Dignity and autonomy principle

1. What do **the Act** and relevant guidance say?

The rights, dignity and autonomy of a person living with mental illness or psychological distress is to be promoted and protected and the person is to be supported to exercise those rights (s 16).

The dignity and autonomy principle places the person's rights, dignity and autonomy above therapeutic outcomes or the concept of the best interests of the person (Explanatory memorandum to the Mental Health and Wellbeing Bill 2022, p 19). This means people should expect their independence to be supported, for example, by being able to make their own decisions (IMHA 2024). Placing autonomy above therapeutic outcomes or best interests will, at times, mean respecting people's choices and decisions, even where this involves some risk, See dignity of risk principle.

The dignity and autonomy principle, along with the supported decision making principle, underpins all other principles. Services must always consider these principles when providing care and treatment.

2. How do **human rights** relate to this principle?

The Charter includes in its Preamble that 'all human beings are born free and equal in dignity and rights.' This is also emphasised in international documents, including the *Universal Declaration of Human Rights 1948*, and the *Convention on the Rights of Persons with Disabilities 2008*.

The dignity and autonomy principle aligns with the Charter by requiring that services respect, protect and promote the rights, dignity and autonomy of people accessing mental health and wellbeing services.

Rights referred to under this principle include:

- patient rights in the Act, for example, a service's duty to make all reasonable efforts to follow a person's advance statement of preferences
- the requirement for services to provide a statement of rights at points required by the Act
- human rights set out in the Charter which mental health and wellbeing service providers must give proper consideration to, and
- other Victorian laws that promote and protect human rights, such as the:
    - *Equal Opportunity Act 2010* (Vic)
    - *Racial and Religious Tolerance Act 2001* (Vic)
    - *Change or Suppression (Conversion) Practices Prohibition Act 2021* (Vic).

A core provision of the Charter that underpins this principle is the right to recognition and equality before the law (section 8 of the Charter). This includes the right to be treated equally under the law and protected from discrimination. The right of children to protection without discrimination (section 17), is also core to this principle.

The concept of dignity underpins all the mental health and wellbeing principles in the Act, as well as human rights more broadly. A key right in the Charter that relates to dignity is the right to humane treatment when deprived of liberty (section 22). This means that if a person's liberty is limited - such as by compulsory treatment - they must be treated with humanity and with respect for their inherent dignity.

The concept of autonomy is supported by several rights in the Charter, particularly those concerning freedoms. These include the rights to:

- freedom of movement (section 12)
- freedom of thought, conscience, religion and belief (section 14)
- freedom of expression (section 15)
- liberty and security of the person (section 21).

The right to privacy (section 13) is also important as it protects bodily integrity.[3] The right to the protection from torture and cruel, inhuman or degrading treatment (section 10) is also relevant as it protects people from being subjected to medical treatment without their full, free and informed consent.

Related mental health and wellbeing principles include:	Related decision making principles include:
Supported decision making Least restrictive Dignity of risk Gender safety Cultural safety	Care and transition to less restrictive support Consequences of compulsory assessment and treatment and restrictive interventions Autonomy

