

Victoria Police Manual

The Victoria Police Manual is issued under the authority of the Chief Commissioner of Police in s.60, The 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.

Complaints

Context

Victoria Police aims to provide the community with a policing service that is professional, lawful, responsible, accountable, fair and based on sound ethical behaviour and judgement. This can only be achieved by a system where priority is given to maintaining the highest standards of integrity, honesty and ethical behaviour.

To ensure this, standards of behaviour for Victoria Police employees are contained in:

- law (including the *Victoria Police Act 2013* (the Act) and the *Public Administration Act 2004*)
- the Victoria Police Manual and other relevant organisational and local instructions
- Codes of Conduct for police members and VPS employees.

To maintain the above standards and comply with legislative requirements, Victoria Police has processes in place to:

- receive complaints and public interest disclosures about employee conduct
- ensure certain matters are reported to Professional Standards Command (PSC) and/or the Independent Broad-based Anti-corruption Commission (IBAC)
- ensure that complaints are investigated
- determine what action is taken in relation to employees who fail to meet appropriate service or behavioural standards, commit a breach of discipline, or have a criminal charge proven.

Policy at a glance

This policy includes:

- the procedures and requirements for receiving and responding to a complaint
- requirements for engaging with complainants, including at risk and reluctant complainants
- details on the assessment, classification and allocation of complaints
- the procedures and requirements for Professional Conduct Resolution of Class 3 complaints
- complaint investigation procedures and requirements, including the management of complaint investigation files
- the procedures and requirements for the Discipline Intervention Program
- the procedures and requirements for interim action and the laying of discipline and criminal charges.

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Definitions

Affected person – a person who is directly affected by the employee conduct alleged in the complaint.

Breach of discipline – as per s.125, the Act, a police officer or protective services officer commits a breach of discipline if they:

- contravene a provision of the Act or *Victoria Police Regulations*
- fail to comply with a direction given under section 84 of the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act)
- fail to comply with the Chief Commissioner's Instructions
- fail to comply with a direction given under Part 5, the Act
- refuse to consent to the use of evidence derived from a sample in the circumstances referred to in s.87, the Act
- fail to comply with a direction given under Division 1 or Part 9 of the *IBAC Act*
- refuse to consent to the use of evidence derived from a sample in the circumstances referred to in s.174, *IBAC Act*
- engage in conduct that is likely to bring Victoria Police into disrepute or diminish public confidence in it
- fail to comply with a lawful instruction given by the Chief Commissioner of Police (CCP), a police officer of or above the rank of senior sergeant or a person having the authority to give the instruction
- are guilty of disgraceful or improper conduct (whether in an official capacity or otherwise)
- are negligent or careless in the discharge of their duty
- apply for or hold a licence or permit to conduct any trade, business or profession, or accept any other employment without the approval of the Chief Commissioner
- act in a manner prejudicial to the good order or discipline of Victoria Police
- are charged and found guilty of an offence (whether under Victorian law or under the law of another place)
- aid, abet, counsel or procure, or by any act or omission are directly or indirectly knowingly concerned in, or a party to the commission of a breach of discipline.

Code of Conduct – the Victoria Police Code of Conduct prescribes behaviour expected of Victoria Police employees and provides clarity on their responsibilities and obligations in serving the community.

Complainant – the person who makes the complaint. This may be someone who wishes to report an incident they have witnessed, an affected person, or someone making a complaint on behalf of, or as an advocate for, the affected person.

Complaint – a complaint arises when a person is dissatisfied or concerned about their interactions with Victoria Police or an employee of Victoria Police.

Conduct – as per s. 166, the Act, in relation to a police officer or protective services officer means:

- an act or decision, or the failure to act or make a decision, in the exercise, performance or discharge of a duty which the officer has as, or by virtue of being a police officer or protective services officer
- conduct which constitutes an offence punishable by imprisonment
- conduct likely to bring Victoria Police into disrepute or diminish public confidence in it
- disgraceful or improper conduct (whether in an official capacity or otherwise) as per s.166, the Act.

Employee – all Victoria Police personnel, including police members, reservists, protective services officers, police custody officers, recruits and VPS employees.

Injury – as per s.246, the Act, injury means a personal or bodily injury and includes psychological or psychiatric injury.

Serious injury – as per s.82, the Act, includes any injury that is either:

- life threatening
- likely to result in permanent impairment
- likely to require long term rehabilitation
- in the opinion of the Chief Commissioner, of such nature, or occurred in such circumstances, that the infliction of it is likely to bring Victoria Police into disrepute or diminish public confidence in Victoria Police.

Interim action – action taken against a subject member reasonably believed to have committed, or having been charged with committing, a breach of discipline or criminal offence punishable by imprisonment to address the identified risk of that police member remaining in the workplace, including the risk to any person, the community, and/or the reputation of Victoria Police. In accordance with ss. 126, 127 and 135, the Act, interim action can include:

- where a police member is reasonably believed to have committed a breach of discipline, or to have committed an offence punishable by imprisonment:
 - transfer the employee to other duties
 - direct the subject employee to take accrued leave (other than personal leave)
 - suspend the subject employee with pay
- where a police member has been charged with a breach of discipline, or charged with a criminal offence punishable by imprisonment:
 - transfer the employee to other duties
 - direct the subject employee to take accrued leave (other than personal leave)
 - suspend the subject employee with or without pay.

Misconduct – as per s. 166, the Act, in relation to a police officer or protective services officer means:

- conduct which constitutes an offence punishable by imprisonment
- conduct likely to bring Victoria Police into disrepute or diminish public confidence in it
- disgraceful or improper conduct (whether in an official capacity or otherwise) as per s.166, the Act.

Police member (or member)- any employee, excluding VPS employees, employed by Victoria Police in accordance with s.7, the Act. This means police officer, protective services officer, recruit, and reservist.

Police supervisor – a police officer of the rank of sergeant or above.

Public Interest Disclosure – as per s.9, *Public Interest Disclosures Act 2012* is a disclosure by a person of information that shows or tends to show:

- a person/public officer/public body has, is, or proposes to engage in improper conduct (as defined in s.4, *Public Interest Disclosures Act 2012*); or
- a public officer/public body has, is, or proposes to take detrimental action (as defined in s.3, *Public Interest Disclosures Act 2012*) against a person.

Public Interest Complaint – as per s.3, *Public Interest Disclosures Act 2012* is a public interest disclosure the IBAC has assessed and determined to be a public interest complaint.

Senior Investigation Officer – the line manager of the complaint investigator, or someone higher in rank with suitable investigative skills.

Senior manager – for the purposes of responding to a Class 1 or 2 complaint, a senior manager includes:

- divisional patrol supervisor or equivalent for complaints and incidents relating to police attendance at incidents
- senior sergeant or above, or work unit manager for complaints and incidents not related to police attendance at incidents.
- senior manager does not include a supervising police custody officer.

Subject employee/member – the employee/member against who the complaint is made. Subject employee is used where the requirement applies to all Victoria Police employees. Subject member is used where the requirement only applies to police members.

VPS employee – a person employed by Victoria Police in accordance with the *Public Administration Act 2004*.

Scope and application

- This policy outlines the complaints process from the point of receiving a complaint to the completion of the investigation and final investigation report.
- Police members seconded to other agencies remain subject to the complaint and investigation procedures of Victoria Police.
- This policy applies to VPS employees who are the subject of a complaint involving alleged criminality. For the management of complaints for VPS employees (including police custody officers) that do not allege criminality, please refer to **VPM Management of misconduct (VPS employees)**.
- This policy does not apply to complaints about Victoria Police procurement, unless the matter also includes an allegation of misconduct or a breach of discipline. For the management of procurement complaints, refer to the **Procurement Complaints Management Policy** issued by the Procurement Division, Investment Governance and Assurance Department.

Overview

1. Human rights

- In accordance with natural justice principles, parties within the complaints and discipline process have:
 - the right to be heard
 - the right to be treated without bias
 - the right for any decisions made to be based on relevant evidence.
- Procedural fairness must be applied to complaint resolution. Under the requirements of procedural fairness, the subject employee must:
 - be informed of the nature of the allegation made, and receive all relevant documentation
 - be given the opportunity to respond to the allegation and make a submission as to any sanction that may be imposed
 - have their response genuinely considered
 - be provided with reasoning to support a decision.
- Complaints alleging discrimination toward any person on the basis of a protected

attribute may constitute a breach of discipline and will be treated seriously. All employees must properly consider and act compatibly with the *Equal Opportunity Act 2010* in their decisions and actions. Discrimination may involve language or behaviour, may be intentional or unintentional, and may be directed towards members of the public or colleagues. Discrimination may also be expressed indirectly through the use of discriminatory language in records and written documents. Protected attributes are qualities, traits or characteristics that by law cannot be discriminated against. The protected attributes, as per s.6, *Equal Opportunity Act 2010* are:

- age
- breastfeeding
- employment activity
- gender identity
- disability
- industrial activity
- lawful sexual activity
- marital status
- parental status or status as a carer
- physical features
- political belief or activity
- pregnancy
- profession, trade or occupation
- race
- religious belief or activity
- sex
- sex characteristics
- sexual orientation
- expunged homosexual conviction
- spent conviction
- personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.

Refer to **VPM Workplace behaviours** for further information.

- Complaints alleging a breach of human rights may constitute a breach of discipline and will be treated seriously. All employees must properly consider and act compatibly with the *Charter of Human Rights Act and Responsibilities Act 2006* in their decisions and actions. Protected human rights include:
 - right to recognition and equality before the law
 - right to life
 - right to protection from torture and cruel, inhuman, or degrading treatment
 - right to freedom from forced work
 - right to freedom of movement
 - right to privacy and reputation
 - right to freedom of thought, conscience, religion, and belief
 - right to freedom of expression
 - right to peaceful assembly and freedom of association
 - right to protection of families and children
 - right to take part in public life
 - cultural rights
 - property rights
 - right to liberty and security of person
 - right to humane treatment when deprived of liberty

- rights of children in the criminal process
- right to a fair hearing
- rights in criminal proceedings
- right not to be tried or punished more than once
- retrospective criminal laws.

For further information refer to **VPM Human Rights Standards**.

2. Types of complaints

2.1 Overview

- A complaint arises when a person complains about the action, inaction or decision making of Victoria Police, or one or more Victoria Police employees. Complaints are considered to be either:
 - an internal complaint (made by a Victoria Police employee)
 - an external complaint (made by a person who is not a Victoria Police employee).
- Complaints about the conduct of an employee may include conduct that occurred on or off duty.
- Complaints may include allegations of conduct that occurred before the employee commenced employment with Victoria Police. For example, a complaint alleging criminal conduct of a Victoria Police employee where the criminal conduct occurred before the employee's employment commenced.
- Complaints about Victoria Police and/or the conduct of its employees are captured through the following channels:
 - submission of a Professional Standards Command (PSC) Complaint/Incident Form [Form 918] or external complaint form
 - made directly to a police member or PSC
 - made directly to the IBAC.
- The following are also considered complaints about Victoria Police and/or its employees:
 - public interest disclosures under the *Public Interest Disclosures Act 2012* (for further information, refer to **VPMG Public interest disclosures**)
 - reports of criminal or traffic offences committed by an employee (for further information, refer to **VPMG Offences by or service of process on police employees**)
 - reports of family violence perpetrated by Victoria Police employees (for further information, refer to **VPM Family violence involving Victoria Police employees**)
 - bullying, discrimination or harassment perpetrated by another employee (for further information refer to **VPM Workplace behaviours**).

2.2 Complaint classification

- Complaints are classified according to the seriousness of the allegations and the conduct alleged within the complaint, according to the following:
 - **Class 1** – Criminal allegations and/or employee conduct where dismissal is reasonably anticipated to be a potential outcome.
 - **Class 2** – Criminal allegations and/or employee conduct where outcomes not including dismissal are reasonably anticipated.

- **Class 3** – Professional conduct matters, including customer service and duty failure matters, where local management can utilise professional conduct resolution to appropriately respond to behaviour.

A complaint classification is intended to provide an indication of the seriousness of the allegations contained within the complaint, and is separate to the investigation/oversight categories within the *Professional Standards Command – Accountability and Resource Model Practice Guide*, which are used to determine investigation/oversight primacy. Refer to section 9.3 of this policy for further detail on the PSC ARM criteria.

The complaint classification is not intended to limit a Discipline Inquiry Officer from imposing any of the determinations available under s.132, the Act, when a discipline charge is found proven.

- The Police Conduct Unit, PSC will identify each allegation within the complaint to be investigated and determined. Allegations of discrimination and/or human rights breaches relevant to the complaint must also be identified and included in the list of allegations to be investigated.
- While professional conduct matters may incorporate communication and customer service complaints and performance management, the Police Conduct Unit, PSC conducts a holistic risk assessment incorporating organisational focus, immediacy of harm, public perception, community confidence, prior complaint history and performance management interventions when classifying a complaint. Where an employee has failed to address their professional conduct and the behaviours are repeated, the Police Conduct Unit, PSC may classify the complaint to a higher complaint classification than previous complaints about similar behaviours involving the same employee.

Complaint receipt

3. Lodging a complaint

3.1 Reporting a complaint

- An employee may make a complaint about another employee, or report circumstances they believe may involve an ethics or integrity issue by:
 - completing Form 918
 - making the complaint directly to a police member of a more senior rank than the employee making the complaint, or to PSC
 - making the complaint directly to the IBAC.
- A person who is not a Victoria Police employee may make a complaint about a Victoria Police employee by:
 - completing the complaint form
 - sending a letter to the Police Conduct Unit, PSC
 - making a complaint to any police officer in person or on the phone
 - making the complaint to the IBAC.
- Police officers and protective services officers (PSOs) must report misconduct in accordance with s.167(3), the Act.
- VPS employees are required to report any act or suspected act of misconduct in accordance with s. 7, *Public Administration Act 2004*.

- All Victoria Police personnel must comply with the *Public Interest Disclosures Act 2012* in relation to the reporting of improper conduct, refer to **VPMG Public interest disclosures**.

