MHCC MENTAL HEALTH COMPLAINTS COMMISSIONER

Mental Health
Complaints Commissioner

# Annual Report 2020/21

Driven by lived experience

**This report can be downloaded from the Mental Health Complaints Commissioner (MHCC) website at mhcc.vic.gov.au/annual-reports**


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

Phone: 1800 246 054 (free call from landlines)
or (03) 9032 3328]

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

mhcc.vic.gov.au

twitter.com/MentalHealthCC

facebook.com/mentalhealthcomplaintscommissioner

instagram.com/mhcc_vic

linkedin.com/company/mental-health-complaints-commissioner



This document is available in PDF and RTF formats on our website.
To receive a hard copy version of this publication please email:
**info@mhcc.vic.gov.au** or call **1800 246 054**.

Authorised and published by the Victorian Government

## The Mental Health Complaints Commissioner (MHCC) is an independent specialist body established under the Victorian Mental Health Act 2014.

**Like all Victorian public mental health services that operate under the Act, we must uphold its mental health principles at all times. Our staff safeguard people's rights, resolve complaints and recommend service and system improvements. The MHCC is driven by the voice, expertise and wisdom of people with lived experience of emotional distress, trauma, neurodiversity or mental health challenges and families and carers. We honour and respect this in all our work.**

**We acknowledge the Wurundjeri People of the Kulin nation as the Traditional Owners/Custodians of the land on which we conduct our business. We recognise their continuing connection to land, water and community. We pay our respect to Elders past, present and the emerging leaders of the future.**

9 September 2021

The Hon James Merlino, MP
Minister for Mental Health
Level 3, 1 Treasury Place
East Melbourne  VIC  3002

Dear Minister,

I am pleased to provide you with the Mental Health Complaints Commissioner Annual Report for the financial year 2020-21.

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

Yours sincerely

**Treasure Jennings**
**Mental Health Complaints Commissioner**

570 Bourke Street
Naarm / Melbourne Vic 3000
Phone 1800 677 342
Web: mhcc.vic.gov.au

# Contents

# Foreword

## Message from the Commissioner

**It is with great pleasure that I present my first report as Victoria's Mental Health Complaints Commissioner and it is a privilege to be appointed to this role. This year has been one of significant changes, challenges and perhaps hope for people with mental health issues, their families and carers, and those providing mental health services.**

The impact of the extended and numerous lockdown periods in Victoria throughout this year cannot be overlooked, with many consumers reaching out to my office expressing distress and seeking clarification of their rights, particularly early on during Victoria's protracted lockdown in 2020.

More information about the complaints and queries we received in relation to COVID-19 can be found on **page 24** of this report. What is clear is that almost everyone's mental health has been adversely affected by the impacts of ongoing lockdowns. For example, reports produced by the Commissioner for Children and Young People show significant increases in numbers of young people surveyed who reported feeling bad or terrible as the pandemic rolls on.

The toll on health workers is also well documented, and in my discussions with services I often hear clinical staff talking of being overwhelmed and experiencing feelings of burn-out. In my dual role as Disability Services Commissioner, I am similarly aware of concerns over isolation, and the emotional impact of services being withdrawn or suspended in lockdown. Never has a robust and well-funded mental health system been so important, and I welcome the State Government's commitment of $3.8 billion over four years to improving mental health care in Victoria.

In March this year we saw the release of the final report from the Royal Commission into Victoria's Mental Health System. As I reflect on the experiences of many with the current system, and the aspirations of the Commission's report, I believe that inclusive leadership in services is

as important as strong governance in developing a system that promotes decency and humanity, as well as rights. I welcome the recommendations which facilitate further inclusion, leadership and codesign of services with and by people with lived experience of mental illness or psychological distress. I am particularly pleased the proposed new Mental Health and Wellbeing Commission will include at least one Commissioner with lived experience of mental illness or psychological distress, and one who has lived experience as a family member or carer. More information about the Royal Commission is available on **page 37** of this report.

The MHCC has adopted the principles of inclusion and embedded the voice of lived experience through the development of the MHCC 'Driven by Lived Experience' framework and strategy, which was initiated by my predecessor and launched by me in October 2020. This framework and strategy is the outcome of a project led by our Senior Advisor, Lived Experience and Education. Guided by principles of co-production, the project involved extensive research and collaboration with MHCC staff, Advisory Council members and others. Greater detail can be found on pages 33–35 of this report.

Similarly, I welcome the proposed role of the new Mental Health and Wellbeing Commission in the development and promotion of anti-stigma programs, along with the commitment that the new Mental Health and Wellbeing Act will seek to simplify the use of compulsory treatment and diminish restrictive practices so that they no longer define mental health laws and treatment in Victoria.

This report has been designed around the theme of listening and learning and is also the strategic focus of the MHCC for the year ahead. Complaints don't just tell us about what went wrong, they also give us an opportunity to learn, change and re-establish relationships. Making a complaint takes courage and often requires consumers to re-live traumatic experiences. I thank all those who have contacted the MHCC this year and it is our commitment to ensure these complaints drive improvement and promote change.

Complaints to my office this year have been consistent with previous years and the predominant driver of complaints relates to a disagreement with treatment orders, and people not feeling that their views and preferences have been heard. This year we received more complaints relating to inadequate, incomplete or confusing information being provided to consumers (285), and 252 related to the inadequate consideration of the views and preferences of compulsory patients. There were also 84 complaints raising issues relating to restrictive interventions. Although many services are working hard to reduce seclusion and bodily restraint and are already making significant changes to their culture and approach, the stories contained in this report highlight there is still a lot of work to be done.

I thank the Minister for Mental Health, the Hon James Merlino, MP, as well as the members of the MHCC Lived Experience Advisory Council for their continued support of the work of this office. I also want to acknowledge the clinical and other staff at public mental health services and the Department of Health who consistently work in a collaborative and professional manner to resolve complaints.

Finally, I want to thank the MHCC team, for their continued high standard of work and ongoing care of, and commitment to, people with mental health issues, their families, and carers. Operating the office remotely is extremely challenging and the largely seamless way the MHCC has functioned this year is testament to their professionalism, integrity, and strong sense of purpose.

**Treasure Jennings**
Mental Health Complaints Commissioner

# Complaints

## Our role

**The MHCC was created under the *Mental Health Act 2014* (the Act) as an independent body to safeguard rights, resolve complaints and recommend improvements to Victorian public mental health services. The MHCC encourages people to speak up about their experiences, knowing that doing so can influence real and positive change.**

A fundamental objective of the Act is 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.

In addition to working to resolve complaints, the MHCC has broad functions under the Act to:

- identify and review quality, safety and other issues arising out of complaints
- formally investigate matters involving risk and safeguarding concerns
- provide advice and make recommendations for service and system improvements.

The MHCC can also request legal undertakings from Victorian public mental health services to take actions to address identified breaches of the Act or other serious concerns, and issue compliance notices if they do not. The MHCC also makes recommendations about systemic issues to the Department of Health, Chief Psychiatrist and other bodies including Safer Care Victoria.

The MHCC aims to be accessible to all Victorians so that everyone feels confident to raise their concerns and knows that they will be listened to. People's courage in speaking up about their experiences enables us to share the themes in people's experiences to support the reform efforts that are underway in our mental health system.

Our complaints resolution, strategic projects, education, engagement and local complaints reporting activities all aim to support positive complaints cultures in mental health services,

**The MHCC's vision is a public mental health 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.**

where people feel listened to and supported to raise their concerns, and where services respond effectively to complaints and make improvements where needed.

# Peoples' experiences

Listening carefully to the experiences of everyone who contacts the MHCC is vital. The MHCC learns everyday from what people tell us in their complaints, and we are driven by lived experiences in the approaches we take to resolving complaints.

The MHCC acknowledges the courage involved in speaking up, and are conscious of ensuring that our work to improve practice is directly informed by the experiences and concerns people raise.

Consistent with our functions under the Act, we endeavour to resolve complaints in a timely manner using both formal and informal dispute resolution. Over 2020-21, the MHCC has adapted our complaints team structure to make sure we are able to respond in a timely way to the high volume of complaints we receive.

In addition to engaging in informal resolution of verbal complaints, we have also embedded an early resolution model for written complaints, with a specialised team seeking to resolve as many written complaints as possible within the first 20 business days.

The MHCC has also more clearly defined our approach to formal resolution of written complaints and developed more flexible and streamlined ways of progressing complaints to resolution, such as using teleconferences to seek information from services and to work with them to respond to people's concerns. We also encourage and support parties to meet directly so their experiences are heard and acknowledged, communication improves and relationships are restored. Both the people who made complaints and services have given us positive feedback about these approaches to resolving complaints.

Various complaint resolution outcomes have been achieved as part of the MHCC's work, including services providing explanations, acknowledgments and apologies, the development of communication plans, the review and updating of treatment and care plans, services incorporating people's experiences into their staff training and service improvements. We acknowledge and thank services for their willingness to reflect on and take active steps to resolve complaints.

## Overview of complaints to the MHCC

Some data, including whether approaches are complaints or enquiries, are in or out of scope, issues data, service provider, program or type, and closure reasons, outcomes or actions, may be subject to minor changes due to receipt of further information after 30 June 2021.

The number of contacts coming into the MHCC has continued to increase each year since the establishment of MHCC in 2014, In 2020–21 the MHCC received 2,530 new enquiries and complaints. This is an increase of seven per cent from last year:

**2,286 complaints**

**244 enquiries**

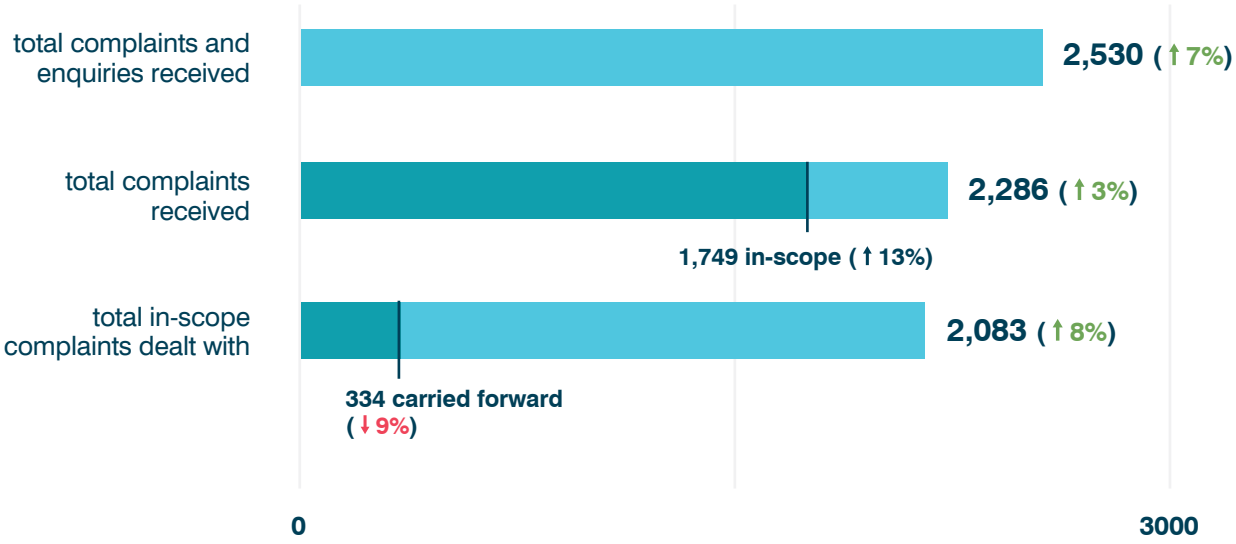
**7% increase**

Of the 2,286 complaints received this year, 1,749 (or 77 per cent) were about people's experiences in Victorian public mental health services that were within the jurisdiction of the MHCC (known as in-scope complaints). See Figure 1 below. The MHCC also received a high number of complaints that were not about a public mental health service, consistent with previous years.

