Care and control under the *Mental Health and Wellbeing Act 2022*

Context

The *Mental Health and Wellbeing Act 2022* (the Act) provides the framework for a health-based response to people in the Victorian community who are living with mental illness or experiencing psychological distress. The Act enshrines foundational mental health and wellbeing principles designed to protect the human rights, autonomy and dignity of people engaged in the broader mental health system while requiring that health and wellbeing services are safe, inclusive and informed by lived experience.

The Act establishes a range of requirements for the provision and administration of mental health and wellbeing systems and services and supports the delivery of person-centred services that are responsive to the needs and preferences of Victorians.

Policy at a glance

This policy includes:

- direction on police and Protective Service Officer (PSO) roles and responsibilities under the Act
- guidance for police and PSOs regarding the exercise of their powers to:
  - take a person into care and control if they appear to have a mental illness and require care and control to prevent imminent and serious harm to the person or to another person
  - take a person into care and control for the purpose of transporting them under the Act
  - enter premises to take a person into care and control
  - search a person for items that present a danger to the health and safety of any person
- considerations that police and PSOs must have regard to in the exercise of their powers.

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Definitions

Authorised person: under s.3, the Act is:

- a police officer
- a registered paramedic employed by an ambulance service
- a PSO
- a registered medical practitioner employed or engaged by a designated mental health service
- an authorised mental health practitioner
- a member of a prescribed class of person.

Authorised health professional: under s.231, the Act an authorised health professional is an authorised person who is also:

- a registered paramedic employed by an ambulance service
- a registered medical practitioner employed or engaged by a designated mental health service
- an authorised mental health practitioner
- a member of a prescribed class of person.

Assessment Order: an order made by a registered medical practitioner or authorised mental health practitioner where the practitioner has examined the person and is satisfied that:

- the person has a mental illness, and
- the person needs immediate treatment to prevent serious deterioration or harm to the person or another person, and
- there are no less restrictive means reasonably available to enable the person to receive treatment (s.144, the Act).

An assessment order can either be a community assessment order or an inpatient assessment order.

Bodily restraint: physical or mechanical restraint of a person. Physical restraint means the use by a person of their body to prevent or restrict another person's movement. Mechanical restraint means the use of a device, such as handcuffs, to prevent or restrict a person's movement.

Care and control: taking a person into care and control means apprehending a person under the Act.

Examination: an evaluation undertaken by a registered medical practitioner or authorised mental health practitioner to determine if the person should be made subject to an assessment order.

Mental health crisis: a person is in mental health crisis if they meet the criteria under s.232, the Act.

Seclusion: the sole confinement of a person to a room or any other enclosed space from which it is not within the control of the person confined to leave.

Specified body: under s.231, the Act means:

- a designated mental health service
- a prescribed mental health and wellbeing service provider
- a hospital (including a public, denominational or private hospital)
- a public health service within the meaning of the *Health Services Act 1998*.

Scope and application

This policy applies to all police and PSOs. This policy supports and must be read in conjunction with the Act.

Nothing in this policy limits the full range of powers that are available to police and PSOs in relation to criminal offending. Where criminal offending is occurring at the same time that a person is experiencing a mental health crisis, before making any decision about how to prioritise the offending and the mental health needs, members must carefully assess:

- the risk of harm to any person
- the seriousness and imminency of the health needs
- the seriousness and nature of the offending.

Overarching principles

1. Principles under the Mental Health and Wellbeing Act 2022

Taking a person into care and control must not be performed as a matter of course. Police and PSOs must be satisfied that the person is in mental health crisis and that care and control is required to prevent imminent and serious harm to the person or any other person, or that the care and control is required to transport a person to a place provided for under the Act.

When police or PSOs are determining if it is necessary to take a person into their care and control under the Act, they must consider whether this is:

- lawful, after considering the grounds and powers available under the Act and after considering that the person's human rights can only be limited in a way that is authorised by law
- the least restrictive way possible to minimise any interference with the person's human rights, including their liberty, privacy and dignity
- informed by advice from a health professional where reasonably practicable in the circumstances, including advice from a registered medical practitioner, authorised mental health practitioner, registered nurse or registered paramedic
- in line with the mental health and wellbeing principles under the Act, including the requirement to promote the rights, dignity and autonomy of the person and to support people in crisis to make decisions about their assessment and treatment.

