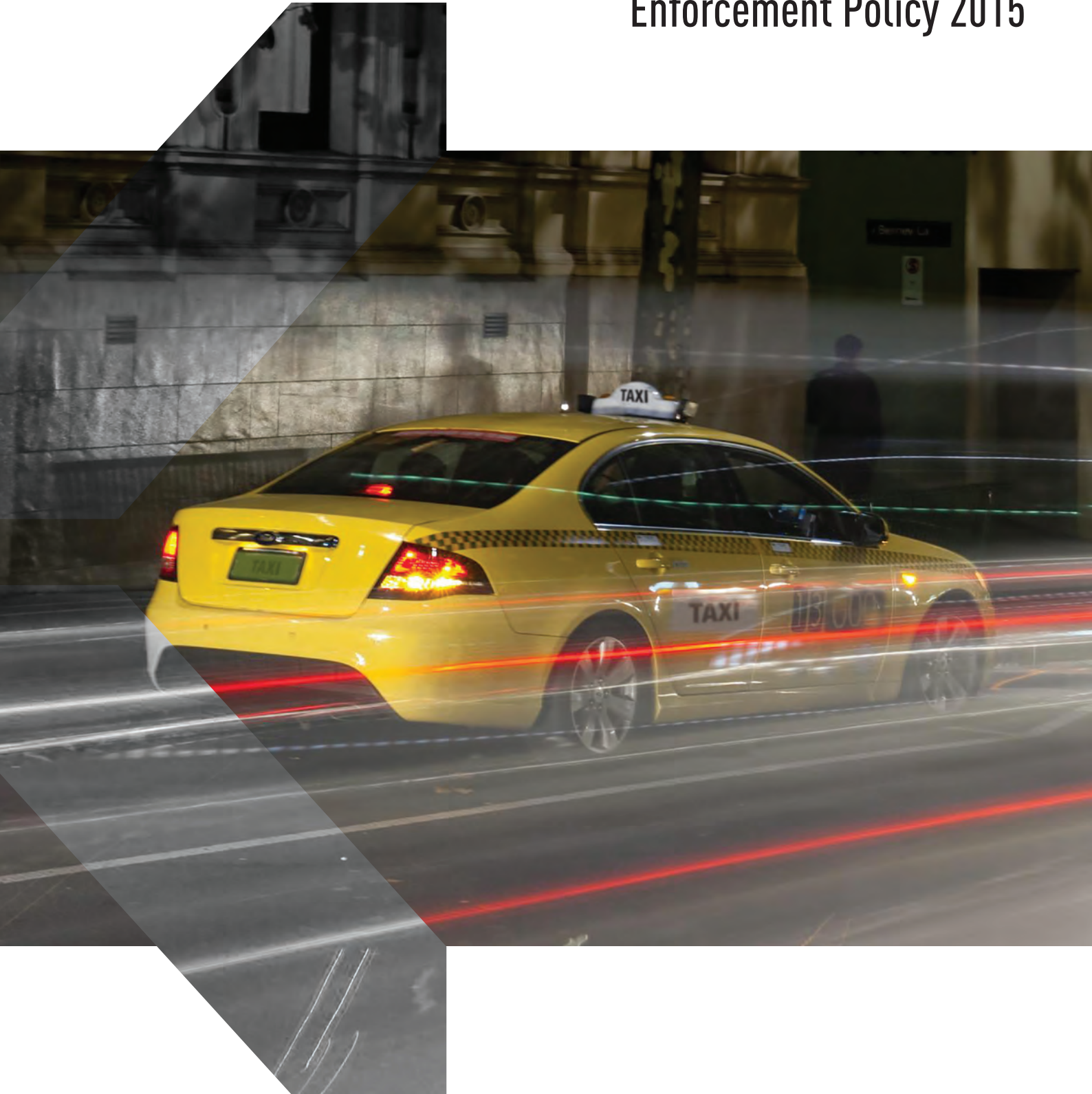


# Taxi Services Commission Monitoring, Compliance and Enforcement Policy 2015



## Purpose of this policy

The Taxi Services Commission (TSC) is an independent statutory authority and transport agency under the *Transport Integration Act 2010 (TIA)* responsible for regulating the commercial passenger vehicle industry in a manner that promotes a customer-responsive, safe, competitive, efficient and accessible service to the community.

