

Guide to advance statement of preferences

May 2025

Under Victoria's *Mental Health and Wellbeing Act 2022* writing an advance statement of preferences is a legal right. This document is an opportunity to communicate your treatment, care and support preferences and experience of mental health while you are under compulsory treatment.

This guide can be used alongside the Advance statement of preferences template available from the Victorian Department of Health website (www.health.vic.gov.au). You can choose to write in another way that suits your style or needs.

What is an advance statement of preferences?

Under the Act, advance statement of preferences are documents that outline a person's treatment, support, and care preferences if they are placed under compulsory treatment. The treating team must **take all reasonable (fair and sensible) efforts to do what's in your statement**, but they are **not legally bound** to do so. If they choose not to follow them, they must provide reasons for not following your wishes in writing within 10 business days. If you have a treatment/healing preference included in your statement, the mental health and wellbeing service can only require you to have a different treatment if either they:

- think what you want isn't clinically appropriate,
- can't provide what you want after they've taken all reasonable (fair and sensible) steps to try to provide it.

You can include non-treatment preferences for care and support. These include your own account of your mental health, directions to notify family, kin, support person/s or carers, look after pets, manage finances, physical health needs, Social and Emotional Wellbeing (SEWB), cultural healing, spiritual needs, and other responsibilities including care for children. You can include what helps you to communicate and make decisions, and who can be provided with your health information.

Should I make an advance statement of preferences?

Before starting to write an advance statement of preferences, you may wish to consider why people choose to make one. Potential benefits of making an advance statement of preferences include:

- promoting your right to autonomy and self-determination, by enabling you to voice your preferred treatment.
- allowing you to express your experience of mental health, illness, or distress in your own words.
- enhancing communication between you and the people involved in your care, which may give you a greater sense of control and participation in treatment decisions.
- helping protect you from unwanted treatments that you believe may be harmful to your recovery and wellbeing.
- raising awareness of treatments that have previously not worked for you.
- allowing you to suggest alternative treatments/healing that have worked for you.
- allowing you to inform your treating team of other things that need taking care of and/or responding

to while you are unwell and/or hospitalised (for example notifying family or carers, support worker, looking after pets, managing finances, physical health needs, cultural needs, spiritual needs, and other responsibilities).

- allowing you to authorise a person to bring your complaint to the Mental Health and Wellbeing Commission (MHCW) on your behalf.

How do I make an advance statement of preferences?

You can use the Advance statement of preference template form available at www.health.vic.gov.au. You may also decide to write your advance statement of preferences with a support person or your nominated support person. The only requirements are that it is:

- signed and dated by you.
- formally witnessed in writing by any adult (18 years of age or over) This means the adult must watch you sign the form. A statement by the witness must also be included. The Victorian Government template for advance statement of preferences suggests the following witness declaration wording:
 - *“In my opinion, the person making this Advance Statement of Preferences understands:*
 - *what an advance statement of preferences is;*
 - *the consequences of making the statement; and*
 - *how to revoke it.*
 - *In my opinion, they appear to have made this advance statement of preference of their own free will and I have observed the above-named person signing the statement.”*

Witness name: _____

Witness signature: _____

Date: _____

Time: _____

If you have made an advance statement of preferences, it can't be amended. It will stay effective unless you want to cancel it. To do this you can:

- use the Advance statement of preferences revocation form available at www.health.vic.gov.au to cancel your statement
- make a new statement and this will automatically cancel your current statement.

Who can be my witness?

Your witness can be any adult (someone that is 18 years of age or over). This can be anyone you choose, including friends, family, or support workers.

It is important to note that the authorised witness does not need to agree with your treatment preferences.

They need to sign a statement that says they believe **all of the following**, that you:

- understand what an advance statement of preferences is,
- understand the consequences of having one
- know how to cancel it if you want to

- are making the advance statement of preferences of your own free will.

If your witness is not sure if you understand these things, you could explain it to them or go through this guide together.

There may be times that certain people can't witness your advance statement of preferences form because their employment means they are not allowed to. Your witness may want to check with their employer before witnessing you sign the form. If your witness says they can't sign the form, remember, you can choose another adult to be your witness.

How do I revoke (cancel) an advance statement of preferences?

Revoking an advance statement of preferences has the same requirements as making one, in other words the statement must:

- express your wish to revoke your previous advance statement of preferences
- be signed and dated by you
- be witnessed by an adult, with a statement confirming that you understand what an advance statement of preferences is and that it is revoked and that you appear to be revoking it of your own free will.

How do I ensure my mental health service knows I have an advance statement of preferences?

- When you fill in the form, give it to your mental health and wellbeing service. They will put a copy in your clinical file and record it in the hospital's electronic information system.
- You will need to keep a copy of the form for yourself in case you go to a different hospital or service. You can ask your mental health and wellbeing service to make copies for you. You can give a copy to your carer, support person, or nominated support person.

Can an advocate help?

If you wish, our advocates can help you prepare an advance statement of preferences.

Our independent advocates and independent First Nations advocates can also:

- 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 have your say.
- refer you to other services if needed.

How to contact IMHA and find out more

- visit the website www.imha.vic.gov.au and see our advance statement of preferences videos
- send an email to contact@imha.vic.gov.au
- call the IMHA phone line **1300 947 820**, which is staffed by IMHA advocates 9:30am – 4:30pm seven days a week (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, kin or other support person to assist contacting IMHA.



imha.vic.gov.au