

Information for consumers – Know your rights

People who are on an order for compulsory mental health treatment have a range of rights under the Victorian *Mental Health Act 2014*. These include the right to:

- **Be informed about why you have been placed on a compulsory order.**
- **Be presumed to have capacity** to make decisions about your treatment.
 - your informed consent to treatment must be sought wherever possible
 - you can refuse electroconvulsive treatment (ECT) when you have capacity to make this decision
- **Be involved in, and supported to make, decisions** about your mental health assessment, treatment and recovery, including:
 - having your views and preferences respected
 - being given reasonable time without being unduly pressured or forced to make decisions
 - having an opportunity to discuss your treatment options with your psychiatrist
 - being supported to get other advice or assistance
- **Be informed about your treatment**, including an explanation of:
 - any proposed treatment, its purpose, advantages and disadvantages (eg. risks or side effects)
 - any other treatments available, including advantages and disadvantages

This information is to be provided in a way that you can understand and that answers your questions. You can ask for this information in writing and request an interpreter if you need one.

- **Make decisions about your treatment and recovery that involve a degree of risk.**
- **Receive the least restrictive treatment, in the least restrictive way possible**, taking into account your treatment preferences, recovery goals and available alternative treatments.

You may only be:

 - kept in hospital for treatment when you cannot be treated in the community
 - secluded or restrained after all reasonable less restrictive options have been tried or considered
- **Have your individual needs respected**, including:
 - having your culture, language, communication, age, disability, gender, religion and sexuality, as well as your medical and other health needs, recognised and responded to
 - having your dignity, autonomy and rights respected and promoted
 - mental health services supporting your recovery and full participation in community life
- **Receive information about your rights** under the *Mental Health Act 2014* from your mental health service, including a written statement and spoken explanation at an appropriate time, as well as answers to your questions that are as complete and clear as possible

- **Make an Advance Statement** that sets out in writing your mental health treatment preferences.
 - your psychiatrist must consider your treatment preferences
 - you have the right to be given an explanation (including in writing, if you request it) if your psychiatrist decides to not follow your Advance Statement
- **Appoint a Nominated Person** who can support you, help represent your interests, receive information and assist you to exercise your rights.
 - there are times when your Nominated Person must be consulted about your treatment
- **Seek a Second Psychiatric Opinion**
 - from any psychiatrist, including from the mental health service where you are receiving treatment or from the free and independent Second Psychiatric Opinion Service
 - if your psychiatrist does not adopt all changes recommended in a Second Psychiatric Opinion, you have the right to ask the Chief Psychiatrist to review your treatment
- **Communicate with a lawyer** to seek legal assistance.
- **Communicate with an IMHA advocate** to seek advocacy support.
- **Ask for support** from an advocate, community visitor or any other person you choose.
- **Appeal against an order for compulsory treatment** by asking for a Mental Health Tribunal hearing.
 - you can ask a lawyer or another person to represent or support you at a Mental Health Tribunal hearing
- **Make a complaint about a mental health service** by speaking to the service and/or the Mental Health Complaints Commissioner.

About IMHA

IMHA services are independent, free and confidential.

If you are receiving compulsory treatment, our IMHA 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 your treatment and recovery
- Refer you to other services if you want

Contact IMHA

Telephone: 1300 947 820 between 9.30am - 4.30pm, Monday to Friday (excluding public holidays)

Email: contact@imha.vic.gov.au

Website: www.imha.vic.gov.au

If you are in hospital and cannot access a phone, you can ask a staff member or support person to get in touch with IMHA on your behalf.

Disclaimer: The material in this fact sheet was last updated September 2016 and relates to the law as it applies in the state of Victoria. It is intended as a general guide only. Readers should not act on the basis of any material in this fact sheet without getting legal advice about their own particular situation. IMHA is a non-legal advocacy service delivered by Victoria Legal Aid. Victoria Legal Aid disclaims any liability caused to any person in respect of any action taken in reliance of the contents of this fact sheet.
