

Assessment order

Statement of rights

You have been given this booklet because an Assessment Order has been made for you. This booklet provides information about Assessment Orders and your legal rights and entitlements under the *Mental Health Act 2014*. When you are assessed a member of the treating team will talk to you about this information and answer your questions.

If at any time you have questions about this information or your rights, ask someone to explain. You can ask a member of the treating team, a friend, a family member, a lawyer, an advocate or a community visitor.

Copies of this booklet are available online at: <https://www2health.vic.gov.au/mental-health> Search 'rights statements'.

What is an Assessment Order?

An Assessment Order allows a psychiatrist to examine you to decide if you have mental illness.

An Assessment Order allows a psychiatrist to examine you even if you do not want that to happen.

A '**psychiatrist**' is a doctor who knows a lot about mental illness.

You must be given a copy of the Assessment Order and have the Assessment Order explained to you.

Some other people must also be given a copy of your Assessment Order:

- your nominated person
- a guardian
- a carer if the assessment will directly affect the carer and the care relationship
- a parent if you are a young person under 16 years of age
- the Secretary to the Department of Health and Human Services if you are on a family reunification order or a care by Secretary Order.

Who can make an Assessment Order?

An Assessment Order can only be made by:

- a doctor
- a mental health practitioner.

A '**mental health practitioner**' is a person who works for a designated mental health service as a:

- registered psychologist
- registered nurse
- social worker
- registered occupational therapist.

A '**designated mental health service**' is a hospital or health service that is allowed to give compulsory mental health treatment.

'**Compulsory treatment**' means that a psychiatrist can give you treatment for mental illness even if you don't want it.

Before an Assessment Order can be made you must be examined by a doctor or mental health practitioner. The person examining you must tell you about the examination and the reason for the examination before it happens.

If the person examining you decides to make an Assessment Order, the order must be made within 24 hours.

Why has an Assessment Order been made for me?

You appear to need immediate treatment for mental illness:

- to stop your illness getting worse
- to stop you from being seriously hurt or seriously hurting someone else.

Examination by a psychiatrist

A psychiatrist will examine you to see if you need compulsory treatment for mental illness.

You can be taken to a hospital to be examined by a psychiatrist even if you don't want to go.

If you are being taken to hospital it must be within 72 hours (3 days) or the Assessment Order will automatically stop.

Sometimes, you may be examined by a psychiatrist at home or at a community clinic.

The psychiatrist will examine you:

- within 24 hours (1 day) of you getting to a hospital
- within 24 hours (1 day) of the making of the Assessment Order if the psychiatrist is going to examine you at home or at a community clinic.

The psychiatrist may need more time to decide if you need compulsory treatment. The psychiatrist can extend the Assessment Order by up to 24 hours if needed. The psychiatrist can only do this twice.

The psychiatrist will listen to what you have to say about whether you need compulsory treatment.

The psychiatrist will also listen to what some other people who know you have to say about whether you need compulsory treatment:

- your nominated person
- a guardian
- a carer if the assessment will directly affect the carer and the care relationship
- a parent if you are a young person under 16 years of age
- the Secretary to the Department of Health and Human Services if you are on a family reunification order or a care by Secretary Order.

If the psychiatrist says you **do not** need to be given compulsory treatment then the Assessment Order will be stopped. If you are at the hospital you can leave.

If the psychiatrist says you **do** need to be given compulsory treatment they will make a Temporary Treatment Order.

While you are on the Assessment Order, a doctor can only give you treatment for mental illness if you agree or if you need urgent treatment.

Restrictive interventions (seclusion and bodily restraint)

'Restrictive interventions' is another name for 'seclusion' and 'bodily restraint'. Restrictive interventions may be used while you are on an Assessment Order.

Seclusion

'**Seclusion**' is when a person is kept alone in a room and cannot open the door or windows.

This can only happen if it is needed to protect the person or other people from imminent and serious harm.

'**Imminent**' is another way of saying 'very soon'.

Seclusion must be stopped if the reasons for putting the person in seclusion are not there anymore.

Seclusion can only be used when all other ways of stopping the serious harm:

- have been tried
- are thought to be unhelpful in stopping the serious harm.

If seclusion is used, the psychiatrist must tell:

- your nominated person
- a guardian
- a carer if the use of seclusion directly affects the carer and the care relationship
- a parent if you are a young person under 16 years of age
- the Secretary to the Department of Health and Human Services if you are on a family reunification order or a care by Secretary Order.

Bodily restraint

'**Bodily restraint**' is when a person is stopped from moving around by:

- being physically held
- the use of a device such as a strap or harness or blanket.

Restraint can only be used on a person if it is needed to:

- protect the person or other people from imminent and serious harm
- give the person treatment for mental illness
- give the person treatment for a medical condition.

Restraint must be immediately stopped if these reasons are not there anymore.

If restraint is used the psychiatrist must tell:

- your nominated person
- a guardian
- a carer if the use of bodily restraint directly affects the carer and the care relationship
- a parent if the person is under 16 years of age
- the Secretary to the Department of Health and Human Services if the person is on a family reunification order or a care by Secretary Order.

What happens if I am secluded or restrained?

If you are put in seclusion or you are restrained:

- you must be given food and water when you want
- you must be given blankets and pillows and bedding
- you must be given clothing
- you must be able to use the toilet
- you must be able to wash.

If you are secluded or restrained:

- a doctor or nurse must check on you at least every 15 minutes to see that you are ok

- a psychiatrist or doctor must examine you at least every four (4) hours to make sure that you are ok.

If you are being restrained a doctor or nurse must also watch you all the time to make sure that you are ok.

