

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.

Firearm prohibition orders

Context

The *Firearms Act 1996* (the Act) provides a legislative framework to regulate firearms in Victoria, including the process of making and enforcing firearm prohibition orders (FPOs). The Chief Commissioner of Police (CCP) has the authority to make an FPO if it is in the public interest to prohibit the person from acquiring, possessing, carrying or using a firearm or firearm related item. FPOs also create an aggravating factor for sentencing for certain offences.

Police may exercise specific search powers, without a warrant, once the FPO is issued and served in accordance with the provisions of the Act and certain criteria are met.

An FPO remains in effect for ten years for adults (18 years or older) and five years for children aged 14-17 years. A person may apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the Chief Commissioner's decision to make an order.

This policy provides directions to police when it is appropriate to consider making an FPO application. All police officers must act compatibly with, and give proper consideration to, all relevant factors including human rights under the *Charter of Human Rights and Responsibilities Act 2006* (the Charter). Police officers must ensure compliance with this legal obligation at all stages of an FPO, from application through to the use of powers stemming from an FPO being in force. Refer to **VPM Human rights standards** for more information.

This policy includes:

- the criteria for making an FPO application in accordance with the Act
- details of the FPO application process, administration, and oversight
- instructions for serving an FPO, surrendering firearms under FPO provisions and utilising specific search powers without a warrant or consent
- instructions for substituted service and serving an FPO utilising service direction determination and service search warrant powers
- review rights of an individual subject to an FPO.

Contents

Context	1
Contents	1
Definitions.....	2
Scope and application.....	2
Responsibilities and procedures	2
1. Criteria for making a Firearm Prohibition Order.....	2
2. Process overview	3
3. Serving the Firearm Prohibition Order and surrendering firearms.....	5
4. Effect of a Firearm Prohibition Order.....	15
5. Reviews.....	15
6. Overview of grounds for conducting Firearm Prohibition Order searches	16
7. Person searches	16
8. Search of vehicles, vessels or aircraft.....	18

9. Search of premises.....	19
10. Offender processing.....	21
11. Record keeping and reporting.....	21
Related documents.....	21
Further advice and information.....	22
Update history.....	22

Definitions

Firearm related item – a part of a firearm, cartridge ammunition, a silencer, an attachment for a firearm, an accessory for a firearm, instructions for manufacture of a firearm, any other prescribed item related to a firearm (s.112A).

Delegate – police officers or employees who have been authorised in writing as a delegate of the Chief Commissioner under the Act; see Instruments of Delegation FA 2 and FA 4 for the complete list of delegates. Delegates must attend an FPO Delegate Information Session before authorising an FPO.

Local manager - senior sergeant or above.

Pat-down search -

- involves requiring a person to empty their pockets and/or submit to an external 'pat-down' involving physical contact by a police officer with the outer layer of the person's clothing
- may involve the removal and examination of headgear, shoes, socks, outer clothing and handbags or other things carried by the person
- does not include the removal of inner clothing.

Scope and application

This policy applies to all police officers.

Responsibilities and procedures

1. Criteria for making a Firearm Prohibition Order

- In accordance with s.112D(1), the delegate may make an order prohibiting a person from doing all or any of the following:
 - acquiring any firearm or firearm related item
 - possessing, carrying or using any firearm or any firearm related item.
- In accordance with s.112E, the delegate may only make an FPO if they are satisfied that it is in the public interest to do so because of one or more of the following:
 - the criminal history of the person
 - the behaviour of the person
 - the people with whom the person associates
 - on the basis of information known to the CCP about the person, the person may pose a threat or risk to public safety.
- An FPO may be made:
 - even though the person has never acquired, possessed, carried or used a firearm or a firearm related item (s.112D(3))

- that applies to a person who has previously been issued an FPO and it has expired or been revoked (s.112D(4)).
- An FPO must not be made against a person under the age of 14 years (s.112D(2)).

2. Process overview

2.1 General process

Employees must follow all of the steps in the process outlined in the following table relevant to their role.

Step	
1	Police officer: – identifies that, in accordance with s.112E, it is in the public interest to make an FPO – has completed the Firearm Prohibition Order Applicant Practice e-Learning course through the VP Learning Hub (VPLH) – creates an Interpose document shell using naming convention; FPO Application - First name SURNAME (D.O.B) – MNI – requests the unit's intelligence practitioner or the FPO Registry, to create a LEAP Intel Holding alert flag for the person directing enquiries to the police officer/intelligence practitioner – compiles the FPO Application [Form 1486] with relevant supporting material attached, having regard to the FPO Practice Guide – contacts Licencing and Regulation Division (LRD) for advice where the person is a current firearms licence holder, private security licence/registration holder, or weapon approval holder and includes details on Form 1486 – submits the FPO Application via Interpose for endorsement by their local manager.
2	Local manager assesses the FPO Application: – considers if each individual ground being relied upon in support of the application has been substantiated and there is sufficient public interest in making an order against the person – if supported: ▪ endorses the Form 1486 ▪ endorses the Interpose document shell and identifies who will be the nominal informant for VCAT review process if applicable ▪ grants a creator access certificate to all users in the FPO Registry user profile ▪ emails an Interpose shell link to the FPO Registry with a subject heading, FPO Application – First name SURNAME (D.O.B.) MNI – if not supported, returns it to the police officer.
3	FPO Registry creates an FPO Case File for each application and checks whether the FPO Application is either: – complete and ready for submission to the delegate – incomplete and must be returned to the police officer for further information.