3.2 *Complaints about Commissioners and directors*

Commissioners other than the Assistant Commissioner, PSC

- An employee who makes a complaint about an Assistant Commissioner, a Deputy Commissioner, or the CCP, may make the complaint to:
 - an employee senior in rank or level to the employee making the complaint
 - the IBAC
 - the Assistant Commissioner, PSC
 - a Deputy Commissioner
 - the CCP.
- The employee receiving a complaint about an Assistant Commissioner, a Deputy Commissioner or the CCP must immediately notify the Assistant Commissioner, PSC.
- The Assistant Commissioner, PSC must notify the IBAC.
- A complaint about the conduct of an Assistant Commissioner or above cannot be investigated by Victoria Police and must be investigated by the IBAC.

Assistant Commissioner, PSC

- An employee who makes a complaint about the Assistant Commissioner, PSC may make the complaint to:
 - an employee senior in rank or level than the employee making the complaint
 - the IBAC
 - a Deputy Commissioner
 - the CCP.
- An employee receiving a complaint about the Assistant Commissioner, PSC must notify the CCP.
- The CCP must notify the IBAC.

Directors and Executive Directors

- An employee making a complaint about a director or executive director may make the complaint to:
 - the IBAC
 - the Assistant Commissioner, PSC.
- The Assistant Commissioner, PSC must notify the IBAC.

Investigations

- The IBAC can investigate or dismiss a complaint about the conduct of an Assistant Commissioner, Deputy Commissioner or the CCP where the conduct concerns:
 - an act or decision, or refusal by the employee to act or make a decision, in the exercise, performance or discharge of their police powers
 - an offence punishable by imprisonment
 - conduct likely to bring Victoria Police into disrepute or diminish public confidence in it
 - disgraceful or improper conduct (on or off duty).

- The IBAC can investigate, dismiss, or refer to PSC, a complaint about the conduct of a director or executive director where the conduct concerns:
 - an act or decision or refusal by the employee to act or make a decision in the exercise, performance or discharge of their police powers
 - conduct likely to bring Victoria Police into disrepute or diminish public confidence in it.

3.3 *Public interest disclosures*

- A public interest disclosure is a disclosure made by a person that shows or tends to show, or that the person reasonably believes shows or tends to show:
 - a person, public officer or public body has engaged, is engaging or proposes to engage in improper conduct; or
 - a public officer or public body has engaged, in engaging, or proposes to engage in detrimental action against a person. Refer to s.9, *Public Interest Disclosures Act*.
- A complaint received by PSC, that may be considered to be a public interest disclosure, is assessed by the Public Interest Disclosure Coordinator, PSC, and may be notified to the IBAC for determination as to whether the disclosure is a public interest complaint. The confidentiality and protections afforded to public interest disclosures in the *Public Interest Disclosures Act* apply once the matter is referred to the IBAC. Prior to this, if the complaint is under assessment as a potential public interest disclosure, it is to be treated as if it is a public interest disclosure unless notified otherwise.
- A complaint made under the *Public Interest Disclosures Act* must be made to an acting sergeant or above, or the IBAC – refer to **VPMG Public interest disclosures** for the process.

3.4 *Mandatory reporting to PSC - incidents attended by police*

In accordance with the *Professional Standards Command Accountability and Resource Model*, police members attending the following incidents must immediately report to the Duty Officer and PSC any of the following:

- death, serious injury or admission to hospital of a person in police custody or custody related police operations
- death of a current employee where it is a reportable death under s.4(2)(a), (c), (d), or (e), *Coroner's Act 2008*
- attempted suicide by a person in police custody or custody related police operations
- escape from lawful custody
- report of sexual offence in which a Victoria Police employee, on or off duty, is alleged to be involved as the suspect or offender
- serious vehicle collision involving a Victoria Police employee, on or off duty (including those which are the result of a police pursuit or where any person is conveyed to a hospital) which may result in questioning or criticism of Victoria Police policies, procedures or practices

- matter involving discharge of a firearm by police (except for the lawful destruction of animals, training purposes or the use of non-lethal weapons and ammunition by the SOG, CIRT and PORT)
- incidents involving driving by Victoria Police employees where a collision has occurred, the employee is absent from the scene on arrival of police, and it is suspected the employee is affected by alcohol or drugs
- all family violence incidents in which a Victoria Police employee, on or off duty, is alleged to be involved as the suspect, offender, perpetrator or respondent
- complaint or incident involving a prisoner subject to extradition proceedings
- other serious matters involving an employee, either on or off duty, which may involve criminality or corruption or result in questioning or criticism of Victoria Police policies, procedures or practices
- other recent police contact on duty where after such contact a person is seriously injured or dies. Recent contact means a contact with police including interviews, arrests, custody matters or other serious incidents.

Recent contact is determined on a case-by-case basis dependent on the type of incident and relevance to outcome.

Note: Police Custody includes persons in custody at the Melbourne Custody Centre.

Any allegations of police conduct arising from these incidents must be reported to Professional Standards Command and will be properly assessed and classified by the Police Conduct Unit.

Responsibilities of Duty Officer

On being notified of a matter that must be reported to PSC, the Duty Officer must:

- immediately consult with PSC regarding the action to be taken. Where the consultation is required outside business hours, contact can be made through the Police Shift Manager – Police Communications D24.
- ensure that a Form 918 is submitted before the end of the shift.

3.5 *Assaults or excessive use of force involving police members or Police Custody Officers*

- Supervising police custody officers must not attempt to resolve complaints made by persons in custody relating to a police member. These must be referred to a police supervisor.

Responsibilities of attending police member

- Police members must immediately notify the relevant Divisional Patrol Supervisor or equivalent of any of the following situations involving an allegation of assault or suspected assault between police members or police custody officers (PCOs) (on or off duty) and the public:
 - an offender or suspect has sustained injury
 - a police member or PCO has sustained an injury during contact with an offender or suspect
 - an offender or suspect complains of, or there is evidence to suggest, assault or excessive use of force by a police member or PCO, whether or not an injury is apparent.

- If the incident fulfils the requirements for mandatory reporting in accordance with section 3.4 of this policy, the attending police members must also report the matter in accordance with that section.
- If available, use the services of a Crime Scene Officer for the recording of photographic evidence.

Responsibilities of Divisional Patrol Supervisor

- The Divisional Patrol Supervisor must consider the criteria for mandatory reporting to PSC in accordance with section 3.4 of this policy. Where an incident fulfils the criteria for mandatory reporting, immediately notify the PSC Availability Response Team via Police Communications D24.
- In all cases, initial action must be undertaken in accordance with section 4.6 of this policy.
- Where the incident fits the definition of a critical incident as per s.82, the Act, the Divisional Patrol Supervisor must declare the incident a critical incident, and comply with the **VPM Death or serious injury/illness incidents involving police**.

Reporting other matters

- Where a person in police custody sustains an injury, or police members or PCOs (on or off duty) sustain an injury during an incident, and no allegations of inappropriate police action, inaction or behaviour are made, the Divisional Patrol Supervisor must ensure that an Incident Fact Sheet is submitted before the completion of the supervisor's rostered duty, refer to **VPM Operational duties and responsibilities**.

3.6 *Complaints about bullying, discrimination and harassment*

- Not all inappropriate behaviour is a criminal offence or a breach of discipline. In these cases, early intervention is the key to minimising harm to everyone involved and restoring professional workplace relationships.
- Before making a formal report of bullying, discrimination or harassment, employees are encouraged, if they feel comfortable and safe to do so, to call out and address inappropriate behaviours before they escalate, by seeking the support and guidance of local management and referring to the Workplace Behaviours - Supporting Tools and Guides. Refer **VPM Workplace behaviours** and **VPM Workplace behaviours – reducing harm and resolution – Procedure**.
- If an employee makes a complaint about bullying, discrimination or harassment committed by another employee, which they believe to be either discipline or criminal offence, the complaint must be made or referred to PSC via Form 918.
- Complaints alleging bullying, discrimination or harassment are triaged by the PSC and WRD Workplace Conflict Committee, with representatives from:
 - Conduct and Professional Standards Division, PSC
 - Investigations Division, PSC
 - Sexual Offence and Family Violence Unit, PSC
 - Business Partnering and Workplace Relations Division (BPWRD), HRC.
- The PSC and WRD Workplace Conflict Committee assess complaints involving bullying, discrimination or harassment to determine the following:
 - misconduct by a police member – the complaint will be classified by the Police Conduct Unit for investigation

- misconduct by a VPS employee – the complaint will be referred to the BPWRD for investigation
- workplace conflict – the complaint will be referred to the BPWRD to assist local management in enacting the Workplace Behaviours Framework.

All decisions are made with the aim to support the reduction in harm to all parties involved and rehabilitate the workplace.

Liaison between PSC and BPWRD

- Where BPWRD identifies at any time during the investigation that criminality or police member misconduct may have occurred, they must refer the complaint to PSC via the Police Conduct Unit.
- BPWRD, or their appointed investigator, and the assigned PSC investigator must maintain liaison during the conduct of the investigation. Refer to **VPM Workplace behaviours** for further information.
- To ensure accurate recording for probity purposes, the outcome of all BPWRD disciplinary investigations involving VPS employees will be forwarded to the Police Conduct Unit to ensure appropriate recording on the Register of Complaints Serious Incidents Database (ROCSID).

3.7 *Complaints by employees under investigation*

- Complaints about the conduct of an investigation should be raised in the first instance with the investigator. Alternatively, employees can speak to:
 - the Senior Investigation Officer (SIO)
 - the relevant Ethical and Professional Standards Officer, PSC
 - the IBAC.
- Statutory and legal rights of appeal or review apply to any Victoria Police employee:
 - when an investigation or prosecution commences
 - after an investigation or prosecution is completed.

3.8 *Complaints resulting from joint operations with external agencies*

- Where a complaint about the conduct of a Victoria Police employee arises out of a joint operation, that complaint must be notified to PSC in accordance with section 3.1 of this policy.
- If the complaint is made solely in relation to an employee of an external agency involved in the joint operation, it is not required to be reported in accordance with this policy. Police in the region or command where the joint operation was managed, but independent of the operation from which the complaint arose, should:
 - obtain details of the complaint, including the alleged conduct of the employee
 - inform the complainant that the matter will be referred to the external agency for resolution
 - refer the complaint to the external agency for attention.

Responding to complaints

4. Initial response to complaints

4.1 *Complaints made to VPS employees*

- Where a complaint is made to an employee who is not a police member, the employee receiving the complaint must lodge the complaint on behalf of the complainant or assist the complainant to lodge the complaint in the manner described in section 3.1 of this policy.
- If an employee makes a complaint about bullying, discrimination or harassment committed by another employee, which they believe to be either discipline or criminal offence (or both), the complaint must be made or referred to PSC via Form 918.
- The employee receiving the complaint must consult with a Senior Sergeant (or above) independent to the complaint matter to determine whether initial action (under section 3.6 of this policy) is required.

4.2 *Complaints made to police members*

- Police members receiving a complaint should, where possible, obtain sufficient information from the complainant to identify if the complaint relates to either:
 - a complaint about the conduct of an employee
 - an issue relating to a Victoria Police policy, procedure or system, which may or may not be a result of the complainant's lack of knowledge or understanding of the policy, procedure or system.
- The police member must advise the complainant they may also make the complaint to the IBAC.
- Police members must also ensure the process in section 4.3 of this policy is completed for external complaints.

4.3 *Initial response to external complaints*

- Where a complaint is made to an employee who is not a supervisor, the employee taking the complaint must immediately notify a police supervisor (sergeant or above).
- Supervising police custody officers must not attempt to resolve complaints made by persons in custody relating to a police member. These must be referred to a police supervisor.
- The police supervisor, on being notified of the complaint, must where practicable engage with the complainant to obtain sufficient information to understand the nature of the incident and the conduct being alleged.
- Where the complaint:
 - is not about the conduct of any employee, but instead relates to an issue related to Victoria Police policy, procedure or system, refer to section 4.4 of this policy.
 - is about the conduct, including any action, inaction or decision making of an employee, the supervisor must take action in accordance with section 4.5 of this policy.

4.4 *Complainant dissatisfaction with, or misunderstanding, of Victoria Police policy, procedure or system*

- If a complainant raises an issue with a Victoria Police policy, procedure or system, and it does not involve a complaint about employee behaviour, the employee receiving the complaint should explain the relevant policy, procedure or system to the complainant. If the complainant is not satisfied with the explanation provided, the employee receiving the complaint must seek assistance from a police supervisor.
- If the police supervisor is unable to resolve the matter to the complainant's satisfaction, the police supervisor must report the matter via Form 918, utilising the Feedback about Victoria Police Policies, Procedure or Systems option.
- Upon receiving a complaint detailing an issue with Victoria Police policies, procedure or systems, the Police Conduct Unit will forward the information to the relevant region/command/department or policy holder for attention.

4.5 *Complaints about employee conduct – police supervisor responsibilities*

Complaints suitable for Professional Conduct Resolution by supervisor

- If a supervisor receives a complaint containing allegations of low-level employee conduct where the customer service or other behaviour of an employee has been inadequate or unsuitable, consideration may be given to resolving the complaint through Professional Conduct Resolution (PCR). Refer to section 5 of this policy for further information regarding PCR.
- The supervisor must not attempt to resolve a complaint using PCR where a personal or intimate relationship exists between the supervisor and the subject employee.
- If the complaint is not suitable for PCR, for example where the conduct alleged is not low-level, similar conduct to that alleged has previously been addressed with the subject employee, or where an investigation is needed to fully determine the circumstances surrounding the complaint, the supervisor must refer the complaint to the Police Conduct Unit for classification.
- Low-level employee conduct includes, but is not limited to:
 - conduct alleging poor demeanour, lack of skill or knowledge, inattention or negligence
 - conduct that would typically be referred to immediate supervisors for management action rather than discipline
 - conduct needing to be recorded for future accountability and supervision
 - conduct where it is reasonably anticipated that suitable intervention will enable the police member to move on without further repercussions.
- The supervisor must:
 - record the complaint via Form 918 and forward to the Police Conduct Unit
 - detail the Professional Conduct Resolution steps taken in accordance with section 6 of this policy to resolve the matter on a Complaint Resolution Form [Form 918A] if resolved at the time of taking the complaint, or otherwise in the final report.

