

Victorian Commercial Passenger Vehicle Industry

Code of Practice

Part 1: Risk Culture & Safety Management

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COMMERCIAL
PASSENGER
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Background

Commercial Passenger Vehicles Victoria (CPVV), the regulator of the commercial passenger vehicle industry, has developed this code of practice in partnership with the industry to ensure services for customers are safe, accessible, customer-focused and competitive.

This code is a practical guide for duty holders who have 'safety duties' under Part 2, Division 3 of the *Commercial Passenger Vehicle Industry Act 2017* (CPVI Act). It provides guidance to achieve the standards required for commercial passenger vehicle service safety and compliance with the commercial passenger vehicle industry legislative framework.

This code was developed under section 28 of the CPVI Act. A draft of the code was released for public consultation in May 2019.

CPVV acknowledges Safe Trucking and Supply Chains Limited, a jointly owned company of the Australian Logistics Council and Australian Trucking Association. CPVV drew on material from the Safe Trucking and Supply Chains Limited *Master code for heavy vehicle safety* in developing this code of practice. CPVV also acknowledges the work of Safe Work Australia, whose guidance material has also been cited throughout this document.

Scope and application

This code applies to the following safety duty holders involved in providing commercial passenger vehicle services:

- owners of motor vehicles used to provide commercial passenger vehicle services
- booking service providers (BSPs)
- people who control commercial passenger vehicle services
- suppliers of services or equipment to the commercial passenger vehicle industry
- drivers providing commercial passenger vehicle services.

The code is intended to be used by all safety duty holders and businesses to assist in providing commercial passenger vehicle services that are safe and comply with the commercial passenger vehicle industry legislative framework.

This code provides practical guidance about how to ensure safety by eliminating risks to safety so far as is reasonably practicable.¹ If it is not reasonably practicable to eliminate risks to safety, it aims reduce those risks so far as is reasonably practicable.

CPVV acknowledges that the size and scale of businesses within the commercial passenger vehicle industry varies greatly. It follows that the level of effort that each business considers to be 'reasonably practical' to manage safety duties will also vary. This code provides guidance that is designed to be usable by all businesses regardless of their size and scale.

¹ Refer to section 2.1.1

How to use this code of practice

Adopting the code is one way for safety duty holders to ensure the safety of commercial passenger vehicles services. This code will also assist officers² of safety duties holders to meet their due diligence obligations. While applying the code is not mandatory, a safety duty holder who complies with this code is taken to have complied with their safety duties, as set out at section 34 of the CPVI Act.

Organisations and safety duty holders who use this code to develop and apply risk-based systems in their everyday business practices will improve the safety and legal compliance of their own activities and contribute to continuous improvement in best practice within their industry.

In this code, the word '**should**' is used to indicate a **recommended** course of action to demonstrate compliance with safety duties, while '**may**' is used to indicate an **optional** course of action.

This code includes references to sections of the CPVI Act that set out further legal requirements. These references are not exhaustive. The words '**must**' or '**mandatory**' indicate that a **legal requirement exists and must be complied with**.

² Refer to section 2.5.1

1. Introduction

1.1 What is the purpose of this code?

The purpose of this code is to assist commercial passenger vehicle industry safety duty holders and businesses to deliver safe, accessible, customer-focused and competitive services and to comply with the relevant provisions of the CPVI Act.

This code supports the objectives of the CPVI Act and provides practical guidance to assist in complying with all safety duty responsibilities within the CPVI Act.

CPVI Act, section 10: Objectives

The objectives of this Act are to promote:

- (a) competition in the market for commercial passenger vehicle services; and*
- (b) commercial passenger vehicle safety; and*
- (c) the effective management of safety risks arising out of the provision of commercial passenger vehicle services; and*
- (d) continuous improvement in the management of commercial passenger vehicle safety; and*
- (e) public confidence in the safety of commercial passenger vehicle services; and*
- (f) the involvement of relevant stakeholders in commercial passenger vehicle safety; and*
- (g) a safety culture among persons who participate in the provision of commercial passenger vehicle services; and*
- (h) protections for users of commercial passenger vehicle services; and*
- (i) transparency in transactions for the provision of commercial passenger vehicle services.*

Demonstrating compliance with this code will also demonstrate compliance with safety duty obligations under the CPVI Act and Regulations. It may be used by a court to determine what is reasonably practicable in the circumstances to which it relates.

Personal, professional and business reputations, as well as financial positions, can suffer directly or indirectly for breaches of the CPVI Act that affect safety. Individuals and organisations may experience negative impacts from:

- bad publicity
- lost productivity due to recovery, remediation and repairs
- loss of consumer trust
- loss of driver workforce and industry trust
- limitations on commercial relationships within the industry
- loss of contracts

- insurance excess payments and an increase in insurance premiums
- court proceedings and legal costs, fines and imprisonment.

This code presents a risk-based approach to managing safety. It encourages all safety duty holders to reduce or eliminate risks so far as is reasonably practicable. The code provides all parties with an understanding of the risk management process so they can take steps to control, eliminate or minimise risks in a way that is appropriate to the size and nature of their commercial passenger vehicle, equipment or service business.

The code translates the requirements of the Act into a practical application for the whole industry and details how to develop a risk management framework (see section 3.2).

The code describes what can be done, how it may be done and why, but it does not require safety duty compliance to be managed in the way the code describes. Safety duty holders may be able to develop different approaches that are equally effective in managing safety within their businesses.

1.2 What are hazards, risks and controls?

Hazards: a situation or thing that has the potential to harm a person (for example, through death, injury or illness).

An example of a hazard is driving during heavy rain.

Risks: the possibility that harm (for example, death, injury or illness) might occur when exposed to a hazard.

An example of a risk that might result from exposure to driving in heavy rain is the risk of a crash.

Controls: actions taken to eliminate or minimise risks so far as is reasonably practicable.³

An example of a control to eliminate the risk of a crash caused by exposure to driving in heavy rain is a policy that drivers cannot drive in heavy rain. However, this is not practical for a viable commercial passenger vehicle industry. Therefore, to minimise the risk, a more appropriate policy may be to reduce speeds, use headlights and give other vehicles more space during periods of heavy rain.

1.3 What are commercial passenger vehicle service activities?

The CPVI Act provides definitions for the activities that constitute commercial passenger vehicle services (section 4). However, commercial passenger vehicle services involve a whole range of things, not just transporting passengers in a motor vehicle. All business practices and decision-making systems are considered commercial passenger vehicle service activities. These decisions can be made by individuals, sole traders, boards, executives, managers and supervisors; they incorporate the relationships and behaviours of people and how decisions are made. Commercial passenger vehicle service activities can include, but are not limited to:

- decisions about contracting, hiring and training

³ Adopted from: <https://www.safeworkaustralia.gov.au/risk>

- how often to maintain and repair vehicles and equipment
- decisions about controlling risks
- how businesses operate
- formal and informal business systems and processes
- written and unwritten business procedures and rules.

