

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 the VPM Professional and ethical standards to inform the decisions they make to support compliance.

Human rights standards

Context

Human rights are basic entitlements that belong to every person, regardless of nationality, race, sex, gender, ethnicity, language or religion. Victoria's *Charter of Human Rights and Responsibilities Act 2006* (the Charter) contains 20 human rights that promote and protect the values of freedom, respect, compassion, equality and dignity.

Human rights are relevant to every aspect of the work of Victoria Police. The Charter requires that all Victoria Police employees consider, and appropriately balance human rights when making decisions, managing risks, taking actions and developing policies and projects. In upholding human rights, Victoria Police builds trust with community and demonstrates that it values and respects the rights of the community it serves.

The Charter also sets out distinct cultural rights for Aboriginal people and the importance of maintaining their diverse spiritual, social and cultural and economic relationships with traditional lands and waters, and a right to self-determination.

Victoria Police is committed to working in partnership with Aboriginal people to ensure a service delivery response that is culturally safe and responsive to the rights of Aboriginal and Torres Strait Islander people.

This policy includes:

- the obligations of Victoria Police and its employees to comply with the Charter
- factors employees must consider in their decision making when preparing policies, projects or operations
- information on distinct cultural rights for Aboriginal people
- guidance for employees engaging with Aboriginal people regarding self-determination.

Employees should read this policy in conjunction with the Human Rights Impact Assessment and **Human Rights Impact Assessment Practice Guide**.

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Definitions

Breach human rights – a breach occurs where a human right is limited by a decision or action, and there is no proportionate justification for this limitation.

Engage human rights – where any of the protected human rights in the Charter are relevant to an action/decision/situation.

Lawful limitation of a human right – a lawful limitation of a human right occurs where a human right is negatively impacted by a decision or action, and there is a proportionate justification for this limitation.

Limit human right – a limit/limitation occurs where a human right is negatively impacted by a decision or action.

Proportionate justification – a reason (justification) that is both necessary and balanced (proportionate) considering the negative impacts on a person's human rights.

Scope and application

This policy applies to all Victoria Police employees.

Responsibilities and procedures

1. Charter obligations

1.1 *Conduct of Victoria Police as a public authority under the Charter*

- The Charter sets out the legal obligation that applies to Victoria Police as a public authority. Victoria Police must act compatibly and give proper consideration to relevant human rights before making a decision to limit any rights or take any action. See s.38 of the Charter for more information.

1.2 *Conduct of employees*

- Employees must comply with Charter obligations in their decisions and actions. All employees must:
 - act compatibly with human rights in all of their work
 - give proper consideration to relevant human rights in all of their work.
- When considering human rights, employees must:
 - decide which human rights are relevant
 - identify how a person's rights will be affected if they are impacted or limited, and
 - justify their decision, balancing competing obligations and interests.
- Where a limitation of a person's human rights has occurred, employees must, where practicable, record the proportionate justification for that limitation.

2. Compliance with the Charter obligations

2.1 *Overview*

- The work of Victoria Police and the exercise of police powers, frequently requires human rights to be limited.

- Any limitation on human rights must be lawful, proportionate and necessary.
- Each of these elements is summarised below, and further advice can be obtained from either the Human Rights Portfolio Manager, Capability Department or from the Legal Services Department.

2.2 *Lawful limitation of rights*

- Employees must have lawful authority (legal power) to exercise their powers.
- All employees are responsible for ensuring they only exercise powers they are lawfully permitted to exercise, and only to the extent necessary.
- Employees must be able to justify any actions taken.

2.3 *Principle of proportionality and necessity*

- While human rights must always be protected, s.7(2) of the Charter allows for limiting a person's human rights in some circumstances, but only when there is a proportionate justification for doing so.
- Employees must always ensure that their decisions impacting a person and their human rights and actions are proportionate. This includes decisions and actions relating to arrests, use of force, custody and any other exercise of police power.
- All relevant factors limiting a person's human right must be taken into account including:

Factor/Limitation	Considerations
• the nature of the human right	• what does limiting the human right protect? • how does this apply to people whose rights may be limited by the decision?
• the importance of the purpose of the limitation	• consideration of the objective you are seeking to achieve • does the operational objective justify limiting a person's human rights?
• the nature and extent of the limitation	• how will your objective impact the person's human rights, i.e. is the impact significant or fleeting/peripheral? • consider individual, cultural and community factors that might apply. See the Community Support Hub on the intranet for more information.
• the relationship between the limitation and its purpose	• consider whether your actions will achieve your objective. • is there an evidence base to support your decision?

