



**MentalHealth  
Victoria**

*Collaboration • Knowledge • Leadership*

# Mental Health and Wellbeing (MHWB) Act 2022 Resource Kit

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**[www.mhvic.org.au](http://www.mhvic.org.au)**



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Mental Health Victoria specialise in public policy, workforce development and training, and services that build individual, organisational and community capacity. We translate best evidence into practice for the benefit of our associates and their staff, consumers and communities. Our services, resources and advocacy efforts are informed by Australian and international best practice.

**Our Vision** is to drive system reform to ensure that people receive the mental health care they need.

**Our Purpose** is to ensure that people living with a mental illness can access effective and appropriate treatment and community support to enable them to participate fully in society.

### **Our Values:**

**Service:** We strive to understand the needs of those we serve and deliver accordingly

**One Team:** Working together respectfully, valuing each other, to deliver the best outcomes for associates

**Integrity:** Each individual is accountable for their actions, their honesty and doing the right thing

**Courage:** Having the courage to deal with change; thinking boldly and finding new ways of doing things

**Achievement:** Pursuing personal, team and organisational excellence

Mental Health Victoria has been funded by the Department of Health to host a suite of readily available resources to support the community and non-acute Mental Health and Wellbeing sector in the implementation of the MHWB Act 2022.

Under the new legislation, many community-based and primary care services will be covered for the first time.

Mental Health Victoria is working to support the sector in understanding and implementing obligations and principles of the MHWB Act 2022.

This resource kit is intended to work in conjunction with training provided by Mental Health Victoria to help support participants, providing further resources, guidelines and forms available to those working within the Mental Health and Wellbeing sector.

If you wish to book in training, please contact us at the below:

✉ [mhvic@mhvic.org.au](mailto:mhvic@mhvic.org.au)

☎ 03 9519 7000

🌐 [www.mhvic.org.au/mental-health-and-wellbeing-act](http://www.mhvic.org.au/mental-health-and-wellbeing-act)

After identifying multiple short-falls, Victorians requested a Royal Commission into the Mental Health System, which the Governor of the State of Victoria formally established in February 2019. The intent of this Royal Commission was to identify the failings of the current system and provide recommendations to the Government on how to improve.

The result was an interim report containing 9 recommendations, and a final report including 65 recommendations. The Victorian Government committed to enacting all 74 recommendations in full.

The full report including the interim recommendations can be found here:  
<https://www.vic.gov.au/royal-commission-victorias-mental-health-system-final-report>

The Royal Commission into Victoria's Mental Health System recommended the repeal of the *Mental Health Act 2014* and enactment of the MHWB Act 2022 by mid-2022 (Recommendation 42). The new MHWB Act 2022 came into effect in September 2023.

A variety of changes have been made in the new MHWB Act 2022, with the intention of providing a more holistic, consumer driven approach to mental health and wellbeing. New guidelines, principles and entities were established or updated to better reflect these changes and a variety of non-acute mental health and wellbeing services are now subject to the MHWB Act 2022 for the first time.

Whilst non-acute community based mental health systems have intuitively provided care to consumers and their support networks in accordance with the new MHWB Act 2022, it is important that all organisations, employees and executives understand the key objectives and obligations under the MHWB Act 2022.

Mental Health Victoria can help ensure you understand how to comply through targeted and bespoke training across the non-acute mental health and wellbeing sector.





# Mental Health and Wellbeing Service Delivery Framework

As a result of the Royal Commission into Victoria's Mental Health System, a new integrated system was designed to help support the mental health and wellbeing of Victorians. These new systems are either already operating, undergoing changes or are being developed and implemented over time.

**Families, Carers and supporters, informal supports, virtual communities, and communities of place, identity and interest**

**Broad range of government and community services**

**Primary and secondary mental health and related services**

**Local Mental Health and Wellbeing Services**

**Regional Mental Health  
and Wellbeing Boards**

**Area Mental Health and Wellbeing Health  
Services**

**Statewide services**

The community mental health and wellbeing service providers play a pivotal role, forming a core part of the government and community services component of the system reflected in the above visual. It is the intention of the Royal Commission that community mental health and wellbeing services will deliver three core functions:

## **Core Function 1: integrated treatment, care and support across four components:**

- a** Treatment and therapies
- b** Wellbeing supports
- c** Education, peer support and self-help
- d** Care planning and coordination

**Core Function 2: Services to help people find and access** treatment, care and support and, in Area Mental Health and Wellbeing Services, respond to crisis 24 hours a day, seven days a week.

**Core function 3: support for primary and secondary services** through secondary consultation with providers of those services, primary consultation with their consumers and a formal model of comprehensive shared care.

## What is a Local Mental Health and Wellbeing Service?

Local services are free, voluntary, easy to access (no referral required), and delivered with a philosophy of 'how can we help?' and 'no wrong door' approach.

The Department of Health Victoria aims to roll out 50\* Local Mental Health Services over time, ensuring Victorians can access mental health and wellbeing care in their community.

Referrals from non-acute community and clinical support services are strongly encouraged, and working closely with your local mental health services is supported.