2. Human rights

Police and PSOs must always consider and act compatibly with a person's human rights under s.38, the *Charter of Human Rights and Responsibilities Act 2006* (the Charter). When deciding whether and how to take a person into care and control, any of the protected human rights under the Charter may be engaged. This includes, but is not limited to:

- the right to recognition and equality before the law (s.8, the Charter – including protection from discrimination)
- the right to protection from cruel, inhuman and degrading treatments (s.10, the Charter)
- the right to freedom of movement (s.12, the Charter)
- the right to privacy (s.13, the Charter)
- the right to protection of families and children (s.17, the Charter)
- the right to property (s.20, the Charter)
- the right to liberty (s.21, the Charter)
- the right to humane treatment when deprived of liberty (s.22, the Charter).

Responsibilities and procedures

3. Powers, conditions and related procedures

3.1 *Care and control during a mental health crisis (Part 5.2, the Act)*

- When police or PSOs are requested to respond to a person in mental health crisis, Victoria Police is the lead agency. Police and PSOs must, as far as is reasonably practicable, identify and address all safety concerns at the scene of an incident arising from a person experiencing a mental health crisis. This must be done prior to health professionals or other non-police personnel engaging directly with the person.
- Wherever it is reasonably practicable in the circumstances, police and PSOs must seek advice from an authorised health professional; authorised mental health practitioner, registered medical practitioner or registered nurse, when determining whether to take a person into care and control under s.232, the Act.
- Where police and PSOs are not accompanied by an authorised mental health practitioner, they must, so far as is reasonably practicable in the circumstances, seek advice from:
  - the nearest 1300 mental health triage line
  - the local PACER/ MHaP response unit or
  - an attending AV paramedic.
- When exercising powers to take someone into care and control under s.232, the Act, police and PSOs must:
  - consider the overarching principles in all decisions made and actions taken
  - where practicable, arrange on-scene examination of the person by an authorised health professional
  - where an on-scene mental health assessment is not reasonably practicable due to safety or availability concerns, arrange for the transport of the person to the nearest specified body for examination
  - complete a VP L42 Mental Health Transfer Form [Form L42], as required under section 6 of this policy.
- Ambulance Victoria (AV) paramedics do not have the power to exercise care and control under s.232, the Act.

- AV is responsible for providing transportation and police transportation must only be used as a last resort. Police must exercise their care and control by being present in the ambulance. Police cannot exercise care and control by accompanying the ambulance in a police vehicle (police escort).
- If AV paramedics determine it is appropriate, AV can transport the person, without police involvement:
  - if the person is not already in the care and control of police or PSOs or
  - if police or PSOs have released a person from their care and control under s.238, the Act (refer to section 3.4 of this policy).
- Police and PSOs should continue to seek health advice, where reasonably practicable in the circumstances, to inform further decisions where health advice could not be obtained for the decision to exercise care and control.
- Whether or not a person continues to meet the criteria for remaining in the care and control of police or PSOs can change during the course of the engagement with a person. Accordingly, police and PSOs should continuously assess if having a person in their care and control is required, based on the criteria under s.232, the Act. If the criteria are not met, refer to sections 3.2 and 3.4 of this policy.
- Police and PSOs must activate their body-worn camera (BWC) in line with **VPM Body worn cameras** and section 6.2 of this policy.
- All efforts to seek health advice and the receipt of any health advice must be recorded on BWC and the Form L42 in the 'Circumstances' section.
- PSOs must hand over care and control of the person to police as soon as practicable.
- Police and PSOs should refer to the flow chart at Appendix A of this policy for further guidance.
- The below table outlines the powers and conditions under the Act that are relevant to people experiencing mental health crisis.