1.4 Who is responsible for providing commercial passenger vehicle services?

The CPVI Act adopts the principle of shared responsibility (section 16) as follows:

CPVI Act Part 2, Division 1, section 16: Principle of shared responsibility

(1) Commercial passenger vehicle safety is the shared responsibility of:

(a) owners of motor vehicles used to provide commercial passenger vehicle services; and

(b) drivers of motor vehicles used to provide commercial passenger vehicle services; and

(c) booking service providers; and

(d) persons who have control over the provision of commercial passenger vehicle services; and

(e) suppliers of services and equipment to the commercial passenger vehicle industry; and

(f) the regulator; and

(g) members of the public.

(2) The level and nature of responsibility that a person referred to in subsection (1), or a person within a class of persons referred to in subsection (1), has for commercial passenger vehicle safety is dependent on:

(a) the nature of the risk to commercial passenger vehicle safety that the person creates from the carrying out of an activity or the making of a decision; and

(b) the capacity that that person has to control, eliminate or mitigate that risk or any other risk to commercial passenger vehicle safety.

The example below helps to explain the concept of shared responsibility.

Case example

A driver has an agreement with a vehicle owner to use a vehicle to provide commercial passenger vehicle services. The driver also has an agreement with a BSP to provide commercial passenger vehicle services. A passenger notifies the BSP of a faulty seatbelt in the vehicle.

In this case:

1. There is a risk that if the vehicle is used to provide commercial passenger vehicle services the faulty seatbelt could result in a passenger injury or fatality.

2. The vehicle owner is responsible for maintaining the vehicle in a fit, serviceable and safe condition, and in this case must arrange for the faulty seatbelt to be repaired.
3. The BSP is responsible for managing risks to safety associated with commercial passenger vehicle services provided by an associated driver, and in this case should prevent the vehicle from being used to provide services until it is repaired.
4. The driver has a responsibility to take reasonable care for the health and safety of anyone who may be affected by the driver's acts or omissions, and in this case should stop providing commercial passenger vehicle services in the vehicle until the vehicle owner has undertaken the necessary repairs.
5. Each safety duty holder has an obligation to communicate the issue, the risk and the actions being taken to eliminate or minimise the risk with other relevant safety duty holders.

This example demonstrates that all safety duty holders have a shared responsibility. Each duty holder's responsibility depends on the function the person performs, the nature of the risk and the person's capacity to control, eliminate or minimise the risk.

1.5 Who has accountability for managing safety duties?

The CPVI Act places legal obligations on safety duty holders within the commercial passenger vehicle industry, not just the vehicle owner or the driver of the vehicle.

This means that safety duty holders that have the capacity to influence and control the commercial passenger vehicle service or equipment being used to provide a commercial passenger vehicle service are responsible for the safety of that service (Division 3 of the CPVI Act). The level and nature of the industry participant's responsibility for the commercial passenger vehicle service depends on their capacity to control, eliminate or minimise the risk (section 16(2)b of the CPVI Act).

CPVI ACT Part 2, Division 1, section 16: Principle of shared responsibility

(2)b. the capacity that that person has to control, eliminate or mitigate that risk or any other risk to commercial passenger vehicle safety.

Those who are involved in providing commercial passenger vehicle services or supplying equipment and services may have a safety duty imposed on them under the CPVI Act. Seek independent legal advice if you are not sure about your role or duties.

2. Safety duties

2.1 What is a safety duty holder responsible for?

The CPVI Act imposes a positive duty on safety duty holders to ensure the safety of their commercial passenger vehicle service and/or equipment and services (section 22(1) of the CPVI Act). Safety duty holders must do this in at least one of two ways: by eliminating risks or by reducing those risks.

A safety duty holder must ensure the safety of their commercial passenger vehicle service and/or equipment and services ‘so far as is reasonably practicable’.

CPVI ACT Part 2, Division 2, section 22(1): The concept of ensuring safety

(1) To avoid doubt, a duty imposed on a person under this Act or the regulations to ensure, so far as is reasonably practicable, safety, requires the person to—

(a) eliminate risks to safety so far as is reasonably practicable; and

(b) if it is not reasonably practicable to eliminate risks to safety, to reduce those risks so far as is reasonably practicable.

The obligations of a safety duty holder are based on a positive duty to ensure safety. This means that safety duty holders can be prosecuted for a breach of the CPVI Act if that duty holder does not take proactive steps to perform their duty – even if no incident arises (see section 2.5 of this code).

The duty to ensure safety under the CPVI Act is complementary to the health and safety duties under the *Occupational Health and Safety Act 2004* (Vic) (OHS Act). Meeting a safety duty under the CPVI Act does not negate the need to meet a duty under the OHS Act, and vice versa. If there is any inconsistency between the safety requirements of the two laws, the OHS Act prevails.

2.1.1 What is reasonably practicable?

The CPVI Act adopts a required standard to discharge safety duties as ‘so far as is reasonably practicable’ for safety duty holders (section 22 (2)). The definition of reasonably practicable is explained in Division 2 of the CPVI Act:

CPVI Act, Part 2, Division 2, section 22(2): The concept of reasonably practicable

(2) To avoid doubt, for the purposes of this Part or regulations made for the purposes of this Part regard must be had to the following matters in determining what is (or was at a particular time) reasonably practicable in relation to ensuring safety—

(a) the likelihood of the hazard or risk concerned eventuating;

(b) the degree of harm that would result if the hazard or risk eventuated;

- (c) *what the person concerned knows, or ought reasonably to know, about the hazard or risk and any ways of eliminating or reducing the hazard or risk;*
- (d) *the availability and suitability of ways to eliminate or reduce the hazard or risk;*
- (e) *the cost of eliminating or reducing the hazard or risk.*

Cost is one factor that is considered as part of working out what is reasonably practicable to manage risk. Where the cost of implementing specific controls is grossly disproportionate to the likelihood of harm or loss, it may be that implementing those specific controls is not reasonably practicable and therefore not required. This does not mean that the safety duty holder is excused from doing anything to minimise the risk so far as is reasonably practicable. A less expensive way of minimising the risk must be used instead.

Safety duty holders should consider the cost of a control after assessing the risk and identifying ways of eliminating or minimising it. There is a clear presumption in favour of safety ahead of cost.

