

ANNUAL REPORT





July – August 2023




**Mental Health
Complaints Commissioner**

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



Note: This Annual Report was prepared by the Mental Health and Wellbeing Commission (MHWC), as the MHCC ceased operation on 31 August 2023 and was replaced by the MHWC on 1 September 2023. Consequently, this report refers only to the period from 1 July – 31 August 2023. Contact details have been updated to reflect the MHWC, where you can direct enquiries relating to both the former MHCC and the MHWC.

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Naarm / Melbourne, Victoria 3000
-  **Phone:** 1800 246 054 (free call from landlines)
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-  **Website:** mhwc.vic.gov.au

-  twitter.com/MHWC_vic
-  facebook.com/mentalhealthandwellbeingcommission
-  instagram.com/mhwc_vic
-  linkedin.com/company/mental-health-and-wellbeing-commission-vic

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1 October 2024

Ingrid Stitt, MP
Minister for Mental Health
50 Lonsdale Street
Naarm / Melbourne VIC 3000

Dear Minister,

I am pleased to provide you with the Mental Health Complaints Commissioner Annual Report for the 2023 – 2024 financial year. As the MHCC ceased operation on 31 August 2023, this report refers only to the period from 1 July – 30 August 2023.

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

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

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

Yours sincerely



Treasure Jennings

Chair Commissioner, Mental Health and Wellbeing Commission
(Former Mental Health Complaints Commissioner)

Level 26, 570 Bourke Street
Naarm / Melbourne Vic 3000

Terminology

used in this report

The Mental Health Act 2014 (The Act)

[The Mental Health Act 2014 \(Vic\)](#).

The Mental Health and Wellbeing Act 2022 (MHW Act)

The Royal Commission into Victoria's Mental Health System recommended the Victorian Government repeal the Mental Health Act 2014 (Vic) and enact a new Mental Health and Wellbeing Act. The *Mental Health and Wellbeing Act 2022* was passed by the Victorian Parliament in August 2022 and came into operation on 1 September 2023.

The Mental Health and Wellbeing Commission (MHWC)

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

The Mental Health and Wellbeing Commission is an independent statutory authority that commenced on 1 September 2023.

Definition of lived experience

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

Services

The MHCC dealt with complaints about public mental health services in Victoria. These included:

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

Definition of enquiry

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

Definition of complaint

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

Definition of in-scope complaint

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

Definition of the types of resolutions

Fully or substantially resolved

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

Partially resolved

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

Not resolved

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

Resolution not applicable/possible

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

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

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

Definition of the 4 As of complaints resolution

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

Acknowledgement

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

Answers

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

Action

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

Apology

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

Message from the Commissioner Treasure Jennings



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

This Annual Report is a summary of the final two months of the Mental Health Complaints Commissioner from 1 July 2023, until it ceased operation on 31 August 2023. While this may be a relatively short period of time to reflect on, it represents a period of intense change as the Commission, and the broader sector prepared for the introduction of the new Mental Health and Wellbeing Act 2022.

The MHCC team undertook a great deal of work to ensure that we were well prepared for the changes that would occur on 1 September 2023.

Central to this work was the seamless continuation of the complaints process and ensuring that all our open complaints were successfully transferred to the new Commission. This also included keeping anyone who had an open complaint with us informed, updated and reassured while this transfer occurred.

The process of transition to the new Commission, with expanded powers and jurisdiction, required former MHWC staff to undertake extensive training while continuing resolving complaints. A dedication to achieving positive outcomes for consumers remained a priority.

I would like to recognise the efforts of the staff of the MHCC for their commitment to the successful transition to the new Commission.

I would also like to acknowledge the contribution of our stakeholders including the Mental Health Branch within the Department of Health, who worked collaboratively with us during this time.

In finalising the Mental Health Complaints Commission I wish to acknowledge the efforts of the previous Commissioner Lynne Coulson-Barr, and all those who have contributed to the work of the MHCC. This includes those who contributed to the Lived Experience Advisory Council, previous staff and people who raised complaints and shared their stories and experiences.

