

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.

Breach of the peace and move on powers

Context

The role of Victoria Police is to serve the Victorian community and uphold the law so as to promote a safe, secure and orderly society. From time to time, it is necessary for members to take preventative action to keep the community safe and maintain public order. This includes responding to breaches of the peace and, if necessary, taking steps to exclude people from entering or remaining in a public place.

Policy at a glance

This policy includes:

- guidance on the use of common law powers to stop, or to prevent, breaches of the peace
- instructions for the issuing and recording move on directions.

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Scope and application

This policy applies to all police and Protective Services Officers (members).

Responsibilities and procedures

1. Human rights

Members have extensive powers to protect the community and uphold the law. Members must consider the human rights of all people they interact with, including acting in a way that is compatible with the *Charter of Human Rights and Responsibilities Act 2006* (the Charter).

A person's human rights can only be limited to the extent that it is reasonable and justified. Prior to limiting a person's human rights, members must consider the least restrictive means available to address the behaviour.

The PLAN principles (proportionate, lawful, accountable, and necessary) are designed to

assist members to act in a way which is compatible with their human rights obligations.

Breach of peace and move on powers may engage a range of protected human rights, including:

- freedom of movement (s.12)
- protection from discrimination (s.8)
- right to liberty and security of person (s.21)
- protection from degrading treatment (s. 10)
- protection of privacy (s. 13).

See **VPM Human rights standards** for further guidance.

2. Breach of the peace

2.1 *General*

A breach of the peace is any disturbance of public order involving the threat of violence or harm to property.

Under common law, police have the power to take whatever actions are reasonably necessary to prevent a breach of the peace from occurring or continuing. However, they must have a reasonable belief that the threat is imminent.

Police may use reasonable force to prevent the breach from occurring or continuing. However, all powers cease once the breach or threat ends.

2.2 *No offence or power of arrest for breach of the peace*

There is no offence or power of arrest for breach of the peace.

Police may consider applicable State or Commonwealth offences, enabling the use of powers. There may be another offence occurring associated with the breach of peace for which a person may be arrested.

Where another offence is occurring, a power of arrest is only to be exercised to prevent the harm, or support the purpose for which the arrest power has been conferred, considering the need to:

- investigate offences and enforce appropriate legislation
- ensure a person's appearance before a court
- preserve public order
- prevent the continuation or repetition of the offence or the commission of a further offence
- ensure the safety or welfare of members of the public or offender
- apprehend a person who has escaped from legal custody.

When considering the need to arrest a child, generally they should only be arrested where it is a serious offence and the child is likely to repeat the offence or commit other offences at the time.

For further information, refer to **VPM Arrests and warrants to arrest**.

2.3 Scope of authority

Under common law, police have the power to take whatever actions are reasonably necessary to prevent a breach of the peace from occurring or continuing. Members should refer to the PLAN principles outlined under section 1 of this policy in the exercise of their powers in light of any human rights impacts as a result.

Depending on the circumstances, this may include the following powers.

Power	Description
Remove items	Police have, in appropriate circumstances, the power to temporarily take articles from a person if such action is reasonably necessary to prevent a breach of the peace. While breach of the peace powers do not themselves empower permanently taking articles from a person, the common law power to seize exhibits as evidence of offending may be used by members where appropriate. Depending on the circumstances, there may also be a statutory power to seize items. For example, an item reasonably suspected to be a weapon may be seized following a search without warrant under section 10 of the <i>Control of Weapons Act 1990</i>. Refer to VPM Property and exhibit management for guidance regarding the seizure and handling of exhibits.
Give directions	Police have the power to direct a person believed to be breaching or likely to breach the peace to leave a particular location. This power extends to directing people to move on, or to refuse them entry into an area if such direction is reasonable to prevent an anticipated breach of the peace. In addition, the <i>Summary Offences Act 1966</i> provides specific powers to issue a direction to move on. Refer to VPM Police attendance at events and section 3 of this policy for specific guidance on the use of move on powers.
Restrain or detain	Police have the power to use reasonable force to restrain or detain a person where necessary to prevent a breach of the peace from occurring or continuing. Police may remove the person from the immediate vicinity until the breach of peace stops or is no longer threatened. Detention must cease as soon as the threat of violence or harm has gone.
Enter private premises	Police may enter private premises, using reasonable force, to stop a breach of the peace or an anticipated breach of the peace.

2.4 Procedure

Before exercising breach of peace powers police should advise the person subject to those powers that:

- the power is being exercised for the purpose of preventing a breach of the peace and
- failure to comply may be an offence of hindering police in the execution of their duty, for which the person may be arrested.

A person who refuses or fails to comply with a reasonable direction, or hinders a police officer:

- commits an offence under s.52, *Summary Offences Act*
- is subject to the conditions for arrest under s.458, *Crimes Act 1958* (e.g., to prevent the continuation of the offence or to preserve public order).

Refer to **VPM Arrest and warrants to arrest** for further guidance regarding the execution of a power of arrest under s.458, *Crimes Act*, including the use of reasonable force under s.462A, *Crimes Act*.

