Compliance and Enforcement Policy

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V2.00

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1. Purpose

The purpose of the Compliance and Enforcement Policy (the **Policy**) is to explain how the Transport Accident Commission (TAC) identifies, investigates and responds to suspected non-compliance, fraud, dishonesty and other improper conduct connected with the transport accident scheme.

This policy sets out the principles the TAC applies when making investigation, referral, recovery and enforcement decisions. It also explains the actions the TAC may take where a person's conduct affects, or may affect, the integrity, fairness or sustainability of the scheme.

This Policy supports the TAC's obligations under the Transport Accident Act 1986 and associated legislation by establishing a framework for managing suspected non-compliance and improper conduct in a manner that is lawful, fair, proportionate, consistent and accountable.

2. Background

The TAC has statutory responsibilities under the **Transport Accident Act 1986** and related legislation to administer and protect the is integrity of the transport accident scheme. Ensuring compliance with these obligations is integral to maintaining a fair, balanced and sustainable scheme.

The TAC is responsible for protecting the integrity of the scheme by identifying, investigating and responding to suspected wrongful conduct. This includes conduct that may result in benefits being obtained fraudulently, amounts being paid that are not payable, or false or misleading information being provided to the TAC.

As a Victorian public authority with investigative and enforcement powers, the TAC may take a range of actions in response to suspected wrongful conduct. These actions may include education, warning or caution, recovery action, civil proceedings, criminal proceedings, referral to another agency or regulator, or taking no further action.

In deciding what action to take, the TAC will act lawfully, fairly, consistently and proportionately. Decisions will be informed by the available evidence, the seriousness of the conduct, the harm caused or risked, and the public interest.

This policy describes:

- how investigations may be conducted by the TAC
- the principles the TAC applies when making investigation and enforcement decisions
- how matters involving potential recovery of amounts owed to the TAC may be considered
- how matters may be referred to another agency, regulator or law enforcement body
- how the TAC meets its statutory accountability and responsibility

In exercising its compliance and enforcement functions, the TAC will also have regard to applicable public sector obligations, including requirements relating to privacy, information management, procedural fairness, integrity and accountability.

3. Scope

This policy applies to suspected or identified wrongful conduct connected with the operation of the transport accident scheme.

This may include:

- fraud, dishonesty or deliberate misrepresentation
- false or misleading information
- obtaining, or attempting to obtain, benefits that are not payable
- improper claiming, billing or charging practices
- failure to comply with obligations under the **Transport Accident Act 1986**
- failing to pay the full amount of the transport accident charge
- conduct that obstructs, hinders or affects the administration of the Act
- other conduct that may affect scheme integrity, client outcomes or public confidence

In this policy, a **Person** includes, but is not limited to, a TAC client, contractor, provider, supplier or other individual or entity whose conduct may affect the transport accident scheme.

This policy does not set out detailed operational investigation methods, investigation techniques or internal procedures.

This Policy does not replace operational procedures, claims management processes, workforce misconduct processes or obligations under the TAC Fraud and Corruption Control Framework.

4. Compliance and enforcement principles

The TAC will apply the following principles when assessing, investigating and responding to suspected non-compliance or wrongful conduct.

- **Lawful** — the TAC will act within its statutory powers and legal obligations
- **Risk-based and targeted** — the TAC will focus its resources on matters involving the greatest risk or harm to the scheme, clients or public confidence
- **Proportionate** — action taken will reflect the seriousness of the conduct, the level of culpability and the harm caused or risked
- **Consistent** — similar matters will be treated in a similar way, while considering the individual circumstances of each case
- **Fair** — the TAC will apply procedural fairness, subject to lawful exceptions.
- **Evidence-based** - Decisions will be based on relevant, reliable and appropriately obtained evidence.
- **Independent and unbiased** - Decisions will be made objectively, free from actual, potential or perceived conflicts of interest.
- **Transparent and accountable** — decisions will be documented and explained where appropriate
- **Public interest focused** — enforcement action, particularly prosecution, will be guided by the public interest

These principles guide how the TAC decides whether to investigate a matter, what action may be appropriate and whether a matter should be referred, recovered or prosecuted.

