

Victoria Police Manual

The Victoria Police Manual is issued under the authority of the Chief Commissioner of Police in s.60, Victoria Police Act 2013. Non-compliance with or a departure from the Victoria Police Manual may be subject to management or disciplinary action. Employees must use VPM Professional and ethical standards to inform the decisions they make to support compliance.

Designated areas: Conducting searches and issuing directions

Context

The *Control of Weapons Act 1990* provides legislation that allows police and Protective Services Officers (PSOs) in certain situations to:

- search persons in a designated area, without a warrant, for weapons and to seize any weapon detected, and
- direct a person to leave the designated area in specific circumstances.

This policy is intended to provide direction to members on the specific rules for conducting these searches or issuing a direction when in a designated area in accordance with the *Control of Weapons Act*. This policy is supported by, and should be read in conjunction with, **VPM Searches of a person**.

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Definitions

- Authorised Officer – police officer of or above the rank of Assistant Commissioner who has been delegated the authority to declare an area to be designated (instrument of delegation GP 2)
- child – a person under the age of 18 years (s.3(1))
- designated area – an area in respect of which a declaration under s.10D or 10E is in effect (s.10C).
- search – as prescribed in Schedule 1 of the Act

- PSO – Protective Services Officer
- thing – includes any object, article or material (s.10C)
- weapon – a prohibited or controlled weapon or dangerous article (s.10C)
- Gender definitions can be found in **VPM Trans and gender diverse inclusion**.

Also refer to the general **VPM Dictionary** for definitions and acronyms.

Policy

- The *Control of Weapons Act* allows for Victoria Police to create a designated area and then, without a warrant, search persons in public places within that area for weapons and seize any weapon detected.
- Only an Assistant Commissioner or above may declare a designated area in accordance with Instrument of Delegation GP2.
- An area may be declared a designated area as part of a planned designation (s.10D) or an unplanned designation (s.10E). Wherever possible, a planned designation should be made rather than an unplanned designation.
- Where a designated area contains a designated place, PSOs may be utilised to assist in the conduct of searches (see **VPM Protective services officers – duties and responsibilities** for definition of designated place).
- A PSO on duty in a designated area may conduct searches within that designated area if there are police officers also conducting searches within the designated area under a s.10D or s.10E declaration.
- Any search conducted in a designated area does not require police officers and PSOs to be satisfied of a suspicion on reasonable grounds that a person is carrying a weapon, as the grounds are based on evidence regarding the location, not the individual. However, police officers and PSOs must conduct the least invasive search that is practicable in the circumstances (s.10G(3)).
- Police officers, PSOs, PCOs and SPCOs must always properly consider and act compatibly with a person's human rights as per s. 38, *Charter of Human Rights and Responsibilities Act 2006* (the Charter). When deciding whether and how to conduct a search, any of the protected human rights under the Charter may be engaged. In line with the objectives of the Charter, persons must not be selected solely based on their race, religious belief or activity or physical features. As per **VPM Searches of a person**, employees undertaking a search of a person must consider whether each proposed search is lawful, proportionate and necessary.
- Nothing in this policy prevents a police officer exercising a power to search under s.10, or a search power within any other Act if they have reasonable grounds to suspect as required under those Acts.
- Specific requirements apply to full searches of children (see **VPM Searches of a person**).
- To assist in maintaining the good order of a designated area, police officers may direct a person to leave the area if they reasonably believe grounds specified in the *Control of Weapons Act* are applicable.

