

Victoria Police Manual – Procedures and Guidelines

Liquor control

Source Policy

These Procedures and Guidelines support and must be read in conjunction with the following:

- Liquor Control Reform Act 1998
- VPMP Public order

Application

Procedures and Guidelines are provided to support the interpretation and application of rules and responsibilities. They include recommended good practices and assessment tools to help employees make lawful, ethical and professional decisions. Employees should use the **Professional and ethical standards** to inform the decisions they make to support interpretation of Procedures and Guidelines.

Procedures and Guidelines are not mandatory requirements on their own. However, where rules and responsibilities state that employees must have regard to Procedures and Guidelines, the Procedures and Guidelines must be used to help make decisions in support of the rules.

Procedures and Guidelines

1. Policing of licensed premises

1.1 *Recording*

Record of visits – record on Patrol Duty Return [Form 501] or in Official Diary [PB 13]:

- visits to licensed premises
- details of persons found committing offences such as drunkenness or offensive behaviour in, on, or near licensed premises.

Licensed Premises Incident Report [Form 817] – is to be submitted in electronic format on the Interpose system when:

- an offence is detected on licensed premises

- an incident occurs on or in the vicinity of licensed premises that reflects adversely on the premises
- a Licensed Premises Written Warning [Form 1352] is issued
- any law enforcement action is taken against licensed premises (including the issue of an Infringement Notice)
- there is criminal involvement in the conduct and management of licensed premises.

1.2 *Infringement notices*

Issue of an infringement notice - the following apply regarding issue of an infringement notice for a liquor offence:

- any police member is authorised to issue an infringement notice
- licensed premises – when an infringement notice is issued to a person other than the licensee for a liquor offence that has occurred on a licensed premises, the issuing member is to also interview the licensee. Where a licensee is a body corporate, a person who is authorised to speak on behalf of the licensee company is to be interviewed (e.g. director, company secretary).
- Work Unit Managers are to ensure a copy of each infringement notice issued is sent to the Local Area Commander.

Withdrawal of infringement notice - Licensing Inspectors authorise the withdrawal of any infringement notice. Forward a report of the circumstances to the Licensing Inspector via the Work Unit Manager. Licensing Inspectors may also withdraw infringement notices at their own initiative.

Contested infringement notice - on receipt of a contested infringement notice the Work Unit Manager is to ensure:

- details are entered in the Register of Briefs
- the informant compiles a brief of evidence without delay
- after checking, the brief is forwarded to the Licensing Inspector for authorisation

1.3 *Licensee or permittee corporations*

Where a licensee or permittee is a corporation, charges should be laid and infringement notices should be issued to the body corporate and not the directors or nominees.

1.4 *Searching for liquor at entertainment venues*

Police are not to assist staff in searching people entering entertainment venues for liquor. Police should only become involved where staff experience difficulty with people who have been refused entry.

1.5 *Secondary employment and licensed premises*

Employees should refer to **VPM 314-1 Secondary employment** for direction.

2. Lockouts for Licensed Premises

2.1 *Introduction*

A lockout is a strategy designed to reduce the occurrence of alcohol-related crime, assaults and public order offences by restricting the entry or re-entry of patrons to licensed premises during the early hours of the morning. Lockouts can apply to an area or locality, or to specific premises.

Evidence shows that a high proportion of alcohol-related violence and anti-social behaviour in public places occurs during the early hours of the morning. A lockout is a strategy that aims to address this behaviour. Some of the perceived benefits of a lockout are:

- a reduction of problems associated with the migration of patrons from licensed venues that close at various times. These patrons often generate a trail of alcohol related violence and property damage when moving from one licensed venue to another
- a reduced likelihood that alcohol affected persons who have been ejected from a licensed premises are able to enter another licensed premises and give rise to undesirable situations
- an increased likelihood that persons consuming liquor are doing so in controlled licensed environments.

2.2 *Types of lockouts*

Lockouts can come into effect by:

- a voluntary agreement between licensees in a specified area or locality in consultation with local police. (a Voluntary Area or Locality Lockout)
- the Victorian Commission for Gambling and Liquor Regulation (the Commission) exercising the late entry declaration powers under the Liquor Control Reform Act (Commission Declaration Lockout)
- as a sanction imposed by the Commission to address alcohol related violence and anti-social behaviour associated with a particular licensed premises (a Specific Premises Lockout).

