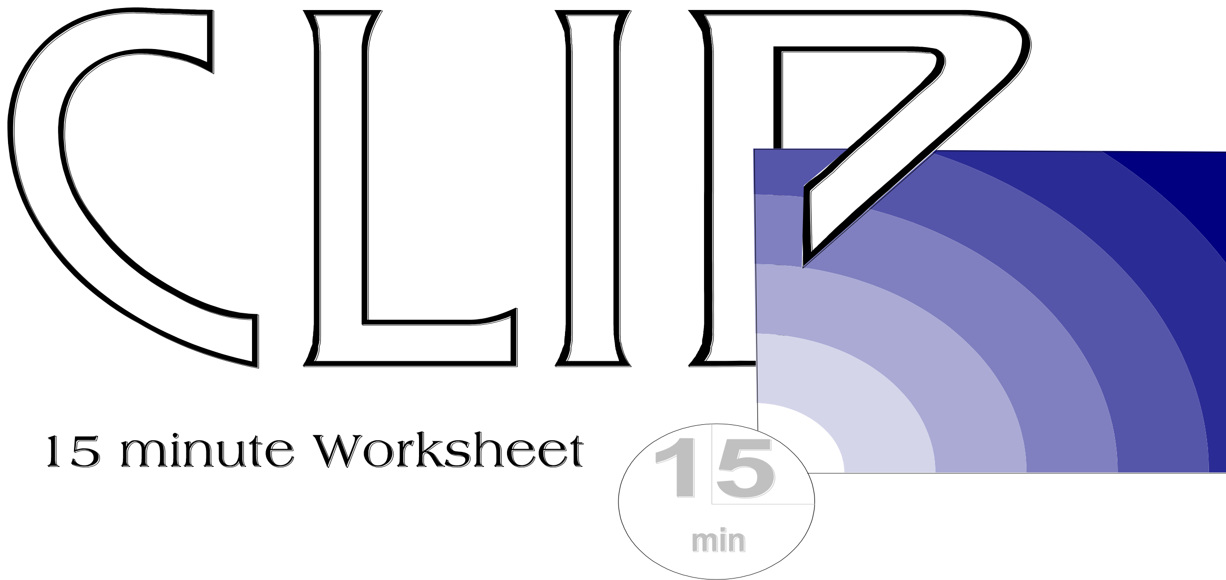


# Planning care in advance

# 4: Involving an IMCA (Independent Mental Capacity Advocate)

**Intermediate level**

**Produced by**
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## Aim of this worksheet

To understand when and how an IMCA should be involved in making best interest decisions

## How to use this worksheet

- You can work through this worksheet by yourself, or with a tutor.
- Read the case study below, and then turn to the Work page overleaf.
- Work any way you want. You can start with the exercises on the Work page using your own knowledge. The answers are on the Information page - this is not cheating since you learn as you find the information. Alternatively you may prefer to start by reading the Information page before moving to the exercises on the Work page.
- This CLiP worksheet should take about 15 minutes to complete, but will take longer if you are working with colleagues or in a group. If anything is unclear, discuss it with a colleague..
- If you think any information is wrong or out of date let us know.
- Take this learning into your workplace using the activity on the back page.

## Case study

**Bill is a 54 year old man with epilepsy who developed weight loss and intermittent diarrhoea. Investigations showed a carcinoma of the colon for which he consented to surgery. Unfortunately investigations showed liver metastases, and surgery was not possible. He is now developing a bowel obstruction, which may need surgery. However, he is drowsy and confused, and has been assessed as not having the capacity to consent to surgery.**

**Just before being admitted, Bill's wife travelled to Canada to be with their only daughter who has gone into labour. She cannot return for several days. There are no close family or friends locally.**

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## INFORMATION PAGE: Involving an IMCA

### What is an IMCA?

*Answers:* only description 4) is correct.

The IMCA's role is to support and represent the person who lacks capacity if, at the time such decisions need to be made, they have no-one else (other than paid staff) to support or represent them, or who can be consulted. IMCA's are provided by the IMCA service in England and Wales.

### When should an IMCA be involved?

An IMCA *must* be instructed, and then consulted, for people lacking capacity who have no-one else to support them (other than paid staff) whenever:

- a care organisation proposes serious medical treatment, or
- a care organisation is proposing to arrange accommodation (or a change of accommodation) in hospital or a care home, *and* the person will stay in hospital longer than 28 days *or* they will stay in the care home for more than eight weeks.

Because of this, IMCAs have the right to see relevant healthcare and social care records.