Responsibilities and procedures

1. Planned designation

1.1 *Criteria*

- To make a planned designation of an area under s.10D, the Authorised Officer must be satisfied that:
 - more than one incident of violence or disorder has occurred in that area in the previous 12 months that involved the use of weapons and
 - there is a likelihood that the violence or disorder will recur (declaration must not exceed 24 hours)

or

 - more than one incident of violence or disorder has occurred in that area in the previous 12 months that involved the use of weapons and
 - it is necessary to designate the area for the purpose of enabling police officers or PSOs to exercise search powers to prevent or deter the occurrence of any violence or disorder that the Authorised Officer is satisfied is likely to occur (declaration must not exceed 6 months)

or

 - an event is to be held in that area and incidents of violence or disorder involving the use of weapons have occurred at previous occasions of that event (wherever occurring) and
 - there is a likelihood that the violence or disorder will recur (declaration must not extend beyond a reasonable time before and/or after the event)

or

 - an event is to be held in that area and
 - by information known to the Authorised Officer, there is a likelihood that violence or disorder involving the use of weapons will occur in that area during the period of intended operation of the declaration (declaration must not extend beyond a reasonable time before and/or after the event).
- The designated area must not be larger or for a longer period than is reasonably necessary to enable police officers and PSOs to effectively respond to the threat of violence or disorder.
- In relation to a scheduled event, the declaration may operate for more than one period.
- Each period of a declaration in relation to an event operates during the event and during any time before and after the event that the Authorised Officer considers reasonable (s.10D(3B)(a)(b)).
- The planned designation will take effect and remain in force, after the date of publication of the notice in the Government Gazette, for the period(s) specified in the Notice of Declaration of Designated Area (the 'Notice').
- There can be no further planned designation of the same area until 12 hours after the end of the period, or the last of the periods of the previous planned

designation. This does not prevent an unplanned designation in respect of that area, during that 12 hour period.

1.2 *Notice of declaration*

- Section 10D(4) requires that a Notice must be published for all planned designations:
 - in the Government Gazette; and
 - on an internet site maintained by Victoria Police.
- A declaration takes effect after the date of publication of the Notice in the Government Gazette and Victoria Police internet site (i.e. where the declaration must take effect on Thursday, the Notice must be published on or before Wednesday).
- The Notice must:
 - describe the designated area and provide specific boundaries (e.g. area encompassed by Smith Street, Stanley Street, Wellington Street and Peel Street, Collingwood)
 - include a map of the designated area
 - specify the powers that members are authorised to exercise within the designated area
 - specify the period or periods of operation of the declaration
 - if the declaration is made in relation to an event, specify that event.
- The Authorised Officer must ensure that:
 - the above information is published as required before the declaration takes effect
 - in any areas known to have a high representation of a Culturally and Linguistically Diverse (CALD) community, this information is effectively communicated to that community (for advice on CALD communication strategies, contact Priority Communities Division on email PRIORITYCOMMUNITIESDIVISION@police.vic.gov.au or refer to the [PCD intranet page](#)).

2. Unplanned designation

2.1 *Criteria*

- To make an unplanned designation of an area under s.10E the Authorised Officer must be satisfied that:
 - there is likelihood that violence or disorder involving weapons will occur in that area during the period of intended operation of the declaration; and
 - it is necessary to designate the area for the purpose of enabling members to exercise search powers to prevent or deter the occurrence of any violence or disorder that is likely to occur.
- The unplanned designated area must not be larger or for a longer period than is reasonably necessary to enable police officers and PSOs to effectively respond to the threat of violence or disorder, but not exceed 24 hours.
- The unplanned designation will take effect and remain in force from the date and times stipulated in the Application to Declare a Designated Area [Form 1373].

2.2 *Notice of declaration*

Once an unplanned designation is authorised, a Notice must be published on the Victoria Police website as soon as practicable containing:

- a map of the designated area
- a description of the designated area including specific boundaries (e.g. area encompassed by Smith Street, Stanley Street, Wellington Street and Peel Street, Collingwood)
- the powers that police officers and PSOs are authorised to exercise within the designated area
- the period or periods of operation of the declaration
- where the declaration is made in relation to an event, specify that event.

Forward the Notice to VP WEBSITE–MGR for publication on the Public Notices section of the website.