- If the complaint relates to a VPS employee, the police supervisor must complete a Form 918 for assessment and investigation in accordance with **VPM Management of misconduct (VPS employees)**.

All other complaints

- The police supervisor must:
 - if the complaint includes allegations of misconduct and/or criminality as detailed in section 3.4, and the police supervisor is not a senior manager, immediately report the matter to a senior manager and PSC.
 - where there is no senior manager present, contact the PSC Availability Response Team for assistance via the Police Shift Manager – Police Communications D24.
 - record the complaint via Form 918 and forward to the Police Conduct Unit.
 - police supervisors must consider whether the complaint may be assessable as a public interest disclosure complaint – refer to **VPMG Public interest disclosures**.

4.6 Initial action – senior manager responsibilities

- Upon notification of a complaint, the senior manager must make enquiries into the matter to determine the nature of the allegations while ensuring fair treatment to both the complainant and the employee(s) involved. The senior manager must undertake initial action, including the following where relevant:
 - assess the complaint against the PSC mandatory reporting criteria and immediately report if applicable (refer section 3.4 of this policy)
 - obtain the complainant's name, address and contact details
 - ask the Standard Indigenous Question
 - prioritise the safety of the complainant and any affected person
 - obtain the complaint from the complainant, and arrange for a complainant statement to be taken
 - identify witnesses and obtain their details. If witnesses are present, obtain witness statements
 - preserve any evidence
 - preserve the crime scene
 - obtain photographs, body worn camera (BWC) or CCTV
 - consider medical evidence. Where the complaint involves an alleged assault, ensure the victim of the assault is medically examined and photographed
 - advise the complainant/affected person of the welfare supports available to them:
 - for members of the public refer to **VPM Victim Support**
 - for employees refer to Wellbeing Services and/or TPAV.
 - notify the Duty Officer
 - where an employee is to be arrested or interviewed, notify the PSC Availability Response Team immediately.
 - before the end of the shift, submit Form 918.

4.7 Interim Action

- The Assistant Commissioner, PSC may take interim action against police members who are reasonably believed to have committed or have been charged with a:
 - breach of discipline (s.126, the Act)

- criminal offence punishable by imprisonment (s.135, the Act).
- For further information about interim action, refer to section 27 of this policy.

4.8 *Wellbeing Considerations*

- It is the responsibility of the subject employee's line manager and/or work unit manager to ensure access to wellbeing support is provided to the subject employee. This obligation continues throughout the complaint and discipline process until a final outcome is determined and may continue beyond that time depending on the circumstances of the matter.
- The line manager and/or work unit manager must ensure a Wellbeing Management Plan is developed as early as practicable to support employees through the investigation and that a Welfare Support Officer is appointed. This should be accompanied by a referral to Wellbeing Services (with consent).
- The appointed Welfare Support Officer must not be a line manager of the subject employee and must be independent of the subject employee's chain of command.
- All appointed Welfare Support Officers must be independent from any investigation or oversight process, and any conflict of interest relating to the complaint and the parties involved must be declared and managed.
- The name of the appointed Welfare Support Officer should be recorded in Interpose to aid communication between the investigator and the subject employee.
- In cases of suspension or dismissal, Wellbeing Services must be notified by the line manager and/or work unit manager. They are also responsible for notifying Wellbeing Services as individual circumstances change. Contact information is available on the Health, Safety and Wellbeing intranet page or email POLICE-PSYCHOLOGY-TRIAGE-OIC.
- Investigators and line managers also have a responsibility to consider wellbeing throughout the investigation. Refer to section 13.13 of this policy.
- Any employee involved in making an allegation of criminality or misconduct by another employee may contact the Internal Witness Support Unit for advice and support. Investigations involving public interest disclosure provisions have legislative and confidentiality protections that restrict discussing aspects of the investigation. The responsibility for ensuring all employees involved in a Public Interest Disclosure are provided with appropriate wellbeing support is with the Internal Witness Support Unit. Contact information is available on the Internal Witness Support intranet page or email INTERNAL WITNESS SUPPORT UNIT – OIC.

Immediate resolution of Class 3 professional conduct matters

5. Overview

- PCR is the process by which suitable Class 3 matters may be immediately resolved (within 7 days of the allocation of the complaint) by a suitable supervisor. PCR enables complaints to be dealt with efficiently with a focus on learning and development.

- Suitable Class 3 matters are where the customer service or other behaviour of an employee has been inadequate or unsuitable but does not constitute a complaint of misconduct. Professional conduct matters include, but are not limited to:
 - customer service-based complaints
 - minor breaches of police rules or procedures
 - correspondence related issues
 - complaints/allegations where an employee's performance has failed to achieve appropriate service or behavioural standards.

Complaints involving family violence are not suitable for PCR.

- Where previous professional conduct resolution and/or performance management has not been successful in addressing the subject employee's professional conduct and the behaviours are repeated, professional conduct resolution should not be re-attempted, and instead Form 918 should be submitted to the Police Conduct Unit for complaint classification. The Police Conduct Unit will consider an employee's complaint history during the classification and assessment process.
- Professional conduct resolution can be initiated by a supervisor:
 - at the time a complaint suitable for professional conduct resolution is received. The steps taken to resolve the matter must be detailed in Form 918 and a Complaint Resolution form [Form 918A].
 - when a Class 3 complaint is forwarded for resolution to a region/command/department.
- Regions/commands/departments are responsible for the resolution of professional conduct matters.
- Where PCR is undertaken to address identified skill or knowledge gaps, this must be accompanied by a conduct conversation and recorded via the HR Assist conversations tab.
- The PCR strategies implemented should adequately address the alleged behaviour and the primary considerations for PCR, being:
 - natural justice principles are applied to all phases of the resolution. Contact must be made with both the complainant and subject employee(s) to obtain their account before making a determination
 - the timely resolution of complaints
 - the outcome sought by the complainant
 - a focus on the wellbeing of all parties
 - professional development of the subject employee
 - keeping all parties informed throughout the process
 - the application of resolution strategies, which benefit the employee, Victoria Police and the complainant
 - the effect of the breach, behaviour or issue on the reputation and integrity of the employee and Victoria Police
- Class 3 matters which are unable to be resolved at the time of receiving the complaint include:
 - where the supervisor is unable to speak to the complainant and/or subject employees to obtain their account within a reasonable time
 - where PCR strategies other than, or in addition to, a conduct conversation are required to adequately address the employee behaviour (e.g. developmental activities). Refer to section 7 of this policy

- where the issue of an Admonishment Notice is being considered.
- Class 3 matters are recorded on ROCSID.

6. Professional conduct resolution at time of receiving complaint

- This section applies to suitable Class 3 complaints taken by a supervisor, where the supervisor is able to resolve the complaint at the time it is taken. The supervisor must not attempt to resolve a complaint where a personal or intimate relationship exists between the supervisor and the subject employee. Refer to **VPM Conflict of interest**.
- If the complaint is found to be:
 - established - the supervisor must implement appropriate resolution strategies to immediately address the employee's behaviour; refer to section 8 of this policy
 - not established or unable to determine - the supervisor may implement appropriate PCR to immediately address the employee's behaviour; refer to section 8 of this policy
 - exonerated – the supervisor is not required to implement resolution strategies unless it is to address identified skill or knowledge gaps.
- Once the resolution strategies have been implemented, the supervisor must complete Form 918 and Form 918A with details of the resolution of the complaint and any PCR strategies implemented.
- When the Police Conduct Unit receives Form 918 and Form 918A where a police supervisor has resolved the matter with professional conduct resolution, it will be assessed to ensure that the alleged employee behaviour is suitable for Class 3 classification. If not, the Police Conduct Unit will apply the correct complaint classification and process the complaint appropriate to the correct complaint classification.
- PCR files must be completed within 60 days of being allocated to the resolution officer. If the PCR file has not been resolved within 14 days, the SIO must review the file with the investigator and implement strategies, such as allocation of time and resources, to ensure that the file is completed within 60 days.
- Once the complaint has been resolved, and the Police Conduct Unit has confirmed that the matter was suitable for professional conduct resolution and finalised the complaint file, the complainant must be informed of the result of the complaint in the manner that the complainant has requested (phone, email or letter).

7. Professional conduct resolution of Class 3 complaint

- This section applies to complaints received directly by the Police Conduct Unit and classified as a Class 3 complaint suitable for PCR, or where a complaint is received by a supervisor where PCR has not yet taken place before Form 918 is submitted.
- Upon receiving the complaint, the Police Conduct Unit will forward the Class 3 complaint to the relevant work unit manager for allocation to a resolution officer.
- The allocated resolution officer must not attempt to resolve a complaint where a personal or intimate relationship exists between the resolution officer and the subject employee. Refer to **VPM Conflict of interest**.

- The resolution officer must inquire into the matter by speaking to the complainant and the subject employee within 7 days of receiving the complaint file. The resolution officer must make a determination on the complaint in accordance with section 25.2 of this policy and complete the complaint file within 60 days.
- If the complaint is found to be:
 - established - the resolution officer must implement appropriate resolution strategies to immediately address the employee's behaviour, refer to section 8 of this policy.
 - not established or unable to determine - the resolution officer may implement appropriate resolution strategies or developmental opportunities to immediately address the employee's behaviour, refer to section 8 of this policy.
 - exonerated – the resolution officer is not required to implement resolution strategies unless it is to address identified skill or knowledge gaps.
- The PCR strategies implemented should adequately address the alleged behaviour and the primary considerations for professional conduct resolution, refer to section 8 of this policy.
- Once the resolution strategies have been implemented, the resolution officer must complete an issue cover sheet detailing the resolution process undertaken and resolution strategies implemented. The issue cover sheet and any other documents collected during enquiries, including the VP1426 Conflict of Interest Disclosure, must be uploaded into Interpose.
- The Divisional Manager must review the issue cover sheet to ensure that the resolution strategies implemented adequately address the alleged behaviour, before forwarding to the Ethical and Professional Standards Officer (EPSO) who will conduct a quality control check to finalise the matter.
- The complainant must be informed of the result of the complaint and the resolution strategies implemented once the EPSO has reviewed the file and provided advice on the content of the letter to complainant.
- Written notification of the outcome must be provided to the complainant and subject employee upon approval of the EPSO.
- Employees who have had a Class 3 complaint resolved via Professional Conduct Resolution can request a review of that action. Refer to **VPM Reviews of discipline and professional conduct outcomes**.

8. Professional conduct resolution strategies

- PCR strategies must be applied in a proportionate manner, with a focus on ensuring learning and development of the subject employee. The aim of PCR is to address poor behaviour and/or skill or knowledge deficits, and encourage the subject employee to learn from and reflect on their behaviour. Any professional conduct resolution undertaken should be accompanied by a conduct conversation to explain the action taken.
- The Local Area Commander or unit manager has the discretion to include any action or task in resolving the PCR which is proportionate to the incident/complaint and supports the police member's learning and development. PCR strategies include, but are not limited to:
 - a conduct conversation, refer to section 8.1 of this policy

- an apology
- a meeting with the complainant
- explanation of Victoria Police policies, procedures or training
- action on any identified deficiency in Victoria Police policies, practices, procedures or training
- wellbeing assistance in the referral of any employee to specialist services
- self-resolution
- no action
- admonishment notice (only after all developmental/wellbeing issues have been exhausted), refer to section 11, **VPM Discipline**
- change of duties by agreement (no need to exhaust developmental issues).

8.1 *Conduct conversations*

- A conduct conversation may form all, or part, of the PCR of a complaint file.
- A conduct conversation is a formal discussion between a subject employee and the complaint investigator, or the investigator's nominee, and a line manager of the subject employee to:
 - discuss the employee's conduct and the findings of the complaint investigation
 - discuss the effect of the employee's conduct on the affected person, witnesses, Victoria Police, the community, and the employee
 - reinforce organisational behavioural standards to the subject, including reference to expectations set out in the Code of Conduct, relevant legislation, policy and/or Chief Commissioner Instructions
 - identify and implement any professional development strategies and/or intervention options that may be required
 - gain the employee's understanding and agreement.
- Prior to commencing the conduct conversation, the subject member's line manager must ensure that the employee's welfare needs have been addressed.
- The investigator (or nominee) holding the conduct conversation must ensure that a record of the conversation is entered into the conversations tab on HR Assist by the employee's line manager.
- Once the conversation has been entered into HR Assist, the line manager must provide the investigator with a PDF copy of the HR Assist conversation to upload into the Interpose investigation shell. The PSC investigator, or EPSO where the investigator is not from PSC, must ensure a record of the conversation is also made in ROCSID.

Assessment of complaints

9. Classification and allocation of complaints & incidents

9.1 *Overview*

- PSC are responsible for assessing and classifying complaints.
- This classification provisionally defines where and how a file will be allocated for investigation and/or management action and provides the subject member with an indication of possible discipline outcomes.

9.2 *Classification*

- Complaint classification must occur within 14 days of receiving the complaint.
- The provisional classification given to a file does not mandate its continued classification or any particular determination or outcome. A classification may change during the investigation when evidence gathered suggests that the current complaint classification is unsuitable. For information regarding complaint re-classification, refer to section 8.4 of this policy.

