

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.

Notification of offences

Context

When a person is suspected of or charged with an offence, police members must consider whether it is necessary to notify a person's employer or relevant regulatory authority to prevent or lessen a serious threat to public safety, public health or public welfare.

For similar reasons the Department of Families, Fairness and Housing (DFFH) may be notified where unlawful activity in or around public housing is suspected or known.

In both circumstances, there is a need to balance the privacy of individuals with the public interest. This policy outlines these considerations and the processes for approving and making notifications.

This policy supports compliance with the *Privacy and Data Protection Act 2014* (PDPA).

Policy at a glance

This policy includes:

- considerations for the release of personal information
- procedures for notifying employers, regulatory authorities, and government agencies that a person has been charged, or is the subject of a criminal investigation
- mandatory notification obligations that apply regarding registered teachers and medical professionals
- the procedure for making a notification.

Contents

Context	1
Policy at a glance	1
Contents	1
Definitions	1
Scope and application	2
Responsibilities and procedures	2
1. General considerations	2
2. Notification procedures	4
3. Procedures for persons in specific professions	5
4. Notifying Homes Victoria (Department of Families, Fairness and Housing)	7
Related documents	9
Further advice and information	9
Update history	9

Definitions

Charged includes when a person is charged and bailed, charged and remanded or charges are listed with a court and a summons issued.

Not charged refers to a person who is under investigation but has not been charged.

Regulatory authority includes government departments, industry regulators, sport governing bodies and workplace and training regulators.

Scope and application

This policy applies to all employees.

Responsibilities and procedures

1. General considerations

- In certain circumstances, investigating members must notify employers, government agencies or regulatory authorities of a person coming under their notice.
- Where notification is not mandated, members must assess whether it is appropriate to notify the employer or regulatory authority, taking into consideration the legislative authority and privacy principles outlined in sections 1.1 and 1.2 of this policy.

1.1 *Legislative authority*

In accordance with Information Privacy Principle 2.1(a), (d), (e) and (f), Schedule 1 of the PDPA, Victoria Police may only disclose personal information if it:

- reasonably believes that the disclosure is necessary to lessen or prevent either:
 - a serious threat to an individual's life, health, safety or welfare
 - a serious threat to public health, public safety, or public welfare or
- suspects that unlawful activity has been, is being or may be engaged in, and discloses personal information as a necessary part of its investigation or in reporting its concerns to relevant persons or authorities or
- is required or authorised by or under law or
- discloses the information for a related secondary purpose and the person who is the subject of the notification would reasonably expect Victoria Police to disclose the information for that purpose. In these circumstances, the secondary purpose must be related to the primary purpose for which the information was collected. For example, to alert a regulator of criminal offending so that they can prevent the commission of further offences by suspending a person's registration to work in a particular field.

1.2 *Privacy considerations*

- Due to the personal impact that a notification may have on a person, care should be taken to ensure that the notification is:
 - supported by legislation
 - in the public interest
 - based on details that are factual
 - not to be used as a form of penalty
 - confirmed in writing.
- In reference to Information Privacy Principle 2.1(a), (d), (e) or (f) of Schedule 1 of the PDPA, additional considerations for notification include the:

- nature and seriousness of the charge; the mere fact that the person has been charged is not enough to justify notification
 - duties performed by the person
 - nature of the charge as it relates to the business of the employer or regulatory authority
 - relationship of the person and the victim to the employer or regulatory authority
 - potential of exposing the public to further offending if the person returns to their role
 - ability of any recipient regulator to act on or use the information to lessen or prevent any relevant threat
 - potential for the notification to harm the interests of the person.
- Only in exceptional circumstances, members should consider notifying a person's employer or regulatory authority where they have not been charged.
 - Where a person's employer or regulatory authority has been notified, the investigating member must also notify the employer/regulatory authority of the outcome when the investigation or matter is finalised.
 - See **Privacy Information Sharing Guide** for assistance in providing information to external agencies.