3. Application process for designation

3.1 *Supporting evidence*

- An application to an Authorised Officer to declare a designated area must be made using a Form 1373 and should include sufficient evidence to support the legislative criteria for a planned or unplanned designated area in the following format:
 - planned – Operation Order
 - unplanned – Field Incident Action Plan [Form 1391].
- The Operation Order or Incident Action Plan is to include a Human Rights Risk Assessment (HRRRA). For advice on conducting this risk assessment contact the Priority Communities Division. Copies of HRRRA are found at the [Human Rights Assessment Tools](#) intranet page.

3.2 *Authorised Officer*

Based on the supporting evidence, the Authorised Officer must:

- assess the validity of intelligence or information received relating to violence or disorder involving weapons in the area
- assess if the circumstances meet the legislated criteria for a planned designation or an unplanned designation
- ensure that the area has not been subject to a planned designation in the last 12 hours
- ensure that an appropriate area/location is available should there be a requirement to conduct a full search
- consider the need to nominate a member to be responsible for identifying persons to be subjected to a search
- ensure the appropriate Notice of Declaration is completed (refer to section 1.2 or 2.2)
- complete and sign Part C of the Form 1373.

4. Search and seizure powers

- Where an area has been specifically designated under ss.10D or 10E for the purpose of searching for weapons, police officers and PSOs may, without warrant stop and search:
 - a person (s.10G and s.10GA)
 - anything in their possession or under their control (s.10G and s.10GA)
 - a vehicle, if there is a person in or on the vehicle (s.10H)that has been found in a public place, within that designated area.
- For the purposes of conducting the search, police officers and PSOs may:
 - detain the person, thing and vehicle for as long as reasonably necessary to conduct a search
 - seize and detain any suspected weapon that is detected during a search under these provisions.
- When conducting a search, PSOs must comply with the following requirements:
 - must conduct least invasive search that is practicable
 - police officers must be present and actively involved in the search of the designated area.
- If after examination, the police officer or PSO determines that the item is not a weapon, and the person can legally possess the property, the police officer or PSO must return the item to the person without delay.

5. Manner of conducting searches

Searches must be conducted:

- in the least invasive manner reasonably necessary in the circumstances
- in a manner that affords the appropriate level of privacy, dignity and self-respect of the person
- as quickly as is reasonable in the circumstances
- in accordance with **VPM Searches of a person**.

6. Pre-search requirements

6.1 Requirements

Before a police officer or PSO commences any search without warrant, they must:

- inform the person:
 - if requested, of their name, rank and place of duty (in writing also if requested)
 - the reason for the search
 - that they are empowered under the *Control of Weapons Act* to conduct the search.
- produce identification for inspection, unless in uniform
- give the person a Search Notice (see section 6.2).

If conducting an outer search of the person, where reasonably practicable in the circumstances, police officers and PSOs must also:

- inform the person if they will be required to remove clothing and the reason why
- ask for the person's co-operation.

If conducting a full search of the person, police officers must:

- inform the person to be searched of the police officer's name, rank and place of duty and provide this in writing if requested
- inform the person if they will be required to remove clothing and the reason why
- ask for the person's co-operation.

PSOs must not conduct full searches.

6.2 *Search Notice*

A Search Notice [Form 1373A] must be given to the person prior to any search being conducted, unless the person refuses or does not wish to accept (s.10I).

7. Method of search

7.1 *Initial search*

The initial search of a person may be conducted by electronic metal detection device, of their external person only. If as a result of this initial electronic device search, a police officer or PSO considers that a person may be concealing a weapon, they may:

- pat down the area of the person's pockets or request the person to empty their pockets and search the contents
- request the person to produce and empty the contents of any bag, basket or other receptacle and search the contents.

