

## Appendix 1: Statutory Advocacy Type and Description

<b>Independent Mental Capacity Advocacy (IMCA), including Deprivation of Liberty Safeguards (DoLS)</b>
<p>The Mental Capacity Act 2005 makes it a legal requirement for people lacking mental capacity to have independent advocacy when there are no known relatives or close friends to speak for them. The local authority is required to commission an Independent Mental Capacity Advocacy (IMCA) service from an independent organisation.</p> <p>The IMCA Service must be a generic service, for people aged 16 years and above and for a wide variety of needs. It will include people with learning disabilities, dementia, mental health needs and acquired brain injury and others who may require it including those covered by the extended provisions of the Mental Capacity Act 2005.</p>
<b>Paid Relevant Person Representative (RPR)</b>
<p>The Mental Capacity Act also requires that the council (the decision maker) appoints paid officers to represent the person being deprived of their liberty (these are called Paid Relevant Person Representatives) in circumstances where there is no available person able to undertake this role. This element will be included alongside the IMCA service.</p>
<b>Independent Mental Health Advocacy (IMHA)</b>
<p>From April 2009, statutory access to an Independent Mental Health Advocate (IMHA) has been available to patients subject to certain aspects of the Mental Health Act 1983.</p> <p>Patients, who are eligible to use IMHA services, i.e. qualifying patients, are those patients:</p> <ul style="list-style-type: none"><li>• Detained under the MHA (even if they are currently on leave of absence from hospital) apart from those patients detained under sections 4, 5(2), 5(4), 135 or 136</li><li>• Conditionally discharged restricted patients</li><li>• Subject to Guardianship under the Act</li><li>• On Supervised Community Treatment (SCT).</li></ul> <p>As well as patients not covered by any of the above but who are:</p> <ul style="list-style-type: none"><li>• Being considered for a treatment to which section 57 applies (“a section 57 treatment”);</li><li>• Under 18 and being considered for electro-convulsive therapy or any other treatment to which Section 58A applies (“a section 58A treatment”).</li></ul>
<b>Care Act Advocacy</b>
<p>Care Act Advocacy - the duty applies to adults, children approaching transition, carers and young carers. The focus of advocacy requirements under the Act are around support and representation in the following:</p> <ul style="list-style-type: none"><li>• An adults need assessment</li><li>• A carers assessment</li><li>• The preparation of a care and support plan</li></ul>

- A review of a care and support plan
- A child's needs assessment as they transition towards adult care
- A safeguarding enquiry or safeguarding adult review.

The duty to provide advocacy under the Care Act provides support to:

- People who have capacity but who have substantial difficulty in being involved in care and support processes
- People in relation to their assessment and/or care and support planning regardless of whether a change of accommodation is being considered for the person
- People in relation to the review of a care and/or support plan
- People in relation to safeguarding processes (though IMCAs are involved if protective measures are being proposed for a person who lacks capacity)
- Carers who have substantial difficulty in engaging – whether or not they have capacity
- People for whom there is someone who is appropriate to consult for the purpose of best interests' decisions under the Mental Capacity Act, but who is not able and/or willing to facilitate the person's involvement in local authority process.

#### **Continuing Healthcare (CHC)**

Independently represent the client and families wishes, preferences and views around Continuing Healthcare.