More information and service provision of currently active Local Mental Health Services can be found on the Department of Health Website at:

[www.health.vic.gov.au/mental-health-reform/local-adult-and-older-adult-mental-health-and-wellbeing-services](http://www.health.vic.gov.au/mental-health-reform/local-adult-and-older-adult-mental-health-and-wellbeing-services)

## Current Local Mental Health and Wellbeing Services:

<b>Bennalla-Wangaratta-Mansfield</b>	Walk in & Telehealth
<b>Brimbank</b>	Walk in & Telehealth
<b>Bairnsdale and Osbost, servicing East Gippsland</b>	Telehealth & Outreach
<b>Frankston</b>	Walk in & Telehealth
<b>Bendigo and Echuca, servicing Greater Bendigo, Loddon and Campaspe</b>	Telehealth
<b>Dandenong, servicing Greater Dandenong</b>	Telehealth
<b>Greater Geelong and Queenscliffe</b>	Telehealth
<b>Shepparton, services Greater Shepparton, Strathbogie and Moira</b>	Telehealth & Outreach
<b>Latrobe</b>	Walk In & Telehealth
<b>Melton, servicing City of Melton.</b>	Telehealth
<b>Mildura, servicing Rural City of Mildura.</b>	Telehealth & Outreach
<b>Whittlesea</b>	Walk In & Telehealth
<b>Lilyday, servicing Yarra Ranges</b>	Telehealth & Outreach

The objectives of the MHWB Act 2022 expanded on the objectives outlined in the Royal Commission into Victoria's Mental Health System. The MHWB Act 2022's overall objectives are:

- 1 to promote conditions in which people can experience good mental health and wellbeing; and recover from mental illness or psychological distress.
- 2 to reduce inequalities in access to, and the delivery of, mental health and wellbeing services.
- 3 to provide for comprehensive, compassionate, safe and high-quality mental health and wellbeing services that are accessible, timely, consistent, diverse, inclusive, culturally safe, broad and promote voluntary and community-based care.
- 4 to promote continuous improvement in the quality and safety of mental health and wellbeing services through lived and living experience engagement.
- 5 to protect and promote the human rights and dignity of consumers and lived and living experience through the least restrictive means possible.
- 6 to recognise and respect the rights of those with lived and living experience, for consumers to be heard in their own voices from their own experiences.
- 7 to recognise, promote and actively support the role of families, carers and supporters throughout a consumers care journey.
- 8 to promote and support the health and wellbeing of families, carers and supporters, including dependents of a consumer receiving care.
- 9 to recognise and value the critical role clinical and non-clinical mental health and wellbeing workforce have, and support and promote the health and wellbeing of that workforce.
- 10 to promote the mental health and wellbeing principles.

The components outlined in this section are intended to be utilised alongside the bespoke training provided by Mental Health Victoria surrounding the MHWB Act 2022.

**At the beginning of the presentation, you would have had the following icons explained to you. This section provides further context, reference points, resources and more where the various icons are used throughout.**



Through the bespoke training provided by Mental Health Victoria, the following information is intended to help support your knowledge and empower you when complying with the new MHWB Act 2022.

Additional support for learning and understanding the MHWB Act 2022 can be found through the Department of Health.

For access to the eLearning, please refer to page 19.

For access to the Mental Health and Wellbeing Handbook, please refer to page 20.

Additional Organisations providing support in Victoria's mental health and wellbeing system include:

[Victorian Mental Illness Awareness Council](#)

[Tandem](#)

[Independent Mental Health Advocacy Service](#)

[Victoria Legal Aid](#)

[Mental Health Legal Centre](#)

[Victorian Aboriginal Legal Service](#)

[Mental Health and Wellbeing Commission](#)

**ONE:** People's Rights, Dignity and Autonomy are to be promoted and protected

**TWO:** People living with mental illness and psychological distress are to be provided with access to a diverse mix of care and support services.

**FOUR:** People (including compulsory patients) are supported to make and participate in decisions about their assessment, treatment and recovery, with the views and preferences of the person receiving mental health and wellbeing services to be given priority.

**SIX:** The lived experience of a person with mental illness and psychological distress and their carers, families and supporters is to be recognised and valued.

**SEVEN:** The medical and other health needs of people living with mental illness or psychological distress are to be identified and responded to.

**NINE:** The health, wellbeing and autonomy of children and youth people receiving mental health and wellbeing services are to be promoted and supported.

**ELEVEN:** The specific safety needs or concerns that a person may have based on their gender are to be considered and services provided in a manner that is safe and responsive to these needs and concerns.

**THIRTEEN:** The needs, wellbeing and safety of children, young people and other dependents of people receiving mental health and wellbeing services are to be protected.

**THREE:** Mental health and wellbeing services are provided with the least possible restriction of a person's rights, dignity and autonomy with the aim of promoting their recover and full participation in community life

**FIVE:** Families, carers and supporters (including children) of people receiving mental health and wellbeing services are to be supported in their role in decisions about the person's assessment, treatment and recovery.

**EIGHT:** People receiving mental health and wellbeing services have the right to take reasonable risks in order to achieve personal growth, self-esteem and overall quality of life.

**TEN:** The diverse needs and experiences of people receiving mental health and wellbeing services are to be actively considered, with services provided in a manner that is safe, sensitive and responsive.

**TWELVE:** Mental health and wellbeing services are to be culturally safe and responsive to people of all racial, ethnic, faith based and cultural backgrounds.



# MHWB Act 2022 Principles

## DECISION MAKING PRINCIPLES

**Care and transition to less restrictive supports:** Assessment and treatment are to be provided with the aim to promote recovery with the least restrictive treatment, care and support.