9.3 *Allocation of matters*

- PSC determines the allocation of matters based on seriousness and potential consequences, including the harm impact on the victim/complainant, public confidence, and the potential loss of and negative impact to the reputation of Victoria Police.
- Complaints may be allocated to one of the following:
 - for investigation by PSC Investigations Division
 - for investigation by the Sexual Offence and Family Violence Unit, PSC
 - for investigation by region/command/department as per section 12.2 of this policy
 - for investigation by BPWRD
 - for professional conduct resolution by local management
 - for consideration by the IBAC.
- The IBAC are notified of all complaints and can choose to oversee, investigate, or review any complaint.
- In relation to the Professional Standards Command – Accountability and Resource Model (PSC ARM), determination of investigation primacy is as follows:
 - Category 1 ARM - PSC take investigation and/or oversight primacy and regions/commands/departments provide support by negotiation (if required) between relevant divisional managers. Refer to clause 2.1, PSC ARM.
 - Category 2 ARM – regions/commands/departments take investigation and/or oversight primacy and PSC provide support through consultation between relevant divisional managers. Refer to clause 2.2, PSC ARM.
 - Category 3 ARM - Generally relate to customer service and behavioural based complaints that can be managed through local management to resolve through PCR. Refer to clause 2.3, PSC ARM.

9.4 *Complaint re-classification*

- If during the complaint investigation it is considered that the initial classification given to the complaint is no longer appropriate, the investigator must request for the complaint to be re-classified. Reclassification may be considered where the available evidence suggests that the alleged employee conduct was more or less serious than originally assessed.
- To request reclassification of a complaint file, the investigator must:
 - engage with the relevant EPSO and/or SIO to discuss the circumstances and the reasons for seeking reclassification
 - if the EPSO and/or SIO supports the reclassification request, upload the issue cover sheet or email requesting reclassification into ROCSID and Interpose.

- All requests to reclassify a complaint to a lower classification will be referred to the Complaints Assessment Group, Professional Standards Command for consideration.
- The Complaints Assessment Group is chaired by the Superintendent, Conduct and Professional Standards Division, PSC or their delegate, and comprises the superintendent or a nominated inspector from each of the following areas:
 - Police Conduct Unit, PSC
 - Capability, PSC
 - Investigations Division, PSC
 - Sexual Offence and Family Violence Unit, PSC
 - Support Services Division, PSC
- When determining a reclassification request, the Complaints Assessment Group must assess whether the available evidence supports the request for reclassification. When determining whether to reclassify the complaint, consideration must be given to the evidence available to support the complaint allegations, as well as organisational and community expectations and fairness to the subject employee and affected persons.
- When a request for complaint reclassification is approved:
 - the classification must be amended on ROCSID
 - the approved request (issue cover sheet or email) and the Complaints Assessment Group's determination and reasoning must be uploaded into ROCSID and Interpose
 - the complainant must be notified of the reclassification.
- When a request for complaint reclassification is not approved, the Complaints Assessment Group's determination and reasoning must be documented within ROCSID.

Engaging with victims and complainants

10. Victims' charter

- Investigators must ensure that they comply with the *Victims' Charter Act 2006* and **VPM Victim support** when investigating a complaint.

11. 'At-risk' Priority community complainants

- Victoria Police may receive complaints from members of 'At-risk' priority communities, including:
 - Aboriginal and Torres Strait Islander communities
 - multicultural and multifaith communities
 - LGBTIQ+ communities
 - people with disability
 - people experiencing mental health issues
 - senior Victorians
 - young people.
- Some in these communities may be reluctant to make a complaint to Victoria Police due to:

- past negative experience with Victoria Police or another policing organisation
 - lack of trust in Victoria Police to properly investigate the matter and hold employees to account
 - systemic discrimination and racism
 - lack of familiarity with Victoria Police practices and processes.
- Victoria Police may also receive complaints from people who may not be from an 'at-risk' priority community, but who may experience the same reluctance to make a complaint to Victoria Police because of one or more of the reasons above. For example:
 - complainants with prior police involvement
 - female complainants, particularly if the complaint involves allegations of sexual harassment, discrimination, assault or family violence committed by a police employee.
 - When engaging with a reluctant complainant, the investigator:
 - must consider appropriate referrals to support the complainant throughout the complaint process
 - must record the date, time, and information regarding any appropriate referrals made in Interpose
 - must keep the complainant regularly updated on the progress of the investigation, and provide clear and consistent outcome information to the complainant and their nominated representatives.

11.1 *Aboriginal and Torres Strait Islander complainants*

This section applies where a complaint is received from, or reported on behalf of a complainant who identifies as Aboriginal or Torres Strait Islander.

- The Police Conduct Unit, PSC must:
 - prioritise assessment of the complaint (within 7 days of receipt)
 - ensure that all allegations, including those relating to discrimination and/or human rights breaches, are correctly identified and recorded
 - notify the Aboriginal Complaints Support Officer (ACSO) of the complaint received from an Aboriginal or Torres Strait Islander person
 - send the Letter to Complainant (Aboriginal and Torres Strait Islander Complainant) to the complainant
- The ACSO must:
 - provide advice to the PCU on Aboriginal or Torres Strait Islander culture and customs that impact the classification and assessment process
 - contact the Aboriginal or Torres Strait Islander complainant and victim within 72 hours of PCU receiving the complaint to provide advice on the complaint process and appropriate referrals
 - send a letter to the Aboriginal or Torres Strait Islander complainant within 7 days of being notified, providing written advice on the police complaint system
 - if appropriate, make a referral to the complainant's local ACLO/PALO to ensure localised support for the complainant
 - be available for the PSC investigator, PALO and ACLO networks to provide advice and continual oversight of PSC investigations, complaints and

oversight matters to ensure investigations are conducted in a culturally sensitive way

- ensure the complaint investigation is thorough, fair and impartial
 - record all actions in the relevant PSC Interpose investigation record.
- The EPSO must:
 - ensure the ACSO is advised of all complaints and if not, ensure this is done at the earliest opportunity
 - ensure that the complaint investigation is thorough, fair, impartial, and completed in a timely manner.
 - The Investigator must:
 - engage the assistance of the PSC ACSO in every complaint made by an Aboriginal or Torres Strait Islander complainant to ensure that any engagement with the complainant is culturally appropriate. If appropriate, seek the assistance of the local ACLO or PALO
 - consider appropriate referrals to support the complainant throughout the complaint process
 - record the date, time, and information regarding any appropriate referrals made in Interpose
 - keep the complainant regularly updated on the progress of the investigation and provide clear and consistent outcome information to the complainant and their nominated representatives.
 - The Senior Investigating Officer must:
 - ensure that the complaint investigation is thorough, fair, impartial and completed in a timely manner
 - ensure the investigator keeps the complainant regularly updated on the progress of the investigation, and that clear and consistent outcome information is provided to the complainant and their nominated representatives.

11.2 *Other 'At-risk' priority community complainants*

This section applies where a complaint is received from or reported on behalf of a complainant identifying from an 'at risk' priority community.

- The Police Conduct Unit must:
 - prioritise assessment of the complaint (within 7 days of receipt)
 - ensure that all allegations, including those relating to discrimination and/or Human Rights breaches, are correctly identified and recorded
 - ensure that any assistance required to facilitate communication between the complainant and police is clearly detailed in the complaint file.
- The Investigator:
 - should seek assistance from the relevant Liaison Officer (if applicable) or the Community Support Hub, Priority and Safer Communities Division intranet page to ensure that the investigator's response is appropriate and sensitive to the complainant's needs
 - must consider appropriate referrals to support the complainant throughout the complaint process

- must record the date, time, and information regarding any appropriate referrals made in Interpose
 - must keep the complainant regularly updated on the progress of the investigation, and provide clear and consistent outcome information to the complainant and their nominated representatives.
- The Senior Investigating Officer must:
 - ensure that the complaint investigation is thorough, fair, impartial and completed in a timely manner
 - ensure the investigator keeps the complainant regularly updated on the progress of the investigation, and that clear and consistent outcome information is provided to the complainant and their nominated representatives.

11.3 *Complainants who refuse to make a statement*

- Where a complainant refuses to make a statement, the investigator must ensure the complainant understands the investigation process, and the importance of the complainant's statement in fully investigating the complaint. It is preferred that this is confirmed in writing.
- If the complainant understands the investigation process and the importance of the complainant statement but still refuses to make a statement, the investigator should proceed with the investigation and ensure all available evidence is collected prior to a determination regarding outcome.
- An investigator should make at least 3 attempts to obtain a statement from a complainant. Those attempts should be made using different methods of contact (e.g. email, telephone, social media), but must include in person attendance to the complainant's last known address. Attempts to obtain a statement must be recorded within Interpose.

Complaint investigation management

12. Investigation accountabilities

12.1 *Assistant Commissioner, PSC*

- The Assistant Commissioner, PSC is accountable for the overall management of complaint investigations.
- Complaints forwarded by PSC for investigation or resolution by a region/command/department are the responsibility of the relevant region/command/department head.
- Where the matter relates to misconduct by a VPS employee, including Police Custody Officers, the matter will be referred to the Director, BPWRD in accordance with **VPM Management of misconduct (VPS employees)**.

12.2 *Investigations by Region/Command/Department*

- Where it is determined that a complaint or incident will be investigated by a region/command/department, the relevant Divisional Manager will be notified to allocate the investigation to an appropriate investigator.

- A SIO must be appointed to supervise the appointed investigator. The SIO will be the investigator's line manager or a police member senior in rank with suitable skills. Refer to section 12.4 of this policy.
- EPSOs are responsible for:
 - ensuring accurate records are maintained on PSC databases for region/command/department investigations
 - working with region/command/department management to ensure that complaint investigations are completed in accordance with the timeframes detailed at section 13.5 of this policy
 - providing advice to the region/command/department investigators and managers regarding integrity issues, ethical health risks, complaint trends and the status of region/command/department PSC investigation and oversight files
 - providing timely advice to the IBAC via the Police Information Liaison Office.

12.3 *Independent Broad-based Anti-corruption Commission*

- The IBAC has various functions in relation to conduct, misconduct and corrupt behaviour in the public sector. Specific functions in relation to Victoria Police employees include:
 - identifying, exposing, and investigating serious corrupt conduct and police personnel misconduct (includes all employees and recruits)
 - assessing police personnel conduct and identify, expose, and investigate police personnel misconduct
 - receiving complaints and referrals about police personnel misconduct
 - ensuring that the highest ethical and professional standards are maintained by Victoria Police employees
 - ensuring that Victoria Police employees act in accordance with the *Charter of Human Rights and Responsibilities Act*
 - assisting the public sector to increase capacity to prevent corruption and police personnel misconduct by providing advice, training, and education
 - providing information and education services to Victoria Police employees and the community about police personnel conduct, including the detrimental effects of police personnel misconduct
 - publishing information on ways to prevent corrupt conduct and police personnel misconduct.
- The IBAC can oversee complaint investigations conducted by Victoria Police, which may involve reviewing the final or interim report. Investigators must assist the IBAC when requested. The IBAC may make a request under s.160, *IBAC Act* for further investigation to be undertaken, or further information to be provided.
- Employees retain their legal rights when suspected of criminal or disciplinary offences. In other cases, employees must provide assistance to the IBAC when requested, including prompt provision of witness statements and being available for service of summons issued under s.120, *IBAC Act*.
- For the purposes of conducting an investigation into a possible breach of discipline, the IBAC may direct any police member to give the IBAC any relevant information, produce any relevant document or to answer any relevant question (this information/document can only be used for specific purposes; refer to s.84, *IBAC Act*).

- Work unit managers remain responsible for the welfare of Victoria Police employees on becoming aware of any involvement with the IBAC.

13. Management of complaint investigations

13.1 Requirements regarding investigations

- To ensure that investigations are managed fairly and comprehensively they must be conducted in accordance with the requirements of relevant policies including but not limited to **VPM Conflict of interest**, **VPMG Public interest disclosures**, **VPM Management of misconduct (VPS employees)**, **VPM Victim support**, **VPM Family violence involving Victoria Police employees** and this policy.
- The Assistant Commissioner, PSC or their delegate must approve the release of information regarding PSC investigations.
- To ensure that the confidentiality of investigation files is maintained, they must be managed in accordance with this policy and/or **VPMG Public interest disclosures**. Public interest disclosures are subject to confidentiality clauses in the *Public Interest Disclosures Act* and the Act and information can only be released in specific circumstances.

13.2 Requirements regarding investigators

- Investigators for complaints that have been classified as Class 1 and 2 complaints, or who are attending a Category 1 or 2 incident as detailed in the Professional Standards Command ARM must not:
 - be from the same work unit as the subject employee
 - be a line manager of the subject employee
 - be of the same, or lower, rank as the subject employee
 - have an existing association with the subject employee, such as a friendship, relationship or recent common workplace.
- Where the matter is a complaint involving death or serious injury after recent police contact, the Deputy Commissioner, Public Safety and Security will nominate the squad or unit responsible for investigating the matter in accordance with **VPM Death or serious injury/illness incidents involving police**. To mitigate the risk of actual or perceived conflict of interest, the investigator must not be from the same Police Service Area (PSA) unless exceptional circumstances exist, such as in a rural area. Where it is necessary for the investigator to be from the same PSA, any conflict of interest must be acknowledged and minimised.
- Investigators and assigned SIOs must complete a VP Form 1426 Conflict of Interest Disclosure and upload the completed form into Interpose before any investigation is undertaken or continued. Any associations that are potentially inappropriate or may involve a conflict of interest must be disclosed.
- If a proposed investigator and a subject member share a former common workplace, the investigator should declare the association and it must be managed in accordance with **VPM Conflict of interest**. The investigator and their manager must be aware of conflict of interest issues when investigating allegations/complaints.
- An investigator that has conducted a previous investigation into the subject employee is not automatically precluded from conducting another investigation

into that employee. However, they must disclose all other investigations into that employee to the relevant EPSO to assist in the assessment of the investigator's suitability, and to ensure that an appropriate risk assessment is undertaken, and any necessary mitigation strategies are put in place.

- The investigator must conduct the investigation in an impartial way that upholds the principles of natural justice.
- For requirements regarding an investigation of alleged misconduct by a VPS employee, refer to **VPM Management of misconduct (VPS employees)**.