Powers	**Conditions**
Taking a person experiencing mental health crisis into care and control (s.232-236, the Act)	
Police or PSOs may take a person into care and control if they are satisfied that: • the person appears to have a mental illness, and • because of their apparent mental illness, it is necessary to take the person into care and control to prevent imminent and serious harm to the person or to another person NB: 'Satisfied' is based on the person's behaviour and appearance, health advice received and any other relevant information available. Police or PSOs are not required to	On taking a person into care and control, police or PSOs must, so far as is reasonably practicable: • identify themselves to the person • explain to the person why they are being taken into care and control • give the person details of the location at which the person will be examined if it is different from the place they were taken into care and control If the person being taken into care and control is under 16 years old, police or PSOs must provide the above information

exercise any clinical judgement as to whether the person has a mental illness NB: 'Serious' and 'imminent' are to be given their ordinary meanings. In the case of imminent, this means about to happen or impending	to the parent, carer or supporter of the person If a parent, carer or supporter is unavailable or it is not practicable due to urgent or serious circumstances, police or PSOs must record this on the Form L42 Police or PSOs who take a person into care and control must arrange for the person to be examined as soon as practicable, by either: • arranging for the examination of the person by a registered medical practitioner or an authorised mental health practitioner at or near the place at which the person was taken into care and control by the authorised person; or • transporting the person, or arranging for the transport of the person by another authorised person, to a specified body at which the person may be examined by a registered medical practitioner or an authorised mental health practitioner; or • transferring care and control to another authorised person for the purpose of arranging an examination
Transfer of care and control during a mental health crisis (s.235, the Act)	
For the purposes of examination Police or PSOs, at any time, may transfer a person into the care and control of another authorised person if it is necessary to do so for the purposes of arranging for the person to be examined in accordance with s.234, the Act NB: There is presently no power to transfer care and control to AV under s.235, the Act unless it is for the purposes of transport under s.242, the Act. Refer to section 3.2 of this policy **For the purposes of safety** An authorised health professional may transfer a person into the care and control of police or a PSO if it is necessary to do so to ensure the safety of any person **Within Victoria Police**	• Police or PSOs may only transfer a person into the care and control of an authorised health professional if the authorised health professional agrees to receive care and control of the person being transferred The agreement will be based on safety considerations • On receiving a person transferred under this section, the care and control of the person is transferred to the authorised person receiving the person and police or PSOs no longer have care and control

Care and control must not be transferred from police to a PSO	
End of care and control during a mental health crisis (s.239, the Act)	
Police or PSOs no longer have care and control of a person if: • a specified body has formally accepted care and control for the person (under s.237, the Act) • a registered medical practitioner or an authorised mental health practitioner has examined the person and either made a community assessment order or determined that the compulsory criteria do not apply • the person has absconded from care and control	If transferring care and control of a person to a specified body or any other place under the Act, only a registered medical practitioner, an authorised mental health practitioner, or a registered nurse are authorised to accept care and control of the person

3.2 *Decision to not exercise care and control under s.232, the Act*

- Where police or PSOs determine that a person does not meet the criteria for care and control under s.232, the Act, care and control must not be exercised.
- Police or PSOs should engage with the person and where appropriate, obtain consent for suitable support service referrals as a person in need of assistance as set out under section 3, **VPM Victim Support.**
- Where the criteria for care and control is not met, but criminal offending is suspected, police and PSOs must follow standard procedures for crime reporting and investigation.

3.3 *Care and control for the purposes of transport (Part 5.3, the Act)*

- Care and control for the purpose of transport is used where:
  - police have been called to transport a person who has absconded from a mental health service or facility or is absent without leave
  - police are required to move patients between facilities.
- AV is responsible for providing transportation and police transportation must only be used as a last resort. Police must exercise their care and control by being present in the ambulance and cannot exercise care and control by accompanying the ambulance in a police vehicle (police escort).
- If AV paramedics determine it is appropriate, they can transport the person without police involvement:
  - if the person is not already in the care and control of police or PSOs or
  - if police or PSOs have released a person from their care and control under s.238, the Act (refer to section 3.4 of this policy).
- Where police or PSOs are assisting another authorised person to take a person into care and control for the purpose of transport, Victoria Police is the lead agency. Police and PSOs must, as far as is reasonably practicable, identify and address all

scene safety concerns prior to permitting other authorised persons to engage directly with the person in crisis.

