

**Independent Mental Capacity Advocacy
Service (IMCA)**

SPECIFICATION

This document defines the independent Mental Capacity advocacy services purchased by Kent County Council and Medway Council

September 2008



Copyright © The Kent County Council 2007
This material may not be copied or
published without the Kent County
Council's and Medway Council's
permission in writing



Contents

Page No

Glossary	3
Core Principles of the Service	5
Introduction	6
The Purpose of the Service	6
Service Outcomes	7
Service Processes	7
Service Inputs	9
Performance Monitoring	10
Performance Indicators	11
Additional Information: Referrals	12
Health and Safety	13
Recruitment & Selection	13
Equalities	14
Staff Induction	15
Staff Qualifications	17
Staff meetings and Supervision	17
Freedom from Abuse	18
Probity	18
Security	19
Quality Assurance	20
Complaints and Compliments	20
Guides, References and other useful documents	20

Glossary

Advocate

To support the Service User to have their needs and wishes met and carried out in such a way as if they had spoken for themselves. A person of integrity and good character to represent the Service User independently.

Authorised Person (Referrer)

The member of Health or Social Care staff responsible for the current location of the Service User such as hospital or Care Home and who refers a Service User to the IMCA service.

Decision Maker

The Decision Maker is the person who is proposing to take an action in relation to the care or treatment of an adult who lacks capacity, or who is contemplating making a decision on behalf of that person. The Decision-Maker in a given decision is the person who would normally discuss the decision with the person, if they had the capacity to have a discussion, and who would help them come to a decision. The Decision-Maker has the responsibility to come to a Best Interests Decision.

DOLS (Deprivation of Liberty Safeguards)

Introduced into the Mental Capacity Act 2005 through the Mental Health Act 2007. The Safeguards cover people in hospitals and care homes registered under the Care Standards Act 2000, who suffer from a disorder or disability of the mind, and lack capacity to give consent to the arrangements made for their care or treatment which, after independent assessment, is considered to be a necessary and proportionate response in their best interest to protect them from harm. The Safeguards give them representatives, rights of appeal and for the deprivation to be reviewed and monitored.

Donee

Someone appointed under a Lasting Power of Attorney who has the legal right to make decisions within the scope of their authority on behalf of the person (the donor) who made the Lasting Power of Attorney.

Hours Open

From 9am – 5pm Monday to Friday

IMCA

An Independent Mental Capacity Advocate is a person of integrity and good character with appropriate experience and training who is approved by the Local Authorities to act independently of any persons instructing them. An independent Service provider, approved by the Local Authorities Must employ them.

Mental Capacity (as eligible for an IMCA referral)

The capacity to make specific decisions about health and accommodation issues. To have Mental Capacity a person Must be able to understand the information relevant to the decision, retain the information long enough to make the decision, use and weigh information as part of the decision making process and communicate the decision.

Must and Will

Means that the activity referred to is Mandatory and / or Statutory required by Law

Policy

Is a set of general statements, which help staff and individuals to make sound judgements.

Procedure

Is the method by which a Policy is put into practice.

Referral

Please see additional information section.

Relevant Person

The person deprived of their liberty

Relevant Person's Representative (RPR)

Once a standard DOL authorisation has been given, the Supervisory Body (Local Authority or PCT) Must appoint the RPR as soon as possible to represent the person who has been deprived of their liberty, in the absence of the selection of an eligible people or recommendation by the Best Interests Assessor.

Responsible Body

In the case of a medical decision, the Responsible Body Will be a National Health Service organisation or Primary Care Trust. In the case of accommodation changes or adult protection, the Responsible Body Will be the Local Authority.

Service User (in relation to the IMCA service)

An Unbefriended person who lacks capacity in relation to a specific decision, which needs to be made in respect of the Mental Capacity Act 2005, and is assessed as needing the service.

Service

Support to the Service User to assist in decision making relating to health and accommodation issues, to ensure the Service Users best interests are considered.

Should

Means that the activity is not mandatory or required by Law but Kent County Council and Medway Council prefers that it takes place. Any exception to this will be stated on the individual's Service User s Care Plan, which has precedence over other general guidance.

Specification

This document.

Statutory

As required be Statute, in this case the Mental Capacity Act 2005

Supervisory Body (SB)

A Supervisory Body is responsible for considering requests for authorisations, commissioning the required assessments and where all the assessments agree, authorising the deprivation of liberty. Where DOLS are applied to a person in a care home, the SB Will be the local authority for the area in which the person is ordinarily resident. If the person is not ordinarily resident in the area of any local authority, the SB will be the local authority for the area in which the care home is situated.