Treasure Jennings
Commissioner



OUR DATA AT A GLANCE

How many people contacted us?

Over July/August, the MHCC received:

440 new enquiries

82%

or **361** were complaints, which was consistent with the monthly average for the financial year 2022/2023.

59%

or **258** complaints received were in-scope to be progressed by the MHCC.

Of the In-Scope complaints:

63%

or **162** complaints were received verbally and

36%

or **96** were received in writing including via our web form.

Who contacted us?



75%

of the in-scope complaints received over the period were made by consumers

21%

were made by family and carers

4%

were made by others, including friends, advocates, lawyers, service staff or unknown complainants.

Which services were the complaints about?

93%

of the in-scope complaints received by the MHCC over those 2 months were about designated mental health services (DMHS), 1% were about mental health community support services (MHCSS) and 6% were unknown (information provided by complainants was not enough to identify if the service provider was a DMHS or a MHCSS)

21%

of complaints were about regional public mental health services

79%

of the complaints were about metropolitan public mental health services



Most complaints relate to Metropolitan services, as expected as they serve a larger community.



About us

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

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

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

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

MHCC functions

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

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

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



OUR IMPACT

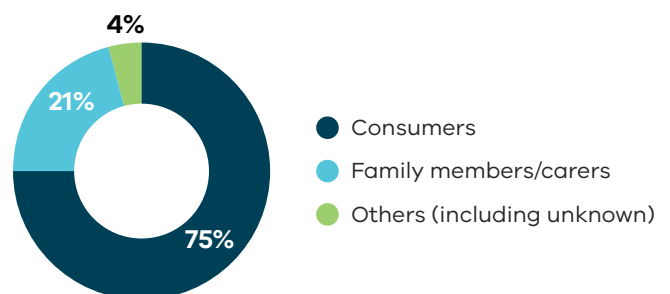
By learning from complaints, we can identify ways that services can engage better with consumers as well as provide greater support to carers and families. As we worked with complainants to voice their concerns and achieve resolutions, we identified areas for improvement at an individual service level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

Complaints made to the MHCC

In July/August 2023 the MHCC received **440** new enquiries, referrals, and complaints. Of the **361** complaints received, **258** were in-scope and were progressed by the MHCC. In-scope complaints are those that are made about people's experiences in Victorian public mental health services within the MHCC's jurisdiction. Of the in-scope complaints, **162** were received verbally while **96** were received in writing including via our web form.

Who made a complaint?

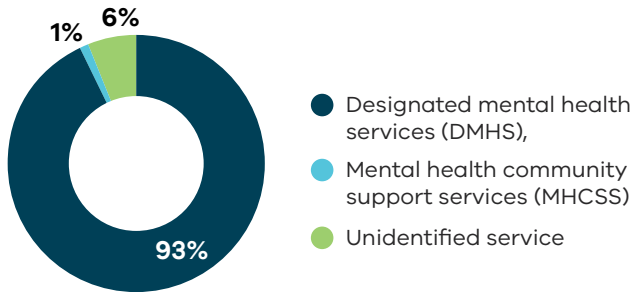
Figure 1: Who made complaints to the MHCC?
(Based on in-scope complaints)



The MHCC received **194** (in-scope) complaints (**75%**) from people who received services themselves (consumers), **54** (**21%**) from family members or carers of consumers, and **10** (**4%**) from others including advocates, lawyers, and service staff.

Which Services were the complaints about?

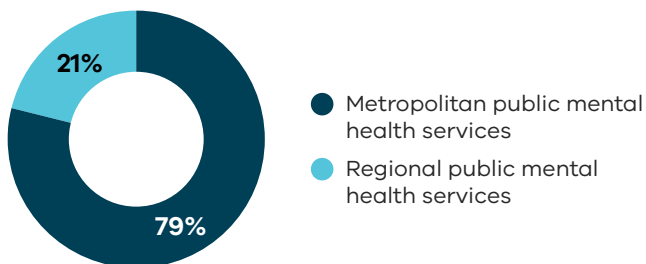
Figure 2: Which services were complaints about?