The TSC aims to be an effective regulator and an influential authority within the taxi and hire car industry and exercises its statutory authority fairly and credibly. This policy articulates the TSC's approach, method and priorities in ensuring compliance with the Acts and compliance and enforcement powers.

The TSC actively endeavours to support and collaborate with our stakeholders as a responsible state, regional and domestic partner. The TSC seeks to meet stakeholder and community expectations that:

- commercial and passenger vehicle safety standards will be set at appropriate levels and will be effectively enforced
- strong leadership on issues through forums, working groups and provision of resources to assist stakeholders meet their obligations
- regulatory intervention will be purposeful, proactive and appropriate to the circumstances.

The TSC Monitoring, Compliance and Enforcement Policy is intended to assist the TSC, industry stakeholders and other parties with duties, obligations and responsibilities under commercial passenger vehicle legislation and to understand the suite of tools available to ensure legislative requirements are met.

This policy is intended to provide an overview of monitoring, compliance and enforcement options and information as to when use of those options is appropriate. It does not reduce, extend or modify legislative obligations contained in the commercial passenger vehicle legislation.

Whilst this policy assists, it does not control the TSC's compliance and enforcement related decisions. Each decision will take into account all matters relevant to the particular circumstances.

This policy will be reviewed and amended from time to time to take into account amendments to legislation, feedback from TSC stakeholders and changes that are considered desirable.



# Principles of Compliance and Enforcement

The TSC is committed to an active risk-based model extending to all aspects of our operations. Our core business is primarily focused on activities within the commercial passenger vehicle industry that pose the highest risk to the community and encouraging the industry to self-regulate where possible.

The TSC is committed to finding the right balance between our obligation to provide support, education and compliance assistance to stakeholders and the need to deter unlawful behaviour to the full extent of the law.

To achieve its objectives, the TSC is guided by the following five principles:

## Accountable:

To ensure full accountability, our enforcement decisions and the conduct of staff will be explained and open to public scrutiny.

## Consistent:

Like situations will be treated in a like manner. Industry participants need to have full confidence that the TSC's decision making and actions will be equitable and that comparable situations will have comparable outcomes.

## Transparent:

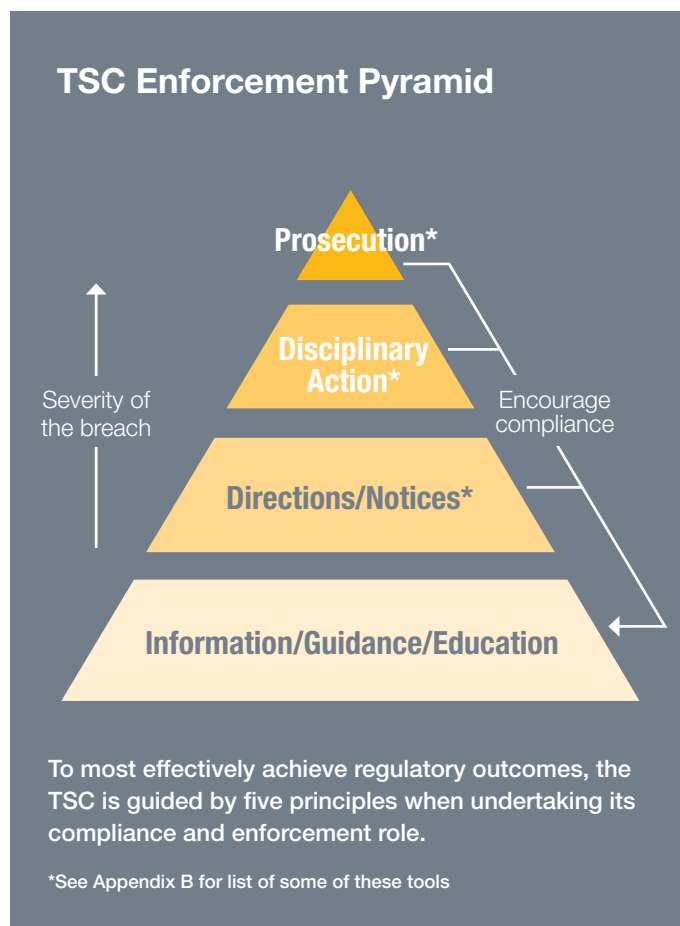
Industry participants must be in no doubt as to the criteria used by the TSC in coming to a decision. Decisions and their reasons must be clearly communicated to relevant stakeholders.