These were most commonly about general health services, private mental health practitioners, or mental health services in other jurisdictions. When we receive these complaints, we support people to contact the most appropriate body to help them with their concerns.

The continued high number of these complaints may be partly a consequence of the Royal Commission into Victoria's Mental Health System, which has prompted people to raise concerns about their experiences with the broader mental health system.

## Figure 1: Breakdown of all complaints and in-scope complaints in 2020–2021




### Definition of enquiry

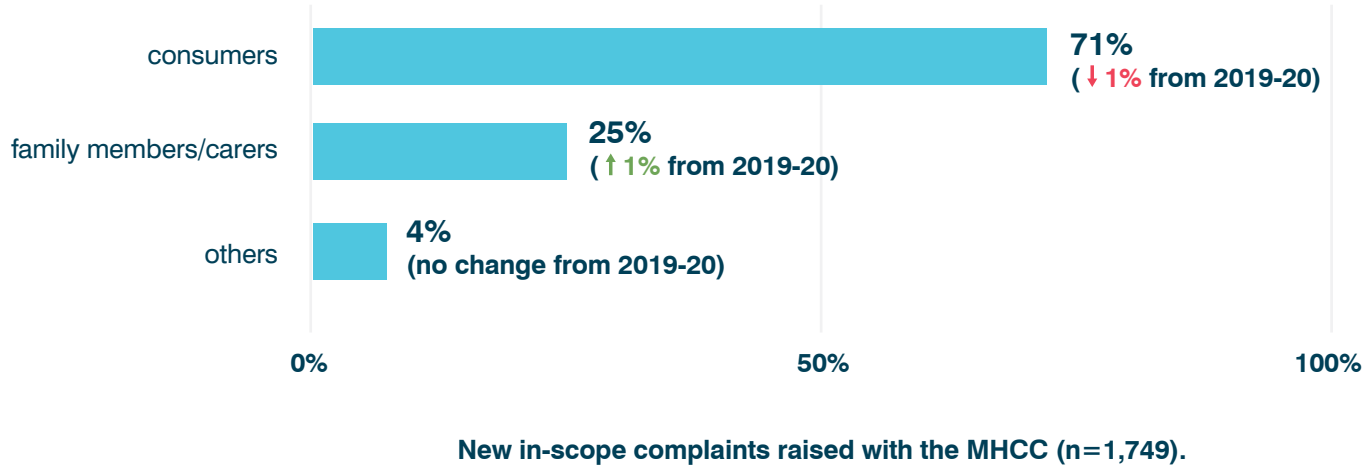
An enquiry is a request for information, advice or assistance. Enquiries to the MHCC can include requests for information about accessing services or how to make a complaint.

### Definition of complaint

A complaint is an expression of dissatisfaction about a service for which a response or resolution is explicitly or implicitly expected from the MHCC or is legally required (based on Australian Standard AS/NZS 10002:2018). Complaints can be 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.

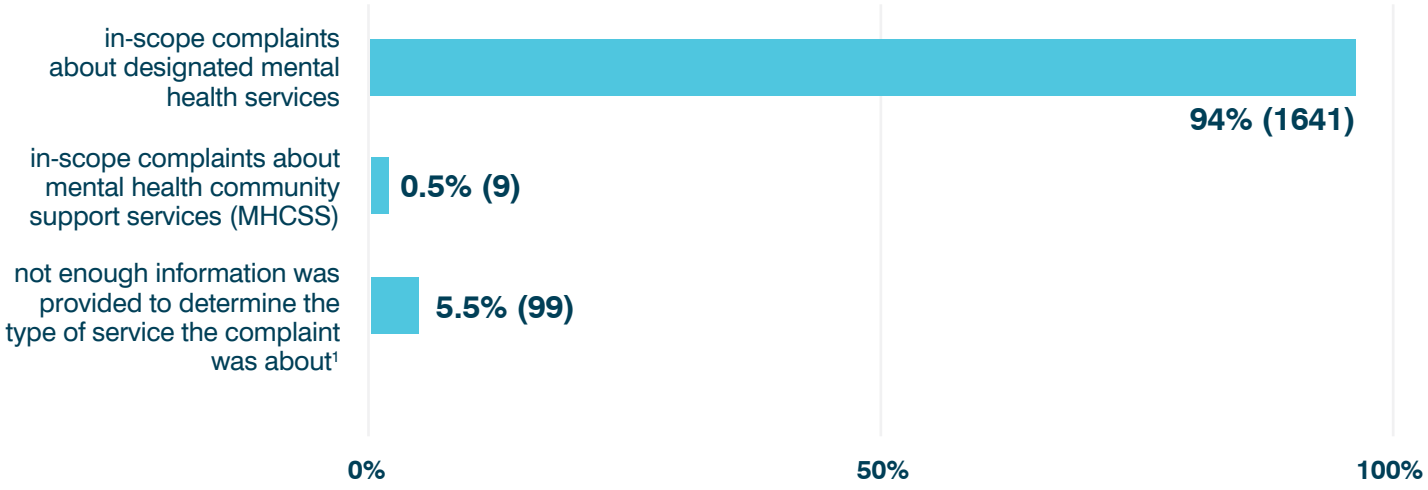
## Figure 2: Who made complaints to the MHCC?

This shows who made in-scope complaints to the MHCC. In 2020-2021, 1,241 of the people who contacted us had received services themselves (consumers). 430 people who contacted us were family members or support people and 78 were friends, advocates, lawyers, or service staff.




**New in-scope complaints raised with the MHCC (n=1,749).**

## Figure 3: What type of services were complaints about?




1 Due to COVID-19 the MHCC has operated on a call back system. In some instances we are unable to make contact with the person to clarify their complaint.

Similar to the previous year, we received a significantly higher proportion of complaints about designated mental health services. This is likely due to the much higher numbers of people who access designated mental health services than Mental Health Community Support Services (MHCSS) and the distressing experiences people can have when being treated on a compulsory basis, which only occurs in designated mental health services.

The MHCC's jurisdiction to deal with complaints about MHCSS services also reduced from 1 July 2019 when responsibility for complaints about NDIS-funded supports was transferred to the NDIS Quality and Safeguards Commission. This resulted in a decrease in the proportion of complaints about MHCSS services when compared to 2018–19 data.

## How many complaints were made about different mental health service programs and settings?

Of the 1,283 in-scope complaints made to our office in 2020-21 about designated mental health services where a service program was identified[2]:

**60%** **of these complaints were about inpatient mental health settings, including acute mental health inpatient units, secure extended care units and inpatient forensic units**

**28%** **were about community mental health settings, including community treatment teams**

**8%** **were about emergency mental health settings**

**3%** **were about mental health triage services**

**2%** **were about residential settings, including aged residential settings, community care units and Prevention and Recovery Centres**

Service setting data was also available for 1,283 in-scope complaints about designated mental health services:

**81%** **were about adult mental health services, including forensic services**

**3%** **were about aged persons mental health services**

**11%** **were about programs that provide services to people of all ages, including triage and emergency departments**

**6%** **were about child and youth mental health services (CYMHS) or child and adolescent mental health services (CAMHS)[3]**

2 It is not possible to identify a program type for all complaints. For example, sometimes this information is not provided and we are unable to make further contact with the person to confirm the details of their complaint, or the complaint relates to multiple service programs provided by a service

3 Percentages may not add up to 100 per cent due to rounding.

## What did people make complaints about?

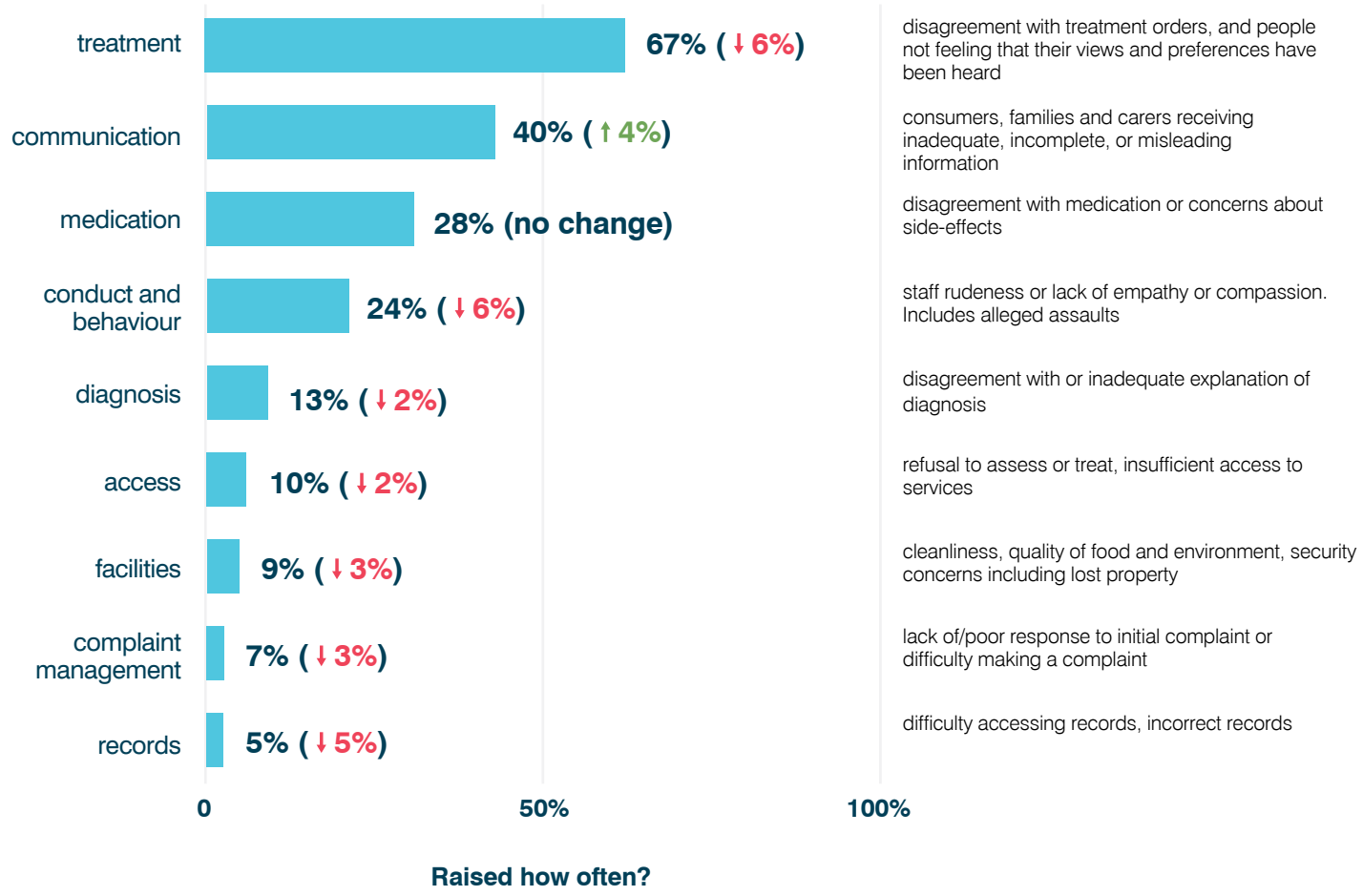
Complaints raised with our office are often complex and usually involve more than one issue. In this annual report, issues are recorded as the percentage of in-scope complaints about public mental health services in which they were raised.

