



Artwork by Mazart

Guide to nominated support persons

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Under the *Mental Health and Wellbeing Act 2022* (Vic) (the Act), you have the right to a nominated support person. A nominated support person can:

- advocate for your views and preferences
- support you to communicate and make decisions
- receive information about you
- be consulted about your treatment
- support you to exercise your rights.

The Act says that you can only have one nominated support person and their role only applies if you are placed on a compulsory mental health order. You don't have to have a nominated support person – it's up to you.

How could a nominated support person assist me?

You might choose to nominate a person for several reasons. They can protect your rights and interests, including making sure your treating team considers your preferences, needs, experiences, goals and strengths and involves you in decisions as much as possible. They must be informed about your treatment and consulted for their opinion at key stages of your assessment, treatment and recovery in the mental health service. They must advocate for what you say you want, not what they want.

This is a complex role, so it is important that you have conversations with your nominated support person about your treatment preferences and how you want them to support you. The mental health service must take 'all reasonable steps' to support a nominated support person to perform their role, including allowing them to view documents relevant to your care and treatment such as your treatment plan and advance statement of preferences, provide them with information about your care and treatment, and provide reasonable opportunity to attend any meetings with you and your treating team.

Under the Act, 'all reasonable steps' must be taken to inform your nominated support person at key points in your treatment including when:

- a compulsory order is made, varied, revoked or expires
- your right to communicate is restricted
- a restrictive intervention is used against you (for example, you are placed in seclusion)
- you are absent without leave from a mental health service
- your leave when you are in hospital is varied
- you are given a second psychiatric opinion (and the report must be provided)
- your treatment is reviewed by the Office of the Chief Psychiatrist

- you have a matter listed in the Mental Health Tribunal.

When does the service need to consult my nominated support person?

The psychiatrist must also take 'all reasonable steps' to consider the views of the nominated support person at key points in your treatment including when:

- a compulsory order is made, varied, revoked or expires
- the setting where you are receiving compulsory treatment is determined or changed
- the Mental Health Tribunal makes or varies an order
- your leave when you are in hospital is varied
- a psychiatrist makes a treatment decision about you
- you receive a second psychiatric opinion
- the Chief Psychiatrist reviews your treatment
- your psychiatrist applies to the Mental Health Tribunal to give you electroconvulsive treatment (ECT).

Who can be a nominated support person?

You can choose:

- anyone you want to be your nominated support person as long as they agree to it. You could choose a friend, family member, carer, or any other support person that you trust; and
- a nominated support person at any time, even if you are in hospital. You can only have one nominated support person at a time.

The person you choose will remain in their role until you choose someone else, cancel your current nominated support person, or they resign.

- When you fill in the form, give it to your mental health and wellbeing service. They will put a copy in your clinical file and record it in the hospital's electronic information system.
- You will need to keep a copy of the form for yourself in case you go to a different hospital or service. You can ask your mental health and wellbeing service to make copies for you. You can give a copy to your carer, support person, or nominated support person.

How can I nominate a person?

A nomination for a nominated support person must:

- be in writing
- be signed and dated by you
- give the name and contact details of the person you wish to nominate
- include a statement signed by the nominated support person that they agree to be nominated
- be witnessed by an adult (18 years of age or over), which means that they must watch you sign the form. They don't have to watch your nominated support person sign this form. The person you are

choosing to be your nominated support person cannot witness this form. A statement by the witness must also be included.

The witness must make a statement that you understand the nomination, the consequences of making the nomination, and that you appear to be nominating the person of your own free will. The Victorian Government template for nominated support persons suggests the following witness declaration wording:

In my opinion, the person making this nomination understands:

- *what a nominated support person is;*
- *the consequences of making the nomination; and*
- *how to revoke it.*

In my opinion, they appear to have made this nomination of their own free will and I have seen them sign this nomination.

Witness name: _____

Witness signature: _____

Date: _____

Time: _____

Who can be my witness?

Your witness can be any adult (someone that is 18 years of age or over). This can be anyone you choose, including friends, family, or support workers. They don't have to agree with your choice of nominated support person.

They need to sign a statement that says they believe **all of the following**, that you:

- understand what a nominated support person is,
- understand the consequences of having one,
- know how to cancel it if you want to, and
- are choosing the Nominated Support Person of your own free will.

If your witness is not sure if you understand these things, you could explain it to them, or go through this guide together.

There may be times that certain people can't witness your Nominated support person form because their employment means they are not allowed to. Your witness may want to check with their employer before witnessing you sign the form. If your witness says they can't sign the form, remember, you can choose another adult to be your witness.

How do I cancel a nomination?

If you have a nominated support person and you do not want them anymore you can:

- Use the Nominated support person resignation form available at www.health.vic.gov.au to cancel your current nominated support person, or
- Choose a new nominated support person by filling out the Nominated support person form. This will automatically cancel your current Nominated Support Person.

You can cancel your nominated support person at any time, even if you are in hospital.

When you revoke or cancel the nomination:

- You must take reasonable (fair and sensible) steps to tell the nominated support person that you have revoked (cancelled) the nomination.
- If you are currently receiving compulsory treatment under the Act, you must tell your psychiatrist that you are cancelling your nominated support person. If you are not sure who this is, you can contact your mental health and wellbeing service to find out.

Your nominated support person can also choose to resign from their role.

- To resign, your nominated support person must fill out the Nominated support person resignation form available at www.health.vic.gov.au
- If they resign, they must take all reasonable (fair and sensible) steps to tell you.

How can Independent Mental Health Advocacy (IMHA) support me?

If you are receiving compulsory mental health treatment, you may feel you need help to understand and act on your rights in the mental health system.

Our independent 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 decisions to the greatest extent possible
- refer you to other services if needed.

This could include supporting you to nominate a nominated support person or to uphold any other rights you have under the Act.

How to contact IMHA and find out more

You can:

- visit the website www.imha.vic.gov.au and see our nominated support person videos
- 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