## Proportionate:

Decisions made by the TSC will be proportionate to the identified risk to safety or the seriousness of any perceived breach and the level of non-compliance with legislative requirements.

## Fair and Reasonable:

The TSC seeks to strike the right balance between assisting voluntary compliance and undertaking enforcement actions, while responding to the competing interests of industry participants, stakeholders, government and the public.



# A risk-based and responsive regulatory model

The TSC takes an outcomes-based, risk-focused approach to regulation. It will prioritise compliance and enforcement activity, and allocate resources where it can, to make the biggest difference to Victoria's commercial passenger vehicle industry.

## Our regulatory model

The TSC has adopted a risk-based model in which our targeting of enforcement and our responses to incidents will change depending on the risk. In performing our functions, the TSC applies a balanced combination of positive motivators and deterrents in enforcing commercial passenger vehicle legislation (see list at Appendix A).

The TSC prioritises its compliance and enforcement efforts towards the biggest risk to the community and to those people and businesses that are less likely to comply.

As Victoria's commercial passenger vehicle regulator, the TSC is driven by the public interest in a safe industry and safe transport.

Our regulatory model ensures that our enforcement responses are flexible and targeted at the highest risks posed by non-compliance.

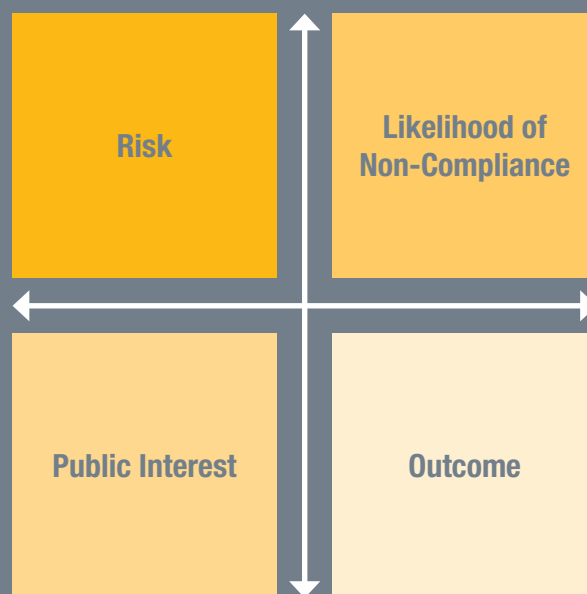
Our enforcement actions are:

- proportionate to the risks posed
- recognise the capacity and motivation of non-compliant entities to return to compliance
- signal the seriousness which the TSC regards the non-compliance
- tailored to achieve the best outcome
- timely.

## TSC's approach to targeted enforcement

Where non-compliance is detected, enforcement tools may need to be used. The TSC employs a range of responsive enforcement tools that escalate in severity as the need arises. These tools include improvement notices, infringement notices, licence cancellations, imposition of penalties, and criminal prosecutions.

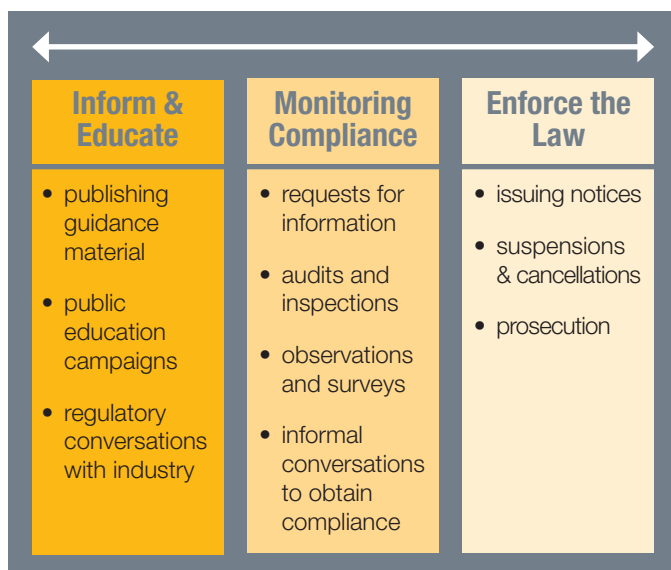
The TSC will consider the circumstances of a failure to comply and choose an enforcement tool that is appropriate to those circumstances and in proportion with the risk presented. Often, the most appropriate response to a breach of the commercial passenger vehicle legislation is to apply an integrated strategy with the provision of advice and guidance material.



