

## Appendix 12

### The Role of the Independent Mental Capacity Advocate

The Mental Capacity Act regulations extend the powers of Local authorities to instruct IMCAs in Safeguarding adults investigations. It will therefore be unlawful not to consider using these powers to instruct IMCAs for Safeguarding Adults where the qualifying criteria are met. The regulations specify that Local Authorities have powers to instruct an IMCA if the following two requirements are met:

- Where protective measures are being put in place in relation to the Safeguarding of vulnerable adults from abuse.
- Where the person lacks capacity.

We must therefore consider instructing an IMCA to represent the person concerned if we are satisfied that it would be of benefit to the person to do so. In cases an IMCA may be appointed even when family members or others are available to be consulted.

The regulations apply equally to, a person who:

- Has been abused.
- Has been neglected and
- Is alleged to be the abuser

Having the power to instruct an IMCA in Safeguarding Adults cases means that we need to consider for each individual who meets the qualifying criteria whether an IMCA should be instructed.

Where an IMCA is appointed we must take into account any information provided, or submission made by the IMCA when making any decision about the protective measures to be put in place. After the preliminary assessment a decision about further action will need to take account of the following factors:

- The nature and extent of the alleged/suspected abuse.
- Any evidence for the alleged/suspected abuse.
- The reasons why the person suspected of being abused is considered vulnerable.
- The vulnerable adult's capacity to give informed consent to the actions or inactions constituting the alleged abuse.
- What is known about the vulnerable adult's capacity to give informed consent to actions which may be required during an investigation/assessment?
- What is known of the vulnerable person's ability to communicate –

whether an interpreter is required?

- Whether a disclosure has already been made by the vulnerable person.
- The nature of the relationship of the alleged perpetrator and the vulnerable adult.
- Whether there have been previous reported episodes of abuse or alleged abuse and, if so, the outcome of intervention.
- What is already known about the needs of the vulnerable adult and the person suspected of abusing her/him?
- Who amongst the professional network has the confidence of the vulnerable adult?
- The risk of repeated or increasingly serious acts involving the vulnerable adult.