Mental Health Complaints Commissioner

Annual Report
2022/23

MHCC MENTAL HEALTH COMPLAINTS COMMISSIONER

We acknowledge the First Nations People of Victoria as the Traditional Owners/Custodians of the land on which we conduct our business. We recognise their continuing connection to land, water and community and that sovereignty was never ceded. We pay our respect to Elders past, present and the emerging leaders of the future.

Note: This Annual Report was published after the work and functions of the MHCC were transferred to the Mental Health and Wellbeing Commission (MHWC) on 1 September 2023. As such, contact details below have been updated to reflect the new Commission, where you can direct enquiries relating to both the former MHCC and the MHWC. This report was prepared by the MHWC in reference to the activities and operations of the MHCC.

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To receive a hard copy version of this publication please email: **info@mhwc.vic.gov.au** or call **1800 246 054.**
Authorised and published by the Victorian Government

1 October 2023

Ingrid Stitt, MP
Minister for Mental Health
2 Treasury Place
Naarm / East Melbourne VIC 3002

Dear Minister,

I am pleased to provide you with the Mental Health Complaints Commissioner Annual Report for the financial year 2022/23.

As required under section 268 of the Victorian Mental Health Act 2014 (the Act), the report describes the activities of the MHCC for the year including the number of complaints made to the Commissioner, the outcomes of these complaints and education activities.

I trust this Annual Report will help to inform the Parliament, consumers, families, carers, mental health services and the wider Victorian community about our key safeguarding, oversight and service improvement roles under the Act.

This Annual Report was published after the work and functions of the MHCC were transferred to the Mental Health and Wellbeing Commission (MHWC) on 1 September 2023 and was prepared by the MHWC in reference to the activities and operations of the MHCC.

Yours sincerely

Treasure Jennings
Chair Commissioner, Mental Health and Wellbeing Commission
(Formerly Commissioner, Mental Health Complaints Commissioner)

Level 26, 570 Bourke Street
Naarm / Melbourne Vic 3000

Terminology used in this report

The Mental Health Act 2014 (The Act)

The Mental Health Act 2014 (Vic).

The Mental Health and Wellbeing Act 2022 (MHW Act)

The Royal Commission into Victoria's Mental Health System recommended the Victorian Government repeal the Mental Health Act 2014 (Vic) and enact a new *Mental Health and Wellbeing Act*. The Mental Health and Wellbeing Bill was passed by the Victorian Parliament in August 2022.

The Mental Health and Wellbeing Commission (MHWC)

The Victorian Government has established a new Mental Health and Wellbeing Commission. The new Commission will hold government to account for the performance, quality and safety of Victoria's mental health and wellbeing system.

The Mental Health and Wellbeing Commission is an independent statutory authority that commenced on 1 September 2023. As of this date, the work and functions of the MHCC were transferred to the MHWC.

Definition of lived experience

The term 'lived experience' is used in an inclusive way to refer to the experiences of people living with mental and emotional distress and those accessing mental health services (consumers), as well as the experiences of 'families and carers', which includes families of choice and any person who is in a care relationship. 'Lived experience' includes the diversity of people's experiences across different communities, ages, gender and sexual identities, disabilities, and cultural backgrounds. We acknowledge and respect that lived experience differs from person to person.

Services

The MHCC deals with complaints about public mental health services in Victoria. These include:

- Designated mental health services, including hospital-based, community, residential, specialist and forensic services
- Publicly funded mental health community support services if they are not funded by the National Disability Insurance Scheme (NDIS).

Definition of enquiry

An enquiry is a request for information, advice or assistance. Enquiries to the MHCC included requests for information about accessing services or how to make a complaint.

Definition of complaint

A complaint is an expression of dissatisfaction about a service for which a response or resolution was explicitly or implicitly expected from the MHCC or was legally required (based on Australian Standard AS/NZS 10002:2018). Complaints were made over the phone, through our webform, or by email or letter. Under the Act, to be formally accepted and reviewed, complaints need to be made or confirmed in writing by the complainant.

Definition of in-scope complaint

Complaints about people's experiences in Victorian public mental health services that were within the jurisdiction of the MHCC are known as in-scope complaints.

Definition of the types of resolutions

Fully or substantially resolved

Complaints where issues were either fully or substantially resolved or an agreement was reached on the proposed actions to address the issues raised. Overall, these complaints achieve a positive outcome in terms of the person's concerns.

Partially resolved

Complaints where one or more of multiple issues raised were resolved, or partially resolved. Partially resolved complaints include complaints where the service committed to improvement actions that we assessed as appropriate in the circumstances, but where the person was not fully satisfied with the outcome.

Not resolved

We recognise that it is not always possible to resolve complaints made to our office. In some complaints there are barriers to achieving a positive outcome, such as services not being able to reach agreement on the outcomes sought by the person. Where appropriate, we provide advice and recommendations to the service or to the individual about other possible courses of action, including referring them to Victoria Legal Aid or community legal centres for legal advice.

Resolution not applicable/possible

To accurately show our work in resolving complaints about public mental health services, the MHCC excludes all matters assessed as 'resolution not applicable/possible' when reporting on complaint outcomes. These are complaints, for example:

- where we were unable to progress because we could not contact the person who made the complaint

- the consumer at the centre of the complaint did not consent to the complaint proceeding, and we assessed that there were no special circumstances for accepting the complaint without consent
- we were unable to take further steps without the complaint being confirmed in writing and accepted as a formal complaint
- the complaint was more appropriately dealt with by another body (for example, the Mental Health Tribunal or Australian Health Practitioner Regulation Agency).

We provide information and assistance to address any concerns raised by a person contacting our office, in line with our 'no wrong door' policy. If the complaint is out of scope, we will give the person advice, information, contacts and referrals wherever possible.

Definition of the 4 As of complaints resolution

The '4 As' of complaint resolution are the positive outcomes that can result from people's complaints about Victorian public mental health services. The 4 As are:

Acknowledgement

People want their concerns to be heard and acknowledged and the impact of their experience to be recognised and understood. Acknowledgement of their rights and what should have occurred in a situation can also be important.

Answers

People are usually looking for an explanation as to why something happened or did not happen, or why a certain decision was made. For answers to be meaningful, they need to be provided in a way that can be understood by the person, and that encourages the person to ask further questions if needed.

Action

People will generally be seeking action to address their individual issue or a change to be made to improve their experience and treatment. Many people also make a complaint because they do not want a recurrence of the issue for themselves or for others and because they want services to take actions to achieve this.

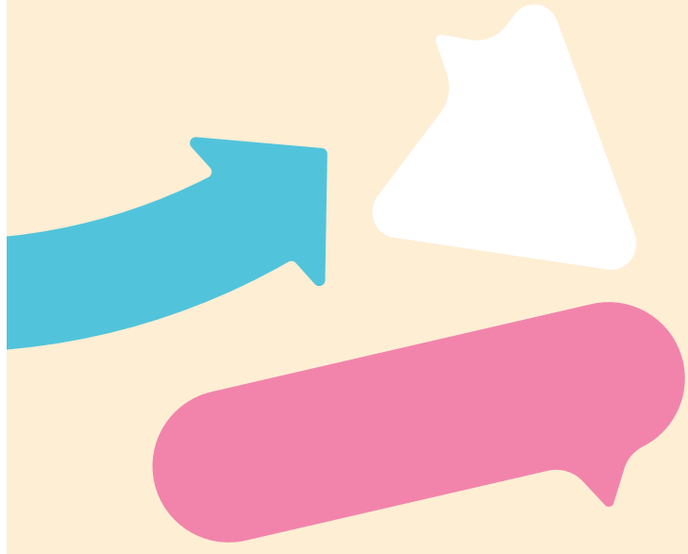
Apology

A meaningful apology usually involves acknowledgement, answers, and actions by a service and, where appropriate, can assist in a person's recovery and help to restore their confidence in the service provider.

Definition of trauma

There are various ways to define trauma, but it is generally understood that trauma results from being in states of heightened stress from experiencing events like violence, abuse, neglect, war, and natural disasters. The effects of these events on a person's emotions can overwhelm their capacity to cope in the moment or into the future (The Bouverie Centre, 2013).

Contents



Message from the Commissioner

Treasure Jennings

I wish to acknowledge people with lived or living experience of mental health issues, their families, and supporters for the courage they show in speaking up, raising complaints, and advocating for change.

The last year was one of continued growth and development at the MHCC. We consolidated many of the lessons learned from the COVID-19 pandemic and in preparation for the implementation of the new Mental Health and Wellbeing Act, introduced new ways of working informed by lived experience.

As in previous years, some of the most frequently raised issues in complaints we received were in relation to treatment and medication. This indicates the continued need for services to work on ways to support people to have greater agency to make decisions and choices about their treatment and care, and to support staff to treat all consumers, families and carers with compassion and empathy. This also reflects the importance of being guided by lived experience, to find better ways of ensuring services are authentically listening and considering a person's preferences and working with them on their treatment and recovery.

It is worth noting while communication was still a common issue raised in complaints, there was a significant decrease in concerns raised about communication within in-scope complaints. This may suggest that the work we are doing with services around highlighting the importance of open communication with consumers, families, and carers, is seeing some improvements in this area.

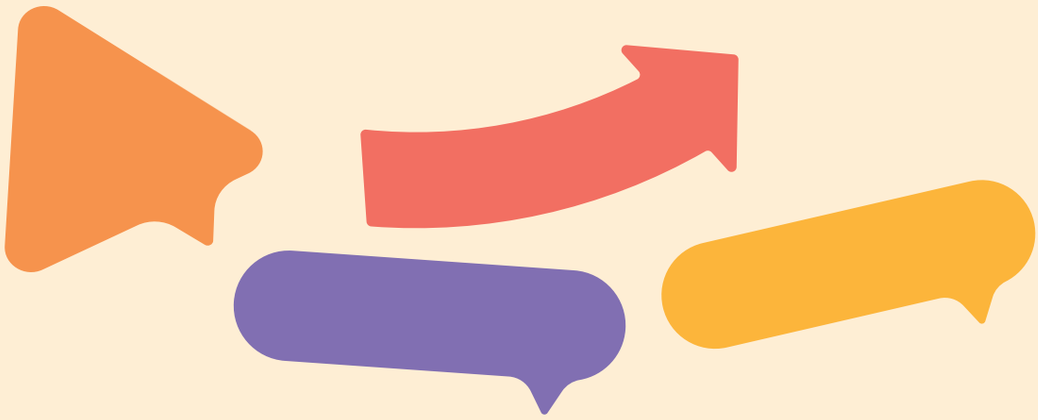
We recorded an increased complaint resolution rate this year, and this is something that can be partly attributed to the Assisted Referral process, which we introduced last year. Assisted Referrals allow us to facilitate more complaints to be dealt with by the service directly where appropriate; and require services to demonstrate they have responded to the issues raised in a timely manner and provided the outcome to the MHCC. Complainants must consent to this process and the MHCC supported the complainant further if the service did not respond or resolve the matter.