More information on what is meant by the term 'reasonably practicable' is available in the Safe Work Australia guide: *How to determine what is reasonably practicable to meet a health and safety duty*⁴.

2.2 Building a safety culture

The CPVI Act aims to improve safety outcomes in commercial passenger vehicle services by requiring all safety duty holders, including business owners and officers, to focus on safety outcomes and build cultures with a focus on safety and compliance.

An important aspect of achieving these outcomes is the culture of an organisation – that is, the underlying beliefs and values that an organisation adheres to. An organisational culture can also focus on safety and compliance. The safety culture of an organisation is said to be the collective values and behaviours that determine the commitment to an organisation's health and safety management.⁵

Organisations with a positive safety culture are characterised by:

- leadership commitment to safety
- accountability of line managers
- involvement of all employees and associated contractors
- open communication founded on mutual trust
- demonstration of care and concern for all those affected by the business
- confidence in the effectiveness of preventative measures.⁶

⁴ Safe Work Australia, *Guide – How to determine what is reasonably practicable to meet a health and safety duty*, May 2013, p.15: <https://www.safeworkaustralia.gov.au/doc/how-determine-what-reasonably-practicable-meet-health-and-safety-duty>

⁵ Borys D 2014, Organisational culture. In: Safety Institute of Australia, *The core body of knowledge for generalist OHS professionals*, Safety Institute of Australia, Tullamarine, pp. 6–8.

⁶ Borys 2014, pp. 9–11.

Effective risk management starts with the commitment to safety from those who manage and control commercial passenger vehicle service activities.

Proactive and positive safety cultures that focus on changing business practices have an immediate and direct impact on controlling risk;⁷ encouraging continuous improvement will help a business to achieve better overall safety outcomes.

2.3 What are business practices?

Business practices include both the formal and informal ways of doing business and making decisions and are not just the written policies and procedures. The way work is done – the ‘unwritten rules’ – need to be considered when managing the safety of commercial passenger vehicle services and the supply of equipment.

2.3.1 Operating policies and procedures

Operating policies and procedures describe how safety is integrated into business activities. Operating policies and procedures help all safety duty holders to understand their duties and responsibilities with respect to safety duties and to demonstrate a commitment to safety.

All safety duty holders should document and implement their operating policies and procedures. Safety duty policies and procedures should include information about any of the following areas that business practices have an ability to affect or influence:

- maintaining vehicles and equipment in fit, serviceable and safe conditions
- managing risks to safety associated with providing commercial passenger vehicle services
- providing appropriate information and/or instruction to drivers of vehicles to enable those drivers to provide safe commercial passenger vehicle services
- driver health and safety
- managing driver fatigue
- managing driver impairment (drug and alcohol)
- driver behaviour, competency and medical fitness
- the health and safety of those who may be affected by the driver’s acts or omissions
- cooperating with other safety duty holders, including BSPs, to ensure compliance with the CPVI Act and Regulations.

In addition, BSPs should include information about:

- the training, instruction or supervision the BSP will provide to associated drivers to enable those drivers to provide safe commercial passenger vehicle services, including the systems and processes used to deliver the training, instruction or supervision
- the BSP’s emergency management framework

⁷ Borys 2014, p. 30.

- the BSP's systems and processes for maintaining a database of the hazards or risks relating to providing commercial passenger vehicle services by associated drivers and the measures taken to eliminate or reduce these hazards or risks
- how the BSP will cooperate with associated drivers with respect to any action taken to comply with a requirement imposed by or under the CPVI Act or the Regulations.

Safety duty policies and procedures should be communicated with relevant internal and external stakeholders to support a consistent understanding and application of these policies and procedures.

There needs to be supervision, monitoring and management oversight of business practices to give confidence that policies and procedures are followed. There should also be a way to recognise business practices are being done the right way and to address any non-conformance.

Policies and procedures are an effective way to document appropriate business practices. Effectively implementing policies and procedures is an excellent way of demonstrating efforts to comply with safety duty obligations. This is useful if there are any safety incidents or breaches of the CPVI Act or Regulations. This also allows the effectiveness of business practices to be measured.

2.3.2 Education and Awareness

Educating personnel in safety-critical areas, including their duties under sections 23–27 of the CPVI Act, should form a part of all safety duty holders' education, awareness and induction activities. While BSPs must provide information, instruction, training or supervision to associated drivers to enable those drivers to provide commercial passenger vehicle services safely (in accordance with section 24(2)(c) of the CPVI Act), this should be integrated within annual, refresher and induction information to meet this obligation.

In addition, section 21(2)(e) of the OHS Act imposes a duty on employers to provide any information, training, instruction or supervision that is necessary to protect employees and independent contractors from risks to their health and safety arising from work carried out. This would include, for example, the technique required to safely load and unload luggage from a vehicle.

Safety duty holders should provide instruction on and awareness of safety duty responsibilities to all relevant parties. This will assist everyone involved in providing commercial passenger vehicle services to understand business practices, their duties and their responsibilities under the CPVI Act. It will also prevent people directly or indirectly causing or encouraging others to break the law or to take safety risks.

Education should develop an awareness of the potential consequences of harm or loss caused by a failure to comply with any safety duty obligation. This includes risk-taking behaviours, driving while impaired (including by fatigue,) maintaining/inspecting commercial passenger vehicles, driver medical fitness, driver competency and driver behaviour. Driver behaviour incorporates the professional and respectful treatment of passengers as well as a driver's ability to effectively manage difficult, violent and drug or alcohol-impaired passengers.

Drivers and other parties should be provided with guidance about, and positively recognised for taking steps to proactively manage, safety duty compliance – for example, by maintaining strict adherence to vehicle servicing and maintenance regimes as well as for taking rest breaks to avoid driving while impaired by fatigue.

All safety duty holders should implement a training management system to:

- identify training needs – for example, a training needs analysis
- identify any gaps in training – for example, a training register
- maintain records of training provided and content covered
- review the effectiveness of training – for example, competency assessments
- conduct ongoing and regular refresher training.

Examples of instruction that should be undertaken include, but is not limited to:

- the organisation's risk management process, including how hazards are identified, the controls implemented and how to use the controls
- managing driver fatigue
- maintaining commercial passenger vehicles
- managing driver impairment (drug and alcohol)
- emergency management frameworks and procedures
- assisting passengers to enhance accessibility and using/managing specialist equipment
- driver competency and medical fitness
- driver behaviour, incorporating professional conduct, personal boundaries and sexual harassment
- driver communication and de-escalation strategies to manage difficult, violent and drug or alcohol-impaired passengers
- safety duties policies and procedures that describe business practices
- tasks in the maintenance management system and who is responsible for each of those tasks – for example, daily checks, vehicle inspections and fault reporting.