Step	
4	FPO Registry prepares the FPO Application Package and submits the FPO Application Package to a delegate.
5	Delegate: – assesses the FPO Application Package and records their decision on the Form 1486 and in the Interpose document shell – completes the Delegate Decision Log and Human Rights Impact Assessment, demonstrating in writing their consideration of human rights; refer to the Human Rights Impact Assessment Practice Guide for further guidance on completing the assessment – returns the completed FPO Application Package, Delegate Decision Log and Human Rights Impact Assessment to the FPO Registry.
6	FPO Registry: – notifies the police officer of the delegate's decision whether to make an FPO and where: ▪ application supported – provides a FPO Registry Copy and Individual Copy of the FPO with Affidavit of Service [Form 1485] to the police officer ▪ application not supported – returns application and feedback to the police officer – updates the FPO Case File and retains a copy of the completed FPO Application Package, Delegate Decision Log and Human Rights Impact Assessment.
7	Police officer: – plans service of the FPO, including a planned property search in accordance with VPM Searches of property. – completes the "Date served" and "Date expires" on both copies of the FPO – serves the Individual Copy and retains the FPO Registry Copy. If service is not immediate see section 3.2 of this policy for additional requirements.
8	Once the FPO is served, the police officer: – immediately scans and emails the FPO Registry Copy and completed Affidavit of Service to the FPO Registry via PBEA: FPO-Registry – delivers the FPO Registry Copy and completed Affidavit of Service to the FPO Registry for recording and filing – if service occurred out of business hours, also emails the FPO Registry Copy and completed Affidavit of Service to CDEB via PBEA: POLICE ENQUIRIES SERVICE-RSD-MGR for updating LEAP after hours.
9	FPO Registry: – updates the FPO Register – ensures a POI-FPO flag is recorded on LEAP, including service details, as soon as practicable – notifies LRD via PBEA: LRD-INTEL.

2.2 *Urgent application process*

Where circumstances require the urgent issuing and service of an FPO, the following process applies:

- the police officer must consult and seek approval from their local manager for the validation of an urgent FPO application
- the police officer must then contact the Crime Duty Superintendent (or other available delegate) and provide a verbal briefing on why the FPO should be made, based on the criteria in s.112E
- if supported, the delegate may give verbal approval that the FPO is to be made, then provide approval to the police officer electronically (this electronic record must be retained). The delegate and the police officer must also keep notes of the decision
- the police officer must prepare the Form 1485 with Affidavit of Service and arrange and execute service as described in section 3 of this policy
- within 24 hours of receiving approval, the police officer must send the FPO Application, via the FPO Registry, to the delegate who authorised the urgent application for review and to enable creation of the FPO Case File.

2.3 *Firearm Prohibition Order revocation*

An assistant commissioner or deputy commissioner who has delegated authority may revoke an FPO at their discretion (s.112K). Applications must not be made to the delegate requesting revocation; see section 5 of this policy for an overview of the review process.

3. Serving the Firearm Prohibition Order and surrendering firearms

3.1 *Serving the Firearm Prohibition Order*

- A police officer must:
 - plan and complete service of the FPO as soon as possible, taking into consideration operational requirements (such as risk assessments and ongoing investigations)
 - plan relevant searches, including preparing an Application for Approval to Conduct a Search [Form 707A & 707B], or complete the search warrant application within Interpose; searches should be conducted every time an FPO is served. Refer to **VPM Searches of property** for more information.
- Once the service date is known, the police officer must ensure that the "Date served" and "Date expires" fields are completed on both copies of the FPO as follows:
 - ten years - an adult who is 18 years or older
 - five years - children aged 14-17 years.

The expiry date for the FPO is the same day and month as the start date. For example, if the FPO was served on a person of or over 18 years on 22 February 2018, the expiry date would be 22 February 2028.

- Once the FPO is served, the police officer must immediately scan the FPO Registry Copy and Affidavit of Service and email it to the FPO Registry via the FPO Registry PBEA and return the original via mail for inclusion on the FPO Case File. Once the documents are received, the FPO Registry will add the POI-FPO flag on LEAP.
- When the FPO is served outside the hours of 8am-4pm weekdays, police officers must:

- immediately scan the FPO Registry Copy and Affidavit of Service and email it to the FPO Registry PBEA and POLICE ENQUIRIES SERVICE-RSD-MGR
- return the original via mail to the FPO Registry for inclusion on the FPO Case File.
- To effect service, the FPO must be served in person, i.e., handed to the person and the FPO explained. If the person refuses to take possession of the FPO, a copy of the order may be put down in the presence of the person and the order explained. This is recognised as personal service (s.112I(2)).

3.2 *Unserved Firearm Prohibition Orders*

- If the FPO cannot be served immediately the police officer must submit a Person Whereabouts request electronically in the Whereabouts Application (refer to **VPMG Tagging of records to locate suspects or offenders** for further details), unless coordinated service is planned. If the FPO remains unserved after 28 days, the FPO Registry must be advised of the anticipated service date and reason for delayed service.
- If the person is located, the police officer must be notified to enable service of the existing FPO. In the police officer's absence, their work unit manager must be notified.
- If the whereabouts of the person are unknown, or they are avoiding service then the police officer may apply to the delegate for a service direction determination to use service direction determination powers. Refer to section 3.3 of this policy.
- If reasonable attempts have been made at service on a person whose whereabouts are known, but the person is avoiding service, a police officer may apply to a magistrate for a service search warrant. Refer to section 3.5 of this policy.