1.3 *Making and recording the notification*

- The member making the notification must inform the recipient of their responsibilities regarding security of the information. This includes advising and maintaining the privacy of the individual and confidentiality of information.
- Work unit managers are to maintain a record of all notifications considered for release on their correspondence register. For audit purposes, the correspondence register should capture sufficient information that identifies the:
 - details of the organisation to which the notification was made
 - details of who authorised the release of the relevant data/information
 - time, date, and format in which the notification was made.

1.4 *Continuous police record checks*

- The continuous checking service identifies people who are the subject of relevant police involvements such as active or ongoing investigations, pending charges and court results and notifies their respective accrediting agency.
- The Police Information Liaison Office (PILO) of the Police Enquiry and Data Sharing Department undertakes both legislative and consensual continuous police record checking for a number of government agencies. The agencies include:
 - Working with Children Check Victoria
 - Victorian Institute of Teaching
 - National Disability Insurance Scheme
 - Victorian Gambling and Casino Control Commission
 - Safe Transport Victoria.
- Provision of this information to these agencies may prompt requests to investigating members for further information. Informants can contact the Privacy Unit, Security, Information and Privacy Division, Digital Services and Security Department (DSSD) for guidance if required.

2. Notification procedures

2.1 *Investigating member responsibilities*

- Investigating members must make relevant inquiries about the employment duties of the person charged/under investigation in order to assess whether the charge/investigation brings into question their ability or capacity to properly perform the role in their employment or under a regulatory authority. Members should consider their responsibility to prevent offences in this assessment.
- To assess whether a notification is appropriate, the investigating member should refer to the privacy considerations outlined in section 1.2 of this policy.

2.2 *Procedures for when the person is charged*

- The work unit manager is required to authorise the notification regarding a person who is charged.
- The work unit manager is responsible for assessing whether a notification is appropriate under section 1.1 of this policy, and must refer to the privacy considerations outlined in section 1.2 of this policy.
- Unless there is a likelihood that notification would interfere with the effective conduct of a pending prosecution, the investigating member should advise the person being charged that their employer and/or regulatory authority will be notified before making the notification.
- Where necessary, the investigating member should make enquiries with the employer or regulatory authority to ascertain the appropriate person to be notified, (e.g. Manager, Human Resources). Members must ensure that the privacy of the charged person is protected to the extent reasonably practicable when conducting these enquiries.
- The investigating member or in their absence, their supervisor, must notify the appropriate person in writing (i.e. email) of the circumstances, marked 'Sensitive: Personal'. See section 3 of this policy regarding specific occupations – medical and health practitioners, teachers, DFFH employees.

2.3 *Procedures for when the person is not charged*

- A member at the rank of inspector or above is required to authorise the notification regarding a person who is not charged.
- The authorising member is responsible for assessing whether a notification is appropriate under section 1.1 of this policy and must refer to the privacy considerations outlined in section 1.2 of this policy.
- Any decision to notify requires careful:
 - balancing between a serious breach of personal privacy against the likelihood of significant risk to the public interest/welfare
 - consideration of the possibility that civil action may be taken against all persons involved in the disclosure and Victoria Police.

2.4 *Sex Offenders*

- For information concerning the disclosure of a person's sex offender status, refer to **VPM Registered Sex Offender management**. Members should also consult the Sex Offenders Registry.

2.5 *Reportable Conduct Scheme and Child Safe Standards*

- Members should notify the Commission for Children and Young People of matters that come under the Reportable Conduct Scheme or Child Safe Standards. For guidance, refer to **VPM Reportable Conduct Scheme and Child Safe Standards**.

3. Procedures for persons in specific professions

3.1 *Medical and health practitioners*

- Where the person is charged, the investigating member must notify the Australian Health Practitioner Regulation Agency (AHPRA) in line with section 2.2 of this policy.
- Where there are concerns about the person's suitability to practice, the investigating member must notify AHPRA in writing.

3.2 *Registered teachers*

Victorian Institute of Teaching

- The Victorian Institute of Teaching (VIT) is the independent statutory authority for the teaching profession. All teachers working in Victorian schools (including public, independent and Catholic schools) and early childhood services must be registered with the VIT in order to practice.
- Registered teachers are listed publicly on the VIT Register of Teachers, which is published on the VIT website. A person listed on the register is registered and permitted to teach, unless their registration status shows otherwise.
- The register may provide police with additional information for their investigation. The Professional Conduct Unit, VIT can also be contacted for further advice and support.