The training management system, also known as a learning management system, may be an off-the-shelf computerised database, electronic spreadsheets or a simple paper-based system.

2.3.3 Industry partnerships – associated drivers, contracting, procurement and collaboration

Using associated drivers, contracting, sub-contracting, procuring specialist equipment and collaborating with other safety duty holders is a part of the commercial passenger vehicle industry. When working in collaboration it must be noted that a safety duty holder's obligations, as specified in sections 23–27 of the CPVI Act, cannot be delegated or transferred.

As such, it is critical that every safety duty holder maintains an active system to manage risks to safety and to reduce the chances of a breach of the CPVI Act, OHS Act or other road laws.

Some of the key concepts to be considered in managing industry relationships are:

- the importance of selecting partners, contractors, service providers, BSPs and/or associated drivers who have a reputation for running a safe and compliant business
- the need to include safety duty obligations and compliance conditions in all contracts, agreements and arrangements for collaboration

- the importance of monitoring the compliance of safety duty holders and third parties
- the value in creating awareness of safety-focused business practices, policies and procedures, internal training and controls where safety duty holders do not have their own reliable safety and compliance systems
- the need to ensure that businesses have a meaningful safety and compliance framework, preferably documented, and actively maintain records.

Hazard identification and risk assessment processes should consider the safety risks that arise from any joint activities and the interactions between safety duty holders when contracting, sub-contracting, procuring specialist equipment and collaborating. The ways to eliminate or minimise risk may include actions that a safety duty holder has to complete on their own, in collaboration or using a combination of both. Depending on the circumstances, it may be necessary to include contractual obligations when collaborating with other safety duty holders.

2.4 Accountability for managing safety risks

The principle of accountability for managing safety is detailed in section 17 of the CPVI Act and sits with the safety duty holder that is best able to control, eliminate or mitigate that risk or any other risk to commercial passenger vehicle safety.

CPVI Act Part 2, Division 1, section 17: Principle of accountability for managing safety risks

Managing risks associated with the provision of commercial passenger vehicle services is the responsibility of the person best able to control the risk.

A safety duty holder may become accountable if they fail to exercise their ability to control, eliminate or mitigate risk when reasonably practicable.

The role of safety duty holder may be conducted by one or more parties, including but not limited to:

- a corporation
- an executive
- a person who manages or controls a commercial passenger vehicle service activity
- a person who supervises the activity
- an individual person performing the activity.

2.4.1 Consultation, cooperation and coordination

Fostering a culture of shared responsibility between safety duty holders requires open communication, cooperation and coordination. Proactive engagement and collaboration by all safety duty holders will encourage a commitment to safety.

CPVI Act Part 2, Division 1, section 20: Principle of participation, consultation and involvement of all affected persons

*The persons and classes of persons referred to in section 16(1) should—
participate in or be able to participate in; and
be consulted on; and
be involved in –
the formulation and implementation of measures to manage risks to commercial
passenger vehicle safety.*

Consultation, while not mandatory, is a highly effective way to develop policies and procedures that consider the operational environment unique to each business. It is an important part of demonstrating that safety duties have been discharged.

Part 4 of the OHS Act also imposes a duty to consult with workers directly affected by a health and safety matter and with all others who have a duty in relation to the same matter.

Examples of consultation, cooperation and coordination that encourage a united and consistent approach to providing safe commercial passenger vehicle services include, but are not limited to:

- communicating safety duty policies and procedures to other parties to support consistent understanding and application
- involving other parties in safety duty discussions about identified risks to support consistent awareness and control of the risk
- identifying safety and compliance activities across services to create common solutions and approaches
- sharing information to positively impact on the activities of other safety duty holders – for example, safety information and incident reporting
- alerting other safety duty holders to safety incidents and non-compliances and working together to review the effectiveness of any remedial actions implemented (observe, record and report)
- alerting other safety duty holders to practices that have negative impacts, are unsafe, or may breach the CPVI Act.

Safety duty holders should engage and consult with each other to foster productive, efficient, innovative and safe commercial passenger vehicle industry relationships. To support this, safety duty holders could develop a stakeholder engagement plan, or operational framework, that identifies the who, what, where, when, why and how for basic information gathering and information sharing.⁸

2.5 What is due diligence?

While the CPVI Act does not define due diligence, it is commonly known as a ‘minimum standard of behaviour involving a system which provides against contravention of relevant regulatory provisions and adequate supervision ensuring that the system is properly carried out’.⁹ A simpler

⁸ Further guidance on consultation is available from: www.worksafe.vic.gov.au/safety

⁹ Butterworths Concise Australian Legal Dictionary 2nd edition, (1988), p. 139.

way to understand due diligence would be taking reasonable steps to avoid committing an offence.

An officer may be criminally liable for the actions of a body corporate if that officer fails to exercise due diligence.

CPVI Act, Part 14, Division 5, section 284(3): Criminal liability of officers of bodies corporate – failure to exercise due diligence

In determining whether an officer of a body corporate exercised due diligence, a court may have regard to—

(a) what the officer knew, or ought reasonably to have known, about the commission of the offence by the body corporate; and

(b) whether or not the officer was in a position to influence the body corporate in relation to the commission of the offence by the body corporate; and

(c) what steps the officer took, or could reasonably have taken, to prevent the commission of the offence by the body corporate; and

(d) any other relevant matter.

Officers need to understand safety duties compliance and the effectiveness of their business practices on an ongoing basis. Examples of due diligence activities include the following.¹⁰

Knowledge: be aware of all safety duty obligations under the CPVI Act and the compliance strategies, business practices and risk management processes to eliminate or minimise the risks associated with providing commercial passenger vehicle services so far as is reasonably practicable.

Understanding: get advice from a suitably qualified person, if required, to understand the core activities and business practices (operations) and the hazards and risks associated with those activities and practices. In addition, knowledge of emerging risks and controls, such as new technologies is also important.

Resource: understand the procedures and resources (both financial and physical) needed, such as training. Make sure resources are available and used to meet all safety duty obligations under the CPVI Act to eliminate or minimise risks.

Information: have oversight of the reporting of incidents, breaches and emerging hazards and risks, identify any further action required to eliminate or minimise the hazards or risks so far as is reasonably practicable and make sure reasonably practicable steps are taken.

Communication: maintain constant interaction and engagement with managers, supervisors and all employees to identify potential health and safety risks to take reasonably practicable steps to eliminate or minimise those risks.

