

Victoria Police Manual

The Victoria Police Manual is issued under the authority of the Chief Commissioner in s.60, Victoria Police Act 2013. Non-compliance with or a departure from the Victoria Police Manual may be subject to management or disciplinary action. Employees must use the VPM Professional and ethical standards to inform the decisions they make to support compliance.

Responses to non family violence disputes

Context

Non family violence disputes may involve behaviour which amounts to a civil dispute (for example, neighbour disputes), stalking, or other criminal offences.

There are a number of courses of action police may adopt when responding to these types of disputes.

This policy provides guidance to police in determining the course of action they may use when responding to a non family violence dispute (for example, referral to mediation or application for a Personal Safety Intervention Order), and the responsibilities and processes involved.

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Determining response to a dispute

1. Risk assessment

Members attending or dealing with a non family violence dispute must assess the risk to the victim (and others) in order to inform their course of action. In assessing risk, members must consider the:

- behaviour involved
- suspect – including; previous history of behaviour and their circumstances
- victim (and others) – including; any fears felt by the victim, circumstances and any particular vulnerabilities
- operational safety principles
- risk of future incidents between the parties.

2. Course of action

Members must choose the most appropriate course of action from one or a combination of the options below based on the victim's circumstances and needs, risk assessment and investigation:

- no action – not all incidents brought to the attention of police will require action to be taken; see No action required section
- referral – to Dispute Settlement Centre of Victoria (non family violence disputes) or WorkSafe Victoria (workplace bullying); see Referrals section
- civil – taking out a Personal Safety Intervention Order; see Civil matters section
- criminal – includes taking appropriate action to bring offenders before the court; see Criminal matters section.

All family violence matters must be investigated in accordance with **VPM Family violence**.

No action required

- In some circumstances no action will be required, including where:
 - the incident is a one off and the victim is not in fear of the other party
 - the victim contacts the police to report a dispute without wanting any further action to be taken
 - there is no criminal offence or civil matter involved.
- Members are to consult with a supervisor who can advise on the appropriate course of action.

Referrals

3. Referrals to WorkSafe Victoria

- Refer to WorkSafe Victoria (WorkSafe) where there are no criminal charges applicable and there is an allegation of workplace bullying.
- Bullying is repeated, unreasonable behaviour directed towards an employee, or group of employees, that creates a risk to health and safety. See section 16 for further information.

4. Referrals to Dispute Settlement Centre of Victoria (DSCV)

4.1 *Role of DSCV*

DSCV provides an informal, impartial, accessible, low cost dispute resolution service to all communities in Victoria. It assists people to be responsible for the resolution and outcome of their own disputes and provides an alternative to legal action.

4.2 *Purpose of dispute resolution*

DSCV provides an option to police of referring appropriate matters for resolution or mediation to:

- address the underlying cause of the dispute, rather than its behavioural symptoms, leading to a better outcome in the longer term
- save public resources by diverting minor disputes away from a resource-intensive emergency response system (e.g. police and courts) that is designed to deal with safety.

4.3 *Criteria*

A dispute is appropriate for referral to DSCV for assessment if:

- the dispute is not a family violence matter (family violence matters must be investigated in accordance with **VPM Family violence**); and
- no current orders/undertakings/bail conditions exist that prevent contact between parties; and
- the dispute is not a current Family Law matter before the Family Law Court or the Federal Magistrates' Court of Australia; and
- there are no immediate concerns for the safety of either party; and
- there are no concerns about the mental health or wellbeing of either party.

4.4 *Referring matters*

- Where a police member attends a dispute or is contacted by an aggrieved person, and is satisfied the matter may be appropriate for mediation, they must seek the consent of at least one of the parties for their details to be passed on to the DSCV (members may only pass on details of the party/parties who have given consent; see section 4.6 for further instruction).
- Referrals should be made by using the Victoria Police e-Referral (VPeR) system (refer to the [VPeR intranet page](#) for assistance in using the system).

- A pamphlet explaining the mediation process should be provided to the party/parties (additional copies are available from the Manager, DSCV Courts Programs on 1300 372 888).
- The referring police member is not expected to participate any further in the mediation process.