93% of the in-scope complaints received by the MHCC over those 2 months were about designated mental health services (DMHS), including hospital-based, community, residential, specialist and forensic services. **1%** were about mental health community support services (MHCSS). These are less common due to the lower numbers of people who access these services.

6% were about an unidentified service (information provided by complainants was not enough to identify if the service provider was a DMHS or a MHCSS. This is the case when a complaint may be in-scope but unlikely to progress because we were unable to contact the complainant for further information, because the complainant wished not to report where the issue had occurred, or because the complainant chose not to continue with the complaints process).

Figure 3: Where were the services located?

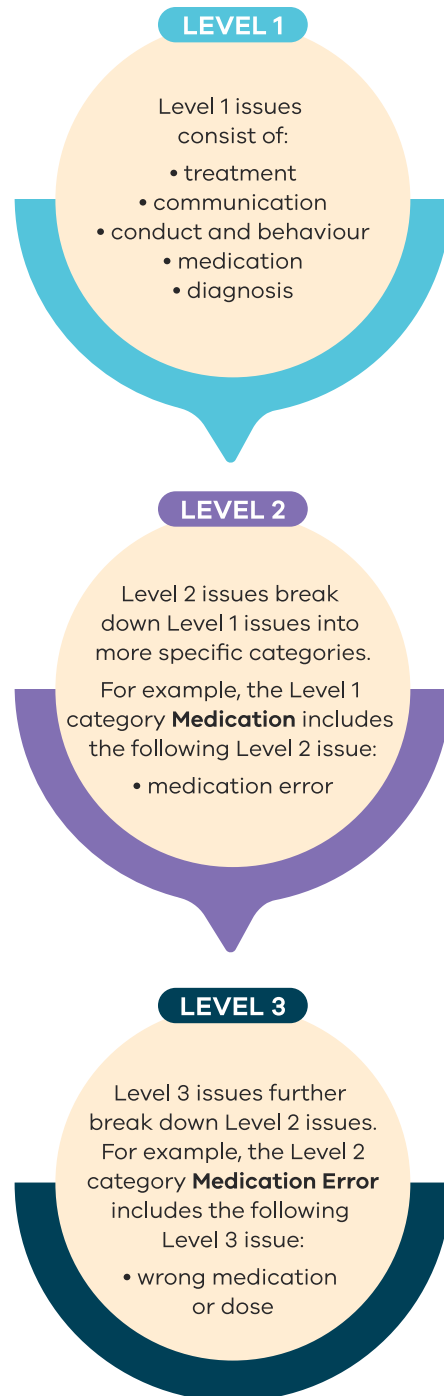


Most complaints relate to metropolitan services, which is expected as they serve a larger population group.

79% of the complaints were about metropolitan public mental health services.

21% of complaints were about regional public mental health services.

Figure 4: Complaint classification



What was raised through the complaints?

The number and percentage of complaints about each issue are recorded for all in-scope complaints received.

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

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

It is significant to note that many complaints raised with the MHCC often involve more than one issue.

Treatment, medication, communication, and conduct & behaviour continued to be the most frequently raised Level 1 issues raised through this data period, consistent with previous years.

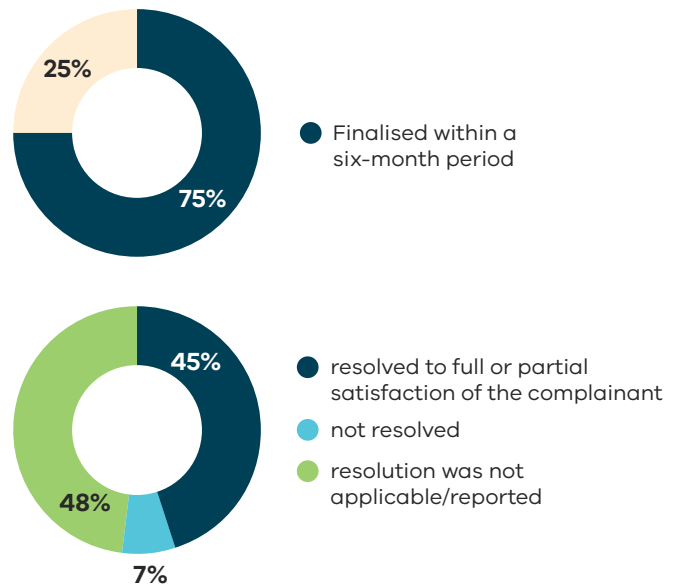
Due to the relatively small data period that this report covers, it is not meaningful to detail the Level 2 and 3 Issues which tended to be only reflected in individual complaints.