**No therapeutic benefit:** There is no inherent therapeutic benefit of restrictive interventions and it should be a last resort.

**Autonomy:** The will and preference of a consumer should be given to the greatest extent possible throughout the healing journey.

**Consequences of compulsory assessment and treatment or restrictive means:** The use of compulsory assessment and treatment or restrictive measures limits a consumer's human rights and has potential to cause harm.

**Balancing of harm:** Compulsory assessment or treatment should only apply where serious harm or deterioration is imminent.

## INFORMATION SHARING PRINCIPLES

**Disclosure, collection and use of information:** Should be directed at enhancing a person's access to information, improve their experience of the system, support transitions between services and help support families, carers and other support networks.

**Dignity of person:** Means a person's dignity is upheld at all times, including that information is recorded accurately and respectfully.

**Aboriginal and Torres Strait Islander Information:** Should be treated in a way that promotes self-determination and is culturally safe. Should acknowledge connection to family, kin and community.

**Accessibility of information:** Service providers should be regarding social, cultural and educational requirements when communicating with consumers, families and carers and meet those needs where reasonable and possible.

**Accuracy of information:** Service providers should ensure consumer information is accurate, relevant and up to date when recorded and/or shared.



## Creating an Advance Statement of Preference

MHWB Act (2022), Part 2.1, section 32-35

As discussed during the training, a consumer's Advanced Statement of Preference now holds a higher level of value for a person's care. It is strongly encouraged that you ask a consumer if they have an Advance Statement of Preference upon entering your care, and if they have updated it each time they visit.

A consumer can make an Advance Statement of Preference at any time and as a mental health and wellbeing service provider you are encouraged to help support consumers in writing one.

An Advance Statement of Preference can include a variety of information surrounding a person's care, including:

- Treatment they find effective.
- Treatment they've found not effective in the past.
- Their views on electroconvulsive treatment.
- Support preferences to assist them with communication.
- Information sharing preferences.
- Contact details should they receive compulsory assessment or treatment.
- Nominated support person or advocate details.
- Preferences on who can complain on their behalf.

## Revoking an Advance Statement of Preference

An Advance Statement of Preference cannot be altered once signed and witnessed. In order to make changes and update an Advance Statement of Preference, a consumer has to revoke the previous Advance Statement of Preference and issue a new one.



The Victorian Department of Health has developed easy to use forms to help create or revoke an Advance Statement of Preference which can be found in the Mental Health and Wellbeing Handbook under **Supported Decision Making > Advance statement of preferences.**

## Complaints Principles, Guidance and the Mental Health and Wellbeing Commission MHWB Act (2022), Part 9.2

### Handing complaints internally as a Mental Health and Wellbeing Service Provider.

The MHWB Act 2022 outlines requirements for the Mental Health and Wellbeing Commission (The Commission) when dealing with complaints, however it is strongly encouraged for mental health and wellbeing service providers to follow the same model of complaints handling. By doing this, service providers can improve service provision in accordance with consumer needs and experiences.



The Commission takes a trauma informed approach to complaints resolution, and has developed guidelines on how to do so, which can be found [here](#) or at the link below. The Commission also has a self-assessment tool to help service providers create an accessible and effective complaints system which can be found [here](#).

### How to make a complaint to The Mental Health and Wellbeing Commission.

The Commission takes complaints in writing and verbally, and have support services in place for those with accessibility, language or interpretation needs. Complaints can also be made by carers, family members and any other nominated support persons or supporters.

### What happens when a consumer makes a complaint?

When a consumer makes a complaint, the Commission will aim for early resolution whereby a consumer contacts you as a provider directly, or asks you to contact the consumer regarding the complaint. If you are asked to contact the consumer, the Commission will help facilitate and support the complaint resolution process.

### Who falls under the scope of the Commission?

The Commission only handles complaints made regarding mental health and wellbeing services as defined by the MHWB Act 2022. This is anyone who directly or indirectly receives funding from the Department of Health Victoria for the purpose of delivering mental health and wellbeing services.

[content.mhcc.vic.gov.au/sites/default/files/2023-04/Guidelines-for-trauma-informed-mental-health-complaints-resolution.pdf](https://content.mhcc.vic.gov.au/sites/default/files/2023-04/Guidelines-for-trauma-informed-mental-health-complaints-resolution.pdf)  
[www.mhwc.vic.gov.au/MHWC-complaints-self-assessment-tool](https://www.mhwc.vic.gov.au/MHWC-complaints-self-assessment-tool)

## Non-Legal Mental Health Advocacy

### MHWB Act (2022), Part 2.3

Under the MHWB Act 2022, the Department of Health Secretary must identify a suitable non-legal mental health advocacy service to help support consumers by advocating on their behalf. The Independent Mental Health Advocacy (referred to as IHMA) has been established for this purpose. IHMA operates to support consumers subject to compulsory treatment orders - whether in the community or inpatient care.

Under the MHWB Act 2022, IHMA now operates on an opt-out basis rather than an opt-in, to enable more people to have this advocacy support available. If your consumer does not wish to be contacted when subjected to a compulsory order, they can simply register to opt-out via the IHMA website: [www.imha.vic.gov.au](http://www.imha.vic.gov.au)

## Nominated Support Person

### Nominating a Support Person

#### MHWB Act (2022), Part 2.6

Under the MHWB Act 2022, a nominated support person is someone appointed by a consumer to help support them to express their views and preferences of care. This can include what is covered in a consumer's Advance Statement of Preferences or any other wishes the consumer may have communicated with their nominated support person.