4.5 *Process for referral*

- On referral, a trained Dispute Assessment Officer (DAO) at the DSCV will contact the parties and assess whether the matter is appropriate for mediation. Factors taken into account by the DSCV when assessing suitability for mediation are:
 - extent/level of harm caused by previous behaviour
 - an assessment of future risk of harm, including escalation of the threat or violence
 - level of vulnerability of the applicant (e.g. mental health, disability, age)
 - level of fear felt by the applicant
 - existence of any power imbalance between the parties, including whether there has been any violence
 - duration of behaviour
 - whether the application for a non family violence intervention order was brought by a police officer on behalf of the applicant
 - if there are any court orders in place that restrict contact between the parties
 - if the parties are family members
 - whether both parties genuinely want to resolve the dispute and are coming to the mediation in good faith
 - if the matter had previously been mediated unsuccessfully
 - whether there is some type of ongoing relationship between the parties.
- If the matter is appropriate for mediation, and the parties agree, mediation will take place.
- The DSCV will refer the party/parties to court if the matter is inappropriate for mediation, or if the party/parties decline to participate in mediation, or if mediation is not successful and they are still aggrieved.
- The DSCV will write to police to advise of the outcome of the assessment or mediation.

4.6 *Privacy*

- Members are only to refer the details of the disputing parties with the express consent of each party. If only one party consents to the referral to mediation, or if the member only speaks with one party, the member can only forward that party's information to the DSCV (regardless of whether one party wants to give the other party's contact information to the police member). Any party to the dispute can advise the DAO of the other party's contact information.
- Mediation is confidential and the DSCV will not disclose the details of mediation to police. However, the DSCV will write to the officer in charge to advise of the outcome (e.g. mediation attempted with successful outcome, or parties declined to participate in mediation).
- Any information sought by external parties may be requested via the Freedom of Information (FOI) Unit, Victoria Police. All parties must be advised that they can seek access to their information held by Victoria Police via the FOI Unit.

Civil matters

5. Overview

- Where appropriate, members are to refer the matter to the DSCV before making an application for a Personal Safety Intervention Order (PSIO) – see Referrals section for more information.
- The *Personal Safety Intervention Order Act 2010* is primarily designed to protect the safety of victims of stalking or prohibited behaviour which includes; assault, sexual assault, harassment, property damage or interference with property, and serious threats. The *Personal Safety Intervention Order Act* aims to achieve its purpose by:
 - providing an effective and accessible system of PSIOs
 - encouraging the use of mediation to assist in the resolution of disputes where appropriate
 - creating an offence for contravention of a PSIO.

6. Application for a PSIO

6.1 Requirements

Always seek advice from a supervisor to discuss case management options.

6.2 Limitations

A court cannot issue a PSIO against a child who is aged under 12 years.

6.3 Procedure

- During court hours, contact the registrar to identify what documents will be needed and when is the most appropriate time to make an application.
- Use the Application for a Personal Safety Intervention Order [Form 422] when applying for a PSIO.
- PSIO applications may be certified, made on oath or by affidavit.
- Members are to include in the application:
 - grounds on which the PSIO is sought
 - reason an interim order is sought until the final order may be decided.
- An application for a Personal Safety Interim Intervention Order (PSIIO) can be made any time from the initial application to the final hearing of a PSIO.
- There is no right of appeal against a PSIIO.

7. Orders and service

Where a final order is issued:

- the Work Unit Managers must ensure that PSIOs are recorded and served in accordance with s.176 of the *Personal Safety Intervention Order Act*
- once served the affidavit of service is to be returned to the court of issue.
- the following Forms should be used when serving PSIOs:
 - Notification of Service of Intervention Order or Interim Intervention Order [Form L31]

- Action Advice Cover Sheet for Service of Intervention Order [Form 958]
- Service of Intervention Order – Information Sheet Proforma [Form 1240].

If a PSIO cannot be served:

- it must be returned to the court of issue by the prescribed time, and/or
- an application should be made for extension or substitute service.

8. PSIO incidents involving police employees

In addition to the general response to prohibited behaviour there are additional requirements for incidents involving Victoria Police employees. Where practicable a sub-officer is to attend at the scene and enquire into the incident. For further guidance see **VPM Complaints and VPM Discipline**.

9. Firearms and weapons

The below table outlines the legislative requirements in the *Personal Safety Intervention Orders Act*, relating to seizure of firearms and weapons, and enter and search powers.