Unbefriended

A person is Unbefriended if he or she does not have any friends, family or anyone else willing and/or able to support or represent them or be consulted other than paid professionals.

We

The Kent County Council and Medway Council and any person to whom We may assign this Agreement. Unless the context otherwise requires, 'us' and 'our' Will also be taken to refer to 'We'.

You

The Voluntary or Community Sector Provider. Unless the context otherwise requires, 'Your/s' will also be taken to refer to 'You'.

CORE PRINCIPLES OF IMCA SERVICE

The IMCA Service Must work according to the five principles of the Mental Capacity Act

1. A person Must be assumed to have capacity unless it is established that he/she lacks capacity.
2. A person is not to be treated as unable to make a decision unless all practicable steps to help him/her to do so have been taken without success.
3. A person is not to be treated as unable to make a decision merely because he/she makes an unwise decision.
4. An act done, or decision made, under this Act for or on behalf of a person who lacks capacity Must be done, or made, in his/her best interests.
5. Before the act is done, or the decision is made, regard Must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

Introduction

6. The Mental Capacity Act 2005 makes it a legal requirement for people lacking Mental Capacity to have independent advocacy when there are no relatives or friends willing and/or able to speak for them. An IMCA Must be provided when decisions are being made regarding
 - (a) serious medical treatment
and/or
 - (b) a move to other accommodation, in specified circumstances.

7. An IMCA may be provided at the discretion of the Local Authorities, and following discussions with them regarding
 - (a) in safeguarding procedures
 - (b) in care reviews, where the Local Authorities consider that the provision of an IMCA would make a valuable difference.
8. An IMCA is instructed as soon as an application for DOL authorisation is made, if the relevant person is unbefriended. An IMCA may be instructed at any time during the process where:
 - (a) the relevant person does not have a paid professional representative
 - (b) the relevant person or their RPR (family or other unpaid carers) requests that an IMCA is instructed to help them
 - (c) the Supervisory Body believes that instructing an IMCA Will help to ensure that the person's rights are protected.
9. An IMCA Must be instructed during gaps in the appointment of a RPR.
10. Once a standard DOL authorisation has been given, the Supervisory Body Must appoint the RPR as soon as possible to represent the person who has been deprived of their liberty. If neither the relevant person or a donee or deputy selects an eligible person and the Best Interests Assessor is unable to recommend anyone, the Supervisory Body Must identify an eligible person via this Service commissioned through the IMCA provider.
11. This Specification describes the requirements for the advocacy services for people lacking mental capacity, and sets out what is required of the Service provider in terms of objectives and outcomes.
12. In entering into a contract with Kent County Council and Medway Council to provide independent advocacy services for people who lack mental capacity, You are undertaking to comply with the law, our Pre Purchase Agreement and this Specification. This Specification is written, and should be read, in conjunction with the Pre Purchase Agreement. The terms used are the same throughout both documents.

The Purpose of the Service

13. The purpose is to provide a specialist independent advocacy IMCA Service to people covered by the Mental Capacity Act 2005 and The Deprivation of Liberty Safeguards 2008. The Service Must cover Kent and Medway.
14. This is a Statutory Service under the Mental Capacity Act and The Deprivation of Liberty Safeguards, governed by the Act; the relevant Codes of Practice and Guidance as issued from time to time.
15. The IMCA Service Must be a generic service, for a wide variety of Service User's, including people with learning disabilities, dementia, acquired brain injury and mental health needs, and other conditions leading to a lack of mental capacity.

16. You Must provide high quality advocacy that may include non-instructed advocacy for people with a variety of communication needs. This is a specialist form of advocacy. A commitment to this form of advocacy is required.

17. The Service Must not be extended to anyone who has the capacity to use existing advocacy services.

Service Outcomes

18. You will meet the needs and wishes of the Service User in such a way as that the person's best interests are reflected.

19. You will demonstrate a holistic approach to working with people, and make a detailed assessment of their wishes and needs, taking account of Your responsibilities.

20. The Service provided will be appropriate to people's needs, including their disability, race, culture, religion, sexuality, age and gender.

21. You Will be flexible & responsive to changes in Service User 's situations.

22. Views expressed by Advocate s on behalf of people who lack Mental Capacity Will be made in a manner that safeguards the Service User 's rights, dignity and privacy and respects them and their individuality.

