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| Weapons management in Victorian health services |
| Principles and guidelines |

# Background

Weapons pose a serious risk in any setting, and particularly in health services, which can be highly-charged environments. It is essential that Victorian health services and their staff are aware of their rights and responsibilities in relation to weapons management.

Health services should have local policies and procedures that are integrated with their organisation’s approach to emergency and incident management responses, and preventing and managing occupational violence and aggression.

# Purpose

This guide has been developed to assist Victorian health services to establish appropriate policies and procedures for the management of weapons in health services. The principles and guidelines apply to the whole health service community – that is, health service leaders, employees, contractors, volunteers, patients and visitors.

This document is intended to provide guidance only, and health services should obtain their own independent legal advice when developing local policies and procedures. Relevant internal and external stakeholders should also be consulted.

The content of this document is limited to the management of weapons. It does not cover violent and aggressive behaviour in unarmed individuals. Further resources on preventing and managing occupational violence and aggression in health services are available on the [Worker Health and Wellbeing webpage](https://www2.health.vic.gov.au/health-workforce/worker-health-wellbeing/occupational-violence-aggression) <https://www2.health.vic.gov.au/health-workforce/worker-health-wellbeing/occupational-violence-aggression>.

# Principles

Principle 1: The healthcare setting is safe for staff, patients and visitors.

Principle 2: Health services and their staff act in accordance with the law in relation to the detection and management of weapons.

Principle 3: Health services build cooperative relationships with local police to facilitate appropriate information sharing about, and management of, weapons.

Principle 4: Individual health services have policies and procedures relating to the management of weapons.

# Definitions

For the purpose of this document, the term **weapon** includes **firearms, non-firearm weapons** and **dangerous articles**.

A **firearm** is any device:

* whether assembled or in parts
* whether or not temporarily or permanently inoperable or incomplete
* which is designed or adapted to discharge a bullet or other missile, or
  + which has the appearance of an operable firearm.[[1]](#footnote-1)

**Non-firearm weapons**, for the purpose of this document, are items defined as **prohibited weapons** and **controlled weapons** under the *Control of Weapons Act 1990.*

**Dangerous articles (non-firearm)** are items that have either been adapted for use as a weapon or are carried with the intention of being used as a weapon. Such articles may include items commonly used in healthcare settings, such as syringes or scissors, which could potentially be carried for use as a weapon.[[2]](#footnote-2)

A **prohibited weapon** is an imitation firearm or an item listed in the Control of Weapons Regulations 2011. Prohibited weapons include prescribed knives, such as flick knives and butterfly knives, swords, capsicum spray, crossbows, knuckledusters and martial arts weapons.[[3]](#footnote-3)

A **controlled weapon** is a knife (other than one prescribed as a prohibited weapon) or an item listed in the Control of Weapons Regulations. The list includes dangerous but more common weapons, such as spear guns, batons, bayonets and cattle prods.[[4]](#footnote-4)

A **designated person**, for the purpose of this document,is a staff member who:

* has been identified by the health service as someone who may conduct a search for weapons
* is a **health service worker** as described in the *Firearms Act 1996* and Control of Weapons Act, and
  + is not a **prohibited person** as described in the Firearms Actand Control of Weapons Act.

A **health service worker**, for the purposes of the Firearms Actand Control of Weapons Act, is:

* a health professional (nurses and midwives, registered medical practitioners and registered psychologists but does not include other registered health practitioners)[[5]](#footnote-5)
* a health service security guard (defined as ‘a security guard licensed under the *Private Security Act 2004* when working in a health service facility as a contractor or an employee’)[[6]](#footnote-6)
  + an ambulance worker (defined as ‘an operational staff member of the ambulance services as defined in the *Ambulance Services Act 1986*)[[7]](#footnote-7).