Compliance: establish and maintain systems to ensure business practices, policies and procedures comply with duties and obligations under the CPVI Act. This can be done through

¹⁰ Adapted from *Master Code – V1.0 A registered industry code of practice under section 706 of the Heavy Vehicle National Law*, pp. 22–23, <file:///C:/Users/viccfbr/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/49Q02S8U/Example%20-%20ricp-master-code.pdf>

legal compliance audit or by testing policies, procedures and practices to make sure they comply with safety management planning.

Verification: actively check, through inspection or auditing processes, that the procedures and resources are in place and are being used. Implementing governance activities is a good way to keep safety issues a priority for businesses and to make sure obligations are being complied with. Safety duties reporting should be developed on the basis that information provided to executives is meaningful and capable of driving safety and business improvement.

More information on due diligence is available in the Comcare publication *Guidance for officers in exercising due diligence*,¹¹ and the Safe Work Australia interpretive guideline: *The health and safety duty of an officer under section 27*.¹²

2.5.1 Who is an officer?

Officers are those at the most senior level of a company, organisation or business who are in a position to make decisions and take actions for the business to prevent contraventions of the CPVI Act.¹³

'Officer' means:

- a director or secretary of a corporation
- an office holder or partner of an unincorporated body or association
- a person who makes, or participates in making, decisions that affect the whole, or a substantial part of, the business (whether corporation or otherwise)
- a person who has the capacity to significantly affect the corporation's financial standing
- a person the directors of a corporation look to for instructions (unless the person is providing advice in a professional capacity)
- a receiver, or receiver and manager, of the property of a corporation
- an administrator of a corporation
- an administrator of a deed of company arrangement executed by the corporation
- a liquidator of the corporation
- a trustee or other person administering a compromise or arrangement made between the corporation and someone else.

A person who is the owner-operator of their own small commercial passenger vehicle company will be considered an officer. In this situation, the person will have duties under sections 23–27 of the CPVI Act and duties under section 284 of the CPVI Act as an officer.

CPVI Act Part 14, Division 5, section 284(6): Criminal liability of officers of bodies corporate – failure to exercise due diligence

¹¹ Available at:

https://www.comcare.gov.au/Forms_and_Publications/publications/services/safety_and_prevention/safety_and_prevention/due_diligence

¹² Available at: <https://www.safeworkaustralia.gov.au/doc/health-and-safety-duty-officer>

¹³ See section 9 of the *Corporations Act 2001* and section 284(6) of the CPVI Act.

In this section –

body corporate has the same meaning as corporation has in section 57A of the Corporations Act;

officer in relation to a body corporate means –

(a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or

(b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.

2.5.2 Failure to exercise due diligence

Safety duties have a direct link to safety, and officers are required to manage safety as part of their role.

Officer due diligence is a **positive, proactive** and **personal** duty. It is an offence for an officer with a safety duty to fail to use due diligence to ensure the legal entity complies with that safety duty. The officer due diligence duty is independent. This means that if the officer does not proactively take steps to perform their duty, the officer can still be prosecuted for a breach, even if no incident or accident arises. Proactive leadership in safety can be demonstrated in both small and large businesses. Safe Work Australia has developed five leadership principles to help businesses of all sizes develop safety leadership practices and create a workplace culture that promotes safety:

- commit to safety
- get involved
- encourage participation
- make work health and safety part of your business
- review your performance.¹⁴

Officers are also liable under section 284 of the CPVI Act where a body corporate, corporation, partnership or unincorporated body has committed an offence against a provision specified in subsection (2) and the officer knowingly authorised or permitted the conduct of the subject of the offence.

CPVI Act Part 14, Division 5, section 284: Criminal liability of officers of bodies corporate – failure to exercise due diligence

(1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer failed to exercise due diligence to prevent the commission of the offence by the body corporate.

(2) For the purposes of subsection (1), the following provisions are specified—

(a) section 23(1);

¹⁴ See *Principles of effective leadership in work health and safety* at: <https://www.safeworkaustralia.gov.au/small-business>

(b) section 24(1);
(c) section 25(1);
(d) section 26(1);
(e) section 39;
(f) section 53;
(g) section 56;
(h) section 64;
(i) section 160(3);
(j) section 174(1);
(k) section 183(1);
(l) section 270(1), (2) and (4).

2.6 Assuring safety duty compliance

One way to make sure safety duty holders are making good decisions and managing risk is to establish an active assurance program. Assurance gives confidence and certainty that the right things are being done to meet the safety duty compliance requirements of the CPVI Act.

Assurance programs test the effectiveness of business practices and decision making to confirm these are working as planned. It involves monitoring operating policies and procedures, measuring safety performance and compliance, and managing change to continuously improve business practices.

All safety duty holders, including officers and business owners, should implement an active assurance program to help ensure all commercial passenger vehicle service activities are safe. This will prevent breaches of the CPVI Act and help to manage risk and maintain a safe commercial passenger vehicle industry.

All safety duty holders should implement documented reporting and notification processes as part of their business practices to address and manage any risks relating to safety duties, including:

- incidents or near-misses
- breaches of policies and procedures (system non-conformances)
- breaches of the CPVI Act (non-compliances).

A process to resolve safety issues, particularly those relating to safety duties, gives stakeholders confidence that problems are reported and rectified, to prevent or reduce potential harm or loss (risks).

All safety duty holders should have ways to alert and engage with other safety duty holders about incidents and breaches and to review the effectiveness of any remedial actions implemented. This will help safety duty holders work together to develop solutions and improve safety.

To support compliance and safety management, all safety duty holders should implement an internal review process. Internal review involves monitoring, reviewing and assessing the effectiveness of business practices to confirm they have been done and are being done in the manner intended. This requires a process to record and remedy any non-conformances.

Internal reviews should be conducted periodically by a person independent of the business operations wherever possible. Internal reviews may be complemented by external reviews or audits, by engaging an appropriately qualified auditor to audit business practices against this code of practice. This code is a useful tool to provide assurance of safety and compliance to safety duty holders and their officers. Evidence points to improved safety, efficiency and productivity for those who participate in accreditation schemes. Reviews can be completed by both small and large business. Some things businesses can do include:¹⁵

- review risks registers regularly
- check control measures are implemented and working as planned
- seek advice from safety professionals about how best to manage risks
- review reports into safety performance and issues and act on any emerging trends
- include safety in business planning and make sure safety is considered during times of change
- join a safety network or leadership program and learn from others who are facing the same safety issues you are.

Officers can:

- be aware of what is happening on the ground including activities carried out internally or by contractors
- share relevant safety data and information with workers
- address any health and safety problems when they are identified
- encourage workers to report incidents and near-misses and learn from these
- take a personal interest in staying up to date on relevant safety issues.