3. Move on powers

3.1 General

The *Summary Offences Act* empowers a police officer or a Protective Services Officer (PSO) on duty at a designated place, to direct person(s) to move on from a public place or part of a public place, if they suspect on reasonable grounds that the person(s) are:

- breaching or likely to breach the peace (refer to section 2 of this policy)
- endangering or likely to endanger the safety of another person or
- their behaviour is likely to cause injury to a person or damage to property or is otherwise a risk to public safety (s. 6(1), *Summary Offences Act*).

A PSO may only give a direction to move on in relation to a person who is at a public place that is at, or in the vicinity of, a designated place.

Members may also direct person(s) not to return to that public place, or part of a public place, for a specified period of not more than 24 hours (s. 6(3), *Summary Offences Act*).

A public place is the same as defined at s.3, *Summary Offences Act*.

3.2 Restriction on power to move on at demonstrations and pickets

Move on powers, outlined at section 3.1 of this policy, cannot be exercised where a person, whether or not in the company of other people, is:

- picketing a place of employment
- demonstrating or protesting about a particular issue
- speaking, bearing or otherwise identifying with a banner, placard or sign or otherwise behaving in a way that is apparently intended to publicise the person's view about a particular issue.

The restrictions are found at s.6(5) of the *Summary Offences Act*.

Despite these limitations, members may be able to use breach of the peace powers, as outlined in section 2 of this policy.

3.3 Giving and recording of direction

Members may give a direction orally, to an individual or group of people.

There is no legislative provision to obtain the details of a person who has been given a move on direction where no offence has been detected. However, where members have the persons details they must record the direction to move on by submitting a field contact.

Notes of the direction should also be recorded in either the member's patrol duty return [Form 501], official diary [PB 13], ePDR or notebook. If a direction is given to a person who is drunk in public, this must be recorded in the PDRApp in accordance with **CCI 04/25 Persons drunk in public**.

When directing a person to move on, the area the person is to be excluded from must be:

- geographically defined, including giving street references where possible, and
- the smallest area reasonable in the circumstances, that is required to address the issue giving rise to the move on direction.

After a direction is given, members must allow reasonable time for the person to move on. Where a direction is given to a group of persons, a member should repeat the move on request to any individual before taking further action. Members should inform the person(s) that it is an offence to not move on when lawfully directed to do so.

3.4 *Procedure for giving a formal direction to move on*

Where a formal direction is given to move on, members should:

- state their name, rank and station and
- use the following wording:

"I intend to give you a move on direction. It is my duty to inform you that without a reasonable excuse it is an offence to fail to comply with the direction. I reasonably suspect that (use appropriate section):

 - you are breaching, or are likely to breach the peace (s6(1)(a)); or
 - you are endangering, or likely to endanger the safety of other person (s6(1)(b)); or
 - your behaviour is likely to cause injury to a person or damage to property or is otherwise a risk to public safety (s6(1)(c))."

For example:

- *I am directing you to move on from the area (describe the specific area, e.g., within 100 metres of 121 Exhibition Street, Melbourne, or the Frankston railway station and adjoining bus stops).*
- *Further, you are not to return to this area for a period of _____ hours (maximum 24 hours).*
- *Failure to comply with this direction is an offence and you may be arrested.*
- *You must now leave the premises as directed.*
- *Do you understand this direction?*

Prior to issuing a formal direction to move on direction members must ask the person if there is any reason why they cannot be excluded from the area. For example, bail reporting, medical appointment, live or work in the excluded area, have family members who reside in the area or other lawful need to enter the excluded area)

3.5 *Other considerations*

Prior to giving a move on direction, members should have regard to the particular circumstances of the individual and whether a move on direction is the most suitable response.

Members must use appropriate powers when dealing with certain situations, including considering the exercise of discretion. This includes consideration of balancing the rights of individuals under the Charter against the need to take action to ensure the safety of persons or to take action against those who break the law.

For example, members should consider whether:

- the direction:
 - meets the legal threshold
 - is in the public interest
 - is a reasonable limitation of the person's human rights protected under the Charter, bearing in mind cultural ties or other support needs the person may have
 - is the most appropriate means of dealing with the individual
- there are any other options for intervention, such as referrals to specialist support services that would be more appropriate in the circumstances (e.g., a local support or sobering service consistent with **CCI 04/25 Persons drunk in public**)
- the person has any difficulty understanding the direction (e.g., due to a mental illness, disability or language barrier).

For further advice, refer to the relevant Regional Community Engagement Officers and **VPM Community policing**.

3.6 *Enforcement*

Contravening a move on direction without lawful excuse is an offence under s.6(4) of the *Summary Offences Act*. This offence is enforceable by infringement notice or charge.

Refer to **VPM Infringement notices and official warnings** and **VPM Disposition** for further guidance.

Related documents

- *Summary Offences Act 1966*
- *Charter of Human Rights and Responsibilities Act 2006*
- *Crimes Act 1958*
- CCI 04/25 Persons drunk in public
- VPM Arrests and warrants to arrest
- VPM Community policing
- VPM Infringement notices and official warnings
- VPM Police attendance at events
- VPM Protective services officers - duties and responsibilities

Further advice and information

For further advice and assistance regarding this policy, contact your supervisor or the Legal Services Department.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
06/11/2023	First issued. Consolidates and replaces VPMG Breach of peace and VPMG Move on powers .	FF-244372
08/04/2025	Update to CCI reference and minor administrative amendments	FF-236364
26/11/2025	Administrative amendment to relocate section related to demonstrations and pickets	FF-267448