23. Providers Must have an understanding of the geography of Kent and Medway.

Service Processes

24. The role of the IMCA Will be to support and represent people who lack capacity, who have no one else to support them when major, potentially life changing decisions are being contemplated. You Will do this by:

- Being conversant with and operating in accordance with the Code of Practice and its Addendum.
 - determining in all circumstances how best to represent and support the person lacking capacity
 - verifying that the instructions to act were issued by an authorised person
 - interviewing the Service User in private as far as practically possible
 - examining any of the Service User 's records that the Advocate considers relevant
 - consulting with all people involved professionally in the care and treatment of the Service User
 - Consulting with any other relevant person who could comment on the Service User's, wishes, feelings, beliefs and values.
 - evaluating all the relevant information obtained:
 - ascertaining the amount of support required to be provided to the Service User

- ascertaining what the Service User 's wishes would be in this situation
 - ascertaining what alternative actions are available
 - ascertaining if there is any benefit in further medical opinion
25. An IMCA instructed at the initial stage of the DOLS process has additional rights and responsibilities compared to an IMCA more generally instructed under the Mental Capacity Act 2005.
- Give information or make submissions to assessors, which assessors Must take into account in carrying out their assessments
 - Receive copies of any assessments from the Supervisory Body
 - Receive copies of authorisation and any related notices
 - Apply to the Court of Protection for permission to take the relevant person's case to the Court in connection with a matter relating to the giving or refusal of a standard or urgent authorisation
26. The role of the RPR in the DOLS process is crucial, in providing the relevant person with independent representation and support.
- Maintain contact with the relevant person
 - To represent and support the relevant person in all matters relating to DOLS, including, if appropriate, triggering a review, using an Organisation's Complaints Procedure on the person's behalf or making an application to the Court of Protection.
27. You Must understand that lacking Mental Capacity relates to many diverse groups of people. Advocates require skills in communicating in non-standard ways, for example with people who have no spoken language.
28. You Must prepare a written report for the Decision-Maker, which may include such submissions as You consider appropriate in relation to the Service User or the act or decision proposed in relation to the Service User.
29. The Decision-Maker will take account of the information given in this report.
30. You have the right to challenge the decision as if You were a person engaged in caring for the Service User or interested in their welfare.
31. Any disputes should be raised informally initially then through the formal route of the complaints Procedure of the Responsible Body. The principle is that disputes should be resolved at the lowest possible level. IMCA have powers to pursue complaints or disputes through the Court of Protection.
32. You Must work in partnership with all other agencies: Statutory, independent and voluntary. This will include hospital discharge staff, doctors, nurses, social workers, care managers, and managers of care homes.
33. Those who might have become befrienders but do not wish to become involved in the decision Should be consulted as Should befrienders in safeguarding proceedings, even when It is felt by the Decision Maker that they are not acting in the person's best interests.

34. You Must assist staff and Service Managers who are likely to refer their patients and Service User's, to understand the role of the Independent Mental Capacity Advocate and know how and when to access the service.
35. You Must publicise Your Service in a range of ways e.g. newsletters, staff meetings, posters and in appropriate, accessible formats.
36. There is a particular requirement to raise awareness amongst professionals.
 - You will meet all Statutory standards that might apply at any given time and Will be able to evidence this, including in written Policy and Procedure statements.
37. Individual records will comply with data protection and accessibility requirements and will record personal details, requirements and outcomes. Advocates may record whether or not the outcome appeared satisfactory to the Service User and their reasons for this. It will be important that records show the methods used to arrive at any views expressed on behalf of the person. Records are subject to Data Protection but Must be shared with the Decision-Maker. The Decision-Maker decides whom they will share them with.
38. You Must keep suitable records for monitoring by the Local Authority, as and when requested, and in circumstances where the need arises, (the first review Will be held at the end of three months, then at six months) The frequency of contract review will be determined at the six monthly review but to be no less than annually thereafter.
39. You will meet regularly as required, with KASS commissioners, Responsible Bodies and LA/NHS representatives to
 - a) report and discuss general progress;
 - b) feedback issues in the development of the IMCA role;
 - c) discuss any Service issues, and
 - d) review Performance Indicators.

This meeting will include Kent County Council and Medway Council.

You will be expected to develop policy and protocol with us and in line with emerging guidance from the DOH to support the operation of the service.