- Prior to requesting police or PSO assistance to locate and/or take a person into care and control, the relevant mental health team/service should provide information, conduct a risk assessment and plan the person's return to the mental health service. This includes discussions regarding appropriate method of transport (e.g. ambulance).
- Where inadequate information has been provided to police and/or PSOs in order to take a person into care and control, they should contact the relevant mental health team/service and seek further information.
- Police and PSOs may take a person into care and control who is absent without being granted leave from an interstate mental health facility. The person can be taken to a designated mental health facility in Victoria, pending return to the relevant interstate mental health facility.
- Refer to the flow chart at Appendix B of this policy for further guidance.
- The below table outlines powers and conditions under the Act that are relevant to people being transported.

Powers	**Conditions**
Taking a person into care and control for the purposes of transport (s.241, the Act)	
• Police or PSOs may take a person into care and control for the purpose of transporting the person to or from a designated mental health service or any other place as provided under the Act • Police or PSOs must only take a person into care and control for the purpose of transport if required under any other provision of the Act. This includes transporting: - a person under an inpatient order who is absent from a mental health service without being granted leave (s.221, the Act) - a person under a security or forensic order who is absent from a mental health service without being granted leave (s.576A, the Act) - security or forensic patients to another mental health facility (ss.555 and 571, the Act) - a person who is absent without leave from an interstate facility (s.608, the Act)	• Police or PSOs who take a person into care and control, as soon as practicable: - must transport the person, or arrange for transport of the person by another authorised person, to or from the designated mental health service or any other place as provided under the Act or - must transfer care and control of the person in accordance with s.242, the Act • On taking a person into care and control, police or PSOs must, so far as is reasonably practicable: - identify themselves to the person - explain to the person why they are being taken into care and control - give the person details of the place they will be transported and why they are being transported there (if those details are available) • A person remains in police or PSO care and control under this section until the person's care and control ends in accordance with s.245

Transfer of care and control for the purposes of transport (s.242, the Act)	
• Police or PSOs, at any time, may transfer a person into the care and control of another authorised person if it is necessary to do so for the purpose of transporting the person in accordance with s.241, the Act • An authorised health professional may transfer a person into the care and control of police or PSOs if it is necessary to do so to ensure the safety of any person • An authorised person who is police must not transfer a person into the care and control of another authorised person who is a PSO	• On receiving a person transferred in accordance with s.242, the Act, an authorised person must transport the person, or arrange for transport of the person by another authorised person, to or from the designated mental health service or any other place as provided under the Act in accordance with s.241(3), the Act as soon as practicable (s.243, the Act) • An authorised person may only transfer a person into the care and control of an authorised health professional if the authorised health professional agrees to receive care and control of the person being transferred The agreement will be based on safety considerations • On receiving a person transferred under this section, the care and control of the person is transferred to the health professional receiving the person • Accepting the person into care and control at a designated mental health service must occur as soon as is reasonably practicable and safe to do so (s.244, the Act)
Ending care and control for the purposes of transport (s.245, the Act)	
• A person is no longer under police or PSO care and control if the person: - enters the care and control of another authorised person to whom the person's care and control has been transferred in accordance with s.242, the Act; or - enters the care and control of a registered medical practitioner, an authorised mental health practitioner or a registered nurse at the designated mental health service or place in accordance with s.244, the Act; or - the person has absconded from the care and control of the authorised person	