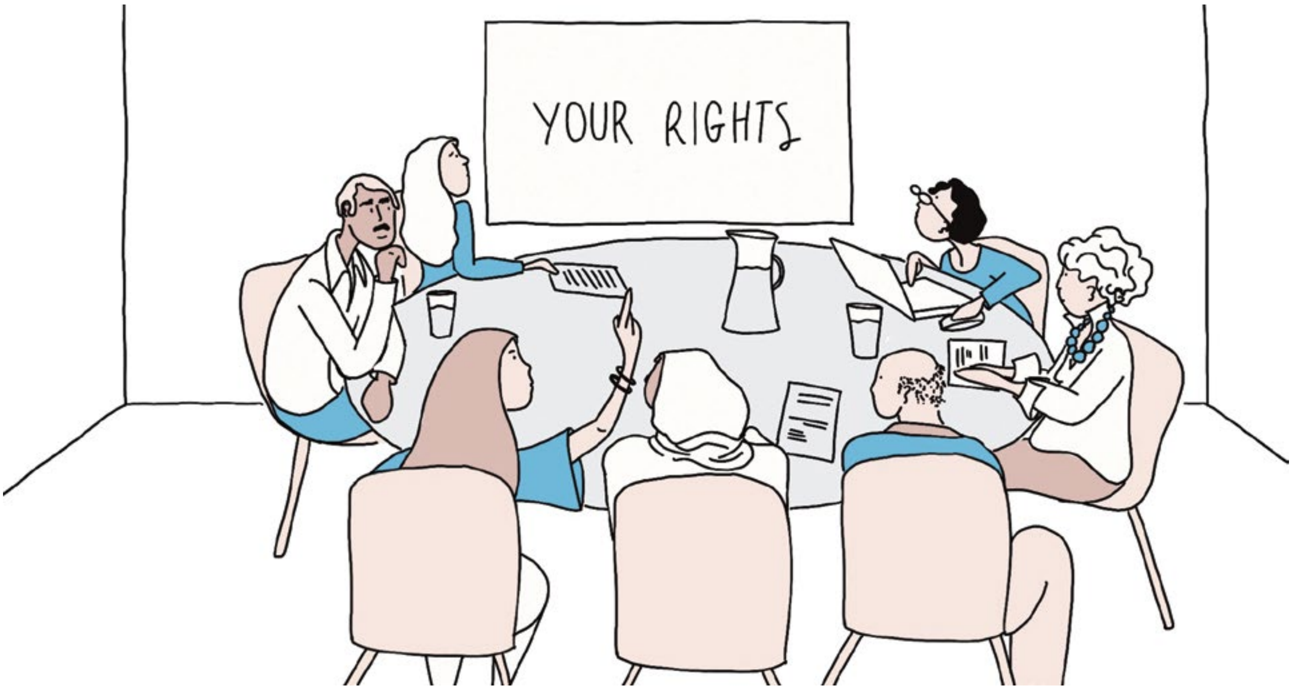
---

[3] See *Kracke v Mental Health Review Board* (General) (2009) 29 VAR 1; [2009] VCAT 646.

3. How might a **consumer** experience this principle?

When my rights, dignity and autonomy are respected and promoted:

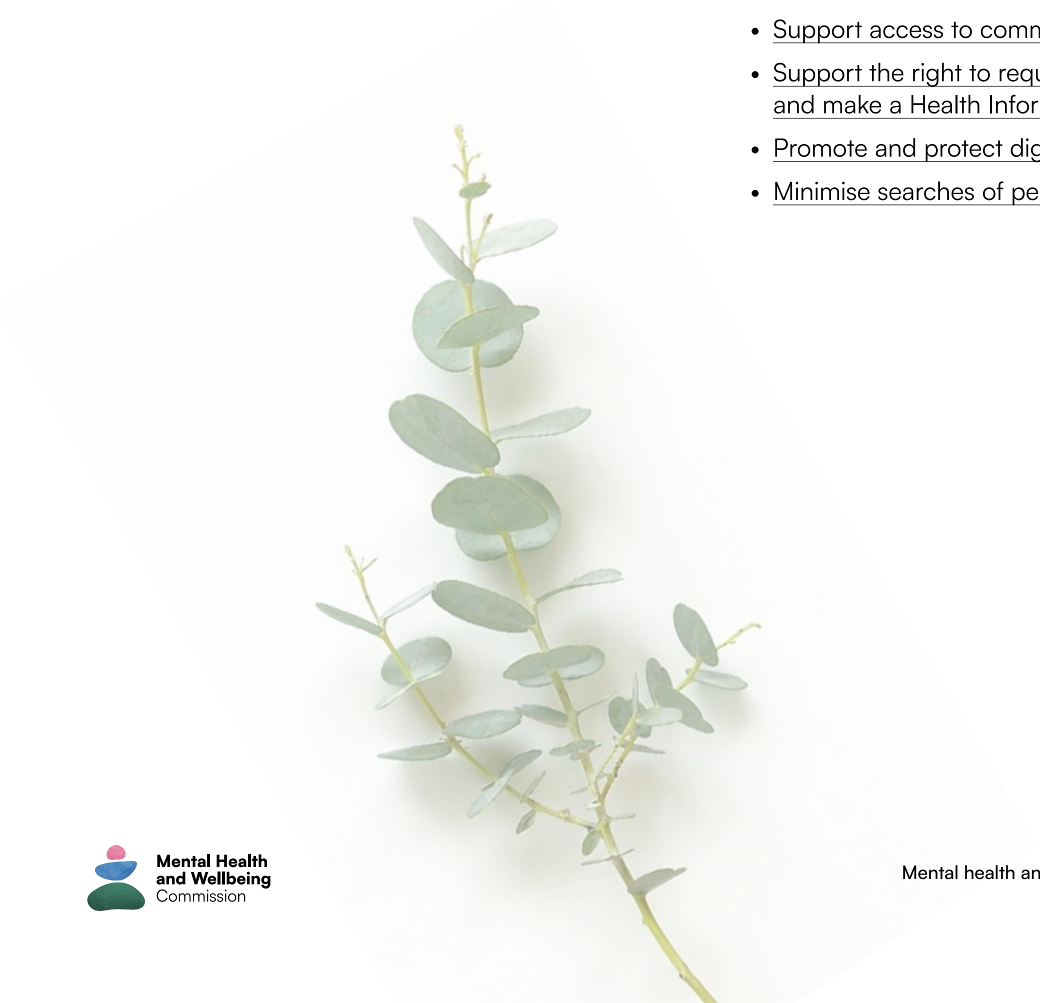
- I understand my rights and feel supported to exercise them in all situations. I know the service will support me if I need any help to do this (for example, an interpreter or communication aids).
- I feel safe, heard and respected. If I do not feel safe, I can speak up and will be listened to.
- My carer, family and supporters are as involved in my assessment, treatment, recovery and support as I want them to be.
- My preferences are respected as much as possible and are prioritised over what other people think is best for me. This includes when I am receiving compulsory treatment.
- My rights will only be limited when it is lawful, necessary and reasonable. If this happens, the reasons will be explained to me and I know what needs to change for the limits to be lifted.
- I understand the legal basis of my treatment, including whether I am being treated voluntarily or compulsorily.
- I know that I can apply to have my treatment order changed or stopped, and I can get help to do this.
- I can communicate with (for example, call, email, text or have visits with) the people I want to communicate with. My right to communicate is only restricted in limited circumstances permitted by the Act, when absolutely necessary and clearly explained to me.
- My communication with a lawyer, the Chief Psychiatrist, the Commission, the Tribunal, a community visitor or an IMHA advocate is never restricted.
- I can raise concerns or complaints without fear, and I see that my feedback helps improve services.



4. How might **carers, families and supporters** experience this principle?

When the rights, dignity and autonomy of the person I care for or support are respected and promoted:

- I am confident that their rights are upheld at all times, including when I am not present to advocate for them.
- I am notified and consulted at key points of assessment and treatment as required by the Act (including discharge), if I am a carer, parent of a patient aged under 16, a guardian, or a nominated support person.
- I receive the information I need to support them effectively.
- I am involved in their assessment, treatment and recovery in a way that meaningfully supports and respects me in my role.
- I am confident that the person is supported to make their own decisions, including with the use of communication aids, supported decision making tools, and the time and space they need.
- My experience and knowledge of what helps them feel safe, respected and empowered are valued and welcomed by services.



5. How do **treating teams** put this principle into practice?

This section provides an overview of actions services must take to put the dignity and autonomy principle into practice, as well as good practice suggestions.

Upholding people's views and preferences (for example, by presuming capacity to give and refuse informed consent to treatment, promoting and following advance statements of preferences, promoting nominated support persons) and providing least restrictive treatment, also respects and upholds their dignity and autonomy. See supported decision making and least restrictive principles.

Explore the key topics covered in this section:

- Take reasonable steps to identify and provide appropriate supports
- Give and explain accessible rights information, statements of rights and compulsory orders
- Protect the right to communicate
- Promote responsive feedback practices
- Support people to apply for their order to be revoked, and to participate in Mental Health Tribunal hearings
- Support access to second psychiatric opinions
- Support access to community visitors
- Support the right to request amendments to records and make a Health Information Statement
- Promote and protect dignity
- Minimise searches of persons and belongings

Take reasonable steps to identify and provide appropriate supports

Requirements include:

📖 When required by the Act to communicate with a person (for example, a consumer, carer, family, guardian, nominated support person or support person), services must take reasonable steps to identify and provide appropriate supports to help that person to make and participate in decisions, understand information and their rights, and communicate their views, preferences, questions or decisions (ss 6-7).

