

Victoria Police Manual – Procedures and Guidelines

Offences by or service of process on police employees

Source Policy

These Procedures and Guidelines support and must be read in conjunction with the following:

- VPMP Complaints and discipline
- VPMG Complaint management and investigation

Application

Procedures and Guidelines are provided to support the interpretation and application of rules and responsibilities. They include recommended good practices and assessment tools to help employees make lawful, ethical and professional decisions. Employees should use the **Professional and ethical standards** to inform the decisions they make to support interpretation of Procedures and Guidelines.

Procedures and Guidelines are not mandatory requirements on their own. However, where rules and responsibilities state that employees must have regard to Procedures and Guidelines, the Procedures and Guidelines must be used to help make decisions in support of the rules.

Procedures and Guidelines

1. Notification of offences and receipt of process

1.1 *Employees' responsibilities*

Employees are required to notify their Work Unit Manager as soon as practicable, in writing, where (on or off duty):

- they are charged with any offence
- they are arrested for any offence
- they receive an infringement notice
- their driving licence is suspended, cancelled, or they are disqualified from obtaining a licence

- they commit a traffic offence/s resulting in the impoundment of the vehicle they were driving
- they are served with an intervention order or family violence safety notice. Also refer to the requirements in **VPM Family violence**
- they receive any other court process, including civil writs or claims and bankruptcy notices.

1.2 Investigating member's responsibilities

- Members investigating any of the above matters must advise their Work Unit Manager and Professional Standards Command (PSC) as soon as practicable.
- Where appropriate, consult with a supervisor or PSC to determine if a more senior member should be appointed to investigate the matter.
- Where a police member is charged with a criminal or traffic offence, the informant must follow the process outlined in the enforcement action against employees section of **VPMG Complaint management and investigation**.

1.3 Work Unit Manager's responsibilities

- Report to the Assistant Commissioner, PSC in the following cases:
 - indictable matters
 - cases where it is believed that the behaviour of the employee is likely to bring the integrity and standards of the Victoria Police or the public sector into disrepute (e.g. drink driving)
 - cases where a police member commits a traffic offence/s resulting in the impoundment of the relevant vehicle
 - cases where a police member's civilian driver licence is suspended or cancelled (including disqualification from obtaining a driver license) due to committing a traffic offence/s involving excessive speed (defined at sections 28(1)(a)(i) and (ii) of the Road Safety Act 1986)
 - cases which may impact upon an employee's ability to perform their duties e.g. firearms offences, family violence process or an employee that is required to drive police vehicles in accordance with their duties has their civilian driver licence suspended/cancelled (or they are disqualified) due to an accrual of demerit points
 - civil writs or claims where the employee is named as the respondent or subject of a claim
 - bankruptcy notices.
- Where the cases relate to a civilian driver licence, also notify the Manager, Driver Training Unit.

- Take any other action seen as appropriate (e.g. arrange to withdraw the employee's driving authority, or OSTT qualification). Also refer to the requirements in **VPM Family violence**.

1.4 Driver Training Unit responsibilities

The Manager, Driver Training Unit must:

- suspend the employee's driving authority for the appropriate period
- monitor the case and where appropriate ensure that the driving authority is reinstated after the employee's licence is returned.

1.5 Assistant Commissioner, PSC responsibilities

Where details are to be reported to the Assistant Commissioner (PSC), the Assistant Commissioner, PSC will be responsible for deciding what action is to be taken.

2. Notification of process against police employees

- In addition to the requirements of section 1, employees must notify the Staff Officer, Legal Services Department and fax a copy of any process:
 - served by the employee, or
 - in which they are named in, served with or if receiving process.
- Process includes:
 - general arrest or summons procedures (including counter summonses, Notice to Appear)
 - civil writs or claims where the employee or Victoria Police is named as the defendant or subject of a claim
 - bankruptcy notices
 - Family Law Court process
 - Intervention Orders
 - Infringement notices only if likely to bring Victoria Police into disrepute or likely to impact on employee's duties.

3. Additional requirements for breaches of Road Safety Road Rules 2017 while driving a police vehicle

3.1 Overview

- When an employee is detected in breach of the *Road Safety Road Rules 2017* and receives a Traffic Camera Office (TCO) file or Infringement Notice, they may:
 - elect to accept and pay the Infringement Notice
 - apply for an Official Warning

- if they are a police member, seek an exemption from the provisions of the *Road Safety Road Rules* under Rules 305 and 307 and apply to have the file or Infringement Notice withdrawn.
- These procedures apply in the following circumstances:
 - police members – when driving a ‘police vehicle’ as per the *Road Safety Road Rules*. Police vehicle means any vehicle driven by a person who is a police member and driving the vehicle in the course of their duties
 - PSOs, Reservists and unsworn employees – when driving any vehicle owned, leased or hired by Victoria Police or any vehicle on loan, or any private vehicle being used for work purposes as authorised under **VPMP Police vehicles**.

3.2 ***Accepting an Infringement Notice (TCO files)***

Employee's responsibility - where an employee receives a TCO file and wishes to accept an Infringement Notice, they are to:

- Prepare a report requesting to have the Corporate Infringement Notice nominated to them as the responsible driver
- forward the report through the Work Unit Manager to the Local Area Commander or Senior Manager

Local Area Commander or Senior Manager's responsibility - the Local Area Commander or Senior Manager endorses the report and forwards the file to the TCO.