### Revoking a Nomination or Resigning

A consumer can revoke a nomination at any time, and a nominated support person can also resign from that role should they wish to.



Easy to use forms created by the Department of Health Victoria for nomination of a support person, revoking a support person or resigning as a support person can be found in the Mental Health and Wellbeing Handbook under **Supported decision making > Nominated support persons.**

### Statement of Rights

#### MHWB Act (2022), Part 2.2

A Statement of Rights is a document designed to explain the rights of a consumer at various points in their care journey. The most likely time you will need to provide a Statement of Rights is if you submit an assessment order.



You can find the template for an Assessment Order Statement of Rights along with the other variations within the Mental Health and Wellbeing Handbook under safeguards, protection of **Rights and Complaints > Statement of Rights**.

## Communicating Under the MHWB Act

### Communicating under the MHWB Act 2022

#### MHWB Act (2022), Part 1.2

Communication under the MHWB Act has a number of different elements take into consideration, including who you communicate with, when and how you communicate.

When communicating with consumers, carers, families or support networks it is important that mental health and wellbeing service providers ensure that what they are trying to communicate is understood completely. Service providers can do this by utilising a number of appropriate supports including the use of the following:

- engaging in translation or interpretation services in order to communicate in the preferred or required language.
- catering to the literacy, developmental or cultural needs of the consumer and their support networks.
- communicating in an appropriate environment, factoring in physical, environmental and sensory requirements.
- allowing support networks to assist with the communications or identifying the appropriate supports required.
- communicating directly with the support networks.
- referring to a consumer's Advance Statement of Preference to identify preferred or effective supports required.

## Informed Consent & Reasonable Opportunity

### MHWB Act (2022), Part 3.2

In conjunction with the support requirements around communicating under the MHWB Act, mental health and wellbeing service providers need to ensure all information sharing and communications follow an informed consent driven approach.

Service providers also need to provide reasonable opportunity to consumers to consider the treatment options, discuss the viability or alternatives, access appropriate support and more before proceeding with treatment.

There are limited circumstances where consent can be overridden, including disclosure of potential harm or threat to life - either the consumers or others, where there is disclosure of unlawful activity, where mandatory reporting or other legal obligations override consent or where there is a threat to national security.

Information sharing is also subjected to the following Health Privacy Principles (HPP), the *Health Records Act 2001* (HR Act) or to any authorised persons providing care and control.

## Information Sharing between service providers and specified service providers

### MHWB Act (2022), Part 17.1

It is also important to remember that under the MHWB Act 2022, Mental Health and Wellbeing Providers are able to share information with Victorian Government funded services like the Department of Families, Fairness and Housing, or Alcohol and Other Drugs services in order to provide holistic service provision encompassing all needs of a consumer. Ensure consumers are advised when this information is shared every time.



An extensive list of exclusions, forms to record informed consent and more can be found in the Mental Health and Wellbeing Handbook under **Information Sharing Under the Act.**

## Record Keeping - Restrictive interventions

### MHWB Act (2022), Part 3.7, Section 133

Under the MHWB Act 2022, it is imperative that restrictive interventions are used as a last resort. In cases where restrictive interventions are used, records must be kept accurately and respectfully, and outline a number of key details regarding the use of restrictive practices:

- the reason why the restrictive intervention is necessary
- less restrictive means tried or considered.
- why those less restrictive means were found unsuitable.

Service providers must inform a number of entities when restrictive practices are applied, including the Independent Mental Health Advocacy, nominated support persons and a consumer's support network if necessary for the care relationship.



Further information on record keep and the recording of restrictive interventions can be found in the MHWB Act 2022 Handbook under **Treatment and Interventions > Restrictive Interventions.**

## Record Keeping - Advance Statement of Preferences

### MHWB Act (2022), Part 3.3, Section 90

If a service provider goes against the Advance Statement of Preference of a consumer, the service provider must record why. Reasons why an Advance Statement of Preference might not be followed could include:

- the treatments outlined are not clinically appropriate.
- the service provider is unable to provide this treatment at the designated mental health service despite reasonable efforts being made to do so.

If a service provider goes against the Advance Statement of Preferences, it is important that they record and provide written reasoning as to why to both the consumer and their nominated support person within 10 days of the decision.



More information on Advance Statement of Preferences can be found on page 12 and in the Mental Health and Wellbeing Handbook under **Supported Decision Making > Advance Statements of Preferences.**



### Record Keeping - Amend or Correct Health Information

#### MHWB Act (2022), Part 3.7, Section 133

When recording information regarding a consumer's health, it is important to give proper consideration to the 'Dignity of Person' information sharing principle, which requires service providers to record information accurately and respectfully.

At any point a consumer or their support networks can ask for access to any information recorded by your organisation, and if they feel this principle has not been upheld they can request an amendment of the information recorded. If you choose not to amend the record as requested, you must provide written reasoning for your decision. A consumer or their support network can take this decision to the mental health tribunal and complain should they wish to.



The standardised form for refusing to amend recorded health information can be found in the MHWB Act 2022 handbook under **Information Sharing Under the Act**.

## Compulsory Orders

Under the MHWB Act 2022, there are three variations of orders - Assessment Orders, Temporary Treatment Orders and Treatment Orders.