Access to the MHCC is always a key focus of our work. This year we coproduced a variety of new resources in over 20 languages in collaboration with people with lived experience from migrant and multicultural communities. Learning about the different perspectives and individual needs of different communities has been highly informative and has led to broader changes in our work to meet the unique needs of people from diverse communities. One such perspective is the fear often held by migrant communities that speaking up will negatively impact a person's Visa status. This is not the case, and we have actively promoted this in our materials.

In partnership with the Bouverie Centre, the MHCC also codesigned new Guidelines for Trauma-informed Mental Health Complaints Resolution to support people impacted by trauma in issuing a complaint in a safe and supported way.

The MHCC also developed a series of plain English resources in partnership with people with lived experience, to outline the rights and principles of consumers, carers and their family members under the Mental Health Act (2014).

These projects were led by the MHCC Assistant Commissioner with Lived Experience, Maggie Toko and her team and were guided by the MHCC Lived Experience Advisory Council. The MHCC has been focused on accessibility and awareness of the right to make a complaint and other rights of consumers, carers and families over the past three years and these resources are a final component of that strategy. These resources will also be able to be used by the new Mental Health and Wellbeing Commission.



This year also involved preparing for the work and functions of the MHCC to transfer across to the MHWC on 1 September 2023. This enormous change and the opportunities that it represents meant that this year involved a great deal of thought toward ensuring that the new Commission was best placed to begin its work on 1 September.

As part of this process, we published a paper in June detailing the role of complaints in system oversight, as well as the role of compliance actions, including investigations, in raising the standards of practice. The paper also acknowledges the limitations the MHCC faces in system oversight and explores how these limitations will be mitigated given the strengthened powers and reach of the new Mental Health and Wellbeing Commission.

While the functions of the MHCC to investigate and resolve complaints transferred to the MHWC in September, the new Commission will have significantly increased powers to look at issues that may be systemic and will publish a range of data and information about the mental health system as part of its functions including to hold government to account for the performance, quality, and safety of the mental health system. These expanded functions will mean that transparency of performance across the system will be increased.

Consumers have provided us with feedback that they make complaints to both have an impact on their circumstances but also to contribute towards systemic change. The MHCC was only able to respond to individual matters raised through a complaint, however under new legislation the MHWC can investigate systemic issues and matters as it sees fit, which creates more opportunity to address broader problems in the system.

It's extremely disheartening to me that at times the media have misrepresented the work, scope, and powers of the MHCC. However, I acknowledge that consumers, families, and carers want more oversight and information about the system's performance. The new MHWC, of which I will be the Chair Commissioner alongside Lived Experience Consumer Commissioner Maggie Toko, Lived Experience Carer Commissioner Jacqui Gibson, and Commissioner Annabel Brebner, will be able to monitor the system more extensively and will not be limited to resolving individual complaints as its primary function or source of performance information. However, complaints and investigations will continue to be a vital part of the work of the new Commission and will inform many of our other new functions.

I would like to acknowledge the MHCC team and our lived experience partners for their dedication and hard work during a very busy period. While constrained by the limitations of scope and legislation, the MHCC staff have done innovative work to drive continuous improvement in genuine partnership with people with lived experience.

I also want to take this opportunity to particularly acknowledge the work of the MHCC Lived Experience Advisory Council (AC) which held its final meeting in June. The AC made such a significant impact on the work of the MHCC, and we are so grateful for all that they achieved. It will be a priority of the new Commission to establish a clear path forward for the variety of ways it will partner with people with lived experience to achieve system change.

Treasure Jennings
Commissioner

Message from the Advisory Council Chair

Dean Duncan

This has been a significant year for the MHCC's Advisory Council. With the MHCC transitioning to the new Mental Health and Wellbeing Commission in September 2023, the Council held its final meeting this year on 6th June.

The final MHCC AC meeting was a wonderful opportunity to reflect on, celebrate and acknowledge all the great work that the AC has done since it was established in 2016. Since that time, the AC has been involved in strategic projects, education and engagement activities, co-produced resources such as education videos, and provided input and advice into numerous areas of the MHCC. In 2022/23, we were privileged to share our insight to help shape discussions, priorities, and initiatives at the MHCC including the trauma-informed guidelines, which were wonderful to see developed.

On behalf of the Council, I wish to thank the MHCC staff who consistently demonstrate their desire to genuinely include lived experience perspectives into their projects. In particular, I want to recognise the Senior Advisors of Lived Experience, Ali Pain and Tammy Aronowicz for all of the work they have done to elevate lived experience voices in the MHCC's work and to support the Council.

I'd also like to extend my gratitude to every member of the AC over the past eight years, and to my colleagues over the past year: Susie Alvarez-Vasquez, Robyn Callaghan, Katrina Clarke, Julie Dempsey, Elvis Martin, Gloria Sleaby, Mary Tsiros and Tom Wood.

Our Council was a proudly diverse group of individuals of varied age, cultural and linguistic backgrounds, and gender and sexual identities who draw on their unique personal and professional mental health experiences to guide our work. It has been an immense privilege to work alongside such a passionate team who so generously share their lived experience perspectives to make a positive contribution to Victoria's mental health system. I thank you all for your inspiring commitment to the work, and I hope you feel as proud as I do for all we have achieved.

I also want to take this opportunity to recognise the continued importance of Lived Experience voices in the new Commission. While the structure of the MHWC is still being established, I know that one of the pillars of the new MHWC will be driven by lived experience, and I wish the MHWC every success as they continue this important work, learning from and working in partnership with consumers, carers and families to improve the mental health system.

Dean Duncan
Chair, Advisory Council

Our year at a glance

How many people contacted us?

This year the MHCC received a total of:

2,425 new enquires, Australian Health Practitioner Regulation Agency (AHPRA) referrals and complaints.

88% or **2,158** were complaints, up **2.5%** from last year.

75% or **1,612** of these complaints were in-scope to be progressed by the MHCC and **25%** of these complaints were not able to be progressed by the MHCC.

64% Of the In-Scope complaints **1,037 (64%)** complaints were received verbally and **575 (36%)** were received in writing including via our web form.

Who contacted us?

77% of in-scope complaints were raised by consumers who received services themselves.

20% by carers and family members.

3% by others such as advocates, staff at a service staff or lawyers.

Services

90.5% of in-scope complaints received were about designated mental health services (DMHS), **<1%** about mental health community support services (MHCSS), and approximately **9%** were unconfirmed.

20% Broadly **20%** of complaints were about regional public mental health services.

79% about metropolitan public mental health services, similar to last year. These numbers exclude complaints where there was no information provided about the service provider (less than **1%**).

About us

The MHCC was an independent specialist body established under the *Mental Health Act 2014 (Vic)*. It's Commissioner and staff worked to safeguard people's rights, resolve complaints and recommend service and system improvements.

Our vision is a public mental health and wellbeing system that welcomes and learns from complaints, makes quality and safety improvements to protect the rights of consumers, families and carers, and upholds the principles of the *Mental Health Act 2014 (Vic)* in all aspects of service delivery.

Driven by lived experience, the MHCC would work with consumers, families, carers, support people and mental health service staff to resolve people's complaints. This was done in ways that supported people's recovery and wellbeing and improved the safety and quality of mental health services for all.

A fundamental objective of the Act was to protect the rights and dignity of people accessing public mental health services and to place them at the centre of their treatment and care. The MHCC support this by working with people and services to resolve complaints in ways that:

- promote and safeguard consumers' rights under the Act and its mental health principles, the Victorian *Charter of Human Rights and Responsibilities Act 2006* and other relevant standards and guidelines
- are trauma-informed, meet peoples' diverse individual needs and support recovery by ensuring people are heard, respected and feel confident that their views and preferences have been appropriately considered
- improve individual experiences and help people build the confidence, knowledge and relationships needed to raise concerns directly with the service
- listen to people's concerns and draw on what they tell us to influence our work with services to improve the safety and quality of mental health services for all Victorians.

MHCC functions

The MHCC had broad functions under s 228 of the Act. In summary these include to:

- accept, assess, manage and investigate complaints relating to public mental health services
- resolve complaints in a timely manner using formal and informal dispute resolution (including conciliation), as appropriate
- provide advice on any matter relating to a complaint
- assist consumers and people acting on behalf of, or who have a genuine interest in the wellbeing of, consumers, to resolve complaints directly with the service
- provide information, education and advice to services about managing their complaints and assist services in improving policies and procedures for resolving complaints
- publish material about complaints procedures
- provide information and make recommendations for improvements to services, the Chief Psychiatrist, the Secretary of the Department of Health, the Minister for Mental Health and other listed agencies where issues are identified from a complaint or investigation
- investigate and report on any matter relating to services at the request of the Minister.

Our complaints resolution, strategic projects, education, engagement and local complaints reporting activities are aimed at generating a positive complaints culture in mental health services, so people feel listened to and safe to raise their concerns, and where services respond effectively to complaints and make improvements where needed.

The MHCC Advisory Council

The MHCC's Advisory Council ensured the work of the MHCC was driven by people with lived experience. Members include consumers, families, carers, support people and people who work in public mental health services. They are people of different ages, cultural backgrounds and gender and sexual identities. Each member was strongly committed to improving the public mental health system for all.

Council members use their expertise and experiences to give us strategic advice and collaborate on our projects and day to day work. They offer their unique insights into areas such as lived experience of mental health services and co-design and co-production. They also make recommendations for cultural and practice change within services and the MHCC.

Interpreting the data

Caution should be used when drawing conclusions from absolute numbers of complaints about services received by the MHCC.

The number of complaints about a service does not take into consideration the number of people who accessed each service and that larger services are expected to have higher number of complaints. Further, higher numbers of complaints about services may represent a positive complaints culture and/or demonstrate high numbers of issues experienced by people who use the service.

Conversely, low numbers of complaints about services may indicate a less positive complaints culture and/or a high level of satisfaction with the service.

To assist with the interpretation of this data in a comparable manner, this year the MHCC reported on the occurrence of complaints per 1,000 consumers for each service.

Our impact

By learning from complaints, we can identify ways that services can engage better with consumers as well as provide greater support to carers and families. As we worked with complainants to voice their concerns and achieve resolutions, we identified areas for improvement at an individual service level and identified some broader themes across services where more systemic change is need. Where we were able to, ideas were channelled into different projects or provided as feedback aimed at encouraging system-wide improvement.

Complaints made to the MHCC

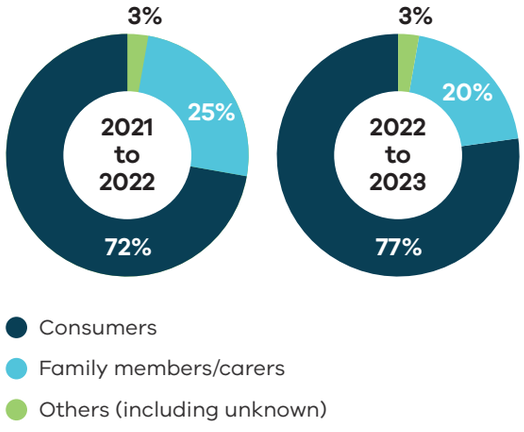
In 2022–23 the MHCC received **2,425** new enquiries, referrals, and complaints. Of the **2,158** complaints received, **1,612** were in-scope and were progressed by the MHCC. In-scope complaints are those that are made about people's experiences in Victorian public mental health services within the MHCC's jurisdiction. This year we are reporting the number of complaints received verbally and received in writing. Of the in-scope complaints, **1,037** were received verbally while **575** were received in writing including via our web form.