Figure 5: The MHCC's three-level system to classify issues raised in complaints



What were the outcomes of complaints?

Figure 6: Complaint outcomes



Over July and August 2023, the MHCC closed **455*** matters, including **282** in-scope complaints, **75%** were progressed and finalised within a six-month period.

45% (128) of in-scope complaints over the reporting period, that MHCC was able to progress, resolved to a full or partial satisfaction of the complainant and **7%** (20) were not resolved. For **48%** (134) of all in-scope complaints progressed, a resolution was not applicable/reported. Resolutions are not applicable if we do not have consumer consent to share information with service, lose contact with the consumer/complainant over the progress of the complaint, or if the complainant withdraws their complaint.

* Many complaints that were closed in this period were carried over from the previous reporting period.

Outcomes

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

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

Although not ALL complaints outcomes are reported to the MHCC, the outcomes reported by the services over the reporting period, included the following:

- **133 Acknowledgements** to the concerns raised by the complainant, were reported by the services as an outcome of progressing complaints.
- **89 Actions** addressing issues raised in complaints were reported by services for complaints progressed over that reporting period.
- **61 Answers** and explanations were provided by services as part of complaints outcomes reported over that reporting period.
- **20 meaningful Apologies** were provided by services as part of responses provided by services to complainants.

The most common actions taken by services to address individual concerns when responding to complaints, were addressing communication issues and resolving misunderstandings, followed by changes made in the ways in which support and/or the service is provided.

Figure 7: What did services do when people made complaints?



Service improvement

Over the July/August period, the MHCC continued to support services to improve, and highlighted areas where they could adapt the provision of their services to provide a better and more responsive experience for consumers, families and carers.

Over the months of July and August, we made **8 recommendations** to services based on issues raised as part of a complaints process. **11 service improvements** were reported to the MHCC.

The MHCC worked closely with services on ways to support people make choices about their treatment and care, and to support their staff to treat all consumers, families and carers with compassion and empathy.

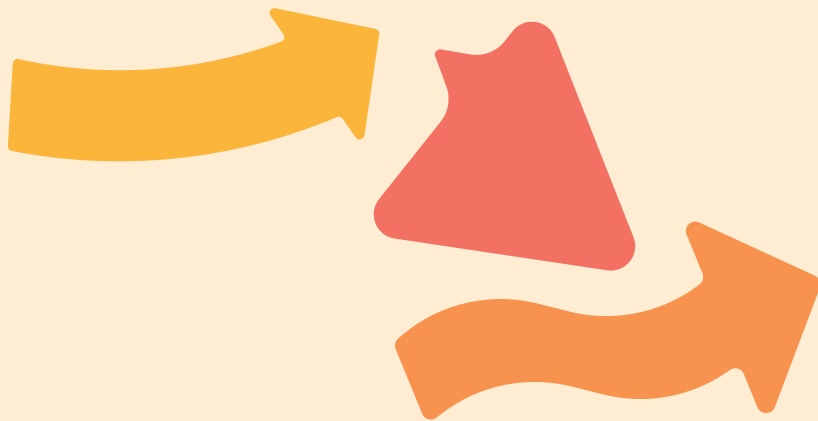
Figure 8: Service improvements



Investigations

Over the period of July – August 2023, no new investigations were initiated but work continued on two investigations that were underway and covered in the last reporting period. One investigation concerned the making of compulsory treatment orders for a consumer admitted to a mental health inpatient unit. We also progressed an existing investigation about the experiences of a young person when restrictive interventions and practices were used.