3.4 *Releasing a person from care and control under s.238, the Act*

- Whether or not a person continues to meet the criteria for remaining in the care and control of police or PSOs can change during the course of the engagement with a person. Accordingly, police and PSOs should continually assess if having the person in their care and control is required, based on the criteria under s.232, the Act.
- If a person no longer meets the criteria for care and control, police and PSOs must consider if that person should be released from care and control.
- When police or PSOs are considering releasing a person from care and control under s.238, the Act, they must:
  - assess and determine that the person no longer meets the criteria for care and control (i.e., there is no longer an imminent and serious risk of harm to the person or another person) and
  - where a mental health clinician (such as PACER/MHaP) is on scene, have the decision to release the person made by a mental health clinician or
  - seek health advice to inform the decision via
    - the nearest 1300 mental health triage line or
    - an attending AV paramedic.
  - obtain sub-Officer approval for the release
  - record the entire decision-making process including sub-Officer approval on BWC and the Form L42.
- When considering the approval of release under s.238, the Act, the sub-Officer must also consider:
  - any physical risks (arising from the environment/location, any weapons or other people)
  - whether health advice has been obtained and what it is, or why advice was not able to be obtained
  - what kind of support structures are around the person, whether they have a parent/carer/friend either with them or able to attend, whether they have advised other support structures that assist them and whether those support services are able to actively support that person at the present time
  - whether police or PSOs have engaged with this person before in the course of their duties and what is known from past interactions
  - whether the person is drug or alcohol-affected
  - whether the person has a cognitive or other impairment.
- A person, who has been released from the care and control of police or PSOs may be transported by AV, if AV determine that this transport should occur. If there are no further safety risks present, police are not required to accompany AV during this transport.
- When police or PSOs release a person from their care and control under s.238, the Act, they must:
  - tell the person they are no longer under care and control
  - where appropriate, enquire if the person would like to be referred to support services. If so, obtain consent for suitable referrals as a person in need of assistance as set out in section 3, **VPM Victim Support.**

The below table outlines powers and conditions relevant to people being released from care and control.

Powers	Conditions
Releasing a person from care and control (s.238, the Act)	
• Police or PSOs may release a person from care and control if they are satisfied that the person's care and control is no longer necessary to prevent imminent and serious harm to the person or to another person	• Once released, police or PSOs must advise the person that they are no longer under care and control

3.5 *Power to enter premises under s.246, the Act*

- Police, PSOs and other authorised persons may enter any premises for the purpose of taking a person into care and control if they are satisfied, on reasonable grounds, that the person may be found. When planning an entry, police and PSOs must apply the Operational Response Principles. Refer to **VPM Operational safety and the use of force** and **VPM Searches of property.**
- PSO powers must only be exercised by PSOs on duty at or in the vicinity of a designated place.
- Before entering premises, police and PSOs must:
  - identify themselves and state they are authorised to enter
  - state the basis of the authority to enter
  - request admission to the premises.
- If not given permission to enter the premises, police and PSOs may use reasonable force to gain entry.
- If the premises are found to be unoccupied or damage occurred in gaining entry:
  - attending police or PSOs should notify the Divisional Patrol Supervisor who may attend where necessary and ensure the premises are secured
  - any damage should be photographed and the Divisional Patrol Supervisor should submit a report of the circumstances to the relevant Police Service Area (PSA) Manager and
  - the owner of the premises may seek restitution from Victoria Police for any damage caused.

3.6 *Power to search a person under s.247, the Act*

- Under s.247, the Act, police, PSOs and other authorised persons, including paramedics, may search a person who is in their care and control if they reasonably suspect that the person is carrying anything that presents a danger to the health and safety of the person or another person (for example, weapons, knives or dangerous substances).
- Searches must not be conducted as a matter of course. Each search must be justified as both necessary and proportionate having regard to the circumstances of the individual case.

- Before conducting a search, police and PSOs must, to the extent that is reasonable in the circumstances:
  - explain the purpose of the search
  - ask for the person's cooperation
  - inform them if they will be required to remove any clothing and why it is necessary to remove the clothing.

