

## Mental Health Act (2014) Handbook

The Victorian Government's official handbook on the Mental Health Act (2014).

<https://www2.health.vic.gov.au/mental-health/practice-and-service-quality/mental-health-act-2014-handbook>

Email: [mentalhealthreform@dhhs.vic.gov.au](mailto:mentalhealthreform@dhhs.vic.gov.au)

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Dandenong Hospital  
126 Cleeland Street  
Dandenong 3175



Psychiatric Triage Service  
Phone 1300 369 012



[monashhealth.org](http://monashhealth.org)



Phone: 131 450

Last reviewed 8/08/17

Consumer Reviewed

# Mental Health Act 2014

How does it affect you?

How does it protect your rights?



MonashHealth

## The Mental Health Act 2014

The law that protects people with mental illness in Victoria changed in 2014. This law is the Mental Health Act 2014.

It supports your right to:

- receive care that focuses on your recovery
- include you in decisions about treatment
- make plans for future treatment
- allow another person to represent your views if you are unwell
- ask another doctor (psychiatrist) to assess you
- include your family, friend or carer as part of the health team.

## Recovery focus

The Mental Health Act provides a guide for the mental health care team to put you at the centre of your care. This is known as recovery oriented practice. Your care team will help you to:

- Make positive decisions about your health
- Know yourself, your strengths and what you like
- Decide on your goals of treatment

- Find somewhere to live, go to school or get a job
- Connect with family and friends
- Be part of your local community

## Protecting and supporting you

The Mental Health Act encourages you to make your own choices. If you choose to go to hospital or a clinic for treatment of your mental illness, this is called voluntary treatment.

You may need compulsory treatment if you are not well enough to make decisions about your own care. Your treating team may give you compulsory treatment to:

- stop your illness getting worse
- stop you from hurting yourself
- stop you from hurting someone else

The Mental Health Act describes what your rights are if you need compulsory treatment.

Your treating team will explain your rights to you. If you would like to know more, you can ask for more information. If you do not understand, you can ask to have your rights explained in a way you do understand.

## The Mental Health Tribunal

The Mental Health Tribunal makes sure that your treating team are following the law if you are having compulsory treatment. They do this by making orders about your treatment (compulsory treatment orders).

The tribunal is an independent body. The panel includes a lawyer, a doctor and a community member. They meet at the hospital or clinic where you are receiving treatment.

They will make sure that compulsory treatment is the best choice for you at the time. The tribunal will review your doctor's plans for your care.

If you believe that the compulsory treatment should be stopped, the tribunal will also listen to you.

The tribunal will also decide if your doctor wants to use Electroconvulsive Therapy (ECT) or neurosurgery treatments.

Phone: 03 9032 3200

Website: [www.mht.vic.gov.au](http://www.mht.vic.gov.au)

Email: [mht@mht.vic.gov.au](mailto:mht@mht.vic.gov.au)

Address: Level 30, 570 Bourke St, Melbourne, 3000

## Compulsory Treatment Orders

There are three main types of orders that can be used when you are unwell. These are:

1. Assessment Order
2. Temporary Treatment Order
3. Treatment Order
  - Treatment Order (inpatient)
  - Treatment Order (community)

### 1. Assessment Order

An assessment order is a request by a doctor or a registered mental health clinician (nurse, psychologist, social worker or occupational therapist) to have you seen by a psychiatrist. A psychiatrist is a doctor who treats people with mental illness.

Assessment orders can be made when you are at home, at a clinic or in the Emergency Department of a hospital. You will be given a copy of the Assessment Order and have your rights explained.

The psychiatrist will see you and decide the best treatment. They will decide if you have a mental illness and if you need compulsory treatment. The psychiatrist can see you at home, in a clinic or in a hospital.

If the psychiatrist sees you at home or a clinic, this must be within 24 hours (1 day) of the Assessment Order being made.

If the Assessment Orders says that you need to be seen at a hospital, this must be within 72 hours (3 days) of the order being made. The psychiatrist must then see you within 24 hours (1 day) of you getting to hospital.

## 2. Temporary Treatment Orders

A Temporary Treatment Order is made if the psychiatrist sees you and decides you have a mental illness and need compulsory treatment.

The doctor (psychiatrist) will ask you what mental health treatment you would like. The doctor will also look at your Advance Statement (if you have one). The doctor will then decide on the best treatment for you.

You may have to stay in hospital for the mental health treatment even if you do not want to.

You will not have to stay in hospital if the psychiatrist says you can have treatment at home or when you visit a community clinic.

A Temporary Treatment Order can last up to 28 days. The psychiatrist decides if the Temporary Treatment Order should stop or continues as a Treatment Order.

## 3. Treatment Orders

The Mental Health Tribunal reviews your treatment plan if you are having compulsory treatment. The review happens about three weeks after the start of the temporary treatment order. You can attend a hearing and can ask to have a support person with you.

The Tribunal will listen to:

- what you have to say
- your family, carer or your nominated person
- your doctor and treating team
- anyone you would like to speak for you (such as a lawyer)

The tribunal will also read your Advanced Statement (if you have one).

If the tribunal think you need to continue having compulsory treatment, they will make a Treatment Order. The Treatment Order can be for either treatment in hospital or at home. The tribunal will also decide how long the order will last.

### **Treatment Order (inpatient)**

This means that you have to stay in hospital for mental health treatment even if you do not want to.

A Treatment Order (inpatient) lasts for up to:

- 6 months if you are an adult
- 3 months if you are under 18 years old.

Inpatient mental health treatment usually lasts for 1 - 2 weeks. If you have a long admission, the Mental Health Tribunal will look at your treatment orders every 4 weeks.

