



Guide to making a submission on the new Mental Health and Wellbeing Act

July 2021

BACKGROUND

In March 2021, the Royal Commission into Victoria's Mental Health System [released its final report](#). The Royal Commission made 74 recommendations, and the Victorian Government has agreed to implement all these recommendations.

The Royal Commission recommended a new Mental Health and Wellbeing Act for Victoria. This will replace the old *Mental Health Act 2014*. The new Mental Health and Wellbeing Act will redesign the mental health system. Some of the features of the new Act will include:

- More people with lived experience in leadership positions
- More local and community-based mental health services
- Ending seclusion and restraint treatments
- Meeting the needs of people from diverse backgrounds.

The Department of Health is putting together the Mental Health and Wellbeing Act, and it will be finalised by the middle of 2022.

MAKING A SUBMISSION

You can make a submission on the new Mental Health & Wellbeing Act on the [Engage Victoria webpage](#). At the bottom of the page there are **options** to make the submission as [an individual](#) or for [an organisation](#).

Both submission forms ask the same questions. The questions look at five key areas of the new Act:

1. Objectives and principles of the new Act [2 questions]
2. Non-legal advocacy and supported decision-making [4 questions]
3. Information sharing and data collection [2 questions]
4. Compulsory treatment and assessment, seclusion and restraint [4 questions]
5. Governance and oversight in the new Act [2 questions]

The Engage Victoria webpage has a link to an [Update and Engagement Paper](#) that has more information about making a submission. You can download translations of the Update and Engagement Paper in 18 languages.

You do not have to answer all the questions to make a submission. You can respond until 11:59pm on Sunday, 1 August 2021.

ECCV recently published a [paper](#) with [Victorian Transcultural Mental Health](#) that identified more detailed recommendations for improving the cultural responsiveness of the mental health system.

If you have any problems making your submission or would like to make a submission using a different method, you can email Engage Victoria at mhwa@health.vic.gov.au.

If you would like support to make your submission, or have any other questions, you can email ECCV at mplowman@eccv.org.au.

SUGGESTIONS FOR YOUR SUBMISSION

ECCV suggests making the points and raising the considerations we have outlined below in your response. You can bring in any additional information you think is useful and important to include.

1. OBJECTIVES AND PRINCIPLES IN THE NEW ACT

The objectives and principles in the Act will guide how it needs to be interpreted. People will be able to make a complaint if they do not think that a service provider has met the principles in the Act.

We suggest you consider this question when putting your response together:

What are the values, principles and approaches that need to be in the Act so that people from migrant and refugee backgrounds will have equal access to quality services that meet their needs?

Some of ECCV's recommendations about the principles and objectives of the Mental Health and Wellbeing Act include:

- Make sure that the Mental Health and Wellbeing Act has a human rights-based approach, so that it is clear from the start that people from migrant and refugee backgrounds have the same rights to safe, timely and effective mental health support as all members of the community.
- The new Act also needs to use an intersectional approach to recognise that many different social and personal factors can affect a person's access and experience of using the mental health system. The intersectionality between mental health experiences and gender inequality in particular needs to be recognised, which was not addressed in the Royal Commission.
- Mental health services need to be culturally safe and responsive to people from migrant and refugee backgrounds. All mental health services need to address and eliminate racism, discrimination, cultural assumptions and biases.
- Accessing an interpreter must be recognised as the right of any person using mental health services, and their families and communities.

2. NON-LEGAL ADVOCACY AND SUPPORTED DECISION-MAKING

The Royal Commission recommended that people using mental health services need to have access to advocates who support them to understand and exercise their rights.

We suggest you consider this question when putting your response together:

What should be in the Act so that people from migrant and refugee backgrounds can have the support they need to understand and exercise their rights when they are in the mental health system?

ECCV's recommendations about non-legal advocacy and supported decision-making will include:

- Anyone must be able to access an interpreter and information about advocacy in the language of the person's choice
- Non-legal advocacy needs to be culturally responsive
- Information about rights needs to be explained in the person's own language
- People should be able to have any support person they choose when they are involved in the mental health system, such as extended family members, community elders or faith leaders

3. INFORMATION SHARING AND DATA COLLECTION

The Royal Commission recommended that the Victorian Government improve how it shares information and collects data about mental health services. It recommended that mental health services should improve the way they share information with people using these services, as well as families and carers.

We suggest you consider these questions when putting your response together:

What do mental health services need to do to make sure information sharing is safe and consensual for people from migrant and refugee backgrounds? What data should mental health services be collecting about the cultural and linguistic diversity of the people they work with?

ECCV's recommendations about information sharing and data collection will include:

- When mental health services collect information about a person, this information needs to be provided to the person in a language of their choice
- Mental health services need to collect consistent data about the cultural and language backgrounds of consumers, including their country of birth, language spoken at home, need for an interpreter, religion, and length of time in Australia
- Mental health services need to collect information in a culturally safe way, which means that mental health services need to explain how the information will be used, and that it should be voluntary and confidential.

4. COMPULSORY TREATMENTS, RESTRAINT AND SECLUSION

The Royal Commission recommended that the Victorian Government reduces the use of compulsory treatments, seclusion and restraint in mental health services. Compulsory treatment involves providing

treatment without getting the person's consent. Restraint and seclusion includes physically restricting someone's movement, as well as using medication to change someone's behaviour. Because these actions can infringe a person's rights, the Royal Commission recommended that these treatments and responses need to be reduced or eliminated.

We suggest you consider this question when putting your response together:

What is the best way to uphold the rights of people from migrant and refugee backgrounds if they are subjected to compulsory treatment, seclusion or restraint?

ECCV's recommendations about compulsory treatments, restraint and seclusion will include:

- That people must have access to interpreters whenever compulsory treatment, restraint and seclusion are used so the person understands what is happening
- That people must have access to family members, non-legal advocates, and support people when mental health services use compulsory treatments, restraint and seclusion
- That representatives of migrant and refugee communities must be involved in developing the Victorian Government's plan to reduce the use of restraint and seclusion in mental health services.

5. GOVERNANCE AND OVERSIGHT

The Royal Commission made many recommendations to improve how decisions about mental health services, including policy and funding decisions, are made. It recommended that new government bodies are created to oversee mental health services, including regional mental health boards and a new Mental Health and Wellbeing division in the Department of Health.

We suggest you consider these questions when putting your response together:

How should the government make sure that people from migrant and refugee backgrounds have an equal say in decisions about policy, funding, and the way the mental health system works? How should the government engage with multicultural and ethno-specific organisations to have input into mental health policy and funding decisions?

ECCV's recommendations about governance and oversight will include:

- Multicultural and ethno-specific organisations should play a role in providing secondary consultations, social support, support for people outside of clinical settings, and a range of other functions. To do this effectively, multicultural and ethno-specific organisations will need more mental health funding than they currently receive.
- Build partnerships with people from migrant and refugee backgrounds with lived experience, ethno-specific and multicultural organisations, community leaders and advocates to design and deliver mental health services.
- Make sure that all decision-making bodies and practitioners in the mental health system reflect the cultural diversity of our communities.
- Develop the capability of the mental health workforce to deliver culturally safe and responsive care.