- When conducting the search, police and PSOs must, to the extent that is reasonably practicable in the circumstances:
  - conduct the least invasive kind of search
  - conduct the search in a way that provides reasonable privacy for the person
  - conduct the search as quickly as is reasonably practicable.
- Additionally, where the person to be searched is under 16 years old, the search must be conducted in the presence of a parent, carer or support person. If this is not reasonably practicable, the search must be conducted in the presence of another adult.
- So far as is reasonably practicable in the circumstances, a search that involves running the hands over the person's outer clothing must be conducted by:
  - an authorised person of the gender nominated by the person to be searched
  - an authorised person nominated by the person to be searched
  - a person of the gender nominated by the person to be searched, under the direction of an authorised person or
  - a person nominated by the person to be searched, under the direction of an authorised person.
- Bodily restraint must not be used in order to perform a search of a person who is passively resisting or refusing to cooperate with police or PSOs who are seeking the person's cooperation to be searched. For further instruction on the exercise of bodily restraint under the Act, refer to section 4.1 of this policy.
- For further information on conducting a search of a person and for powers to exercise a search under other legislation, refer to **VPM Searches of a person**.

3.7 *Power to seize and detain things found during a search of person under s.249, the Act*

- Police, PSOs and other authorised persons may seize and detain property found as a result of a search, if they are reasonably satisfied that the item presents a danger to the health and safety of the person or another person.
- Any property seized by police or PSOs, or handed to them by an authorised person, must be securely stored. The exceptions are the following items, which are subject to stricter handling conditions:
  - a controlled weapon, dangerous article or prohibited weapon within the meaning of the *Control of Weapons Act 1990*
  - a drug of dependence within meaning of the *Drugs, Poisons and Controlled Substances Act 1981*
  - a firearm within the meaning of the *Firearms Act 1996*
  - the police, PSO or authorised person believes the item would present a danger to the health and safety of the person or another person if the thing were returned to the person.

Refer to **VPM Seized property and special property types** for guidance on how to handle these property types.

- Police and PSOs must take reasonable steps to return any item that has been securely stored to the person from whom it was seized when the reason for the seizure of the thing no longer applies.
- Property that cannot be securely stored should be managed in accordance with standard property management policies and procedures.

4. Use of bodily restraint, reasonable force and seclusion

4.1 *Use of bodily restraint under s.250, the Act*

- Bodily restraint refers to physical or mechanical restraint of a person. Physical restraint means the use by a person of their body to prevent or restrict another person's movement. Mechanical restraint means the use of a device such as handcuffs to prevent or restrict a person's movement.
- Police and PSOs may use bodily restraint on a person:
  - if the person is being taken into their care and control under s.232, the Act
  - if taking the person into their care and control under s. 241 for the purpose of transport
  - if the person is already under care and control under the Act.
- Under s.250, the Act, police and PSOs must only use bodily restraint on a person if:
  - all reasonable and less restrictive options have been tried or considered and have been found to be unsuitable and
  - the use of bodily restraint is necessary to prevent imminent and serious harm to the person or to another person.
- Police and PSOs can rely on the advice of an authorised health professional as to whether the person is at imminent and serious risk of harm to the person or to another person.
- Where bodily restraint is used, police and PSOs must continually assess whether the use of bodily restraint is necessary to prevent imminent and serious harm to the person or another person. If the method of bodily restraint used is no longer necessary to prevent imminent and serious harm, police and PSOs must consider all reasonable and less restrictive options.
- Polices and PSOs must also apply the Operational Response Principles. Refer to **VPM Operational safety and the use of force.**

4.2 *Seclusion*

- The Act permits mental health clinicians to authorise the use of seclusion or bodily restraint of a person receiving mental health and wellbeing services in a designated mental health service in limited circumstances and subject to clinical oversight.
- An authorised psychiatrist, registered medical practitioner or nurse practitioner at a specified body may advise police to lodge a person in a secure room in the hospital if it is necessary to prevent imminent and serious harm to any person. On request, police or PSOs should provide the necessary assistance to the clinician. Police or

PSOs remain responsible for monitoring the safety of the person and seeking medical attention (as appropriate) until the specified body accepts care and control of the person.

5. People with additional needs

5.1 *People with a cognitive impairment or who are drug or alcohol-affected*

- A person being considered for care and control under s.232, the Act may be drug or alcohol-affected, have a cognitive impairment or a medical condition that mirrors mental illness.
- A person who is drug or alcohol-affected or has a cognitive impairment can still be taken into care and control and examined by a registered medical practitioner or authorised mental health practitioner under the Act if they are experiencing a mental health crisis.
- The registered medical practitioner or mental health practitioner who examines the person will prioritise the person's needs, including appropriate referral to health or support services.