Service Inputs

40. The Service will commence from the 1 April 2009 and Will be of 3 years duration, subject to satisfactory performance. It will be reviewed after 3 months, 6 months and frequency agreed thereafter. We will also undertake unannounced reviews in circumstance where the need arises.
41. The IMCA Service Should be available for referrals and delivery of Service between 9am – 5pm, every day, except public holidays.
42. IMCA's may be full or part time. A number of part time IMCA's (who may combine the specialist IMCA role with other forms of advocacy) may provide a more flexible Service than full time IMCA's.

43. There is an expectation that a response time should be proportionate to the situation.
44. Arrangements Must be in place to ensure continuity of service, for example during annual leave and staff sickness.
45. The review meetings will discuss the progress of the service. It may also discuss the outcome of any review, future funding and any additional data requirements that may be useful and become apparent to either party.
46. You Will be accountable for the IMCA Service to the commissioners who are the Responsible Bodies. You are expected to undertake regular reviews and audits of Your Service and to link these to Your development plans. Results of Your quality assurance systems Must be available to commissioners and the reviewing officer as and when requested and at any review.
47. You Must have Your own internal quality assurance system and feedback mechanisms which Must include standard setting, monitoring, management and review processes, to ensure that the required Service quality is maintained.
48. Advocates will be well supervised. Formal supervision should be monthly and recorded and signed and dated by both parties. An appropriate qualified person Should be available for informal supervision as and when required, this may be by telephone.
49. Advocates will have undertaken the national training programme for Independent Advocates, which will cover generic advocacy competencies as well as a specific pathway to qualification for IMCA under the Mental Capacity Act, before they are allocated to work with a Service User. They must be authorised by the Local Authorities.
50. The IMCA Advocate's will be managed by, and primarily accountable to, the advocacy organisation that recruits and employs them, thereby maintaining their independence from the local Service Providers.
51. You Must have a written complaint procedure, which Must include a role for a person who is independent of the organisation, as either an investigator or decision-maker at an appeal stage.
52. A review meeting, involving the IMCA managers, representatives of the commissioners and representatives of both the health and social services providers will be organised to oversee the IMCA service. This group will be responsible for developing the IMCA Service to meet the requirements of the Mental Capacity Act and the local needs. Any issues should be reported to the Contract Officer initially, and then referred to the multi agency steering group. The steering group will also be responsible for addressing any problems primarily in the development of the IMCA Service but also any serious problems identified in the local provision of services for people who lack Mental Capacity. Urgent issues – such as concerns over the safety of a client – Should be raised immediately and referred to the appropriate agency. The steering group must be notified accordingly. However the steering group will not be involved where an Advocate intends to challenge decisions made about individual clients.
53. Any review of the Service will be Contract led.

Performance Monitoring

54. During the term of the Agreement We will require from You on a 3 and 6 monthly basis, in the first year (and frequency thereafter determined) and in circumstances where need arises the following information for contract monitoring purposes:

- 1) Total numbers and sources of referrals broken down by postcode and District across Kent and Medway.
- 2) Number and sources of referrals accepted, broken down by case type and age, gender and ethnicity of Service User ;
- 3) Number and sources of referrals refused with reasons, broken down by case type and age, gender and ethnicity of Service User ;
- 4) Number of “live” cases at the end of the quarter, broken down by case type and age, gender and ethnicity of Service User s;
- 5) Number of cases closed, broken down by case type, showing average number of hours spent, with summary of outcomes;
- 6) Emerging patterns of referrals (e.g. by type of intervention or place Referral made from);
- 7) Record of time taken on individual cases;
- 8) Record of activity, interviews, time spent examining records;
- 9) Records of any complaints or compliments the Service receives;
- 10) Staff turnover and records of training and supervision for staff;
- 11) Annual accounts specific to the IMCA service; and
- 12) Number of awareness raising events, including number of attendees and geographical and Service areas covered.

The above information should be separately identified for IMCA Service provided more generally under the Mental Capacity Act 2005, IMCA Service provided under DOLS and RPR service, **as this contract covers three categories of work.**

(i) Work of an IMCA as specified under the Mental Capacity Act 2005

(ii) Work by an IMCA in their capacity as an advocate within the Deprivation of Liberty Safeguards 2008 (DoLs)

(iii) Work by an IMCA acting as a Relevant Person Representative (RPR) under the DoLs.

All documentation must differentiate which of the 3 categories listed above, the work done by an IMCA relates to.

55. The Kent Adult Social Services (KASS) Training Manager (MH) will keep a list of IMCAs, approve authorisation, issue warrant cards and quality assure the Service and provide reports to the IMCA KASS and Medway Commissioners.