13.3 *Obligations of investigator*

- After being allocated the complaint file for investigation, the investigator must:
 - complete a VP Form 1426 Conflict of Interest Disclosure – Investigation form and upload into Interpose once endorsed by the SIO
 - contact the relevant EPSO or meet with the SIO to discuss investigation planning and considerations of interim action. A detailed plan of intended actions and avenues of enquiry is to be documented in the comments section of Interpose on a regular basis
 - initiate immediate contact with the victim or complainant, obtain an account of the complaint and identify what resolution the complainant is seeking.
 - document all victim/complainant contact in Interpose.
 - update the victim and/or complainant of investigation milestones and the outcome of the investigation in accordance with the **VPM Victim support** and *Victims' Charter Act*, if applicable
 - gather available evidence statements, body-worn camera, CCTV, photographs and other written material, and consider all avenues of enquiry
 - plan the process by which the subject employee(s) will be spoken to, to obtain their account
 - ensure timely and efficient progression of the investigation towards resolution
 - at a minimum, enter the investigation progress update into Interpose every 30 days
 - ensure the investigation is fully completed and finalised within timeframes as detailed in section 13.5 of this policy
 - upload all investigation notes and records for Class 1 and 2 investigations into Interpose. Investigation records and notes for Class 3 matters must be attached to the complaint report when submitted.

13.4 *Obligations of senior investigation officer*

- The SIO is a line supervisor of the investigator, or someone higher in rank with suitable investigative skills to oversee the investigation. The SIO's obligations are to:
 - ensure the assigned investigator has the capability to complete the relevant file
 - meet with the investigator and ensure the conflict-of-interest form has been completed
 - discuss, approve and oversight the investigation plan with the investigator and document planned objectives within Interpose
 - ensure victims and/or complainants are advised of investigative milestones and the outcome of the investigation in accordance with **VPM Victim Support** and *Victims Charter Act* if applicable

- ensure the subject employee(s) is informed of the progress of the investigation, unless doing so would jeopardise the investigation
- ensure all avenues of investigation are pursued and the investigation is properly conducted and recorded
- ensure case progression is continually assessed and documented in Interpose every 30 days, and enquire if no progress. Ensure appropriate action is taken when the assigned investigator is unable to continue with the investigation.
- ensure the investigator is actively supervised to ensure progression to resolution within the prescribed timeframe. For discipline matters where interim action is taken, the completed discipline brief must be forwarded to the Discipline Advisory Unit within 6 weeks.
- complete and sign the PSC Investigation Checklist, and upload into Interpose to finalise the file at region/command/department
- as disclosure principles may apply, ensure records are kept in accordance with the VPMs.

13.5 Timeframes

- Complaint investigations must be completed within the timeframe specified in the table below. Class 1 and 2 matters are expected to be at the determination stage within 120 days as a minimum, while Class 3 matters are to be completed and filed within 60 days.
- For discipline matters where Interim Action is taken, completion time is 45 days allowing for the Discipline Advisory Unit and Assistant Commissioner, PSC to review the file within the statutory three-month timeframe.

Class	Review at (days)	Completion (days)
1	30, 60, 90	120
2	30, 60, 90	120
3	14, 30	60

- The timeframe is calculated as the period between the date the complaint or incident is lodged and the date the investigation or management action is completed, final report completed, and a recommendation is made as to discipline action, criminal action, or no action. The timeframe may be paused if a delay is caused by an external factor.
- The SIO is responsible for conducting a review of the progress of the investigation every 30 days at the intervals specified in the table above.
- To ensure the timeframes are adhered to, employee leave and workload must be considered before allocating the complaint file for investigation.
- If the investigation timeline is to be exceeded, the investigator must provide the rationale for the delay in finalising the investigation to the SIO, and the reasons must be recorded in Interpose.
- The SIO should consider reallocating an investigation if the investigator is unable to attend to the investigation for any reason.

13.6 Investigation review

- The SIO must meet with the investigator to review the progression of the investigation in accordance with the timeframes in section 13.5 of this policy.

- The review meeting should be used to ensure that the investigation is progressing toward timely completion, and ensure that the investigation plan remains appropriate and fit for purpose.
- At each meeting, the SIO and investigator must consider the notification of parties (including the affected person and subject member/s) to inform them of the investigation status.
- Details of the review and notification of parties must be uploaded into Interpose.

13.7 *Delay of an investigation*

- Unless there is justifiable reason, an investigation should not be delayed because an employee, witness or investigator is on leave or engaged in other activities.
- The SIO should consider reallocating an investigation if the investigator is unable to attend to the investigation for any reason.

13.8 *Reporting and file management of PSC investigations*

- The investigator must ensure that investigation status reports are recorded on Interpose prior to the end of each month.
- A Final Investigation Report must be submitted at the completion of every Class 1 and 2 investigation in accordance with section 25 of this policy.

13.9 *Interim action*

The investigator must consider whether interim action is required against the subject employee while the investigation is ongoing. Refer to section 27 of this policy.

13.10 *Advice to complainants*

- The principles of the *Victims Charter Act* must be adopted for all discipline matters.
- It is a requirement of the *Victims Charter Act* that complainants and members of the public who are adversely affected by crime are:
 - given clear, timely and consistent information about their rights and entitlements
 - referred to victim or legal support services
 - treated with courtesy, respect and dignity
 - informed of the progress of the investigation, unless the disclosure may jeopardise the investigation or the person requests not to be informed
 - informed of any key stages in the investigation such as the charging of an offender, bail proceedings, outcomes of any court proceedings, appeals or discipline proceedings
 - informed in writing of the results and the action taken or proposed to be taken at the completion of the investigation.

Refer to **VPM Victim support** for further information.

- Communication must only include information relevant to the particular matter involving the complainant or member of the public.
- All contact with the complainant/victim must be recorded in Interpose.

13.11 *Advice to subject members*

- Unless the disclosure may jeopardise the investigation, subject members should be informed of its progress. Statutory obligations to inform subject members about key stages of an investigation still apply.
- The regular meetings between the SIO and investigator to review the investigation in accordance with section 13.6 of this policy must consider the notification of the subject member and complainant to update them on the progress of the investigation.
- Subject members must be informed in writing about the results of an investigation and of the action taken or proposed to be taken, unless the disclosure may jeopardise the investigation or future investigations.
- Communication must only include information relevant to the particular matter involving the complainant or member of the public.
- For advice in relation to investigated VPS employees, refer to **VPM Management of misconduct (VPS employees)**

13.12 *Advice to employee witnesses*

- When witness to an incident, either on or off duty, an employee must cooperate fully with any investigation and promptly make a statement if required to by an investigator from a law enforcement agency.

13.13 *Support to subject employees*

- The wellbeing of employees under investigation or involved in an investigation must be considered during the investigative process by the subject employee's managers and the investigator.
- Advice regarding wellbeing support should be given where appropriate. Welfare services for subject employees and advisory services are available from:
 - Wellbeing Services, HRC – all employees
 - The Police Association of Victoria (TPAV) – police members
 - Community and Public Sector Union (CPSU) – VPS employees and PCOs.
- All contact with the subject employee must be recorded in Interpose.

13.14 *Commenting to the media*

Investigations must not be discussed with the media except in accordance with **VPMG Release of information to the media**.

14. Discipline Intervention Program

14.1 *Overview of the Discipline Intervention Program*

- The Discipline Intervention Program (DIP) is a process that allows a complaint investigation to be concluded in a shortened time frame and progressed to a final outcome. The DIP is intended to reduce the time taken to complete complaint investigations and reduce the negative impact of a lengthy investigation. A discipline brief of evidence must still be completed for matters assessed as suitable for the DIP.

- A DIP application may be made by an affected or interested party. An interested party includes, but is not limited to, the subject employee or their representative, investigator, and EPSO. The DIP is available to police members who are subject to a complaint investigation, and the DIP application may only proceed with the consent of the subject employee.
- A DIP application may be appropriate where:
 - there is sufficient evidence to reach a considered view on the appropriate outcome, and
 - the subject employee accepts responsibility for the conduct.
- An affected or interested party may reapply for the DIP at a later date as the investigation develops.
- Where the subject employee no longer wishes to continue with the DIP, or does not agree to the contents of an Agreed Facts Discipline Charge Notice, the DIP application and/or DIP process will be abandoned. The investigation and/or discipline process will continue as normal.
- Where a DIP application is approved, the possible outcomes are:
 - no case to answer
 - workplace guidance
 - admonishment notice (refer to section 11, **VPM Discipline**)
 - discipline charge notice/agreed facts discipline charge notice/discipline inquiry (refer to **VPM Discipline**).
- The subject employee's management may include any professional conduct resolution strategies in accordance with section 7 of this policy.

14.2 *Application Process*

- An affected or interested party in a complaint investigation may apply for the DIP at any point during the investigation.
- The application form for the DIP is located on the PSC intranet page. The completed form must be emailed to PSC-DISCIPLINE INTERVENTION-MGR. Further instructions can be found on the PSC intranet page.
- The application for the DIP is initially assessed by the Manager, Discipline Advisory Unit (DAU) who must either:
 - assess the investigation as initially suitable for the DIP (final sign off occurs at PSC Superintendent level – refer to section 14.3 of this policy)
 - not approve the application. The complaint investigation will continue as normal.
- The subject member will be notified as soon as practicable as to whether their application for the DIP has been deemed suitable.
- The DAU will coordinate and assist the relevant investigator to organise briefing documents once matters are assessed as initially suitable for the DIP.
- The documents will be reviewed and considered by a group including the DAU manager, investigator and the approver (refer to section 14.3 of this policy). This group is responsible for determining the outcome of the DIP process.

14.3 DIP outcome authorisation

- DIP applications require approval at PSC Superintendent level and depend on the area conducting the complaint investigation:

Investigating area	DIP Final Outcome Approver	Additional approval
PSC	- Superintendent, Capability, PSC - Superintendent, Investigations Division, PSC - Superintendent, Sexual Offence and Family Violence Unit, PSC	In all cases, where the outcome is a discipline charge, final approval must be given by the Assistant Commissioner, PSC.
Outside PSC	- Superintendent, Capability, PSC - Superintendent, Conduct and Professional Standards Division, PSC. Please note: - Where the DIP application does not include opinion on the application from the EPSO and/or Divisional Commander with line control of the investigation, the DAU may request that information. - If the Divisional Commander with line control of the investigation does not agree with the approver's decision, they may discuss the matter with the approver or seek a review from the Assistant Commissioner, PSC. - Contact the Manager DAU for advice.	

- Notwithstanding this approval framework, the Assistant Commissioner, PSC retains the authority to overturn any disciplinary outcome reached during the DIP process or review of the DIP process, other than a discipline outcome arising from a discipline inquiry.

15. Internal sources

- For advice concerning internal sources, please contact the Support Services Division, PSC via PSC-SUPPORT SERVICES DIVISION-OIC.

15.1 Workplace support

- The Internal Witness Support Unit, HRC provides welfare support to employees who report or provide information regarding corruption, criminality, or misconduct by Victoria Police employees.
- Line management of an employee who has made a disclosure must ensure that employees under their command who make a disclosure are not subject to

detrimental action or victimisation. The taking of detrimental action is a criminal offence and managers must take action to prevent and report this. For further information on detrimental action, refer to s.173, the Act and s.45, *Public Interest Disclosures Act*.

- The work unit manager is responsible for personally communicating to all employees under their command the summary of the circumstances and reinforcing that the internal source has fulfilled a lawful obligation and will be supported.

16. Conduct of investigation

16.1 *Matters which may involve both criminal and discipline offences*

Police members

- Where criminal and discipline allegations are of the same substance – when conducting an interview of an employee for activities that may involve both criminal and discipline offences, investigators must ensure that the criminal interview is conducted first, and finalised before considering a discipline interview.
- Criminal allegations are not to be dealt with at the same time or immediately before the discipline allegations. Unless there is a substantial break between the two interviews, a police member may refuse to answer questions put to them subject to a s.171(1) or s.176(1), the Act direction where the answers given may incriminate them in criminal conduct.
- Where criminal and discipline offences are not of the same substance or where an answer to a discipline interview question cannot afford an avenue of inquiry in regard to any criminal charge, a direction to answer questions in accordance with s.171(1) or s.176(1), the Act may be given and must be complied with. To refuse to answer questions, or fail to comply under these circumstances, is a breach of discipline.
- Where matters involve both criminal and discipline allegations, consultation with the Director of Public Prosecutions must be considered in accordance with section 2.1, **VPM Discipline**.

VPS employees

- If a VPS employee is suspected of either criminal or discipline misconduct, BPWRD are to be notified in the first instance. Where criminal and misconduct allegations are of the same substance, there is no requirement to proceed with the criminal or misconduct matter first. The investigation and/or interview may be conducted simultaneously or as determined by the investigator of the criminal matter and the Director, BPWRD. Refer to **VPM Management of misconduct (VPS employees)**.

16.2 *Interview of investigated police members*

- Where a police member is being interviewed for a criminal offence, they retain the same rights and privileges as members of the public and must be cautioned and provided with their statutory and legal rights during the investigations.
- During an investigation into a complaint concerning a possible breach of discipline, a police member can be directed by an investigator under s.171(1) or s.176(1), the Act to give any relevant information, produce any relevant document or answer any relevant question for the purpose of investigation of a discipline offence.

- Before an investigator uses s.171(1) or s.176(1), the Act, they must ensure that they have the appropriate delegation to do so; refer to **Instrument of Delegation COM 1.13**.
- Failure to comply with a direction under s.171(1) or s.176(1), the Act constitutes a breach of discipline. Any information, document or answer given in response to a direction under s.171(1) or s.176(1), the Act is only admissible in evidence before any court or person acting judicially in proceedings for:
 - perjury
 - breach of discipline under s.125(1), the Act
 - failure to comply with a direction under s.171(1) or s.176(1), the Act
 - review before the Police Registration and Services Board (PRSB)
- Use of the s.171(1) and/or s.176(1) direction is discretionary and there is no obligation for investigators to use it.
- Investigators must inform relevant police members of the requirements of s.171(1) and/or s.176(1), the Act and the nature of the alleged breach of discipline when making a direction under s.171(1) or s.176(1), the Act.
- If the investigation relates to a public interest disclosure, the direction to give any relevant information, produce relevant documents or answer any question can only be made under s.176(1), the Act. Failure to comply with a direction given in accordance with s.176(1), the Act, is a breach of discipline.
- Before an investigator uses s.176(1) and (2), the Act, they must ensure that they have the appropriate delegation to do so; refer to **Instrument of Delegation COM 2.10**.
- For VPS employees refer to **VPM Management of misconduct (VPS employees)**.

