

WHAT IS THE MENTAL HEALTH ACT?

The Mental Health (Compulsory Assessment and Treatment) Act 1992 is Aotearoa New Zealand's mental health law.



Every 46 minutes,

a New Zealander believed to need acute mental health support goes under the Mental Health Act.¹

This could be you, or someone you love.

Once assessed, they must receive compulsory mental health treatment whether they agree to it or not – even if they are able to make decisions about their own mental health care.²



This law criminalises the people who need support the most

Once assessed by a mental health clinician as 'mentally disordered', a judge may use this law to force someone to receive mental health treatment. The person believed to need support has little say on what kinds of mental health treatment they receive, or where, including whether they are detained in a hospital and how long for.³

Why does the Mental Health Act need to change?

The Mental Health Act is over 30 years old. It is widely agreed that this law needs to change – indeed, change has been underway since 2019.

There are many reasons why. Some important reasons are:

The Mental Health Act breaches people's basic freedoms and rights.

Basic human rights such as the freedom to exit a space (like a solitary confinement room in a hospital) or make decisions about one's own mental health care are breached by this law, and can discourage people from seeking help. Solitary confinement (where someone is placed in a room, often with just a cardboard toilet and mattress) has been defined by the United Nations as a form of torture.⁴

The way the Mental Health Act is used harms mental health workers, too.

The Mental Health Act allows restrictive and traumatic practices, such as solitary confinement, to be used. Evidence shows reducing these practices can improve wellbeing for mental health workers as well as people under the Mental Health Act, and decrease violence on wards.⁵ Our mental health workers deserve safer and better-resourced workplaces that support their wellbeing, without the mental burden of carrying out these restrictive practices.

The way the Mental Health Act is used disproportionately impacts Māori.

Māori are three to four times more likely than other groups to be subjected to compulsory mental health treatment, and in 2021/22 represented more than half of all people subjected to solitary confinement.¹ The Mental Health Act should contain safeguards that prevent it being used inequitably.

Despite Aotearoa New Zealand having one of the world's highest rates of compulsory mental health treatment, there's little evidence it is effective.

75% of people under the Mental Health Act are on community compulsory treatment orders,¹ which are costly and untherapeutic for most people.⁶ Evidence on the effectiveness of inpatient compulsory treatment orders is limited and mixed.⁷

But — don't some people find the Mental Health Act helpful?

New Zealanders who have been under the Mental Health Act have mixed experiences — while some found it traumatising, others found it provided faster and easier access to mental health supports and services. Some people find the main benefit of being under the Mental Health Act is securing access to services and free medication³ — a symptom of our stretched mental health system.

It's important to remember it is the access to mental health support — not the compulsory mental health treatment — that people find helpful.⁸ The Mental Health Act should function only as an absolute last resort — not as the default or primary way to access specialist mental health care.

Don't some people need to be locked up, for their own and others' safety?

It's a myth that people with significant mental distress innately pose a risk to the public. Up to 80% of us will experience mental distress or illness in our lifetimes.⁹ Although rare incidents do occur (and are over-reported on in the media), statistics show people experiencing significant mental distress are far more likely to be the victims of crime and violence than its perpetrators.^{10,11,12}

It's also a myth that going under the Mental Health Act always keeps people safe. Although some people feel safer when their loved ones are detained in a hospital or forced to receive mental health treatment, this feeling of safety is only an illusion. There is little evidence that going under the Mental Health Act removes all risk that someone in distress may hurt themselves or others, or that those risks can be accurately predicted.¹³

WHAT'S HAPPENING TO THIS LAW?

The Government is replacing the current Mental Health Act with a new law, and there will be an opportunity to have your say.

Changing this law is a once-in-a-lifetime opportunity. We know a better mental health system and law are achievable, because they already exist in other countries. There are also great mental health services already thriving here in Aotearoa New Zealand that don't rely on forced or restrictive practices — we just need more of them. With more support and funding, these services can become the norm.

The
new law
should...

I think...

Want to learn more?

Learn more about the Mental Health Act, and how to make change, by:

Visiting **rethinktheact.nz**.
We have explainer videos,
case studies and more!

Signing up to our e-newsletter,
at **mentalhealth.org.nz/our-
work/policy-and-advocacy**,
to stay updated

Emailing us with any questions
at **policyandadvocacy@
mentalhealth.org.nz**

Staying safe

Talking about the Mental Health Act may be upsetting or triggering — a valid and understandable response. If you or someone you know has immediate safety concerns, please dial 111 or contact your local mental health crisis assessment team, which you can find at **mentalhealth.org.nz/helplines**