To achieve its compliance and enforcement objectives, the TSC uses a range of flexible and targeted measures.

# TSC's regulatory approach

The TSC promotes a graduated and integrated approach to commercial passenger vehicle compliance and enforcement. As a responsive regulator, the TSC not only chooses the appropriate tool, but also adopts a complementary regulatory style in the circumstances. The TSC moves along the following spectrum within the co-regulatory context and considers various factors:



In addition to the principles that underpin the TSC's regulatory approach, it takes into account the following when choosing a regulatory tool/style and exercising its regulatory discretion more generally.

- 1. Level of Public Concern:** whether the nature of the alleged offence is of considerable public concern.
- 2. Impact of Offence:** the impact of the alleged offence on any other relevant persons (i.e. victims/witnesses).
- 3. Deterrence:** the impact of enforcement-related action on general deterrence (i.e. reducing the likelihood that others will commit similar offences); and specific deterrence (i.e. reducing the likelihood that the person will commit a further breach of the law).
- 4. TSC's Current Risk Areas:** whether the breach falls within the TSC's identified regulatory focus.
- 5. Administrative Considerations:** the necessity to maintain public confidence in the administration of the law and regulate industry standards. When deciding what enforcement action is appropriate, the TSC will consider all aspects – this also includes whether the action is fair, reasonable and consistent.

Compliance means following the law. It means conducting authorised activities in accordance with any conditions or regulatory requirements.



# Detecting, preventing and managing contraventions

The TSC is committed to detecting, preventing and managing contraventions of the commercial passenger vehicle legislation and associated risks to safety across the commercial passenger vehicle industry.

- **Risk analysis and proactive targeting**

A core function of the TSC is to determine levels of compliance with current standards and laws, and maintain a credible risk of detecting non-compliance. The TSC constantly improves its capacity to detect and respond to non-compliance. When the TSC identifies or becomes aware of a problem or a risk, it seeks to resolve the problem before it leads to a bigger issue. Risk analysis, proactive monitoring of compliance trends and investigating non-compliance are therefore key roles for the organisation.

- **Communication and consultation processes**

The TSC supports stakeholders in the provision of practical and constructive advice and information regarding the commercial passenger vehicle industry. It fosters co-operative, consultative relationships between all industry parties to achieve solutions that work for everyone. A key foundation of the TSC's stakeholder approach is to support and involve stakeholders in the provision and promotion of education in industry safety, service and sustainability standards.

- **Training, learning and development**

The TSC is committed to regular training and development of its staff and other agencies on improved regulatory and safety practices. The TSC strives to ensure industry participants understand their legislative obligations and how to comply with such obligations. The organisation is driven by the public interest in building a positive safety culture among all participants, including continuous improvements in risk and safety management, best practices in safety standards and capacity building to achieve broad safety outcomes across the industry.

- **Relationships with other regulators & law enforcement agencies**

The TSC works closely with other regulators and law enforcement agencies through joint operations, stakeholder forums, working groups and committees to improve regulatory performance and safety outcomes for the community and the commercial passenger vehicle industry. The TSC regularly shares corporate information of industry participants and enforcement outcomes with other regulators and law enforcement agencies through Memorandum of Understandings', referral protocols and regular information-sharing sessions in compliance with the *Privacy and Data Collection Act 2014 (Vic)* and in the interest of public safety.

