
STATUTORY INSTRUMENTS

2006 No. 1832

The Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (General) Regulations 2006

Functions of an independent mental capacity advocate

6.—(1) This regulation applies where an IMCA has been instructed by an authorised person to represent a person (“P”).

(2) “Authorised person” means a person who is required or enabled to instruct an IMCA under sections 37 to 39 of the Act or under regulations made by virtue of section 41 of the Act.

(3) The IMCA must determine in all the circumstances how best to represent and support P.

(4) In particular, the IMCA must—

- (a) verify that the instructions were issued by an authorised person;
- (b) to the extent that it is practicable and appropriate to do so—
 - (i) interview P, and
 - (ii) examine the records relevant to P to which the IMCA has access under section 35(6) of the Act;
- (c) to the extent that it is practicable and appropriate to do so, consult—
 - (i) persons engaged in providing care or treatment for P in a professional capacity or for remuneration, and
 - (ii) other persons who may be in a position to comment on P’s wishes, feelings, beliefs or values; and
- (d) take all practicable steps to obtain such other information about P, or the act or decision that is proposed in relation to P, as the IMCA considers necessary.

(5) The IMCA must evaluate all the information he has obtained for the purpose of—

- (a) ascertaining the extent of the support provided to P to enable him to participate in making any decision about the matter in relation to which the IMCA has been instructed;
- (b) ascertaining what P’s wishes and feelings would be likely to be, and the beliefs and values that would be likely to influence P, if he had capacity in relation to the proposed act or decision;
- (c) ascertaining what alternative courses of action are available in relation to P;
- (d) where medical treatment is proposed for P, ascertaining whether he would be likely to benefit from a further medical opinion.

(6) The IMCA must prepare a report for the authorised person who instructed him.

(7) The IMCA may include in the report such submissions as he considers appropriate in relation to P and the act or decision which is proposed in relation to him.