When a teacher is charged

- The investigating member must immediately notify the VIT if a registered teacher has been charged with, found guilty of, or committed for trial for a sexual, violent or drug offence. This notification triggers a preliminary assessment by the VIT to determine whether to conduct an investigation; see s. 2.6.31 (4), *Education and Training Reform Act 2006* for further details.
- Notification may be by e-mail or phone; phone notifications must be confirmed in writing.
- Notifications must include the following information:
 - a brief summary of the alleged conduct of the teacher
 - details of the educational setting the teacher is/was employed in
 - whether the teacher's employer is aware of the conviction, including whether the employer has taken any action against the teacher
 - whether the teacher is still registered.
- If a student is involved in the offending, notifications must also include:

- when and in what circumstances the student was taught by the teacher (include details regarding the setting (e.g., classroom, religious instructions, coaching))
- the age and gender of the student.

Liaison during criminal investigation

- To avoid compromising any criminal investigation, the VIT will advise Victoria Police of the progress of their disciplinary investigation. The investigating member should also notify the VIT of developments in any ongoing criminal investigation so that the VIT may adjust or cease their disciplinary investigation.

Improper conduct of a teacher – not charged

- Victoria Police may refer allegations of improper conduct between teachers and/or children/students that have not resulted in any criminal charges, convictions and/or findings of guilt against them to the VIT. Improper conduct is conduct that may impact their fitness to teach, as defined in the *Education and Training Reform Act*.
- Members need to consider the implications for the teacher, as well as protective concerns for the children/students. Refer to sections 1 and 2.3 of this policy for guidance.
- Teachers who were registered at the time of the offence, but are no longer registered, can also be referred to the VIT (i.e. historical offences).

3.3 *Persons employed by the Department of Families, Fairness and Housing*

- Employees of DFFH includes employees of DFFH funded service providers (e.g., residential out-of-home care, and home and community care services).

Notification by Victoria Police to Department of Families, Fairness and Housing of allegation(s) of criminal conduct

- Members must apply sections 1 and 2 of this policy.
- DFFH staff or any outside organisation engaged to conduct an internal review are not 'investigating officials' under s.464, *Crimes Act 1958* and as such are not immediately authorised to conduct a criminal investigation. Their role is to facilitate an internal administrative inquiry relating to employment. They are expected to notify the Station Commander before commencing any internal departmental process.
- Where Victoria Police is aware of an internal review, the investigating member should notify DFFH of emerging developments in any ongoing criminal investigation so that DFFH may adjust their internal inquiry accordingly, or cease if necessary.
- The Station Commander is responsible for liaison with the DFFH contact during any further investigation or hearing phase.
- For guidance on information exchange, see **VPMP Information sharing** or contact the Local Area Commander for advice.
- The Privacy Unit, Security, Information and Privacy Division, DSSD may also refer DFFH to the appropriate regional contact.

3.4 *Victoria Police or other Victoria Police personnel*

- Refer to **VPMPG Offences by or service of process on employees**.

4. Notifying Homes Victoria (Department of Families, Fairness and Housing)

4.1 *Purpose of making a notification*

- Members can notify Homes Victoria when there is reason to suspect that illegal activity has occurred in a Homes Victoria owned or managed premises or on a common area of a DFFH housing estate. The notification of subject information is made with the aim of preventing or lessening the serious threat to public safety, public health or public welfare.

4.2 *Subject information*

- 'Subject information' is information linking the alleged illegal activity to Homes Victoria premises or common area within a public housing property and may include:
 - name of the tenant and any other persons present
 - address of the premises
 - the tenant's role in the household (e.g., mother of alleged offender, son of alleged offender)
 - name and address of any other Homes Victoria tenant present when a search warrant has been executed (only in circumstances where Victoria Police has evidence to indicate that the tenant has knowledge or is aware of the alleged illegal activity)
 - charges laid
 - summary of alleged offences committed which should include the location of the tenant inside the premises when a search warrant has been executed (e.g. tenant located in bathroom, tenant located in kitchen)
 - a brief summary of the relevant evidence linking the alleged illegal activity to the premises, which should include location of where the alleged illegal activity is situated within the premises (e.g., traffickable quantity of drugs found in kitchen, selling a traffickable amount of drugs on a common area of an estate, selling/dealing stolen goods from inside the premises)
 - investigating member's details.
- Where a tenant has not used the rented premises themselves for the alleged illegal activity, subject information may include information which shows the tenant:
 - had knowledge or should have known the offending was occurring and
 - had the power to prevent the offending.