7.2 *Outer search of the person*

If as a result of the initial electronic device search, or search under s.10, the police officer or PSO considers that a person may be concealing a weapon, they may conduct an outer search of person (clause 5, Schedule 1) in the following manner:

- request the person to remove their outer clothing such as overcoat/jacket and gloves, shoes and headgear so that the police officer or PSO may:
 - pass an electronic detection device over or in close proximity to their clothing
 - run member's hands over the person's clothing that is immediately under the outer clothing that has been removed
 - search the person's outer clothing and gloves, shoes and headgear.
- it does not include removal of inner clothing
- where reasonably practicable, conducted by police officer or PSO of the same sex gender as the person being searched; or if the person being searched identifies as transgender, gender diverse or intersex, a member of the gender with which the person identifies or is most comfortable. Where it is not possible to meet the person's request, this should be clearly explained and a record made in the patrol duty return, VP502 Initial Action Pad or official diary.

7.3 *Full search*

PSOs do not have the authority/power to conduct full searches. If after an outer search a PSO reasonably suspects that the person still has a concealed weapon, they must immediately notify a police officer who can then conduct a full search as per the below instructions.

If after conducting an outer search of a person, the police officer or PSO reasonably suspects that the person still has a concealed weapon on their person and the seriousness and urgency of the circumstances require, a police officer or person under direction of a police officer must seek approval from the Police Commander to conduct a full search in the following manner:

- may involve removal and examination of the least amount of clothing as reasonably believed necessary
- the search must be approved by the Police Commander and be conducted in complete privacy and; the Authorised Officer will ensure that an appropriate location is allocated for this purpose
- be conducted by a police officer or person under direction of police officer:
 - of the same gender as the person being searched; or
 - if the person being searched identifies as transgender, gender diverse or intersex, a member of the gender with which the person identifies or is most comfortable. Where it is not possible to meet the person's request, this should be clearly explained and a record made in the patrol duty return, VP502 Initial Action Pad or official diary.
- must not include:
 - intrusive body cavity searching or physical examination of the body by touching
 - any more visual inspection of the person as reasonably believed necessary
 - search of genital area or, in the case of a female or person who identifies as a female, the person's breasts, unless reasonably believed necessary for the purpose of the search
 - being conducted in view or presence of person of the opposite sex, or gender to that which the person being searched identifies as or is most comfortable, or other persons not engaged in the search or necessary for the purpose of safety.
- police officers conducting a full search have a power to:
 - demand name and address
 - direct a person to accompany the member to the area nominated by the Authorised Officer.

7.4 *Additional requirements for full searches of children*

- All full searches of children must be conducted in line with **VPM searches of a person.**
- Full searches of children under this policy must only be conducted by police officers and should:
 - only involve the person removing the amount of clothing that is necessary to address the risk of contraband, weapons or evidence being concealed
 - be conducted using the half/half technique unless a senior sergeant or above authorises the person to be directed to remove all their clothing at once.
- Full searches of children must only be conducted in line with sections 2.2 and 3.4 of **VPM Searches of a person.**
- There are additional requirements apply for children aged 10-14 – searches must be conducted in line with section 3.6 of **VPM Searches of a person.**

- Children under 10 can only be subjected to a full search where the relevant search provisions under the *Control of Weapons Act* apply. The threshold justification to conduct such a search is very high in light of the legal obligation that applies to all Victoria Police officers under the Charter, the special vulnerabilities of children under 10, and the need to ensure the protection of the child's best interests.
- Approval to undertake a full search of a child under 10 must be obtained from a superintendent to ensure the required justification exists before undertaking such a search. If practical, the superintendent may seek legal advice before a full search is undertaken of a child under 10 years old.
- A full search of a child under 10 must not involve the removal of more clothes than the police officer believes on reasonable grounds to be necessary for the purposes of the search. The police officer must not search the genital area of the child unless the police officer believes on reasonable grounds that it is necessary to do so for the purposes of the search.
- A full search of a child under 10 must be conducted in the presence of a parent or guardian, or independent person.