• are there any less restrictive means reasonably available to achieve the purpose	• consider what approach will achieve your objective with less impact on the person's human rights
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2.4 *Breach of human rights*

- Human rights must only be limited to the extent that the limitation is lawful, proportionate and necessary.
- If a lawful, proportionate and necessary justification for the action or decision does not exist, then that action or decision may constitute a breach of a person's human rights. Where it is identified that a breach may occur, less restrictive options must be considered.
- All employees must report situations where they believe a breach of human rights has occurred to their line manager.

2.5 *Accountability*

- Employees must be fully accountable for their actions.
- Decisions must be justified, and employees must be able to demonstrate that they properly considered the potential impact of their decision on a person's human rights and have acted compatibly with the protected human rights. This includes recording justifications relating to limiting a person's human rights including activating body worn cameras, completing human rights impact assessments and taking contemporaneous notes, as relevant.
- Employees must always make decisions that reflect the Victoria Police values and build community trust and confidence.

2.6 *Principle of non-discrimination*

- Employees must treat people as being equal before the law, without discrimination of any kind.
- Employees must not make decisions based on generalisations or stereotypes about a person's attributes such as race, ethnicity, culture, religion, ancestry, language, age, gender identity, sex, sexuality, mental health or disability.
- Racial profiling is a form of discrimination and is against the law. Racial profiling involves making decisions that are not based on objective or reasonable justification, but on stereotypical assumptions about race, skin colour, language, ethnicity, ancestry or religion.
- Victoria Police has a zero-tolerance policy towards racial profiling.

3. **Aboriginal cultural rights**

3.1 *Distinct cultural rights for Aboriginal people*

- s.19(2) of the Charter protects cultural rights for Aboriginal people. It provides that Aboriginal people hold distinct cultural rights and must not be denied the right to:
 - enjoy their identity and culture
 - maintain and use their language
 - maintain their kinship ties

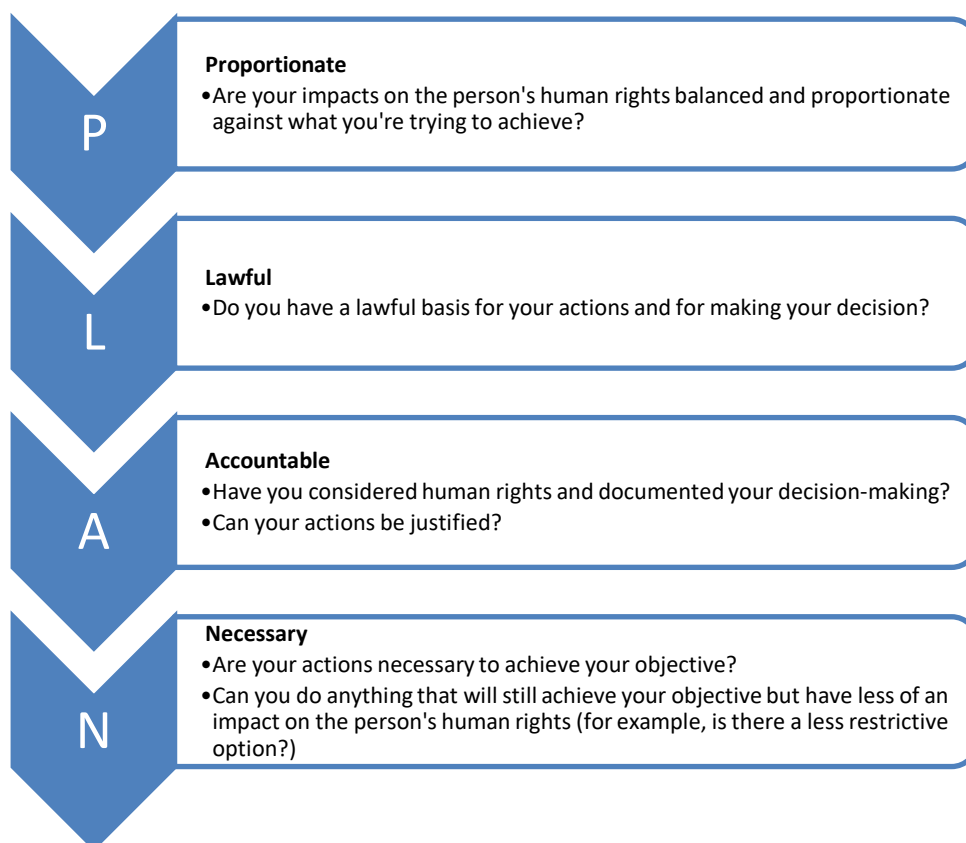
- maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources which have a connection under traditional laws and customs.
- Employees must be aware of these distinct cultural rights and ensure that they are not limited without justification, considering all relevant factors, including less restrictive options. Employees must record their proportionate justification if Aboriginal cultural rights have been limited.
- For more information about the practical application of Aboriginal cultural rights in police settings, refer to Appendix C of the **Human rights impact assessment Practice Guide**.

