

Bristol Safeguarding Adults

The Independent Mental Capacity Advocate Service & Safeguarding Adults Enquires

This protocol must be read in relation to the Principles set out in section (1) of the Mental Capacity Act.

Local authorities and the NHS have a duty to decide in which cases an independent mental capacity advocate (IMCA) would most benefit their clients. Coordinators of Safeguarding Adults processes are recommended to instruct IMCAs in the circumstances outlined below.

Referral Criteria

The IMCA service should be referred to when

A “vulnerable adult” under the No Secrets in Bristol safeguarding adults policy

- has either experienced serious significant harm or is thought to be at risk of serious significant harm.

AND

- lacks the capacity to understand the risks or make a decision about any proposed safeguarding action which will have a significant implication for health, welfare, accommodation or management of their finance/property.

AND

This vulnerable adult

- has no family or friends.
- Has no family or friends willing or able to be consulted regarding his/her best interests
- has family or friends, but there is clear evidence to indicate **either** that they are not willing or able to act in the adults best interests **or** that they would not have the person’s best interests at heart **or** they are allegedly abusing the vulnerable person.

The IMCA service should also be referred to when

- The vulnerable adult who lacks capacity is the perpetrator of serious significant harm and any proposed actions to safeguard others will result in significant changes to the vulnerable perpetrator's health, welfare, living arrangements e.g. limits on freedoms of movement or association are proposed, accommodation changes are being considered.

And the vulnerable perpetrator

- Has no family or friends
- Has no family or friends willing or able to be consulted regarding his/her best interests.
- Consulting family or friends is compromised by clear evidence that they would not have the person's best interests at heart.

Serious significant harm is defined as

a serious exposure to risk/or an actual incident has occurred leading to

- risk of death,
- risk of/actual serious physical injury or illness,
- risk of /actual serious deterioration in physical or mental health,
- risk of /actual serious emotional distress
- significant loss of property or money

However in other exceptional circumstances consideration can be given to making a referral to the IMCA service where protective measures are proposed in relation to an incapacitated vulnerable adult and an IMCA would be of particular benefit.

The Referral Process

The decision to refer to IMCA Service should be taken in either a Safeguarding Adults Strategy Meeting or Protection Planning Meeting when the above criteria apply. The Decision maker must follow the best interests checklist. The Decision maker is likely to be the Chair of that meeting* but on all occasions the Chair of the meeting is responsible for

- a) ensuring that the referral is processed using the IMCA referral form.
- b) tracking the referral, monitoring for a timely allocation of IMCA.
- c) ensuring, where possible given capacity and understanding, that the vulnerable adult is made aware of the referral and the reasons for it.
- d) ensuring that the appointed IMCA receives copies of the appropriate information from Safeguarding Meetings regarding the vulnerable adults situation/circumstances of the case.
- e) arranging to introduce the IMCA to the vulnerable adult.
- f) ensuring that the IMCA has a clear line of communication to either The Chair or the designated professional who is responsible for co-ordinating the agreed safeguarding plan. The means and frequency of communication will be determined by the urgency and complexity of the decisions to be made
- g) ensuring that the IMCA is invited to all subsequent reviews of any protection plan.
- h) in each case giving clear guidance to the IMCA regarding the individual/s it would NOT be appropriate to contact / consult

* It is assumed that the Chair will be a representative of the Local Authority or AWP and a "Decision Maker". In cases where this is not the case the Chair will need to involve the appropriate "Decision Maker" from the relevant responsible body (i.e. NHS or LA). It is good practice that this "Decision Maker" attends the relevant Safeguarding Meeting.

The IMCA Role & Function in Safeguarding Decisions

The IMCA will need to familiarise him/herself with the relevant Safeguarding Adults Multi Agency Procedures for Bristol - " No Secrets in Bristol"

The IMCA must be included in Protection Planning Meetings/Reviews and, where appropriate, strategy meetings. These meetings propose and agree the support and care that can minimise or prevent the risk of further harm to a vulnerable adult. All those who may have a role in the eventual Protection Plan should be invited to these Conferences. It is therefore essential that the IMCA, and, where appropriate, the vulnerable adult, is present at these meetings.

The IMCA should contribute to subsequent reviews of The Protection Plan.

The role and functions of an IMCA will be as listed in The Act and The England and Wales Regulations. Namely:-

- a) Representing & supporting the person who lacks capacity in relation to the Safeguarding adults processes – eg protection plan
- b) Obtaining and evaluating information, including where appropriate the views of professionals and paid workers providing care or treatment for the person who lacks capacity. The IMCA must be provided with clear guidance in each case from the Chair of the Safeguarding Adults Strategy Meeting or Protection Planning Meeting regarding the individuals it would not be appropriate to contact
- c) Meeting with the person who lacks capacity and as far as possible ascertaining their wishes, feelings, beliefs and values
- d) Ascertaining alternative courses of action
- e) Obtaining further medical opinion if necessary
- f) Examining any relevant records to which the Act (section 35(6)) and safeguarding adults information sharing protocols gives them access
- g) Reporting their findings to the Decision Maker.

After the IMCAs finding are reported to the Decision maker they must consider the IMCAs report and related information when making a decision. This decision will usually be made in the context of a protection planning meeting or a review and so the IMCA should attend and their report be available, as appropriate, to the meeting