7.5 Additional requirements for searches of children or persons with impaired intellectual functioning

- Where a police officer or PSO has grounds to conduct an outer search of a person they believe on reasonable grounds is a child or a person with impaired intellectual functioning, the search must be conducted in the presence:
 - of a parent or guardian
 - if the person with impaired intellectual functioning, or in the case of a child is mature enough to express an opinion, indicates a parent or guardian is not acceptable, then in the presence of an independent person who is, as far as practicable, acceptable to the child or person to be searched.
- Where a police officer has grounds to conduct a full search of a person they believe on reasonable grounds is a person with impaired intellectual functioning, the search must be conducted in the presence:
 - of a parent or guardian
 - if the person with impaired intellectual functioning indicates a parent or guardian is not acceptable, then in the presence of an independent person who is, as far as practicable, acceptable to the person to be searched.

PSOs do not have the authority/power to conduct full searches.

Planned designation search (s.10D)

If a parent or guardian is not present and urgent or serious circumstances exist, the search may be conducted in the presence of an independent person who is, as far as practicable, acceptable to the child or person.

Unplanned designation search (s.10E)

- If not practicable in the circumstances for a parent or guardian to be present, the search may be conducted in the presence of any person (including police officer) other than a police officer conducting the search.

- Parent, guardian or independent person does not apply if only conducting an initial search by means of electronic device.

Unable to determine age

Where there is doubt regarding a person's age in determining if they are an adult or child, that person should be treated as a child for the purpose of these search requirements and the requirements related to searches of persons under the age of 18 contained in **VPM Searches of a person** must be applied.

7.6 Recording searches

Police officers and PSOs conducting searches under s.10G and s.10GA must record the number of:

- searches conducted
- weapons and the class of weapons found (i.e. dangerous article, controlled or prohibited weapon)
- persons charged with offences under the Act.

Searches must also be recorded in line with the requirements under section 5 of **VPM Searches of a person**.

8. Issuing a direction in a designated area

- PSOs do not have the authority/power to direct a person wearing a face covering to remove the face covering or leave the designated area. If a PSO reasonably suspects that the person should be directed to remove a face covering or leave the designated area, they must immediately notify a police officer who can then issue a direction as per the below instructions. PSOs do not have the power to detain in these circumstances.
- Where a police officer reasonably believes a person in a designated area is wearing a face covering primarily to conceal their identity or protect themselves from the effects of crowd-controlling substances, the police officer may direct the person to remove the face covering. If the person refuses, then the police officer may direct the person to leave the designated area (s.10KA(1)). Failure to comply with the direction without reasonable excuse is an offence (s.10L(2)).
- A police officer may direct a person to leave a designated area if they have a reasonable belief that the person intends to engage in conduct that would constitute an offence under s.195H (affray) or 195I (violent disorder) of the *Crimes Act 1958* (s.10KA(2)). Failure to comply with the direction without reasonable excuse is an offence (s.10L(2)).
- Before or immediately after issuing the direction to leave, the police officer must advise the person that a declaration is in force and the area is a designated area (s.10KA(3)).
- A police officer who has issued a direction in accordance with s.10KA(1) or s.10KA(2) must record this in writing on their running sheet (or equivalent) and notify a supervisor.
- The supervisor of the designated area must record the total number of directions issued on the Form 1373.

9. Recording and supporting documents

- On completion of the operation the member in charge of the designated area must ensure that the following documents are retained at Command Headquarters:
 - Completed Form 1373
 - Operation Order/Incident Action Plan
 - Map of area
 - Debriefing reports
 - Government Gazette notice (if applicable)
 - Copy of notice published on Victoria Police website
 - Copy of Notice of Search.
- The result of the operation must also be recorded on Interpose or other intelligence holding area.
- Relevant information contained in the Form 1373 must be compiled and sent to the Transit Safety Division to meet annual reporting obligations in accordance with s.10B and s.10KB; see section 11.