2.3 **Voluntary Area or Locality Lockouts**

- Victoria Police will only become involved in Voluntary Area or Locality Lockouts if the licensees intend to have the agreement endorsed by the Commission as a condition on the licenses of the parties to the agreement.
- Members are to consult with Liquor Licensing Unit (LLU), Transit and Public Safety Command, before agreeing to be a party to the lockout to ensure that the agreement is drafted in terms that are likely to be approved by the Commission.
- When consulting with licensees wanting to enter into a voluntary lockout members should assist the licensees to reach an in principle agreement on the terms of the lockout.
- When drafting a voluntary lockout agreement in consultation with local licensees, members are to consider the following:
 - the time at which a lockout takes effect is to be the same for all affected licensed venues within the specified area or locality, irrespective of the trading hours endorsed on the licenses of each affected premises
 - the lockout time should be at least two hours prior to the cessation of usual trading hours of the latest trading venue in a specified area or locality
 - Victoria Police should not enter into an agreement where the proposed lockout time is later than 2.00 am.
 - a lockout is not to contain any exemptions for special interest groups such as hospitality workers, VIP patrons etc.
- **Commission declaration lockout**
- Under Part 2, Division 7, *Liquor Control Reform Act*, the Commission has the power to make, vary and revoke an area based lockout. Refer to the **Victoria Police Liquor Licensing Reference Guide** for further information.
- Victoria Police may make a request to the Commission to make, vary or revoke an area based lockout where:
 - a lockout is considered necessary to reduce the occurrence of alcohol related violence and anti social behaviour in public places; and
 - some or all of the licensees in a specified area refuse to enter into a lockout agreement or cannot come to an agreement on the terms of the proposed lockout agreement.
- The Local Area Commander is to make the request in writing through the LLU, and is to include supporting evidence as to why a Commission declaration lockout is appropriate, such as statistical data and mapping on crime trends (heat maps etc). The Commission may request further information in support of the request.

2.4 Specific premises lockdown

A specific premises lockdown would only occur as a sanction imposed by the Commission following a disciplinary action enquiry into a licensee under s.91, Liquor Control Reform Act or an amenity inquiry into a licensed premises under s.94. Contact the LLU for further information about applying for a specific premises lockdown.

3. Banning notices, exclusion orders and liquor licence suspension

3.1 Introduction

Under the *Liquor Control Reform Act*, the Commission is able to declare an area as a 'designated area' and provide for the issue of banning notices, exclusion orders and liquor licence suspension by police.

3.2 Definitions

The following terms, which are defined in s.3 of the Act, apply:

- designated area – an area declared under s.147
- banning notice – a notice given under s.148B
- exclusion order – an order made by a court under s.148I
- specified offence – an offence listed in schedule 2

3.3 Designated areas

A number of locations in Victoria have been gazetted as designated areas. Refer to the **Victoria Police Liquor Licensing Reference Guide** for details and maps of the current designated areas. The specific area map is to be attached to the banning notice books. Enquiries regarding gazettement of additional areas as designated areas can be directed to the Liquor Licensing Unit on 03 8684 4101.

3.4 Specified offences

The following offences are specified offences and listed in schedule 2:

- offences against the person (s. 16, 17, 18, 19, 20, 21, 22, 23, 24, 30, 31 or 31B, Crimes Act 1958)
- sexual offences (ss.38, 38A, 39 or 40, Crimes Act)
- destroying or damaging property and trespass (ss.197 or 206, Crimes Act or s.9, Summary Offences Act 1966)
- offences relating to drunkenness (ss. 14 or 16, Summary Offences Act)

- offensive and obscene behaviour (ss. 17 or 19, Summary Offences Act)
- assaults (ss. 23-24, Summary Offences Act)
- prohibited weapons offences (s. 5(1A), Control of Weapons Act 1990)
- failure to leave licensed premises (s. 114(d)).

Drunk in a public place (s. 13, *Summary Offences Act*) is not included as a specified offence.

3.5 **Banning Notices**

When banning notices can be issued – in line with s.148B banning notices:

- can ban a person from a designated area or all licensed premises in a designated area for a period, reasonable in the circumstances, not exceeding 72 hours
- cannot be issued to ban a person from a designated area if the relevant police member has reasonable grounds to believe that the person lives or works in the designated area
- may be issued by a police member who suspects on reasonable grounds:
 - that a person is committing or has committed a specified offence wholly or partly in a designated area
 - that the giving of the notice may be effective in preventing the person from continuing to commit the specified offence or committing a further specified offence involving a risk of alcohol related violence or disorder in the designated area.

