

|  |  |
| --- | --- |
| Statement of Rights  Assessment Order   |  | | --- | | You were given this document because you are on an assessment order.  It explains your legal rights under the *Mental Health and Wellbeing Act 2022* (the Act). | |
| OFFICIAL Help with this document  * Your treating team must help you understand this information. * You can get help from a family member, friend, or advocate. * See the ‘Get Help’ section of this sheet for contact details of organisations that can help. * This document has been translated into community languages available at www.[health.vic.gov.au](https://www.health.vic.gov.au/mental-health-and-wellbeing-act). * A blue sign with white figures    Description automatically generated with low confidenceFor help in your language contact the Translating and Interpreting Service on 131 450.  What is an assessment order? An order means a psychiatrist can assess you to decide if they think you need compulsory treatment even if you don’t want this to happen. An assessment can include the psychiatrist asking you questions.  The person making the order must think that you meet all four criteria listed below. A doctor or authorised person making the order must have seen and assessed you in the past 24 hours and think that:   1. You appear to have a mental illness; and 2. Because you appear to have a mental illness, you appear to need immediate treatment to prevent:    * + Serious harm to you or another person; or      + Serious deterioration (or decrease) of your mental or physical health; and 3. The assessment will happen if you are put on an assessment order. 4. There is no less restrictive way, reasonably available, to assess you.   Least restrictive means you need to be given as much freedom as you can, based on your individual circumstances.  An order should not be made if the possible harm from it is likely to be more than the harm it is intended to prevent.  You will be given a copy of your order. Where will I be assessed? Your order will say whether you must be assessed in a hospital as an inpatient or in the community. You must not be assessed in the hospital if you can be assessed in the community. How long is the order? The length of order is different for each type of assessment order. Your order will say whether it is:   * **An inpatient (hospital) order –** which allows a maximum of 72 hours for you to be assessed at hospital, or 24 hours once you have arrived at the hospital. * **A community order –** which allows 24 hours to be assessed.   Either order can be extended twice for a maximum of 24 hours each time.  The psychiatrist must revoke (cancel) the order if they think you no longer meet all criteria. Can I be given treatment? You can’t be given treatment while you are on this order unless:   * you consent to it: or * a doctor at the mental health service thinks that you need urgent treatment to prevent:   + Serious harm to you or another person; or   + Serious deterioration (or decrease) of your mental or physical health  What happens next? The psychiatrist will decide if they think you need compulsory treatment. Compulsory treatment means you will be given treatment even if you don’t want it. Treatment can be medication such as tablets or injections. There are laws about compulsory treatment and when it can be used.  If the psychiatrist decides:   * you don’t need compulsory treatment, you can leave the hospital or stop seeing the community clinic; or * you do need compulsory treatment and meet the criteria under the Act, they can put you on a temporary treatment order before your assessment order expires.   See the compulsory treatment order statement of rights available at www.[health.vic.gov.au](https://www.health.vic.gov.au/mental-health-and-wellbeing-act) for more information. Your rights People on an order have rights. You have rights if you are apprehended or searched You can be apprehended by police or protective service officers:   * to be assessed, if you appear to have mental illness and it’s necessary to prevent imminent and serious harm to you or someone else; or * to take you to hospital if you are on an inpatient order.   They can use reasonable force to enter your home, but must explain why and give you a chance to let them in.  They can search you if they suspect you have something dangerous but must tell you why and give you a chance to cooperate. You can ask to choose the gender of the person searching you.  They must make a written record of what’s taken and return it to you if they think it’s safe to do so. You have the right to least restrictive assessment and treatment This means compulsory assessment and treatment should be given in a way that gives you as much freedom and choice as possible. What you want, your recovery goals and available alternatives should be considered. What is restrictive for one person might not be restrictive for someone else.  Compulsory assessment and treatment in hospital is only allowed if it’s not possible in the community. You have the right to information Your treating team must explain the reasons you are on an order. They must give you information about your:   * assessment; * proposed treatment; * alternatives; and * rights.   Information can be in writing or spoken, and in your preferred language. They must give clear answers to your questions. Information should be given at a time that’s right for you to consider it. You have the right to support You can choose someone to help you, including someone who speaks your language. Your team must help you contact a support person.  The psychiatrist must notify, and can consider, input from people at certain points in your assessment and treatment. This can include your:   * nominated support person; * mental health advocate; * guardian; * carer; or * parent (if under 16).   You can tell your treating team if there’s somebody you don’t want them to contact. Sometimes your information might be legally shared when you don't want it to be. You have the right to help with making decisions You can choose someone to help you with decisions.  Even if you’re receiving compulsory treatment, your treating team must give you information about your options. They must give you enough information and time to make decisions and answer your questions in a way you understand. They should allow you to make decisions, even if they think there’s some risk. You have the right to feel safe and respected Compulsory assessment and treatment should be provided in a way that respects and protects your individual needs and identity. This can include your culture, communication needs, age, disability, gender identity, religion, and sexual orientation. Your other health needs should be recognised and supported. Your dignity, autonomy, and rights should be upheld. You have rights if you are a First Nations person First Nations people should have their unique culture and identity respected.  You have the right to assessment and treatment that promotes your self-determination.  Your connection to family, kin, community, country, and water should be respected.  You can get help from the:   * Aboriginal Liaison Officer at your mental health service. * Victorian Aboriginal Legal Service.  You have the right to help with communication Your treating team must respect and support how you communicate. This includes:   * using an interpreter if you want one; * communicating in the best possible environment for you; and * providing spaces for you to speak with family, carers, support people, or advocates.   When in hospital, your right to communicate with anyone may be restricted if necessary for safety. But you can’t be restricted from contacting:   * a lawyer; * the Mental Health and Wellbeing Commission; * the Mental Health Tribunal; * the Chief Psychiatrist; * your mental health advocate; or * the Office of the Public Advocate community visitor.  You have rights if restrictive interventions are used Restrictive interventions that can be used if you are in hospital are:   * **Seclusion:** when kept by yourself in a room. * **Bodily restraint:** when physically prevented from moving your body. * **Chemical restraint**: when given a medication to stop you moving your body.   They can only be used if it’s the least restrictive option and are necessary to prevent serious and imminent harm, except:   * Bodily restraint can be used to give you treatment for mental illness or a medical condition; and * Chemical restraint can be used to transport you to hospital.   When restrictive interventions are used you must:   * have access to things you need to uphold your basic human rights. This can include things like food, water, bedding, clothing, and being able to use the toilet and wash; and * be checked on regularly by medical or nursing staff.   Restrictive interventions must be stopped when no longer necessary, and their use must be documented. The psychiatrist must offer you time to discuss what happened afterwards. You have the right to advocacy support You can contact Independent Mental Health Advocacy (IMHA) for independent and free advocacy support at any time. They can help you know your rights and have your say.  IMHA is notified automatically if you’re placed on a temporary treatment order and at other key points if you are receiving compulsory treatment. IMHA will contact you unless you’ve told them not to. You have the right to legal advice You have the right to communicate with a lawyer to seek legal assistance about mental health or other legal issues. There are free legal services you can contact. You have the right to make an advance statement of preferences This is a document you can make that explains what you want to happen if you receive compulsory assessment or treatment. It can include what kinds of treatment, support or care you want. You can make one at any time.  The mental health service must try to do what’s in your statement, but they are not legally bound to do so. If they don’t follow a preferred treatment, they must tell you why in writing within 10 business days. You have the right to choose a nominated support person This is a person you formally choose to support and advocate for you if you receive compulsory assessment or treatment. They must advocate for what you say you want, not what they want. The mental health service must help them support you and inform them about your treatment. You have the right to make a complaint You can complain directly to your service or to the Mental Health and Wellbeing Commission (MHWC). You have the right to access your information and request changes You can submit a Freedom of Information request directly to the public mental health service.  You can ask for corrections to your health information. If the mental health service denies your request, you can create a health information statement that explains the changes you want. This must be included in your file. |

