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# Exploring issues through inquiries and systemic reviews

Guide

Mental Health  
& Wellbeing  
Commission










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# Contents

1. Purpose	1
2. The Commission's role in exploring systemic issues	2
3. Principles underpinning the Commission's work	8
4. Annual planning cycle	9

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# 1. Purpose

**The Mental Health and Wellbeing Commission (MHWC, the Commission) is an independent statutory body established under the *Mental Health and Wellbeing Act, 2022* (the Act).**

**This guide provides information about the Commission's approach to exploring systemic issues associated with the performance, quality and safety of Victoria's mental health and wellbeing system and the mental health and wellbeing of the Victorian community, through inquiries and systemic reviews.**

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## 2. The Commission's role in exploring systemic issues

**The Act sets out the Commission's objectives and functions and provides the authority to explore issues, including those that are systemic. This guide focuses on exploring systemic issues through inquiries and systemic reviews. The Commission's investigations, monitoring and reporting functions are also mentioned for completeness.<sup>1</sup>**

The functions that directly relate to exploring systemic issues include:

- Conducting investigations
  - arising from individual complaints made to the Commission (section 476)
  - referred from the Minister on any matter that a person is able to make a complaint about to the Commission under sections 431, 432 or 433 (section 477)
  - on our own initiative in relation to any matter that a person is able to make a complaint to the Commission under sections 431, 432 or 433 (section 478)
  - follow up investigations (section 484).
- Conducting inquiries in relation to our own objectives and functions on our own initiative or as referred by a House of Parliament, a Parliamentary Committee, a Minister, the Health Secretary or the Chief Officer (section 505)
- Identifying, analysing and reviewing quality, safety and other issues which come to our attention as a result of performing our functions (section 415 (v))<sup>2</sup>
- Monitoring and reporting.

The MHC may address systemic issues when monitoring and reporting on:

- the performance, quality and safety of the mental health and wellbeing system (section 415 (h))
- progress to improve the mental health and wellbeing outcomes in the Victorian community (section 415 (j)(i))
- the Victorian Government's (the government) progress in relation to the implementation of recommendations made by the Royal Commission into Victoria's Mental Health System (section 415 (j)(ii)) and any other matter relating to the performance of the Mental Health and Wellbeing Commission's functions (section 415 (j)(iii)).

The Commission has the power to conduct a complaint data review. This includes reviewing any information provided to us when dealing with a complaint or conducting an investigation. The Commission can conduct this review if we reasonably believe it may identify persistent or recurring issues related to the provision of mental health and wellbeing services (section 528).

The Act provides some information about how complaint data reviews must be conducted, how the resulting written report must be set out and to whom it must be given.

The Commission's powers to conduct inquiries and systemic reviews are discretionary, with limited legislative guidance on when they should be exercised. This means we can choose if and when we conduct inquiries and review systemic issues.

The Act specifies some requirements for conducting inquiries and investigations.

<sup>1</sup> Investigations and inquiries may also be used to explore specific issues that are not systemic in nature.

<sup>2</sup> Reviews relying on this function are referred to as 'systemic reviews'.

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## Addressing Systemic Issues: Approaches and Processes

This section explains what we mean by the term 'systemic issue', and provides high-level descriptions of inquiries, systemic reviews and some of the differences between them.

### Systemic issue

The term 'systemic issue' is not defined in the Act. For the purposes of conducting inquiries and systemic reviews, we consider an issue to be systemic if:

- it involves multiple organisations or individuals across the mental health and wellbeing system (or specific parts of the system), or
- it is prevalent throughout a single organisation or part of an organisation.

### Inquiries

From time to time, the Commission conducts inquiries concerning topics referred to us or selected from the list of potential topics developed during our annual planning cycle (see section 4 of this guide).

Our inquiries follow a structured process, although we try to keep proceedings as informal as possible. The main stages in an inquiry are:



1. Planning



2. Information gathering and analysis



3. Developing recommendations and reporting

#### 1. Planning

During this stage we develop **terms of reference** which specify the scope of work, objective or statement of the issue to be explored, lines of inquiry, governance arrangements that incorporate lived experience perspectives and reporting arrangements.

**Governance arrangements** such as the inquiry governance and management groups, advisory and consultation bodies are established, including appointment of any subject matter experts. The governance group considers whether the inquiry requires ethical review, and if so, agrees on the appropriate process.

The inquiry team develops the **inquiry plan** for endorsement by the governance group, which sets out:

- the proposed methodology including data collection methods (including public hearings) and analytical techniques required to address the lines of inquiry
- the organisations and people likely to be involved and how or when they will be involved
- the approach to developing recommendations that address key findings
- the resources and estimated timeframes.