6. Recording

6.1 *Forms*

- When a person is taken into care and control under the Act, police or PSOs exercising the power must complete a Form L42. The form is used to record the whole course of police or PSO involvement from the decision to take a person into care and control until they are no longer in the care and control of police or PSOs.
- Where a PSO apprehends a person, they should complete a Form L42 as far as possible, including the details of the police taking custody of the person before giving both copies of the form to the attending police. They must also record the handover on the Electronic Patrol Duty Return (ePDR).
- Police and PSOs should use the Person Warning Flag Form [Form 292] to generate Person Warning Flags where applicable; see **VPM Person warning flags.**
- Police and PSOs must submit a Use of Force App report where applicable. Refer to **VPM Operational safety and the use of force.**

6.2 *Body Worn Camera (BWC)*

- Police or PSOs wearing a BWC must start recording consistent with **VPM Body worn cameras**.
- Police and PSOs must ensure they capture the decision-making process in relation to whether a power under the Act should be exercised, including but not limited to:
  - considering whether it is reasonably practicable to obtain advice from a health-professional
  - considering whether to release a person from care and control.
- Where police or PSOs wearing a BWC are recording in a healthcare environment or where health advice may be recorded (for example, where a telehealth call is being undertaken on scene) they should inform the clinician that the content of their conversation with the person is being captured on BWC.

- Police and PSOs should only stop a recording when the person is no longer under care and control and police attendance at the event is no longer required.
  - For example: recording should stop when care and control of the person has been transferred to a specified body and police and/or PSOs have exited left the scene
  - For example: recording should not stop when care and control of the person has been transferred to a specified body but the police and/or PSOs are requested to stay on scene for safety considerations.
- For further information, see **VPM Body worn cameras.**

7. Threats made by people taken into care and control

- If a person who is in the care and control of an authorised person, threatens harm to another person, a risk assessment should be conducted to determine the appropriate safety measures to be taken, including assessing whether to notify the person who has been threatened. Depending on the circumstances, the risk assessment will be conducted by police and/or mental health clinicians.
- Police, PSOs and mental health clinicians should be aware of increased risk where family violence is evident or intervention orders exist. After a threat, the conditions of any existing intervention order should be reviewed. If no intervention order exists, consider obtaining an order. For further information, see **VPM Family violence.**
- If police or PSOs need advance notice of a patient's discharge from hospital due to safety concerns, this should be recorded on the Form L42.
- The disclosure of personal and health information must comply with obligations and health privacy principles under the *Health Records Act 2001, Privacy and Data Protection Act 2014* and **VPMG Information privacy**.
- If a threat is made against police or PSOs, refer to the **VPM Threats against staff members (THASM).**

8. Immunity for acting in good faith (s.253, the Act)

- Police and PSOs, as authorised persons exercising powers of care and control or performing a function under Chapter 5 of the Act, will not be personally liable for anything they have done, or have not done, if acting in good faith.

Related documents

- *Disability Act 2006*
- *Mental Health and Wellbeing Act 2022*
- VPM Body worn cameras
- VPM Community policing
- VPM Family violence
- VPM Operational safety and the use of force
- VPM Person warning flags
- VPM Searches of a person

- VPM Searches of property
- VPM Seized property and special property types
- VPM Threats against staff members (THASM)