16.3 *Interview timing, grounds, and recording*

- The investigation strategy will inform the appropriate timing for the interview of the subject employee. Where the subject employee is on long term absence from the workplace or refuses to be interviewed, and where there is no requisite power of arrest available for a criminal interview, consideration should be given as to whether there is sufficient evidence to proceed with criminal or discipline charges without interview.
- Allegations of a criminal nature should be the subject of an interview prior to the conduct of any interview into a disciplinary allegation. Investigators must conduct separate interviews for the criminal matter and the disciplinary matter.
- The following grounds for interviews can be used:
 - all employees – criminal allegations (s.464, *Crimes Act 1958*).
 - police members – breach of discipline (s.125(1), the Act).
 - VPS employees – for misconduct (not criminal) please refer to **VPM Management of misconduct (VPS employees)**.
- Interviews of police members under s.171(1) or s.176(1), the Act, should be audio recorded.
- Interviews of VPS employees for a misconduct allegation should be conducted in accordance with **VPM Management of misconduct (VPS Employees)**.

- Nothing in this policy overrides instructions in relation to recording interviews in indictable matters; refer to **VPM Interviews and statements**.
- The subject employee must be provided with a copy of the interview within seven days.
- In criminal matters employees have the same rights and privileges as other members of the public and must be cautioned (refer to s.464, *Crimes Act*) and provided with their statutory and legal rights (refer to s.464C, *Crimes Act*) during investigations.

16.4 *Interviewing and service of process on employees who are absent from the workplace*

- Service of criminal or disciplinary process on employees who are on approved leave, rest days or who are otherwise absent will occur as a matter of course.
- Where appropriate, consideration must be given to delaying the interview or service of process in discipline matters until the subject employee returns to work.
- In cases where either the interview or service of process has or is likely to create concerns about employee wellbeing, the employee serving process should encourage the employee to contact Wellbeing Services.
- Refer to **VPMG Offences by or service of process on employees** for further information.

16.5 *Interviewing witnesses and complainants*

- When witness to an incident, including an incident or matter subject to investigation or a matter that is the subject of a complaint allegation, Victoria Police employees must co-operate with an investigation and promptly provide a statement when asked to do so. This applies whether the employee is on or off duty.
- Complainants and witnesses may only receive a copy of their own statement and/or record of interview.
- Where an investigation discloses a criminal (includes traffic and other summary) offence that has been allegedly committed by an employee, the matter must be reported in accordance with section 3.1 of this policy.

16.6 *Discipline avoidance*

Where the investigator has a reasonable belief that a police member is using personal leave to avoid participating in the complaint investigation and/or discipline process, the procedure is as follows:

- The subject member or their TPAV representative should be contacted to ascertain the subject employee's availability to be interviewed.
- Discipline interview - Where the subject member is on personal leave and unavailable to participate in a discipline interview, consideration must be given to proceeding with the investigation without interviewing the subject member. An assessment of the available evidence must be undertaken to determine whether there is sufficient evidence to support a discipline charge in the absence of an interview.

- Criminal interview – No power of arrest - For criminal matters where there is no power of arrest available and the subject member is unavailable to participate in a criminal and/or discipline interview, consideration must be given to proceeding with the investigation without interviewing the subject member. An assessment of the available evidence must be undertaken to determine whether there is sufficient evidence to support criminal and/or discipline charges in the absence of any interview.
- Criminal interview – Power of arrest – For criminal matters where there is a power of arrest available and the subject member is unavailable to participate in a criminal and/or discipline interview, consideration may be given to arresting the subject member to participate in the criminal interview. An assessment of the available evidence must be undertaken to determine whether there is sufficient evidence to support a discipline charge in the absence of a discipline interview.

16.7 *Use of Directions Letters*

- A Directions Letter to direct a police member to answer questions may be used as an alternative to formal interview under s.171(1) or s.176(1), the Act and may expedite the investigation of discipline offences in certain circumstances.
- A Directions Letter does not prevent further investigative action being taken in regard to the complaint. The investigation manager (Inspector or VPS5 or above) is required to authorise the use of a Directions Letter.
- Directions letters should only be used in relation to a police member for the purpose of investigation of a discipline matter and/or police member/s who are witnesses in the matter.
- Directions Letters should only be used in relation to discipline matters involving police members, including but not limited to breaches of discipline where all of the following apply:
 - the breach is of a minor nature
 - the breach arises from lack of procedural supervision
 - the breach arises from a matter which is peripheral to the complaint being investigated
 - it is clear from the evidence already obtained that a breach of discipline has been committed
 - the conduct of the employee, if found proven at an inquiry, is unlikely to result in dismissal.
- If satisfied that there is sufficient evidence available to satisfy the commencement of discipline proceedings, the investigation manager should authorise the use of a Directions Letter.
- The Directions Letter must contain:
 - the details of the alleged breach or misconduct
 - any questions to be answered in writing by the police member
 - a direction to the police member to give information or produce documents if required
 - a direction that the police member provide a written response within 14 days.
- The investigator must deliver, mail or e-mail the Directions Letter to the police member. If required, the letter may be forwarded via the employee's work unit

manager, who will be responsible for ensuring the employee is aware of their requirement to respond.

- If a response is received within the given time, the matters raised by the police member must be given due consideration prior to any further disciplinary action.
- If there is no response within the given time, the investigation may continue. Consideration should be given to any breach of discipline for failing to comply with the Directions Letter.

16.8 *Search of police premises*

Search without warrant

- Searches of police premises with consent of the occupier of the premises must be conducted in accordance with s.264, the Act. Work unit managers must facilitate the conduct of the search. For further advice on whose consent is required relevant to the specific parameters of the intended search, contact PSC.
- A police officer must not enter and search a premises with consent unless, before the occupier consents to the entry and search, the officer has given notice of the search in accordance with s.265, the Act, and has asked the occupier to sign an acknowledgement of consent to entry and search in accordance with s.266, the Act.

Search with warrant

- Where it is reasonably believed that consent will not be granted to conduct a search, or where consent has not been granted, a search warrant should be obtained in accordance with s.267, the Act.
- Searches of desks and lockers should be conducted in the presence of the person to whom the property is allocated or, if this is not possible, in the presence of an independent employee.

Conduct of searches

- Searches must be conducted in accordance with **VPM Searches of property**.
- Where consent has not been given and a warrant has been obtained to conduct the search, the following instructions have precedence over **VPM Searches of property**:
 - the investigator must notify the Intelligence Unit, PSC to ascertain the search history of the police premises
 - the application for approval to conduct a search of a police premises and operation order can only be authorised by:
 - during business hours – by Assistant Commissioner, PSC
 - outside business hours – by the PSC Duty Superintendent
 - notification to the Deputy Commissioner, Capability must occur prior to the conduct of the search unless exceptional circumstances exist
 - notification to the Divisional Patrol Supervisor and Police Communications must not occur prior to the conduct of the search
 - the search warrant entry on Interpose must be updated post-search with the result of search and applicable documentation.

16.9 *Forensic medical examinations and opinions*

- Where it is necessary to have persons medically examined, the investigator must obtain the services of the Victorian Institute of Forensic Medicine (VIFM).

- Consent is required for a forensic medical examination. The examination should be conducted as soon as possible after consent is given.
- Where it is necessary to obtain a forensic medical opinion, the investigator should obtain the services of the VIFM.

16.10 *SOFVU/SOCIT/FVIU assistance*

- During the investigation of a complaint against an employee, specialist investigation support from the Sexual Offence and Family Violence Unit (SOFVU), Sex Offence and Child Abuse Investigation Team (SOCIT) or Family Violence Intelligence Unit (FVIU) may be required. The investigator should identify the appropriate SOCIT or FVIU, taking into account the geographical and potential conflict of interest issues. Refer to **VPM Conflict of interest** and **VPM Family violence involving Victoria Police employees** for guidance on relevant considerations when making this decision.
- For PSC ARM Category 1 complaints where the subject employee is a police member or VPS employee, the SOFVU should be contacted in the first instance. SOFVU may seek assistance from a divisional SOCIT or FVIU.
- For PSC ARM Category 2 complaints where the subject employee is a police member or VPS employee, the relevant divisional SOCIT or FVIU should be contacted. Advice and assistance may also be sought from SOFVU.

16.11 *Obtaining legal advice*

- Where an investigator requires a legal opinion, they should recommend this action in an issue cover sheet to PSC with appropriate supporting documentation. The Assistant Commissioner, PSC may refer the matter to:
 - DAU, via Legal Services Department, for questions regarding sufficiency of evidence relating to discipline matters
 - Victorian Government Solicitors' Office (VGSO), via Legal Services Department, for legal opinion. The process for requesting legal advice is detailed on the Legal Advice Portal, Legal Services intranet page. Refer to **VPM Obtaining legal advice or representation**.
- The VGSO generally supplies two copies of any legal opinion sought. The duplicate copy should be detached from the file and forwarded to the DAU for recording.

16.12 *Prosecution of complainants or person involved in the incident*

- Where there is a prosecution being conducted against the complainant or person involved in the incident, the allocated investigator must not make inquiries on behalf of the prosecution or defence.

16.13 *Requirement to attend court hearing relating to complaint file*

- The investigator may monitor a court hearing related to a complaint file. This will occur upon written direction to the investigator following consultation with a Work Unit Manager from PSC.
- Region/command/department investigators are required to receive approval from the Superintendent, Investigations Division, PSC to monitor a hearing.

17. Conducting inquiries or obtaining statements on behalf of employees under investigation

- Except for the assigned investigator or under direction of the assigned investigator, employees must not approach any witness for the purpose of giving evidence, obtaining statements or to conduct other related inquiries. This does not prevent police members commencing initial enquiries on receipt of a complaint in accordance with section 4 of this policy.
- A police member who has been charged with a breach of discipline must not approach a witness who is a Victoria Police employee. The charged employee, or employee's Police Association Discipline Advocate on behalf of the employee, must make the request through the Discipline Inquiry Office who will contact the assigned investigator.
- Employees who are approached directly by such an employee must advise the person to direct their enquiry as above.
- Refer to section 8, **VPM Conflict of interest** regarding whether an association with a subject employee is a declarable association, including where the subject employee:
 - is currently facing charges relating to an indictable offence
 - is currently suspended
 - has resigned while under investigation for an indictable offence and continues to be suspected of having committed that indictable offence
 - is known or suspected to be a perpetrator of family violence.

18. Action against PSC witnesses and complainants

18.1 *Laying additional charges, service of process, arrest notification or search of PSC witnesses/complainants*

- Any further action against persons who are currently, or have recently been, a witness or complainant for a complaint or discipline matter may have the potential to inflame the situation and lead to confrontation between the witness or complainant and the employee who is the subject of the complaint. Therefore, the laying of additional charges, service of other process, arrest, or search of PSC witnesses or complainants should be carefully managed per the below.

Laying of additional charges and service of other process

- Where it is intended to lay charges against a complainant or witness to a complaint:
 - Region/command/department investigators must obtain approval to lodge additional charges against a witness or complainant from the SIO
 - PSC investigators must obtain approval to lodge additional charges against a witness or complainant from the relevant PSC Divisional Manager.
- The serving of charges by way of summons against a witness or complainant where personal service is required must be undertaken by a sub-officer independent of the complaint.
- The SIO (for investigations within a region/command/department) or relevant PSC Divisional Manager (for investigations by PSC) must ensure that any service of

process takes place under circumstances which avoid further confrontation between the witness or complainant and the employee/s who is the subject of the complaint.

Notification of arrest or search of police witnesses or complainants

- Investigators must notify PSC when an investigation into a criminal or other matter involves the arrest or search of a person who is currently, or has recently been, a complainant or witness for a discipline complaint or related criminal matter.
- The time frame for notification of PSC is dependent upon the type of arrest or search of persons or premises, as follows:
 - unplanned – contact must occur at the earliest opportunity
 - planned – contact must occur before the action.
- Where it is unknown at the time that the person is currently a complainant or witness or has recently been a witness, but that information is later identified, contact PSC as soon as the information comes to hand.

18.2 *Withdrawal of criminal charges previously laid against complainants*

Refer to **VPM Court processes** for the procedure where it is proposed to withdraw charges against defendants who have made a complaint or complaints against police.

19. Withdrawal of complaint

- A request by a complainant to withdraw a complaint may be made verbally, in writing or by electronic means. Where a request to withdraw a complaint is made verbally, it should be confirmed in writing unless the withdrawal request is captured using a BWC.
- Where possible, the complaint withdrawal request should be a signed acknowledgment including the reason for the complaint being withdrawn and that it is made in the exercise of free will and not under any duress or intimidation.
- In circumstances whereby the complainant has refused to make a statement, the investigator should proceed with the investigation and ensure all available evidence is collected prior to a determination regarding outcome.
- A person who makes a public interest disclosure may withdraw it at any time, however, the investigation may continue.

20. Resignation or retirement of employees under investigation

- Employees under investigation may offer to resign or retire from Victoria Police on the understanding that no further discipline proceedings will be taken against them.
- Before the resignation of a police member under investigation can be accepted, it must be approved by a member of Executive Command.
- For further requirements, refer to **VPM End of employee service**.