When the MHCC received complaints that were out of scope (including those that were not within our jurisdiction because the complaint was not about Victorian public mental health services) we continued to support people to contact the most appropriate body to help them with their concerns where relevant. This was the case for **546** complaints this year, where the complaints were commonly about general health services, private mental health practitioners, or mental health services in other jurisdictions.

As highlighted last year, the continued high number of these out-of-scope complaints may be partly a consequence of the Royal Commission into Victoria's Mental Health System, prompting people to raise concerns about their experiences with the broader mental health system.

Who made a complaint?

Figure 1: Who made complaints to the MHCC? (Based on in-scope complaints)



* The MHCC continued to operate for most of the reporting year on a call back system. In some instances we were unable to make contact with the caller to clarify their complaint.

The MHCC received **1,233** complaints **(77%)** from people who received services themselves (consumers), slightly higher than last year (21/22), 326 **(20%)** from family members or carers of consumers, slightly lower than last year (21/22) and 53 **(3%)** from others including advocates, lawyers, and service staff, similar to last year (21/22).

Mental Health services

Of the 1,612 in-scope complaints received this year, 1,459 **(90.5%)** were about people's experiences in designated mental health services (DMHS), including hospital-based, community, residential, specialist and forensic services. This was **0.5%** lower than last year. As in previous years, there was a lower proportion of complaints made about mental health community support services (MHCSS), with only 9 **(<1%)** complaints received about these services. These are less common due to the lower numbers of people who access these services.

For 144 **(9%)** of the in-scope complaints received by the MHCC we did not have sufficient information to identify if the service provider was a DMHS or a MHCSS. This is the case when a complaint may be in-scope but unlikely to progress because we were unable to contact the complainant for further information, because the complainant wished not to report where the issue had occurred, or because the complainant chose not to continue with the complaints process.

Distribution of complaints received about designated mental health services across metropolitan and regional areas in Victoria:

- **79%** of complaints were made about metropolitan mental health services and **20%** were made about regional mental health services, broadly similar to last year.
- These numbers exclude complaints where there was no information provided about the service provider (8 complaints) **<1%**
- This is the second year we report these figures.

Figure 2: Distribution of complaints about designated mental health services across metropolitan and regional areas in Victoria.

Service	Number of complaints	Per 1000 consumers
Metro Mental Health Services		
Alfred Health	85	12
Austin Health	59	16
Eastern Health	151	17
Forensicare	142	9*
Melbourne Health	161	11
Mercy Public Hospitals Incorporated	104	31
Monash Health	175	13
Northern Health	143	20
Peninsula Health	49	9
Royal Children's Hospital	10	4
Southwest Health Care	21	6
St Vincent's Hospital	60	16
Total	**1160**	
Regional Mental Health Services		
Albury Wodonga	20	7
Grampians Health Services	60	15
Barwon Health	37	7
Bendigo Health	84	13
Goulburn Valley Health	16	6
Latrobe Regional Hospital	64	12
Mildura Base Hospital	10	5
Total	**291**	
Unknown	**8**	

- The number of consumers accessing Forensicare includes all consumers who received a service from Forensicare through their hospital; community and prison programs.

What were complaints about?

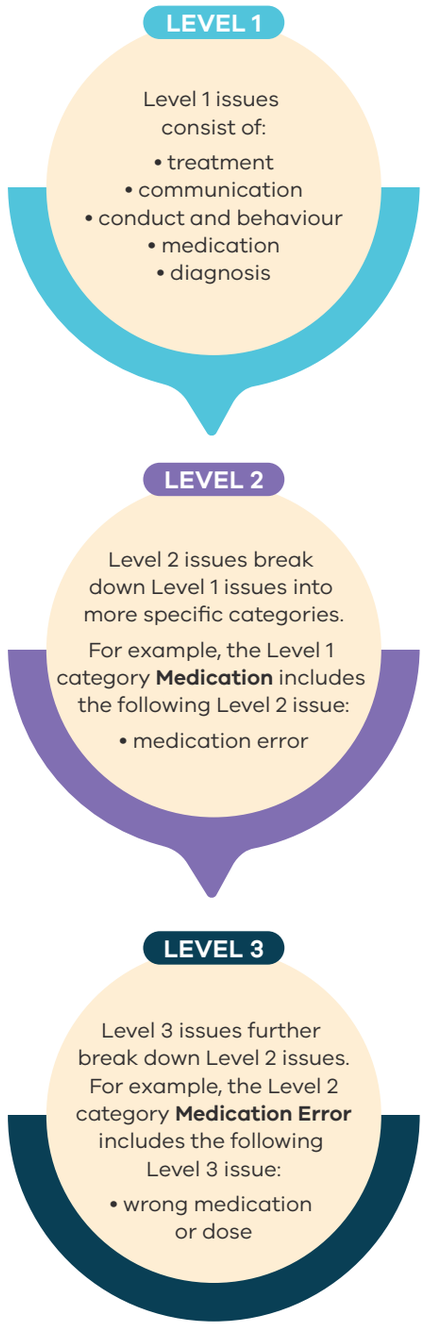
Complaints raised with the MHCC often involve more than one issue. In this annual report, the number and percentage of complaints about each issue are recorded for all in-scope complaints received.

The MHCC uses a three-level system to classify issues raised in complaints. This classification of issues broadly aligns with the Victorian Health Incident Management System (VHIMS) issues categories. Each level has increased specificity about what the complaint was about.

- level 1 issues capture the broad themes behind complaints
- level 2 breaks these issues down into more specific groups
- level 3 issues provide more detailed information about the complaint

Figure 3: The MHCC's three-level system to classify issues raised in complaints

Figure 4: Complaint classification

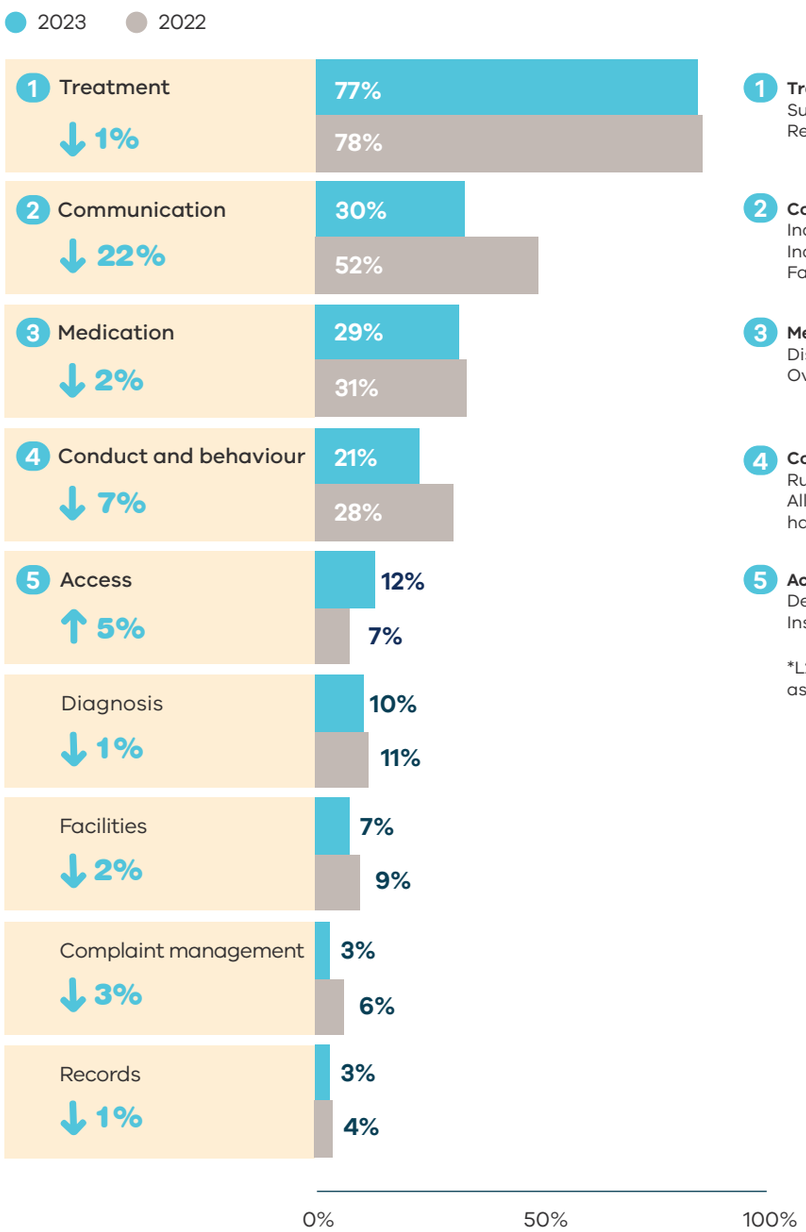


The figure 5 below shows the most frequently raised level 1 issues and reports changes from the previous reporting year. More specific issues are also highlighted for the most frequent broader themes.

Treatment, communication, medication, conduct and behaviour of staff, and access to services continue to be raised as recurring issues, consistent with previous years. This indicates the continued need for services to work on ways to support people make decisions and choices about their treatment and care, and to support staff to treat all consumers, families and carers with compassion and empathy.

It is worth noting that there was a significant decrease in concerns raised about communication in in-scope complaints, which has been a focus of the MHCC's work with services on highlighting the importance of communication with consumers, families and carers.

Figure 5: Frequently raised level 1 issues



Most frequently raised level 2 issues for the top five level 1 issues

1. **Treatment**
   Suboptimal Treatment
   Responsiveness of Staff

2. **Communication**
   Inadequate communication with consumer
   Inadequate communication with Family/Carer/Other Provider

3. **Medication**
   Disagreement with medication
   Over sedation or side effects

4. **Conduct and Behaviour**
   Rudeness / Lack of Empathy
   Alleged threats, bullying or harassment by staff

5. **Access**
   Delay in Access
   Insufficient Access

*L2 issues do not include 'other issues' as they are not reportable at L3

Level 3 Issues

Figures 6-10 show the most common level 3 issues that people made complaints about this year and reports changes from the previous year, where applicable.

* This reporting year, the most reported level 3 issues were related to themes of disagreement with treatment orders; inadequate or incomplete information being provided to consumer; dissatisfaction with the prescribed medication; rudeness or lack of respect by staff; and lack or insufficient access to services.