The MHCC uses a three-level taxonomy to classify issues raised in complaints (details available at **mhcc.vic.gov.au/complaints-reporting-public-mental-health-services**):

- level 1 issues are high level issues designed to capture the broad themes behind complaints (e.g. treatment)
- level 2 breaks these issues down into more specific groups (e.g. responsiveness of staff)
- level 3 issues provide far more specific information about what a complaint is about (e.g. Inadequate consideration of views and preferences – compulsory patient).

The chart below shows the most frequently raised level 1 issues; whether they increased or decreased from the previous year; and the concerns they most commonly relate to.

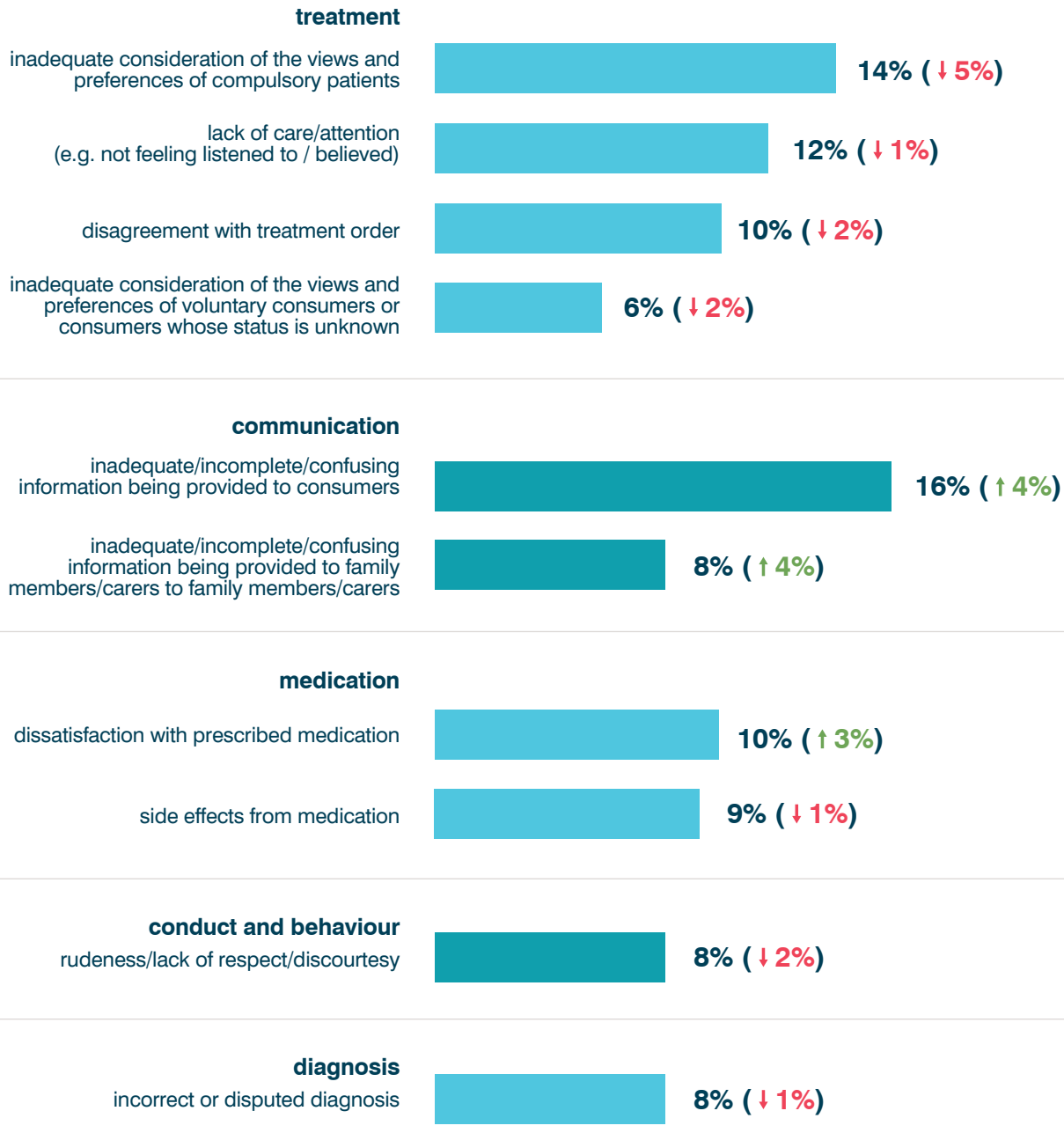
### Figure 4: Frequently raised level one issues



The recurring issues raised about treatment, communication, medication, conduct and behaviour are consistent with previous years. This indicates the need for services to continue to work on ways to support people 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, during what are often extremely difficult times in their lives.

The most common level 3 issues raised concerned themes of people feeling unheard or not supported to make and participate in treatment decisions. The figure below shows the ten most common individual/specific issues that people made complaints about this year and the increase or decrease from last year.

## Figure 5: What specific issues were raised in complaints in 2020-21?



The most frequently raised level 3 issue within in-scope complaints was inadequate, incomplete, or confusing information being provided to consumers. This may reflect some of the challenges and changes to work patterns of COVID-19.

Last year the most frequently raised specific issue was inadequate consideration of the views and preferences of compulsory patients, which has reduced from 19 per cent to 14 percent of complaints. The reasons for this decrease is unclear.

## Closure of complaints

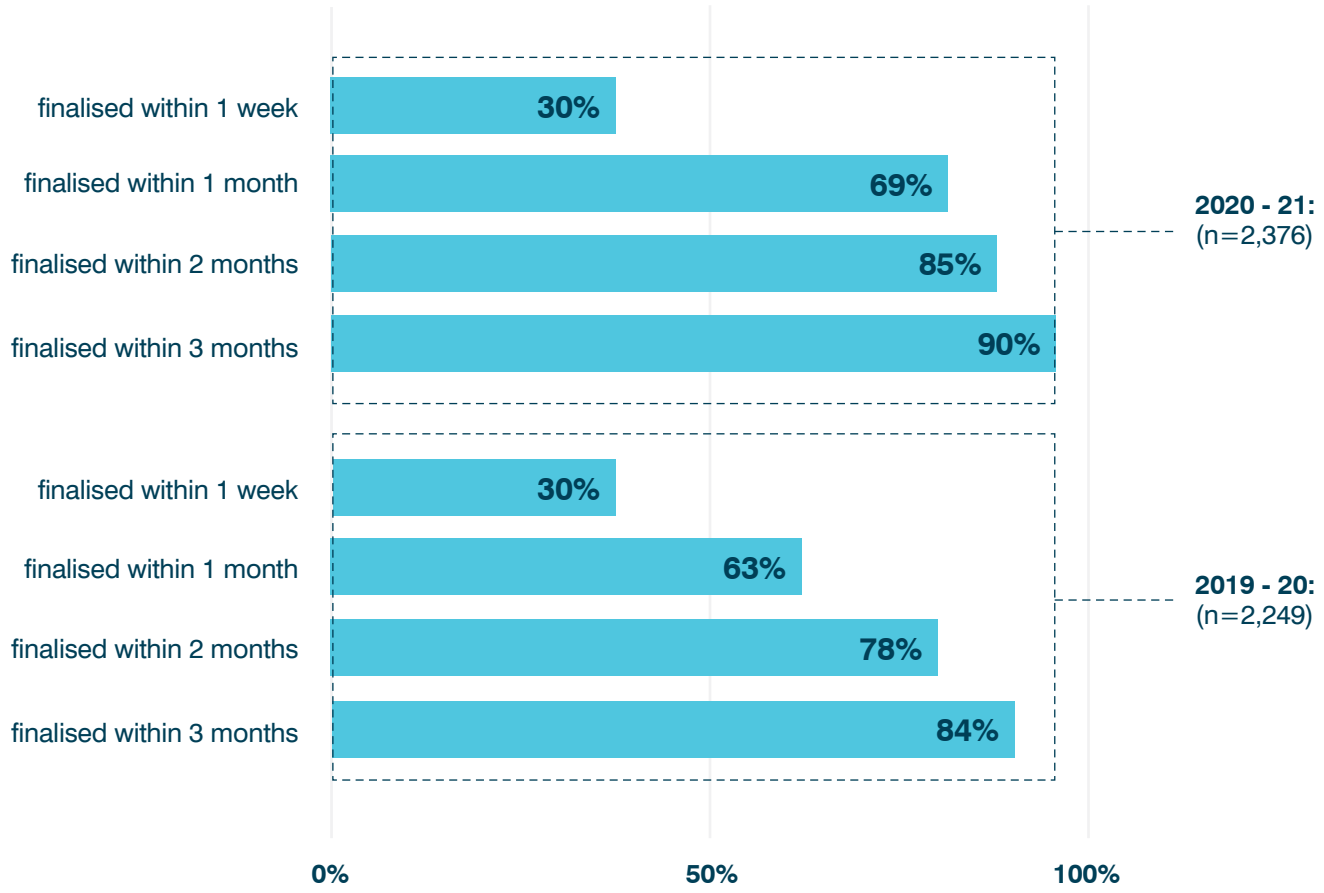
- in total, 2,624 complaints and enquires were closed by the MHCC in 2020-21
- this included 248 enquiries and 2,376 complaints, up from 2,249 complaints[4], or six per cent, from 2019-20
- of these 2,376 complaints, 1,833 were in-scope for the MHCC, up from 1,580, or 16 per cent, from 2019-20.

The main reason why complaints were out-of-scope for the MHCC was because the complaints were not about Victorian public mental health services.

In 2020-21, the MHCC closed more complaints earlier compared to 2019-20. We believe this is due to the implementation of a model that strengthens the focus on early resolution.

## Figure 6: How long did it take to finalise complaints?

This compares how long it took the MHCC to deal with complaints in 2020-21 to 2019–20.




**All complaints closed by the MHCC.**

4 Numbers of closed complaints for 2019-20 differ slightly in this report compared to the 2019-20 Annual Report, as data relating to these complaints has been updated since that report was produced.

## 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.

Of the 1,833 in-scope complaints closed this year, 1,238 (68 per cent) were assessed as resolution not applicable/possible, up from 757 (48 per cent) in 2019-20. The reasons for this increase were due to additional complaints where:

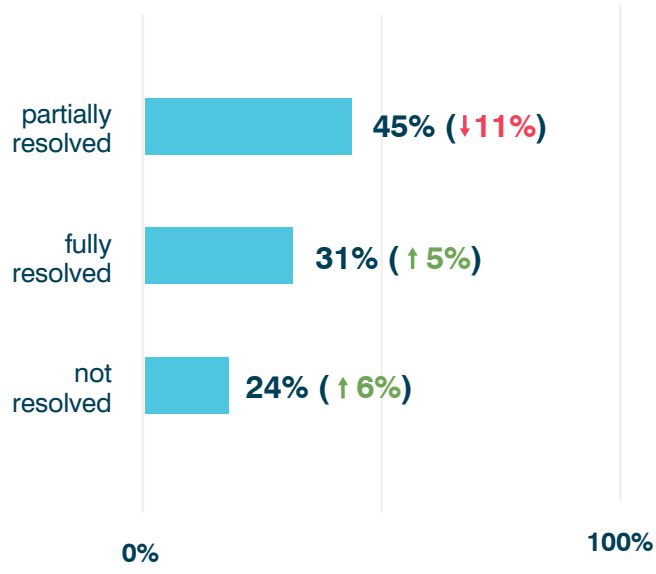
- the MHCC did not have consumer or complainant consent to proceed
- the complaint had been facilitated by the service provider, with the MHCC being unaware of the outcome
- the MHCC was unable to contact the person who made the complaint (likely impacted by our inability to take live phone calls during the pandemic, and having difficulty contacting people after they have left a message).

