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| Statement of Rights  Electroconvulsive Treatment (ECT) |
| You were given this document because your psychiatrist has proposed electroconvulsive treatment for you.  It explains your legal rights under the *Mental Health and Wellbeing Act 2022 (the Act).* |
| |  | | --- | | 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. * A blue sign with white figures    Description automatically generated with low confidenceThis 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). * For help in your language contact the Translating and Interpreting Service on 131 450. |  What is electroconvulsive treatment (ECT)? Electroconvulsive treatment (ECT) is a medical procedure to induce a seizure within the brain. It is used to treat mental illness and is performed under general anaesthetic.  A course of ECT is up to a maximum of 12 treatments. These treatments are performed over a period of time which is not more than six months. ECT is usually given three times a week for three to four weeks, but this varies from person to person.  ECT can be given with or without your consent. This depends on whether you have been assessed to have capacity to give informed consent. Capacity to give informed consent  * If you want to consent to ECT, you must have capacity to give informed consent to have it. * If you don’t have capacity to give informed consent, or you are under 18 years of age, and your psychiatrist wants to give you ECT, they must apply to the Mental Health Tribunal for an order allowing them to give you ECT.   Giving informed consent means that you have understood and considered the information you need to make a decision about receiving treatment.  You can only give informed consent if you have capacity to do so. Your psychiatrist should start by assuming that you do have capacity.  You will have capacity to give informed consent to a particular treatment if you can:   * understand the information you’re given about that treatment; * remember that information; * use or weigh that information; and * communicate your decision.   Your capacity to give informed consent must be checked at a time and in a place when it is most likely to be an accurate assessment. Your psychiatrist must give you support to build your capacity. Your psychiatrist should assess your capacity regularly as it can change. If you want ECT If you’re 18 or over  You must meet all the following criteria to choose to have ECT:   * You have capacity to give informed consent, and * You provide consent in writing.   If you don’t have capacity but you have an instructional directive that says you choose to have ECT, you will also need to get approval from the Mental Health Tribunal before you can have ECT.  If you're under 18  The psychiatrist must apply to the Mental Health Tribunal for approval. They must apply even if you want to have ECT, or your parent or guardian wants you to have ECT.  If you have given consent to ECT, you can decide to stop having it at any time. Compulsory ECT Compulsory ECT means having ECT, even if you don’t want it or don’t have the capacity to consent. The Mental Health Tribunal must give approval before you can be given compulsory ECT.  If you’re 18 or over  ECT can only be given without your consent if:   * you don’t have capacity to give consent; * ECT is the least restrictive way to treat you; and * if you are not a compulsory patient, your medical treatment decision-maker or your instructional directive says you can have ECT.   Your psychiatrist must also apply to the Mental Health Tribunal, and they have decided that:   * you lack capacity to give informed consent; and * there’s no less restrictive way to treat you.   If your psychiatrist believes you don’t have capacity to give informed consent to ECT, you can ask them to explain why.  For more information about medical treatment decision-makers and instructional directives, see the Office of the Public Advocate website: [www.publicadvocate.vic.gov.au/medical-treatment](http://www.publicadvocate.vic.gov.au/medical-treatment).  Your psychiatrist must stop giving you ECT if they think:   * you now have the capacity to give informed consent and do not want ECT; or * ECT is no longer the least restrictive treatment option for you.   Least restrictive means you need to be given as much freedom as you can, based on your individual circumstances. What is restrictive for one person might not be restrictive for someone else.  If you're under 18  You can talk to a lawyer to find out about your rights. Mental Health Tribunal The Mental Health Tribunal must decide on the ECT application within five business days of receiving it.  You can ask staff, a lawyer, or advocate for help to prepare for the hearing. You have the right to:   * a copy of the report and to view the documents your treating team have given to the Mental Health Tribunal at least two business days before the hearing. Your psychiatrist can ask the Mental Health Tribunal to stop you reading the report or documents if it could cause serious harm to yourself or someone else; * provide your own statement or evidence; and * request a statement of reasons for the Mental Health Tribunal’s decision within 20 business days of your hearing.   You can apply to the Victorian Civil and Administrative Tribunal (VCAT) to appeal your ECT order. You can seek legal advice to find out how to apply to VCAT. Your rights If your psychiatrist has proposed ECT, you have rights. 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. You have the right to information Your treating team must give you information about ECT, any alternative treatments, and explain the reason they are suggesting it for you. Some questions you can ask them are:   * What is ECT used for and how is it given? * Why are you suggesting ECT for me? * What happens after I have ECT? * What are the advantages and disadvantages of ECT? * Will ECT affect my memory? * Will you assess my capacity to consent before each treatment?   If your treating team applies for an order for ECT, they must explain the reason for applying for an order. They must give you information about your 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 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 when you’re placed on an order and 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 a second psychiatric opinion This assesses if:   * you meet the treatment criteria; and * your treatment needs to change.   To get a second opinion, you can:   * use the Second Psychiatric Opinion Service which is free and independent; * ask staff for another psychiatrist within your service; or * contact a private psychiatrist. They may bulk bill or require payment.  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 |
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| 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

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



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