● Level 3 issues

Figure 6: Frequently raised level 3 treatment issues

Disagreement with Treatment Order

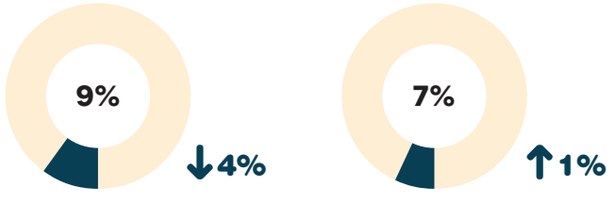
Lack of care/attention (eg. not feeling listened to/believed)

Figure 7: Frequently raised level 3 communication issues

Inadequate/incomplete/ confusing information being provided to consumer

Inadequate/incomplete/ confusing information being provided to family/carer/ nominated person

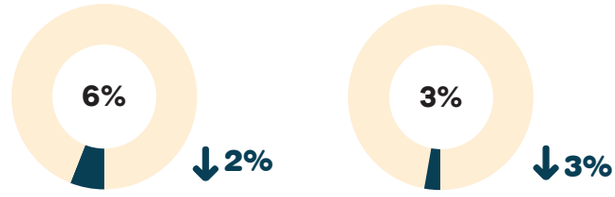
Figure 8: Frequently raised level 3 medication issues



Dissatisfaction with prescribed medication

Side effects from medication

Figure 9: Frequently raised level 3 conduct and behaviour issues



Rudeness/lack of respect/discourtesy

Lack of empathy/ compassion

Figure 10: Frequently raised level 3 access issues

Lack or insufficient access to service

Refusal to admit or treat

Complaints related to COVID-19

Although the MHCC continues to receive complaints related to the long-term impacts of COVID-19, the number of complaints decreased significantly and were only related to concerns about visitors and access to leave for consumers in a few services.

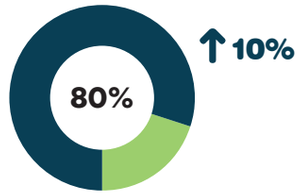
Closure of complaints

In total, **1,611** in-scope complaints were closed by the MHCC within 2022-23. Outcomes of closed complaints include **380** that were either **fully or partially resolved** to the satisfaction of the complainant; **97** that were **not resolved**, and **1,134** where a resolution was not applicable/reported. Many complaints are not progressed by the MHCC because it wasn't possible to contact the complainant again after the initial contact; or the consumer consent was not obtained; or if the resolution was not required to be reported to the MHCC by the MH Service.

Of the in-scope complaints that were progressed by MHCC, **80%** were **resolved (fully or partially)**, this is a 10% increase on last year. (See Figure 11).

* Some complaints that were closed in 2022/2023 were carried over from the previous reporting period and some of the ones received this year are still open.

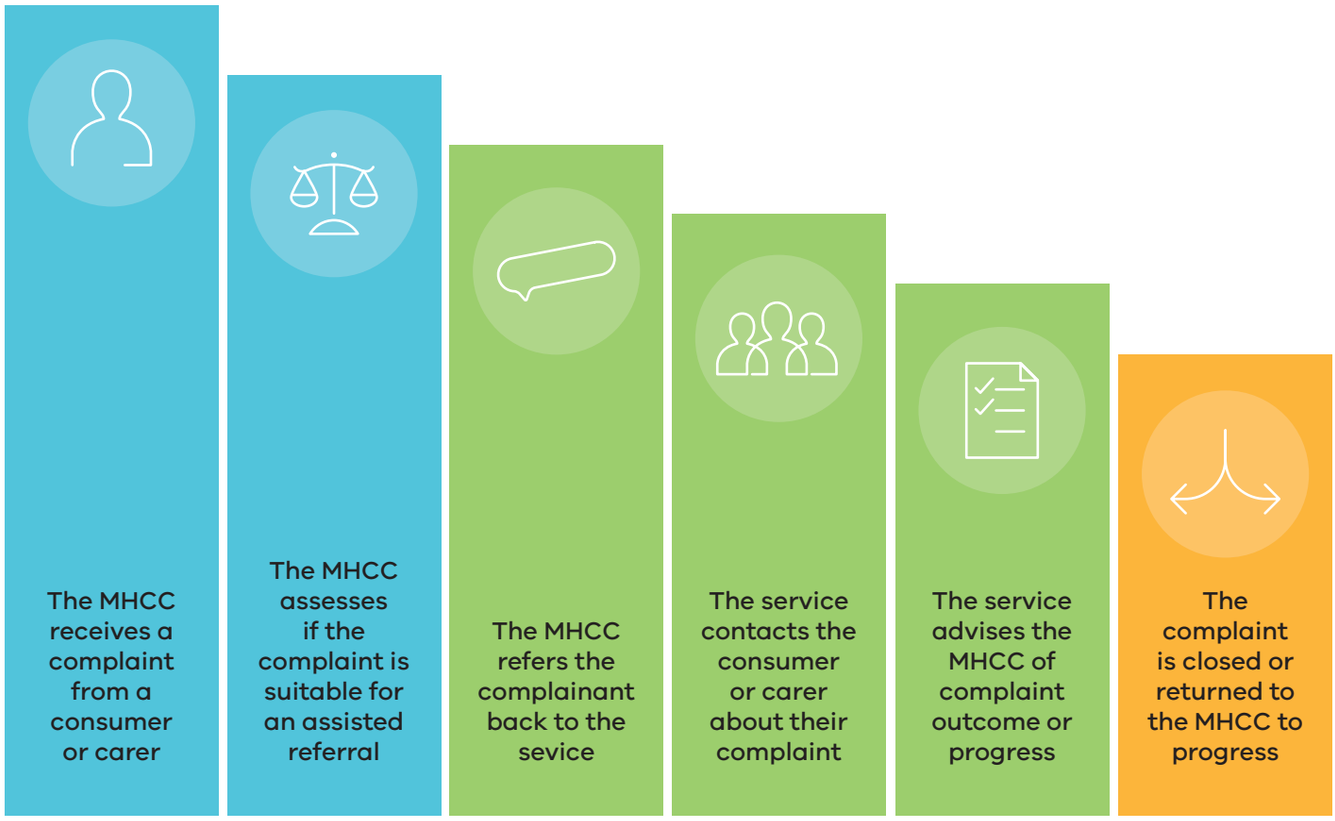
Figure 11: How many complaints were resolved



The Assisted Referral Process

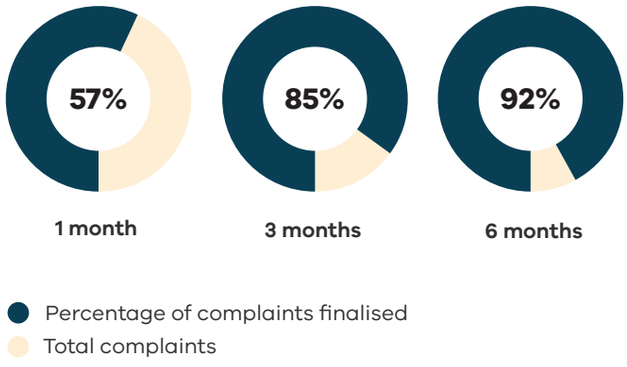
The Assisted Referral (AR) process, where, with the consent of the complainant we facilitate complaints back to services for them to respond directly with the complainant, is designed to provide the most effective way to resolve a complaint where the issue raised are best able to be dealt with in this way . This process requires services to report to the MHCC on the outcomes of all referred complaints, and we generally seek feedback from the person who made the complaint. Over the reporting period **310 in-scope complaints** were referred to services through the AR process. By managing certain complaints in this way, we hope to overcome problems quickly, particularly if the complainant is an in-patient, and encourage the services to take immediate ownership of the issues raised. If the complainant remains dissatisfieddissatisfied, then the MHCC can look into the matter further.

Figure 12: The assisted referral process



From the in-scope complaints closed in 2022-23, 924 **(57%) closed within one month**, 1366 **(85%) closed within 3 months** and 1476 closed **(92%) within 6 months**. The MHCC continued to implement a model that focused on early resolution, broadly similar to the last reporting period, where only 135 (8%) of complaints closed took longer than 6 months to finalise.

Figure 13: How long did it take to finalise complaints



Outcomes

The MHCC records outcomes of complaints in terms of the 4 As model, noting that complaints may have more than one outcome. These include Acknowledgement, Action, Answers and Apology.

The MHCC acknowledge all complaints we receive and aims to support consumers, families and carers in raising concerns with services and achieving meaningful outcomes with the services (guided by the 4As model).

Although not all complaints outcomes were reported to the MHCC, the most common outcomes reported by mental health service providers were:

- **Acknowledgement** of the concerns raised by the complainant in **674 complaints**.
- **Action** addressing concerns raised in **558 complaints**.
- **Answers** and explanations to concerns raised in **314 complaints**.
- Meaningful **apologies** were provided as part of a response to **120 complaints**.

The most common actions taken by services to address individual concerns were responding to the complaint directly, addressing communication issues between the complainant and the service, making changes in the service provided to the consumer and meeting with the consumer, their family or carer to explore resolving issues.

Figure 14: What did services do when people made complaints?

674 **A**cknowledgement of a person's experience.	**314** **A**nswers or explanations about the complaint issues.
558 **A**ctions taken because of the complaint.	**120** **A**pology for the person's experience.

What did 2022/23 teach us?

Local complaints reporting

As in previous years, all Public Mental Health Services in Victoria provided data about complaints that were made directly to them. The MHCC develops reports from this data which compare the complaints received to each service with the number of complaints received across the sector against the complaints received by the MHCC about the service. We provide these reports to the services and also make these publicly available via the MHCC, and now the MHWC website.

These reports help services to identify current challenges or areas of success, they also increase the service's knowledge of where they have improved and areas they could further improve. It also contains compliments, which help services to understand what they are doing well. The MHCC encourages services to develop a better understanding of the status of their complaints processes compared to other services in the sector. This promotes transparency and communication between services to increase consistency across the sector. The 2022/23 data continues to show more complaints were made directly to services than to the MHCC.

From 1 September 2023, the Mental Health and Wellbeing Commission commenced its functions and will continue to collect, review, report and publish data and information about complaints made directly to the mental health and wellbeing service providers and the Commission in a similar way to the MHCC

Later in 2023, the MHWC will publish the service summary reports for 2022/23 on our website, in addition to a state-wide report on complaints and compliments that includes comparative data charts and narratives.

The MHCC works to support services in their development of a positive complaints culture. This year shows us that more services have been accessing our Complaints Self-Assessment Tool (see page 38). We have also shared our Trauma Informed Guidelines (see page 38) with services to support services to be more trauma informed when resolving matters raised directly with them.

Staff training

Our staff have participated in training and development opportunities on trauma informed approaches with the Bouverie Centre and worked with people with lived experience of mental illness from Athena Consulting. All staff attended sessions on the Victorian Charter of Rights and Responsibilities Act 2006.

Our Resolutions and Investigations teams participate in monthly reflective practice, led by a senior resolutions officer, and other regular complaint review activities which strengthen our understanding of practice guides and mental health legislation. Our internal governance processes encourage lateral learning between peers and builds confidence in decision-making. We continue to invest in supporting the professional development of all staff across the office.

There has also been a focus on preparing for the transition to the Mental Health and Wellbeing Commission. Staff attended several sessions to develop an understanding of the Mental Health and Wellbeing Principles and the MHWC's initial approach to applying the principles in assessing and resolving complaints, along with developing our understanding on the new Act and the changes required to our approach when handling complaints made under the new that Act.

Complaint examples

The following pages include examples of complaints. Some of these examples may be triggering and we advise caution to readers.