5. Offences and proceedings under the Transport Accident Act 1986

Part 8 of the **Transport Accident Act 1986** sets out offences and related provisions concerning conduct that may affect the proper operation of the transport accident scheme.

These offences include, but are not limited to, a person:
- fraudulently obtaining, or attempting to obtain, benefits
- providing false or misleading information
- obtaining benefits that are not payable
- failing to pay the full amount of the transport accident charge
- obstructing or hindering the administration of the **Transport Accident Act 1986**.

Where a person is prosecuted and found guilty of an offence under the **Transport Accident Act 1986** or related legislation, the court may impose penalties or make orders. These may include requiring the person to:

- refund money to the TAC
- pay a fine
- serve a sentence of imprisonment.

The outcome in each matter will depend on the offence, the circumstances of the conduct and the decision of the court.

6. Power of investigation

Where the TAC has reasonable grounds to believe that a person may have contravened a provision of the **Transport Accident Act 1986**, or where it is necessary for the purposes of enforcing the Act, the TAC may investigate the matter in accordance with this policy and its statutory powers.

Section 127A of the **Transport Accident Act 1986** gives the TAC powers of investigation, including the power to:

- enter, inspect and examine premises, where authorised by law
- require a person to provide information or produce documents
- inspect, examine and copy documents
- exercise other powers available under the Act to determine whether the Act has been contravened or to support enforcement of the Act.

The TAC will use its investigation powers lawfully, fairly and proportionately. The use of statutory powers will depend on the circumstances of the matter, the nature of the suspected conduct and the purpose of the investigation.

Where a person obstructs or hinders an investigation or refuses or fails to comply with a lawful requirement made by a TAC officer exercising powers under **section 127A**, the TAC may consider criminal proceedings under **section 127B** of the **Transport Accident Act 1986**.

Investigation activities, decisions and outcomes will be appropriately documented and managed in accordance with applicable information management and recordkeeping requirements.

7. Procedural fairness

The TAC will apply procedural fairness when conducting investigations and making enforcement decisions, subject to lawful exceptions. Where appropriate, a person may be given an opportunity to respond to relevant allegations, information or proposed action before a final decision is made.

Where practicable, decisions will be made by appropriately authorised officers who have not been involved in the conduct giving rise to the matter and who do not have an actual, potential or perceived conflict of interest.

The way procedural fairness is provided will depend on the circumstances of the matter, the nature of the investigation and any legal or operational requirements.

Procedural fairness does not prevent the TAC from taking lawful action to protect the integrity of the scheme, preserve evidence, refer a matter to another agency or progress an investigation where it is appropriate to do so.

8. Actions the TAC may take

Following an assessment or investigation, the TAC may take one or more actions depending on the circumstances of the matter.

These actions may include:

- taking no further action
- providing education or guidance
- issuing a behavioural change letter or letter of advice
- issuing a letter caution
- seeking repayment or taking recovery action
- commencing civil proceedings
- commencing criminal proceedings under the **Transport Accident Act 1986**, the **Crimes Act 1958** or other relevant legislation
- referring the matter to Victoria Police, the Office of Public Prosecutions, IBAC, the Coroner, a professional regulator or another relevant authority as appropriate
- taking any other lawful action available to the TAC

The action taken will depend on the available evidence, the seriousness of the conduct, the harm caused or risked, the person's level of culpability, the level of cooperation, the availability of other options and the public interest.

The TAC may use education or early intervention where this is likely to achieve an appropriate compliance outcome. More serious matters may result in recovery action, referral or prosecution.

Early Intervention: Behavioural Change and Education Letters

For minor, inadvertent, or low-level non-compliance, the TAC may use early intervention to realign behaviour and prevent future breaches.