56. Six monthly in first year, and annually thereafter or where the need arises, meetings will be organised to review this information and to amend and improve this Specification and You will be expected to fully co-operate in this process.

Performance Indicators

57. Responsive IMCA service.

Key Performance Indicators include:

- A 1: Number of Service User s receiving an IMCA more generally instructed under the Mental Capacity Act 2005;
- A 2: Number of Service User s receiving an IMCA under the DOLS
- A 3: Number of Service User s receiving a RPR
- A3: Number of inappropriate referrals;
- A 3: Number of IMCA reports which the IMCA manager judged to be in time for the Decision-Maker to consider;
- A.4: Number of IMCA reports where the IMCA manager judged that the advocacy episode achieved a satisfactory outcome (Case studies); and
- A 5: Number of IMCA reports where the referrers judged that the advocacy episode achieved a satisfactory outcome (Case studies).

58. Trained professional workforce.

Key Performance Indicators, to be broken down by geographic location, include:

- B 1: Number of IMCAs, by age, gender and ethnic origin and Service User category (written report);
- B 2: Details of appropriate training and qualifications obtained, including verbal and non verbal communication training, and any other training related to working with people who need support with making decisions;
- B 3: Evidence of regular supervision sessions.
- B 4: Evidence of current CRB checks
- B 5: Evidence of Practice Indemnity

59. Valuing the comments of Service User s and professionals.

Key Performance Indicators include:

- C1: Number and types of compliments, complaints and evidence how they informed good practice;
- C2: Outcome of any consultation and evaluation; and
- C3. Routine or sample evaluation questionnaires.

60. Sound financial standing.

Key Performance Indicators include:

- D1: Summary of annual accounts.

Additional Information: Referrals

61. An IMCA Must be involved when an Unbefriended Service User has been assessed as lacking capacity and:

A NHS body is proposing,

- Serious medical treatment
- A stay of more than 28 days in hospital or 8 weeks in a care home
- To change a person's accommodation to another hospital for more than 28 days or more than 8 weeks in a care home.

A Local Authority proposes,

- To change or provide residential accommodation for more than 8 weeks

And

- The person has no relative, friend or unpaid carer.

62. Referrals will be made by a member of staff, in either of the local authorities or their local health partners.

63. As soon as an application for DOL authorisation is made, the Supervisory Body Must instruct an IMCA to represent the person if he/she is unbefriended.

64. Once a standard DOL authorisation has been given, the Supervisory Body must appoint the RPR as soon as possible to represent the person who has been deprived of their liberty.

Further Requirements

Health and Safety

65. You produce and ensure compliance with safety policies and procedures to protect staff, including advice on:

- lone working,
- working in rural or difficult locations,
- use of bleeps/pagers, and
- use of mobile telephones.

Recruitment and Selection

66. You will comply with requirements for staff to have criminal record checks and You Must comply with requirements as described in Kent County Council's "*Recruitment and Selection of Staff*" good care guide.

67. You will have a rigorous recruitment and selection Procedure that meets the requirements of legislation, equal opportunities and anti-discriminatory practice and ensures the protection of the Service User.

All staff who have access to confidential information Must have Enhanced CRB checks.

68. You will ensure that staff are familiar with, and follow, the Kent and Medway Adult Protection Procedures and Your own Policy and Procedure on Adult Protection.

69. Face to face selection interviews will be undertaken, on premises which are secure and private, for all staff who are short-listed and may be engaged.

70. Before making an offer of employment, two written references are obtained, one of which should be from the immediate past employer, and these Must be followed up by a telephone call to the referee prior to confirmation of employment. Any gaps in the employment record are explored.

71. New staff are confirmed in post only following completion of satisfactory checks. These checks include:

- verification of identity,
- POVA list (where the post applied for is a “regulated position”),
- work permit (if appropriate),
- driving licence (if appropriate),
- certificates of training and qualifications claimed,
- declaration of physical and mental fitness,
- confirmation Service check by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting (if holding a nursing, midwifery or health visitor qualification),
- sex offenders register, and
- General Social Care Council register (if appropriate).

72. All managers and staff are provided with a written job description and a person and work specification, identifying their responsibilities and accountabilities.

73. The person Specification includes the personal qualities required to undertake the work and the appropriate attitudes to be adopted.

74. Activities, which should not be undertaken by the Advocate, are also identified.

75. Person and work specifications are developed with reference to the relevant National Occupational Standards.

76. New staff are provided with a written contract specifying the terms and conditions under which they are engaged, including the need to comply with the Organisation’s Staff Handbook for staff.