3.3 *Applying for a service direction determination*

- A police officer may apply for a service direction determination if one of the following two scenarios can be demonstrated:
 - a police officer has reasonably attempted service, and
 - before the police officer attempted service, they reasonably believed the person was present at the place and time service was attempted, and
 - the person is avoiding service, and
 - for a person between 14 and 17 years old, there are exceptional circumstances
- OR
- a police officer has made reasonable enquiries to ascertain the residential address of the person, and
- Victoria Police does not have a record or otherwise does not have information on their whereabouts, and
- their whereabouts are unknown, and
- for a person between 14 and 17 years old, there are exceptional circumstances.
- Applications must be made using Application/Affidavit for an FPO Service Direction Determination [Form 1524]. Members must include information in Form 1524 demonstrating:

- the reasons for their belief that the person was present at the premises, or
- the enquiries made by the police officer to ascertain the residential address of the person, and
- if the person is between 14 and 17 years old, the exceptional circumstances that exist.

Refer to the **Firearm Prohibition Order Practice Guide** hosted on the Crime Command intranet site for further guidance.

- The delegate must assess the information included in the completed Form 1524 and record a determination using a Firearm Prohibition Order Service Direction Determination Approval Form [Form 1525] and notify the applicant and FPO Registry of their decision. The delegate must request a copy of the Form 1525 from the FPO registry.
- The service direction determination remains in force until the first of the following occurs:
 - the day the firearm prohibition order is served on the person, or
 - the expiry date specified in the determination, or
 - 90 days after the delegate makes the determination (s.112Y).

3.4 *Powers under a service direction determination*

- Following the making of a service direction determination, the police officer may stop the subject person when they are in a public place and direct the person to give their name and address to verify their identity (s. 112ZA(1)). The police officer must warn the person that a failure to properly comply with this direction is a summary offence (s. 112ZB(2)).
- If, after making the direction, the police officer is reasonably satisfied that the determination applies to the subject person based on the information given, the police officer may direct them to remain there, go to a police station or other safe place, or accompany the police officer to a police station or other safe place, in order to be served the FPO (s.112ZC).
- The determination provides the police officer the power to detain the person, at the place they were stopped or to which the person has gone, for a period of two hours from the time the direction is made for the purpose of serving the FPO (s.112ZC(2)).
- The police officer may use the force reasonably necessary to apprehend and detain the person if they unreasonably refuse or fail to comply with the direction (s.112ZD). Refer to **VPM Operational safety and the use of force** for more information.

3.5 *Stopping a person under a service direction determination*

- After stopping a person under s. 112ZA(1)(a), the police officer must inform the person that:
 - they may be directed to remain in place, or go to a police station or other safe place for up to two hours for the purpose of effecting service of the FPO (under s. 112ZC) and
 - they may be detained if they refuse or fail to properly comply (s. 112ZB(1)(a)).
- The police officer must also warn the person that:
 - a failure to properly comply with this direction is a summary offence (s.112ZB(b)(i)) and

- if they fail to properly comply, they may be detained for up to two hours, including through the use of force, for the purpose of effecting service (s. 112ZB(b)(ii)) and
- if they fail to properly comply and the person is a child aged between 14-17 years of age and the police officer issues a direction to remain in place, or to go a police station or other safe place for the purpose of effecting service, then the police officer will:
 - reasonably attempt to contact a person with parental responsibility for the child, and
 - give the child a reasonable opportunity to communicate with a person with parental responsibility for the person, and
 - reasonably attempt to contact Victoria Legal Aid (VLA) or the Victorian Aboriginal Legal Service (VALS), as appropriate, and
 - give the child a reasonable opportunity to communicate with a legal practitioner from the appropriate service (s. 112ZB(c)).

3.6 *Directing a person under a service direction determination*

- If the police officer is reasonably satisfied that the service direction determination applies to the person on the basis of the information they provided when stopped, to effect service of the FPO the police officer may direct the person to:
 - remain in place or
 - go to a police station or other safe place or
 - accompany the police officer to a police station or other safe place (s. 112ZC(1)).
- The person must remain at the place where they were stopped or otherwise directed to until the FPO is served or two hours have passed since the direction was given.
- The FPO must be served on the person as soon as practicable after being given a direction under s. 112ZC.
- When giving a direction under s.112ZC(1) to a child aged 14-17 years, the police officer must do all of the following:
 - reasonably attempt to contact a person with parental responsibility for the child, and
 - give the child a reasonable opportunity to communicate with a person with parental responsibility for the person, and
 - reasonably attempt to contact the appropriate legal service, and
 - give the child a reasonable opportunity to communicate with an Australian legal practitioner from the appropriate legal service (s. 112ZF).

3.7 *Detaining a person under a service direction determination*

- After giving a direction to a person under a service direction determination, the police officer may detain the person, at the place they were stopped or to which the person has gone, for up to two hours from the time the direction is given for the purpose of serving the FPO (s.112ZC(2)).
- The police officer may use the force reasonably necessary to apprehend and detain the person if they unreasonably refuse or fail to comply with the direction (s.112ZD). Refer to **VPM Operational safety and the use of force** for more information.
- If a person is detained under s.112ZD, the police officer may:

- hold the person in custody at the place of detention to serve the FPO, or
- transfer them to a police station or other safe place if the order cannot be safely served on them at the place of detention (s.112ZE(1)).
- A police officer must also inform the detained person that:
 - they are not being detained for an offence (s.112ZE(2)(a)), and
 - the purpose of detention is to effect FPO service (s.112ZE(2)(b)), and
 - that they will only be held in detention until they are served and for no longer than two hours at the relevant place, and that if they escape custody and are re-detained, they may be held again to effect service for no more than two hours (s.112ZU)
 - they cannot be questioned on any matter not related to service of the FPO when they comply with the direction and are served, or they are detained for the purpose of service (s.112ZV), and
 - they are lawfully detained and if they escape or attempt to escape, it is an offence
 - once they cease to be the subject of a direction, police officers must not re-exercise powers to stop and direct them, or detain them, for 24-hours after (s.112ZW):
 - they have been served with the FPO; or
 - the two-hour time limit to serve has expired in detention; or
 - if the person has escaped detention and has been re-detained, the two-hour limit restarts after the re-detention.
 - once the FPO is served or the two-hour time limit to serve has expired:
 - they are free to go; and
 - if they are at a police station or other safe place, that police will return them to their location at the time of intercept, or another safe place as agreed or otherwise determined by the police officer (this must be recorded in writing) (s.112ZX), and
 - they may request a copy of records regarding their detention or time in custody free of charge, or if they are under 18 years old a person with parental responsibility for the child, as well as any relevant details for the purpose of making the request (s. 112ZD(1)).
 - if they are between 14 and 17 years old, police officers must reasonably attempt to contact a person with the relevant parental responsibility and allow communication with them, allow them to contact VLA or VALS, as appropriate, and allow them to communicate with a legal practitioner (s.112ZF).

Refer to the **Firearm Prohibition Order Practice Guide** hosted on the Crime Command intranet site for further guidance.

3.8 *Release of a person following a service direction determination*

- If they are at a police station or other safe place, the police officer must return the person to their location at the time of intercept, or another safe place as agreed or otherwise determined by the police officer (this must be recorded in writing) (s.112ZX).
- Once a subject person ceases to be the subject of a direction (i.e. they have been served with the FPO, or the two-hour time limit to serve has expired), police officers

must not re-exercise powers to stop and direct a person, or detain a person, for 24-hours (s.112ZW).

- Following release, the police officer must notify the FPO Registry and CDEB so that the SDD POI Flag can be temporarily removed from LEAP. Following release, the police officer must notify the FPO Registry and Central Data Entry Bureau (CDEB) so that the LEAP Intel Holding alert flag can be temporarily removed from LEAP. Refer to the **Firearm Prohibition Order Practice Guide** hosted on the Crime Command intranet site for further guidance.
- If the person is taken into custody on suspicion of committing an offence immediately after being released, the time spent in custody must be taken into account when determining a reasonable time or any maximum police detention period (s. 112ZZ(4)).
- If a service direction determination expires before the FPO has been served, the police officer may apply to a delegate to make another service direction determination. To make a further application, the police officer must use the Form 1524 and follow the same process in section 3.3 of this policy. The police officer must include that the previous determination expired and they are applying for a subsequent determination.

3.9 *Records regarding a service direction determination*

- Following use of service direction determination powers, the police officer must complete a Record of Firearm Prohibition Order (FPO) Service Direction Determination (SDD) [Form 1527] containing the prescribed particulars and email the form to the FPO Registry for recording. Completion of a Form 1527 is required regardless of the outcome of service.
- This record of detention or custody must be made immediately after the subject person is told they are free to go or as soon as practicable after (s.112ZZA(3)). Form 1527 must also be provided for free on request to the subject person, or if they are between 14 and 17 years old, a person with parental responsibility for the child (s.112ZZD(1)).
- As soon as practicable after exercising these powers, the police officer must record that they have served (or attempted to serve) an FPO under a service direction determination by submitting a Field Contact via LEDR Mk2, noting the nature of the direction and the result. If a compliance search is also conducted, police officers must record search and seizure details in the same Field Contact in accordance with section 7.2 of this policy.

3.10 *Application for a service search warrant*

- If a police officer has made reasonable attempts to serve an FPO and the person is avoiding service, the police officer may apply for a service search warrant to search for the person at the premises named in the warrant (s. 112ZK).
- An application to a magistrate for a service search warrant must be accompanied by an Affidavit for a Search Warrant [Form 708] and Service Search Warrant [Form 1526].
- If the person is a child, the application must be made to a magistrate of the Children's Court, who must be reasonably satisfied that exceptional circumstances exist (s. 112ZK(2)).

Refer to the **Firearm Prohibition Order Practice Guide** for further guidance regarding applications and searches under a service search warrant.

3.11 *Powers under a service search warrant*

- Under a service search warrant, the police officer and any person assisting, may:
 - break and enter and search the premises named in the warrant,
 - search the premises for the person subject to the FPO named in the warrant, and
 - detain the person for the purpose of effecting service of the FPO, including using the force reasonably necessary to do so (s. 112ZG(1)). Refer to VPM Operational safety and the use of force for further guidance.
- When detaining a person under a service search warrant for the purpose of serving an FPO, if the FPO cannot be safely served at the premises the person should be held in custody at the premises or transferred to a police station or other safe place to serve the FPO (s.112ZS).

3.12 *Executing a service search warrant*

- Before executing a service search warrant:
 - the police officer proposing to execute the warrant must reasonably believe that the person is at the premises (s.112ZN) and
 - the police officer named in the warrant, or a person assisting, must announce they are authorised to enter the premises and provide an opportunity for the occupier to allow entry, unless they reasonably believe immediate entry is required to ensure the safety of any person, or that effective execution of the warrant is not frustrated (s.112ZO).
- A police officer must only search for the person named in the warrant for the purpose of serving the FPO and cannot search for any other items or things. If the FPO is served on the person, police conduct a compliance search if reasonably required to determine whether the person is in possession of any firearms or firearm related items (refer to section 7.2 of this policy).
- Any search must be carried out in accordance with **VPM Searches of property**.
- The premises being searched must be vacated immediately after:
 - the FPO is served or the person is detained, or
 - a search has been conducted on the premises and the person cannot be found (s. 112ZR).
- If the occupier or another person who apparently represents the occupier is present at the premises during the search, the police officer must:
 - produce to the person their identification as a police officer, and
 - give the person a copy of the execution copy of the warrant (s.112ZP).
- If the person being searched for is found on the premises, the police officer must:
 - give the person a copy of the execution copy of the warrant, and
 - serve the FPO as soon as practicable after the person is found on the premises (s.112ZQ).
- A service search warrant is valid for 28 days after the day on which the warrant is issued (s.112ZL).

