



2016 CHAPTER 18

PART 4

INDEPENDENT MENTAL CAPACITY ADVOCATES

*Procedure for ensuring that an independent
mental capacity advocate is instructed*

Request for independent mental capacity advocate to be instructed

88.—(1) This section applies where it reasonably appears to an appropriate healthcare professional—

- (a) that a determination needs to be made of whether a particular act would be in the best interests of a person (“P”) who is 16 or over and lacks capacity in relation to the matter; and
- (b) that by reason of section 35 or 55, an independent mental capacity advocate needs to be instructed to represent and provide support to P in that determination.

(2) The appropriate healthcare professional may request the relevant trust to instruct an independent mental capacity advocate to represent and provide support to P in the determination of whether the act would be in P’s best interests.

(3) A request under this section may be made only if the steps required by section 89 have been taken so far as practicable.

(4) A request under this section must be in a prescribed form and include prescribed information.

(5) In this section—

“appropriate healthcare professional” means a person of a prescribed description.

“the relevant trust” means the HSC trust in whose area the act would be carried out.