# Guide to ‘Nominated Persons’

Under the *Mental Health Act 2014* (Vic) (the Act), you have the right to a Nominated Person. A Nominated Person can:

* support you and help represent your interests
* receive information about you
* be consulted about your treatment
* support you to exercise your rights.

The Act says that you can only have one Nominated Person and their role only applies if you are placed on a compulsory mental health order. You don’t have to have a Nominated Person – it’s up to you.

## How could a Nominated Person assist me?

You might choose to nominate a person for several reasons. They can protect your rights and interests, including making sure your treating team considers your preferences, needs, experiences, goals and strengths and involves you in decisions as much as possible. They must be informed about your treatment and consulted for their opinion at key stages of your assessment, treatment and recovery in the mental health service.

This is a complex role, so it is important that you have conversations with your Nominated Person about your treatment preferences and how you want them to support you.

Under the Act, ‘reasonable steps’ must be taken to inform your Nominated Person at key points in your treatment including when:

* a compulsory order is made, varied, revoked or expires
* your right to communicate is restricted
* a restrictive intervention is used against you (for example, you are placed in seclusion)
* you are absent without leave from a mental health service
* your leave when you are in hospital is varied
* you are given a second psychiatric opinion (and the report must be provided)
* your treatment is reviewed by the Office of the Chief Psychiatrist
* you have a matter listed in the Mental Health Tribunal.

## When does the service need to consult my Nominated Person?

The psychiatrist must also ‘to the extent that it is reasonable in the circumstances’ consider the views of the Nominated Person at key points in your treatment including when:

* a compulsory order is made, varied, revoked or expires
* the setting where you are receiving compulsory treatment is determined or changed
* the Mental Health Tribunal makes or varies an order
* your leave when you are in hospital is varied
* a psychiatrist makes a treatment decision about you
* you receive a second psychiatric opinion
* the Chief Psychiatrist reviews your treatment
* your psychiatrist applies to the Mental Health Tribunal to give you electroconvulsive treatment (ECT).

## Who can be a Nominated Person?

Anyone can be a Nominated Person so long as they are willing, available and able to undertake the duties and responsibilities of the role. There are no age restrictions on who can be a Nominated Person. Examples of someone you might consider are a family member, partner or friend.

Your Nominated Person needs to know your treatment preferences and be willing to express these to your treating team.

## How can I nominate a person?

A nomination for a Nominated Person must:

* be in writing
* be signed and dated by you
* give the name and contact details of the person you wish to nominate
* include a statement signed by the Nominated Person that they agree to be nominated
* be witnessed by an ‘Authorised Witness’.

The authorised witness must make a statement that you understand the nomination and the consequences of making the nomination. The authorised witness can be:

* a registered mental health practitioner – a doctor or psychiatrist
* a mental health practitioner – a social worker or a registered nurse, psychologist or occupational therapist working at a public mental health service
* a person authorised to witness statutory declarations (this is a large list of people including lawyers, police officers, local government councillors, doctors, dentists and school principals).

## How do I cancel a nomination?

You can revoke (cancel) a nomination at any time. The revocation must be in writing and you must sign and date it. The revocation must also be witnessed by an authorised witness. The witness must include a written statement that you understand the revocation and the consequences of revoking the nomination.

Because you can only have one Nominated Person, if you make a new nomination then any previous nomination is automatically revoked (cancelled).

If the person you have nominated does not want to continue to act as your Nominated Person, they must take reasonable steps to tell you. They must also tell the authorised psychiatrist of the mental health service that is treating you if you are a compulsory patient. Their nomination then ceases.

## How can Independent Mental Health Advocacy support me?

If you are receiving compulsory mental health treatment, you may feel you need help to understand and act on your rights in the mental health system.

Our independent advocates can:

* listen to what you want and talk to you about your options
* give you information and support to act on your rights
* work with you so you can be involved in decisions to the greatest extent possible
* refer you to other services if needed.

This could include supporting you to nominate a Nominated Person or to uphold any other rights you have under the Act.

# How to contact IMHA and find out more

* Visit the website [www.imha.vic.gov.au](http://www.imha.vic.gov.au) and see our nominated person videos
* Send an email to [contact@imha.vic.gov.au](mailto:contact@imha.vic.gov.au)
* Call the IMHA phone line **1300 947 820**, which is staffed by IMHA advocates 9:30am – 4:30pm Monday to Friday (except public holidays)
* Call the IMHA rights line on **1800 959 353** to hear a recording about your rights
* Ask a mental health service provider, carer or other support person to assist contacting IMHA.