

Disclaimer: The material in this fact sheet is intended as a general guide only. You should not act on the basis of this information in this fact sheet without first getting legal advice about your own particular situation. This fact sheet is based on the law in Victoria as at November 2017.

Do police have the power to order me to move on or stay away?

Police in Victoria can order you to move on or stay away from a public place in certain situations.

What about Protective Services Officers (PSOs)?

Protective Services Officers (PSOs) have the same powers as police to order you to move on or stay away if you are on or near railway premises. That includes roads, carparks, bus stops or taxi ranks connected with or leading into a train station.

How long can a police officer or PSO order me to stay away for?

A police officer or a PSO can order you to stay away from a particular public place for up to 24 hours.

When can police or PSOs order me to move on or stay away?

A police officer or a PSO can order you to move on or stay away from a public place if they have reason to believe:

- you are a danger to other people's safety
- you may damage property
- you are "breaching the peace" or you are likely to breach the peace

Exception: a police officer or PSO cannot order you to move on from an area if you are there to protest or publicise your views about a particular issue or if you are there to take part in strike action.

What does 'breach the peace' mean?

Generally speaking, 'breaching the peace' means making noise or causing a nuisance or disturbance to others in public. Unfortunately, the law does not explain exactly what 'breach the peace' means when it comes to police and PSO orders to move on or stay away. A police officer or a PSO might have a different view from you about what behaviour amounts to a breach of the peace.

See below for how to make a complaint if a police officer or a PSO orders you to move on or stay away and you do not agree with their reasons or you think it is unfair.

What happens if I do not follow an order to move on or stay away?

If you do not follow the order by going back to the area you were ordered away from within the time ordered by the police officer or the PSO, you may be fined or charged if you get caught and you do not have a reasonable excuse.

Does an order to move on or stay away have to be in writing?

No. A direction to move on or stay away from a police officer or a PSO can be verbal and it does not have to be in writing.

What if police or PSOs treat me unfairly?

If you think a police officer or a PSO had no right to order you to move on or stay away, it is best to follow the order and make a complaint about it later. If you do not follow a lawful order to move on or stay away, it can lead to more legal hassles for you including a fine or a charge in court.

If police treat you unfairly, try to remember as much about what happened as you can, such as the time, the date, your location and the name and contact details of any witnesses.

Remember: you have the right to ask for the police officer or PSOs name, rank and station and they must give you this information by law. Write all the information down somewhere safe because this will help you make a complaint later.

Where can I find out more or get help to make a complaint?

Youthlaw

If you are under 25, you can get free and confidential legal advice.

Phone: (03) 9113 9500 (9am-5pm, Mon-Fri) ☐

Website: www.youthlaw.asn.au

Victoria Legal Aid - Legal Help

For legal information, referrals or appointments.

Phone: 1300 792 387

Website: www.legalaid.vic.gov.au

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