Reasonable grounds – under s.148B, in determining whether there are reasonable grounds, the police member is to consider all of the following:

- the apparent state of health of the person to whom the notice is to apply
- whether the person is likely to continue to commit the specified offence or commit a further specified offence
- whether the person should be arrested or held in custody pending the hearing of any charges against the person in respect of the specified offence
- whether the person is capable of comprehending the nature and effect of the notice.

Requirement – a banning notice is to be issued with a map of the designated area to meet the requirement that the banning notice state “the designated area in which the notice applies” (s. 148C).

Request for name and address – in line with s.148D, police members:

- may request a person's name and address if they advise the person of their intention to issue a banning notice
- who suspect on reasonable grounds that the stated name or address may be false, may request the person to produce evidence of the name and address
- must inform the person, at the time of the request, that it is an offence to fail to comply with the request
- must if requested, provide their name, rank and place of duty, orally or in writing.

3.6 Exclusion orders

When exclusion orders can be issued – in line with s.148I, an exclusion order can be issued by a court:

- if the court finds the offender guilty of a specified offence that was committed wholly or partly in a designated area, providing the offender was not sentenced to a term of imprisonment of 12 months or more or an indefinite term of imprisonment
- if the court is satisfied that the order may be an effective and reasonable means of preventing the commission of further specified offences in the designated area, considering relevant matters, including -
 - the nature and gravity of the specified offence
 - whether the offender has previously been found guilty of a specified offence committed in the designated area
 - whether the offender is or has been the subject of an exclusion order
 - the likely impact of the exclusion order on the offender, victim, public safety and public order
- to exclude the offender from the designated area, all licensed premises in the designated area, specified licensed premises or licensed premises of a specified class within the designated area for a period of up to 12 months
- subject to conditions as the court deems fit.

Applying for an exclusion order – where a specified offence is committed wholly or partly in a designated area, the informant should:

- consider the factors outlined above
- complete a Notice of Intention to Apply for an Exclusion Order [Form 1326]
- serve a copy of the notice on the defendant

- attach a copy of the notice and supporting documentation to the brief of evidence for attention of the prosecutor.

3.7 *Directions to leave*

In line with ss. 148G and K, where a person to whom a banning notice or exclusion order applies, is in the designated area or licensed premises in contravention of the banning notice or exclusion order, members:

- if reasonable in all the circumstances, may direct the person to leave the designated area or the licensed premises
- who are not in uniform, must produce identification before making a direction
- must inform the person that:
 - they are empowered to direct the person to leave the designated area or licensed premises
 - it is an offence to fail to comply with a direction to leave the designated area or licensed premises
- must make all reasonable attempts to ensure that the person understands the direction to leave the designated area or licensed premises.

3.8 *Use of force*

In line with ss. 148H and L, police may use reasonable force to:

- remove a person from a designated area or licensed premises once that person has refused to comply with a direction to leave
- prevent a person from entering or re-entering, or attempting to enter or re-enter, a designated area or licensed premises contrary to a banning notice or exclusion order.

3.9 *Offences*

A person:

- to whom a banning notice or exclusion order applies (s.148F & J) -
 - must not enter or re-enter, or attempt to enter or re-enter, the designated area or licensed premises in contravention of the notice
 - who is in the designated area or licensed premises in contravention of the notice, must comply with a direction given by a member of the police force
- must not (s.148D) -
 - refuse or fail to comply with a request for their name and address
 - state a name that is false in a material particular

- state an address other than the full and correct address of his or her ordinary place of residence or business.

A licensee or employee must not knowingly permit a person to whom a banning notice or exclusion order applies to enter or re-enter the licensed premises in contravention of the notice or order (s. 148Q).

3.10 Disclosure provisions

Police may disclose the following information to licensees or their employees (s. 148P):

- the fact that a banning notice or exclusion order has been made that bans or excludes a person from their premises
- the name of the banned or excluded person and a photograph of them, if available
- the period of the order or notice
- a copy of the notice or order
- any other information that the member deems necessary for enforcement of the notice or order.