A **prohibited person**, for the purposes of the Firearms Actand Control of Weapons Act*,* includes a person convicted of an indictable offence or assault, or subject to a final order under the *Family Violence Protection Act 2008* or the *Personal Safety Intervention Orders Act 2010*.[[8]](#footnote-8)

A **health service facility**, for the purposes of the Firearms Actand Control of Weapons Act, is:

* a day procedure centre
* a denominational hospital
* a multi purpose service
* a private hospital
* a public health service
  + a public hospital.[[9]](#footnote-9)

# Guidelines

## Obligations of health services

* 1. Health services have a duty to provide a safe environment for staff, patients and visitors.[[10]](#footnote-10)
  2. Health services should have policies and procedures for the deterrence, detection and management of weapons.
  3. Health services should carry out regular risk assessments and take action to eliminate and reduce the risk of violence and aggression, including specific risks posed by weapons, as far as is reasonably practicable.
  4. Health services assess and manage risks irrespective of a person’s need for medical care, their authority to carry a weapon, or their competence to manage their own weapon.
  5. If it is not safe to approach an individual or to provide care, then the health service should take steps that are reasonable in the situation (for example, calling police).
  6. All staff should be trained in procedures relating to the detection and management of weapons.
  7. If an incident involving a weapon occurs, post-incident response processes should be in place for staff and patients, and should include immediate and follow-up support.

## Prevention measures

* 1. Health services should implement appropriate prevention measures. Such measures may include but not be limited to:
     + signage at entry points, advising that:
       - * weapons are not permitted on health service premises
         * entry may be refused if a person is found in possession of a weapon
         * it is a condition of entry to the premises that a person agrees to be searched for weapons
     + risk mitigation through building design, using crime prevention through environmental design principles (for example, through access control, management and design of reception and waiting spaces, secured fixtures, and lines of sight to enable surveillance)[[11]](#footnote-11)
       - establishing and maintaining relationships with local Victoria Police.
  2. Health services are aware that, even where a weapon is held by a lawfully authorised user, there is a risk of misuse, and appropriate prevention measures therefore need to be in place.
  3. Health services are aware of the potential for everyday or healthcare-specific items to be used as weapons, and introduce appropriate risk management controls (for example, access-controlled treatment rooms).

## Practical and operational matters

### General

* 1. Actions by health service employees must be lawful, comply with the Firearms Act and the Control of Weapons Act, and be in accordance with their health service’s policies and procedures.

### Suspected weapons

* 1. Where a weapon is suspected, health services should take actions appropriate to the type of weapon and level of risk, as set out in the table below.

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| Type of weapon | Action |
| In all cases | The health service’s policies should allow any staff member who requires support to call a Code Black (a hospital-wide internal security response to actual or potential aggression involving a weapon or serious threat to personal safety).  Any item that is used in an attack or threatened attack should be reported to police as soon as possible. |
| Firearms | The health service should contact police immediately when the presence, or likely presence, of a firearm is detected. |
| Non-firearm weapons: prohibited weapons | If the health service knows or suspects that an individual is in possession of a prohibited weapon, the health service should advise the person that they may not enter the premises. The health service should also consider advising the police that the person is in possession of such a weapon.  This is irrespective of whether the person has an exemption or approval (under the Control of Weapons Act) for possessing the weapon. |
| Non-firearm weapons: controlled weapons | If the health service knows or suspects that an individual is in possession of a controlled weapon, the health service should generally advise the person that they may not enter the premises.  This is irrespective of whether the person has a lawful reason for possessing the weapon, other than in the case of police.  Health services should be aware that certain controlled weapons, such as some knives, may have cultural, ceremonial or religious significance to the owner. As a general guide, health services should undertake a risk assessment regarding any item that may cause risk or harm, and determine appropriate controls to eliminate or reduce the identified risk. |
| Dangerous articles | Health services should undertake a risk assessment regarding any item that may cause risk or harm, and determine appropriate controls to eliminate or reduce the identified risk. |

### Searching for weapons

#### Searches conducted by police

* 1. Police may only search a person for a weapon in limited circumstances, as specified in the relevant legislation.
  2. In situations where police accompany a person to the health service, health service staff should:
     + confirm with police on arrival whether the person has been searched for a weapon, and
       - document the outcome of that search.
  3. Health services may wish to clarify local protocols with the police representatives on their occupational violence and aggression committee (or similar committee, however named).