An IMCA *may* be instructed to support someone who lacks capacity to make decisions concerning:
– care reviews, where no-one else is available to be consulted
– adult protection cases, whether or not family, friends or others are involved

An IMCA should *not* be involved if
- an urgent decision is required
- the individual has capacity for the care decision being made
- the individual has people who can speak on his behalf

*Answer:* Yes- Bill does not have capacity, no one to speak on his behalf and there is time to arrange an IMCA.

### What does an IMCA do?

- Confirm that the person instructing them has the authority to do so;
- Interview or meet in private the person who lacks capacity, if possible;
- Act in accordance with the principles of the Mental Capacity Act;
- Examine any relevant records;
- Get the views of professionals and paid workers providing care or treatment for the person who lacks capacity;
- Get the views of anybody else who can give information about the wishes and feelings, beliefs or values of the person who lacks capacity;
- Get hold of any other information they think will be necessary;
- Find out what support a person who lacks capacity has had to help them make the specific decision;
- Try to find out what the person's wishes and feelings, beliefs and values would be likely to be if the person had capacity;
- Find out what alternative options there are;
- Consider whether getting another medical opinion would help the person who lacks capacity, and write a report on their findings for the care organisation.

Any information or reports provided by an IMCA must be taken into account as part of the process of working out whether a proposed decision is in the person's best interests.

### True or False answers

1. **T** This is essential for the IMCA to understand the issues.
2. **F** The care decision can only be made following the best interests process of the Mental Capacity Act. Like everyone else, the IMCA is bound by this legal requirement.
3. **T** If it becomes clear he needs surgery urgently, the priority is to make a decision with the information available at the time. Urgent situations do not allow time for IMCAs to assess the situation and the Mental Capacity Act recognises the need for urgent decisions.
4. **F** Although Bill's wife cannot make the care decision, she should be involved in the process if possible. A telephone or videoconference can enable this.
5. **F** See below.

### If the IMCA disagrees with the decision made

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.

An IMCA has the same rights to challenge a decision as any other person caring for the person or interested in his welfare.

Choose

**What do you think is meant by an IMCA?**
**Underline any description that fits with your view:**

1. Someone who befriends a patient with capacity
2. The representative of an individual who lacks capacity for a care decision
3. Someone who supports any individual who has no one to speak for them
4. Someone to represent and support a person who lacks capacity for a specific care decision *and* who has no one who can support or represent them, or who can be consulted

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Write

**Write down three situations when an IMCA *cannot* be involved?**

➲

➲

➲

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Reflect

**Do you think that Bill requires an IMCA?**

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True or false

| | | |
|---|---|---|
| 1. An IMCA has a right to see the health records | True | False |
| 2. The IMCA is the person who makes the care decision | True | False |
| 3. The decision to operate on Bill can be made without an IMCA | True | False |
| 4. Bill's wife need not be involved in the decision | True | False |
| 5. The IMCA cannot challenge the clinician's decision | True | False |

## FURTHER ACTIVITY: Involving an IMCA

Think back to the last person who did not have capacity for treatment decisions
- could an IMCA have been involved?

## FURTHER READING: Involving an IMCA

**Key documentation**

Mental Capacity Act Code of Practice: www.dca.gov.uk/legal-policy/mental-capacity/mca-cp.pdf
Anyone making decisions on behalf of a person without capacity is required by law to have regard to the MCA.

Capacity, care planning and advance care planning in life limiting illness: a guide for health and social care staff. NHS End of Life Care Programme, 2011: www.endoflifecareforadults.nhs.uk/publications/pubacpguide

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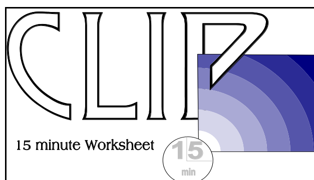
**Further resources**

e-lfh: e-Learning for Healthcare contains a range of online self-learning programmes, including several relating to end-of-life care (e-ecla). Registration is required but is free. www.e-lfh.org.uk/projects/e-elca/index.html
IMCA service: www.dca.gov.uk/legal-policy/mental-capacity/mibooklets/booklet06.pdf
*Deciding right* initiative on www.nescn.nhs.uk/deciding-right

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- Helping the patient with symptoms other than pain
- Moving the ill patient
- Psychological and spiritual needs
- Helping patients with reduced hydration and nutrition
- Procedures in palliative care
- Planning care in advance
- Understanding and helping the person with learning disabilities
- The last hours and days
- Bereavement

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