Enforcement action against employees

21. Authorisation of criminal charges

- At the completion of a complaint investigation that has disclosed a criminal (including traffic and other summary) offence allegedly committed by an employee, the investigator must:

- compile an issue cover sheet for approval
- compile a brief of evidence (BOE)
- submit all documents to the authorised delegate for authorisation of the charges. If the criminal charge is for an offence listed in Schedule 4, the Act, the Director of Public Prosecutions must be consulted prior to any discipline proceedings. Refer COM1.7, **Delegations**
- if the proposed charges relate to an employee of PSC, or a matter where there is an actual or perceived conflict of interest for the Assistant Commissioner, PSC, the approval must be given by either:
 - an Assistant Commissioner other than the Assistant Commissioner, PSC, as nominated by Deputy Commissioner, Capability
 - where necessary, a Deputy Commissioner.
- Assistant Commissioners other than the Assistant Commissioner, PSC must only exercise their delegated powers where they have been nominated for the matter by the Deputy Commissioner, Capability.
- The authorised delegate who approved the charges, will also make a determination in relation to any interim action. Refer COM1.7, **Delegations**.
- Where the evidence discloses legal problems or there is doubt as to sufficiency of evidence for the appropriate charge(s), the authorised delegate may refer the matter to the VGSO (and PSC Superintendent can refer to the VGSO) and/or the OPP for advice. Where the charges relate to a former employee (i.e. criminal offence committed whilst employed by Victoria Police, however no longer employed when the charges are being considered), this determination can be made by the PSC Superintendent.

22. Charge and bail or charge and remand

- The verbal authority of the Assistant Commissioner, PSC is required for an employee to be processed by way of charge and bail/remand.
- The brief and investigation file must be forwarded to the Assistant Commissioner, PSC for formal approval as soon as possible.

23. Non-judicial outcomes

- Employees can only be issued with a caution or official warning with written authority of the Assistant Commissioner, PSC.
- Employees can be issued with an infringement notice for any offence in the Code Book [Form 508A] without further authority.

24. Prosecutions (criminal or traffic)

- The OPP will prosecute employees charged with criminal or traffic offences.
- Where the informant is not from PSC, they must forward the BOE for the prosecution of employees via the following approval process:
 - local region/command/department EPSO for review
 - Superintendent, Conduct and Professional Standards Division, PSC for progression
 - the authorised delegate for authorisation. Refer COM1.7, **Delegations**.

- Where the informant is from PSC, they must forward the BOE via the following approval process:
 - for investigations conducted by Investigations Division, PSC to the Superintendent, Investigations Division, PSC for progression
 - for investigations conducted by the Sexual Offence and Family Violence Unit (SOFVU), PSC to the Superintendent SOFVU for progression
 - to the authorised delegate for authorisation. Refer COM1.7, **Delegations**.
- Once authorised by the delegate, the BOE will be forwarded back to the informant.
- Upon return of the file with authorised BOE, the informant must ensure:
 - all appropriate action is taken to have the matter dealt with according to proper legal procedures
 - that the BOE is forwarded to the OPP for prosecution within 7 days of receiving the authorised BOE.
- Employees who are to be charged with criminal or traffic offences must be notified prior to any information concerning the charges being released to any person outside PSC.
- Where a criminal prosecution against an employee has been authorised by the authorised delegate, the investigator must submit LEAP forms as soon as possible. The PSC file number should be quoted in the remarks section. No narrative is required. LEAP forms should be submitted to the Central Data Entry Bureau for processing. If an existing region/command/department investigation identifies that a suspect for an offence is an employee, then the narrative must be removed and substituted with the PSC file number.
- Where a family violence incident involving an employee is reported:
 - the family violence incident must be investigated fully
 - the Options Model as set out in **VPM Family violence** must be used
 - Family Violence Reports (VP L17) must be fully completed, including narrative, and submitted before the end of the shift in accordance with **VPM Family violence involving Victoria Police employees**.
 - appropriate criminal, civil and referral actions taken for every reported incident of family violence.

Complaint investigation finalisation

25. Final Investigation Report

25.1 General

- When a complaint investigation has been completed, the investigator must prepare a Final Investigation Report. The report must include:
 - a determination of each of the allegations within the complaint
 - brief details of evidence, both inculpatory and exculpatory, relevant to criminal or discipline charges
 - appropriate reference to the relevant offence section
 - recommendations for any discipline or other action.
- Investigators should obtain guidance on preparing a Final Investigation Report from the Complaints Hub on the PSC intranet page.

- The relevant region/command/department head must be provided a copy of the final report unless it would compromise an on-going or future investigation.
- Unless exceptional circumstances exist, or to comply with a disclosure request or subpoena under the *Criminal Procedure Act 2009*, the PSC investigation file will not be released from PSC. Refer to section 35 of this policy. Requests for disclosure of a final investigation report should be made via email to PSC-DISCLOSURE-REQUESTS-MGR.
- Refer to **VPMG Public interest disclosures** for processes regarding public interest disclosure complaint investigations.

25.2 *Determination of complaint*

The Final Investigation Report must address each allegation subject to investigation by one of the following determinations:

- established – the allegation was found to be true
- unable to determine – the account of events provided by the complainant and the employee, and the available evidence is such that the investigator is unable to establish whether the allegation is true or not
- not established – the weight of available evidence does not support the account of events as described in the allegation, but is weighted in favour of the account given by the employee
- exonerated – the evidence clearly establishes that a particular employee is not involved in the allegation or is completely free from blame.

Refer to **VPM Management of misconduct (VPS employees)** for determinations for VPS employees.

The degree of proof required to establish an allegation should be one of comfortable satisfaction. The decision maker must have a comfortable level of satisfaction fairly and properly arrived at, commensurate with the gravity of the charge, achieved in accordance with appropriate fair processes. For further advice regarding the legal foundation of this degree of proof, contact the DAU.

25.3 *Human Rights considerations*

The Final Investigation Report must identify whether the subject member's behaviour has resulted in a human rights breach. A breach occurs when a person's rights have been limited (negatively impacted) and the limitation is not justified nor proportionate in the circumstances. For example, using disproportionate force may breach a person's right to privacy or humane treatment.

To determine a breach of human rights consideration must be given to:

- what human rights were limited (negatively impacted) by the police member's decision or action
- how the human rights were impacted (e.g. how invasive or significant were the impacts, were certain groups impacted?)
- whether the limitation was justified and proportionate in the circumstances, or whether a less restrictive option was available to achieve the same outcome.

Where a breach of human rights is identified, a recommendation for action must be made in the Final Investigation Report and recorded in ROCSID. Breaches of human

rights are listed as separate allegations within the complaint and are treated seriously. Refer **VPM Human rights standards**.

25.4 *Report recommendations*

If discipline action against the employee is appropriate, the investigator should recommend what action is required in the Final Investigation Report. This may include one of, or a combination of:

- professional conduct resolution – this can include education, advice and guidance to positively address an employee conduct issue
- action in accordance with **VPMG Management of underperformance**
- action on any identified deficiency in Victoria Police premises, equipment, policies, practices or procedures
- admonishment notice – refer to section 11, **VPM Discipline**
- discipline charges – refer to **VPM Discipline**
- criminal charges – refer to **VPM Discipline**.

25.5 *Recordings*

- Interview recordings should be transcribed only if a criminal or disciplinary brief is to be prepared.
- Transcription costs are the responsibility of the investigating region/command/department.
- Investigators must forward all original recordings (including recorded interviews conducted by regions/commands/departments) to Conduct and Professional Standards Division, PSC with a copy of the brief head for recording. The brief head is not to be recorded on local brief books, and is to be recorded on PSC brief books only, with the brief book number being provided to the investigator. The interview recordings must be stored securely until the completed file is forwarded for lodging, at which point they will be filed together.
- Where digitally recorded evidence in chief has been obtained, the instructions contained within **VPM Digitally recorded evidence-in-chief (DREC) – family violence** must be complied with.

26. Finalisation of investigation

26.1 *Overview*

Investigations can be finalised in the following manners:

- finalised as a result of withdrawal of complaint (refer to section 19 of this policy)
- finalised using the DIP (refer to section 14 of this policy)
- finalised using PCR (refer to section 5 of this policy)
- finalised via a determination and associated recommendation of discipline action (refer to section 25 of this policy).

26.2 *Quality control of investigations*

- Investigations conducted by a region/command/department should be quality control checked by the SIO upon completion, and a PSC Investigation Checklist is to be completed and uploaded to Interpose.
- The IBAC may review any completed investigation, and may request for further investigation to be undertaken or further material to be provided.

26.3 *Notification of parties involved*

- Where the complaint by a member of the public was lodged with Victoria Police, the investigator must, on behalf of the CCP, ensure written advice of the result of the investigation and the taken or proposed action is forwarded by letter or email to:
 - the complainant
 - the subject employee(s).
- The investigator must ensure that the written advice to the complainant and subject employee only includes information relevant to their particular complaint.
- The written letter of advice to the complainant must:
 - contain a detailed overview of the investigation to enable the complainant to understand the nature of the investigation and any action taken or proposed, as required by s.172(1), the Act
 - be appropriately drafted considering the language abilities of the complainant. Interpreters, home visits and other means of communication with the complainant may be required
 - advise complainants that any queries in relation to the investigation may be raised with the investigator or the SIO. Complainants are also advised that such issues may be raised with the IBAC
 - be reviewed by the SIO prior to being sent.
- If a complainant or affected person is not satisfied with the manner in which the complaint was resolved, the investigating officer will suggest referral options available to any aggrieved participant. General referrals may include but are not limited to the following (if applicable):
 - the IBAC
 - civil action
 - Victorian Equal Opportunity and Human Rights Commission (VEOHRC)
 - Fair Work Australia
 - Commissioner for Privacy and Data Protection
 - Office of the Health Complaints Commissioner
- Public interest disclosures – for notification requirements under the *Public Interest Disclosures Act*, refer to **VPMG Public interest disclosures**.

26.4 *Record keeping - ROCSID*

- When the investigation is finalised, ROCSID must be updated to ensure it accurately reflects the outcome of the investigation, including the determination of the complaint and the investigator's recommendation in the Final Investigation Report.

Interim action

27. Interim action - overview

- The Assistant Commissioner, PSC or a Deputy Commissioner may take interim action against police members who are reasonably believed to have committed or have been charged with a:
 - breach of discipline (s.126, the Act)
 - criminal charge punishable by imprisonment (s.135, the Act).
- Where charges have already been laid, the authorised delegate who approved the charges will also make a determination in relation to any interim action.
- Where charges have not yet been laid and there is an actual or perceived conflict of interest relating to the Assistant Commissioner, PSC, the Deputy Commissioner, Capability will nominate an alternative Assistant Commissioner to take any required interim action.
- Assistant Commissioners other than the AC, PSC may only exercise the power to take interim action where nominated by the Deputy Commissioner, Capability or where they have previously been nominated to authorise the associated charges.
- Where an alternative Assistant Commissioner is nominated, they must take on the duties and responsibilities listed against the Assistant Commissioner, PSC in sections 28-33 of this policy.
- Interim action can be taken at any point in the complaint investigation or discipline process, and is used to mitigate identified risk, including:
 - the risk to any person (including the subject employee, other Victoria Police employees, the community and/or any person involved in the matter)
 - impact on the reputation of Victoria Police.
- When considering interim action, the Assistant Commissioner, PSC or Deputy Commissioner must give due consideration to:
 - community expectations
 - the seriousness of the allegations
 - the strength of the evidence
 - the risk to any person
 - the risk to the reputation of Victoria Police and its standing within the community.
- Where interim action will be taken, a Notice of Disciplinary Transfer/Leave Direction/Suspension will be issued to the police member by Assistant Commissioner, PSC or Deputy Commissioner unless it is impracticable to do so.
- When interim action is taken, the line manager of the subject member must ensure that the welfare needs of the subject member are addressed in accordance with section 13.13 of this policy.
- Refer to section 30 of this policy for further information on interim action other than in writing.

28. Interim action – powers

28.1 *Reasonable belief of a criminal offence*

- Where the Assistant Commissioner, PSC or Deputy Commissioner reasonably believes that a police member has committed an offence punishable by imprisonment, they may either:
 - transfer the police member to other duties
 - direct the police member to take any accrued leave (other than sick leave)
 - suspend the police member with pay (s.135(1), the Act).
- The interim action continues until the police member is charged or a decision is made not to charge the police member.

28.2 *Charged with a criminal offence punishable by imprisonment*

- Where a police member has been charged with an offence punishable by imprisonment, the Assistant Commissioner, PSC or a Deputy Commissioner may:
 - transfer the police member to other duties
 - direct the police member to take any accrued leave (other than sick leave)
 - suspend the police member with or without pay (s.135(2), the Act).
- Where a police member has been charged with an offence punishable by imprisonment:
 - If the charge has been found proven, the interim action continues until the matter (including any subsequent inquiry into the criminal charge) is finally determined
 - If the charge is withdrawn, not proven, or is finalised through the Criminal Charge Diversion Program, the interim action lapses. If discipline action is being considered, then discipline interim action pursuant to s.126(2), the Act, must be implemented within 5 business days.

28.3 *Reasonable belief of a breach of discipline*

- Where the Assistant Commissioner, PSC or Deputy Commissioner reasonably believes a police member may have committed a breach of discipline, they may impose any of the following for a period not exceeding three months (s.126(2), the Act):
 - transfer the police member to other duties
 - direct the police member to take any accrued leave (other than sick leave) with any lawful directions deemed necessary to mitigate risk
 - suspend the police member with pay.
- Should a police member not be charged with a breach of discipline within three months of the commencement of an interim action under s.126(2), the Act, the interim action must be withdrawn unless an extension of time has been granted by the PRSB.
- The Assistant Commissioner, PSC or Deputy Commissioner, in making this decision, must consider the risk to the organisation, affected persons and workplace, community, and the subject employee.

28.4 *Charged with a breach of discipline*

- Where a police member is charged with a breach of discipline, the Assistant Commissioner, PSC or a Deputy Commissioner may either:
 - transfer the police member to other duties
 - direct the police member to take any accrued leave (other than sick leave) with any lawful directions deemed necessary to mitigate risk
 - suspend the police member with or without pay (s.127(4), the Act).
- Interim action taken after a police member has been charged with a breach of discipline continues until the matter is finally determined.