Reasonable steps may include:

- asking a person what they need
- giving information about what supports are available
- revisiting needs regularly, as people's needs can change.

Appropriate supports include:

- Access to interpreters and written information in languages other than English.
- Accessible communication, including using technology. For example, Easy English resources, communication apps, communication boards, decision support tools, simple communication tools like listing options clearly and simply on a piece of paper with the person, or providing flip cards with information about treatments, other visual aids.
- Responding to literacy, developmental or cultural needs. For example, involving Aboriginal Mental Health Liaison Officers or providing other cultural support for Aboriginal consumers and families.
- Communicating in appropriate physical or sensory environments. For example, finding quiet spaces for discussions, adjusting lighting to suit the person's needs.
- Involving families, carers, supporters and IMHA advocates in rights discussions and providing appropriate spaces for consumers to communicate with them. For example, providing family rooms, facilitating phone calls (particularly where that can support treatment discussions), facilitating visits within reasonable hours.
- Helping people access legal assistance. For example, from Victorian Legal Aid (VLA) Mental Health Legal Rights Service Helpline, the Mental Health Legal Centre or the Victorian Aboriginal Legal Service.

Good practices may include:

- Involve lived and living experience workforce in decision making and rights processes, to support people to understand their rights and build capacity for decision making.
- Make reasonable efforts to find endorsed translated versions of official documents, being aware of the risk of using interpreters to translate key documents.

Give and explain accessible rights information, statements of rights and compulsory orders

Requirements include:

- Explain general healthcare rights to consumers, carers, families, supporters and kin, and provide information about how the service works and who to contact with questions or concerns.
- 📖 Take all reasonable steps to provide and explain copies of compulsory orders and relevant statements of rights (including statements of rights for voluntary inpatients) to consumers and their nominated support person, guardian, carer or parent of a consumer aged under 16 as soon as practicable. For example:
    - 📖 Give a person copies of their orders and statement of rights, explain what they mean in ways the person understands, and answer any questions as clearly and fully as possible.
    - Share accessible resources about principles and rights - for example, IMHA, Tandem and VMIAC resources (see 'Where can I find more information?' in section 8 of this principle), other materials in easy-read formats, translations, videos, posters and visual aids.
    - Identify and provide appropriate supports to help the person understand their rights (as above). Make additional efforts to explain rights if they are not initially understood, and continue to talk about rights during a person's treatment.
    - Make multiple attempts to identify and contact relevant people (nominated support person, guardian, parent of a person aged under 16, or carer) who should be provided with copies of compulsory orders and relevant statements of rights. For example, check the clinical record, ask the consumer, explore whether a consumer has support people at more than one point in treatment.
    - Document all attempts to give information or explain rights.

Good practice may include:

- Provide copies of relevant paperwork in more than one format (for example, a hardcopy for immediate reference, copies by email for future reference) to consumers and their supporters.

Protect the right to communicate

Requirements include:

- 📖 Support the person to exercise the right to communicate, for example, by taking reasonable steps to support patients to send and receive private letters, phone calls, messages, emails and to receive visitors at reasonable times.
- 📖 If restrictions are reasonably necessary to protect the health, safety and wellbeing of the inpatient or of another person, ensure those restrictions are the least restrictive possible to protect health, safety and wellbeing and are regularly reviewed. This review may include considering whether, even if restrictions are still reasonably necessary, restrictions could be lessened. Protecting the health, safety and wellbeing of another person includes protecting the privacy of staff or of other consumers.
- 📖 Ensure that communication with a lawyer, IMHA advocate, the Chief Psychiatrist, Mental Health Tribunal, the Commission or a community visitor is never restricted. Ensure consumers can make and receive contact from these bodies promptly - for example, ensure there are enough ward telephones available if a person's mobile has been removed, and prioritise the person's right to communicate with any of the above agencies.
- 📖 Take reasonable steps to notify the patient, any nominated support person, guardian, carer (if the restriction will affect the caring relationship), parent if the patient is under 16, DFFH Secretary if relevant[4] and IMHA, of any restriction and the reasons for it. For example:
    - give information in multiple ways (for example, verbally or in writing)
    - use appropriate supports (see above)
    - make more than one attempt to notify the relevant person.