These orders can be carried out in two ways, within the community setting or within an inpatient facility. Preference to community based orders is paramount in compliance with the least restrictive principle.

### Assessment Order

#### MHWB Act (2022), Part 4.2

The most common type of order a non-acute mental health service would be working with is an assessment order. An assessment order will allow a consumer to be assessed by an authorised psychiatrist should you believe further treatment is required for the betterment of the person's health - whether they consent to the treatment or not. As such, consideration of the dignity of risk principle is paramount when deciding to submit an assessment order.

There is a strict criteria you must adhere to when applying for an assessment order with further guidelines developed by the Chief Psychiatrists Office. If you need to submit an assessment order, ensure you meet the following:

- The consumer meets the assessment criteria outlined in the mental health and wellbeing act 2022 handbook.
- You have seen the consumer within the last 24 hours.
- You have used the MWA 101 form.



For more information on the criteria, and access to the MWA 101 form, go to the MHWB Act 2022 handbook. You will find this information under **Treatments and Interventions > Assessment Orders**

### Temporary Treatment Orders and Treatment Order

#### MHWB Act (2022), Part 4.4, Part 4.5

Once a consumer has been assessed, the Chief Psychiatrist may place the consumer on a temporary treatment order. This will enable them to provide compulsory treatment for the consumer where the consumer may not have sought care previously.

If the consumer requires further care beyond the timeframe of a temporary treatment order they may be subjected to a treatment order by the mental health tribunal.



More information on criteria and process of compulsory orders can be found in the MHWB Act 2022 Handbook under **Treatments and Interventions > Compulsory Assessment and Treatment > Temporary Treatment Orders or Treatment Orders.**

### Care and Control

#### MHWB Act (2022), Part 5.2

Restrictive practices are intended to be reduced to zero over time. However, if a consumer is suffering from a mental health crisis they may be taken into care and control by an authorised person. At present, the definition of **Authorised Persons** is a police officer, a protective services officer, or a member of a prescribed class of persons.

Care and Control will need to be transferred to the closest facility available with the required staffing. If your organisation takes walk in without referral, you may be asked to take over care and control by an authorised person where safe to do so.

## Restrictive Practices

### Restrictive Interventions

#### MHWB Act (2022), Part 3.7

The MHWB Act requires service providers to work with the aim of reducing and eliminating the use of restrictive interventions and should only be used to:

- prevent imminent and serious harm to a consumer or others.
- to administer treatment (medical or otherwise) to a consumer - physical restraint only.

When considering utilising restrictive practices, it is important to give proper consideration to the decision-making principles outlined on page 11, and give reasonable effort to use or consider less restrictive options.

Restrictive interventions need to be authorised by an authorised psychiatrist, and if not available, a registered medical practitioner or nurse in charge. An authorised psychiatrist must be notified if not the one to authorise as soon as possible.

Restrictive practices include seclusion, bodily restraint and chemical restraint in which a consumer is presenting with a mental health crisis.



You can read more about restrictive practices in the mental health and wellbeing act handbook under **Treatment and interventions > Restrictive Interventions.**

## MHWA Act 2022 eLearn Module

The Department of Health have developed a series of eLearn modules to support mental health and wellbeing professionals understand the changes in the MH&WA and the new responsibilities and obligations under the Act.

These modules are self-paced and interactive. They provide scenarios of common events in the mental health and wellbeing system to stimulate thoughts around how the Act may be applicable in various workplaces and roles.

The topics covered through these modules are:

### Module One:

Introduction to the Mental Health and Wellbeing Act.

### Module Two:

Mental Health and Wellbeing Principles.

### Module Three:

Human Rights and Mental Health.

### Module Four:

Compulsory Treatment and Restrictive Interventions.

### Module Five:

Information Sharing, Crisis Response and Transport

### Module Six:

Restrictive Interventions in Emergency Departments and Urgent Care Centres.

## How to access the eLearning Module

To access the eLearning Module, go to [www.mhpod.gov.au](http://www.mhpod.gov.au) and create an account if you have not already done so.

Once logged in, you can follow the pathway below on the MHPOD Dashboard:

### Topic Library

> Jurisdiction specific topics

> Victoria

> Mental Health and Wellbeing Act 2022

This platform is freely accessible to individuals seeking to build their relevant mental health knowledge and skills in a professional development capacity.

There are a number of additional resources available to help support you and your workplace.

### Department of Health Victoria

#### **MHWA Act 2022 Handbook**

[www.health.vic.gov.au/mental-health-and-wellbeing-act-handbook](http://www.health.vic.gov.au/mental-health-and-wellbeing-act-handbook)

This provides in depth information around the MHWA Act 2022, including access to the various form templates utilised under the new legislation and various visual assets developed by the Department of Health.

#### **Mental Health and Wellbeing Act 2022 Video Series**

[www.health.vic.gov.au/mental-health-and-wellbeing-act](http://www.health.vic.gov.au/mental-health-and-wellbeing-act)

A quick guide video series responds to questions about key changes in the Act.

#### **Mental Health and Wellbeing Act 2022 vs 2014**

[www.health.vic.gov.au](http://www.health.vic.gov.au) - word document

Outlines new or different key provisions vs similar or comparable key provisions.