29. Interim action – after service of notice

29.1 *Applying to vary the interim action*

- Where a police member is suspended/directed to take leave/transferred to other duties by the Assistant Commissioner, PSC or a Deputy Commissioner, the police member may within 14 days from the service of the Notice of Interim Action respond in writing to the Assistant Commissioner, PSC to show cause why the action should be varied.
- When a police member is suspended and the Assistant Commissioner, PSC or Deputy Commissioner is considering suspension without pay, that decision will be made 10 days after the service of the Notice of Interim Action. The police member may make a written submission to the Assistant Commissioner, PSC or Deputy Commissioner within 10 days of the notice requesting:
 - consideration of the police member's entitlement to pay
 - consideration to allow the police member to access accrued leave entitlements by being directed to take leave prior to being suspended without pay.
- A decision regarding the police member's entitlement to pay and/or request to utilised accrued leave entitlements will be made after written submissions are made by the member or at the expiration of the 10-day period in the absence of a submission.
- Police members must be notified of the outcome in writing.

29.2 *Police member obligations during suspension/direction to take leave*

- Contact with other Victoria Police employees – section 8.1, **VPM Conflict of interest** provides examples of declarable associations. An association between a Victoria Police employee and a subject member who is currently suspended, or who has been directed to take leave before commencing a period of suspension, is a declarable association. This association or contact must be declared in accordance with section 8.4, **VPM Conflict of interest** unless the policy expressly indicates that a declarable association is not required.
- A subject member who is suspended or has been directed to take leave must not contact colleagues for information relating to their complaint, even where a declarable association has been approved. The subject member seeking information, must make the request through the assigned investigator, or the subject member's Police Association Discipline Advocate.
- Temporary return to work – subject members must comply with a direction to temporarily return to work, including for a discipline interview, if they have been

suspended in accordance with s. 138(3), the Act.

- The temporary return to work provision may be used to require a police member to attend for the purpose of service of documents, or any other legitimate purpose including court attendance as an informant or witness.
- A subject member who has been directed to take leave is expected to participate in the discipline process. If a subject member fails to attend a discipline inquiry it may proceed in the subject member's absence.
- Secondary employment and outside interests – a police member who has:
 - been suspended with pay or directed to take leave as a result of a discipline or criminal investigation may only seek secondary employment or outside interests in a non-prohibited activity with the approval of their region/command/department head.
 - has been suspended without pay, or has been directed to take leave to utilise leave entitlements prior to being suspended without pay, may seek secondary employment or outside interests in a non-prohibited activity with the approval of the Assistant Commissioner, Professional Standards Command. An employee suspended without pay is granted conditional approval to provisionally accept an offer of employment, but not formally accept the offer of employment or commence the secondary employment or outside interest, until formal approval is granted by the Assistant Commissioner, PSC. Refer to section 10.12 **VPM Conflict of interest**.
 - had approval to undertake outside employment prior to being suspended or directed to take leave must seek further approval to continue undertaking secondary employment or outside interests once being served with a notice. Secondary employment and outside interest requirements as per **VPM Conflict of interest** continue to apply.
- Entry to police premises
 - It is a criminal offence for police members to enter police premises, other than those areas available to the public, when they have been suspended with or without pay (s.138(4), the Act) as a result of a discipline or criminal investigation.
 - If police members have reason to enter police premises, they must first seek permission from the region/command/department head responsible for the premises.
- Access to Victoria Police information – when a police member is suspended, with or without pay, the investigator must ensure that access to all information or information systems is revoked or removed. This will include that:
 - all keys held by the person are collected
 - that all access cards are collected and disabled
 - all system access is disabled
 - any information (hardcopy or electronic) or police issued IT/information storage equipment held by the person (including "personal holdings") is collected and retained on police premises. Refer to **VPMP Information access** for further information on revoking and removing access to Victoria Police information.
- Victoria Police equipment – when a police member is suspended, with or without pay, they must immediately return their Victoria Police equipment and identification

(s.138(2)). The investigator is to obtain the following Victoria Police equipment and identification from the police member:

- certificate of identity
 - identification wallet
 - clip-on identification
 - special constable's identity (if applicable)
 - Approved Driver's Authority
 - all items of police issue uniform
 - equipment certificate and complete kit
 - Victoria Police issued mobile phone and computer
 - any other item owned or managed by Victoria Police.
- Work vehicle – when a police member is suspended, with or without pay:
 - The police member must return a work vehicle provided as part of their contract or under clause 59.3, the *Victoria Police (Police Officers, Protective Services Officers, Police Reservists and Police Recruits) Enterprise Agreement 2025* which is defined as Victoria Police equipment
 - the investigator or the Delegate for issuing the interim action should obtain the vehicle
 - if the police member is making a financial contribution to the vehicle, direct debit arrangements must be terminated
 - the vehicle may be returned once the suspension is lifted
 - discretion may be exercised by the CCP or delegate if there are extenuating circumstances and return of the vehicle will cause undue hardship.

30. Interim action – other than in writing

- If interim action needs to be taken promptly, and it is impracticable to have a Notice of Disciplinary Transfer/Leave Direction/Suspension signed by the Assistant Commissioner, PSC or a Deputy Commissioner, an Inspector or above may direct a police member to alternative duties or to not attend work in accordance with s.14, the Act. All decision making must be recorded in the official diary of the officer giving the direction. Where the investigation is being managed on Interpose, the decision making must be recorded in Interpose.
- An Interim Action application, detailing the officer's decision making, must then be prepared and forwarded for approval by the Assistant Commissioner, PSC or, if they are not available, by the Duty Commissioner.
- The police member must be served a signed Notice of Disciplinary Transfer/Leave Direction/Suspension as soon as reasonably possible. Verbal direction should not be used for suspension without pay except in exceptional cases such as where the police member is actively avoiding service.

31. Rescission of interim action

- Where interim action is to be rescinded, a Notice to Rescind Suspension/Direction to Take Leave/Transfer to Other Duties will be served on the subject member. The Assistant Commissioner, PSC must approve the rescission of interim action.

32. Interim action - dismissed or not-proven charge

- If a criminal charge is not proceeded with or found not proven, and a determination is made not to progress a discipline matter or all discipline charges are dismissed,

the basis for the interim action will no longer exist and the employee will be reinstated.

- Where interim action is to be rescinded, a Notice to Rescind Suspension/Direction to Take Leave/Transfer to other Duties will be served on the police member within 5 working days of the decision being made not to progress a discipline matter, or all discipline charges having been dismissed.

33. Salary and leave implications of interim action

- Police members who have been the subject of an interim action may have their salary or leave affected.
- In any matter that was established, the police member will not be entitled to a reimbursement of salary or reaccréditation of leave for the period the salary or leave was affected in a relation to an established matter.
- Refer to s.139, the Act for the provisions relating to forfeiture of salary.

Management of complaint investigation files

34. Confidentiality of complaint files

- To maintain the integrity of Victoria Police and the impartiality of internal investigations, the contents of all internal investigation files and associated correspondence must remain confidential.
- Documents seized or obtained during a PSC investigation must be marked as 'Official: Sensitive' unless a higher degree of protection is required. Refer to **VPM Information categorisation, collection and recording** and **VPMP Information use, handling and storage** for document security instructions.
- A clear explanation must be given to any complainant/witness of the circumstances where a court may require disclosure of their statement, including that the statement may be used in proceedings against them.

35. Requests for PSC Files

35.1 *Disclosure of investigation files for criminal proceedings*

- Requests for PSC files for court purposes, either in response to a subpoena or to comply with disclosure provisions under the *Criminal Procedure Act 2009* should be directed to PSC-DISCLOSURE-REQUESTS-MGR.
- Disclosure of complaint and/or discipline matters in criminal proceedings must be managed in accordance with **VPM Disclosure in criminal proceedings**.
- Contact the Disclosure Management Unit, Legal Services Department, for further advice.

35.2 *Disclosure of investigation files for civil proceedings*

- Requests for PSC files for civil court purposes, either in response to a subpoena or to comply with disclosure provisions under the *Civil Procedure Act 2010* should be directed to PSC-DISCLOSURE-REQUESTS-MGR.
- Disclosure of complaint and/or discipline matters in civil proceedings must be managed in accordance with **VPMG External information disclosure**.

- Contact the Civil Litigation Unit, Legal Services Department, for further advice.

35.3 *Freedom of Information requests*

- All FOI requests for complaint investigation files must be referred to the Superintendent, Intelligence, Innovation and Risk Division, PSC.

35.4 *Requests/subpoenas for complaint files*

- The Superintendent, Intelligence, Innovation and Risk or delegate will provide advice on action to be taken in response to requests for access to complaint files or subpoenas for such files.
- In instances where a PSC file is subpoenaed, police members must:
 - firstly, forward the subpoena to the Subpoena Management Unit
 - secondly, forward the subpoena to the PSC Information Manager, DAU for recording and action.
- The employee who has been tasked by the PSC Information Manager, DAU to produce the official documents or correspondence must not permit any person to peruse them until directed by the court.
- The subpoenaed documents will be surrendered into the custody of the court according to court rules. The employee tasked with producing them must retain all material which is not admitted and must not disclose the contents to any person unless the court orders otherwise.
- After the case has been finalised, the employee must return all official documents and correspondence to the office from which they were obtained.
- The subpoenaed documents must have the 'In Confidence' caveat attached to the front of each, which will be provided by the PSC Information Manager, DAU.
- Proceedings may be instituted to set subpoenas aside in the first instance.

35.5 *Victoria Police prosecutors subpoenaing PSC files*

Application

- This section applies to police prosecutors only. Access to PSC files by any other employee for any other purpose is not available, unless by agreement with the Assistant Commissioner, PSC.

General

- Privilege does not automatically attach to a PSC file that is relevant to a prosecution. However, the only way of obtaining a PSC file is by way of subpoena. Informal inspection of PSC files by any person is prohibited.
- A prosecutor must have a reasonable belief that a PSC file holds material that is relevant to the matter before a court prior to initiating action to subpoena a PSC file. Subpoenas must not be issued on the chance that something useful might be found.
- An application for a subpoena should only refer to the specific documents required. A subpoena seeking an entire PSC file should only be made if there are sound reasons for doing so.

Procedure

- Permission to initiate action to subpoena a PSC file must be obtained from a member of Prosecutions Division, Legal Services Department, of the rank of inspector or above
- An Officer approving an application for a subpoena should be satisfied that the prosecutor holds a reasonable belief that there is relevant material on the file.
- Once permission is obtained, an application for a subpoena may be made to the court.
- A subpoena that requires the production of an PSC file must be facilitated via the Subpoena Management Unit who in turn will arrange service on the Assistant Commissioner, PSC. The issuing prosecutor may then seek advice on such subpoenas from the PSC Information Manager, DAU.

Grounds for objection to subpoena of PSC files

- Upon receipt of a subpoena, the Superintendent, Conduct and Professional Standards, PSC or their delegate will assess whether or not an exemption should be sought and the subpoena opposed by PSC.
- Bases on which such information may be withheld from evidence in court proceedings include:
 - Public Interest Immunity may be claimed for various reasons, including the need to protect:
 - a witness or human source
 - sensitive investigation strategies
 - an ongoing investigation.
 - Disclosure of the content or information about the content of an assessable disclosure, or disclosure of information likely to lead to the identification of a person who has made an assessable disclosure must only be done in accordance with the *Public Interest Disclosures Act*.

Responsibility for security and return of PSC files subject to subpoena

- PSC files subject to subpoena must be produced directly to the court. Files must not be given to, or allowed to be examined by, any other person other than by direction of the court. While in their possession, the court has responsibility for the security and return of the files. Liaison must be maintained between the court and the PSC Information Manager, DAU to ensure the safe return of the files to PSC.

35.6 Access to information by employees under investigation

- Employees under investigation are not entitled to receive a copy of any written complaint made against them and must not be allowed to read the letter or statement of complaint. Employees under investigation are only entitled to receive a copy of their own statement and/or record of interview.
- Where more than one employee is subject of the complaint, each employee is to be given a copy of their respective statement or audio-recording of the interview. In a criminal case the ordinary rules for service apply. In discipline matters service is to occur within a reasonable time.

36. Public Interest Immunity

36.1 *General*

In certain circumstances, information held by Victoria Police may be withheld in evidence from court proceedings on the grounds of Public Interest Immunity. Public Interest Immunity applies when the interests of the State or of public administration outweigh the public interest in the outcome of a particular case. It is generally claimed to preserve information that, if released, might damage the public interest.

36.2 *Public Interest Immunity in relation to PSC files*

- PSC documents are not generally exempt from production on grounds of Public Interest Immunity. There is no 'blanket' claim of immunity, and each document must be considered on its individual merits.
- Public Interest Immunity in relation to PSC files can be claimed for various reasons, including:
 - the investigation is ongoing
 - the protection of a witness or human source
 - a breach of confidentiality.
- If in the course of attending a court hearing the investigator is required by the court to produce the file relating to the investigation or provide oral evidence of its content, the investigator should seek an adjournment for the purpose of obtaining legal representation if Public Interest Immunity will be claimed.

36.3 *Role of the Victorian Government Solicitor's Office*

- If public interest immunity is to be claimed, an employee of the VGSO will, after approval, arrange for the employee producing the documents to be represented.
- Police members must inform the Manager, Subpoena Management Unit and the VGSO of the matter as soon as possible to provide the maximum time for preparation.

Related documents

- **VPM Discipline**
- **VPM Reviews of discipline and professional conduct outcomes**
- **VPM Conflict of interest**
- **VPMG Management of underperformance**
- **VPM Interviews and statements**
- **VPM Obtaining legal advice or representation**

Further advice and information

For further advice and assistance regarding this policy, contact PSC-POLICE CONDUCT UNIT [COMPLAINTS AND COMPLIMENTS].

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
22/05/2024	First issued as part of the Discipline Transformation Project. This policy updates and replaces VPMP Complaints and discipline, CCI 09/17 Discipline Intervention Program and Regional Admonishment Process, VPMG Management intervention and local management resolution, VPMG Complaint management and investigations, and VPMG Management of complaint investigation files.	FF 226089
15/07/25	Minor administrative amendments to correct references	FF-273676