2.7 What if a person fails to comply with a safety duty?

In addition to the reputational and financial risks outlined in section 1.1 of the code, the CPVI Act also prescribes significant monetary penalties for breaches of safety duties.

CPVI ACT Part 2, Division 3, sections 23–27: Principle of shared responsibility

In the case of an individual, 1800 penalty units

In the case of a body corporate, 9000 penalty units

Furthermore, if a safety duty holder engages in a persistent or severe breach of safety duties, a safety duty holder may face the possibility of their accreditation or registration being suspended or cancelled.

¹⁵ Adopted from: <https://www.safeworkaustralia.gov.au/small-business>

3. Risk management process

The risk management guidance provided in this chapter and in this code complies with AS/NZS ISO 31000:2018 *Risk Management – Principles and guidelines* and is aligned to the Safe Work Australia *Code of Practice: How to manage work health and safety risks* (2018).

3.1 Risk management approach

The CPVI Act aims to improve safety by encouraging a proactive, outcomes-focused approach to managing the risks associated with providing commercial passenger vehicle services.

This code addresses the key hazards and risk types that relate to the obligations on safety duty holders, including:

- vehicle safety
- driver safety
- passenger safety
- equipment and service safety
- collaborating with other safety duty holders on safety.

All safety duty holders must use a risk management process to identify, assess and control risks within their business to make sure the commercial passenger vehicle services provided to the community are safe and comply with the CPVI Act.

This chapter of the code describes a useful risk management process. If a safety duty holder, organisation or business already has a business risk management process in place, it may be used but should be reviewed in line with the recommendations in this code.

3.2 How to develop a risk management process

Risk management is a step-by-step process that consists of four key steps:

1. Identify hazards: Find out what could cause harm or loss.
2. Assess risks: Understand the harm or loss that could be caused by the hazard, how serious it could be and how likely it is to occur.
3. Control risks: Implement the most effective control that is reasonably practicable in the circumstances.
4. Monitor and review controls: Make sure controls remain effective over time and work as planned.

Refer to section 2.1.1 of this code to determine what is 'reasonably practicable' to ensure the safety of commercial passenger vehicle services.

How risk management processes are implemented will depend on the size and nature of a commercial passenger vehicle business. For example, larger businesses, such as BSPs with greater exposure to risk, are likely to need more complex risk management processes, whereas smaller operators are likely to need a simpler approach.

Figure 1: How to manage work health and safety risks



Source: Safe Work Australia, *Code of Practice: How to manage work health and safety risks*, May 2018, p. 8.

Commitment from management is at the core of the risk management process. Effective risk management starts with the commitment to safety from those who manage and control commercial passenger vehicle activities. More information on the accountability for managing safety is available in section 2.4 of this code.

Consultation at each step of the process supports effective risk management. Consultation includes cooperating and coordinating activities with other safety duty holders. More information on consultation, cooperation and coordination is available in section 2.4.1 of this code.

To understand the hazards and risks associated with commercial passenger vehicle activities:

1. Describe the commercial passenger vehicle task – driver, vehicle owner, equipment and/or service provider, BSP. Different tasks will have different hazards and risks.
2. Confirm the safety duty holder's role in the overall provision of commercial passenger vehicle services. Different safety duty holders will have different hazards and risks depending on their respective roles.

Completing these preliminary steps will set the context for a risk assessment. For some safety duty holders this will be a simple process; for others, it will be more complex depending on the size and nature of the commercial passenger vehicle activities.

Step 1: How to identify hazards

Identifying hazards involves finding those things or situations with the potential to cause harm or loss. Hazards can include a wide range of things, such as:

- activities or business practices, such as a failure to address vehicle maintenance requirements
- behaviours, such as speeding or driving while impaired by fatigue

- situations, such as poor weather or traffic congestion
- management practices, such as not providing employees with proper training
- confrontations with violent or substance-affected passengers.

Some of the common ways to find hazards include:

- asking the person doing the job about any problems they have had and any near-misses or incidents that have not been reported
- consulting with other safety duty holders to understand each other's needs and to identify any hazards
- observing how people do the job and identifying safe or unsafe work or business practices
- checking vehicles and equipment, how they are used and how well they are maintained
- implementing an effective reporting system and encouraging people to report hazards and things that could go wrong
- analysing information from incident investigation reports, inspections and audit findings
- reviewing information and advice from industry associations, regulators, technical specialists and suppliers about known hazards
- looking for hazards when your work processes or practices change, or when you collaborate with a new partner.

Record identified hazards, follow up on why the situation may occur and assess the risk (if required).

Note: Many hazards and their associated risks are well known and have well-established and accepted control measures. In these situations, the second step to formally assess the risk is unnecessary. If, after identifying a hazard, the risk and how to control it effectively is already known, the controls can be implemented without undertaking a risk assessment.¹⁶

A clear example of this would be the risk of driving under the influence of alcohol. The risks associated with this behaviour have been long accepted and are reflected in the law that commercial passenger vehicle drivers must have a zero blood alcohol content while in service. Therefore, a commercial passenger vehicle business operator can confidentially implement a policy of zero tolerance for drink driving without undertaking a risk assessment.

Step 2: How to assess hazards

A hazard is a source of risk. A risk assessment involves considering what could happen if someone is exposed to a hazard and the likelihood of it happening.

A risk assessment should be conducted whenever:

- a new hazard is identified, or a new commercial passenger vehicle activity begins
- there is uncertainty about how a hazard may result in harm or loss

¹⁶ Safe Work Australia, *Code of Practice: How to manage work health and safety risks*, May 2018, p. 8

- the controls are not well known
- a safety duty holder is unsure how to best control the risk
- changes occur that may impact on the effectiveness of existing controls.

Conducting a risk assessment is a structured process that involves working out:

- how the hazard could cause harm or loss
- how severe the harm or loss could be
- the likelihood of harm occurring.

To work out **how the hazard could cause harm or loss**, consider safety risks including:

- How could a driver be injured or hurt?
- How could a passenger, member of the public or other road user be injured or hurt?
- How could a vehicle be damaged?
- How could the environment be affected?

For example, if a vehicle is not maintained to the required standard, there is a risk that the brakes may not function correctly and that the vehicle may be involved in a collision that damages it. An additional risk is that the driver, a passenger, a pedestrian or a person in another vehicle could be injured. Often one risk will lead to another, as this example demonstrates.

