

Know your rights: I want to make a complaint

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).

Do I have the right to complain?

Yes. Under the law you can make a complaint about a public mental health service. You can make a complaint directly to the **service** or to the **Mental Health and Wellbeing Commission (MHWC)**. You can also contact the Australian Health Practitioner Regulation Agency (1300 419 495) for complaints against some individual mental health staff members.

Why would I make a complaint?

Planning can help you to focus your complaint. Some common reasons people make complaints are:

- **Rights** – your rights have been breached. Services must follow the law when treating you. This includes the *Charter of Human Rights and Responsibilities Act 2006*. Read our other *Know your rights* factsheets or talk to an advocate for more information
- **To be heard & make things right** – some people make complaints to communicate their concerns and hear a response from the mental health service
- **To prevent it happening again** – you may make a complaint to prevent a distressing experience happening to you or someone else again in the future
- **To improve the service** – complaints are an opportunity for the mental health service to improve how they do their work.

Making a complaint to the service

You can make a complaint directly to the service by talking with any staff member – staff members have the responsibility to know about the complaints process and help you follow up. You can also:

- Ask to speak with the service manager
- Ask for a form to make a written complaint.

Making a complaint to the MHCC

The MHCC (www.mhwc.vic.gov.au) is an independent specialist body created under the law to safeguard your rights and resolve your complaints about services. You can make a complaint:

- **By phone (1800 246 054)** – you can make a complaint by phone to the MHWC
- **In writing (help@mhwc.vic.gov.au/Level 26, 570 Bourke St, Melbourne VIC 3000)** – you can make a formal complaint to the MHWC by putting it in writing. If you require assistance writing a complaint, you can ask the MHWC for help.
- **By completing an online complaint form at www.mhwc.vic.gov.au**

What should I put in a complaint?

It is your decision. Some people find the following points helpful when making a complaint:

- **The issue** – what is the specific issue or complaint?
- **My rights** – how do your rights and the law relate to you? Remember our *Know your rights* factsheets, and that you can talk to IMHA or the MHWC about your rights
- **What happened** – here you may write the events down in more detail and how they impacted on you
- **What I am asking for** – how would you like the MHWC; mental health service or other organization to help you resolve the issue?

What can I ask for?

Some common outcomes are:

- A **meeting** with the service, MHWC and a support person
- An **acknowledgement** or **apology** from the service
- **Answers** or **responses** to your concerns from the service
- **Actions** from the service, such as **improvements** in how they support and treat people

The MHWC can also **investigate** concerns, refer a complaint for **conciliation**, make **recommendations** to services, seek **formal undertakings** from services, and issue **compliance notices** in appropriate cases.

If you are seeking compensation for harm you have received please seek legal advice.

If you want legal advice you can call Victoria Legal Aid (1300 792 387) or the Mental Health Legal Centre (1800 555 887).

How to contact IMHA and find out more

- Visit the website www.imha.vic.gov.au or 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