77. You will comply with any Code of Practice published by the Department of Health setting out standards expected of persons employing Advocate s.

Equalities

78. You Must understand and comply with Your Statutory obligations under equalities legislation, including:

- having a Policy suitable for Your business and ensuring that staff are made aware of the necessary procedures and requirements,
 - arranging equalities training for all staff, and
 - producing a brief report each year describing the progress You have made in meeting the requirements of the Race Relations Amendment Act 2000, Disability Discrimination Act 1995, Disability Discrimination Act 2005, Sex Discrimination Act 1975, Equality Act 2006 and the Age Discrimination Act 2006.
79. You Must take positive action to combat discrimination. The Service User's needs arising from specific ethnic, racial, religious, cultural, gender, sexuality, disability or age requirements Must be identified, understood and entered in their Support Plan. You Must ensure that staff are able to meet these needs.
80. Advocates Must communicate with the Service User in their first or preferred language. This will entail Advocate s learning a few key words in the language of the Service User and ensuring they know how to access the interpreting services that is quality assured by KASS.
81. You Must understand and meet Your Statutory obligations under equality legislation. You Must make sure that:
- victimisation, discrimination and harassment are disciplinary offences,
 - an appointed person in the organisation has responsibility for the effective operation of the Policy,
 - there is a plan for implementing the equal opportunities Policy, detailing what actions are to be taken,
 - monitoring and reviewing of the Policy takes place, and
 - staff are supported if they are discriminated against by a Service User or another member of staff.
82. Training is given in equalities to any member of staff responsible for recruitment and selection.
83. You monitor the ethnic origins of all applicants for employment and those appointed.
84. You make sure that Your staff group reflects the ethnic background of the Service User s, if not possible You Must make sure that Your staff group is knowledgeable of the ethnic background of any Service User s they may be working with.

Staff Induction

In order to ensure that staff are appropriately trained to meet the Service User's needs, We require that:-

85. Staff, individually and collectively, have the skills and experience to deliver the service, which the Organisation states in its information material that it provides. The skills and experience of the Advocate are matched to the needs of the Service User, and they are able to communicate effectively with the Service User using the individual's preferred method of communication.

86. There is a structured induction process, which is completed by new members of staff, which encompasses the Training Organisation for Personal Social Services induction standards.
88. Induction Must be undertaken in a number of different ways:
- a formal course or programme of learning,
 - completion of a workbook, checklists and other forms of open learning
 - shadowing or working alongside an experienced colleague.
89. The induction process includes a minimum 3 days orientation programme at the start of employment. The induction process Must be completed within six months. The following topics will be covered in the induction programme:
- the nature of Service provided and the basic skills required,
 - core values, including providing a 'needs-led' service,
 - code of personal conduct,
 - terms and conditions of employment including disciplinary and grievance procedures,
 - the requirements of legislation,
 - policies and working practices of the Organisation,
 - health and safety training including an introduction to manual handling, infection control and fire procedures
 - prevention of any form of abuse or exploitation of the person receiving the service, and whistle-blowing,
 - anti-discriminatory practice including cultural awareness,
 - standards to which the Advocate Should work (including the implications of these standards),
 - confidentiality,
 - gifts and bequests,
 - principal activities which Must not be undertaken,
 - contextual knowledge about the Organisation for which they are working, and
 - quality assurance and monitoring.
90. The code of personal conduct Must cover:
- compliance with the philosophy of IMCA Advocacy
 - confidentiality of information,
 - limits of responsibility,
 - provision of non-discriminatory practice,
 - receiving sexual or racial harassment,
 - health and safety,
 - moving and handling,
 - prevention of any form of abuse,
 - dealing with accidents and emergencies,
 - handling money and financial matters on behalf of the Service User,
 - acceptance of gifts and legacies,
 - dress code,
 - personal safety and out of hours working,
 - not smoking, drinking alcohol or taking illegal substances whilst on duty,
 - ways in which staff and managers may raise concerns about the management and provision of the service, including disclosure of bad practice,
 - maintaining accurate records, and
 - other relevant policies and procedures.