Good practices may include:

- Work with consumers to find common ground about safe use of communications before considering restrictions.
- Promote timely and easy access to charging communication devices - for example, if charging devices are lost or access to them is limited for safety reasons.

Practices to avoid:

- Avoid removing mobile phones as a universal or standard practice - this may be a breach of human rights. Access to a mobile phone must only be restricted on an individual basis after other ways to support safety have been exhausted.
- Avoid unreasonably restricting the use of electronic communication devices. Examples of unreasonable restriction include restrictions on making complaints, seeking legal advice or advocacy, expressing anger at the service, writing about experiences on social media or researching issues related to an admission - for example, treatment, diagnosis, the service.

Promote responsive feedback practices

Requirements include:

- 📖 Share and promote information about how to give feedback and make a complaint.
- 📖 Offer support to help someone make a complaint either directly to the service or to the Commission. For example, help to fill out a form or survey, or speak with a relevant staff member.
- Ensure consumers, carers and families are aware that services must take reasonable steps to ensure that no person suffers any detriment for making a complaint (s 514).
- Involve lived and living experience in theming complaints. Share themes and improvements with consumers, carers, families, supporters and kin, and the workforce.
- Use complaints as opportunities to improve safety, quality and responsiveness to people's needs.

---

[4] If the Secretary has parental responsibility for a child under a relevant child protection order.

Good practices may include:

- Be curious about the underlying issues, concerns or harms at the heart of a person's complaint.
- Consider the 4 As framework (see the Commission's website) as a way to understand what people may be seeking as an outcome of their complaint (Acknowledgment, Answers, Action and Apology).
- Be willing to apologise for a person's experience wherever possible.

Support people to apply for their order to be revoked, and to participate in Mental Health Tribunal hearings

Requirements include:

- 📖 Explain the right to apply to the Mental Health Tribunal for a hearing about their compulsory treatment order.
- Support the person to access legal assistance and information in a timely way including from VLA's Mental Health Legal Rights Service Helpline, the Mental Health Legal Centre or the Victorian Aboriginal Legal Service.
- Provide and support the person to complete relevant paperwork to apply for compulsory treatment to stop.
- 📖 Enable and support the person to receive IMHA advocacy or other help to apply for their compulsory treatment order to stop.
- 📖 Ensure the person is given their report for the Mental Health Tribunal hearing, and any other information that will be used by the service in the hearing, at least 2 business days before the hearing (s 373(1)(a)).
- Ask the person sensitively about what would help them to participate in the hearing. For example, involving family, carers or supporters (including cultural, spiritual or community supports), offering to help the person access a lawyer, facilitating appropriate supports (see above) that will help the person to participate in their hearing. Be mindful of barriers including language, trauma, and life experiences including family violence.

Good practice may include:

- Provide access to the Mental Health Tribunal website, including the application form to stop a compulsory order, and videos explaining the Mental Health Tribunal's processes.

Support access to second psychiatric opinions

Requirements include:

- 📖 Explain to compulsory, security and forensic patients that they have a right to seek a second psychiatric opinion about their status under the Act, or treatment, and take reasonable steps to help them to do so. For example, helping people to locate and complete documentation.
- 📖 Give a psychiatrist providing a second psychiatric opinion any reasonable assistance they need to perform their role. For example, share relevant clinical information in a timely way.
- 📖 If a second psychiatric opinion expresses the view the treatment criteria do not apply or recommends changes to treatment, the authorised psychiatrist must review the patient and determine whether they believe the criteria apply, or review their treatment, then decide whether to adopt the recommendations as soon as practicable after receiving the report.
- 📖 If the authorised psychiatrist believes the criteria do not apply or decides to adopt only some or no recommendations about treatment, they must tell the patient why and explain their rights. All staff have an obligation to help patients exercise those rights. For example, to help people to appeal their Order to the Mental Health Tribunal, access legal assistance including from VLA's Mental Health Legal Rights Service Helpline, the Mental Health Legal Centre or the Victorian Aboriginal Legal Service, or to ask the Chief Psychiatrist for a further review of treatment.
- 📖 If any recommendation (either in relation to treatment criteria or treatment) is not adopted, give verbal explanations as soon as possible and written explanations within 10 business days to the patient, any person who requested the opinion for them, any nominated support person, guardian, carer, or a parent of a person aged under 16[5].