The MHWC will notify relevant organisations and people about the inquiry.

#### 2. Information gathering and analysis

During this stage we will collect and analyse the information needed to address the lines of inquiry. We usually gather information from a wide variety of sources and through various methods, which may include public hearings.

Public hearings may involve people or organisations providing submissions verbally or in writing and must be conducted in line with [section 506 of the Act](#). Analysis of available data results in findings, which are tested and clarified with the relevant people and organisations, including people with lived experience of mental illness or psychological distress, their families, carers and supporters.

Adjustments to the inquiry method may be required as the availability of data is confirmed, and data is collected and analysed. Alterations to method should be approved by the project governance or management group depending on the materiality of the change as outlined below:

- small changes to method with no time or cost implications – project management group
- medium changes to approach such as methodology changes with some impact on time/cost/stakeholder engagement – project governance group
- large scale changes to method with significant time/cost/stakeholder involvement implications – Commission on recommendation of the project governance group.

This stage usually includes presentation of the findings and the analysis on which the findings are made. Presentation of material (verbally and/or in writing) is usually made to the following:

- the project governance group and the Commission, for the purpose of critique and testing the robustness of analysis and findings
- people or entities about whom findings are made for the purposes of fact checking and provision of additional context/information/response
- the Department of Health (this may be for information only).

Feedback is incorporated at the discretion of the project governance group and, where the decision is taken not to incorporate feedback, the decision explained to the Commission.

### 3. Developing recommendations and reporting

Most, but not all inquiries include recommendations that address the inquiry's findings. Where they do, the process for developing recommendations may vary depending on the issue(s) being explored.

The inquiry's governance group confirms the appropriate process for developing recommendations. Usually, the Commission develops recommendations after consulting with stakeholders to inform and test the appropriateness of potential recommendations. This may involve workshops and/or individual meetings that include the following perspectives:

- people with lived experience of mental ill health or psychological distress relevant to the issue being addressed (relevance may be broadly interpreted), their families, carers and supporters
- the individuals or representatives from the entities about whom the findings are made, or people in similar roles or from similar entities
- subject matter experts, which may include the Chief Psychiatrist and/or Chief Mental Health Nurse (or their delegates)
- MHWC general counsel
- the inquiry team.

Any workshops are chaired by the commissioner leading the inquiry.

The MHWC develops a draft inquiry report that outlines the objective of the inquiry, the inquiry governance arrangements, methodology, findings and recommendations.

Where an inquiry report includes a comment or opinion about a person (including a mental health and wellbeing service provider) that is adverse to them, the person must be given the opportunity to respond to the adverse material and this response must be fairly set out in the report ([section 506 \(5\)](#)).

Entities or people to whom recommendations are directed must be given the opportunity to indicate whether they accept, accept in part, or do not accept the recommendations directed to them.

We provide copies of the report to the Minister for Mental Health, the Health Secretary and, in the case of an inquiry conducted under [section 505\(b\)](#) the person or body who referred the inquiry. The Commission may decide to [table an inquiry report in Parliament \(section 428\)](#). We anticipate that final inquiry reports will be made public unless there is a clear legal reason not to.

Inquiries will be conducted when a structured approach is required to explore the systemic issue, including the authority to conduct public hearings. We estimate that inquiries take between 12 and 18 months to complete at an average cost of around \$750,000.

### Systemic reviews

The Commission selects topics for systemic review through our annual planning cycle ([see section 4 of this guide](#)). These topics are usually tightly-focused.

The process for conducting systemic reviews is more flexible than for inquiries, while still following the same three-stage process of planning, information gathering and analysis and developing recommendations (where appropriate) and reporting.

Systemic reviews usually rely on existing data collections augmented by relatively straightforward collection methods such as surveys, interviews and focus groups. They do not involve public hearings. The three stages are described below.



1. Planning



2. Information gathering and analysis



3. Developing recommendations and reporting

## 1. Planning

During this stage we develop **terms of reference** which specify the scope of work, objective or statement of the issue to be explored, lines of inquiry, governance arrangements that incorporate lived experience perspectives and expected approach to reporting.

We establish **governance arrangements** such as the review governance and management groups, advisory and consultation bodies, including appointment of any subject matter experts. The governance group considers whether the systemic review requires ethical review, and if so, agrees on the appropriate process.

The review team develops the **project plan** for endorsement by the governance group, which sets out:

- the proposed methodology including data collection methods and analytical techniques required to address the lines of inquiry
- the organisations and people likely to be involved and how/when they will be involved
- the approach to developing recommendations (if any) that address key findings
- the resources and estimated timeframes.