Some details in the complaint examples below have been edited to protect the privacy of people who have made a complaint, all names have been changed and identifying details removed. When somebody made a complaint to the MHCC, their privacy was our priority. These examples are shared to provide insight into what the complaints process is like, as well as the outcomes they lead to. Each of these complaint examples relates to the Mental Health Act 2014 (Vic).

Gerry
(he/him pronouns)

Gerry is a parent and carer for Sarah, a young adult. He made a complaint to the MHCC that Sarah was discharged home without arrangements for support or follow up after she had harmed herself on many occasions. Gerry felt that his views and preferences had been ignored and that staff at the service had not properly assessed Sarah's treatment and care needs. Gerry had continued to watch Sarah's mental health deteriorate and he was concerned that there might be a catastrophic outcome when Sarah harmed herself again. He said that each time he contacted the service, he felt unsupported, and he did not know how to help his daughter. Gerry provided consent for the MHCC to speak to Sarah. When we spoke to Sarah, she told us that she was desperate for mental health support, but she found it difficult to tell the staff what she needed. Sarah said that she could not understand why she was not receiving treatment, care and support. She consented to the MHCC sharing and receiving information from her father and the mental health service.

Gerry's rights

The relevant mental health principles include:

- People receiving mental health services should be involved in all decisions about their assessment, treatment and recovery and be supported to make, or participate in, those decisions, and their views and preferences should be respected (s 11 (c))
- Carers (including children) for people receiving mental health services should be involved in decisions about assessment, treatment, and recovery, whenever this is possible (s 11 (k))
- Carers (including children) for people receiving mental health services should have their role recognised, respected and supported (s 11 (c))

What we did

The MHCC wrote to the service and attached a copy of Gerry's written complaint. With Gerry's consent we asked the service to contact him directly to discuss his concerns. We asked Gerry and the service about the outcome of the complaint. We also talked with Gerry about support services that are available to him and Sarah.

Outcomes

A manager from the service spoke with Gerry about his concerns, and an appointment was arranged for Sarah to meet with staff about her situation. The service used other strategies to communicate with Sarah that she found more helpful, and the staff assessed that she needed a short inpatient admission to support her treatment and recovery. Gerry said that this outcome could not have been achieved without the MHCC's involvement, and he and Sarah were both happy that she was receiving the treatment she needed.

Brian
(he/him pronouns)

What Brian told us

Brian is receiving mental health services at home from the Crisis and Assessment team (CATT). He works part time from home and sees customers at home as part of his role. He complained to the MHCC that staff at the CATT team were not working with him in the least restrictive way. Brian told us that the CATT team staff arrived at his home without notice and when customers were there, which was unprofessional and interrupted his work. He also said that he was concerned about damage to his reputation and a breach of his privacy. Brian told us that he had raised these concerns directly with the CATT team, but he felt that his concerns were being ignored.

Brian's rights

The relevant mental health principles include:

- People receiving mental health services should be provided assessment and treatment in the least restrictive way possible with voluntary assessment and treatment preferred (s 11 (a))
- People receiving mental health services should be provided those services with the aim of bringing about the best possible therapeutic outcomes and promoting recovery and full participation in community life (s 11 (b))
- People receiving mental health services should be involved in all decisions about their assessment, treatment and recovery and be supported to make, or participate in, those decisions, and their views and preferences should be respected (s 11 (c))
- People receiving mental health services should have their rights, dignity and autonomy respected and promoted (s 11 (e))

What we did

With Brian's consent we wrote to the service as a part of our assisted referral process. We asked the service to contact Brian directly to discuss his concerns, and we contacted him and the service about the outcome.

Outcomes

A manager from the service spoke with Brian about his concerns, and they worked together to develop a plan for contact that met Brian's needs. The manager spoke with staff involved in Brian's treatment and care about appropriate engagement if there were customers at his home when they visited.

Brian told us that he appreciated the MHCC's involvement in assisting him to work with the service to find an acceptable resolution of his concerns. He said that he felt happy to continue using the service and he was relieved about the outcome.

Isabel
(she/her pronouns)

What Isabel told us

Isabel is a young adult, who contacted the MHCC with assistance from an interpreter to make a complaint about a recent mental health inpatient admission. Isabel told us that the treatment was excessive, and she received medication that was not properly explained. She also raised concerns that the staff had not always spoken with her with assistance from an interpreter in her preferred language. Isabel said that she wanted to talk with staff about her experiences of her admission.

Isabel's rights

The relevant mental health principles include:

- People receiving mental health services should be involved in all decisions about their assessment, treatment and recovery and be supported to make, or participate in, those decisions, and their views and preferences should be respected (s 11 (c))
- People receiving mental health services should have their rights, dignity and autonomy respected and promoted. (s 11 (e))
- People receiving mental health services should have their individual needs (whether as to culture, language, communication, age, disability, religion, gender, sexuality, or other matters) recognised and responded to. (s 11 (g)).

What we did

The MHCC wrote to the service and attached a copy of Isabel's written complaint. With Isabel's consent we spoke to the service about her concerns and the outcomes she was seeking. We asked the service to write to the MHCC and Isabel with a response to her concerns.

Outcomes

The MHCC and Isabel received a copy of the response. We assessed the information provided and sought Isabel's feedback. The response from the service said that the staff had not been aware that Isabel required an interpreter with all engagements and had only been providing one when there was a need to provide detailed information. The service advised that further training to relevant staff had been provided about the importance of ensuring that all the consumer's needs are met, including use of an interpreter. The service apologised for Isabel's experience, offered to meet with her and to also assist her with making an advance statement about her views, preferences and needs.

Isabel advised us that she was accepting of the service's apology, she felt her concerns were acknowledged and she felt they took her concerns seriously as they had provided training to staff. After receiving the response, she was happy to meet with the service to discuss any further needs that she may have.

Harun
(he/him pronouns)

What Harun told us

Harun made a complaint to the MHCC after an admission to a mental health inpatient unit. He said that his cultural, dietary, and religious needs were not met. Harun told us that he was not always provided with a space to pray, and his dietary needs were not met as there were limited food options. He told us that when he raised these concerns with staff, they were acknowledged, no steps were taken to meet his needs. Harun told us he was concerned that this might also happen to others.

Harun's rights

The relevant mental health principles include:

- People receiving mental health services should have their rights, dignity and autonomy respected and promoted (s 11 (e))
- People receiving mental health services should have their individual needs (whether as to culture, language, communication, age, disability, religion, gender, sexuality or other matters) recognised and responded to. (s 11 (g))

What we did

The MHCC wrote to the service and attached a summary of Harun's complaint. With Harun's consent we spoke to the service about his concerns and the outcomes Harun was seeking. We asked the service to speak to Harun about his concerns and to tell the MHCC about the outcome of the complaint.

Outcomes

A nurse unit manager from the service spoke with Harun about his concerns, the impact they have had on him and how Harun could be supported in the future, if needed. The nurse unit manager said that there was a space for Harun to pray and acknowledged that this should have been communicated more clearly and more regularly to him. The staff member also spoke about how Harun's feedback regarding dietary requirements was being considered by senior staff at the service as they were exploring ways to improve food choices in their inpatient units.

Harun told us that he appreciated the MHCC's involvement in assisting him, that he felt acknowledged during the discussion and he felt that the service had heard his concerns and wanted to improve the experiences of others

Matt
(he/him pronouns)

Samantha
(they/them pronouns)

What Matt told us

Matt is a parent to Samantha, a young Aboriginal person (aged 13). Matt made a complaint to the MHCC after he felt the staff were not providing enough options for treatment for Samantha. Matt felt that Samantha's cultural needs were not supported when receiving treatment and that he had to source supports from other agencies, making it hard to ensure Samantha's treatment and support was coordinated. Matt also said that Samantha was not receiving appropriate treatment, as he felt her diagnosis had changed. Matt felt that if Samantha was correctly assessed, their NDIS funded supports could be adjusted which would assist them in living well in the community.

Matt's rights

The relevant mental health principles include:

- Carers (including children) for people receiving mental health services should be involved in decisions about assessment, treatment, and recovery, whenever this is possible (s 11 (k))
- Carers (including children) for people receiving mental health services should have their role recognised, respected and supported (s 11 (c))

Samantha's' rights

The relevant mental health principles include:

- providing the best possible therapeutic outcomes and promoting recovery and full participation in community life (s 11 (b))
- Aboriginal culture and identity recognised and responded to (s 11 (h))
- Children and young people receiving mental health services should have their best interests recognised and promoted as a primary consideration, including receiving services separately from adults, whenever this is possible (s 11 (i))
- Children, young people, and other dependents of people receiving mental health services should have their needs, wellbeing and safety recognised and protected (s 11 (j))

What we did

The MHCC accepted Matt's complaint as we assessed that there were special circumstances under the Act for dealing with the complaint based on Samantha's young age and other information provided to the MHCC. We wrote to the service and attached a copy of Matt's written complaint. With Matt's consent we spoke to the service about his concerns and sought a written response. After the written response was provided to Matt and the MHCC, we sought Matt's feedback and assessed whether there was any further information we needed, and we explored how to best support Matt in the resolution of his concerns.

Outcomes

The service wrote to Matt and apologised for his experience and Samantha's experience. The service offered to develop a new plan to support further assessment of Samantha's needs and apologised that they had not been clear with Matt about all the options that were available. The service said that all the staff involved in Samantha's treatment, care and support would be available to discuss other options, if Samantha and Matt agreed.

The response from the service said they had not engaged the Aboriginal Liaison team during admissions to date, and that this could be arranged for further discussions and admissions. The response from the service apologised that this had not occurred previously and advised they would review and strengthen cultural competency training provided to all staff, as well as focusing on wholistic treatment, care and support.

Matt told us that he appreciated the MHCC's involvement in assisting him and felt that Samantha was going to get the support they needed. Matt also said that he was pleased that the service would review the training provided to staff. Matt agreed to the closure of his complaint, and we closed the complaint after recording the improvements that were identified by the service. We also asked the service about progress in implementing these improvements at our quarterly meetings.

Michael
(he/him pronouns)

What Michael told us

Michael is a young adult who identifies as male. Michael made a complaint to the MHCC about the treatment he was receiving at his mental health service. He told us that staff used incorrect pronouns on many occasions and referred to him by his dead name (birth name of a transgender or non-binary person who has since changed it), which he no longer identified with. He told us that having to constantly correct people and having to prove who he was had made it hard for him to trust and build rapport with the staff. Michael advised us that there was a note on his medical record about his identified sex and pronouns. He said that it was hard to feel confident in the staff having an interest in his treatment and care if they had not read his medical record and noted this information. Michael said that he had raised his concerns directly with the service but as it continued to happen, he felt that they just did not care about him.

Michael's rights

The relevant mental health principles include:

- People receiving mental health services should be involved in all decisions about their assessment, treatment and recovery and be supported to make, or participate in, those decisions, and their views and preferences should be respected (s 11 (c))
- People receiving mental health services should have their rights, dignity and autonomy respected and promoted (s 11 (e))
- People receiving mental health services should have their individual needs (whether as to culture, language, communication, age, disability, religion, gender, sexuality, or other matters) recognised and responded to. (s 11 (g))

What we did

The MHCC wrote to the service and attached a copy of Michael's written complaint. With Michael's consent we spoke with staff at the service about his concerns and explored options with them to assist in the resolution of his complaint. We asked the service to speak with Michael and to write to the MHCC and Michael about his concerns.