The proportion of complaints assessed as 'resolution not applicable' may also be slightly affected by changes to our recording practices last year to better reflect the requirement in the Act that advice from the consumer must be considered before deciding to close a complaint.

For example, where we have not been able to contact a consumer to seek their view about a service response, we now record these complaints as resolution not applicable rather than partially resolved.

The remaining 595 (32 per cent) of in-scope complaints were dealt with through assessment and resolution processes. This was down from 823 complaints, or 52 per cent of all in-scope complaints closed in 2019-20.

### Figure 7: How many complaints were resolved?




**In-scope complaints closed through detailed MHCC assessment and resolution processes (n=595) compared with last year**

## What does resolution mean?

### 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.

## What happened because people made complaints?

### The 4 As of complaints resolution

### 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 readily 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

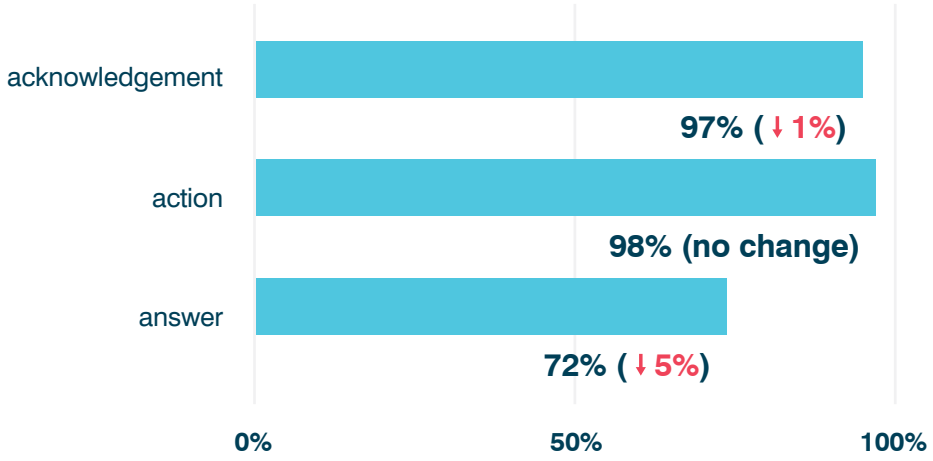
A meaningful apology usually involves acknowledgement, answers, and actions by a service and, where appropriate, can assist in a person's recovery and help to restore their confidence in the service provider.

The MHCC records outcomes in terms of the 4 As for outcomes achieved by the MHCC and outcomes achieved by services separately. Complaints can have more than one outcome.

Note: apologies for a person's experience with a service are made only by the service.

## Figure 8: What did the MHCC do when people made a complaint?

Actions undertaken by the MHCC were most commonly providing advice or suggestions on ways to resolve complaints, contacting the service for information or clarification, or facilitating the complaint to the service for follow-up. Answers provided by the MHCC included information about the MHCC's and services' complaint processes and about other bodies.



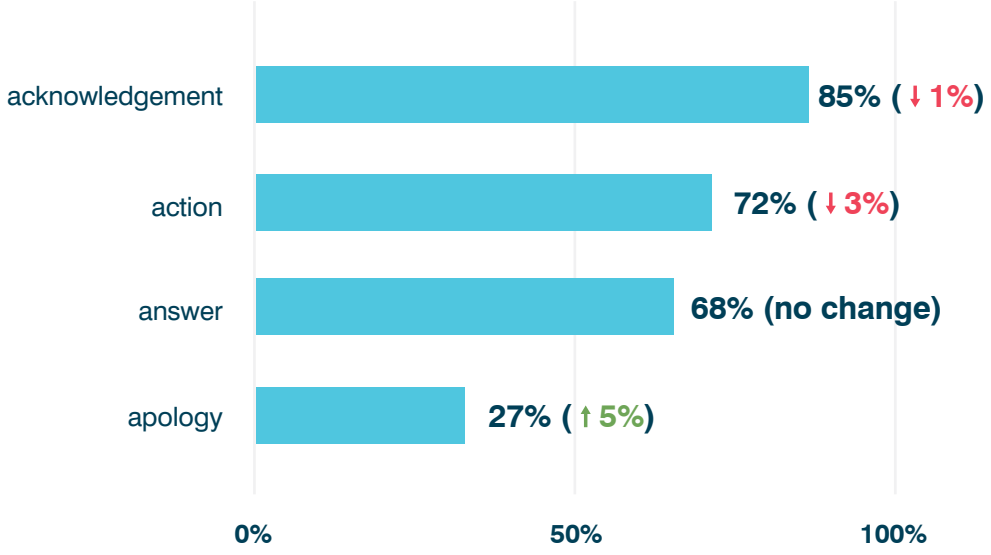

**In-scope complaints closed through detailed MHCC assessment and resolution processes (n=595) compared to last year**

## Figure 9: What did services do when people made a complaint?

Apologies and acknowledgements by mental health services are critical in building or restoring a person's relationship with their treating team and the service and can provide a foundation to work through other issues that may be affecting the person's treatment and recovery.

The most common actions taken by services to address individual concerns were:

- addressing communication issues and resolving misunderstandings between the person and service
- services changing the way support or a service was provided to the person
- services arranging a meeting with the consumer, their family or carer to discuss and attempt to resolve issues; and
- the service agreeing to respond to the complaint directly.




**In-scope complaints closed through detailed MHCC assessment and resolution processes (n=595) compared to last year**

## Recommendations and service improvements

This year, the MHCC made 80 formal recommendations to services and two recommendations to the Office of the Chief Psychiatrist or Department of Health in response to complaints and investigations. Services reported a total of 132 service improvements in response to complaints to the MHCC.

The number of recommendations made by the MHCC in response to complaints this year decreased slightly from the 121 recommendations made last year, and the number of service improvements reported by services was 16 fewer than the 148 service improvements reported last year.

**Figure 10: For recommendations made by the MHCC in 2020-21, recommendations were made to take the following actions compared to last year**

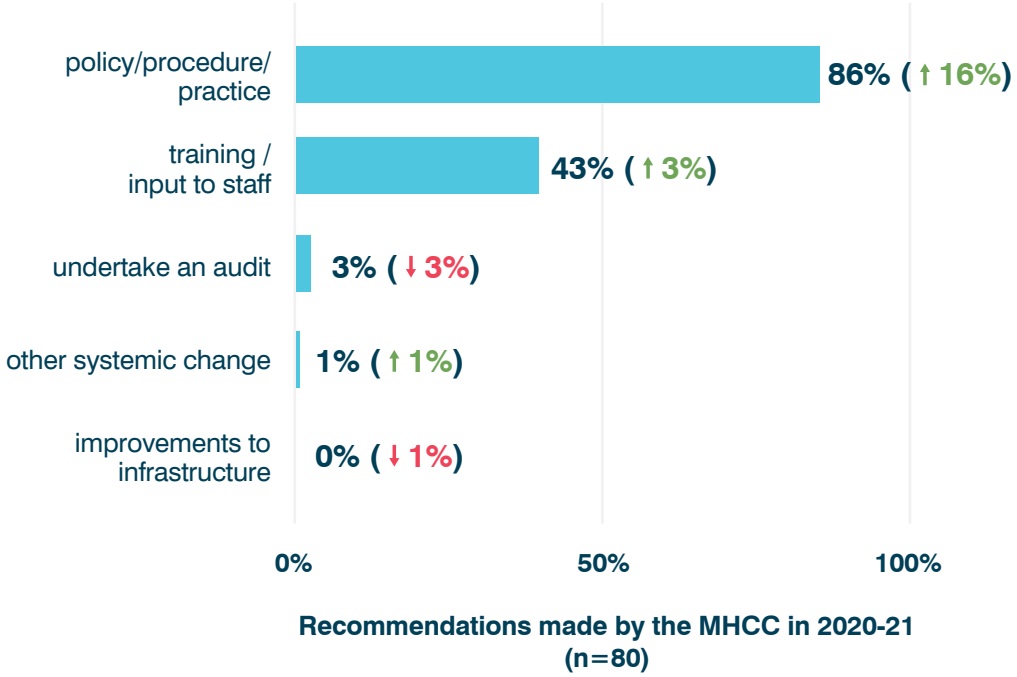
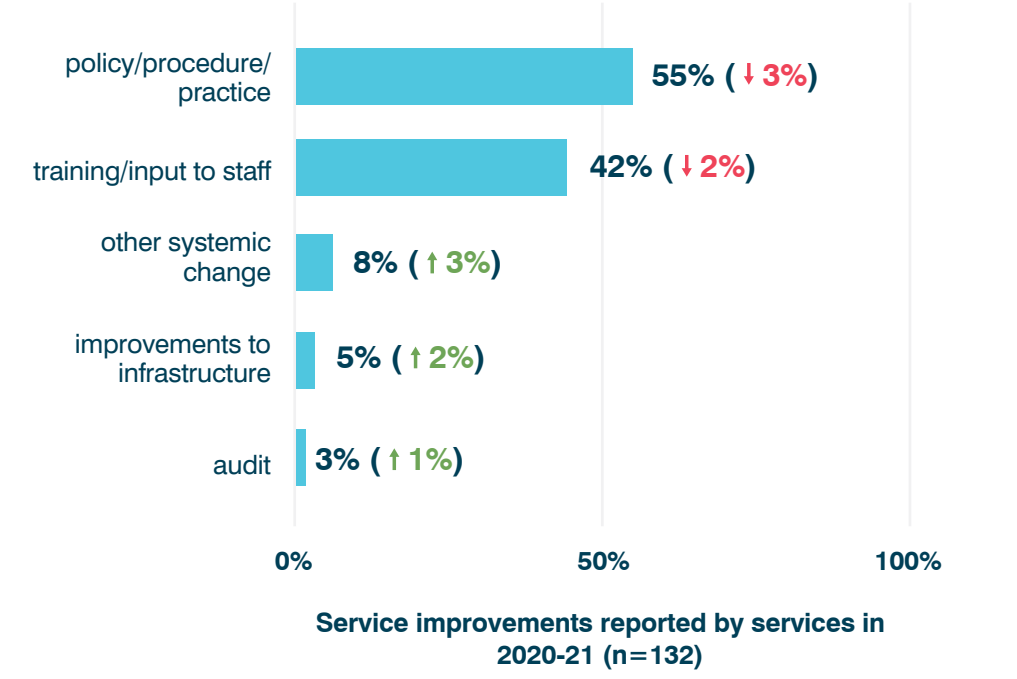



**Figure 11: For service improvements reported by services in 2020-21, the following actions were undertaken compared to last year**



The MHCC has also identified key themes, often relating to the principles set out in the *Mental Health Act 2014*, arising in recommendations and service improvements.