Our outreach



Education and engagement

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

Change communication

In July and August 2023 there was a strong focus on communication and engagement to ensure stakeholders were informed and updated on the upcoming changes as the new Mental Health and Wellbeing Act came into effect on 1 September 2023.

We had a responsibility to ensure that our stakeholders, and particularly anyone who had an open complaint with the MHCC, was aware of the organisational changes that would occur as the MHCC transitioned some of its functions to the new MHWC. In the July -August 2023 period, we sent messages to all individuals with an active complaint. We also hosted webinars, prepared social media posts and video messages and updated website content to keep consumers and stakeholders aware of what was happening.

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

The MHCC also engaged with services to ensure that they were aware of the upcoming changes and to better understand the environments and settings that services were providing at this time so that we could better support consumers, carers and supporters.

Figure 9: A social media post from August 31, 2023



Staff training

In July and August 2023, staff prepared for the transition to the new Commission, including undertaking training and learning opportunities particularly around the introduction of new Mental Health and Wellbeing Act 2022, updating practice guidance materials as well as all the necessary corporate and administrative preparation that was required.

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



WELCOMING THE NEW COMMISSION

On 1 September 2023 the MHCC was replaced by the new Mental Health and Wellbeing Commission (MHWC).

Mental Health & Wellbeing Commission

The MHWC is a new independent statutory authority established through the Mental Health and Wellbeing Act 2022. The new MHWC has more extensive powers than the previous MHCC. It will be able to investigate a matter without a complaint being made and conduct broad inquiries into any matter relating to its objectives or functions.

The new Commission is publishing its inaugural annual report to cover the period from 1 September 2023 – 30 June 2024. This report should be read alongside this report to understand the full financial year of public mental health service complaints registered in the 2023 – 2024 reporting period.

Appendix 1: Our operations

Financial statement for the year ended 30 June 2024

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

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

A financial summary of expenditure for 2023-24 according to Department of Health accounts is provided below. The expenditure was less than the allocated budget of \$1,165,000 due to staff vacancies.

Operating statement for the year ended 30 June 2024

Expenses	
Salaries and on-costs	\$965,227
Supplies and consumables	\$145,004
Total expenses	\$1,110,232

Staffing

There were 33.58 FTE (including fixed term positions) as at 30 June 2024.

Signed by: Beth Gubbins, Deputy Chief Financial Officer,
Finance and Procurement, Corporate Services



02/09/2024

Appendix 2: Our compliance and accountability

Important Note

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

Privacy and Data Protection Act 2014 and Health Records Act 2001

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

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

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

Freedom of Information Act 1982

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

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

In 2022/23 the MHCC made 6 decisions relating to freedom of information (FOI) applications.

We also responded to an additional 8 requests for documents that were provided outside of the FOI process.

Charter of Human Rights and Responsibilities Act 2006

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

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

Public Interest Disclosures Act 2012

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

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

Contact details are:

IBAC

Phone: 1300 735 135

Email: Info@ibac.vic.gov.au

Victorian Ombudsman

Phone: (03) 9613 6222

or 1800 806 314 (regional areas)

Email: complaints@ombudsman.vic.gov.au

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

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

TRAINING

DIVERSITY

TRAINING

RESPONSIVE

UNDERSTANDING

COORDINATION

ADVICE

COMPASSION

INVESTIGATION

RESPECT

RESOLUTION

RECOMMENDATIONS

REDUCE STIGMA

LIVED EXPERIENCE

ASK QUESTIONS

SPEAK UP

RIGHTS

COMPLAINT

HELP

BETTER SYSTEM

CHANGING PRACTICES

POSITIVE

LISTEN

SAFE

SERVICE IMPROVEMENTS

DRIVE CHANGE

HEARD

ENGAGEMENT

RELIEF

CO-DESIGN

EDUCATION

EMPOWERED





RECOVERY

REMOVE BARRIERS

DIGNITY

SUPPORT

Mental Health Complaints Commissioner

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