- If a service search warrant expires before the FPO has been served, the police officer may apply for another service search warrant for the service of the FPO (s. 112ZM), following the process outlined in section 3.10 of the policy.

3.13 *Detaining a person under a service search warrant*

- A police officer may detain a person under a service search warrant for the purpose of serving an FPO. The person should be held in custody at the premises, or transferred to a police station or other safe place to serve the FPO, if it cannot be safely served at the premises (s.112ZS).
- The person may be held in custody for the purpose of serving the FPO until it is served for up to two hours from the time the person is detained under the service search warrant (s.112ZU(1)).
- If the person escapes custody and is re-detained, they may be held for no more than two hours after the re-detention for the purpose of serving the FPO (s.112ZU(2)).
- At the time of detention, the police officer must inform the detained person that:
 - they are not being detained for an offence (s. 112ZS(2)(a)), and
 - the purpose of detention is to effect FPO service (s. 112ZS(2)(b)), and
 - that they will only be held in custody until the order is served or the period of two hours expires (s.112ZU(1)), and
 - they are lawfully detained and if they escape or attempt to escape, it is an offence, and
 - if they escape from custody and are re-detained, they may be held again to effect service for no more than two hours (s.112ZU(2)), and
 - they cannot be questioned on any matter not related to service of the FPO when they were found on the premises under a service search warrant, or they are detained or in custody for the purpose of service (s.112ZV), and
 - once they cease to be the subject of a service search warrant, police officers must not re-exercise powers to search for them under a service search warrant and detain them for 24-hours after:
 - they have been found on the premises and served with the FPO, or
 - the two-hour time limit to serve has expired in detention, or
 - if the person has escaped detention and has been re-detained, the two-hour limit restarts after the re-detention (s.112ZW).
 - once the FPO is served or the two-hour time limit has expired:
 - they are free to go, and
 - if they are at a police station or other safe place, that police will return them to their location at the time of intercept, or another safe place as agreed or otherwise determined by the police officer (this must be recorded in writing) (s.112ZX).
 - they may request a copy of records regarding their time in custody free of charge, as well as any relevant details for the purpose of making the request (s. 112ZD(1))
 - if they are between 14 and 17 years old, police officers will reasonably attempt to contact a person with the relevant parental responsibility and allow communication with them, allow them to contact a legal service and allow them

to communicate with a legal practitioner from VLA or VALS, as appropriate (s.112ZT(2)).

Refer to the **Firearm Prohibition Order Practice Guide** hosted on the Crime Command intranet site for further guidance.

- As soon as practicable after detaining a person, the police officer must:
 - serve the FPO (s.112ZS(3)), and
 - if the person detained is between 14 and 17 years old,
 - reasonably attempt to contact a person with parental responsibility for the child, and
 - give the child a reasonable opportunity to communicate with a person with parental responsibility for the person, and
 - reasonably attempt to contact either VLA or VALS, as appropriate, and
 - give the child a reasonable opportunity to communicate with an Australian legal practitioner from the relevant service (s. 112ZT(1)), and
 - contact and inform a person with parental responsibility that:
 - the person has been detained under a search service warrant, and
 - that the person may contact VLA or VALS, as appropriate (s. 112ZT(3)(b)) and
 - they may request records of the persons time in custody free of charge, as well as any relevant details for the purpose of making the request (s. 112ZD(1))

3.14 *Release of a person following detention under a service search warrant*

- Following release, the police officer must notify the FPO Registry and Central Data Entry Bureau (CDEB) so that the LEAP Intel Holding alert flag can be temporarily removed from LEAP. Refer to the **Firearm Prohibition Order Practice Guide** hosted on the Crime Command intranet site for further guidance.
- If the person is taken into custody on suspicion of committing an offence immediately after being released, the time spent in custody must be taken into account when determining a reasonable time or any maximum police detention period (s. 112ZZ(4)).
- If the service search warrant expires before the FPO has been served, the police officer may re-apply to the court for another warrant (s. 112ZM). To make a further application, the police officer must use the VP Form 1526 and be accompanied by a Form 708, using the process outlined in section 3.10 of this policy.

3.15 *Records regarding a service search warrant*

- Following execution of a service search warrant, the police officer must complete a Record of Firearm Prohibition Order Service Search Warrant [Form 1526A] containing prescribed information and email the form to the FPO Registry for recording. The Form 1526A must be completed and submitted regardless of the outcome of service.
- A record of detention or custody must be made immediately after the subject person is told they are free to go or as soon as practicable after (s.112ZZA(3)).

- A copy of Form 1526A must also be provided for free on request to the subject person, or if they are between 14 and 17 years old a person with parental responsibility for the child, or to any person with a legal or equitable interest in any property affected during the search, or the owner or any occupier of the premises at which the service search warrant was executed (s.112ZZD(1) & (2)).

3.16 *Persons in Detention*

- Section 112IA authorises a police officer to serve an FPO on a person in detention or immigration detention by registered post if a visit by a police officer has been declined by the person or denied by the place of detention.