3.2 *Aboriginal self determination*

- Victoria Police must work in partnership with Aboriginal communities when engaging in work that affects Aboriginal people, to improve outcomes for Aboriginal People.
- Aboriginal Victorians hold knowledge and expertise about what is best for themselves, their families and communities. Their right to self-determination is protected under international law by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Aboriginal cultural rights under the Charter also extend to the concept of self-determination.
- Where an employee needs to engage with community on a piece of work or seek cultural advice and guidance, the Aboriginal Community Portfolio must be contacted at PBEA: PSCD-ABORIGINAL-PORTFOLIO-OIC at the earliest possible stage to help facilitate this engagement.
- Refer to the **Human rights impact assessment Practice Guide** for examples of work that address an Aboriginal person's cultural rights.
- Refer to the Aboriginal Community Portfolio Hub - Stakeholder Matrix intranet page for more information.

4. **Considering PLAN: human rights in everyday decision making**

Employees can use the following Proportionate Lawful Accountable Necessary (PLAN) flow chart to support their decision making in a way that is compatible with and properly considers, a person's human rights.



5. Other considerations

The human rights framework in Victoria also includes the *Equal Opportunity Act 2010*, the *Victims Charter Act 2006*, and federal anti-discrimination legislation. Additionally, Victoria Police policies relating to prejudice motivated crime are strongly linked to human rights and non-discrimination.

- The Equal Opportunity Act provides protection from discrimination in public life in Victoria based on the protected attributes including age, pregnancy and breastfeeding, parental or carer status, employment activity, gender identity, disability, industrial activity, lawful sexual activity, marital status, physical features, political belief or activity, race, religious belief or activity, profession, trade or occupation, sex, sex characteristics, sexual orientation, spent conviction, expunged homosexual conviction, or personal association with someone who has, or is assumed to have, any of these protected attributes.
- The *Racial, Religious and Tolerance Act 2001* makes it unlawful to vilify a person or group of people because of their race or religion. Serious vilification offences are covered under the *Crimes Act 1958*.
- The Victims Charter Act provides legislated standards for the treatment of victims of crime by the criminal justice system. Given the primary role Victoria Police plays in investigating and prosecuting crime, it is essential that employees comply with the requirements of the *Victims Charter Act* and ensure that victims are treated with courtesy, respect and dignity. Refer to **VPM Victim support** for further information.

Related documents

- VPM Professional and ethical standards

- VPM Victim support
- VPM Prejudice motivated crime
- *Victoria Police Act 2013*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Equal Opportunity Act 2010*
- *Victims Charter Act 2006*
- *Racial Religious Tolerance Act 2001*
- *Crimes Act 1958*
- Human Rights Impact Assessment Template
- Human rights impact assessment Practice Guide

Further advice and information

For further advice and assistance regarding this policy, contact your supervisor or Priority and Safer Communities Division, Capability Department.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
15/11/21	First issued. Replaces VPMP Human rights equity and diversity standards .	FF-202522
23/12/25	Amended to include information on cultural rights for Aboriginal people and guidance for employees engaging with Aboriginal people regarding self-determination.	FF-202522