#### Searches conducted by health service workers

* 1. Health service workers may only search a person for a weapon in limited circumstances, as set out in the table below.

| Issue | Considerations and requirements |
| --- | --- |
| When can a search be carried out? | A search can be carried out on site at a health service facility if:  there is a reasonable suspicion that a person is carrying a weapon (for example, staff have sighted the weapon, or have been informed by other means), and  the person consents to be searched. Health services may use signage to notify entrants that they may be requested to submit to a search in certain circumstances, but must still ask the person for permission before carrying out a search. |
| What if the person does not consent to a search? | If a person refuses, is unable or lacks capacity to consent to a search:  the health service should ask the person to leave, and escort them from the premises  the health service should contact police if the person will not leave, or it is impractical or inappropriate to require the person to leave (for example, where the person requires immediate medical treatment)  a search without consent will only be justified in limited exceptional circumstances where there is a lawful reason. |
| What is a lawful reason? | Health services should seek their own independent legal advice about the limited circumstances in which there may be a lawful reason to search a person without consent.  A search without consent should only be carried out in an emergency situation as a last resort, and where no other options are available to contain the perceived risk. Such situations may include:  where urgent action is required in view of an imminent threat to the life or health of an individual  to prevent a person from committing suicide[[12]](#footnote-12)  to prevent a person from committing an indictable offence.[[13]](#footnote-13)  In all cases, any action taken would need to be reasonable, necessary, and proportionate to the risk. |
| Who should conduct the search? | A search should only be conducted by a designated person, as defined in this document.  The search should be witnessed by a second staff member, who is ideally also a designated person.  Gender issues should be considered, and any search that requires the patient to remove items of clothing or where there will be contact with their body should be undertaken by staff members of the same gender as the patient where possible. |
| How should a search be carried out? | Searches should be undertaken with sensitivity and respect for a person’s dignity.  Health services determine what level of screening is appropriate based on risk. In most contexts no-contact screening activities should be sufficient (for example, requiring a person to empty their pockets or open their bags, or metal detection scanning).  Health services should seek their own independent legal advice as to when a contact search of the person for a weapon is justified. Other options, such as asking the person to leave or calling the police, should be considered.  The outcome of any search should be documented. |
| Mental health patients – specific guidelines | The Chief Psychiatrist’s guideline [*Criteria for searches to maintain safety in an inpatient unit*](https://www2.health.vic.gov.au/about/key-staff/chief-psychiatrist/chief-psychiatrist-guidelines/criteria-or-searches-maintain-safety-in-inpatient-unit-for-patients-visitors-staff), available at<https://www2.health.vic.gov.au/about/key-staff/chief-psychiatrist/chief-psychiatrist-guidelines/criteria-or-searches-maintain-safety-in-inpatient-unit-for-patients-visitors-staff>, provides guidance on searches in mental health inpatient units.  There is also a limited power to search a person before they are taken to or from a designated mental health service. Searches may only be carried out by an authorised person (as defined in the *Mental Health Act 2014*) if the authorised person reasonably suspects that a person is carrying anything that:  presents a danger to the health and safety of the person or another person, or  could be used to assist the person to escape.[[14]](#footnote-14) |

### Confiscation and management of weapons

* 1. Processes must be followed when a designated person takes possession of a weapon. Relevant matters are set out in the table below.