**Figure 12:**
**For recommendations made by the MHCC the following themes most commonly arose compared to last year**

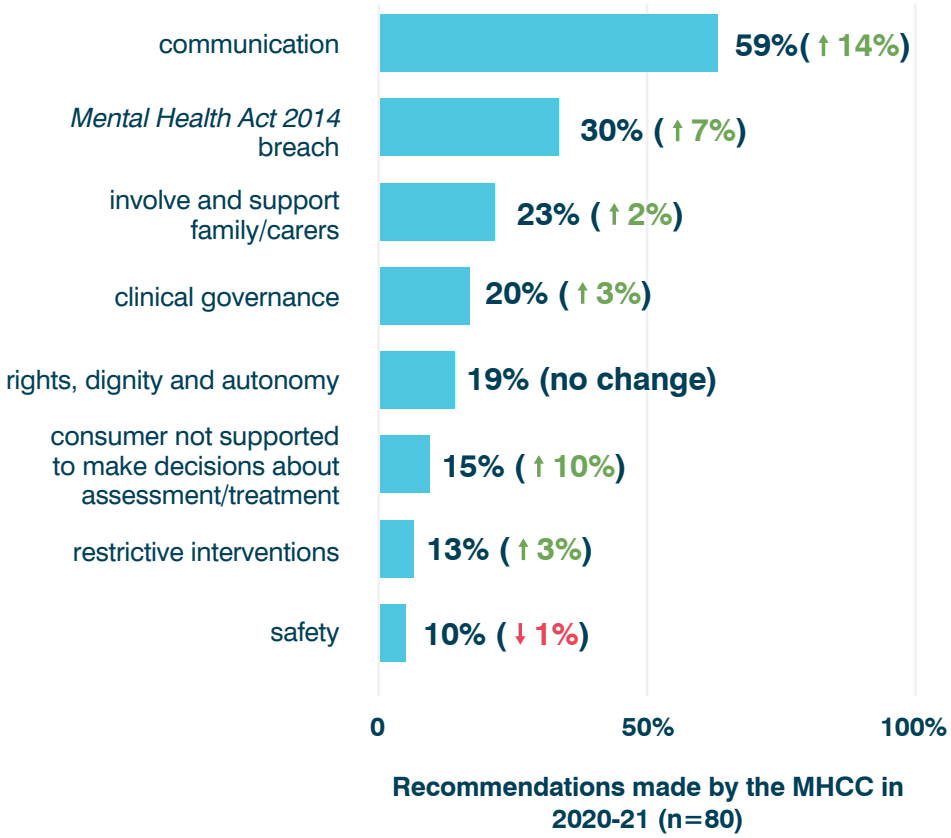
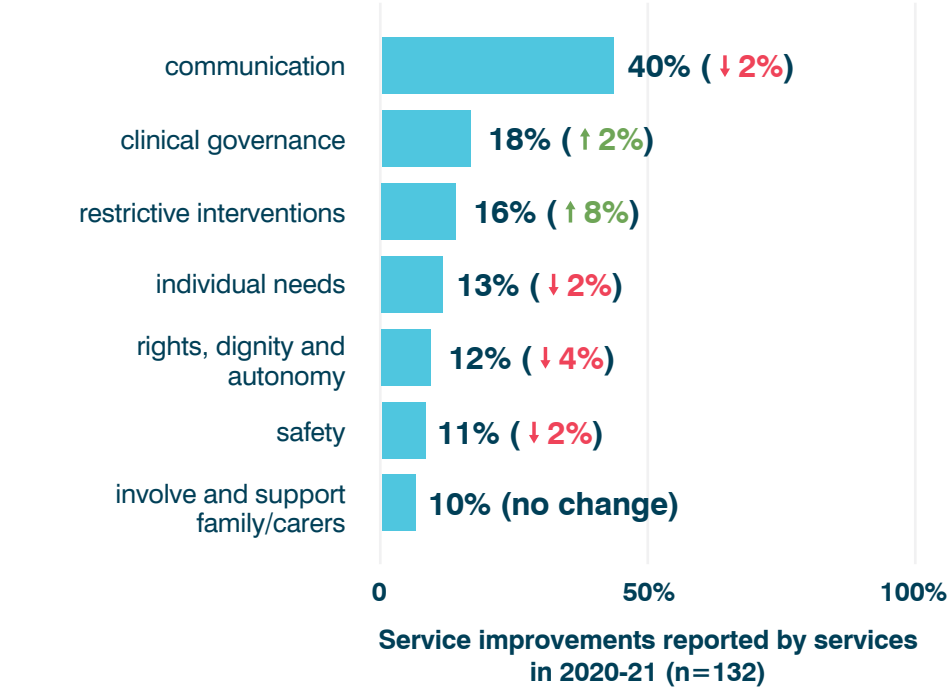



**Figure 13:**
**For service improvements reported by services in 2020-21, the following themes most commonly arose compared to last year**



## Systemic recommendations and improvements as a result of complaints

The MHCC, Department of Health and the Chief Psychiatrist continue to work collaboratively to identify and respond to systemic issues that appear in complaints. In 2020-21, the MHCC made two recommendations to address systemic issues.

### Search of patients in inpatient units:

The MHCC recommended the Chief Psychiatrist's planned review of their guideline on "Criteria for searches to maintain safety in an inpatient unit" include a review of the adequacy of guidance about who can authorise a search involving the removal of clothing, when an emergency situation may exist, and the role of security guards in searches.

The department has advised that the MHCC recommendations will be considered as part of a review of both this criteria and the criteria for restrictive interventions in designated mental health services guidelines.

### Electro-convulsive treatment (ECT) in complex clinical scenarios:

The MHCC recommended that the Secretary and Chief Psychiatrist consider ways to address the gaps in safeguarding and oversight of decision-making about ECT in cases that sit outside existing clinical guidelines, standard practices and the statutory protections in the Act.

In addition, the MHCC recommended considering review of the Chief Psychiatrist's ECT guideline to provide greater guidance regarding the issues of consent in complex scenarios.

The department has advised that the Chief Psychiatrist's ECT guidelines will be amended to require services to consult with the Chief Psychiatrist, who will be advised by the ECT Committee, when managing complex clinical situations including situations that raise challenging ethico-legal considerations. The Committee's terms of reference will be amended to allow it to seek further expert advice as appropriate.

### The department also responded to the MHCC about recommendations made in 2019-20, advising that:

Jurisdictional and oversight issues: the Royal Commission into Victoria's Mental Health System and implementation of its recommendations will address issues that arise where health services that are not designated mental health services receive and treat consumers subject to a compulsory treatment order.

Restrictive interventions in emergency departments: the department has strengthened guidance about restrictive interventions for staff working in emergency departments including development of a guideline by Safer Care Victoria that includes guidance about the use of restrictive interventions under the Act in emergency department settings.

The department has also implemented the Safewards model of care in emergency departments, and the Chief Psychiatrist will prepare a formal advisory notice to services about the responsibilities of the authorised psychiatrist and the role of mental health/consultation liaison staff in providing oversight to the use of restrictive interventions across a service.

### Reviews of, and responses to, suicide attempts within inpatient units:

The Chief Psychiatrist will provide additional guidance to mental health services regarding their obligations to understand and manage risk in a Quality and Safety Bulletin, which was being finalised at the time of printing.

**The MHCC will continue to share what we learn from listening to and resolving complaints. We are working towards a reformed mental health system that promotes safety, quality, dignity, and human rights with the Department of Health, Chief Psychiatrist and Safer Care Victoria.**

# Local complaints reporting

Under the Act, all public mental health services must provide the MHCC with reports about complaints they receive directly. We use this data to produce further reports for clinical mental health services that compare numbers, themes and outcomes of complaints made to the MHCC and directly to the service with state-wide data.

The reports identify key themes and emerging issues across the mental health sector, and support services to identify their strengths and opportunities for improvement.

The reports also contain details about recommendations made by the MHCC to the service, and improvements reported by services.

Our reports for the three-year period 2017-18 to 2019-20 were provided to clinical mental health services in May 2021. In 2018-19 and 2019-20, they showed more complaints were made directly to services than to the MHCC.

This is a positive trend that suggests that consumers, family members and carers are feeling increasingly empowered to raise their concerns directly with services. The MHCC will continue to work with services to support the development of positive complaints cultures.

Complaints show a vital part of people's experiences with services, but they do not represent the entirety of people's experiences. This year for the first time the MHCC asked services to report the number of compliments they had received. This enabled comparison of the rates of compliments and complaints each service received per 1,000 consumers, giving a stronger sense of the service's overall feedback culture.

The MHCC will publish the state-wide complaints data charts and narrative for 2017-18 to 2019-20, including the comparative compliments and complaints charts, on our website in late 2021.

## Complaints process self-assessment tool

The MHCC also works with public mental health services to improve their own local complaints processes through advice, recommendations, education and other initiatives. To support this, the MHCC has started work with consumer expert Dean Kiley and other lived experience and service staff to develop a complaints self-assessment tool for services.

The tool will allow clinical and non-clinical staff in services, including lived experience staff, to examine all parts of their complaints process, share good practice examples, practices and ideas, and compare change and innovation over time and across the sector.

The tool will generate a customised report for each service, providing guidance, next steps, action plans and exemplars that will support continuous improvement.

By bringing together diverse experiences and voices from across the public mental health community to collaborate, the tool will help to develop more robust, transparent and compassionate local complaints processes. The MHCC hopes that the tool will strengthen trust and confidence in Victorian public mental health services, drive positive culture change, generate practicable outcomes, and empower consumers, carers, families, and supporters.

Complaint experience

# Alex – mechanical restraint

**Please note:** this complaint story includes an incident of mechanical restraint.

## What Alex told us

Alex contacted the MHCC about their experience of being mechanically restrained. Alex told us they were restrained in a position that caused them pain. Alex also said the staff did not reposition the restraints for several hours.

## Alex's rights

Restrictive interventions (restraint and seclusion) are regulated by Part 6 of the Act. They can only be used in limited circumstances. The Victorian Government shares a national commitment to the goal of eliminating restrictive interventions in mental health services.

During a restrictive intervention, a service must ensure that a person's needs are met, and the person's dignity is protected by the provision of appropriate facilities and supplies (s 106). If a registered medical practitioner or senior registered nurse has authorised the use of restraint, they must notify the authorised psychiatrist as soon as practicable (s 114). A person must also be examined at least every four hours by the authorised psychiatrist or a registered medical practitioner, as directed (s 116).

In addition, services must have regard to the mental health principles in the provision of mental health services. The following principles are of particular relevance to Alex's experience:

- 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 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

The MHCC sought a written response to the complaint from the service, requested documentation for review and met with senior service staff via teleconference.

The service reviewed Alex's experience and identified breaches of sections 114 and 116 of the Act. The breaches were referred to the service's Mortality and Morbidity Committee and an in-depth review was completed. The Office of the Chief Psychiatrist was also notified.

## Outcomes

The service made several service improvements, including introducing practice changes and training to ensure compliance with the Act, and providing guidance to staff about appropriate methods for the use of restraint.

We spoke to Alex regularly about the progress of the complaint. Alex was very pleased with the unreserved apology the service provided and with the improvements that were made.

Please note: names and any identifying details in this complaint experience story have been omitted or changed to protect the identity of those involved.

Complaint experience

# Charlie and Quinn – responding to individual needs

**Please note:** this complaint experience includes an experience of an eating disorder.

## What Charlie told us

Charlie is Quinn's carer. With Quinn's consent, Charlie made a complaint to the MHCC about their experiences with a service that treats body image and eating disorders. Quinn prefers a vegan diet for ethical reasons but the service viewed veganism as detrimental to recovery from an eating disorder. Charlie and Quinn felt the service's view of Quinn's diet was discriminatory.