- **Purpose:** To clarify statutory obligations, highlight areas of concern, and encourage voluntary compliance.
- **Application:** Deployed when proportionality indicates education is the most effective outcome. Deliberate, serious, or systemic non-compliance will bypass early intervention in favour of formal enforcement or prosecution.

8.1 Governance and Decision Making

Decisions made under this Policy will be exercised in accordance with applicable delegations, authorities and internal governance arrangements.

Enforcement outcomes must be appropriately authorised and documented.

Significant matters may be escalated for legal advice, executive consideration or other governance oversight where required.

9. Criminal proceedings

Where a TAC investigation identifies sufficient evidence that a person may have committed an offence under the **Transport Accident Act 1986**, the **Crimes Act 1958** or other relevant legislation, the TAC may consider criminal proceedings.

In deciding whether criminal proceedings should be commenced, the TAC will consider:

- whether there is sufficient, admissible and reliable evidence to provide a reasonable prospect of conviction
- if so, whether commencing proceedings is in the public interest.

In considering the public interest, the TAC will have regard to relevant prosecution policies and guidelines, including those of the **Office of Public Prosecutions**. Relevant factors may include:

- the seriousness of the alleged offence
- the person's level of culpability
- any aggravating or mitigating circumstances
- the harm caused or risked
- the availability of alternatives to prosecution
- the need for general or specific deterrence
- the importance of maintaining public confidence in the transport accident scheme and the administration of justice.

Where appropriate, the TAC may refer matters to the **Office of Public Prosecutions** for advice or prosecution. The TAC may obtain internal or external legal advice in relation to the conduct of criminal proceedings. The TAC may also commence proceedings in accordance with its legal obligations, delegations and internal decision-making processes.

Letter of caution

Where there is a reasonable prospect of conviction, but the TAC determines that criminal proceedings are not in the public interest, the TAC may issue a **letter of caution** as an alternative to prosecution. A letter of caution may set out the conduct of concern, identify the relevant contraventions, warn that further non-compliance may result in stronger enforcement action, and seek repayment of amounts the TAC considers should not have been paid, where appropriate.

Where repayment is not resolved, the TAC may consider recovery action, including civil proceedings.

10. Recovery and civil proceedings

Where a TAC investigation identifies evidence that amounts may have been incorrectly paid, overpaid, not payable, or obtained through fraudulent, false, misleading or otherwise improper conduct, the TAC may consider recovery action.

Recovery action may include seeking repayment directly from the person, offsetting amounts where permitted by law, entering into a repayment arrangement, or commencing civil proceedings.

In deciding whether to take recovery action, including civil proceedings, the TAC will consider relevant factors, including:

- whether there is sufficient evidence to establish a right of recovery

- the amount sought to be recovered
- the likely cost, time and complexity of recovery action
- the person's capacity to repay some or all of the amount
- the likelihood of successful recovery
- the public interest, including the need to protect the integrity and sustainability of the transport accident scheme

11. Appendices

There are no appendices relevant to this Policy

12. Definitions and Abbreviations

Except where the context otherwise requires, the meaning of each capitalised term in this document are set out in the TAC Defined Terms Guide.

13. Related Documents

References
Transport Accident Act 1986
Crimes Act 1958 (Vic)
Criminal Procedure Act 2009 (Vic)
Privacy and Data Protection Act 2014 (Vic)
Charter of Human Rights Act 2006 (Vic)
Public Records Act 1973 (Vic)
Fraud and Corruption Control Framework
Statutory Delegations and Authorisations
Code of Conduct
Records and Information Management Policy
Privacy Policy

14. Contact details

For further information or support with this Policy please contact the TAC on 1300 654 329 or visit https://www.tac.vic.gov.au/about-the-tac/contact-us

15. Authorisation and Review

This policy will be reviewed **every three years**, or earlier if required due to:

- legislative or regulatory change
- material risk issues or significant operational change
- audit findings or assurance outcomes
- relevant internal learnings or stakeholder feedback.