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| Matter | Requirements |
| Confiscation | It is illegal to possess a firearm or non-firearm weapon without a licence or an exemption.[[15]](#footnote-15) However, a health service worker may be exempt from committing an offence when possessing a firearm, non-firearm weapon or dangerous article if:  the staff member is a designated person, as defined on p. 2 of this document  they are in a health service facility  the designated person takes possession of the firearm or other weapon in the course of carrying out his or her duties, and  the weapon is:   1. given to them by a patient, or 2. removed from a patient, or 3. found in the vicinity of the patient, or 4. given to them by a health professional or ambulance worker who has taken possession of the firearm or weapon in one of the above circumstances.[[16]](#footnote-16) |
| Notification | For firearms: the health service should contact police immediately when a firearm is detected, and arrange for its collection within agreed timeframes.  For non-firearm weapons: the health service should contact police to arrange for the collection of non-firearm weapons within agreed timeframes.  For dangerous articles: the health service should use its discretion in determining whether police should be notified about a dangerous article, and whether collection by police is necessary. |
| Storage | The health service should ensure that any firearm, non-firearm weapon or dangerous article is safely stored until it is collected by police, returned to the owner or safely disposed of as appropriate. The storage space should be locked, and access to keys should be restricted. |
| Handover and disposal | For firearms and non-firearm weapons: once confiscated, firearms and non-firearm weapons should only be handed over to police. It is then the responsibility of police to determine an appropriate course of action for the item.  For dangerous articles:  items that have either been adapted for use of a weapon, or are carried with the intention of being used as a weapon, should be handed over to police  the health service may use its discretion in relation to other items that could potentially be used as a weapon, and should undertake a risk assessment to determine the course of action. For example, some dangerous articles such as syringes should be disposed of safely; other personal items may be returned to the owner if appropriate. |
| Documentation | Details of the confiscation, storage and collection of any weapon should be appropriately documented (refer to the ‘Documentation and reporting’ section below for a list of matters that should be documented). |

## Documentation and reporting

* 1. The management of weapons should be subject to documentation, data collection, monitoring, reporting and evaluation by the health service.

### Documentation

* 1. Relevant details about weapons should be recorded in a register maintained by the health service, and information specific to a patient, their family or visitors should also be flagged on the patient’s record.
  2. Matters to be documented should include, but not necessarily be limited to, the matters set out in the following table.

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| Matter | Details to be recorded |
| Searches by police | Confirmation as to whether a person has been searched for a weapon, and the outcome of that search |
| All other searches | Details of any search carried out, including the date and time of the search, the name of the person searched, the name of the designated person who conducted the search, confirmation that consent was given, and the outcome of the search |
| Confiscation and storage | The type of weapon, the name of the person from whom the weapon was taken, the name of the person who takes possession of the weapon, the date and time of confiscation and the storage location, and details of notification to police |
| Collection | The time of collection, handover details, and acknowledgement of receipt by the person collecting the weapon |
| Adverse events | Details of any adverse events or injuries |

### Data collection, reporting and evaluation

* 1. The health service should undertake regular reporting about weapons to the occupational violence and aggression committee (or similar committee, however named), chief executive officer, and board.
  2. Data collection, reporting and evaluation should include, but not necessarily be limited to, the matters set out in the table below. Reporting should link with local incident reporting, Code Grey and Code Black reporting.

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| Matter | Details to be reported |
| Searches | The number of searches carried out and the outcomes of those searches (whether or not a weapon was detected) |
| Confiscation and storage | The number and type of weapons, and where in the health service they were detected |
| Collection | The number and type of weapons collected by police, and whether they were collected within agreed timeframes |
| Adverse events | Adverse events and injuries to staff or patients |
| Incident review | Reviews of incidents at the health service involving a firearm or any other weapon, including incident outcomes, trends identified, learnings, and any measures put in place to improve prevention |

## Health service and police cooperation

* 1. Formal partnerships between health services and police are essential for optimal management of weapons.
  2. Agreements should be negotiated at a local level, and should include:
     + agreement about the appropriate authorised carriage and use of weapons by police officers within the different areas of the health service
     + access to gun safes or agreed alternatives
     + processes for notification, storage and handover of weapons to police
     + agreed timeframes for the collection of firearm and non-firearm weapons by police
     + agreement about the process when a patient is escorted to hospital by police
     + information that police may provide to the health service, including:

1. confirmation whether the person has been searched for a weapon, and the outcome of that search
2. information that the police believe is necessary to lessen or prevent a serious threat to a person’s life, health, safety or welfare, or a serious threat to public health, public safety or public welfare[[17]](#footnote-17)
   * + - agreements to guide decision making about the return of dangerous articles to owners who have a legitimate reason for having such an item.

## Health service weapons management policies: key elements

* 1. A health service’s policy and procedures for management of weapons should be consistent with these guidelines, and should take into account local conditions, operational requirements and resources.
  2. When developing or reviewing their policy and procedures, health services should obtain their own independent legal advice, and should consult with local police.
  3. Policies and procedures should use clear and consistent language, terminology, and weapons definitions.
  4. The policy and procedures should be integrated with the organisation’s other policies for emergency and incident management responses (such as Code Black).
  5. Local policies and procedures should cover the following matters:

| Matter | Policy and procedures should: |
| --- | --- |
| Staffing and responsibilities | identify which workers (including contractors, such as external security contractors or agency staff) are designated persons, as defined in this document  set out the specific circumstances in which a designated person may take possession of a weapon without committing an offence  set out the process for ensuring that the health service is informed of any workers (including contractors, such as external security contractors or agency staff) who are prohibited persons under the Firearms Act and the Control of Weapons Act and ensure that these workers and their managers are aware that they would be committing an offence by taking possession of a weapon  ensure staff involved in the management of weapons are aware of, and are trained in, their responsibilities, including understanding the different categories of weapons and processes for dealing with each  nominate who is authorised to refuse entry if a person does not consent to be searched  nominate who is authorised to refuse entry if an individual is suspected to be in possession of a non-firearm weapon or dangerous article |
| Process to follow when a weapon is suspected | allow any staff member who requires support to call a Code Black  include procedures for notifying police immediately when the presence of a firearm is suspected  set out the process to be followed to refuse entry to the premises if it is suspected that an individual is in possession of a non-firearm weapon or dangerous article |
| Searches | stipulate how a search by a designated person is to be conducted, and identify the no-contact screening activities that may be used  set out the process to be followed if a person declines to be searched, or where an individual’s ability to consent to a search is impaired  set out the process for health service staff to confirm whether a person has been searched by police |
| Authorised carriage of weapons | identify the specific processes for negotiating entry to health services by police and other officers authorised to carry and use firearms, and firearm control and storage |
| Process to follow when a weapon is identified | include procedures for notifying police when a firearm is detected  distinguish between emergency and non-emergency situations (that is, when there is no imminent threat to safety)  include procedures for confiscation and storage of weapons  include procedures for arranging for collection and handover of firearms and non-firearm weapons by police |
| Dangerous articles | identify the specific processes for recognising and managing dangerous articles in the health service, including procedures for their return, safe disposal or collection by police as appropriate |
| Documentation | identify standards and requirements for documentation, reporting and monitoring of local policy and procedures including patient records, incident management and security records |

# Resources

### Department of Health and Human Services

* [*Framework for preventing and managing occupational violence and aggression*](https://www2.health.vic.gov.au/about/publications/policiesandguidelines/occupational-violence-aggression-healthcare-framework-2017) *<*https://www2.health.vic.gov.au/about/publications/policiesandguidelines/occupational-violence-aggression-healthcare-framework-2017>
* [Criteria for searches to maintain safety in an inpatient unit – Chief Psychiatrist Guidelines](https://www2.health.vic.gov.au/about/key-staff/chief-psychiatrist/chief-psychiatrist-guidelines/criteria-or-searches-maintain-safety-in-inpatient-unit-for-patients-visitors-staff) <https://www2.health.vic.gov.au/about/key-staff/chief-psychiatrist/chief-psychiatrist-guidelines/criteria-or-searches-maintain-safety-in-inpatient-unit-for-patients-visitors-staff>
* Other resources on preventing and managing occupational violence and aggression in health services, available on the [Worker Health and Wellbeing webpage](https://www2.health.vic.gov.au/health-workforce/worker-health-wellbeing/occupational-violence-aggression) at <https://www2.health.vic.gov.au/health-workforce/worker-health-wellbeing/occupational-violence-aggression>