---

[5] DFFH Secretary if the Secretary has parental responsibility under a relevant child protection order.

Support access to community visitors

Requirements include:

- 📖 Explain the role of community visitors, enable consumers to speak with a community visitor and advise the Community Visitors program of any request from a consumer to speak with a community visitor.
- 📖 Give a community visitor any reasonable assistance they need to perform their role.

Support the right to request amendments to records and make a Health Information Statement

Requirements include:

- 📖 Explain to consumers, families, carers and supporters that they have a right to ask for changes to their health information record. For example, to ask for information to be clarified or corrected.
- 📖 If a request is refused, give written reasons to the person who made the request and inform them that they can make a Health Information Statement (HIS) (s 739).
- 📖 Place a HIS that relates to a refused request to amend or correct a record on the person's health information record (s 740(3)).

Good practices may include:

- Wherever possible, work with the person to agree on terms and descriptions used in clinical notes. For example, co-write notes, read back notes and invite feedback, or create opportunities to review notes (where possible) and ask for changes at the next contact. If there is no agreement, document the person's perspectives, including direct quotes if possible.
- Help a person to make a HIS. For example, by providing links to the Mental Health and Wellbeing Act 2022 Handbook, including the template for consumers to make a HIS (*Department of Health 2023c*).

Promote and protect dignity

Requirements include:

- 📖 Ensure people receiving inpatient treatment have adequate access to facilities and supplies - for example, bedding, clothing, food and water, including when subject to a restrictive intervention (s 136) or treatment in a more restrictive environment.

Good practices may include:

- Ensure that people do **not** have to repeatedly talk about their trauma to understand what is important to them. For example:
  - ask what a person needs to feel safe and dignified, document these, and reassure them that they do not need to explain why they need those things
  - check if the person has an advance statement of preferences or if a nominated support person can share information about the person's preferences
  - with consent, seek information from family, carers and supporters about what will help the person feel dignified and safe
  - review clinical notes to understand what information may have previously been shared
  - ensure relevant information is shared in handover/transfers of care
  - check medical records for information. When care is transferred or handed over to someone else, share all relevant details to ensure the person does not have to explain again.
- Uphold a person's right to privacy as far as possible. For example, in bed-based services:
  - ensure that people can lock their bedroom doors for privacy and safety
  - explain that night rounds will occur and ask people what they would like staff to do before entering a room to take observations. For example, knock, identify themselves and wait a reasonable time for a response before entering.
- Show and promote respect for a person's sexual and gender identity and cultural needs. For example, respect pronouns and names, tell people about and help them to access prayer rooms, be mindful of intersecting cultural and gender needs, such as in relation to access in a women's only area or preference for staff of a particular gender.

- Support consumers in bed-based services to access comforts from home such as clothing, books, personal blankets or cushions, art and craft materials.
- Give consumers in bed-based settings a clear orientation to the service and surroundings, to promote comfort and increase confidence.
- Give consumers clear information about the treatment and support options available to them including advice about the lived and living experience workforce.

Minimise searches of persons and belongings

Requirements include:

- Follow the Chief Psychiatrist's guidance *Criteria for searches to maintain safety on an inpatient unit - for patients, visitors and staff* (Department of Health, 2014). In making decisions about whether a search is required and how it is conducted, ensure human rights and the principles are given proper consideration at all points (for example, consider trauma, gender and cultural safety, and how people's intersecting identities, experiences and needs may impact their experience of a search).
- Provide appropriate supports (see above).

Good practices may include:

- Provide secure locked boxes for consumers, carers, families, supporters and kin to store their items, to minimise the need for searches of belongings.