If	Then
In accordance with ss.115(1) or 116(1): • a person is subject to a PSIO; or • a police officer believes there are grounds to make an order; or • a police officer has, or intends to, serve the person with an interstate order (conditions apply; see below) and the police officer is aware the person has: • a firearm • a firearms authority • ammunition, or • a weapon.	In accordance with s.115(2) the police officer may: • direct the person to immediately surrender the item; or • direct the person by Notice to Surrender [Form 1348], to surrender the item to a member at a specified place within a specified time or, if no time is specified, within 48 hours of the direction being given. In accordance with s.116(2) the police officer may, without warrant, enter and search: • any premises where the person resides or has resided; or • the premises where the person committed or allegedly committed prohibited behaviour or stalking; or • a vehicle registered in the person's name.
Requirement to seize items (s.120)	
If a person fails to comply with a direction given under s.115(2), or a police officer searches premises under s.116(2), the police officer: • must seize any firearm or firearms authority the officer is aware is in the person's possession; and • may seize ammunition or a weapon the officer is aware is in the person's possession.	
Conditions for interstate orders (s.116A)	
If a police officer intends to serve or has served an application for an interstate order on a person, the police officer must not give a direction under s.115(2) or enter and search under s.116(2) unless one of the following points applies: 1. the police officer is satisfied on the balance of probabilities that the person has: - committed prohibited behaviour against a person sought to be protected by the order, and; - is likely to do so again, and: ▪ the person's prohibited behaviour would cause a reasonable person to fear for their safety; or ▪ stalked a person sought to be protected by the order and is likely to continue to do so. 2. The police officer believes on reasonable grounds that the direction, or the entry and search are necessary to ensure the safety of the person sought to be protected by the order pending final	

determination of the application.

10. Enforcement powers

10.1 Search of premises – without warrant

- A member for the purposes of arrest, may without warrant, enter and search any premises where the member on reasonable grounds believes a person to be if:
 - the member reasonably believes a person is on the premises in contravention of a PSIO; or
 - the member has the express or implied consent of an occupier of the premises to do so.
- In order to enter a premises a member may, if it is necessary to do so, use reasonable force (s.114).
- If the premises is a school ensure the principal is informed in accordance with the protocol with Department of Education and Early Childhood Development (DEECD).

10.2 Search of premises – warrant

A member may apply for a search warrant [VP Form 1356] where the following condition/s are met:

If	Conditions
PSIO • The member intends to apply for a PSIO against a person or an order has been made against a person Interstate Order • The member intends to serve, or has served on a person an Interstate Order or an application for an Interstate Order against that person	PSIO The member believes on reasonable grounds the person is committing or is about to commit an offence against the Act; <u>or</u> PSIO and Interstate Order The member believes on reasonable grounds the person is in possession of a firearm, a firearms authority, ammunition or a weapon at a premises or in a vehicle that is not one of the following: • where the person resides • where the person has resided • where the person has committed or allegedly committed prohibited behaviour • a vehicle registered in the person's name
Reasonable force (s.118) For the purpose of executing the warrant a member may use reasonable force to: • enter premises • enter the vehicle.	
Further condition where the premises is a school The member must ensure the principal of the school is informed in accordance with the protocol with DEECD.	

11. Bail/remand

- The *Bail Act 1977* applies to, and in respect of, a respondent to an application for a PSIO arrested under warrant, as if the respondent were an accused person charged with an offence to whom s.4 applies (s.23).

- For the purposes of the above the appropriate person must:
 - advise the affected person of the outcome of the application for bail, and
 - if bail is granted, advise the affected person of any special conditions imposed on the respondent that are intended to protect the affected person, and give the affected person a copy of the undertaking of bail.

12. Breach of PSIO

Members may exercise a power to arrest without warrant under s.101, if there are reasonable grounds to suspect that a person has breached a condition of the order.

13. Interstate and New Zealand Orders

Interstate and New Zealand protection orders are enforceable in Victoria if they have been registered with the appropriate registrar.

Criminal matters

14. Overview

- This policy applies to the investigation of stalking and workplace bullying offences reported by members of the community to Victoria Police.
- Investigation of stalking and workplace bullying within Victoria Police are handled by Workplace Standards, Human Resources Department (HRD).
- For other options for proceeding with criminal charges refer to **VPM Disposition**.

15. Stalking

15.1 Offence

Section 21A(1), *Crimes Act 1958* makes it an indictable offence to stalk another person.

15.2 Elements of the offence

The offence includes acts described in s.21A(1), *Crimes Act*, and other general acts relating to harassment or bullying. In order for the offence to be established it must be established that (s.21A(2)):

- there was a course of conduct (see section 15.3)
- the course of conduct involved one or more of the acts listed in s.21A(2) *Crimes Act* (see section 15.4)
- the accused performed the act with the intention of causing physical or mental harm, including self-harm, to the victim or of arousing apprehension or fear in the victim for their safety or for the safety of another person (see section 15.3).

15.3 Course of conduct required for stalking

- Victorian courts have held that the conduct must be engaged on more than one occasion or it must be protracted. It must be conduct that indicates a continuity of purpose.