3.11 Recording

Banning notices:

- All banning notices are to be faxed to CDEB at the earliest opportunity.
- If recording is considered urgent, the notice can be telephoned through to CDEB and is to be faxed at the earliest opportunity.
- CDEB will create an interest flag in relation to that person.

Exclusion orders:

- As a result of a person being made subject to an exclusion a 'person warning flag' will be created automatically in LEAP.
- If recording is considered urgent, telephone a Police Enquiry and Data Sharing Department – Court Results Unit supervisor during business hours, Monday to Friday and inform them of the defendant's details, including date and place of hearing.

3.12 Reporting provisions

The Chief Commissioner must submit a report to the Minister each financial year regarding banning notices, exclusion orders and associated offences.

3.13 *Licence suspensions by police*

An Assistant Commissioner or above, by notice in writing to a licensee, may suspend the licensee's licence for a period not exceeding 24 hours, if the member believes on reasonable grounds that all of the following factors exist:

- the licensee has engaged in conduct that would constitute grounds for an application under section 90 for an inquiry into the licensee
- it is likely that the licensee will continue to engage in that conduct
- there is a danger that a person may suffer substantial harm, loss or damage as a result of the licensee's conduct unless the licence is suspended.

After hours, the appropriate regional Assistant Commissioner can be contacted via the Police Shift Manager at Police Communications (D24).

4. Liquor accords

4.1 *Purpose*

- Liquor accords are a code of practice or an agreement entered into by licensees or BYO permittees for the purpose of harm minimisation due to the misuse of alcohol. They are approved by the Chief Commissioner and the Commission and affect the:
 - supply of alcohol
 - management and conduct of licenses premises
 - banning of persons
 - disclosure of information to accord members and their employees.

Licensing Inspectors have the delegated authority of the Chief Commissioner to approve a liquor accord. Refer to **MISC Delegation 8.6** and the **Victoria Police Liquor Licensing Reference Guide** for further information.

4.2 *Release of information for the purpose of a liquor accord ban*

Information can only be released as provided in s.146D, *Liquor Control Reform Act*. This information should only be released subject to the following:

- the disclosure is for the purpose of enforcing a liquor accord ban and is deemed necessary to ensure public order and compliance with the liquor accord ban
- the licensee or permittee must undertake not to engage in any unauthorised copying, distribution or public display of the information. A statement to this effect is to be included in the accord

- in the case of photographs, any police identifiers or information, other than the depiction of the person, is to be removed from the photograph prior to its disclosure
- VicRoads information is not to be disclosed.

5. Barring orders

5.1 Introduction

- Under Part 7A, *Liquor Control Reform Act 1998*, licensees, permittees, responsible persons and police have the power to issue a Barring Order. A responsible person is any person who is responsible for the management or control of licensed premises (s.3). However, it is generally expected licensed premises will have primary responsibility for issuing orders.
- Although orders will generally be issued by licensees, permittees or responsible persons, police may be called upon to assist as only police have power to demand name and address.
- Orders only apply to a specified licensed premises and time. Records of issued orders and copies of forms will be located at licensed premises. These records must be produced for inspection by a police member (s.106K).

5.2 When orders may be issued

A barring order may only be issued (s.106D):

- if person is drunk, violent or quarrelsome in the licensed premises; or
- the person issuing the order reasonably believes that the safety of the person, or any other person in the licensed premises, is at substantial or immediate risk as a result of the consumption of alcohol by the person.

The maximum duration of the barring order is prescribed by s.106G.

5.3 Service of orders by police

- In line with s.106H, police members:
 - may request a person's name and address if they advise the person of their intention to serve an order on them.
 - who suspect on reasonable grounds that the stated name or address may be false, may request the person to produce evidence of the name and address
 - must inform the person, at the time of the request, that it is an offence to fail to comply with the request
 - must if requested, provide their name, rank and place of duty, orally or in writing.

- Where members serve an order:
 - Barring order may only be issued in the prescribed form: Barring Order (Regulation 57A) available from Police Stores (s.106F). Forms are also available at the licensed premises.
 - The original must be served on the barred person and the police copy filed with the licensees' records of barring orders. Details should also be made in the Form 501 and Form 817 (see section 1 above).
 - Unless in uniform, police must produce proof of identity before serving an order (s.106E).

5.4 Effect of order

Once a person is served with a Barring Order, they must leave the venue and its vicinity, and cannot return until the Barring Order expires (the time period is specified on the Barring Order). The vicinity of a licensed venue is defined as within 20 metres of the venue (s.3(4)).