# Get help

Services you can contact for help using your rights

| Service | Details | Contact details |
| --- | --- | --- |
| Independent Mental Health Advocacy | Independent advocacy service | 1300 947 820  [www.imha.vic.gov.au](http://www.imha.vic.gov.au) |
| Victoria Legal Aid | Free legal assistance | 1300 792 387  [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au) |
| Mental Health Legal Centre | Free legal assistance | 9629 4422  [www.mhlc.org.au](http://www.mhlc.org.au) |
| Victorian Aboriginal Legal Service | Free legal assistance for Aboriginal and Torres Strait Islander peoples | 9418 5920  [www.vals.org.au](http://www.vals.org.au) |
| Community Visitors | Visit mental health services | 1300 309 337  [www.publicadvocate.vic.gov.au/opa-volunteers/community-visitors](http://www.publicadvocate.vic.gov.au/opa-volunteers/community-visitors) |
| Mental Health and Wellbeing Commission | Independent complaints service | 1800 246 054  [www.mhwc.vic.gov.au](http://www.mhwc.vic.gov.au) |
| Mental Health Tribunal | Makes and reviews treatment orders | 1800 242 703  [www.mht.vic.gov.au](http://www.mht.vic.gov.au) |

# Find out more

* Mental Health and Wellbeing Act 2022

[www.legislation.vic.gov.au/as-made/acts/mental-health-and-wellbeing-act-2022](http://www.legislation.vic.gov.au/as-made/acts/mental-health-and-wellbeing-act-2022)

* Office of the Chief Psychiatrist guidelines   
  [www.health.vic.gov.au/chief-psychiatrist/chief-psychiatrist-guidelines](http://www.health.vic.gov.au/chief-psychiatrist/chief-psychiatrist-guidelines)
* Victoria Legal Aid website  
  [www.legalaid.vic.gov.au/mental-health-and-your-rights](http://www.legalaid.vic.gov.au/mental-health-and-your-rights)
* Mental Health and Wellbeing Act handbook

<https://www.health.vic.gov.au/mental-health-and-wellbeing-act-handbook>

* Victorian Charter of Human Rights and Responsibilities   
  [www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006/015](http://www.legislation.vic.gov.au/in-force/acts/charter-human-rights-and-responsibilities-act-2006/015)
* Independent Mental health Advocacy know your rights information

[www.imha.vic.gov.au/know-your-rights](http://www.imha.vic.gov.au/know-your-rights)

* Victorian Department of Health Statement of Rights

<https://www.health.vic.gov.au/mental-health-and-wellbeing-act-handbook/statement-of-rights>



|  |
| --- |
| To receive this document in another format email [Mental Health and Wellbeing Division](mailto:mhwa@health.vic.gov.au) <mhwa@health.vic.gov.au>.  Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.  © State of Victoria, Australia, Department of Health, August 2023.  ISBN 978-1-76131-246-5 (pdf/online/MS word)  Available at [statement of rights](https://www.health.vic.gov.au/mental-health-and-wellbeing-act-handbook/statement-of-rights) < https://www.health.vic.gov.au/mental-health-and-wellbeing-act-handbook/statement-of-rights> |