Authorisation

'Authorise' means to give someone permission to do something.

A psychiatrist, doctor or nurse must give permission for a restrictive intervention to be used on a person.

A restrictive intervention must be immediately stopped when the reasons for using the restrictive intervention are not there anymore.

Your rights

You have the right to get support

You can ask to get help from a family member, a carer or any other person you choose.

You can also get help from a person who can speak your language.

A doctor, nurse, psychiatrist or other member of the treating team must help you to contact the people you would like to help you.

You have the right to communicate with anyone you choose

You can communicate with any person you choose. For example, you can make a phone call.

A doctor, nurse, psychiatrist or other member of the treating team must help you to do so.

A psychiatrist can stop you communicating with another person if it is necessary to protect the health, safety or wellbeing of you or another person.

A psychiatrist cannot stop you communicating with:

- a lawyer
- the Chief Psychiatrist
- the Mental Health Complaints Commissioner
- the Mental Health Tribunal
- a community visitor
- the Independent Mental Health Advocacy service.

You can speak up if you think something wasn't ok with your assessment or treatment

You can make a complaint about the mental health services you have been given.

You can talk to the treating team or staff at the hospital about your complaint. You can also talk to the Mental Health Complaints Commissioner or someone at the Commissioner's office.

The Mental Health Complaints Commissioner is an independent organisation that makes sure that mental health services are doing the right thing.

The Commissioner makes sure all assessment and treatment follows the law.

You can talk to the Commissioner or someone at the Commissioner's office if you are unhappy about your assessment and treatment.

A psychiatrist, doctor, nurse or other member of the treating team must help you to talk to the Commissioner.

You can also ask a family member, a carer or any other person you choose to help you to talk to the Commissioner.

The contact details for the Mental Health Complaints Commissioner's office are included at the end of this booklet.

Making an advance statement

An **advance statement** says what treatment you would like when you are unwell.

You can make an advance statement at any time, if you:

- understand what an advance statement is
- understand what it means to make an advance statement.

You make an advance statement by:

- writing it down
- signing the document.

The document must also be signed by a witness.

A **'witness'** can be a psychiatrist, a doctor, a nurse or another member of the treating team, a lawyer or some other people.

The witness must say:

- that you understand what an advance statement is
- that you understand what it means to make an advance statement.

A psychiatrist, doctor, nurse or another member of the treating team can help you to make an advance statement if you ask them for help.

You can ask to get help from any other person you choose.

Choosing a nominated person

You can ask someone to be your nominated person at any time.

A **'nominated person'** is someone you can choose to look out for you if you have to have compulsory treatment.

Your nominated person can be:

- a family member
- a carer

- a partner
- anyone else you choose.

Your nominated person gets lots of information about your mental health treatment.

Because of this you should choose someone who knows you well and who you can trust.

The person needs to agree to be your nominated person.

You can choose a nominated person if you:

- understand what a nominated person is
- understand what it means to choose a nominated person.

You choose the nominated person by:

- writing it down
- signing the document.

The document must also be signed by a **'witness'**.

A **'witness'** can be a psychiatrist, a doctor, a nurse or another member of the treating team, a lawyer or some other people.

The witness must say:

- that you understand what a nominated person is
- that you understand what it means to choose a nominated person.

The witness cannot be the person you choose to be the nominated person.

A psychiatrist, doctor, nurse or another member of the treating team can help you to choose your nominated person if you ask them for help.

You can ask to get help from any other person you choose.

More information and help

Independent Mental Health Advocacy (IMHA) is an independent, free and confidential advocacy service that supports people who are receiving compulsory mental health treatment. They do not provide legal advice.

Tel: **1300 947 820**

More information is on the [IMHA website <www.imha.vic.gov.au>](http://www.imha.vic.gov.au)

Victoria Legal Aid provides free legal information, education and advice about lots of areas of law. It provides a visiting advice service to most of Melbourne's mental health inpatient facilities and many regional mental health inpatient facilities.

Tel: **1300 792 387**

More information is on the [Victoria Legal Aid website <www.legalaid.vic.gov.au>](http://www.legalaid.vic.gov.au)

Mental Health Legal Centre provides a free legal advice service on Tuesday and Thursday evenings between 6.30 pm and 8.30 pm.

Tel: **9629 4422**

More information is on the [Mental Health Legal Centre website <www.communitylaw.org.au/mhlc>](http://www.communitylaw.org.au/mhlc)

Community Visitors are people who visit mental health services and can assist you with any questions and help you to seek support or resolve issues about the mental health services you are being given.

Tel: **1300 309 337**

Mental Health Complaints Commissioner is an independent complaints body that can help you with any concerns or complaints you may have about the mental health services you are being given.

Toll Free: **1800 246 054**

More information is on the [Mental Health Complaints Commissioner website <www.mhcc.vic.gov.au>](http://www.mhcc.vic.gov.au)

Mental Health Tribunal is an independent tribunal that makes Treatment Orders and hears applications from patients for revocation of Temporary Treatment Orders or Treatment Orders, applications against transfer to another hospital and periodically reviews the Orders of security patients.

Tel: **9032 3200**

Toll Free: **1800 242 703**

More information is on the [Mental Health Tribunal website <www.mht.vic.gov.au>](http://www.mht.vic.gov.au)

To receive this publication in an accessible format phone 1300 656 692 using the National Relay Service 13 36 77 if required, or email mhpublicationsrequest@health.vic.gov.au

Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.

© State of Victoria, Department of Health and Human Services, March 2018

ISBN xxx-x-xxxx-xxxx-x (pdf/online)

(1802022)