- Has a Court of Protection appointed deputy, who continues to act on the person's behalf (North Somerset Council can still instruct an IMCA if the Court of Protection is deciding on a deputy, but none is in place when a decision needs to be made).
- Has any other person (not in a paid capacity) who is willing and able to support and represent appropriately the person who lacks capacity.

## Who can I contact?

If you would like to discuss whether you, or someone you care for, is eligible for Independent Mental Capacity Advocacy, you should initially talk to your contact at North Somerset Council (i.e., Social Care Practitioner).

If you have not been offered an Independent Mental Capacity Advocacy service and feel you need one, you can also contact the Advocacy People to talk it through at

**Post:** PO Box 375, Hastings, East Sussex, TN34 9HU

**Email:** [info@theadvocacypeople.org.uk](mailto:info@theadvocacypeople.org.uk)

**Telephone:** 0330 440 9000

**Text 80800:** starting message with PEOPLE.

On occasion North Somerset Council reviews its contracts with regards to Advocacy provision. We aim to keep all information provided to residents up to date. We will amend the contact details on this factsheet should the need arise.

## Feedback

We value your feedback and welcome both compliments and areas for development. You can send us feedback through our [website](#). If you have any concerns about any action or decision taken by Adult Social Services and Housing, you should initially

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talk to the person you normally deal with. You can also contact our complaints manager at:

**Complaints Manager,**

Adult Social Services and Housing,

Town Hall,

Walliscote Grove Road,

Weston super Mare,

BS23 1UJ

**Telephone:** 01275 882171

**Email:** [complaints.manager@n-somerset.gov.uk](mailto:complaints.manager@n-somerset.gov.uk)

Complaints Manager, North Somerset Council, Town Hall, Weston-super-Mare, BS23 1UJ

## Accessibility

This document is available in easy read. The Advocacy People have further easy read information available on their website at [Easy Read | The Advocacy People](#).

Council documents can also be made available in large print, audio, and other formats. Documents on our website can also be emailed to you as plain text files.

Help is also available for people who require council information in languages other than English. Please email [asshsstrategyandpolicyteam@n-somerset.gov.uk](mailto:asshsstrategyandpolicyteam@n-somerset.gov.uk) or ring 01934 888 888.

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