4.3 *Legislative authority*

- The *Residential Tenancies Act 1997* allows Homes Victoria to give a public housing tenant notice to vacate if the tenant has, within a private or common area of a public housing property:
 - engaged in specific drug-related conduct (s.91ZR, *Residential Tenancies Act*) as outlined in section 4.5 of this policy
 - committed prescribed indictable offences, for which the person has been convicted or found guilty (s.91ZS, *Residential Tenancies Act*).
- In line with Information Privacy Principle 2.1(e) Schedule 1 of the PDPA, members may notify Homes Victoria, when they become aware of a tenant that has engaged in or permitted the use of a DFFH premises for an offence, including specific drug-related conduct, as outlined in section 4.4 of this policy.

- Members may also make a notification of subject information under Information Privacy Principle 2.1(d) Schedule 1 of the PDPA when there is enough evidence demonstrating that there is a serious threat to public health, public safety or public welfare because:
 - a tenant or another person present has been charged or convicted with an offence that has occurred inside a DFFH premises or where the premises has been used for the commission of the offence
 - a tenant has knowledge or has allowed a DFFH premises to be used for an offence.

4.4 *Drug-related conduct in public housing*

Members may also make a notification of subject information when a warrant under the *Drug, Poisons and Controlled Substance Act 1981* has been executed on a DFFH premises or DFFH housing estate common area, which has resulted in charges laid or a conviction for the following offences:

- trafficked or attempted to traffic a drug of dependence
- supplied a drug of dependence to a person under 18
- possessed a preparatory item with the intention of using the item for the purpose of trafficking a drug of dependence
- possessed without lawful excuse, a tablet press or precursor chemical, or
- cultivated or attempted to cultivate a narcotic plant on the rented premises or in a common area (see s.91ZR, *Residential Tenancies Act*).

4.5 *Approval and making a notification*

- Complete Notification of Illegal Activity [Form 1423] and forward to the work unit manager for approval.
- If the notification of subject information is approved the work unit manager is to forward the completed Form 1423 to the appropriate Homes Victoria Regional Manager in one communication by mail.
- The summary of charges form and/or LEAP reports are not to be included.
- The investigating member may be contacted by DFFH to have further discussions about the subject information already provided.
- New subject information or documentation (e.g., briefs, summary of charges forms) can only be provided to DHHS by way of a subpoena. Refer to **VPM Court processes** for further information on requirements relating to subpoena requests.
- Members may be subject to a subpoena to provide evidence in a Victorian Civil and Administrative Tribunal hearing.
- Notification should occur when a charge has been laid, however if this did not occur, a notification may also be made when a conviction has been recorded.

4.6 *Recording the notification*

- Work unit managers are to maintain a record on their correspondence register of all notifications as detailed in section 1.3 of this policy. For further information refer to **VPMP Information sharing**.

Related documents

- VPM Disposition
- VPMG Protecting children
- VPM Reportable Conduct Scheme and Child Safe Standards

Further advice and information

Where any doubt exists about whether a notification should be made, or for general further advice and assistance regarding this policy, contact the Privacy Unit, Security, Information and Privacy Division, DSSD or the Police Branch of the Victorian Government Solicitor's Office.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
15/08/16	Review and reformat of VPMG Notification of offences . Includes additional information about notifying VIT	FF-096086
25/03/19	Administrative amendment to reflect name change from IMSSD to Protective Security.	FF-139207
21/10/19	Instrument names updated to reflect amended court process policy.	FF-139297
12/09/2023	Administrative amendment to reflect name change from Records Services Division to Police Enquiry and Data Sharing Department.	FF-229744
18/12/24	Amended to include regulatory bodies in addition to employers and update Victorian Government departmental names.	FF-124553