10. Offences enforceable by infringement notice

10.1 Offences

- An infringement notice can be issued (s.11B) to a person who at the time of detection is aged 16 years or more:
 - s.6(1) possess, carry or use a controlled weapon
 - s.6(1A) possess, carry or use a controlled weapon in or within vicinity of licenced premises
 - s.6(1AA) child purchase a controlled weapon.
- An infringement notice pursuant to s.6(1AA) can only be issued to a child aged from 16 years and under 18 years at the time of detection (s.3(1) & s.11B(2)).

10.2 Forfeiture of controlled weapons if infringement notice served

- Where an infringement notice is served, s.9A provides for any seized controlled weapon, to which the offence relates, to be forfeited to the crown and may be sold or destroyed (s.9A(3)) if:
 - the recipient pays the infringement penalty
 - the recipient commences a payment plan or requests the addition of the infringement penalty to a payment plan under the *Infringement Act*
 - the payment period specified in the infringement notice expires and the recipient has not applied for review of the decision to issue the infringement notice; or
 - a review has been conducted on request of the recipient and a member decides:
 - to confirm the decision to serve the infringement notice; or
 - withdraw the infringement notice and serve an official warning; and
 - 28 days have elapsed since that decision.
- If the matter is to be determined before a court (s.9A(4)), the controlled weapon must be dealt with as an exhibit. Have regard to **VPM Seized property and special property types**.

- All weapons should be photographed and a copy of the photograph placed in the property book or electronically stored and linked to the property book entry prior to forfeiture/disposal.
- The police officer or PSO taking the photograph should sign, date and clearly print his or her name on the back of the photograph. For further guidance on use of secondary evidence, have regard to **VPM Seized property and special property types**.
- If a police officer or PSO withdraws an infringement notice and no further action is to be taken under s.9A(3)(e)(ii) or 4(b), or the court cancels the infringement notice the weapon must be returned to the recipient, unless it has been sold or destroyed under section 9A(3).

11. Reporting requirements

- The Chief Commissioner is required to submit an annual report to the Minister regarding Victoria Police's use of the provisions contained in the Act, specifically s.10B and s.10KB. This information is collected using the Form 1373 at the conclusion of each designated area operation.
- After application and at the conclusion of each designated area operation, the member in charge of the operation must consolidate and email the VP 1373 to Transit Safety Division for recording and collation.,
- At the conclusion of the financial year, Transit Safety Division must consolidate and forward the data to the Deputy Commissioner, Regional Operations for provision to External Reporting.
- External Reporting, Investment Management and Reporting Department is responsible for compiling the information for inclusion in the annual report.

Related documents

- VPM Searches of a person
- Instrument of delegation GP 2 - Power to declare a designated area
- VPM Protective services officers – duties and responsibilities

Further advice and information

For further advice and assistance regarding these instructions, contact Transit Safety Division, Transit and Public Safety Command.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
15/09/17	Reformat of VPMG Control of Weapons Act search powers and inclusion of new direction powers included in <i>Controlled Weapons Act 1990</i>	FF-105377
03/12/18	Inclusion of new powers for Protective Services Officers to conduct searches in a designated area	FF-123063

08/04/19	Update to correctly reference VPM Searches of a person	FF-105377
21/10/19	Instrument names amended to reflect updated property management policies	FF-116667
29/06/20	Amendments to reporting requirements. Transit Safety Division will be the central point for collating data from VP Form 1373.	FF-149528
14/12/20	Changes made to language around transgender, intersex and gender diverse people to improve inclusivity.	FF-164277
15/12/21	Amendments regarding full searches of children to align with review of VPM Searches of a person	FF-190350
04/06/25	Amendments to implement legislative reforms under the <i>Terrorism (Community Protection) and Control of Weapons Amendment Act 2025</i> regarding criteria for planned designations, updated time limits and publication requirements for notices.	FF-261009
13/06/25	Amendments to implement legislative reforms under the <i>Terrorism (Community Protection) and Control of Weapons Amendment Act 2025</i> regarding new requirement for notices.	FF-261009