

Factsheet – Sexual Safety

Office of the Chief Psychiatrist

OFFICIAL

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Summary

The Chief Psychiatrist is committed to ensuring that Victoria’s clinical mental health and wellbeing services are sexually safe environments and that people feel safe within them.

The Office of the Chief Psychiatrist (OCP) plays an important role in providing practice guidance and oversight to support this. While monitoring sexual safety incidents is not a prescribed statutory function under the current *Mental Health Act 2014* or the new *Mental Health and Wellbeing Act 2022* (the Act), this area of practice is treated in the same way as the Chief Psychiatrist’s statutory functions. Sexual safety practice has been elevated in this way because of the critical importance of providing sexually safe, trauma-informed mental health treatment, care, and support.

The Chief Psychiatrist’s guideline on improving sexual safety in clinical mental health services provides practice guidance for how to prevent and respond to sexual safety incidents. All services should align their practice to this advice.

All sexual safety incidents that occur in bed-based mental health services (including those in hospital, custodial and community settings) must be reported to the Chief Psychiatrist. The process for reporting is outlined in the [Chief Psychiatrist’s sexual safety reporting directive](#). Clinical mental health service providers should continue to reference the current guideline until midnight 31 August 2023.

An updated guideline and reporting directive will become available in advance of 1 September 2023.

About Sexual Safety

Everyone in mental health and wellbeing services has a right to sexual safety.

The Chief Psychiatrist is committed to ensuring that clinical mental health services provide sexually safe environments for all Victorians. This work is done in collaboration with Safer Care Victoria, the Mental Health Complaints Commissioner, and consumers, carers, families, and supporters with lived experience.

To achieve sexually safe environments in clinical mental health and wellbeing services must develop local policies, procedures and practices that recognise the importance of a trauma informed approach to sexual safety, promote prevention strategies, and ensure that sexual safety incidents that do occur are responded to sensitively and thoroughly.

Clinical mental health and wellbeing services must also establish strong local governance processes, including lived experience input, to ensure safety and continuously improve practice.

Approaches to improving sexual safety must be inclusive and safe for population groups that experience different forms of disadvantage or marginalisation, recognising the unique barriers and experiences of safety for particular groups. These groups include LGBTIQ+ people, culturally diverse communities and Aboriginal Victorians.

Mental Health and Wellbeing Act 2022 reference(s)

The Act does not specifically address sexual safety.

However, Part 1.5 – Mental health and wellbeing principals of the act emphasises the importance of:

- mental health services giving proper consideration to the diverse needs and experiences of people receiving mental health and wellbeing services
- ensuring services are provided in a way that is safe sensitive and responsive.

Additionally, these principles identify that services must:

- be culturally safe
- address the specific safety needs of individuals based on their gender
- be safe for children and young people.

Part 1.5 S26, page 43 of the Act brings into focus the need for mental health and wellbeing service providers to deliver treatment, care and support aligned to these principles. Mental health and wellbeing service providers must robustly address gender safety in all settings.

Royal Commission – related recommendation(s)

Recommendation 13 from the Royal Commission into Victoria's Mental Health System Final Report is titled 'Addressing gender-based violence in mental health facilities'. This recommendation calls on:

- the Victorian Government to work towards all mental health facilities being gender segregated
- the Chief Psychiatrist to provide minimum standards for gender safe physical environments
- the Mental Health and Wellbeing Division to support mental health and wellbeing services to eliminate sexual and gender-based violence in bed-based service settings.

Changes for sexual safety

To meet the principles of the new Act and to address the recommendations of the Royal Commission, mental health and wellbeing services have a clear responsibility to ensure that safety needs of individuals based on their gender are addressed, and that services are delivered in safe physical environments.

The Chief Psychiatrist plays an important role in ensuring these obligations are upheld.

What this change means

All sexual safety incidents that occur in clinical mental health and wellbeing services must be reported into the Victorian Health Incident Management System (VHIMS) and shared with the OCP monthly. More serious incidents, (those that have an Incident Severity Rating of 1 or 2) must also be reported directly to the OCP.

The Chief Psychiatrist's guideline – Improving sexual safety in mental health and wellbeing services provides practice advice for preventing and responding to sexual safety incidents. This guideline provides standards for creating sexually safe physical environments and meeting these standards must be prioritised when services undertake any capital works for new or existing bed-based services.

Practice guidelines and reporting directives

Information regarding best practice guidelines, reporting and notification obligations for mental health and wellbeing service providers are contained within the Chief Psychiatrist's guideline improving sexual safety in mental health services and reporting directive sexual safety incidents.

These documents can be found on the [Health Department's website](#). It outlines the reporting obligations of mental health and wellbeing services, the timing and mechanisms by which services must notify the Chief Psychiatrist of ISR 1 and ISR 2 sexual safety incidents.

Further information

Further information on sexual safety in clinical mental health services is available on the [Health Department's website](#). The new Act is available for download on the [Victorian Legislation](#) website.

Queries relating to sexual safety in clinical mental health services can be emailed to the OCP on ocp@health.vic.gov.au

Disclaimer

This fact sheet summarises key differences between the *Mental Health Act 2014* and *Mental Health and Wellbeing Act 2022* that apply to the Chief Psychiatrist's statutory role. It provides information to assist the mental health and wellbeing sector transition from the old act to the new act in the Chief Psychiatrist's areas of oversight. The fact sheet is valid for six months from the date of publication.

To receive this document in another format, phone 1300 767 299, using the National Relay Service 13 36 77 if required, or email ocp@health.vic.gov.au

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