To work out how severe the harm or loss could be, consider the possible consequences including:

- How seriously could someone be hurt? Could the hazard cause death, serious injury or only moderate to minor injuries requiring medical treatment or first aid? For example, if a vehicle's brakes fail, how seriously could the driver or passengers in the car be hurt?
- How many people are exposed to the hazard and how many could be hurt? Could the hazard hurt one person or many people?
- How much damage could occur? Could the hazard result in high cost or major disruption, or only minimal cost or minor disruption, or somewhere in between?
- What factors could influence the severity of harm? For example, could equipment in the cabin of the vehicle cause additional harm to the driver in a collision?
- Could one failure lead to other failures? For example, could poorly installed equipment in or on a vehicle cause a distraction that results in a collision?
- Could a small event turn into a much larger event with more serious consequences?

To estimate the likelihood of harm occurring consider:

- How often is the task done? Does this make the harm more or less likely?
- How often are people near the hazard? How close do people get to it?
- Has it ever happened before, either as part of commercial passenger vehicle activities or somewhere else?

Rate the likelihood as one of the following:

- **certain to occur** – expected to occur in most circumstances

- **very likely** – will probably occur in most circumstances
- **possible** – might occur occasionally
- **unlikely** – could happen at some time
- **rare** – may happen only in exceptional circumstances.

When working out the severity and likelihood of harm, consider the controls that are already in place to manage the risk. For example, if a vehicle’s brakes are inspected on a regime based on the distance the vehicle has travelled rather than a time-based inspection regime, is the likelihood of the brakes failing lower?

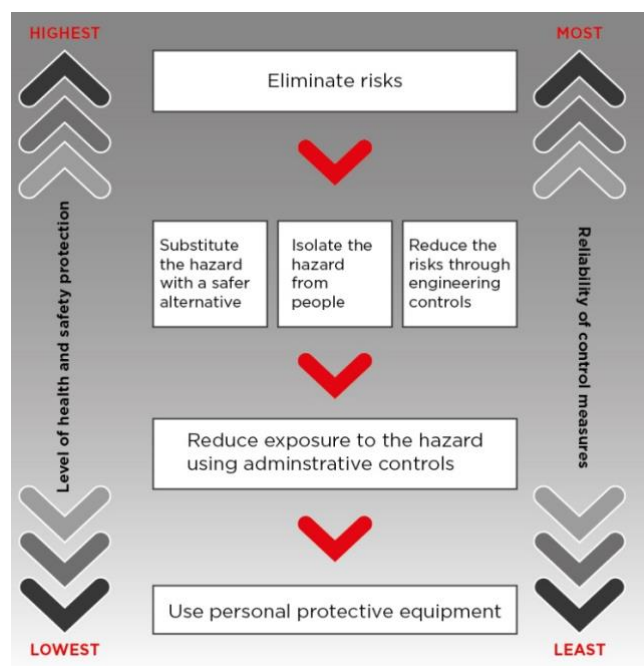
Step 3: How to control risks

The most important step in managing risks involves eliminating or minimising them so far as is reasonably practicable. This is a requirement of the CPVI Act (sections 23–27).

When working out how to eliminate or minimise risks, work through the hierarchy of control, as shown in Figure 2. The ways of controlling risks are ranked from the highest level of protection and reliability to the lowest level.

A safety duty holder must always aim to eliminate the risk, which is the most effective control, but this may not always be reasonably practicable. In this event the risk should be minimised by working through the other options in the hierarchy. A combination of controls may be used, so far as is reasonably practicable.

Figure 2: The hierarchy of control



Source: Safe Work Australia, Code of Practice: *How to manage work health and safety risks*, May 2018, p.19

As an example, driving between midnight and 6 am (when a person would normally be asleep) is a hazard because there is an increased risk of driving while impaired by fatigue.

Options to control the risk include:

- **eliminate the risk** – some safety duty holders may have eliminated this risk by not driving between these hours
- **reduce the risk through engineering controls** – some safety duty holders may have minimised the risk by using technology that detects the symptoms of fatigue and alerts affected drivers
- **reduce exposure to the hazard using administrative controls** – some safety duty holders may minimise the risk by contacting drivers regularly during these hours to check on their welfare
- **use personal protective equipment** – in the event of an incident, seatbelts and SRS airbags are designed to reduce the severity of injuries to drivers.

As shown in Figure 2, a risk cannot be eliminated without eliminating the hazard (in the example above, by not driving at night).

In this example, administrative controls and personal protective equipment (PPE) are the least effective risk management tools because they rely on human behaviour and supervision. Administrative controls rely on the operator to make a phone call, or for the driver to wear a seatbelt. These controls should only be used to support higher order controls as a short-term measure or as a last resort.

Safety duty holders have a responsibility to assess the range of suggested controls and select the most suitable controls and/or develop their own controls. The implementation of controls will depend on:

- a safety duty holder's role or roles in providing commercial passenger vehicle services
- the size and nature of the commercial passenger vehicle activities
- the outcomes of the risk management processes
- what the safety duty holder is capable of doing to control, eliminate or minimise safety risks.

Putting controls in place will usually require changes to the way work is done. For example, minimising driver distraction may be achieved by modifying the way dispatch systems operate.

The following activities could be undertaken to help introduce controls:

- document policies and procedures that outline the controls implemented
- provide training, instruction and information on how to use the controls
- provide supervision to make sure controls are being used as intended
- regularly check controls to make sure they are working as planned.

CPVV develops guidance material to help businesses develop possible controls. These are freely available via our website (www.cpv.vic.gov.au) from the 'Resource Tool Box' section. More guidance is in the *Safe Work Australia Code of Practice: How to manage work health and safety risks* (2018). Find it on the Safe Work Australia website: www.safeworkaustralia.gov.au.

Step 4: How to monitor and review controls

As part of the risk management process:

- Monitor controls put in place to verify they are effective and working as planned. For example, if new information or ways of working become available, do they indicate the current controls may no longer be the most effective?
- Review all risks periodically to make sure things haven't changed and to check that all hazards have been identified. Review priorities should be based on the level of risk. Controls for high risks should be reviewed more frequently.

The same methods as those in the initial hazard identification step (Step 1: How to identify hazards) can be used to check controls. If problems are identified, go back through the risk management steps (Step 3: How to control risks). Safety duty holders should review the information and make further decisions about controlling the risk.

Controls can also be monitored by:

- encouraging people to provide feedback about how effective the control is or if things have changed – for example, changes to pick-up locations at major sporting event venues
- observing the controls in practice to check they are working as intended and are being implemented correctly – for example, doing a walkaround with drivers as they complete daily inspections
- reviewing and analysing any information that might help to understand how the control is working – for example, using GPS tracking to monitor adherence to speed limits
- using key performance indicators to measure the effectiveness of controls and identify opportunities for improvement – for example, the number (or percentage) of vehicle inspections conducted that passed or failed and the reasons why.

If a control is not effective or not working as planned, or has created additional risks, it may need to be modified or a new control implemented.