## Quinns's rights

Victoria's *Mental Health Act 2014* (the Act) and its principles protect the rights of people who are receiving mental health treatment from a public mental health service. The principles most relevant to Quinn's situation are as follows:

- 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
- people receiving mental health services should have their rights, dignity and autonomy respected and promoted
- 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.

Quinn has the right to be involved in decisions about their care, and to have their autonomy respected and responded to.

## What we did

Service staff told Charlie they would respond through the service's local complaints process, and we asked for a copy of their response which:

- apologised for not meeting Quinn and Charlie's expectations
- talked about the challenges in ensuring an adequate number of calories, food variety or nutrition in a vegan diet and
- advised that work was underway to enable the service to offer a vegan meal-plan in some parts of the service.

We sought Charlie's feedback on the response and worked with the service on improvement opportunities.

## Outcomes

The MHCC acknowledged the service's work to develop a vegan meal plan that may be offered to consumers on an individualised basis in the future, and recommended that the service need to follow a trauma-informed approach to review its processes for vegan consumers.

Please note: names and any identifying details in this complaint experience story have been omitted or changed to protect the identity of those involved.

Complaint experience

# Jan and Elliot – dual diagnosis

**Please note:** this complaint experience includes substance use.

## What Jan told us

Jan made a complaint about the experiences of their adult child, Elliot. Elliot had presented to an Emergency Department but was not admitted and was instead referred for short term mental health support in the community. Jan was concerned this was because Elliot's issues were dismissed as 'drug-related'. Jan also raised broader concerns about how the mental health system manages people with drug and mental health problems (dual diagnosis).

## Elliot's rights

Under the Act, services must have regard to the mental health principles in the provision of mental health services. The following principles are of particular relevance to Elliot's experience:

- 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 have their medical and other health needs, including any alcohol and other drug problems, recognised and responded to (s 11(f)).

## What we did

The MHCC met with the service via teleconference to seek a response to the complaint.

The service explained that at the time of Elliot's presentation, Elliot did not want to be admitted, and the service assessed that they did not meet the criteria for compulsory treatment. The least restrictive option available was for Elliot to be treated in the community.

The service confirmed that they were aware of Elliot's dual diagnosis and had made a referral to a drug and alcohol counsellor. The service also provided information regarding their drug and alcohol services.

## Outcomes

As a result of this complaint, the service decided to introduce additional staff training in dual diagnosis. Jan was happy with this service improvement and with the explanations provided by the service.

The MHCC also informed Jan about the work of the Royal Commission into Victoria's mental health system and in particular, recommendations 35 and 36, which address care for people living with mental illness and substance abuse and addiction.

Please note: names and any identifying details in this complaint experience story have been omitted or changed to protect the identity of those involved.

# Responding to COVID-19

**The COVID-19 pandemic has affected all Victorians, with some members of our community experiencing more severe impacts than others. We recognise the increased impact of lockdowns and isolation on people with existing mental health challenges.**

During COVID-19, staff of public mental health services have faced unprecedented demand while also adjusting their practices to comply with government advice and ensure the safety and wellbeing of consumers, families, carers and their colleagues.

The MHCC have appreciated the willingness of staff at services to work collaboratively and flexibly in responding to complaints raised throughout the pandemic. However, despite these efforts, changes to service provision have been difficult for consumers over the last year, as have the restrictions in place within services to ensure they are COVID-safe.

# At the MHCC

Like services, the MHCC has also faced the challenge of providing a responsive and flexible service during this pandemic. Very early on, our staff began working from home, with telephone calls via a message service being used in place of live calls.

The MHCC has also made much greater use of videoconferencing for meetings. Despite efforts made to remain accessible, and to accommodate people's preferences, the MHCC acknowledge that being unable to take direct calls or meet in person has been challenging for many of the people who contact us.

This year more people contacted the MHCC to raise concerns or queries about their experiences with public mental health services than ever before. Last year, the MHCC introduced a new issue category to capture complaints about the impacts of COVID-19 restrictions in Victorian public mental health services.

This year the MHCC received 38 in-scope complaints relating to the impacts of COVID-19, compared to 50 in-scope complaints last year. This may be because services are more responsive to the issues that cause complaints during lockdowns and because consumer expectations are more embedded.

COVID-19 themes arising in these complaints included:

- inpatients/consumers in inpatient settings being restricted to their rooms
- restrictions on visitors to inpatient settings, e.g. IMHA advocates unable to visit inpatient settings and advocate for consumers in person
- concerns about lack of social distancing and mask wearing by other consumers in inpatient settings
- lack of access to leave or to attend external appointments
- lack of access to personal belongings
- being unable to leave inpatient settings to smoke
- lack of outdoor access in inpatient settings for non-smokers
- heightened risk of infection because of air conditioning systems
- staff not wearing a mask or gloves when visiting consumers at home
- staff not keeping telehealth appointments
- lack of information provided by services about COVID-19 testing
- COVID-19 testing of consumers not being undertaken prior to discharge
- discharges occurring in public settings such as hospital carparks, due to restrictions on inpatient settings
- the impacts of people experiencing untreated mental health difficulties during COVID-19 restrictions on their neighbours.

Where people raised these issues, the MHCC's practice was usually to contact the service to discuss the issues and request that they work with the person directly to try to resolve their immediate concerns. When we do this, we always invite a person to contact us again if their concerns are not resolved.

We acknowledge the challenging nature of people's experiences while accessing mental health treatment during times of restrictions and increased health protocols, making face-to-face services harder to deliver and access.

Complaint experience

# Rowan –
## COVID-19 and isolation requirements

**Please note:** this complaint experience includes an incident of isolation.

## What Rowan told us

Rowan made a complaint to the MHCC about their experience in an acute inpatient unit. On admission, Rowan was placed in isolation for the first 24 hours due to COVID-19. Rowan told the MHCC that the isolation was 'extremely distressing', and that staff were not helpful or supportive, and did not seem to have time to talk.

## Rowan's rights

The *Mental Health Act 2014* (the Act) protects the rights of people who are receiving mental health treatment from a public mental health service. The mental health principles of the Act relevant to Rowan's complaint say:

- 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 have their rights, dignity and autonomy respected and promoted (s 11(c)).

These principles and requirements of the Act need to be interpreted along with section 10 of the *Charter of Human Rights and Responsibilities Act 2006* (Vic). This says people cannot be treated or punished in a cruel, inhuman or degrading way.

## What we did

The MHCC acknowledged the impact Rowan's experience continued to have on them. We told Rowan we would seek a response from the service to their concerns, and work with both parties to try and resolve the issues.

Shortly afterwards, we met with senior hospital staff who acknowledged that isolation can be traumatic for many people and apologised for Rowan's distress. Staff then advised that they had reviewed and updated their policies and practices based on their feedback. For example, staff were checking in more proactively with people in isolation and offering more ways to communicate (including via iPad).

## Outcomes

Rowan was pleased with the outcome of the complaint. The service asked, and Rowan agreed, that the complaint could be used to improve others' experiences.

Please note: names and any identifying details in this complaint experience story have been omitted or changed to protect the identity of those involved.

# Education & engagement

**The MHCC has an education and engagement function under section 228 of the *Mental Health Act 2014*. 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.**

In 2020-21 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.

In 2020-21 we also regularly worked with individual services, including lived experience representatives, to support staff to respond effectively to complaints and make improvements where needed. Our submissions and consultations, in addition, were aimed at influencing systemic change.

In 2020-21 the MHCC:

- launched the MHCC's *Driven by lived experience framework and strategy* during Mental Health Week 2020-21
- launched our new website (www.mhcc.vic.gov.au)
- released regular e-bulletins and social media content across four platforms (Twitter, Facebook, Instagram and LinkedIn)
- presented at the TheMHS, 21st Victorian Collaborative Mental Health Nursing and other conferences
- contributed to policy and practice development through the Royal Commission into Victoria's Mental Health System and the department's Lived Experience Advisory Group, Complex Needs Expert Advisory Group and Sexual Safety Committee
- participated in the Victorian Law Reform Commission Roundtable on 'Improving the Response of the Justice System to Sexual Offences' (28 January 2020)
- made a submission to the Royal Commission into Aged Care Quality and Safety (July 2020)
- developed a response to the discussion paper for the Victorian LGBTIQ+ strategy (August 2020)
- contributed to the Chief Psychiatrist's Guideline on Sexual Safety in Mental Health Inpatient Units (25 August 2020)
- responded to questions in a consultation paper on health information sharing legislative reform (20 November 2020)
- made a submission on proposals for the Victorian duty of candour and open disclosure guidelines (March 2021).

**The MHCC has an education and engagement function under section 228 of the *Mental Health Act 2014*.**

# The Commissioner's listening tour

Truly listening to others gives the powerful message that we want to see the world through their eyes. It is crucial to establishing communication and creating productive relationships. Effective listening provides us with the information required to serve and influence people, and to meet their changing needs.

In her first year, the Commissioner faced the challenge of wanting to listen to and connect with the MHCC's stakeholders during a time when COVID-19 would only allow for limited face-to-face contact. However, online meetings had the advantage of the Commissioner being able to meet people in rural and regional Victoria, and interstate, in far greater numbers than before.

In her 2020-21 'listening tour' the Commissioner met with representatives from:

- every Victorian designated mental health service
- the Royal Australian and New Zealand College of Psychiatrists
- groups supporting people with lived experience, such as Victorian Mental Illness Awareness Council (VMIAC) and Tandem Carers
- advocacy bodies such as Independent Mental Health Advocacy (IMHA) and the Office of the Public Advocate
- representatives from the Royal Commission into Victoria's mental health system
- government including the Department of Health (including engagement around the implementation of Royal Commission recommendations), Department of Premier and Cabinet and the Federal Government, Mental Health Reform Victoria and the Chief Psychiatrist and Chief Mental Health Nurse
- other Victorian and Australian Commissioners, particularly mental health commissioners
- legal bodies such as the Victorian Mental Health Tribunal, Victoria Legal Aid and West Justice
- The Mental Health Services Learning Network (TheMHS) Learning Network and Melbourne and Swinburne universities.

The Commissioner asked people about their experiences and how the MHCC could best work with them. The Commissioner also wanted to know how the MHCC could support services to better manage their local complaints and be more accessible for everyone.

One common theme was that both services and the community value the work of the MHCC in resolving complaints and pressing for change. Services told us they particularly valued the ongoing commitment and support the MHCC provides for them in resolving complaints directly with consumers, and using a range of methods to resolve complaints and restore relationships.

# Website consultations

On 16 April 2021 the MHCC launched its new website: **www.mhcc.vic.gov.au**, the outcome of a six-month education and engagement project. The aim was to make our new website more accessible, easy to navigate and useful for Victorian mental health consumers, support people and mental health service staff.