- **Publication of enforcement information**

When the TSC undertakes enforcement against an offender and the matter is determined by court action, the court finding may be made publicly available with an accurate account of the case published on the [taxi.vic.gov.au](http://taxi.vic.gov.au) and a summary in the TSC annual report. This public disclosure is an integral part of both general and specific deterrence. All published information will be accurate and not infringe privacy requirements. Any inquiries can be directed to TSC Privacy Officer, Taxi Services Commission, GPO Box 1716, Melbourne VIC 3001. Telephone: 1800 638 802, Facsimile: 03 8683 0777, Email: [FOI@taxi.vic.gov.au](mailto:FOI@taxi.vic.gov.au)



# Appendix A: TSC Relevant Legislation

- Crimes Act 1958 (Vic)
- Infringements Act 2006 (Vic)
- Privacy and Data Collection Act 2014 (Vic)
- Road Safety Act 1986
- Road Safety Road Rules 2009 (Vic)
- Summary Offences Act 1966 (Vic)
- Transport (Compliance and Miscellaneous) Act 1983
- Transport Integration Act 2010 (Vic)
- Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) Regulations 2005

# Appendix B: TSC Regulatory Tools

Transport (Compliance and Miscellaneous) Act 1983 (Vic)	Infringements Act 2006 (Vic)	Road Safety Act 1986 (Vic)	Transport (Buses, Taxi-Cabs and Other Commercial Passenger Vehicles) Regulations 2005
<b>COMPLIANCE POWERS</b>			
<b>Section 134A(1)</b> Power to require a person carrying out an activity for which accreditation is required to produce a certificate of accreditation for inspection			<b>Regulation 19</b> Power to require driver or operator to produce a taxi for inspection
<b>Section 135A &amp; 169I</b> Power to take disciplinary action in relation to a taxi or hire car driver's accreditation including cancellation, disqualification, suspension, imposition of new licence conditions, directions to undergo appropriate training and reprimands			<b>Regulation 20</b> Power to issue a notice requiring any defects to be rectified within a specified time frame
<b>Section 158B(1)(b)</b> Power to download or print an image or other data obtained from a security camera in a taxi cab			<b>Regulation 21</b> Power to demand evidence that any identified defects have been rectified in accordance with that notice
<b>Section 158B(2)(c)</b> Power to possess, publish, transmit or disclose an image or other data obtained from a security camera in a taxi cab			
<b>Section 216(1)(a)</b> Power to request the driver of any motor vehicle to produce for inspection any licence, permit or document			
<b>Section 216(1)(b)</b> Power to request driver to state his or her name and address			
<b>Section 217(1)</b> Power to weigh any motor vehicle or trailer or any motor vehicle and trailer and any load carried thereon			
<b>ENFORCEMENT POWERS</b>			
<b>Section 212(1A)(ab)</b> Power to issue transport infringement notices for an offence against this Act or the Regulations	<b>Section 23(1)</b> Power to request any additional information in writing from the applicant in order to conduct an internal review	<b>Section 88</b> Power to issue infringement notices for an offence against this Act or the Regulations	
<b>Section 228RI</b> Power to enter without consent, and for a 'restricted purpose', a commercial passenger vehicle in a variety of circumstances	<b>Section 24(1)(a)</b> Power to review the decision to serve an infringement notice on a person		
<b>Section 228RI(2)</b> Power to enter any commercial passenger vehicle premises or a commercial passenger vehicle if the entry is authorised by a search warrant	<b>Section 25(1)(a)</b> Power to confirm the decision to serve an infringement notice		
<b>Section 228RN</b> Power to apply to a Magistrate for a search warrant for a place, commercial passenger vehicle or non-cash payment processing device to establish the commission of an offence against a commercial passenger vehicle law	<b>Section 25(1)(b)</b> Power to withdraw the infringement notice and serve an official warning in place of the infringement notice		
<b>Section 228RY</b> Power to direct a specified person or a provider of a non-cash payment processing service to provide any information or document required to be kept under a commercial passenger vehicle law	<b>Section 25(1)(d)</b> Power to withdraw the infringement notice and refer the matter to court		
<b>PROSECUTION POWERS</b>			
<b>Section 229(1)</b> Power to bring prosecution proceedings for an offence against this Act or the Regulations		<b>Section 77</b> Power to bring prosecution proceedings for an offence against this Act or the Regulations	

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