3.17 *Surrendering firearms and firearm related items*

- At the time the FPO is served, the police officer serving the FPO must advise the recipient that:
 - they must immediately surrender any firearm or firearm related item they are in possession of, using or carrying, to the police officer serving the order
 - it is an offence to fail to surrender firearms or firearm related items (s.112P) and that a search will be conducted to determine whether this requirement has been met.
- The police officer should ascertain where the firearms or firearm related items are located and accompany the person to those locations to enable surrender.
- If this is not practicable or there is another reason why the items cannot be surrendered immediately and if the police officer assesses it as appropriate in the circumstances, they must direct the person to surrender the items at an arranged time to a specified location. Surrender may be no later than 24 hours after the order is served (s.112P).
- Once the person has surrendered any relevant items or been issued a direction to surrender relevant items, the police officer must conduct person and premises searches unless it is not reasonably required. See section 7 and section 9 of this policy for further instruction on conducting person searches and premises searches, respectively.
- Firearms and firearm related items that are surrendered or seized under FPO provisions (s.152(b)):
 - may be retained by the police officer for so long as it is required as evidence of an offence or it is reasonably necessary to undertake tests to determine it is evidence of an offence
 - are forfeited to the Crown if the person was not lawfully entitled to possess the object and no other person is lawfully entitled to do so, or the object was acquired, possessed, carried or used in contravention of the Act
 - must be returned to the person lawfully entitled to possess it if it is no longer required as evidence and not forfeited to the Crown.

Refer to **VPM Managing special property types – firearms** for further information.
- Where firearms are seized, the police officer should ensure that a Person Warning Flag – Carries Firearm is created in accordance with **VPM Person warning flags**.

4. Effect of a Firearm Prohibition Order

4.1 *Person subject to a Firearm Prohibition Order*

A person who is subject to an FPO:

- is prohibited from:
 - acquiring, possessing, carrying or using any firearm or firearm related item
 - entering or remaining on a:
 - premises on which a person carries on the business of being a firearms dealer (within the meaning of Part 3 of the Firearms Act)
 - shooting range
 - handgun target shooting club
 - firearms collectors club
 - shooting club
 - place where a handgun target shooting match is occurring
 - paintball range or place at which paintball activities are carried out
 - premises where firearms are stored.
- must notify police within 24 hours:
 - of any change to their residential address, or
 - they commit a summary offence (s.112CA).

The Act provides relevant offences for not complying with the requirements of an FPO. Where an offence is detected, it must be recorded and investigated in accordance with **VPM Crime and event reporting and recording** and **VPM Crime attendance – initial action**.

4.2 *People accompanying a person subject to a Firearm Prohibition Order*

A person must not, knowing that an FPO applies to another person:

- dispose of or give possession of a firearm or firearm related item to the other person, and
- enable or permit the other person to possess, carry or use a firearm or firearm related item.

5. Reviews

- A person who is subject to an FPO may apply to VCAT for a review of the decision:
 - within 28 days of:
 - the day on which the FPO was served
 - the day on which a statement of reasons for the decision has been given or refused (s.182A)
 - or
 - if more than half the time for which the FPO is in force has expired (i.e., five years for adults, two and half years for children), regardless of whether a review application was made within 28 days of the commencement of the order (s.112M(2)).
- The FPO Registry will be notified when a review application is lodged with VCAT. Legal Services Department is responsible for coordinating the Victoria Police response.
- An FPO remains in effect while the review is in progress.
- The FPO Registry is unable to assist with information pertaining to legal proceedings.

Queries regarding FPO VCAT review applications or requests for statements of reasons should be directed to the Legal Services Department via the PBEA: LSD-VCAT-FPO-REVIEWS.

6. Overview of grounds for conducting Firearm Prohibition Order searches

The Act gives police powers to search people, vehicles and premises to support the effectiveness of the FPO scheme.

Police may conduct FPO searches without warrant or consent where the required grounds exist. The following table details the grounds for these searches.

Type of search	Grounds for search
Search of person (other than by full search), including any item, package or thing in their possession	
1. Person subject to an FPO (s.112R)	1. It is reasonably required to determine whether the person has acquired, possesses or is carrying or using a firearm or firearm related item in contravention of the FPO or another provision of the Act.
2. Person in the company of a person subject to an FPO (s.112S)	2. The police officer reasonably suspects that the person: • is committing or about to commit an offence against the Act, and • has a firearm or firearm related item in the person's possession.
Search of premises, vehicles, vessels or aircraft	
Search of premises, vehicles, vessels or aircraft (s.112Q)	It is reasonably required to determine whether the person has acquired, possesses or is carrying or using a firearm or firearm related item in contravention of the FPO or another provision of the Act.

7. Person searches

7.1 Grounds to search a person subject to a Firearm Prohibition Order

- A police officer may search a person subject to an FPO if it is reasonably required to determine whether the person has acquired, possesses or is carrying or using a firearm or firearm related item in contravention of the FPO or another provision of the Act (s.112R).
- Police officers are not precluded from exercising search powers under other applicable legislation and should consider the most relevant search powers available (see **VPM Searches of a person**).

7.2 Compliance searches

- Section 112R allows a Police officer to search a person who is subject to an FPO to determine if they are complying with the FPO. A compliance search must:
 - be conducted in the least restrictive way to assess compliance with the FPO, and
 - not be conducted at a frequency that would be improperly harassing or unjust to the person.