The new website includes:

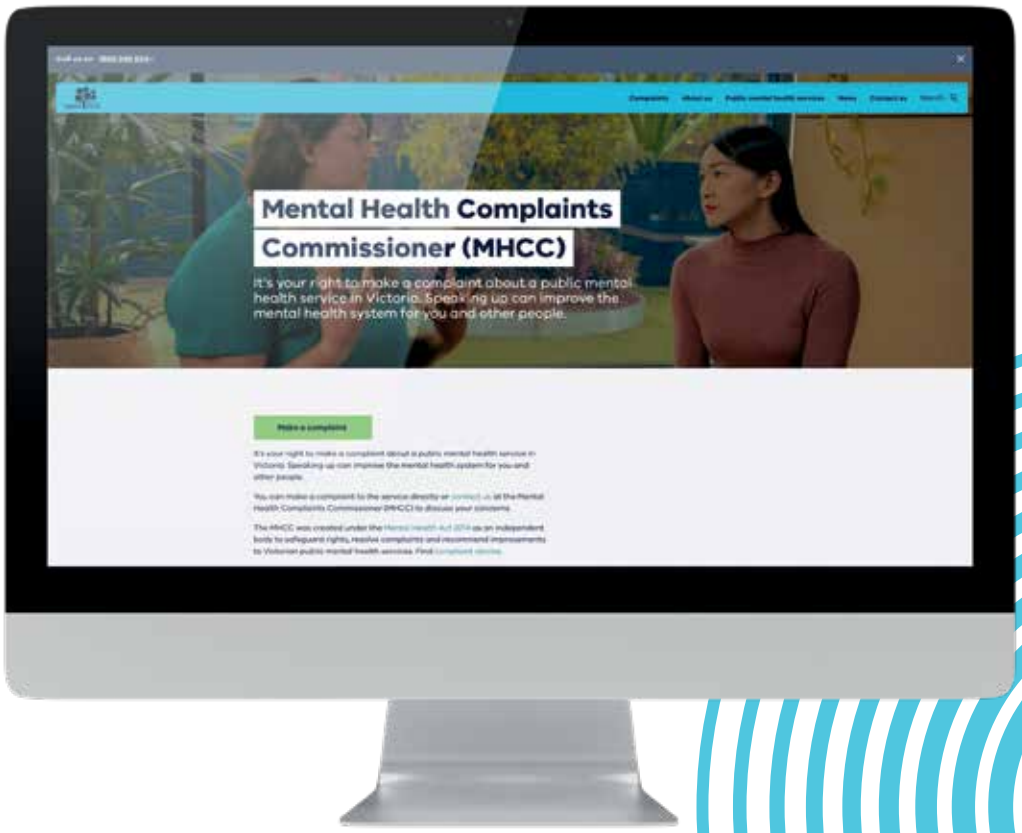
- easier design, language and functionality
- new imagery intended to reflect our diverse community
- up-to-date information on the MHCC
- clear information on our complaints approach, processes and outcomes
- several individual complaint experiences
- a section with resources and information for public mental health services.

The website reflects the findings of extensive consultation with our stakeholders. With COVID-19 not allowing face-to-face contact, we reached out to various organisations to discuss the best ways to hear from people with lived experience and service staff virtually. The result was two rounds of surveys, focus groups and interviews over three months with more than 150 people who identify as:

- consumers of public mental health services
- families, carers and support people
- staff of public mental health services
- Aboriginal and/or Torres Strait Islander
- LGBTIQ+
- people from culturally and linguistically diverse communities
- younger people or older people.

We also consulted the MHCC's Advisory Council and staff. Everyone participating was asked to think about their own experiences, look at the MHCC's website, then answer questions about their goals in visiting the MHCC website, the 'pain points' with the current website and the top things they would like to find in the new website.

A highlight of the MHCC's new website is the new images showing our diverse community, which were produced and selected with our Advisory Council's communications sub-group. The aim was for our images to reflect a diverse community, with people and groups being active in everyday scenarios. As the MHCC is driven by lived experience, we wanted all the images to feel natural, safe, relatable and positive for mental health consumers, families and carers.



# Lived experience

One of the MHCC's core principles is that:

**We are driven by the voice, collective experience and wisdom of consumers, families and carers. We honour and respect lived experience in all our work.**

The following are examples of how we put that principle into practice.

## Assistant Commissioner with lived experience

Having leaders with lived experience of mental health challenges and psychological distress is one way the MHCC ensures it is driven by lived experience.

In 2021 the MHCC welcomed back Maggie Toko, former CEO of VMIAC, and former MHCC Deputy Commissioner, in the newly-created role of Assistant Commissioner, Lived Experience and Engagement. Maggie will lead how we integrate the voice of lived experience of mental health challenges within the design and delivery of our work.

The role of Assistant Commissioner, Lived Experience and Engagement requires strong experience in the mental health sector, with a focus on human rights, human rights, recovery, and trauma informed care. Maggie's work will focus on engaging effectively with the MHCC's key stakeholders including consumer, carer and advocacy organisations, clinical directors and senior executives of public mental health services, the department and other statutory bodies. She will also focus on expanding our stakeholder education activities, including on good practice complaint handling, and how themes in complaints can inform changes to improve people's experiences in mental health services.

## Advisory Council

The MHCC's Advisory Council ensures all the MHCC's work is 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 is strongly committed to improving the mental health system for all. The Advisory Council use their expertise and experiences to give us strategic advice and collaborate on our work. For example, members offer their unique insights into mental health services, co-design and co-production, and cultural and practice change needed both within services and the MHCC.

In 2020-21, the MHCC farewelled some Advisory Council members. The MHCC thanks inaugural chair Dr Anthony Stratford and Hanna Jewell for their engagement, advice, and deep collaboration in driving the MHCC's strategic directions, projects and approaches.

After an extensive recruitment process, the MHCC recruited five new members and now has a full Advisory Council membership.

Existing members:

- Robyn Callaghan
- Katrina Clarke
- Dean Duncan
- Elvis Martin
- Annette Mercuri
- Gloria Sleaby
- Tom Wood (Chair)

The MHCC welcomed:

- Susie Alvarez-Vasquez
- Julie Dempsey
- Elizabeth Hooper
- Oliver Ryan
- Mary Tsiros.

See the MHCC website (**www.mhcc.vic.gov.au**) for more information about our Advisory Council.

The MHCC thanks Tom Wood who has chaired the Advisory Council during 2020-21. Tom created a welcoming space for new members and led the Council effectively through a period of change.

The MHCC has highly valued the way Tom has encouraged a reflective, curious and collaborative spirit both within the Advisory Council and with MHCC staff – from a lived experience perspective, he has challenged us and helped us grow.

# Message from the Advisory Council Chair

In 2020-21 members of the Advisory Council have provided a thorough and productive contribution to the MHCC. This has included finalising and advising on the implementation of the *Driven by Lived Experience Framework and Strategy*, developing the *Lived Experience Checklist* and advising on MHCC communications and consultations around Victoria's Mental Health and Wellbeing Act.

We have sought to ensure that there has been time in the Council meetings for members to share original thoughts and ideas, so that the MHCC is truly driven by the experiences and insights of its members. It was a privilege this year to learn from member Dean Duncan, a proud Kamilaroi man, on how to conduct a meaningful and respectful Acknowledgement of Country, which has inspired us to find out more about the Indigenous history of our local areas.

I would like to thank outgoing co-Chairs Dr Anthony Stratford and Dr Lynne Coulson Barr for their establishment and long-term leadership of the council, and recognise Anthony's significant contribution to the consumer movement. I'd also like to acknowledge outgoing member Hanna Jewell and recognise her contribution to the sector. Council members Robyn Callaghan, Dean Duncan, Katrina Clarke, Elvis Martin, Annette Mercuri and Gloria Sleaby have continued to make valuable contributions, and we welcomed new members Susie Alvarez-Vasquez, Julie Dempsey, Elizabeth Hooper, Oliver Ryan and Mary Tsiros.

I would like to welcome new Commissioner Treasure Jennings, thank her for continued support and new perspectives, and welcome (back) Assistant Commissioner Maggie Toko, whose leadership will be invaluable to the next chapter of the MHCC and Advisory Council.

Finally I'd like to thank all the of the MHCC staff who have collaborated with us, showing how much they value lived experience perspectives. In particular Senior Advisor Lived Experience & Engagement Emma Bohmer, for supporting the Advisory Council to function, and her passion and dedication to lived experience voices and projects.

With the passion and commitment from those with experiences of the system, the MHCC Advisory Council is well placed to provide a strong voice to the MHCC, to not just respond to complaints but work to improve the system in general.

**Tom Wood**
Chair

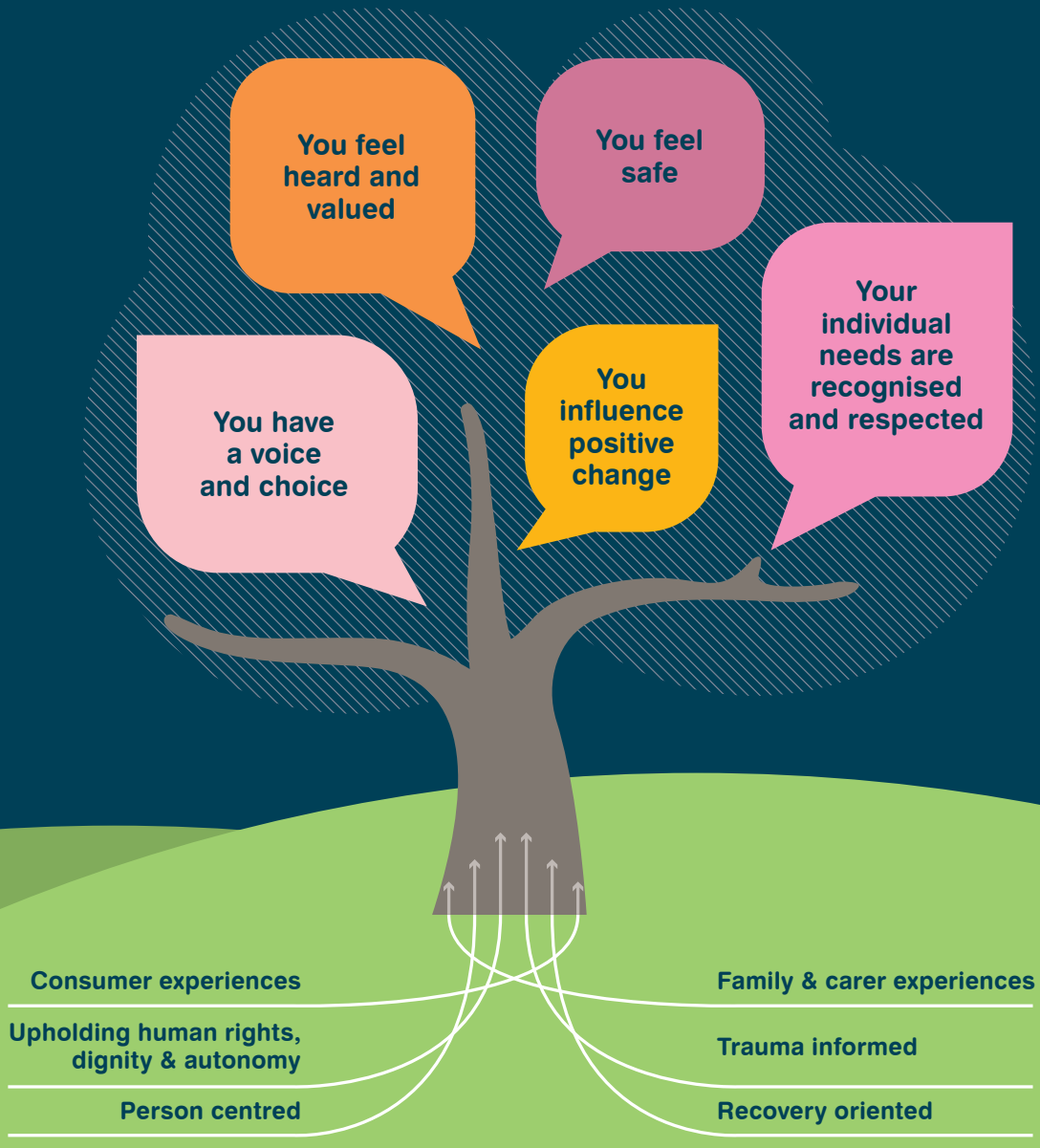
# Framework and strategy: update on progress

In 2020-21, the MHCC launched and began implementing our *Driven by Lived Experience Framework and Strategy 2020-23*, which may be found on our website at

**mhcc.vic.gov.au/driven-lived-experience-framework-mental-health-complaints-commissioner**.

The MHCC's Lived Experience Project Team, led by our Senior Advisor, Lived Experience and Education, Emma Bohmer, worked with our Advisory Council and other project partners to progress 17 of the 23 identified strategies and have completed one of these.