Outcomes

A manager from the service spoke with Michael about his concerns and acknowledged his distress about these experiences. The manager spoke to Michael about the steps the service was taking to improve their systems to ensure that a person's identity is accurately recorded, and that it is made more visible to staff. The manager spoke about staff being prompted to ensure they are aware of a person's pronouns before they speak with them. The manager then wrote to Michael apologising for his experiences and confirmed the actions that the service would take to improve their systems for himself and others across their service.

Michael told us that throughout the complaint process, he felt acknowledged, supported and that both the MHCC and the service had a genuine interest in resolving his concerns. Michael felt that because the manager spoke to him first, the written response felt sincere and honest to him, and he felt he had been seen and heard. Michael said he was happy with the outcome and was looking forward to building trust with the service.

Mia
(she/her pronouns)

What Mia told us

Mia made a complaint to the MHCC as she felt that the treatment she was receiving from her case manager and the mental health service was not therapeutic and was distressing to her. She told us that the service was treating her diagnosis rather than treating her and that her current management plan was causing her to harm herself rather than supporting her recovery. She told us when she raised new health concerns with staff, she was told they were a symptom of her illness rather than receiving an assessment. Mia said that she was being stigmatised because of her diagnosis and this was preventing her from receiving appropriate assessment and treatment.

Mia's rights

The relevant mental health principles include:

- providing the best possible therapeutic outcomes and promoting recovery and full participation in community life (s 11 (b))
- People receiving mental health services should be involved in all decisions about their assessment, treatment and recovery and be supported to make, or participate in, those decisions, and their views and preferences should be respected (s 11 (c))
- People receiving mental health services should have their medical and other health needs, including any alcohol and other drug problems, recognised and responded to (s 11 (f)).

What we did

MHCC wrote to the service and attached a copy of Mia's written complaint. With Mia's consent we spoke to the service to discuss Mia's concerns and the impact they were having on her. We asked the service to speak to Mia and to write to the MHCC to respond to her concerns and confirm any actions that had been agreed or outcomes that had been achieved.

Outcomes

The complaint liaison officer from the service spoke with Mia about her concerns, and they developed a plan together to assist in a better way. Mia identified that a change in case manager would assist her, and the service agreed to support this change. They worked together to develop a communication plan for Mia as particular words and phrases were distressing and they explored options that would support Mia in her recovery. Mia was also provided contact information for staff at the service, so she knew who to speak to if she had any new concerns. After their meeting, the service wrote to Mia and apologised for her experiences and acknowledged the impact of these experiences on her. The letter also provided the agreed outcomes from her meeting and reassured Mia that they had heard her concerns.

Mia told us that the compliant liaison officer was kind and genuine and showed a real interest in working with her to resolve her complaint. She felt her concerns were validated and she was happy to be working with a new case manager. Mia told us that she appreciated the time the MHCC staff took with her, and she did not feel rushed through the resolution process. Mia told us she is looking forward to the future and after her experience, if she has any new concerns, she is happy to speak directly to the service.

Rose
(she/her pronouns)

What Rose told us

Rose contacted the MHCC to make a complaint about her experiences with a mental health service. She told us that she felt her treating doctor had breached her privacy when he spoke to a family member who is not involved in her care. Rose told us that she did not provide consent for her details to be shared with the family member and that she was upset that her doctor had shared her information with them.

Rose said that the family member would share untrue and inaccurate details about her with the service to hurt her. Rose told us that her treating clinician had ignored these concerns when she raised them. This made Rose less confident in the treatment she was receiving. Rose said that the clinician had not been sensitive to her concerns and needs, and her past experiences of trauma. She expressed a view that a female clinician would have been more understanding about her concerns.

Rose's rights

The relevant mental health principles include:

- People receiving mental health services should be involved in all decisions about their assessment, treatment and recovery and be supported to make, or participate in, those decisions, and their views and preferences should be respected (s 11 (c))
- People receiving mental health services should have their rights, dignity and autonomy respected and promoted. (s 11 (e))
- People receiving mental health services should have their individual needs (whether as to culture, language, communication, age, disability, religion, gender, sexuality or other matters) recognised and responded to. (s 11 (g)).

What we did

The MHCC wrote to the service as a part of our assisted referral process, and we attached a copy of Rose's written complaint. With Rose's consent we asked the service to speak to her about her concerns. We asked the service to write to the MHCC and Rose after the discussion to advise of any actions to resolve her concerns, and the outcome of her complaint.

Outcomes

The manager from the service spoke to Rose about her concerns and said that Rose's family member was recorded as her next of kin on her medical record. They advised Rose about how her record could be updated. The manager acknowledged Rose's distress that Rose's record had not been updated when she initially raised her concerns to the clinician. The manager apologised for the actions of the clinician when Rose had raised these concerns, and they also spoke about a change of clinician. The service wrote to the MHCC and Rose with an apology and the agreed outcomes from their meeting. We assessed the information provided and we also sought Rose's feedback.

Rose told us that she accepted the apology and proposed actions from the service, and that she felt her concerns were taken seriously. Rose said she had already met with her new female clinician and she felt she could have a therapeutic relationship with her. Rose agreed to the MHCC closing the complaint.

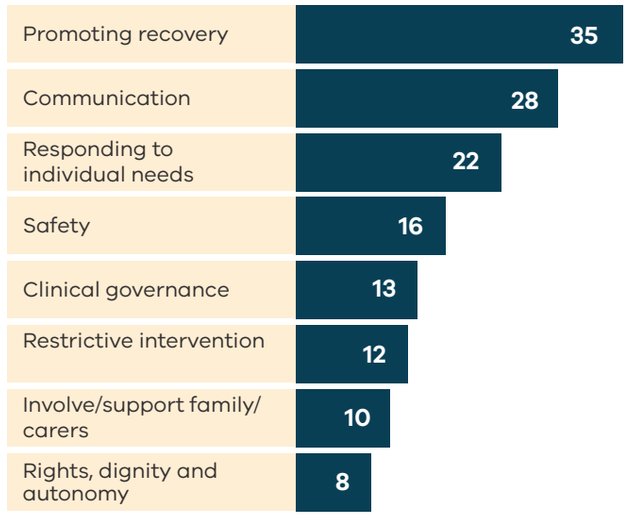
OUR ROLE IN **CREATING CHANGE**

This year the MHCC made **45 recommendations** to services through complaints.

This year services reported back to us details of **90 service improvements made** in response to complaints and recommendations made by the MHCC. The total service improvements reported increased from 65 last year. Most recommendations and service improvements focused on policies, procedures, and practices, followed by training, and providing feedback to staff.

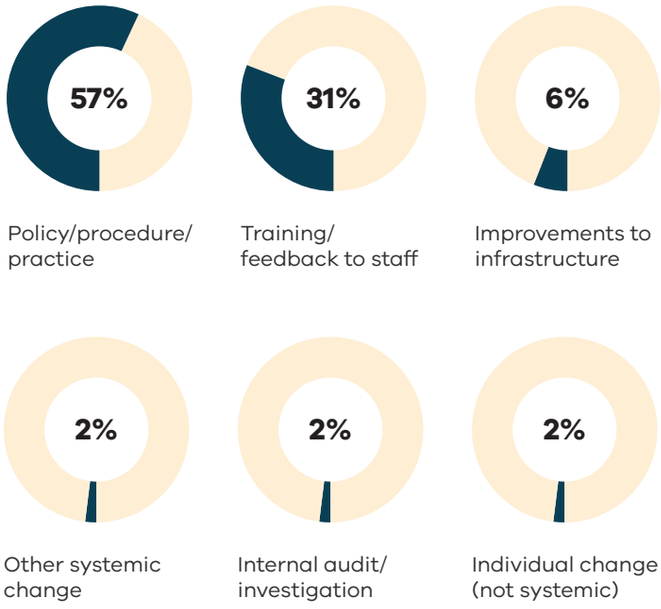
The predominant themes of these improvements were related to promoting recovery; communication about treatment, care and support; responding to individual needs and safety when receiving treatment. The MHCC's recommendations were based on information obtained during our complaints resolution process, and are not indicative of findings of non-compliance with the Act.

Figure 15: Service improvements: themes



* NB. Service improvements can be reported for more than one theme. This explains how the number of themes exceeds the number of service improvements reported by services.

Figure 16: Service improvements: actions taken by services



Investigations

Investigations under Part 10, Division 4 of the Mental Health Act 2014 are only conducted following an assessment of whether the anticipated outcomes can be achieved without an investigation, the likely costs and benefits of the investigation, and the impact on the consumer from a trauma-informed perspective.

We found that we could often achieve significant outcomes more quickly by taking a less formal approach, including detailed reviews of clinical records and other documents.

This year, we opened **one new investigation** about the making of compulsory treatment orders for a consumer admitted to a mental health inpatient unit.

We also progressed an existing investigation about the experiences of a young person when restrictive interventions and practices were used.

A central part of the investigation process is providing the opportunity for the consumer and the person who made the complaint (if not the consumer) to provide a detailed account of their experience and concerns through interviews and by providing any additional supporting documents. The MHCC also requests clinical records and documents from the mental health service provider, interviews staff and inspects the facilities if required to make findings on the issues under investigation.

A summary of a previous investigation completed by the MHCC was shared in a paper published in July 2023. The consumer and family involved in this complaint generously agreed for their story to be deidentified and shared. A summary of this investigation is below. It highlights the challenges of navigating a complex system, the importance of authentic communication and partnership with consumers and/or their family or carers, and how a complaint can bring about system change.

The following example include details of a complaint.
This content may be triggering for some readers and we advise caution.

Complaint example

An investigation conducted by the MHCC

Jade contacted the MHCC due to her concerns in relation to the experience of her sister, Alicia who has a complex and serious medical history, during an inpatient admission in a public mental health service in Victoria (the hospital).

During the admission Alicia was transferred to the intensive care unit. She was intubated, ventilated, and sedated, given multiple ECT treatments, and mechanically restrained for extended periods. Mechanical restraint is a highly intrusive practice that can only lawfully be used in the strictly limited circumstances set out in the Act, and subject to the statutory safeguards and protections.

In response to Jade's complaint, the MHCC decided to conduct a formal investigation. As part of the investigation, the MHCC obtained independent, external opinions from experts in clinical and legal disciplines. Based on the expert clinical opinion, the investigation found that Alicia's clinical presentation was extremely complex due to the gravity of her symptoms of mental illness and treatment challenges.

The investigation made several findings about the systemic issues raised, including those about significant clinical, legal and bioethical questions raised by administering ECT when a person is sedated. The independent clinician concluded that Alicia's treatment and care needs were 'well beyond the bounds of regular practice' and that these types of scenarios are not covered by existing guidelines.

Once the final investigation report was complete, the MHCC wrote to the service, as well as to the Secretary of the Department of Health and the Chief Psychiatrist, providing a copy of the investigation report, summarising the systemic issues raised by the investigation, and making several recommendations.