#### **Mental Health and Wellbeing Act fact sheet for mental health and wellbeing providers**

[www.health.vic.gov.au/mental-health-and-wellbeing-act](http://www.health.vic.gov.au/mental-health-and-wellbeing-act) - word document

This document outlines what a mental health and wellbeing service, service provider and professional is under the act, as well as obligations and new services included under the act.

#### **Mental Health and Wellbeing Act fact sheet for General Practitioners**

[www.health.vic.gov.au/mental-health-and-wellbeing-act](http://www.health.vic.gov.au/mental-health-and-wellbeing-act) - word document

This document outlines relevant key changes for general practitioners, their role and other key information relevant to their profession.

There are a number of additional resources available to help support your workplace and consumers.

### **Independent Mental Health Advocacy**

[www.imha.vic.gov.au](http://www.imha.vic.gov.au)

The Independent Mental Health Advocacy is a service provided by Victoria Legal Aid to help advocate for and support consumers who are receiving or at risk of receiving compulsory mental health treatment.

A variety of resources are available to help support consumers, families and carers.

### **Victorian Mental Illness Awareness Council**

[www.vmiac.org.au](http://www.vmiac.org.au)

The Victorian Mental Illness Awareness Council has been funded to develop resources and education to the broader community on the MHWB Act 2022. This project is currently underway and more information can be read on their website.

### **Tandem**

[www.tandemcarers.org.au](http://www.tandemcarers.org.au)

Tandem has developed a number of resources and education for carers of mental health and wellbeing consumers across the state. This includes a number of webinar recordings, graphics and more to help carers across Victoria.

### **Mental Health and Wellbeing Commission**

[www.mhwc.vic.gov.au](http://www.mhwc.vic.gov.au)

The Mental Health and Wellbeing Commission is an independent statutory authority designed to hold the government accountable for the performance, quality and safety of the mental health and wellbeing system.

Resources are under development to help mental health and wellbeing services understand the complaint resolution process.





## What have we learnt today?

- Why has the *Mental Health Act 2014* changed to the *Mental Health and Wellbeing Act 2022*? What does this mean for consumers and how they access care for mental health?
- What are the Mental Health and Wellbeing principles, how are they relevant to the primary sector and how might you be held accountable to these principles?
- What are the other powers relative to the community and non-acute sector and how does this fit into service delivery?



## Housekeeping - Icons

Throughout this training you will see the following icons:



Refers to background information that is relevant to the slide



Refers to relevant information or reading in the resource book provided



Refers to the section of the *Mental Health and Wellbeing Act 2022* (MHWB Act)



Refers to a question surrounding the MHWB Act to think about.

These will allow you to do further reading/research if you wish to.



## Why did the Mental Health Act 2014 Change to the Mental Health and Wellbeing Act 2022?

The Royal Commission into Victoria's Mental Health System recommended a new Mental Health and Wellbeing Act that replaces the 2014 edition.

This was intended to achieve a number of goals, including a rights based, consumer driven approach to mental health care.



## Why did the Mental Health Act 2014 Change to the Mental Health and Wellbeing Act 2022?

The Royal Commission into Victoria's Mental Health recommended a new act that:



Promote good mental health and wellbeing.



Increase access to mental health and wellbeing systems.



Provide a variety of services required close to home.



More information can be found in the resource book and at [www.vic.gov.au/royal-commission-victorias-mental-health-system-final-report](http://www.vic.gov.au/royal-commission-victorias-mental-health-system-final-report)



More information can be found in the resource book and at [www.vic.gov.au/royal-commission-victorias-mental-health-system-final-report](http://www.vic.gov.au/royal-commission-victorias-mental-health-system-final-report)





## Mental Health and Wellbeing Service Delivery Framework

Six Levels have been identified in a responsive and integrated system. These new levels are being progressively implemented over time.



More information can be found at [www.vic.gov.au/royal-commission-victorias-mental-health-system-final-report](http://www.vic.gov.au/royal-commission-victorias-mental-health-system-final-report)



## What does this mean for providers?

- Care must take a human rights based approach
- Care needs to encompass a more holistic approach, including things like:
  - Alcohol and Other Drugs.
  - Psychosocial risk factors (Employment, education, housing etc.)
- Collaboration with other service providers to fill in gaps of care.



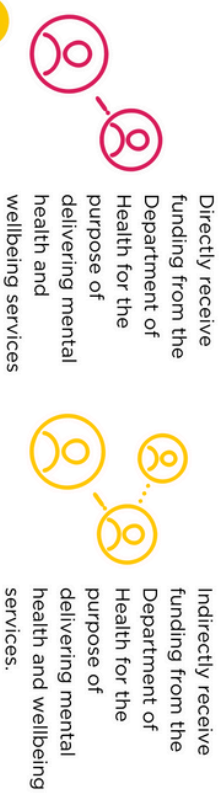
Do you know what gaps in service you have? Do you know what services you can refer to too help fill these gaps?



## New Act, New Systems

The criteria for a 'mental health service provider' has changed, meaning a broader range of services are now included. Some for the first time!

You are considered a mental health service provider if you:



More information can be found in Part 1.2 of MHWA Act, pg.17



## What does this mean for consumers?

- Care is sought as close as possible to the event.
- New psychosocial services (Local Mental Health Services aka 'Locals') are being rolled out statewide.
- Victorian State Government is working closely with the Commonwealth to increase access to GPs.
- Sector collaboration is vital to help broaden the scope of care through referral pathways.