3.3 ***Applying for an Official Warning (TCO files)***

Employee's responsibility - where an employee receives a TCO file and believes that there are circumstances that warrant review of the Infringement Notice, they may apply for an Official Warning. The employee is to:

- prepare a report addressing the circumstances and attach it to the TCO file
- forward the file through their Work Unit Manager to the Local Area Commander or Senior Manager.

Local Area Commander or Senior Manager's responsibility - the Local Area Commander or Senior Manager is to comment on the appropriateness of an Official Warning being issued and forward the file to the TCO.

3.4 ***Exemptions from Road Safety Road Rules 2017***

Legislation -

- Under Rules 305 and 307, *Road Safety Road Rules*, the provisions of the Road Safety Road Rules do not apply to the driver of a police vehicle in certain circumstances.
- The exemptions under Rules 305 and 307, *Road Safety Road Rules* only apply to police members.

Employee's responsibility - A police member seeking an exemption under Rule 305 or Rule 307 is to:

- submit a report requesting that an exemption under Rule 305 or 307 be granted. The report should:
 - address the circumstances which warrant the exemption
 - include supporting documentary evidence contemporaneous to the breach of the *Road Safety Road Rules*, where available, e.g. Patrol Duty Return or Official Diary entry.
- forward the report through the Work Unit Manager to the Local Area Commander or Senior Manager.

Police members undertaking Approved Driver Training being conducted according to Driver Training Unit or Special Solo Unit policy may have an exemption applied for on their behalf by the relevant training unit.

Local Area Commander or Senior Manager's responsibilities -

- Determine whether an exemption is appropriate given the reasonableness of the:
 - manner of driving
 - circumstances of the breach.
- At the completion of enquiries make a recommendation and forward a copy of the completed Schedule 1 to the TCO. Where an exemption is recommended retain original exemption file. Where an Infringement Notice or Official Warning has been recommended the entire file must be returned to the TCO.

Parking Infringement Notice issued by other authority – send the report, with the Infringement Notice, to that authority.

3.5 ***Unidentified drivers***

Where the driver subject of the TCO file cannot be identified, the Local Area Commander or Senior Manager endorses the Schedule 1 accordingly. A copy of the Schedule 1 is to be forwarded to the TCO.

3.6 Processing files

TCO files – On receipt of the file/report the TCO will progress the file in accordance with the recommendation and:

- Nominate the Corporate Infringement Notice to the identified driver and cause an individual infringement notice to be issued or;
- Nominate the Corporate Infringement Notice to the identified driver and issue an Official Warning or;
- where an exemption is appropriate, close the file.

Parking Infringement Notices issued by other authority – That authority will determine if the application for exemption is accepted.

3.7 Where member elects to defend traffic charges – TCO files

- Where a member opts to defend traffic charges arising from non-payment of a traffic Infringement Notice, the TCO prepares the brief and where applicable, issues summons.
- TCO may require the Local Area Commander or Senior Manager to obtain additional evidence such as statements or documents. If the member is interviewed during this process, the interview must be tape-recorded.
- Forward any brief or summons to the subject employee's Local Area Commander or Senior Manager for authorisation, refer to section 4.

4. Authorisation of briefs

Submit briefs to the Assistant Commissioner, PSC for authorisation prior to commencing any proceedings. In the following exceptions, the above authorisation requirement does not apply.

Authorisation of briefs exceptions		
Where a subject employee or informant's Senior Manager is unsworn, forward the brief to the Assistant Commissioner, PSC for authorisation.		
Offence	Authorisation	Additional requirement
Offences subject to arrest	none	Following arrest, refer brief to the Assistant Commissioner, PSC
Drink driving Offences	Where an instant summons has been issued in conjunction with notice of immediate suspension under s.51, <i>Road Safety Act</i> – as detailed in VPM Road policing - enforcement	
Briefs arising from unpaid or contested Infringement Notices issued by the TCO	Subject employee's sworn Senior Manager	Where not authorised, follow the relevant non-authorisation procedures

Briefs arising from unpaid or contested Infringement Notices issued by a police member	The informant's sworn Senior Manager	in VPMP Briefs of evidence and refer the brief to Assistant Commissioner, PSC for filing.
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Further Advice and Information

For further advice and assistance regarding these Policy Rules, contact your supervisor or your local Ethics and Professional Standards Officer (EPSO).

Update history

Date of first issue	22/02/10	
Date updated	Summary of change	Force File number
05/12/11	As part of OIC Driver Training Unit's VPM review, "Centre for Driver Training" has been changed to reflect updated terminology and is now referred to as Driver Training Unit.	069842/11
18/01/13	Updated to reflect organisational governance and structural changes.	FF-074790
28/4/14	Amendments concerning the reporting of traffic offences committed by employees	FF-081832
01/07/14	Legislative references updated due to commencement of <i>Victoria Police Act 2013</i> .	FF-083298
19/01/15	Amendment regarding letter of demand for corporations due to changes to the <i>Infringements Act 2006</i>	FF-091190
27/07/15	Operational Safety and Tactics Training (OSTT) reintroduced as standard terminology.	D15/025242
18/06/18	Cross reference to VPMG Complaint management and investigation in relation to informants responsibilities	FF – 120935
08/10/18	Amendment to specify employees are to notify Work Unit Manager if they receive civil writs or bankruptcy notices.	FF-113479
23/03/20	Update of <i>Road Safety Rules</i> from 2009 to 2017	FF-151202
19/02/21	Policy references updated to reflect review of family violence policies	FF-189857
13/10/22	Cross reference updated to new VPM Road policing - enforcement	FF-190724 2