The service agreed to implement all of the MHCC's recommendations and took a range of remedial actions, including new escalation procedures when treatment includes the use of prolonged restraints, and revised transfer procedures when patients with complex issues are transferred from the mental health inpatient unit to another part of the hospital.

Jade said the experience of complaining to the MHCC helped address their concerns with the service. Jade said, "the MHCC investigation and outcome was not a panacea for all of the wrongs that had taken place, but it did enable our side of the story to be represented fairly in the dispute resolution process, and it compelled the service to be accountable."

Our work around the use of restrictive interventions

The MHCC continued to prioritise assessment and response to complaints about the use of bodily restraint and seclusion. These practices are referred to as 'restrictive interventions' in the Mental Health Act (Vic). They can only be used in strictly limited circumstances as set out in the Act and subject to the statutory safeguards and protections.

In 2022/23 the MHCC received **46 complaints** that raised issues/concerns related to restrictive interventions (issues of restraint and seclusion). When we receive a complaint about the use of restraint or seclusion, we will usually conduct a detailed review, including an assessment of whether the requirements of the Act have been met along with the expectations of the Chief Psychiatrist's guideline *Restrictive interventions in designated mental health services*. Although we are looking at all aspects of compliance in relation to the use of restraint, we are especially focused on whether less restrictive options were attempted by the services.

Last year, to strengthen and streamline our oversight we developed a questionnaire about the use of bodily restraint under the Act which we began using in relevant complaints. The questionnaire was designed to improve understanding within services of the requirements around the use of restraint and helps strengthen the capacity of services to undertake comprehensive reviews and to monitor the impact of any initiatives to reduce use.

Since 1 July 2022, the questionnaire has been used in more than 10 complaints. These were in settings including emergency, medical unit, and inpatient units. We have worked with and supported services to become familiar with using the questionnaire and taken on board feedback about the process.

We are currently in the process of evaluating the use of the questionnaire and determining if there are any themes that arise from complaints about restraint. Preliminary feedback has indicated that the questionnaire has had a positive impact on the process, ensuring consistency in the way the MHCC approaches complaints of this nature. The MHWC will continue using a questionnaire under the new Mental Health and Wellbeing Act, noting some changes in legislative provisions and regulation of chemical restraint.

Under the Act, restrictive interventions can only be used in strictly limited circumstances.

Education and engagement

The MHCC has had an education and engagement function under the Act. This includes making its complaints procedure available and accessible to everyone and providing information, education and advice to Victorian public mental health services about their responsibilities in managing complaints.

This year the MHCC used the information gathered from listening to people's lived experiences and complaints to guide the development of education and engagement activities and clear and inclusive communications.

The MHCC wants consumers, families and support people to know they have a right to speak up, and we encourage them to feel confident and safe to contact us.

Our Outreach

In 2022-23 the MHCC engaged with stakeholders on over 200 separate occasions. As part of this the MHCC presented at or hosted the following events:

- TheMHS October 2022 Conference Sydney – multiple presentations on building a positive complaints culture and the MHCC's Lived Experience Framework.
- Presented at the Centre for Mental Health Learning (CMHL) Sexual Safety Forum May 2023.
- Launched the MHCC's translated resources in over 20 languages for migrant and multicultural communities, with the Chair Commissioner of the Multicultural Commission, Victorian Disability Worker Commissioner and Health Complaints Commissioner.

Engaging with Lived Experience

As part the MHCC's commitment to being driven by lived experience in everything we do, the MHCC met regularly with Lived Experience organisations and peak bodies for consumers, carers and family members to seek feedback.

The MHCC was driven by lived experience through several avenues including:

- The MHCC's Lived Experience Advisory Council.
- The MHCC's designated Lived Experience Senior Advisors (including both the consumer and carer/family member perspectives) and Assistant Commissioner Lived Experience and Engagement.
- Working in codesign or coproduction partnerships with people with lived experience and lived experience experts.
- Quarterly meetings with the CEOs of VMIAC and Tandem Carers, the peak bodies for consumers and carers/family members to seek feedback and provides updates.
- Engagement with and participation in Lived Experience reference groups, the Department of Health Lived Experience Branch and other events.
- Meeting and engaging with Lived Experience staff across the public mental health sector and associated agencies.

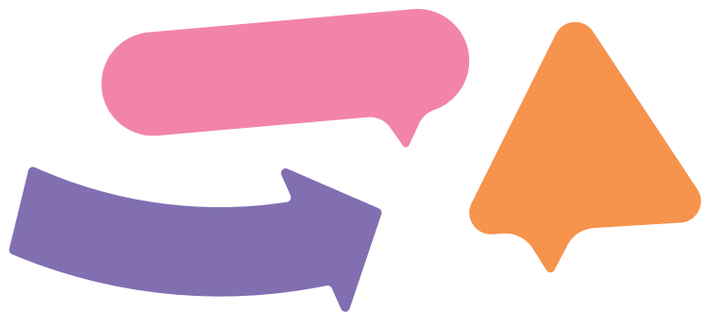
In 2023, the MHCC introduced a new quarterly meeting with communications teams at VMIAC and Tandem to seek feedback on behalf of its members regarding the MHCC's communications activities and projects. This included sharing newly developed resources for consumers, carers and family members on mental health rights and more.

The MHCC's designated Lived Experience staff also participated in and contributed to the following groups and projects:

- Centre for Mental Health Learning (CMHL) Live Learn Lead Collective and Consumer Leadership Reflective Circles
- Women's Mental Health Alliance
- NDIS Commission Complaints Sub-committee
- Safer Care Victoria Compulsory Treatment project
- Carer Lived Experience Workforce (CLEW) meetings and annual forum
- Victorian Transcultural Mental Health Reference Group

How does lived experience drive and inform our work?

- Following our co-designed Driven by Lived Experience Framework
- Working in partnership with our Lived Experience Advisory Council
- Using our Lived Experience Engagement Checklist
- Using co-design to work in partnership with people with lived and living experience
- Ensuring staff in designated roles as well as those with a declared lived or living experience are involved in projects
- Recording feedback from workshops and meetings from people with lived or living experiences that can inform current and future work
- People with lived and living experience play a range of roles in problem definition and decision-making processes
- Seeking feedback and input from peak consumer and carer bodies including VMIAC and Tandem Carers
- Embedding designated lived experience roles in the MHCC's Leadership Group



Engaging with Public Mental Health Services

As part of our complaints and investigations practices, the MHCC regularly engages with services to promote continuous improvement, as well as to better understand the environments and settings in which the complaints we receive often take place.

In addition to the day-to-day work of managing complaints, the MHCC engages with services in the following ways:

- Quarterly meetings between the Commissioner and Assistant Commissioners and CEOs/Clinical Directors of public mental health services.
- Annual in-person service visits to inpatient units in public mental health services in metropolitan Melbourne and regional Victoria.
- Delivery of training, information sessions and resources through channels including the Centre for Mental Health Learning.
- Promotion of continuous improvement through the MHCC's online Complaints Self-assessment Tool that helps services identify opportunities for improvement.

The MHCC continues to advocate for increased inclusion of Lived Experience staff in meetings with public mental health services, as well as for their involvement in continuous improvement discussions relating to complaints handling.

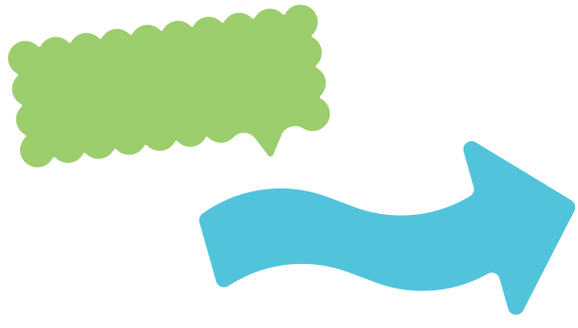
In 2022, the MHCC concluded its annual program of in-person service visits across Melbourne and regional Victoria. These visits provided MHCC staff, including all staff who handle complaints, an opportunity to ensure they have contemporary knowledge about the service environments that are experienced by people who make complaints.

Engaging with Associated Agencies

The MHCC regularly engaged with and informed associated agencies in the mental health sector. This included but was not limited to:

- Regular meetings with the Department of Health's Lived Experience Branch and Mental Health and Wellbeing Division.
- Quarterly meetings with the Australian Health Practitioner Regulation Agency (Ahpra), Office of the Chief Psychiatrist (OCP), Independent Mental Health Advocacy (IMHA).
- Regular meetings with national and state based Mental Health Commissioners.
- Regular meetings with communications staff at national and state based Mental Health Commissions.
- Meetings with Safer Care Victoria (SCV), the Victorian Auditor-general's Office (VAGO), Mental Health Victoria (MHV), Mental Health Legal Centre (MHLC),
- Regular meetings with other Victorian Commissioners through the Council of Victorian Commissioners including:
  - The Victorian Equal Opportunity and Human Rights Commission,
  - Victorian Ombudsman,
  - Office of the Public Advocate,
  - NDIS Quality and Safety Committee,
  - Victorian Disability Workers Commission,
  - Multicultural Commission,
  - LGBTIQA+ Commissioner,
  - Public Sector Gender Equality Commissioner,
  - Youth Justice Commissioner,
  - Corrections Commissioner,
  - Victims of Crime Commissioner,
  - Commissioner for Senior Victorians,
  - Commissioner for Residential Tenancies,
  - and the Commissioner for Aboriginal Children and Young People.

In 2023 the MHCC introduced a new quarterly meeting with communications teams at the HCC, OCP, MHT and IMHA in order to drive greater collaboration. Consumers and carers sometimes contacted other organisations in addition to the MHCC, which can be confusing. These meetings aimed to better coordinate communications between the agencies to ensure audiences are clear about who to contact for support and assistance, depending on their concerns.



Social Media and Digital

In 2021-2022 the MHCC reported a significant increase in engagement across social media channels, with engagement doubling on average across all platforms during this period. This growth in engagement has continued in 2022-23.

This engagement has been achieved by focusing social media content on audience needs, ensuring content was informed and driven by people with lived experience so that people can easily find out what they need to know before making a complaint.

As part of this the MHCC developed and launched a number of social media series to provide more accessible information to consumers, carers and family members from a diverse range of backgrounds and perspectives.

Our online engagement

Social Media

7.17% **Engagement rate in 2022-23** versus 5.2% in the previous year 2021-22 (above industry benchmark of 1-5%)

399 posts

232 comments

2300 reactions & likes

Website

26,058 sessions

71,735 page views

Rights and Principles

In 2022, the MHCC launched plain English resources to build awareness of the rights and principles of consumers, carers and family members under the Mental Health Act 2014.

These resources aimed to increase awareness of consumer, carer and family rights when receiving treatment from a public mental health service in Victoria, as well as make it easier to understand their rights under the Mental Health Act 2014. They were also designed to support staff in public mental health services, including the lived experience workforce, to have conversations about rights and principles under the Mental Health Act 2014.

These resources were developed in partnership with people with lived experience.

Punjabi social media tile. In English it reads 'The MHCC deals with complaints about public mental health services in Victoria'.