Tips for talking about rights, dignity and autonomy

- **Be mindful that** the person may not have received, or may not remember, information about their rights
- Keep **checking in** about whether the person would like to talk about rights or get help to exercise them
- Consider the **environment** and what the person's verbal and non-verbal communication is showing when having these discussions - for example, is the environment private? Noisy/ overstimulating? Restrictive? What do the person's words or body language say about whether they are feeling safe or unsafe?

6. How might **services reflect** on practice?

- What assumptions might we be making about the consumers, families and carers we work with?
- How might these be influencing our actions?

Rights

- How do we know if a consumer understands their rights?
- How do we make sure we give the correct statement of rights and explain it in ways that the consumer and their support people understand?
- How do we ask what appropriate supports would help the consumer to understand information and communicate decisions? For example, plain language rights statements, access to interpreters, engaging support people in discussions about rights, using visual aids and considering time of day.

Dignity

- Does <insert action to consider> uphold the person's dignity? If not, how could we approach things differently so that our actions do uphold the person's dignity?
- How do we talk to consumers about their individual needs and what will help them to feel safe and respected? For example, environment, supports, personal comforts, communication needs and preferences.
- How do we ask for feedback about how we can improve people's experiences?
- How can we make, or advocate for changes that consumers identify?

Autonomy

- How do we know, share and respond to what is important to the consumers we work with?
- How do we use decision making supports and, with consumer consent, engage family, carers, supporters and kin, to promote a consumer's right to make as many decisions as possible?

7. **Scenario:** providing appropriate supports[6]

What happened?

Ali, a young man of Iranian background, was admitted to an inpatient unit. Ali was a long-term consumer of the service and he knew the service, staff and other consumers. Ali's mum, Zahra, and dad both came with him when he was admitted.

Ali understood the admission process well. Staff knew Ali well and knew that he did not need an interpreter, but they had not met his parents before. However, his parents were less confident with English. Before staff could check whether an interpreter was needed, Zahra became distressed because she could not understand what was happening. Staff confirmed with Ali and his parents if Farsi was the primary language spoken in their family.

What actions did the service take?

Staff checked Ali's preferences about how his parents might be involved in his care and what information he was happy to share. Staff called the Telephone Interpreting Service (TIS) to arrange for a Farsi interpreter. They explained the interpreter would keep confidentiality and that the service could book an interpreter anytime Ali's parents wanted to speak with the treating team. The initial focus of the first call was to explain why Ali was coming to hospital, what the initial care and treatment plan was, and that family is always welcome to visit Ali and be included in care and treatment discussions, if Ali agreed. Having an interpreter helped Zahra and Ali's father be involved in his admission and contribute to his care and treatment. They also received the information that they needed to be able to support him.

Reflections from Commission lived and living experience staff

Having an interpreter for the family showed respect for Ali's needs - he should have the right to have his family involved if he chooses to, and shouldn't be asked to interpret for his parents, especially when he is unwell - and respect for his family's right to receive information in ways they understand.

Which other principles were engaged?

Mental health and wellbeing principles: family and carers, diversity

How would you approach this situation?

What might you do differently?

8. Where can I find **more information?**

Department of Health (2014) *Criteria for searches to maintain safety on an inpatient unit - for patients, visitors and staff* https://www.health.vic.gov.au/chief-psychiatrist-guidelines/criteria-for-searches-to-maintain-safety-in-an-inpatient-unit

IMHA website - what are my rights?
https://www.imha.vic.gov.au/what-are-my-rights

Mental Health Tribunal website
https://www.mht.vic.gov.au/

Mental Health Legal Centre website
https://mhlc.org.au/

Tandem - Your rights
https://tandemcarers.org.au

Victoria Legal Aid website
https://www.legalaid.vic.gov.au/

Victorian Aboriginal Legal Service website
https://www.vals.org.au/

Victorian Mental Illness Awareness Council website
https://www.vmiac.org.au/

---

[6] Note: The scenarios in this guidance are adapted from real examples. These simple scenarios focus on the application of one principle and are intended to show that applying the principles is not always complicated. Scenarios that address the principles in more complex situations and ways are available in implementation resources on the Commission's website.