

# Know your rights: I don't want compulsory treatment

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Receiving compulsory mental health treatment can be lonely and distressing. Sometimes it feels like you have no say in what happens to you.

Independent Mental Health Advocacy (IMHA) is a non-legal advocacy service that supports you to understand and exercise your rights. This factsheet helps you understand your rights and options under the Victorian *Mental Health and Wellbeing Act 2022* (the law).

## What is a compulsory treatment order?

A treatment order lets a hospital or mental health clinic give you treatment even if you don't want it. There are different types of treatment orders. The main difference is where you are treated:

- **community treatment order** – a community treatment order lets a service give you compulsory treatment while you are in the community
- **inpatient treatment order** – an inpatient treatment order means that you must stay in hospital while you get compulsory treatment.

## What is the Mental Health Tribunal?

The Mental Health Tribunal makes decisions about treatment orders and whether people can receive electroconvulsive treatment. The tribunal is independent, and not part of a hospital or clinic.

Decisions about compulsory treatment orders are usually made by a psychiatrist in a public clinical mental health service or the **Mental Health Tribunal** (Tribunal).

## Do I have rights?

Yes. Under the law you have rights and protections. Three important rights here are:

- to be told why you have been placed on a treatment order. You can ask to have a conversation with your psychiatrist about this
- to apply to have your treatment order revoked or changed by the Tribunal
- to have a second psychiatric opinion.

Read our other *Know your rights* factsheets for more information about your rights and speaking up.

## How can I talk to my psychiatrist about my treatment order?

Under the law, the psychiatrist must explain to you why you have been placed on a treatment order. You can ask the psychiatrist to explain why you meet the "treatment criteria".

## How can I appeal my treatment order?

You can apply for the Tribunal to revoke your order by filling out a form. You can ask the mental health staff for their help to get and fill out this form.

You can call the Mental Health Tribunal (03 9032 3200 or 1800 242 703) or email ([mht@mht.vic.gov.au](mailto:mht@mht.vic.gov.au)).

You can call Victoria Legal Aid (1300 792 387) or the Mental Health Legal Centre (03 9629 4422) for free legal advice and assistance.

## How can I get a second psychiatric opinion?

You have the right to a second psychiatric opinion. The opinion assesses whether you meet the treatment criteria, and whether your treatment needs to change.

If the treating psychiatrist does not agree with the second, they must:

- notify you orally as soon as possible
- notify you orally within 10 days after the second opinion report is provided
- provide written reason to you, nominated support person, guardian, carer, parent if under 16, or DFFH Secretary if has parental responsibility

Three common ways to get a second opinion are:

- **Second Psychiatric Opinion Service (1300 503 426)** – you can ask for a free and independent second psychiatric opinion
- **Internal second opinion** – you can ask another psychiatrist at the mental health service to agree to meet with you
- **Private psychiatrist** – if you know a private psychiatrist, you can contact them. You may want to ask if they can bulk bill you, or you may need to pay yourself.

## What are the “treatment criteria”?

To be on a treatment order, you must meet all four criteria:

1. You have a mental illness
2. Because of your mental illness you need immediate treatment to prevent serious deterioration in your mental or physical health or to prevent serious harm to you or another person
3. The treatment will be given to you if you are on an order
4. There is no less restrictive way, reasonably available, for you to get treatment. For example, as a voluntary patient.

Least restrictive means you need to be given as much freedom as you can, based on your individual circumstances.

An order shouldn't be made if the possible harm from it is likely to be more than the harm it is intended to prevent.

You should be given a copy of your order.

## How to contact IMHA and find out more

You can:

- visit the website [www.imha.vic.gov.au](http://www.imha.vic.gov.au)
- 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 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](http://imha.vic.gov.au)