Have you connected to your local mental health and wellbeing service provider yet?





## What is proper consideration?

Proper consideration will vary depending on the circumstances.



In circumstances where there is immediate risk, proper consideration may mean you work with the information you already have.



In circumstances where there is more time, you may want to discuss care history and preferences further with family, carers and the consumer to gain as much insight as possible.



More information can be found in s229



More information can be found in s229



## New Mental Health and Wellbeing Act Principles

New Principles to help guide and inform Mental Health and Wellbeing Services:

- 13** Mental Health and Wellbeing Principles
- 5** Decision Making Principles
- 5** Information Sharing Principles

All mental health and wellbeing professionals should give **proper consideration** to the new principles.



## Mental Health and Wellbeing Principles

What do I need to think about when making any decisions regarding mental health and wellbeing?

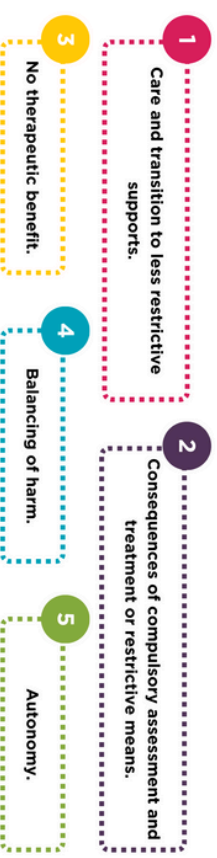


More information can be found in the resource kit provided by MHV and in Part 15 of the MHWB Act



## Supported Decision Making Principles

What do I need to think about when making decisions about care for my consumers?



More information can be found in the resource kit provided by MHV and in S.79-85 of the MHWB Act.







## How Do The Principles Affect Service Providers?



Service providers need to give proper consideration to all principles.	Service providers are protected if they give these principles proper consideration.	Annual reports should include examples of how the principles are applied.
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## How Do The Principles Affect Service Providers?

### Information Sharing Principles

What do I need to think about when sharing my consumers information?

- 1 Disclosure, collection and use of Information
- 2 Dignity of person.
- 3 Accessibility of Information.
- 4 Accuracy of Information.
- 5 Aboriginal and Torres Strait Islander Information.



More information can be found in the resource kit provided by MHV and in S.720-726 of the MHWB Act.



### How can you support consumers under the MHWB Act?

- 1 Advanced Statement of Preferences
- 2 Explain and create accessible complaints processes
- 3 Provide information on the Independent Mental Health Advocacy Service
- 4 Include families, carers and nominated support persons in care decisions



More information can be found in the resource kit provided by MHV and in S.32-35 of the MHWB Act



- 1 Comply with a consumer's Advance Statement of Preference where possible

Advance statement of preferences now hold a higher level of value for a person's care, and providers who go against a consumer's Advance Statement of Preference must record why they've done so.

It is important to ask your consumers if they have an Advance Statement of Preference or if they have updated it every time they visit to ensure you have all information necessary.



More information can be found in the resource kit provided by MHV and in S.32-35 of the MHWB Act





## 2 Ensure consumers know how to make a complaint - both internally and externally

Having an accessible complaints process internally will allow consumers to work with you and highlight issues of care. This means you can work on improving your quality of care over time.

Alternatively, complaints can also be submitted to the Mental Health and Wellbeing Commission (the Commission).

The Commission will work with providers to help resolve the complaint with the consumer.

More information can be found in the resource kit provided by MHV and in Chapter 9 of the MHWB Act.  

## 3 Ensure consumers know that Mental Health Advocacy is now opt-out, not opt-in

One of the key changes under the *Mental Health and Wellbeing Act 2022* is that The Independent Mental Health Advocacy is now opt-out rather than the previous model of opt-in. This means all consumers will be contacted when subjected to a treatment order - temporary or otherwise - and other key points in their care journey.

You can help consumers opt-out through the Independent Mental Health Advocacy Website, and this can be withdrawn at any time should they wish to opt back in.

More information can be found in the resource kit provided by MHV and in Part 2.3.5 of the MHWB Act.  

## 4 Engage consumers, families, carers and nominated support persons in the decision making process

Reasonable efforts need to be made to include consumers, families, carers and nominated support persons in deciding on care options, next steps and more wherever possible.

Best practice is to ask a person upon entering your care if they have identified a nominated support person. Then at each subsequent visit ask if they have updated their nominated support person. This will ensure you have the correct information at all times.

More information can be found in the resource kit provided by MHV and in Part 2.6 of the MHWB Act.  

## What Do You Need To Know As Service Providers?

- 1 Statement of Rights
- 2 Health Led Response
- 3 How to Communicate
- 4 Record Keeping
- 5 New Changes to Assessment Orders, Treatment Orders Etc
- 6 Care and Control
- 7 Community Visitors
- 8 New Youth Guidelines
- 9 Restrictive Practices
- 10 Regional Mental Health and Wellbeing Boards





## 1

### What is a Statement of Rights?

There are various points in a consumers care where they need to be provided a statement of rights - particularly when a person goes into bed-based care.

For most non-acute mental health and wellbeing service providers, the only time you will need to provide a statement of rights is if you have requested an Assessment order for one of your consumers.



Mental and Physical Ill Health are often interrelated.

Working with a consumer to identify what their health priorities are should always be priority.