5.5 Enforcement and offences

While orders may be issued by a number of persons, they are only enforceable by police:

- A person who is to be served with an order commits an offence if they:
 - refuse or fail to give their name and address or give a false name or address without reasonable excuse(s.106H(3)).
 - fail to comply with a request to produce evidence of their name and address in accordance with s.106H(6) (s.106H(7)).
- A police member failing or refusing to give their details under s.106H(5) or giving false details commits an offence (s.106H(5)).
- A person against which there is an order in force commits an offence if, without reasonable excuse, they (s.106J):
 - enter or remain on the licensed premises
 - re-enter or remain in the vicinity of the licensed premises
- A licensee or permittee commits an offence if they
 - do not keep a record of all barring orders (s.106K(1))
 - fail to produce those records to a police member or compliance inspector on request (s.106K(2))
- It is an offence for a police member or compliance inspector to give any information acquired from the licensee's or permittee's barring order records to another person except to the extent necessary for them to carry out their duties under Part 7 of the Act (s.(106K(3)). Licensees and permittee's have a similar responsibility under s.106K(4) as well as the requirement to destroy records after three years (s.106K5)).
- Infringement notices (using the Form 508) can be given for the following offences (s.141(2):
 - refusal to give name or address (s106H(3)(a))

- giving a false name or address (s.106H(3)(b))
- refusal to provide evidence of name or address (s106H(7))
- entering or remaining on licensed premises from which a person is barred (s.106J(1))
- re-entering or remaining in the vicinity of licensed premises from which a person is barred (s.106J(2))
- failure to keep records of barring orders (106K(1))
- failure to produce records of barring orders upon request (106K(2))
- unauthorised disclosure of records) (s.106K(4))
- failure to destroy records of barring orders after three years(s.106K(5))

6. Directions to person

Section 114, Liquor Control Reform Act 1998 provides that it is an offence for a person to:

- Be drunk, violent, quarrelsome to refuse or fail to leave licensed premises when asked to do so by the licensee, permittee (or their agent/employee) or police member (s.114(2))
- remain in the vicinity of licensed premises after being refused entry or requested to leave by the licensee, permittee (or their agent/employee) or police member (s.114(3)). “Vicinity” is as defined in s.3(4).
- enter licensed premises within 24 hours of being refused entry or being requested to leave by the licensee, permittee (or their agent/employee) or police member (s.114(4)).

These offences can also be proceeded by infringement notice (s.141(2)).

Further advice and information

For further advice and assistance regarding these Procedures and Guidelines, contact Liquor Licensing Unit.

Update history

Date of first issue	22/2/10	
Date updated	Summary of change	Force file number
05/07/10	Changes to charging and issuing infringement notices to licensee or permittee corporations (section 1.3)	061193/10
31/08/10	Extension to period of banning from 24hrs to 72hrs (section	059952/09

	3.5)	
25/10/10	Option to charge directors of licensee or permittee corporations removed due to court ruling (section 1.3)	061193/10
15/03/11	- Removal of Misc delegations 8.1 and 8.2 - inclusion of statement authorising any member to issue an infringement notice - inclusion of section interviewing licensees (section 1.2)	065403/10
28/6/2011	Clarification of designated areas under banning notices	067934/11
01/08/11	New section 5 regarding barring orders following inclusion of new Part 7A in the <i>Liquor Control Reform Act 1998</i> and new section 6 relating to police directions added due to changes introduced by the <i>Justice Legislation Amendment Act 2011</i> . The new legislative provisions came into effect on 1 August 2011. Also some minor amendments have been made to other sections to clarify requirements and update terminology	067815/11
13/02/12	Amendments outlining the purpose of liquor accords and that Licensing Inspectors have the delegated authority to approve the establishment of an accord. (section 4.1)	070632/11
17/12/2012	Inclusion of new recording methods of exclusion orders on LEAP	064238/10
15/01/13	Updated to reflect organisational governance and structural changes.	FF-074790
12/05/2014	Updated to reflect changes to the Liquor Control Reform Act 1998 replacing “Director of Liquor Licensing” with “Commission for Gambling and Liquor Regulation”, and “s.90/95 inquiry” with “s.91/94 inquiry”.	FF-085922
12/09/2023	Administrative amendment to reflect name change from Records Services Division to Police Enquiry and Data Sharing Department.	FF-229744