

Principles of the Mental Health and Wellbeing Act: plain language

The Mental Health and Wellbeing Act 2022 sets out principles for mental health and wellbeing services ('services').

These principles are important for psychiatrists, doctors, nursing, allied health, lived experience and other mental health staff, and services to consider when they make decisions about people's care, support or treatment, or assessment.

The Mental Health Tribunal, police, emergency departments, and others must also consider these principles under mental health laws.

Principles are ideas that guide the way decisions are made, or that people, service providers and organisations need to think about when they do their job.

If you don't think these principles have been followed you can:

- contact IMHA for assistance
- make a complaint to the service
- make a complaint to the Mental Health and Wellbeing Commission (1800 246 054).

The mental health and wellbeing principles in plain language are:

Mental health and wellbeing principles

Dignity and autonomy principle

People living with mental health issues, emotional distress, or a mental illness are to be treated with dignity and respect. Their independence is to be supported and promoted. For example, by being able to make their own decisions.

Diversity of care principle

People living with mental health issues, emotional distress, or a mental illness are to have access to different types of care and support. This is to be based on what they want and prefer. This includes considering their:

- access needs
- relationships
- living situation
- experience of trauma
- education
- finances
- work.

Least restrictive principle

Least restrictive means people living with mental health issues, emotional distress, or a mental illness need to be given as much freedom as possible.

Services must aim to support people with the least restrictions on their rights and independence. The goal is to support their recovery and participation in the community.

The person's own wishes must guide their recovery and what it means for them to participate in the community, even if other people disagree. What is restrictive for one person might not be restrictive for someone else.

Supported decision making principle

People receiving services are to be supported to make their own decisions about their treatment, assessment, care and recovery, even if they are experiencing compulsory treatment. The person's own views and wishes are to be given priority.

Family and carers principle

Families, carers, and supporters of people receiving services are to be supported in their role in decisions about the person's assessment, treatment and recovery..

Lived experience principle

The experiences of people living with mental health issues, emotional distress, or a mental illness and their families are to be recognized and valued when services are being provided.

Health needs principle

Medical and other health needs must be identified, and the person living with mental health issues, emotional distress, or a mental illness, supported to address them.

This includes any needs related to drug and alcohol use. How a person's physical health needs connect and impact their mental health needs must also be considered.

Dignity of Risk principle

People receiving services have the right to take reasonable (personally suitable) risks when making decisions.

Wellbeing of youth principle

The health, wellbeing, and independence of children and young people receiving services are to be promoted and supported in ways that work for them, considering life experiences, age, and other factors.

Diversity principle

The diverse needs and experiences of people receiving services are to be considered when providing treatment and care, including:

- gender identity
- sexual orientation
- sex
- ethnicity
- language
- race
- religion, faith or spirituality
- class
- socioeconomic status
- age
- disability
- neurodiversity
- culture
- residency status
- geographic disadvantage.

Services must be given in a way that is responsive to these diverse needs and experiences. This means people can tell services what they need to feel safe. Services are to be understanding of:

- the diverse needs and experiences of the person
- any experience of trauma
- how needs and experiences are connected and can impact on a person's mental health.

Gender safety principle

People receiving services may have specific safety needs or worries (concerns) because of their gender. Consideration is to be given to these needs and concerns and services should:

- be safe
- respond to any current or past experience of family violence or trauma
- recognise and respond to the ways gender can affect how services are provided to them, what treatment they receive and their recovery
- recognise and respond to the ways in which gender connects with other types of discrimination and disadvantage.

Cultural safety principle

Services must be culturally safe and responsive to individuals from all racial, ethnic, faith-based, and cultural backgrounds.

People living with mental health issues, emotional distress, or a mental illness are to be provided treatment and care that considers and is consistent with their cultural and spiritual beliefs and practices.

The perspectives of the person's family and, when possible and appropriate, the views of significant members of their community are to be considered.

First Nations people must have their unique culture and identity respected. Their connection to family, kin, community, Country, and water should be respected. The views of First Nations elders, traditional healers, and mental health workers are to be considered and respected in decisions about treatment and care if possible and appropriate.

Wellbeing of dependents principle

The children and dependents of people receiving services must have their needs, wellbeing and safety protected.

Decision making principles for treatment and interventions

There are also principles about decision making. These principles only apply when services are deciding about compulsory treatment or restrictive interventions.

Compulsory treatment means people are not allowed to refuse treatment.

Restrictive interventions that can be used in hospital are:

- **Seclusion:** when someone is kept by themselves in a room.
- **Bodily restraint:** when someone is physically prevented from moving all or part of their body.
- **Chemical restraint:** when someone is given a medication to control their behaviour by stopping them from moving their body. It is not medication for medical or mental health treatment.

The decision-making principles in plain language are:

Care and transition to less restrictive support principle

The goal of compulsory assessment and treatment is to help the person's recovery. Services are to be comprehensive, caring, safe and high quality, and move people towards less restrictive forms of treatment, care and support.

Least restrictive means people receiving compulsory assessment or treatment need to be given as much freedom as possible. What is restrictive for one person might not be restrictive for someone else.

Consequences of compulsory assessment and treatment and restrictive interventions principle

Compulsory assessment and treatment and restrictive interventions can greatly limit a person's human rights. These may cause a person serious distress, or harm to their:

- relationships
- living arrangements
- education
- work.

The above should be considered by mental health services and their staff any time compulsory treatment and/or restrictive practices are used.

No therapeutic benefit to restrictive interventions principle

Using restrictive interventions does not inherently (necessarily) benefit the person.

Balancing of harm principle

Compulsory assessment and treatment, or restrictive interventions, are not to be used if they will cause more harm than they are supposed to prevent.

A person's views and wishes are to be respected and followed as much as possible in all decisions. This includes decisions about assessment, treatment, recovery, and support, even if someone is being given compulsory assessment and treatment.

How to contact IMHA and find out more

- Visit the website www.imha.vic.gov.au or send an email to contact@imha.vic.gov.au
- Call the IMHA phone line **1300 947 820**, which is staffed by IMHA advocates 9:30am – 4:30pm seven days a week (except public holidays)
- Call the IMHA rights line on **1800 959 353** to hear a recording about your rights
- Ask a mental health service provider, carer, kin or other support person to assist contacting IMHA



imha.vic.gov.au