The needs, wellbeing and safety of a consumer's dependents should also be protected.

## 2

### What is a Health-Led Response?



More information can be found in the resource kit provided by MHV and in Part 2.2 of the MHWB Act



More information can be found in S.228 of the MHWB Act



## 3

### Communicating under the Mental Health and Wellbeing Act

There are new requirements and guidelines for communicating under the *Mental Health and Wellbeing Act 2022*. This includes taking reasonable steps to provide clear and complete communication that meets the needs of the consumer depending on their needs.

Appropriate supports can include things like:

- Translation or interpretation and use of preferred language.
- Catering to literacy, developmental or cultural needs.
- Communicating in an appropriate environment (Physical or sensory)
- Allows support networks to help (Nominated Support Persons, Family and Carers) and communicating with those identified.



## 3

### Communicating under the Mental Health and Wellbeing Act

Sharing of information should be consent driven, although there are some exceptions to this. Providers are allowed to share information with other service providers - i.e. AOD services or housing services funded by the state - where necessary to support a person's holistic health needs.

Consent can also be overridden in a number of circumstances where a consumer poses a risk to life, a risk of unlawful behaviour and more.



A full list of exemptions, further information and more can be found in the resource kit provided by MHV and in S.6-7 of the MHWB Act





## Record Keeping - What do I need to record?

4

There are 2 key things you need to remember to record as a mental health and wellbeing practitioner.

### Use of Restrictive Practices:      **Advance Statement of Preferences:**

If restrictive practices must be used, this must be recorded along with any non-restrictive practices contemplated or tried.

If you go against a consumer's Advance Statement of Preference, reasoning as to why must also be recorded and provided to a consumer within 10 days.



## Record Keeping - What do I need to record?

4

It is important that records kept are accurate. You may be asked and are encouraged to share these with consumers and their families.

Information should be accurate, respectful and fit for purpose and consumers. Their families may ask you to amend information kept. If you choose not to amend the information recorded, you need to provide written reasoning as to why you won't.



Further information and more can be found in the resource kit provided by MHV and in S.133, S.90 of the MHWB Act.



5

### Assessment Orders and Treatment Orders:

**Assessment Orders:** Medical practitioners and authorised mental health practitioners can submit an assessment order to the Chief Psychiatrists Office if they believe a consumer needs further support and treatment.

This must be submitted within 24 hours of working with the consumer.



5

### Assessment Orders and Treatment Orders:

**Community vs Inpatient:** Assessment orders can be undertaken in the community where safe and possible to do so, or within a designated mental health service where necessary for a person's safety and wellbeing.

Preference is for community based orders wherever safe to do so.



Further information and more can be found in the resource kit provided by MHV and in Part 4.2 of the MHWB Act.



Further information and more can be found in the resource kit provided by MHV and in S.145 of the MHWB Act.



5

## Assessment Orders and Treatment Orders:

**Temporary Treatment Orders:** Temporary treatment orders can be made by an authorised psychiatrist.

**Treatment Orders:** Treatment orders can be implemented by The Mental Health Tribunal



Further information can be found in S.145 of the MHWB Act.



## What is Care and Control?

6

Under circumstances where it is safe to do so, authorised persons can take the consumer to a registered medical practitioner or authorised mental health practitioner as close to the place of the event.

The definition for **Authorised Persons** can be found in the Handbook



Further information and more can be found in the resource kit provided by MHV and in Part 5.2 of the MHWB Act.



## What is Care and Control?

6

Care and Control is Lived Experience informed language used to describe what was previously called 'apprehension'.

Before an authorised person can take a consumer into care and control, they must consult with an authorised health professional if possible and safe to do so.



7

## Community Visitors

Community Visitors are like the secret shoppers of the mental health and wellbeing sector. Working under the Office of Public Advocacy, Community Visitors work independently to evaluate service provision at various bed-based services.

If you have a community visitor contact your service, you must help facilitate their evaluation to the best of your ability.



Further information can be found in Part 8.2 of the MHWB Act.





## New Youth Mental Health and Wellbeing

8

Under the MHWB Act, a Youth Mental Health and Wellbeing entity will be established to provide system leadership and strategic advice from a youth perspective.

Acknowledging young peoples' lived and living experience and giving them a voice and agency in responding to crisis is strongly encouraged under the MHWB Act.

More information can be found at [www.vic.gov.au/royal-commission-victorias-mental-health-system-final-report](http://www.vic.gov.au/royal-commission-victorias-mental-health-system-final-report)



## Regional Mental Health and Wellbeing Boards

10

Regional Mental Health and Wellbeing Boards are intended to be a communication channel between mental health and wellbeing service providers and the Minister.

This is to enable access for Victorians to help identify the services needed in their local area. Regional Mental Health and Wellbeing Boards are still being developed across regions.

Further information can be found in Part 6.4 of the MHWB Act.



9

## Update to Restrictive Practices

Under the *Mental Health and Wellbeing Act 2022*, there is a goal to eliminate restrictive practices within the next 10 years.

The MHWB Act now includes chemical restraint as a restrictive measure, alongside seclusion and physical restraint. If restrictive restraint is used it must be recorded.

Further information and more can be found in the resource kit provided by MHV and in Part 5.7 of the MHWB Act.



## Feedback/Q&A





# MentalHealth Victoria

*Collaboration • Knowledge • Leadership*

*Information recorded in this document was prepared in May 2023.*

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