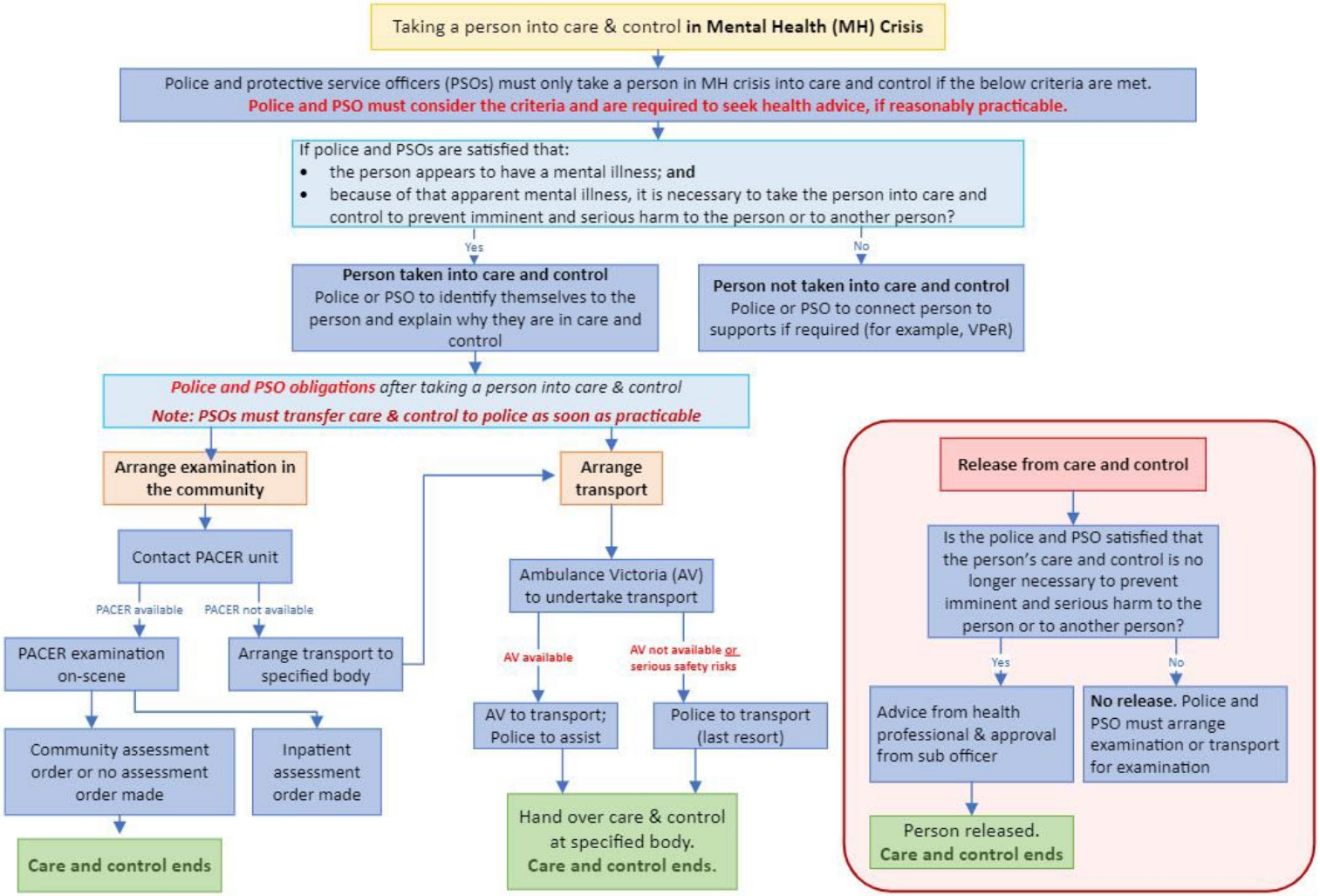
Further advice and information

For further advice and assistance regarding this Policy, contact your supervisor, local Mental Health Liaison Officer or the Mental Health Portfolio holder.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
01/09/2023	Implementation of the Mental Health and Wellbeing Act 2022. Replaces **VPMG Apprehending persons under the Mental Health Act**.	FF-232451 1 FF-232451 2
13/11/2023	Section 4.1 amended regarding use of bodily restraint	FF-232451 3
18/11/2024	Administrative amendments to reflect name change from VPM Person of interest and person warning flags to VPM Person warning flags.	FF-151944-2
29/05/2025	Consequential amendment to replace reference to Use of Force Form 237, 237A-D with Use of Force App for 20/05/25 Use of Force App rollout	FF-266536

Appendix A: Taking a person into care and control in mental health crisis



Appendix B: Taking a person into care and control for transport