### WorkSafe Victoria

* [*Information for employers: prevention and management of violence and aggression in health services*](https://www.worksafe.vic.gov.au/resources/prevention-and-management-violence-and-aggression-health-services) (edition number 2, June 2017) <https://www.worksafe.vic.gov.au/resources/prevention-and-management-violence-and-aggression-health-services>

### Legislation and regulations

The following Victorian legislation can be accessed through the Victorian Law Today page on the [Victorian Legislation and Parliamentary Documents website](http://www.legislation.vic.gov.au/) at <www.legislation.vic.gov.au>.

* *Ambulance Services Act 1986*
* *Control of Weapons Act 1990*
* *Control of Weapons Regulations 2011*
* *Family Violence Protection Act 2008*
* *Firearms Act 1996*
* *Health Records Act 2001*
* *Mental Health Act 2014*
* *Occupational Health and Safety Act 2004*
* *Personal Safety Intervention Orders Act 2010*
* *Privacy and Data Protection Act 2014*
* *Private Security Act 2004*
  + *Wrongs Act 1958*

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1. *Firearms Act 1996*, s. 3(1). [↑](#footnote-ref-1)
2. *Control of Weapons Act 1990*, s. 3(1). [↑](#footnote-ref-2)
3. *Control of Weapons Act 1990*, s. 3(1). [↑](#footnote-ref-3)
4. *Control of Weapons Act 1990*, s. 3(1). [↑](#footnote-ref-4)
5. *Control of Weapons Act 1990*, s. 7A(5); *Firearms Act 1996*, s. 54AA(6). [↑](#footnote-ref-5)
6. *Control of Weapons Act 1990*, s. 7A(5); *Firearms Act 1996*, s. 54AA(6). [↑](#footnote-ref-6)
7. *Control of Weapons Act 1990*, s. 7A(5); *Firearms Act 1996*, s. 54AA(6). [↑](#footnote-ref-7)
8. *Firearms Act 1996*, s. 3(1). [↑](#footnote-ref-8)
9. *Control of Weapons Act 1990*, s. 7A(5); *Firearms Act 1996*, s. 54AA(6). [↑](#footnote-ref-9)
10. Duties arise under the *Occupational Health and Safety Act 2004*, the *Wrongs Act 1958* and at common law. [↑](#footnote-ref-10)
11. Crime prevention through environmental design is a multidisciplinary approach to deterring criminal behaviour. It relies on planning and design to reduce opportunities for unwanted behaviour and associated risks. [↑](#footnote-ref-11)
12. *Crimes Act 1958*, s. 463B. [↑](#footnote-ref-12)
13. *Crimes Act 1958*, s. 462A. [↑](#footnote-ref-13)
14. *Mental Health Act 2014*, s. 354. [↑](#footnote-ref-14)
15. *Firearms Act 1996*, Part 2, ss. 5, 6, 6A, 7A and 7B; *Control of Weapons Act 1990*, ss. 5AA and 6. [↑](#footnote-ref-15)
16. *Firearms Act 1996*, s 54AA; *Control of Weapons Act 1990*, s 7A. [↑](#footnote-ref-16)
17. *Health Records Act 2001*, Schedule 1, Health Privacy Principle 2.2(h); *Privacy and Data Protection Act 2014*, Schedule 1, Information Privacy Principle 2.1(d). [↑](#footnote-ref-17)