

**IN THE MATTER OF THE ROYAL COMMISSION
INTO FAMILY VIOLENCE**

**ATTACHMENT WS AH-10 TO JOINT STATEMENT OF ASSISTANT COMMISSIONER
WENDY MAREE STEENDAM AND SENIOR SERGEANT AILSA CAROLINE HOWARD**

Date of document: 3 August 2015
Filed on behalf of: the Applicant
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This is the attachment marked '**WS AH-10**' produced and shown to **WENDY MAREE STEENDAM** and **AILSA CAROLINE HOWARD** at the time of signing their Joint Statement on 3 August 2015.

Before me: .

An Australian legal practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)

Attachment WS AH-10

Victoria Police Manual – Procedures and Guidelines

Formal arrangements with external organisations

Source policy

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

- VPMP Formal arrangements with external organisations

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. Overview

These guidelines support the requirements of **VPMP Formal arrangements with external organisations**, by providing further detail on when a formal written arrangement between Victoria Police and another organisation may or may not be appropriate, assessment criteria, different types of arrangement and the process for developing, signing and managing such documents.

These Procedures and Guidelines do not apply to procurement arrangements, which are managed through Procurement, Contracts and Commercial Division, Business Services Department.

2. Initiation

- Formal written arrangements between Victoria Police and an external organisation may be required to address information sharing

arrangements, relationship or jurisdictional arrangements and/or resource or cost arrangements.

- As stated in **VPMP Formal arrangements with external organisations**, any proposed arrangement must be forwarded to the Principal Legal Adviser, Commercial Law, Legal Services Department.
- There are circumstances when a formal written arrangement might not be necessary or appropriate. For example:
 - To document one-off or infrequent arrangements that do not need to be legally binding
 - When the arrangements or responsibilities are already reflected in existing legislation
 - When the arrangements are already or should be addressed in the policy or procedural manuals of the respective parties.

If employees are not sure if a formal arrangement is required, they should submit a proposal as above, or seek advice from the Principal Legal Adviser.

3. Assessment

3.1 *Initial assessment*

The Principal Legal Adviser will:

- Conduct an initial assessment of the proposed arrangement. This may include seeking further information from the employee who has submitted the proposal and consulting with relevant subject matter experts.
- Determine whether the assessment group (comprising representatives from Legal Services, Corporate Policy and IMSSD) should be convened to consider the proposal. Generally, all proposals involving information sharing arrangements will be referred to the Group, but the Group may also be consulted on proposals that address other arrangements.
- Arrange for the proposal to be recorded on the Formal Arrangements Register (maintained by IMSSD).

3.2 *Criteria for when an arrangement is required*

The Principal Legal Adviser and/or the assessment group will assess whether Victoria Police should enter into a formal written arrangement with an external organisation in accordance with the following.

Victoria Police Manual - Guidelines – Formal arrangements with external organisations

| Situation | Criteria for when a formal arrangement is required |
|---|--|
| Information sharing arrangements | <ul style="list-style-type: none"> • When external agency seeks: <ul style="list-style-type: none"> - direct access to a Victoria Police information repository through their IT system (i.e. a 'Approved Third Party' arrangement) - changes to their current access. • When there is a frequent and continuing need for Victoria Police to disclose information to an external agency, and there is a need to clarify or control the scope of the information release because <ul style="list-style-type: none"> - the information is sensitive or personal - the organisation does not have a clearly defined statutory responsibility to have the information - the information release is not authorised in VPMP Information sharing • When Victoria Police seeks access to information held by an external agency and the external agency wishes to control the scope of the information release through a formal document. • Where research approved in accordance with VPMG Research involves access to Victoria Police information |
| Relationship/ jurisdictional arrangements | <ul style="list-style-type: none"> • When there is a specific need to define or clarify the jurisdiction, roles or responsibilities of organisations where they overlap or intersect, e.g., to solve operational problems, for complex interagency relationships. Includes joint operations or investigations authorised in accordance with VPMP Crime investigations and reporting • When there is a need to establish general relationship principles and strategic intentions between organisations, and to facilitate subordinate agreements, protocols or procedures. |
| Resource or cost arrangements | <ul style="list-style-type: none"> • When there is a frequent and continuing need for Victoria Police to use the expertise, resources or facilities of a government organisation or statutory authority. • When there is a frequent and continuing need for a government organisation or statutory authority to use the expertise, resources or facilities of Victoria Police. • Where there is a need to specify responsibility or liability for financial or legal matters. • Where a donation or sponsorship (approved in accordance with VPMP Donations and sponsorship) has a value of more than \$1000 or when Media and Corporate Communications Department advises it is necessary. |

3.3 Other considerations

When assessing the proposal, the Principal Legal Adviser and/or the assessment group will also consider:

Victoria Police Manual - Guidelines – Formal arrangements with external organisations