What To Expect When You Make A Complaint

In 2022 the MHCC launched new resources to provide consumers, carers and family members with an overview of the complaints process at the MHCC, so that they can know what to expect before making a complaint. These resources were developed in response to feedback from consumers, carers and family members who were unclear about the process if they chose to make a complaint.

These resources were developed in partnership with people with lived experience and aim to make it easier for people to understand what the complaints process involves, what complaints the MHCC can deal with, and where to go for support if another organisation was more appropriate (for example the Mental Health Tribunal or Health Complaints Commissioner).

Translated Resources for Multicultural Communities

During 2022-23 the MHCC and people with lived experience from multicultural communities, co-produced a variety of resources in English, as well as languages other than English to make our services more accessible to all Victorians.

Digital and print resources were produced in 20 languages through community approved translations that ensure that the translations are culturally and linguistically appropriate for each community. This was in addition to an animation with voiceovers and subtitles in English, Spanish, Arabic, Chinese (Simplified), Vietnamese, and Punjabi that encourages people to make a complaint.

"We recognize that individuals from diverse cultural backgrounds often face unique challenges when it comes to mental health, and it's important that we take steps to address these issues.

"We want to ensure that all members of our community have access to the support they need to feel safe to make a complaint if they have any concerns about a Victorian public mental health service. The importance of language access in mental health care cannot be overestimated."

Maggie Toko, Assistant Commissioner, Lived Experience, MHCC.

Trauma-Informed Guidelines

In 2023, the MHCC partnered with The Bouverie Centre on a research project co-designing a set of trauma-informed guidelines to support people who are impacted by trauma to resolve a complaint in a safe and supported way.

The intention of the project was to create a set of principles that would assist MHCC resolution officers and mental health service providers to consider the impacts of trauma and to take active steps to avoid re-traumatisation when supporting a person making a complaint about public mental health services in Victoria.

The guidelines were developed through a co-production process which engaged with members of the MHCC's advisory council – including consumers, carers, and persons who made complaints to the MHCC or services directly, MHCC lived and living experience advisors, MHCC complaints resolution and investigation officers, and public mental health service providers across Victoria.

Throughout the development of these guidelines, we learned that persons who make complaints about mental health services want to be heard, believed, understood, and supported, and, for their experiences not to be experienced by others.

The findings of this research were then translated to form the foundation of a new set of trauma-informed practice guidelines for the MHCC and mental health services.

Our Trauma Informed Guidelines were embedded into our work at the MHCC and shared with other mental health services to adopt these guidelines in their own complaint handling processes.

There are 15 guidelines in total – and each guideline was accompanied by a set of practice tips; stepping out ways that staff involved in resolving complaints can action each principle in their day-to-day work.

These guidelines enhanced our ability and that of staff in mental health services to consider the impacts of trauma when receiving complaints, they also outline some active measures to avoid re-traumatisation.

While primarily focused on the complaints process, we hope that the guidelines can be helpful in many areas of work with people with lived and living experience of trauma, mental illness, or psychological distress. The guidelines are available on our website.

Complaints Self-Assessment Tool

One of MHCC's roles was to work with public mental health services to improve their local complaints processes so that consumers and carers can feel more confident complaining to services directly. The Complaints Self-Assessment Tool (the Tool) was developed to help services identify gaps, needs, strengths and opportunities in their local complaints processes.

In 2023 we developed and shared a short video which demonstrates how the Tool works and how it might be used within a service. This lived experience co-designed video includes quoted feedback from Victorian mental health services, including lived experience staff, about their experience of using the Tool.

On 1 September 2023 the functions and powers of the MHCC were transferred to the new Mental Health and Wellbeing Commission (MHWC).

The MHWC is a new independent statutory authority established through the Mental Health and Wellbeing Act 2022.

The new MHWC has more extensive powers than the current MHCC. It will be able to investigate a matter without a complaint being made and conduct broad inquiries into any matter relating to its objectives or functions.

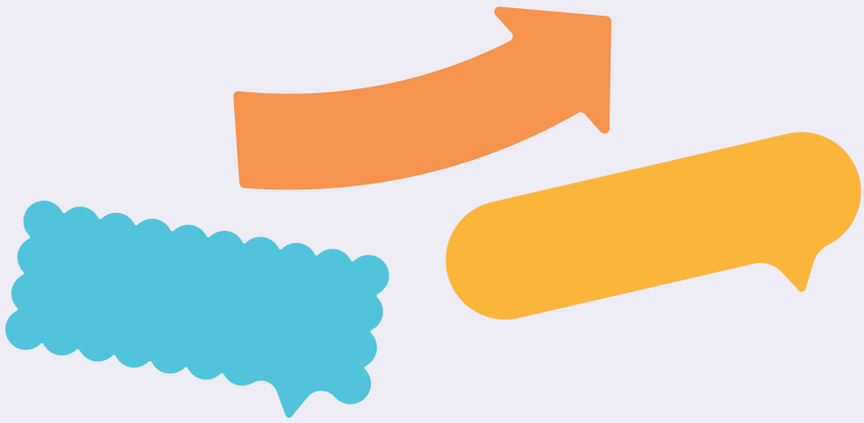
Mental Health & Wellbeing Commission

The new Commission will support people with lived experience to lead and partner in reform and will also have a key role in leading actions to reduce stigma related to mental health.

The Victorian Government has appointed four Commissioners to lead the new Mental Health and Wellbeing Commission. Chair Commissioner Treasure Jennings is supported by three Commissioners – Annabel Brebner, Jacqueline Gibson and Maggie Toko.

Over 2022/23, staff prepared for the transition to the new Commission, including undertaking training and learning opportunities particularly around the introduction of new Mental Health and Wellbeing Act 2022, updating practice guidance materials as well as all the necessary corporate and administrative preparation that was required.

There has also been a strong focus on communication and engagement activities, hosting webinars, preparing video messages and website content to keep all stakeholders informed and updated on the upcoming changes. Feedback about communications to consumers and carers during the transition was sought from peak bodies including Tandem Carers and VMIAC. Other work included the development of interim branding and a new website for the MHWC in partnership with the Department of Health who were tasked with the establishment of the new Commission.



Appendix 1: Our operations

Financial statement for the year ended 30 June 2023

The Department of Health provides financial services to the Mental Health Complaints Commissioner (MHCC).

The financial operations of the MHCC are consolidated into those of the Department of Health and are audited as part of the department's accounts by the Victorian Auditor-General's Office. A complete financial report is therefore not provided in this annual report.

A financial summary of expenditure for 2022-23 according to Department of Health accounts is provided below. The expenditure was less than the allocated budget of $5,908,897 as there were staff vacancies throughout the year.

Operating statement for the year ended 30 June 2023

Expenses	
Salaries and on-costs	$4,453,148
Supplies and consumables	$824,639
Total expenses	**$5,277,787**

Staffing

There were 33.53 full-time equivalent (FTE) staff including fixed term positions as at 30 June 2023.

Signed by: Scott O'Keeffe, Acting Deputy Chief Financial Officer, Finance and Procurement, Corporate Services

24/07/2023

Appendix 2: Our compliance and accountability

Important Note

This Annual Report was published after the work and functions of the MHCC were transferred to the Mental Health and Wellbeing Commission (MHWC) on 1 September 2023. As such, contact details below have been updated to reflect the new Commission, where you can direct enquiries relating to both the former MHCC and the MHWC.

Privacy and Data Protection Act 2014 and Health Records Act 2001

The MHCC was subject to the *Privacy and Data Protection Act 2014* in relation to the collection and handling of 'personal information' about individuals. 'Personal information' is recorded information that can identify a living person.

The MHCC must also comply with the *Health Records Act 2001* when dealing with 'health information'. This is information that can identify a person, including a person who has died, about the person's physical, mental or psychological health, disability or genetic make-up.

You can access the MHWC's privacy policy which explains how the MHWC deals with personal and health information and is available on the MHWC's website at www.mhwc.vic.gov.au/privacy-and-other-policies.

Freedom of Information Act 1982

Requests for access to documents held by the MHCC, or the correction of documents held by the MHCC can be made under the Freedom of Information Act 1982.

Applications can be made in writing to the MHWC at Level 26, 570 Bourke Street, Naarm/Melbourne VIC 3000 or by email to PrivacyFOI@mhwc.vic.gov.au.

In 2022/23 the MHCC made 6 decisions relating to freedom of information (FOI) applications. We also responded to an additional 8 requests for documents that were provided outside of the FOI process.

Charter of Human Rights and Responsibilities Act 2006

The *Charter of Human Rights and Responsibilities Act 2006* sets out 20 fundamental human rights for all people in Victoria, including the right to be treated equally and to have our privacy respected.

The MHCC was a public authority under the Charter and was required to act compatibly with the human rights in the Charter, and to give proper consideration to Charter rights, in dealing with complaints and doing our work.

Public Interest Disclosures Act 2012

The *Public Interest Disclosures Act 2012* encourages and assists people to report improper conduct by public officers and public bodies and protects people from detrimental action as a result of making the disclosure.

Disclosures of improper conduct or detrimental action by the MHCC or its staff can be made to the Independent Broad-based Anti-corruption Commission (IBAC) or the Victorian Ombudsman.

Contact details are:

IBAC

Phone: 1300 735 135
Email: Info@ibac.vic.gov.au

Victorian Ombudsman

Phone: (03) 9613 6222
or 1800 806 314 (regional areas)
Email: complaints@ombudsman.vic.gov.au

Disclosures of improper conduct or detrimental action by the MHCC's staff can also be made to the Department of Health by email to publicinterestdisclosure@health.vic.gov.au or by calling the department's integrity unit on 1300 024 324.

More information about public interest disclosures is available on the IBAC's website at ibac.vic.gov.au and the Victorian Ombudsman's website at ombudsman.vic.gov.au/reporting-improper-conduct/.


TRAINING
DIVERSITY
TRAINING
RESPONSIVE
UNDERSTANDING
COORDINATION
ADVICE
COMPASSION
INVESTIGATION
RESPECT
RESOLUTION
RECOMMENDATIONS
REDUCE STIGMA
LIVED EXPERIENCE
ASK QUESTIONS
SPEAK UP
RIGHTS
COMPLAINT
HELP
BETTER SYSTEM
CHANGING PRACTICES
POSITIVE
LISTEN
SAFE
SERVICE IMPROVEMENTS
HEARD
ENGAGEMENT
DRIVE CHANGE
RELIEF
CO-DESIGN
EDUCATION
EMPOWERED
RECOVERY
REMOVE BARRIERS
DIGNITY
SUPPORT

Address: Level 26, 570 Bourke Street
Naarm / Melbourne, Victoria 3000

Phone: 1800 246 054 (free call from landlines)

Complaints: help@mhwc.vic.gov.au
General enquiries: info@mhwc.vic.gov.au

Website: https://www.mhwc.vic.gov.au/

twitter.com/MHWC_vic

facebook.com/mentalhealthandwellbeingcommission

instagram.com/mhwc_vic

linkedin.com/company/mental-health-and-wellbeing-commission-vic

MHCC MENTAL HEALTH COMPLAINTS COMMISSIONER