### **Treatment Order (community)**

This means that you can have mental health treatment while living at home.

A Treatment Order (community) lasts for up to:

- 12 months if you are an adult
- 3 months if you are under 18 years old.

Your psychiatrist can change the location of your treatment – either hospital or home – depending on how well you are.

This does not affect how long your treatment order lasts.

## **Advance Statements**

An Advance Statement is a plan that you make when you are well. It is about the treatment you want when you are unwell. This helps the treating team know what you prefer.

Reasons to have an Advance Statement:

- to feel heard
- to feel secure
- make your choices known

If you have an Advance Statement, your doctor must use it when deciding the best treatment for you.

You can make an Advance Statement at any time as long as you understand what this means.

An Advance Statement must be in writing. You must sign and date the statement. An “authorised witness” must also sign the statement.

An authorised witness can be a:

- doctor
- nurse
- pharmacist
- social worker
- occupational therapist
- police officer
- lawyer

## Nominated Person

A 'nominated person' is someone you can choose to represent your views and wishes when you are unwell.

Your nominated person can be a:

- family member, carer, partner, friend or
- anyone else you choose.

You can choose or remove a nominated person at any time.

Information about your care is given to your nominated person. They can make sure your mental health treatment is what you would choose yourself.

Your nominated person should be someone who knows you well, and who you trust. The person you ask must be willing and agree to be your Nominated Person.



## Independent Mental Health Advocacy (IMHA)

IMHA is an independent non-legal advocacy service. IMHA helps people to make or participate in decisions about their assessment, treatment and recovery.

IMHA advocates take directions from consumers regarding their views and preferences.

Ph: 1300 947 820

Website: [www.imha.vic.gov.au](http://www.imha.vic.gov.au)

Email: [contact@imha.vic.gov.au](mailto:contact@imha.vic.gov.au)

## Getting a Second Opinion

You can ask another psychiatrist to review your treatment if you are receiving compulsory treatment. This is known as getting a second opinion.

You can ask for this at any time. You can ask someone else to do this for you. A doctor, nurse or another member of your treating team will help you get a second opinion if you ask them for help.

The second opinion psychiatrist can be a doctor at Monash Health or another health service.

A second opinion psychiatrist will see you and let you know:

- if you still need compulsory treatment
- what is the best treatment for you

They will give you and your treating team a written report.

Asking for a second opinion will not stop you receiving compulsory treatment.

Your psychiatrist will read the second opinion report and think about whether to change your treatment. If your psychiatrist does not change your treatment then they must tell you:

- that they are not going to change your treatment
- why they are not going to change your treatment.

Your psychiatrist must also tell you that you can ask the Chief Psychiatrist to review this decision.

Phone: 1300 503 426

Website: [www.secondopinion.org.au](http://www.secondopinion.org.au)

Email: [intake@secondopinion.org.au](mailto:intake@secondopinion.org.au)

## Making a complaint

If you are concerned or not happy with your care, you can talk to your treating team. They will try and fix the problem for you.

If you are still unhappy you can contact the **Consumer Relations Coordinator - Mental Health Program.**

Phone: 03 9554 9237

Website:

[www.monashhealth.org/page/Concerns\\_compliments](http://www.monashhealth.org/page/Concerns_compliments)

Address: Consumer Liaison - Monash Health  
Locked Bag 29, Clayton South, 3169

This person listens to the concerns and compliments made by patients, families and carers of the Mental Health Program. They also ask for the complaint to be reviewed by senior staff.

## Mental Health Complaints Commissioner

You can also contact the Mental Health Complaints Commissioner (MHCC).

The MHCC is an independent body that makes sure that mental health services are following the law.

A doctor, nurse or other member of the treating team will help you to talk to the MHCC if you ask. You can also ask

a family member, a carer or any other person you choose to help you.

Phone: 1800 246 054

Website: [www.mhcc.vic.gov.au](http://www.mhcc.vic.gov.au)

Email: [help@mhcc.vic.gov.au](mailto:help@mhcc.vic.gov.au)

Address: Level 6, 570 Bourke St, Melbourne, 3000

## Community Visitors

Community visitors are people who visit mental health services to check on care and facilities. You can ask them questions, get support or resolve issues about the mental health service.

Phone: 1300 309 337

Website: [www.publicadvocate.vic.gov.au](http://www.publicadvocate.vic.gov.au)

Email: [opa\\_advice@justice.vic.gov.au](mailto:opa_advice@justice.vic.gov.au)

Address: Level 1, 204 Lygon Street, Carlton, 3053

## Other Helpful Contacts

<b>Mental Health Legal Centre</b> Website: <a href="http://www.communitylaw.org.au/mhlc">www.communitylaw.org.au/mhlc</a> Email: <a href="mailto:mhlc@mhlc.org.au">mhlc@mhlc.org.au</a>	03 9629 4422
<b>Tandem</b> Website: <a href="http://www.tandemcarers.org.au">www.tandemcarers.org.au</a> Email: <a href="mailto:info@tandemcarers.org.au">info@tandemcarers.org.au</a>	03 8803 5555
<b>Victoria Legal Aid</b> Website: <a href="http://www.legalaid.vic">www.legalaid.vic</a> Email: <a href="mailto:contact@imha.vic.gov.au">contact@imha.vic.gov.au</a>	1300 792 387
<b>Victorian Mental Illness Awareness Council</b> Website: <a href="http://www.vmiac.org.au">www.vmiac.org.au</a> Email: <a href="mailto:info@vmiac.org.au">info@vmiac.org.au</a>	03 9380 3900