**The table on the next page provides an abridged summary of each strategy of the framework and brief updates on projects. More detailed updates about elements of this work are provided throughout this annual report.**



# Excerpt from the MHCC Driven by Lived Experience Framework and Strategy 2020-23

| | | |
|---|---|---|
| **1.** | **Expand relationships with people with lived experience.** | |
| 1.1 | Increase use of networks of Advisory Council members. | In progress — ongoing |
| 1.2 | Expand community of people with lived experience who are interested in contributing to the MHCC's work. | In progress – members identified but community database not yet operational |
| **2.** | **Ensure lived experiences inform and drive our complaint and investigation processes.** | |
| 2.1 | Strengthen formal and informal feedback mechanisms from consumers and/or people making complaints. | In progress – lived experience input sought into how we seek feedback |
| 2.2 | Increase lived experience input into learning from complaints and compliments made about the MHCC. | Not started |
| 2.3 | Build on existing processes to strengthen opportunities for lived experience input to complaints resolution and process. | Not started |
| 2.4 | Ensure complaint processes and practices align with/support a trauma informed approach to resolving complaints. | Not started |
| 2.5 | Increase opportunities for lived experience input into investigations process. | Not started |
| **3.** | **Improve awareness of people's right to speak up, how to make a complaint to the MHCC and services, contemporary practice complaint handling and what we've learned from complaints.** | |
| 3.1 | Develop a modularised education package based on common complaint themes to drive service improvement, consumer and carer information videos, and regular videos to update the community about the MHCC's work. | In progress – information videos developed |
| 3.2 | Develop 'what to expect' guidance for people making complaints and people whose complaint is being investigated. | In progress – to finalise in 2021-22 |
| **4.** | **Support services to improve local complaints processes through collaboration with lived experience.** | |
| 4.1 | In collaboration with lived experience, develop a complaints process and culture self-assessment tool. | In progress – see page 20 |
| 4.2 | Establish regular meetings with senior service staff including senior lived experience representatives. | In progress – meetings occurred throughout 2020 – 21. See page 28 |
| 4.3 | Work with services to ensure local complaints reports enable them to effectively use complaint data to make service improvements. | In progress – simplified complaint report developed in collaboration with lived experience, to enable broader data sharing within services. See page 20 |
| 4.4 | Identify and share effective complaint processes, initiatives and resources that have been developed with and by people with lived experience and support a positive complaints culture. | In progress – through self-assessment tool project. See page 20 |

| | | |
|---|---|---|
| **5.** | **Embed our lived experience principle and values in our culture.** | |
| 5.1 | Articulate and build on how we listen, hear, recognise and promote the importance of people's voices in our approaches and decision making on all level, including creating a lived experience endorsement checklist. | Complete – see breakout box below |
| 5.2 | Explore with staff how to support an environment where staff feel respected, supported and emotionally safe. | In progress |
| 5.3 | Incorporate the driven by lived experience principle/tree/action statements into staff position descriptions, recruitment and performance and development processes. | In progress |
| 5.4 | Ensure all staff receive orientation and ongoing training and development informed by lived experience perspectives. | In progress – orientation underway, lived experience-led training and development to be developed |
| 5.5 | Develop guidance to ensure we consistently seek to understand and accommodate the preferences of people with lived experience for how they work with us. | In progress – draft developed, to finalise in 2021-22 |
| 5.6 | Support staff with lived experience expertise to access lived experience-specific training, development, support and supervision. | In progress – these practices occur and will be documented in 2021-22 |
| **6.** | **Improve how we work with priority groups by improving our accessibility and responsiveness and improving staff capability.** | |
| 6.1 | Focus on the MHCC being responsive and accessible to Aboriginal Victorians. | In progress |
| 6.2 | Focus on the MHCC being responsive and accessible to the LGBTIQ+ community. | In progress |
| 6.3 | Focus on the MHCC being responsive and accessible to young people. | Not started |
| 6.4 | Focus on the MHCC being responsive and accessible to older people. | Not started |

## Lived experience checklist

As part of implementing action 5.1 of the *Driven by Lived Experience Framework and Strategy*, in 2020-21 the MHCC has worked with our Advisory Council on a *Lived Experiences Checklist* to help us improve how we listen, hear, recognise and promote the importance of people's voices in our approaches and decision making.

The checklist is framed by the MHCC's lived experiences values. One of the aims of the checklist is to maximise lived experience contributions to the MHCC's work, moving towards lived experience leadership wherever possible. The checklist gives examples of how safe and deep collaboration with people with lived experiences can take place with all work. This includes policies, procedures, guidelines, project plans, evaluation plans, terms of reference, education, recruitment, development and communications.

The checklist can be used by staff in services, government, peak bodies and other organisations whether or not they have lived experience. While the checklist is not exhaustive, it is a tool that can be used to build engagement with and ensure effective, respectful collaboration with people with lived experiences.

Over 2021-22, the MHCC will aim to share the checklist broadly and continue to work collaboratively with services, peak bodies, and government to share what we have learned from people with lived experiences, and from the approaches implemented across the sector.

# The future

In 2020-21, the future of our mental health system looks promising thanks to both the Victorian and Australian Government's provision of much-needed funds. The Victorian 2020 budget invested $869 million towards implementing all the recommendations of the Royal Commission into Victoria's Mental Health System, the biggest social reform in a generation. A record $3.8 billion was then promised in the 2021 budget to re-build our mental health system from the ground up and truly transform the way mental health and wellbeing support is offered.

The Australian Government's 2021 budget announced $2.3 billion to implement the National Mental Health and Suicide Prevention Plan. This is the first phase of its response to the findings of the Productivity Commission's Inquiry into Mental Health and Suicide Prevention and the largest Commonwealth mental health investment in Australia's history.

If we are to realise the vision of a mental health system that is accessible, provides a diverse range of high-quality services, reflects the views, preferences and values of people with lived experience, and promotes and protects human rights, much remains to be done.

The MHCC is fully committed to working in partnership with the mental health community, government and others to implement the Royal Commission recommendations. The MHCC will transition to become part of the new Mental Health and Wellbeing Commission and we look forward to contributing our experiences and knowledge of good practice and complaints.

We are also in touch with our counterparts and other stakeholders around Australia and are committed to supporting other mental health initiatives wherever we can.

While working to support a smooth transition, the MHCC will continue to support people making complaints to speak up, and to work with Victorian public mental health services to better identify, prevent and manage complaints issues. We want people to feel confident and comfortable about making a complaint directly to the service, and services to feel confident and comfortable that they can respond well to those complaints.

This year and beyond, we will continue to listen to and learn from people's lived experiences and work with services to develop positive complaint cultures and practices that improve the mental health system for everyone.

# Royal Commission into Victoria's mental health system: final report

The final report of the Royal Commission is a milestone that will drive critically needed reform of our mental health system from the bottom up.

- The report (available at **finalreport.rcvmhs.vic.gov.au**) addresses what we have learned from complaints to our office about areas needing to change, which we highlighted in our submissions and other contributions to the Royal Commission. The MHCC strongly supports the report's:
- centering of lived experience, including in service design and delivery
- expansion of mental health services and supports
- strengthened legislation, governance and accountability
- goal of eliminating the use of restrictive interventions within the next 10 years
- promotion of mental health and wellbeing for all community members, with a focus on priority groups.

## A new Mental Health and Wellbeing Commission

Recommendation 44 of the final report asks the Victorian Government to set up a new independent statutory authority, the Mental Health and Wellbeing Commission, to:

- monitor the Government's progress in implementing the Royal Commission recommendations
- hold the Government to account for the performance, quality and safety of the mental health and wellbeing system
- support people living with mental illness or psychological distress, families, carers and supporters to lead and take part in the work to improve the system and address stigma related to mental health.

The Chair Commissioner will be supported by a small group of Commissioners, at least one Commissioner with lived experience of mental illness or psychological distress and one with lived experience as a family member or carer.

The Mental Health and Wellbeing Commission will incorporate the MHCC's complaint functions and also have more powers than the MHCC currently does, including the power to conduct own-motion investigations. Having the issues people raise in complaints considered as part of a larger body responsible for broader improvement of mental health is an exciting development.

The Commission will be created under a new Victorian Mental Health and Wellbeing Act, which the report recommends be developed by mid-2022. The MHCC has already begun work with the Department of Health to support a smooth transition to the new Commission. We will continue to share the lessons we have learned as Australia's first mental health-specific complaints body, so that these lessons inform planning for the new Commission.

# Appendices

## Appendix 1: Operations

### Financial statement for the year ended 30 June 2021

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 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 2020-21 according to the department's accounts is provided below. The expenditure was less than the allocated budget of $4,293,278 due to the deferred activities and unexpected staff vacancies due to a range of factors, most notably the COVID-19 pandemic.

### Operating statement for the year ended 30 June 2021

#### Expenses

| | |
|---|---|
| Salaries and on-costs | $3,254,864 |
| Contractors/external services | $246,743 |
| Supplies and consumables | $327,981 |
| **Total expenses** | **$3,829,588** |

#### Staffing

19.5 FTE (including fixed term positions) as at 30 June 2021, plus contractors engaged to perform specified functions and assist the MHCC to respond to the volume and complexity of complaints.

# Appendix 2: Compliance and Accountability

### Privacy and Data Protection Act 2014 and Health Records Act 2001

The MHCC is 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.

The MHCC's privacy policy explains how we deal with personal and health information and is available on the MHCC's website at **www.mhcc.vic.gov.au/about-the-mhcc/privacy**.

### 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 MHCC at Level 26, 570 Bourke Street, Naarm/Melbourne VIC 3000 or by email to PrivacyFOI@mhcc.vic.gov.au.

In 2020-21 the MHCC made six decisions relating to freedom of information (FOI) applications. We also responded to an additional five 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 is a public authority under the Charter and is 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 public.interest.disclosures@dffh.vic.gov.au or by calling the department's integrity unit on 1300 131 431.

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/.

# Notes

**To receive this document in an accessible format:**

**Phone 03 9032 3328, using the National Relay Service (13 36 77) if needed**

**or email help@mhcc.vic.gov.au**

MHCC MENTAL HEALTH COMPLAINTS COMMISSIONER

Mental Health Complaints Commissioner
Level 26, 570 Bourke Street
Naarm / Melbourne, Victoria 3000

Phone: 1800 246 054 (free call from landlines)
or (03) 9032 3328

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

**mhcc.vic.gov.au**

twitter.com/MentalHealthCC

facebook.com/mentalhealthcomplaintscommissioner

instagram.com/mhcc_vic

linkedin.com/company/mental-health-complaints-commissioner