- Sections 21A(6) and 21A(7) provide that the course of conduct can have occurred outside Victoria as long as the victim was in Victoria at the time or if the victim was outside Victoria, some or all of the course of conduct occurred in Victoria.

15.4 *Acts constituting stalking*

- Sections 21A(2)(a)-(f) list specific behaviours that may constitute stalking. These include following the victim, contacting the victim, publishing material about the victim, loitering, making threats, abusing the victim, or keeping the victim under surveillance.
- Section 21A(2)(g) provides that stalking can include acting in any other way that could reasonably be expected to:
 - cause physical or mental harm (including self-harm); or
 - arouse apprehension or fear in the victim for their own safety or for the safety of any other person.

15.5 *Intention*

In addition to the requirement of s.21A(2), s.21A(3) provides that an offender also has the requisite intention if they:

- knew that engaging in a course of conduct would be likely to cause such harm or arouse such apprehension or fear; or
- in all the particular circumstances, ought to have understood that engaging in a course of conduct of that kind would be likely to cause such harm or arouse such apprehension or fear, and it actually did have that result.

15.6 *Mental harm*

For the purpose of establishing the offence, mental harm includes psychological harm and suicidal thoughts (s.21A(8)).

15.7 *Exemptions and defences*

These are detailed at sections 21A(4) and 21A(5).

16. Workplace bullying

16.1 *Offences*

- While bullying is not a specific offence, bullying behaviour at a workplace may amount to an offence under the stalking provisions of the *Crimes Act* and/or *Occupational Health and Safety Act 2004*.
- Workplace bullying is repeated unreasonable behaviour directed towards a worker or group of workers that creates a risk to health and safety.
- Victoria Police is responsible for prosecutions under the *Crimes Act* and WorkSafe is responsible for investigating incidents based upon the provisions of the *Occupational Health and Safety Act*.

16.2 *Investigations*

- Each organisation will investigate incidents reported to them and is responsible for conducting their own investigations. If the incident involves Victoria Police

employees/workplaces, refer it to Workplace Standards, HRD for investigation in line with **VPM Workplace behaviours**.

- If the incident involves a member from the community the incident will be recorded at the local police station. An assessment will be made at PSA level and a decision, based on the type of offence will indicate which work unit will have responsibility for the investigation in accordance with the Accountability and Resource Model. External to Victoria Police, WorkSafe will investigate incident submissions to WorkSafe.
- If the WorkSafe investigation indicates that the work place bullying behaviour is extremely serious, WorkSafe will refer the matter to the appropriate regional Crime Inspector. The Regional Crime Inspector will notify Crime Command and refer the matter to the relevant Tasking and Coordination Inspector to assess the investigation to determine whether or not charges need to be pursued as indicated by the *Crimes Act*.
- Where *Crimes Act* offences are disclosed, consult with WorkSafe to determine if any Occupational Health and Safety (OH&S) offences apply as well. If it is appropriate that OH&S offences should also be pursued the investigation should be conducted as per section 16.4.

16.3 Prosecutions

- Summary prosecutions – when *Crimes Act* and *Occupational Health and Safety Act* offences arise out of the same incident and such offences are likely to be heard and determined summarily, Victoria Police and WorkSafe will conduct separate prosecutions. Each party will inform the other party of the progress of its prosecution and details of the case outcome.
- Indictable prosecutions – when *Crimes Act* and *Occupational Health and Safety Act* offences arise out of the same incident and such offences are unlikely to be heard and determined summarily, in consultation with the Department of Public Prosecutions, prosecutions will, where possible, be initiated and managed jointly.

16.4 Information sharing

- WorkSafe can request information in relation to internal investigations conducted by Victoria Police via Workplace Standards, HRD.
- When WorkSafe requires information relating to serious crime offences, WorkSafe must formally submit a request to the Assistant Commissioner, Crime Command.

Further advice and information

For further advice and assistance regarding these Policy Rules, contact the Safer Communities Unit, Corporate Strategy and Operational Improvement.

Update history

DATE UPDATED	SUMMARY OF CHANGE	FORCE FILE NUMBER
02/01/18	This document combines and consolidates VPMP Responses to non-family violence disputes , VPMG Personal safety intervention orders , VPMG Dispute Settlement Centre of Victoria and VPMG Responses to	FF-114370

	stalking and workplace bullying in the community	
31/07/19	Legislative update; there is no right of appeal for PSIIOs and an application can be made any time from the application and final hearing.	FF-139534
19/02/21	Policy references updated to reflect review of family violence policies	FF-189857
30/09/2025	Amended to reflect the change to the minimum age of criminal responsibility from 10 years to 12 years.	FF-275060