Safety duty holders should establish accountability for monitoring and performing reviews to ensure controls are effective. This may include identifying:

- risk owners with the accountability and authority to manage risks – for example, an associate driver or contracted driver for daily vehicle inspections
- the responsibilities of people at all levels for risk management activities – for example, all workers are responsible for following reasonable instructions, reporting hazards and stopping work if it is deemed unsafe or if they are not fit for duty.

3.3 How to document the risk management process

It is important to document the risk management process to demonstrate what has been done to manage the safety of commercial passenger vehicle activities and to comply with the CPVI Act. A documented risk management process also helps when monitoring controls and reviewing risks; it can assist in understanding why actions have been taken and in maintaining records of any changes.

The results of a risk assessment should be recorded and shared with staff and/or other safety duty holders as relevant.

Some common ways of reporting and documenting hazards and risks include:

- hazard report forms – paper-based or electronic hazard and incident reporting systems
- risk assessment templates – risk assessments and risk registers also track actions where improvements in controls are required (risk assessment templates may be generic or specific to a task or activity)
- risk registers¹⁷ – a summary register of risks that can be paper-based or an electronic database. For an example risk register see the Safe Work Australia *Code of Practice: How to manage work health and safety risks*, or via guidance provided as part of the CPVV Resource Tool Box at our website (www.cpvv.vic.gov.au).

3.4 Documented example

Worked example

Step	What to do	Example
Establish context	Describe the activity and identify the safety duty holders with a shared responsibility.	A driver has an agreement with a vehicle owner to use a vehicle to provide commercial passenger vehicle services. The driver also has an agreement with a BSP to provide commercial passenger vehicle services.
Step 1: Identify hazards	Identify anything that could potentially cause harm or loss.	Tyre wear and tear through normal use.
Step 2: Assess risk	Consider how the hazard or risk could cause harm or loss. Look at your existing controls to eliminate or minimise the risk.	The vehicle could fail to stop within the anticipated stopping distance, or the driver may lose control of the vehicle at speed, causing the vehicle to collide with a pedestrian, another vehicle or road infrastructure. The driver, passengers or other road users could be seriously injured or killed.
Step 3: Control risk	Try to eliminate the risk first but, if that's not possible, put additional controls in place to minimise the risk so far as is reasonably practicable.	The driver: <ol style="list-style-type: none"> 1. inspects the vehicle before use, or daily, to ensure it is in a fit, serviceable and safe condition 2. maintains records of the inspection activities to demonstrate compliance. The vehicle owner: <ol style="list-style-type: none"> 1. provides a vehicle to the driver that is in a fit, serviceable and safe condition

¹⁷ It should be note BSPs are legally required to maintain a risk register.

Step	What to do	Example
		<p>2. has a system or process in place to ensure the driver is maintaining the vehicle in a fit, serviceable and safe condition, including a reporting framework for vehicle faults and maintenance</p> <p>3. maintains records of the assurance activities to demonstrate compliance.</p> <p>The BSP:</p> <p>1. must have a system or process in place to ensure the driver and vehicle owner are maintaining the vehicle in a fit, serviceable and safe condition</p> <p>2. should maintain records of assurance activities to demonstrate compliance.</p>
<p>Step 4: Monitor and review</p>	<p>Regularly monitor and review the controls you've put in place to make sure they are working as planned.</p>	<p>The vehicle will be inspected by the vehicle owner, the BSP or a third party on a regular basis to ensure it is in a fit, serviceable and safe condition.</p> <p>Data from the annual vehicle inspections to be analysed against all controls to ensure the controls are effective.</p>

More Information

Additional practical guidance on working with other safety duty holders to meet safety duty obligations within a shared responsibility context are available in CPVV's *Code of Practice: Shared responsibly for CPV safety*.

Glossary

Words that are defined in the CPVI Act (the Act) or in the Commercial Passenger Vehicle Industry Regulations 2018 (the Regulations) have the same meaning in this code of practice as in the Act unless the context provides otherwise.

Booking service means a service that receives requests for people to be provided with commercial passenger vehicle services and arranges or facilitates those requests by or on behalf of drivers of commercial passenger vehicles.

Booking service provider means a person who provides a booking service.

Commercial passenger vehicle means a motor vehicle that is registered as a commercial passenger vehicle under Part 3 of the Act.

Commercial passenger vehicle service means driving to collect, or carrying, one or more passengers in a commercial passenger vehicle for a fare or other consideration on a journey that begins in Victoria.

Commercial Passenger Vehicles Victoria (CPVV) is the name given to the Commercial Passenger Vehicle Commission, which is the regulator for the purposes of the Act.

Controls are actions taken to eliminate or minimise risks so far as is reasonably practicable.

Driver means the person in control of a commercial passenger vehicle.

Driver accreditation means the approval by CPVV for a person to drive a commercial passenger vehicle to provide a commercial passenger vehicle service.

Duty holder means a person who has control over providing safe commercial passenger vehicle services.

Fatigue means extreme tiredness resulting from mental or physical exertion or illness.

Hazard means a situation or thing that has the potential to harm a person (for example, through death, injury or illness).

Notifiable incident means an incident that results in the death or serious injury of any person, or an incident that results in the attendance of a police officer or health professional in relation to providing a commercial passenger vehicle service.

Penalty unit is an amount calculated and set out in the *Monetary Units Act 2004 (Vic)* that defines the amount payable for a fine. Penalty units are indexed on 1 July each financial year in line with inflation.

Risk is the possibility that harm (for example, death, injury or illness) might occur when exposed to a hazard.

Safety duties are positive duties imposed on safety duty holders to ensure the safety of their commercial passenger vehicle service and/or equipment and services by eliminating risks or by reducing those risks.

Safety duty holder is a person who has the capacity to influence and control the commercial passenger vehicle service or equipment being used to provide a commercial passenger vehicle service and is responsible for the safety of that service.

Safety culture is about people and how they work together. There is no standard definition of safety culture, but there are two main things that are common to all definitions:

- It is about people's values, attitudes, beliefs and behaviours. In an organisation with a good safety culture, these are geared towards safety, which is considered a priority.
- It is about the spread of these values, attitudes, beliefs and behaviours. Organisations with a good safety culture have these spread throughout – from top management to the shop floor and in everything everyone does in the organisation.¹⁸

System non-conformance occurs when something does not meet the specification or requirement of a process, system, internal policies and procedures, customer requirements or regulatory body. Non-conformance can be found in service, product, process, supplier or management systems.

¹⁸ <https://www.arpana.gov.au/regulation-and-licensing/safety-security-transport/holistic-safety/safety-culture>