The Commission will notify relevant organisations and people about the systemic review.

## 2. Information gathering and analysis

In this stage we collect and analyse the information needed to address the lines of inquiry. We usually gather information from a variety of sources and through various methods, relying where possible on existing data collections. We then analyse available data results and findings, which are tested and clarified with the relevant people and organisations, including people with lived experience of mental illness or psychological distress, their families, carers and supporters.

This stage usually includes presentation of findings and analysis on which findings have been made. Presentation of material (verbally and/or in writing) is usually made to the following:

- the project governance group and the Commission, for the purpose of critique and testing the robustness of analysis and findings
- people or entities about whom findings are made for the purposes of fact checking and provision of additional context/information/response
- the Department of Health (this may be for information only).

The governance group will decide whether feedback received from the Commission, people or entities about whom findings are made or the Department is incorporated. Where the decision is taken not to incorporate feedback, the decision will be explained to the commissioner overseeing the review.



### **3. Developing recommendations and reporting**

Not all systemic reviews include recommendations. Where they do, the process for developing them may change depending on the issue(s) being explored. The systemic review's project governance group confirms the appropriate process for developing recommendations that address the findings. Usually, the Commission develops recommendations after consulting with stakeholders to inform and test the appropriateness of potential recommendations. This may involve workshops and/or individual meetings that include the following perspectives:

- people with lived experience of mental ill health or psychological distress relevant to the issue being addressed by the inquiry (relevance may be broadly interpreted), their families, carers and supporters
- the individuals or representatives from the entities about whom the findings are made, or people in similar roles or from similar entities
- subject matter experts, which may include the Chief Psychiatrist and/or Chief Mental Health Nurse (or their delegates)
- MHWC general counsel
- the systemic review team.

The Commission develops a draft report that outlines the objective of the systemic review, the governance arrangements, methodology, findings and recommendations (if any).

Where a systemic review report includes a comment or opinion about a person (including a mental health and wellbeing service provider) that is adverse to them, the person is given the opportunity to respond to the adverse material and this response is fairly set out in the report.

Entities or people to whom recommendations are directed are given the opportunity to indicate whether they accept, accept in part, or do not accept the recommendations directed to them.

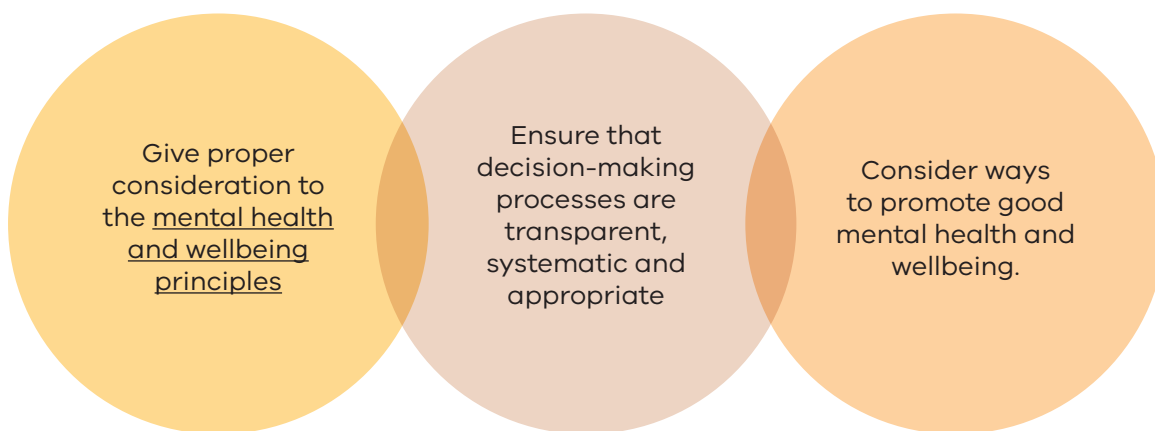
We provide copies of the report to the Minister and the Health Secretary. We anticipate that final systemic review reports will be made public unless there is a clear legal reason not to do so.

We anticipate conducting systemic reviews when a flexible approach is required to explore the systemic issue appropriately. We estimate that systemic reviews take between three to nine months to complete at an average cost of around \$250,000.