- A police officer may conduct a compliance search:
 - without specific information, intelligence or observations of behaviour
 - without notice
 - on more than one occasion.
- In considering whether to conduct the search, the police officer must take reasonable steps to determine whether recent compliance searches have occurred and consider whether the current circumstances are justified.
- The police officer must:
 - plan relevant searches, including preparing Form 707A & 707B, or complete the search warrant application within Interpose for a premises search. Refer to **VPM Searches of property** for more information, and
 - record the search in accordance with section 7.6 of this policy and, when completing the Field Contact, record the justification for exercising search powers as “compliance search”, and
 - notify the FPO Registry that a compliance search has been conducted and provide the LEAP Field Contact report number and the PALM receipt for any seizures resulting from the search.

7.3 *Grounds to search an accompanying person*

In accordance with s.112S, a police officer may search someone in the company of a person subject to an FPO if the police officer reasonably suspects that the person:

- is committing or about to commit an offence against the Act
- has a firearm or firearm related item in their possession.

7.4 *Before conducting a person Firearm Prohibition Order search*

Before conducting a person FPO search in accordance with ss. 112R or 112S, a police officer must inform the person to be searched:

- of the police officer’s registered number, and
- that the police officer intends to search the person and any item, package or thing in their possession for any firearm or firearm related item, and
- that the police officer is empowered to conduct the search under the Act.

7.5 *Conducting the search*

- Body worn cameras must be activated (if available) when conducting any searches using the provisions of the Act. Refer to VPM Body worn cameras.
- Sections 112R and 112S permit police officers to conduct a pat down search. When conducting the search, police officers must comply with the general search procedures in **VPM Searches of a person**.
- When searching a person in accordance with ss.112R or 112S, a police officer may:
 - search any item, package or thing in the possession of the person
 - detain the person for so long as is reasonably necessary to conduct the search
 - seize any firearm or firearm related item that is found on the person or in any item, package or thing in their possession.

7.6 *Recording requirements*

- As soon as possible after completing the search, the police officer must record the search details on both:
 - an entry on the ePDR, Form 502 or Official Diary, and
 - a Field Contact via LEDR Mk2, noting the justification for exercising search powers.
- Details of searches that result in the seizure of any item must be reported to the FPO Registry via the FPO Registry PBEA and include the following information:
 - LEAP Field Contact number
 - details of the item/s seized, including quantities
 - details of resulting charges.

8. Search of vehicles, vessels or aircraft

8.1 *Grounds*

- In accordance with s.112Q(2)(b), a police officers may, without warrant or consent search any vehicle, vessel or aircraft that is in the charge of a person subject to an FPO, or in which they are a passenger (wherever it is located), if it is reasonably required to determine whether the person has acquired, possesses or is carrying or using a firearm or firearm related item in contravention of the FPO or another provision of the *Firearms Act*.
- A police officer searching in accordance with this provision may:
 - stop and detain the vehicle, vessel or aircraft being searched for so long as is reasonably necessary to conduct the search
 - seize any firearm or firearm related item found on the premises, vehicle, vessel or aircraft.

Police officers are not precluded from exercising search powers under other applicable legislation and should consider the most relevant search powers available (see **VPM Searches of a person**).

8.2 *Information to be given before conducting a Firearm Prohibition Order search*

- Before conducting an FPO search in accordance with s.112Q, a police officer must inform the person subject to an FPO:
 - the police officer's registered number, and
 - that the police officer intends to search the premises, vehicle, vessel or aircraft for any firearm or firearm related item, and
 - the police officer is empowered to conduct the search under the Act.

Where the person subject to an FPO is absent at the commencement of the search, the police officer must provide the above information as soon as practicable should the person attend or make their presence known to police.

- The above information must also be provided, if requested, to any other person who is present at the premises, vehicle, vessel or aircraft at any time before commencing or during a search under s.112Q.
- If it is not practicable to provide the necessary information before commencing or during a search under s.112Q, due to a risk to the safety of the police officer or

other person involved in the search, the information must be given after the search is finished (ss.112Q(6) and 112Q(8)).

8.3 *Recording requirements*

- As soon as possible after completing the search, the police officer must record the search details on:
 - the ePDR, Form 502 or Official Diary, and
 - a Field Contact via LEDR Mk2, noting the justification for exercising search powers.
- Details of searches that result in the seizure of any item must be reported to the FPO Registry via the FPO Registry PBEA and include the following information:
 - LEAP Field Contact number
 - details of the item/s seized, including quantities
 - details of resulting charges.

9. Search of premises

9.1 *Grounds*

- In accordance with s.112Q(2)(a), a police officer may, without warrant or consent:
 - enter and search any premises occupied by, in the care of or under the control or management of the person subject to an active FPO, and
 - search anything, vehicle, vessel or aircraft on the premisesif it is reasonably required to determine whether the person has acquired, possesses or is carrying or using a firearm or firearm related item in contravention of the FPO or another provision of the Act.
- A police officer entering or searching in accordance with this provision may seize any firearm or firearm related item found on the premises, vehicle, vessel or aircraft.

9.2 *Compliance searches*

- Section 112Q allows a police officer to search premises occupied by, in the care of or under the control or management of the person subject to an active FPO to determine if they are complying with the FPO. A compliance search must:
 - be conducted in the least restrictive way to assess compliance with the FPO, and
 - not be conducted at a frequency that would be improperly harassing or unjust to the person.
- A police officer may conduct a compliance search of premises occupied by, in the care of or under the control or management of the person subject to an FPO:
 - without specific information, intelligence or observations of behaviour
 - without notice
 - on more than one occasion.
- In considering whether the compliance search is justified, reasonable steps must be taken to determine whether previous searches of the premises have occurred.
- The police officer must:
 - plan the compliance search of the premises as required by section 9.3 and record the search in accordance with section 9.8 of this policy, and

- record the justification for exercising search powers as “Compliance search” when completing the Field Contact, and
- notify the FPO Registry that a compliance search has been conducted and provide the LEAP Field Contact report number.

