

# IMCAS IN SAFEGUARDING

## Policy and Guidance



### **Involving IMCAs in adult protection cases**

based on SCIE guide 32: *Practice guidance on the involvement of IMCAS in safeguarding adults* compiled in 2009 by the ADASS

### **When an IMCA can be instructed in Adult Protection cases**

Responsible bodies have powers to instruct an IMCA to support and represent a person who lacks capacity where it is alleged that:

- the person is or has been abused or neglected by another person, or
- the person is abusing or has abused another person.

The same advocate or IMCA must not be expected to represent both the victim and the perpetrator. Another advocacy service may be used.

In adult protection cases, access to IMCAs is not restricted to people who have no-one else to support or represent them. People who lack capacity who have family and friends can still have an IMCA to support them in the adult protection procedures.

The responsible bodies can only instruct an IMCA if they plan to take protective measures. For example restrictions on contact or access to certain places/ change in residence / the police interviewing the person or collecting evidence which may support a prosecution/ increased support or supervision

The worker involved should have a reasonable belief that the person lacks mental capacity to consent to one or more of the proposed protective measures. *If it is later found that the person has capacity with regard to all the protective measures which are being considered, the IMCA instruction should be withdrawn. The IMCA role would normally end at this point; however, the IMCA may still wish to challenge decisions about capacity or best interests.*

The investigating social worker **MUST** consider whether an IMCA should be instructed for each person at risk who lacks capacity to agree to one or more protective measures being considered. The decision should be recorded.

The IMCA instruction would be focused on the protective measures and protection plan and is likely to end when decisions have been made.

### **When to make the referral**

An IMCA may be required at the stage of the strategy discussion/meeting where the wishes/decisions made by the individual would have a significant impact on the investigative process or where immediate actions need to be taken to safeguard the individual prior to further investigation taking place.

An IMCA would need to be instructed at the case conference/safeguarding planning stage so that they can provide input into the safeguarding plan. This would be appropriate in cases where decisions need to be made as a result of findings of the investigation

## **Role of the IMCA in Adult Protection cases**

In this context, IMCAs have a particular responsibility to ensure that the person's feelings and wishes are represented in discussions concerning the protective measures

IMCAs will seek to establish that all possible protective measures have been considered and that consideration has been given as to whether the proposed measures are the least restrictive of the person's rights.

IMCAs should find out whether the person at risk has been given as much support as possible to participate in the decision-making process.

Regulations allow IMCAs to make representations on any matter they feel is relevant to decisions concerning protective measures including any other functions of the safeguarding adults process. This may include, for example, the investigation process, involvement of the police, raising the need for other vulnerable people, witnesses or whistleblowers to be protected, or referring perpetrators to the ISA barred list.

One of the statutory rights of IMCAs is to meet the person where 'practical and appropriate'. When instructed for a person at risk there are a number of reasons why it may not be practical or appropriate to meet the person. These include where meeting the person could jeopardize any criminal investigations

The possibility of undermining criminal proceedings (or other investigation processes) should be considered seriously in each case regardless of whether the person at risk is an alleged victim or perpetrator. IMCAs should be aware that talking to a person before a criminal trial has the potential to affect the reliability (actual or perceived) of evidence. The person could become aware of gaps or inconsistencies in their evidence. Pre-trial discussions may lead to allegations of coaching and, ultimately, the failure of the criminal case.

If there is a possibility of an ongoing police investigation, before meeting the person, IMCAs should get agreement in writing setting out any limits and make a record of the meeting within 24 hours.

If an IMCA believes they are being unreasonably denied access to the person, they may formally challenge this.

It is unlikely that the IMCA will need to make contact with the alleged perpetrator (when this is not their client). At times, however, the views of the alleged perpetrator will be critical to informing decisions regarding the person at risk. For example, where there is concern about a relative's ability to provide the person with adequate support and care. Particularly where there is no likelihood of a criminal prosecution, it may be appropriate to seek their views. If an IMCA believes they have justification for seeking contact, it is recommended that this is agreed in advance by both their line manager and the worker involved.

In some cases, the IMCA may want to speak to people who are not part of the safeguarding meetings to help identify the person's views and wishes. IMCAs should not contact anyone outside the safeguarding adults meeting without first confirming that they have been advised of the safeguarding adults proceedings and the instruction of the IMCA. The IMCA should also find out what they have been told about the alleged abuse.

The worker involved should advise all relevant people, including any family and friends where appropriate, that an IMCA has been instructed. IMCAs must not share any information about the alleged abuse which may be unknown to the person they are consulting. If an IMCA wishes to do this they should get explicit permission to do so from the worker or the meeting chair.

## **Providing Information to the IMCA and considering their input**

The IMCA should be provided with copies of the alert form, strategy meeting minutes and reports produced as part of the safeguarding adults proceedings

Once an IMCA has been instructed they should be invited to all safeguarding adults meetings and decision-makers must consider their reports and any other submissions when making decisions.

The worker and chair of any safeguarding meeting should consider whether delaying making decisions while waiting for a written IMCA report would go against the person's best interests. Where decisions are made about protective measures before an IMCA report is received, there is still a statutory requirement to have had regard to any verbal representations the IMCA has already made. An IMCA report should then be provided as soon as possible (within one week).

The decision about when to stop representing a person at risk, once instructed, should be made by the IMCA and not the instructing body.