# Information for consumers – know your rights

**May 2025**

People who are on an order for compulsory mental health treatment have a range of rights under the *Victorian Mental Health and Wellbeing Act 2022*. These include the following rights.

* You have the right to be informed about why you have been placed on a compulsory order
* You have the right to **be presumed to have capacity** to make decisions about your treatment. This means:
	+ your informed consent to treatment must be sought wherever possible
	+ you can refuse electroconvulsive treatment (ECT) when you have capacity to make this decision.
* You have the right to **be involved in, and supported to make, decisions** about your mental health assessment, treatment, and recovery, including:
	+ having your views and preferences respected
	+ being given reasonable time without being unduly pressured or forced to make decisions
	+ having an opportunity to discuss your treatment options with your psychiatrist
	+ being supported to get other advice or assistance.
* You have the right to be **provided appropriate support to make and participate in decisions**, understand information and your rights, and communicate your views, preferences, questions, or decisions.
* You have the right to **be communicated with in a way that meets your needs**, such as in your preferred language, an appropriate physical or sensory environment, and having appropriate spaces for you to communicate with your family members, kin, carers, supporters, or advocates.
* You have the right to **be informed about your treatment,** including an explanation of:
	+ any proposed treatment, its purpose, advantages, and disadvantages (e.g., risks or side effects)
	+ any other treatments available, including advantages and disadvantages.

This information is to be provided in a way that you can understand and that answers your questions. You can ask for this information in writing and request an interpreter if you need one.

* You have the right to make decisions about your treatment and recovery that involve a degree of risk.
* You have the right to receive the least restrictive treatment, in the least restrictive way possible, taking into account your treatment preferences, recovery goals and available alternative treatments:
	+ Least restrictive means you need to be given **as much freedom** as you can, based on your individual circumstances. What is restrictive for one person might not be restrictive for someone else.
	+ You may only be kept in hospital for treatment when you **cannot be treated in the community**.
	+ An order for compulsory treatment should not be made if the **possible harm** from it is likely to be more than the harm it’s intended to prevent.
	+ Only be **secluded or restrained** after all reasonable less restrictive options have been tried or considered.
* You have the right to **feel safe and respected**, including:
	+ having your gender identity, sexual orientation, sex, ethnicity, language, race, religion (faith or spirituality), class, socioeconomic status, age disability, neurodiversity, culture, residency status and geographic disadvantage recognised and responded to
	+ having your medical and other **health needs** recognised and responded to
	+ having your **dignity, autonomy and rights** respected and promoted
	+ receiving mental health and wellbeing services supporting your **recovery** and full participation in community life.
* You have the right to have your unique **culture and identity** respected if you are a **First Nations** person, including:
	+ the right to assessment and treatment that promotes your **self-determination**
	+ your **connection** to family, kin, community, country, and water being respected.
* You have the right to **receive information about your rights** under the Mental Health and Wellbeing Act 2022 from your mental health and wellbeing service, including:
	+ a written statement and spoken explanation at an appropriate time
	+ answers to your questions that are as complete and clear as possible.
* You have the right to have your health and personal information recorded accurately and respectfully:
	+ you can ask for **corrections** to your health information
	+ if the mental health and wellbeing service denies your request, you can create a **health information statement** that explains the changes you want. This must be included in your file.
* You have the right to **make an advance statement of preferences** that sets out in writing your mental health treatment, care, and support preferences:
	+ your psychiatrist must consider your treatment preferences
	+ if your psychiatrist does not follow a preferred treatment in your statement, they must tell you why in writing within 10 business days.
* You have the right to **appoint a nominated support person** who can support you, advocate for what you want, help you receive information, and assist you to exercise your rights:
	+ there are times when your Nominated Support Person must be notified about your treatment.
* You have the right to seek a second psychiatric opinion:
	+ from any psychiatrist, including from the mental health and wellbeing service where you are receiving treatment or from the free and independent Second Psychiatric Opinion Service
	+ if your psychiatrist does not adopt all changes recommended in a Second Psychiatric Opinion, they should explain the reasons why. You should receive a written explanation within 10 business days. You also have the right to ask the Chief Psychiatrist to review your treatment.
* You have the right to **help with communication**. When in hospital, your right to communicate may be restricted if necessary for safety:
	+ if your communication is restricted, this must be put in writing
	+ but you can’t be restricted from contacting a **lawyer, a mental health advocate,** the **Mental Health and Wellbeing Commission**, the **Mental Health Tribunal**, the **Chief Psychiatrist**, or the **Office of the Public Advocate community visitor**.
* You have the right to communicate with a **lawyer** to seek legal assistance.
* You have the right to communicate with an **IMHA advocate** to seek advocacy support. IMHA will be notified at key points when you are receiving compulsory treatment. IMHA will contact you unless you have told them not to.
* You have the right to **ask for support** from an advocate, community visitor or any other person you choose.
* You have the right to **appeal against an order for compulsory treatment** by asking for a Mental Health Tribunal hearing.
	+ you can ask a lawyer or another person to represent or support you at a Mental Health Tribunal hearing.
* You have the right to **make a complaint about a mental health and wellbeing service** by speaking to the service and/or the Mental Health and Wellbeing Commission. This includes a complaint about the mental health and wellbeing principles, or other principles not being followed.

## About IMHA

IMHA services are independent, free and confidential.

If you are receiving compulsory treatment, our IMHA 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 your treatment and recovery
* refer you to other services if you want.

## How to contact IMHA and find out more

You can:

* visit the website www.imha.vic.gov.au
* send an email to contact@imha.vic.gov.au
* call the IMHA phone line 1300 947 820, which is staffed by IMHA advocates
* 9:30 am–4:30 pm 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 you with contacting IMHA
* use your phone to capture the QR code on this page which will take you to the IMHA website.
* Access a free interpreter by phoning 131 450, and then asking them to call us on 1300 947 820.