9.3 *Planned Firearm Prohibition Order premises search*

- Premises searches conducted on the grounds of s.112Q must be planned and classified using the Search Levels Classifications detailed in **VPM Searches of property**. Corresponding personnel requirements also apply.
- Where a premises search is to be conducted, the police officer planning the premises search must:
 - complete LEAP checks on the property and any occupants and undertake any additional preliminary planning required by **VPM Searches of property**, and
 - obtain an Officer’s approval using the Form 707A & 707B, which must include a summary of the information supporting the grounds for the search, a risk assessment and an Operation Order [Form 1018].
- The above process is not required to search vehicles, vessels or aircrafts in accordance with s.112Q(2)(b); refer to section 8 of this policy.

9.4 *Unplanned Firearm Prohibition Order premises search*

- Where a police officer is already in attendance at a premises for a different reason and subsequently determines that the premises are occupied by, in the care of or under the control or management of the person subject to an FPO, the police officer must consult a supervisor regarding the need for and suitability of conducting a search under s.112Q unless impracticable to do so.
- If grounds exist to conduct a search under s.112Q and conducting a search is considered necessary and suitable, obtain approval from the duty officer where practicable or advise the duty officer immediately after the search.

9.5 *Information to be given before conducting an FPO search*

- Before conducting an FPO search in accordance with s.112Q, a police officer must inform the person subject to an FPO:
 - the police officer’s registered number, and
 - that the police officer intends to search the premises, vehicle, vessel or aircraft for any firearm or firearm related item, and
 - the police officer is empowered to conduct the search under the *Firearms Act*.

Where the person subject to an FPO is absent at the commencement of the search, the police officer must provide the above information as soon as practicable should the person attend or make their presence known to police.

- The above information must also be provided, if requested, to any other person who is present at the premises, vehicle, vessel or aircraft at any time before commencing or during a search under s.112Q.
- If it is not practicable to provide the necessary information before commencing or during a search under s.112Q due to a risk to the safety of the police officer or other person involved in the search, the information must be given after the search is finished (ss.112Q(6) and 112Q(8)).

9.6 *Conducting the search*

When conducting a premises search, comply with the general search procedures detailed in **VPM Searches of property**.

9.7 *Offences against other Acts*

- Section 112Q provides that police officers can search for and seize firearms and firearm related items.
- Where evidence of an offence against another Act is found during an FPO search, the police officers must obtain a relevant warrant to search for and seize that evidence in accordance with **VPM Searches of property**.

9.8 *Recording requirements*

- As soon as possible after completing the search, the police officer must record the search details on all of the following:
 - ePDR, Form 502 or Official Diary, and
 - Information Report, and
 - Field Contact via LEDR Mk2, noting the justification for exercising search powers.
- Where an FPO search results in the seizure of any items (including non-firearm items), the police officer must email the FPO Registry, as soon as practicable:
 - a copy of the PALM receipt, and
 - the Field Contact report number, and
 - details of resulting charges (if available).
- The completed Form 707A & 707B and result of search must be recorded on Interpose.

10. Offender processing

Any FPO related offences detected through searches or other means must be recorded and investigated in accordance with **VPM Crime and event reporting and recording** and **VPM Crime attendance – initial action**.

11. Record keeping and reporting

- The FPO Registry is responsible for storing and maintaining FPO related records and documentation. This information must be managed and stored in accordance with **VPMP Information use, handling and storage** and relevant Protective Security Fact Sheets.
- The records and the operation of the FPO scheme will be subject to monitoring and review by Independent Broad-based Anti-corruption Commission (IBAC) in accordance with ss. 173 and 174F.
- The FPO Registry will prepare reports for IBAC in accordance with s.174E and contribute relevant information for the annual reporting requirements in s.172.

Related documents

- VPM Searches of a person
- VPM Searches of property

- Instrument of Delegation FA 2
- Instrument of Delegation FA 4
- FPO Practice Guide
- [FPO Registry intranet page](#)

Further advice and information

For further advice and assistance regarding this policy, contact the FPO Registry PBEA: FPO-Registry@police.vic.gov.au.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
09/05/18	New instruction, first issued	FF-120386
15/04/19	Minor amendments made to provide additional detail on aspects of the current process.	FF-120386
14/07/21	Procedural amendments to reflect expansion of FPO process to all investigators. Inclusion of compliance searches.	FF - 186914
30/12/21	Updated to reflect VPM Person of interest and person warning flag has replaced VPMG Person of interest and person warning flag	FF – 151944
25/01/22	Updated to reflect VPM Searches of property	FF-187958 3
05/09/22	Minor updates to process due to inspectors being included as delegates, inclusion of requirement for delegates to complete an information session, and reference to new requirement for FPO subjects to notify of change of address.	FF-186914
05/12/24	Updates supporting commencement of the <i>Firearms and Control of Weapons (Machetes) Amendment Act 2024</i> . These amendments include new FPO service provisions regarding service direction determinations and service search warrants, as well as clarifying other service requirements.	FF-264822
05/12/25	Amendments clarifying delegate responsibilities in recording consideration of human rights impacts by completing the Human Rights Impact Assessment tool and minor administrative updates.	FF-277090
20/01/2026	Updated guidance reflecting the introduction of the Whereabouts Application replacing VP Form L12	FF-277114
04/03/2026	Update to the definition of a firearm-related item to include instructions for manufacture of a firearm.	N/A