91. Staff are provided with the required training on health and safety.
92. Specialist advice, training and information are provided for the Advocate working with specific user groups and/or medical conditions by someone who is professionally competent to do so. Specialist training would normally be expected for staff working with:
 - people from ethnic minority communities and/or religious groups,
 - people with special communication needs,
 - people with sensory loss,
 - people with dual sensory impairment,
 - older people with complex health and support needs,
 - people who have learning disabilities,
 - people with mental health problems including people subject to Guardianship and Supervision Orders under the Mental Health Act, and
 - people with challenging behaviours.
93. Within the whole staff group there is the range of skills and competence required working with and meeting the needs of the Service User.
94. The manager or supervisor of the Advocate providing the IMCA services has a knowledge and understanding of the specialisms for which they are responsible.

Staff Qualifications

In order to ensure that the Service is provided by qualified and competent staff, We require that:-

95. You have allocated financial resources, and have plans and operational procedures to achieve and monitor the requirements for workforce training and qualification.
96. There is a staff development and training programme within the Organisation, which is reviewed and updated annually.
97. Each new member of staff undertakes training needs analysis on completion of induction or probationary period. This Must be incorporated into the staff training and development plan.
98. The need for refresher and updating training is identified at least annually during staff appraisal and incorporated into the staff development and training programme.
99. All staff are competent and trained to undertake the activities for which they are employed and responsible.
100. Managers should obtain a nationally recognised management qualification equivalent to NVQ level 4 in management.
101. Records of training and development undertaken, and the outcome, are kept on a central development file and on individual personnel files.
102. Managers undertake periodic management training to update their knowledge, skills and competence to manage the Organisation.

Staff Meetings and Supervision

In order to ensure that staff contribute positively and constructively to the standard of care offered by Your Organisation, We require that:-

103. You have clear and easily accessible mechanisms of support, which staff are aware of.
104. You debrief staff after emergencies or unusual situations.
105. All staff have an annual appraisal of their overall standard of performance and identification of training and development needs. A copy of the appraisal is placed on the personnel file of each Advocate. The appraisal will normally be undertaken by the line manager or their manager, except in exceptional circumstances.
106. Managers and supervisors receive training in supervision skills and undertaking performance appraisal.
107. An immediate investigation is undertaken into any allegations or incidents of misconduct, and appropriate disciplinary action taken as necessary (POCA, POVA).
108. A record is kept of all disciplinary incidents and details entered in the personal file of the Advocate concerned.

Freedom from Abuse

In order to ensure that the Service User is protected from abuse, neglect and self-harm, and that appropriate action is taken where it is suspected, We require that:-

109. You ensure that staff are familiar with, and follow, the Kent and Medway Adult Protection Procedures and Your own Policy and Procedure on Adult Protection.
110. You have robust procedures in place for responding to suspicion or evidence of abuse or neglect (including whistle blowing) to ensure the safety and protection of the Service User. The procedures reflect local multi-agency policies and procedures, including the involvement of the Police and the passing on concerns to the appropriate regulatory body in accordance with the Public Interest Disclosure Act 1998 and the Department of Health guidance “No Secrets”.
112. All allegations and incidents of abuse are followed up promptly and the details and action taken are recorded in a special record/file kept for the purpose, and on the personal file of the Service User.

Probity

113. You Must ensure that staff do not profit from Service Users vulnerability.
114. You Must have a written Policy relating to Probity, which forms part of Staff Members’ terms and conditions of employment.
115. The policies and procedures Must make clear that staff do **NOT**:
 - accept gifts or cash (beyond a very minimal value),
 - take responsibility for looking after any valuables on behalf of the Service User,

- allow any unauthorised person (including children) or pets to accompany them on the visit without the permission of the Service User, their relatives or representative and the Care Manager, and
- 116. You have policies and procedures in place for staff regarding the Service User's Will and bequests. The policies and procedures Must prevent the involvement of any staff or members of their family in the making of, or benefiting from, the Service User's Will, soliciting any other form of bequest or legacy, acting as a witness or executor, and being involved in any way with any other legal arrangement.
- 117. You have policies and procedures in place for staff concerning the investigation of allegations of financial irregularities and the involvement of Police, Social Services and professional bodies.
- 118. Staff who are believed to have committed any offence defined by regulations are immediately reported to the Protection of Children (POCA) list, and, when it becomes operational, the Protection of Vulnerable Adults (POVA) list.
- 119. Training on prevention of abuse is given to all staff within six months of employment and is updated every two years.