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### 3. Principles underpinning the Commission's work

The Act requires that in performing our functions, which includes conducting inquiries and systemic reviews, the MHWC must:



In addition, the Commission is committed to being:

 <p>Fearlessly independent</p>	 <p>Grounded in the expertise of people with lived experience</p>	 <p>Brave, fair, impartial and transparent in our work</p>
 <p>An exemplar organisation for lived experience leadership</p>	 <p>A voice for inclusion, understanding and compassion</p>	 <p>Focused on addressing the most important issues at the time that best serves the public interest.</p>

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## 4. Annual planning cycle

The Commission's exploration of systemic issues will be guided by an annual planning cycle. The annual planning cycle identifies potential issues for exploration by incorporating a broad range of perspectives, prioritising the issues that matter to people with mental illness and psychological distress and their carers, families and supporters.

The Commission explores systemic issues through the most appropriate mechanism, including through inquiries, systemic reviews, own initiative investigations and monitoring and reporting on the performance, quality and safety of the mental health and wellbeing system.

The timing of the announcement and commencement of own initiative investigations may sit outside the annual planning cycle to protect the integrity of the investigation.

The annual planning cycle may also identify issues that are best explored by other entities. In these circumstances, the MHWC will refer the matter to that entity.

Not all systemic issues identified during the annual planning cycle will be explored. This does not mean the issues are unimportant. An issue may not meet the criteria for assessing topics set out below, which include alignment with the current strategic priorities of the Commission and availability of resourcing to complete the work.

The annual planning cycle is summarised and explained in the following diagram and sections.

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#### 4. Annual planning cycle

#### Annual planning cycle



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## 4. Annual planning cycle

### Stages in the MHWC annual planning cycle

#### 1. Information gathering

The Commission gathers information on systemic issues that may warrant exploration from a wide variety of sources and methods, including:

- stakeholder engagement activities
- matters referred by individuals or organisations
- media and literature scanning
- analysis of MHWC complaints data
- analysis of mental health and wellbeing system performance, quality and safety data
- MHWC investigations including own-initiative and referred investigations.

#### 2. Draft long list development

The Commission develops a draft long list of potential topics by assessing the systemic issues identified during stage 1. The criteria for assessing potential topics are:

- **Prioritise the voice of people with lived experience:** people with lived experience of mental illness and psychological distress, and families, carers and supporters care about the issue.

- **Potential for impact:** exploration of the issue is likely to have a positive impact and/or lead to improved outcomes for consumers either directly or indirectly – indirect impact on consumers includes an issue that impacts on carers, families and supporters and therefore affects their ability to support the consumer. The potential for impact includes assessing the feasibility of exploring the issue.
- **Nature of the issue:** the issue is systemic and persistent.
- **Extent of harm experienced:** the issue results in harm that is significant in terms of the number of people affected and/or the severity of the harm experienced.
- **Alignment with the Commission's remit and priorities:** the issue is aligned with our objectives, functions and strategic priorities and supports coverage of issues across our responsibilities.
- **Relevance of the issue to others:** The Commission's stakeholders including consumers, families, carers and supporters, mental health and wellbeing service providers and their workforces, government and the community are involved in the issue, or exploration of the issue would build their understanding/ acceptance of the issue's relevance.

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## 4. Annual planning cycle

- **Duplication:** our work will not duplicate efforts of others.
- **Capacity and resources:** availability of resources to complete the work.

We also consider which function or mechanism may be most appropriate for exploring systemic issues that meet the criteria. Considerations for determining the appropriate mechanism include:

- suitability of mechanisms' structures including the need for public hearings
- availability of information needed to explore the issue
- number of services likely to be involved
- likelihood of further compliance activity being appropriate
- profile/community interest in the issue
- entity to which recommendations are likely to be directed
- time and cost required.

The Commission may refer an issue to another entity that, in the view of the Commission, is better placed to address it. The Commission may also decide not to pursue an issue.

## 3. Consultation on the draft long list of topics

The Commission seeks views from a broad range of stakeholders about the priority and feasibility of exploring issues on the draft long list of topics. Stakeholders include people with lived experience of mental illness or psychological distress, carers, families and supporters, service providers, mental health and wellbeing workforce representatives, the Department of Health and the Minister for Mental Health. The Commission seeks information about other entities who may be reviewing the systemic issues on the draft long list of topics to ascertain who is best placed to explore the issue and minimise duplication.

## 4. Publication of the annual plan

The Commission incorporates the feedback from the consultation process and considers resourcing and the extent of current activity across our remit. The finalised annual plan, endorsed by the Commissioners, will be published on our website, with copies provided to the Department of Health and the Minister for Mental Health.

## 5. Implementation of the annual plan

The Commission undertakes the activities identified in the annual plan, subject to changes in contextual factors including the availability of funding and priorities across the Commission's functions.



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