- If a formal arrangement is the most appropriate way to address the situation, having regard to the criteria above or whether another mechanism or instrument is more suitable
 - Whether a formal arrangement offers any benefit to Victoria Police
 - Whether the proposed arrangement infringes, limits or conflicts with the statutory powers of the organisation
 - Whether the proposed arrangement is consistent with the role, responsibilities, policies and standards of Victoria Police
 - Whether the proposed relationship or arrangement is in the public interest
 - If an Approved Third Party arrangement is being sought, whether initial consent has been granted from the System Sponsor/Information Owner of that particular information repository
 - If the proposal involves information sharing arrangements, whether the external organisation is able to meet the relevant the Commissioner for Law Enforcement Data Security Standards. Further enquiries by Information Security, IMSSD, may be undertaken to make this assessment
 - If the proposal involves information sharing arrangements, the conclusions of an assessment conducted by Information Security, IMSSD. Depending on the risks involved, the degree of detail required for the assessment will vary from:
 - whether the external organisation is able to meet the relevant the Commissioner for Law Enforcement Data Security Standards (required for any proposed Approved Third Party arrangement). (Further enquiries by Information Security, IMSSD, may be undertaken to make this assessment)
 - to a formal Information Sharing Risk Assessment, which consists of:
 - a Proportionality test
 - a Privacy Impact Assessment
 - an Information Security Threat and Risk Assessment
 - a Human Rights Impact Assessment.
- and is necessary for information sharing in relation to:
- any Victorian major project development
 - any Victorian major events
 - any information sharing arrangement which releases law enforcement data to a commercial organisation, and
 - any other arrangement that constitutes a significant risk to Victoria Police.

3.4 Recommendation

- If the Principal Legal Adviser and/or the assessment group agree that a formal arrangement is required, it will proceed to the development stage.
- If another mechanism is considered more suitable, this will be documented on the Force File and returned to the employee who initiated the proposal.

4. Development

4.1 Coordination

As stated in **VPMP Formal arrangements with external organisations**, the Principal Legal Adviser is responsible for coordinating the development of the formal arrangement. The Principal Legal Adviser will work with the employee that proposed the arrangement or another nominated employee (the 'arrangement developer') to develop a suitable document in line with **IMSSD Guide - C150 - Formal Arrangements Development Checklist**.

4.2 Drafting

The Principal Legal Adviser may arrange for the preparation or review of a draft document in consultation with the Victorian Government Solicitor's Office (VGSO) and the arrangement developer. The status of the external organisation and the nature of the relationship will inform what type of arrangement is required. For example:

- Memoranda of Understanding (MOUs) – are used when entering into written arrangements with government or statutory organisations. MOUs state matters of common understanding, and are generally made in good faith and are not intended to be legally binding. Such arrangements may also be known as interagency agreements, protocols or by other titles.
- Contractual agreements – are required when the arrangement needs to be legally binding. Generally, these are required for arrangements with private organisations.

All Approved Third Party arrangements with an organisation should be centralised into the one MOU/agreement to ensure administrative efficiency and centralised security administration.

4.3 Consultation and negotiation

- To refine the draft document, the Principal Legal Adviser or the arrangement developer may consult with any internal stakeholders who may be involved in or affected by the proposed arrangement.

- Once drafted, the Principal Legal Adviser or the arrangement developer is responsible for negotiating the content of the document with the party/ies to the arrangement.
- If the draft document changes significantly as a result of these negotiations, further consultation with the VGSO or other stakeholders may occur as required.
- When Victoria Police and the external organisation are satisfied with the content of the document, it can progress to the signature stage.
- Principal Legal Adviser or the arrangement developer is required to document details of the consultation and negotiation on the Force File.

4.4 Signature

- The Principal Legal Adviser or the arrangement developer is responsible for arranging the signing of the document, in consultation with the party/ies to the arrangement.
- The relevant Accountable Officer or the Policy Owner where appropriate is responsible for signing these documents on behalf of Victoria Police.

5. Recording and communication

- Once all parties have signed the document, one of the original copies is to be placed on the Force File. Forward the other original copy/ies to the other party/ies.
- A copy of the signed arrangement must be provided to Information Security, IMSSD, where the Formal Arrangements Register is maintained.
- Information Security, IMSSD will provide a list of current arrangements to Corporate Policy, who will publish a list of arrangements that have operational relevance on the intranet.
- Copies will be available on request from Corporate Policy.

6. Release

- Refer requests for copies of arrangements from employees or other government department to Corporate Policy for actioning as follows:
 - copies may be provided to Victoria Police employees for internal reference
 - copies of an arrangement may be provided to a party to that arrangement

Victoria Police Manual - Guidelines – Formal arrangements with external organisations

- requests from other government departments, agencies or law enforcement bodies should be made by letter. Approval from the relevant Accountable Officer will be sought before release.
- Refer other requests to Freedom of Information.

7. Review and termination

As stated in **VPMP Formal arrangements with external organisations**, the arrangement must include a date of review and/or termination. The review date will be two years from the date of execution, except where the arrangement requires otherwise. The Accountable Officer or Policy Owner must ensure the arrangement is reviewed by the review and/or termination date and advise Information Security, IMSSD for noting on the Formal Arrangements Register.

- To review the document, the Accountable Officer or Policy Owner should consider whether the arrangement is still appropriate, having regard to the criteria in section 3. Advice from relevant subject matter experts may also be sought.
- If the arrangement is to be renewed or updated, the process outlined in **VPMP Formal arrangements with external organisations** applies.
- As stated in **VPMP Formal arrangements with external organisations** if the arrangement is to be terminated, it must be in writing. If the arrangement concerns information sharing, the termination process should involve all parties engaged in the sharing being informed to cease that sharing.

Further Advice and Information

For further advice and assistance regarding these Procedures and Guidelines contact the Principal Legal Adviser, Commercial Law, Legal Services Department.

Update history

| Date of first issue | 14/11/11 [Force File 064195/10] | |
|---------------------|--|-------------------|
| Date updated | Summary of change | Force File number |
| 18/11/13 | References to redundant instruments following IMSSD review have been updated with corresponding new instruments. | 069562/11 |
| 03/11/14 | Included Policy Owner's responsibilities relating to their signatures. Minor reference to IMSSD checklist. | 064195/10 |