Security

In order to ensure that information regarding the Service User is secure, and is not compromised by any action undertaken by an Advocate from Your Organisation, We require that:-

- 120. You make staff aware of the risk of unintended breaches of confidentiality and make sure staff are able to identify situations in which it may occur. The principles of confidentiality are observed in discussion with colleagues and the line manager, particularly when undertaking training or group supervision sessions.
- 121. You make sure that staff do not carry with them more confidential information than they need for a day's work programme. When carrying information in car ensure that it is held in a lockable case
- 122. Advocates respect information given by the Service User or their representative in confidence and handle information about the Service User, in accordance with the Data Protection Act 1998 and Your written policies and procedures, and in the best interests of the Service User.
- 123. Suitable provision is made for the safe and confidential storage of the Service User's records and information, including the provision of lockable filing cabinets and the shielding of computer screens from general view when displaying personal data.
- 124. You make sure that staff who leave or change duties return all written information about their work.
- 125. Identity cards are provided for all Advocates entering the home of the Service User. The cards should display:
 - a photograph of the member of staff,
 - the name of the person and employing Organisation in large print,
 - the contact number of the Organisation, and

- ❑ date of issue and expiry date, which Should not exceed 36 months from the date of issue.

126. The cards should be:

- ❑ laminated or otherwise tamper proof,
- ❑ renewed and replaced within at least 36 months from the date of issue, and
- ❑ returned to You when employment ceases.

Quality Assurance

127. You shall have in place a quality management system to ensure internal control of quality and consistency of practice.

128. You shall be committed to a process of continuous Service improvement.

Complaints and Compliments

129. You Must have an easily understood, well-publicised and accessible Procedure to enable an individual to make a complaint or compliment and for complaints to be investigated.

130. The Procedure Must include:

131. Stages and Timescales for the process;

132. Acknowledgement of all complaints and an explanation of what action is to be taken;

133. Regular update of what is happening regarding the complaint;

134. A written record of all complaints and compliments including details of any investigation and action taken.

Guides, References and other Useful Documents

Statutes

Statutes and Statutory instruments can be downloaded free of charge at www.legislation.hmsso.gov.uk

- ❑ Age Discrimination Act 2006
- ❑ Code of Practice (Mental Capacity Act) 2007
- ❑ Deprivation of Liberty Safeguards: Code of Practice to supplement the main Mental Capacity Act 2005 Code of Practice
- ❑ Equality Act 2006
- ❑ Freedom of Information Act 2000
- ❑ Carers and Disabled Children's Act 2000
- ❑ Care Standards Act 2000
- ❑ Race Relations Amendment Act 2000
- ❑ Data Protection Act 1998
- ❑ Human Rights Act 1998
- ❑ Public Interest Disclosure Act 1998

- ❑ Disability Discrimination Act 1995
- ❑ Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995
- ❑ Mental Capacity Act 2005
- ❑ Mental Health (Patients in the Community) Act 1995
- ❑ Management at Work Regulations 1992
- ❑ NHS & Community Care Act 1990
- ❑ Mental Health Act 1983
- ❑ Sex Discrimination Act 1975, 1986
- ❑ Race Relations Act 1976
- ❑ National Assistance Act 1948

Staff

- ❑ Protection of Vulnerable Adults Scheme 2004
- ❑ Employment Act 2002
- ❑ Criminal Records Bureau Disclosure Service 2000
- ❑ Care Standards Act 2000
- ❑ Employment Relations Act 1999
- ❑ National Minimum Wage Act 1998 and Regulations 1999
- ❑ Working Time Regulations 1998 and 1999
- ❑ Public Interest Disclosure Act 1998 (Whistle Blowing)
- ❑ The Provision and Use of Work Equipment Regulations (1998) (ISBN0-7176-0414-4) are available from the Health and Safety Executive
- ❑ Part V Police Act 1997
- ❑ Employment Rights Act 1996
- ❑ Rehabilitation of Offenders Act 1974
- ❑ National Association for the Care and Resettlement of Offenders (NACRO) leaflet

Other Documents

- ❑ Multi-Agency Adult Protection Policy, Procedures and Protocols for Kent and Medway

This Specification is the property of Kent County Council and Medway Council. Comments or questions should be forwarded to:

<http://www.kent.gov.uk/SocialCare/adults-and-older-people/mental-capacity-act/>
<http://www.medway.gov.uk/index/socialcare/adults/3796.html/71165.htm>

This Specification is the property of Kent County Council and Medway Council. Comments or questions should be forwarded to:

Kent County Council
Adult Services Directorate
Brenchley House BH3
123-135 Week Street
Maidstone
Kent ME14 1RF
Telephone: (01622) 694063
E-mail: sshqcontracts@kent.gov.uk