



Vehicle & Operator
Services Agency

GUIDE

Code of Practice on safety defects and recalls in the vehicle aftermarket



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Introduction

In the UK, legislation covers the producer's and/or distributor's responsibilities regarding consumer protection in the form of the General Product Safety Regulations 2005 (GPSR 2005). This legislation was brought about by the introduction of European legislation (The General Product Safety Directive 2001 (Directive 2001/95/EC) and subsequent additions (2004/905/EC)). These documents encourage Codes of Good Practice.

The Road Traffic Act 1988 (as amended) also applies.

This Code of Practice on safety defects and recalls in vehicle aftermarket (hereafter referred to as the "Code"), has been developed in consultation with;

- ▶ Vehicle and Operator Services Agency (VOSA) representing the Secretary of State for Transport
- ▶ The Society of Motor Manufacturers and Traders Limited (SMMT)
- ▶ The Motor Cycle Industry Association Limited (MCIA)
- ▶ The National Caravan Council (NCC)
- ▶ Independent Automotive Aftermarket Federation (IAAF)
- ▶ Retail Motor Industry Federation (RMIF)
- ▶ British Tyre Manufacturers' Association Ltd (BTMA)
- ▶ National Tyre Distributors Association (NTDA)
- ▶ Imported Tyre Manufacturers' Association (ITMA)
- ▶ Retread Manufacturers Association (RMA)
- ▶ Agricultural Engineers Association (AEA)
- ▶ National Trailer and Towing Association (NTTA)

What this Code covers

This Code covers cases where producers and/or distributors become aware of the existence of potential safety defects in aftermarket parts that are available for supply in the UK in respect of the following;

- ▶ passenger cars
- ▶ commercial vehicles
- ▶ passenger carrying vehicles
- ▶ two- and three-wheeled motorcycles
- ▶ quadricycles
- ▶ commercial trailers
- ▶ agricultural equipment
- ▶ motor homes/caravans, trailer caravans (leisure accommodation vehicles)
- ▶ private trailers

For safety defects concerning vehicles or components fitted to vehicles as original equipment, please see the **Code of Practice on Vehicle Safety Defects and Recalls**.

Definitions

Aftermarket parts – means any product manufactured to be fitted to a vehicle after it has left the vehicle manufacturer’s production line.

Driver and Vehicle Licensing Agency (DVLA) – is the government agency that manages the vehicle keeper information for all registered vehicles in the UK.

Forthwith – is taken to mean immediately or without delay.

General Product Safety Directive 2001 (GPSD) – the European directive on product safety.

General Product Safety Regulations 2005 (GPSR) – the UK product safety legislation from the GPSD.

Producer and Distributor – are each taken to have the meanings attributed to them in the General Product Safety Regulations 2005.

Manufacturers’ Guide to Recalls in the Automotive Sector – a document which provides guidance on the implementation of a safety recall.

Non-code action – This is a proactive and proportionate action registered with VOSA, which falls outside the scope of a safety recall. The issue may affect the long-term safety of the product or its ability to satisfy legislative requirements.

Safety recall – The action taken when a defect is identified, which meets the definition of a safety defect - as described below - that could result in a risk of serious injury.

For more information about the UK recall process, see the **Manufacturers’ Guide to Recalls in the Automotive Sector**.

Safety defect – is a failure due to design and/or construction, which is likely to affect the safe operation of the aftermarket part without prior warning to the user and may pose a significant risk to the driver, occupants and others. This defect will be common to a number of aftermarket parts that have been sold for use in the UK.

User – is a person, a business or group of people who are the owner or final user of goods or services.

Vehicle and Operator Services Agency (VOSA) – The government agency responsible for a wide range of services, including the management of the safety recall scheme in the UK.

VOSA's role

VOSA is the government-appointed authority in the UK responsible for product safety in the automotive sector. A producer or distributor is required to inform the competent authority forthwith of any issues they have with the safety of their aftermarket parts. VOSA will also receive allegations of safety issues from a wide range of sources through their defect reporting arrangements.

For more information about VOSA's responsibilities please see the **Manufacturers' Guide to Recalls in the Automotive Sector**.

Investigations

VOSA

VOSA has responsibilities to monitor and investigate issues that affect automotive product safety. When VOSA receives an allegation of a safety defect, it will be reviewed to determine if it falls within the definition of a safety defect. If this is the case, VOSA will formally report this to the relevant producer or distributor.

It will then be a matter for VOSA and the producer or distributor to decide on the nature of the investigation.

During the investigation, close contact between VOSA and the producer or distributor is maintained and regular reviews take place.

VOSA will write to the complainant on conclusion of the investigation, informing them of the outcome.

Producers or distributors

The producer or distributor will respond to VOSA's request to investigate and will do so as quickly and as fully as is required.

Producers or distributors will keep VOSA updated on progress, providing evidential and statistical information, as is warranted by the investigation. Producers or distributors will have four weeks to respond to VOSA with their initial findings/information.

The producer or distributor will ensure all tests and evaluations necessary to reach a conclusion are undertaken and that they provide VOSA with a full evaluation and a conclusion to the investigation in writing.

Early notifications

VOSA receives enquiries relating to how issues may affect the UK market. It may be necessary to answer questions that come from a variety of sources and it is important that relevant information is available to VOSA when necessary.

There are two main areas where a producer or distributor may need to notify VOSA at an early stage:

Alleged safety defects affecting aftermarket parts that have been supplied for use in the UK

At this early stage it would be helpful to indicate to VOSA:

- ▶ The producer, part name and number
- ▶ The nature of the safety defect and the estimated number of products involved
- ▶ The nature of the safety hazard involved

It is appreciated that the information received may not be as complete as the details supplied on the official notification form. However this brief data ensures VOSA is aware of the issue at the earliest stage which then complies with Part 2, section 9 of the GPSR. Information supplied will be treated in confidence.

Alleged safety defects affecting aftermarket parts not supplied for use in the UK

This occurs when there is a safety issue affecting aftermarket parts not supplied for use in the UK, but which may attract attention. Although there is no legislative mandate for the producer or distributor to comply, VOSA recommends notice is provided to ensure there is awareness and to avoid unnecessary communication after the event. At this stage, it would be helpful for VOSA to have the following information in order to confirm this issue does not affect the UK:

- ▶ The producer, part name and number
- ▶ The nature of the safety defect and the remedy along with a brief explanation of why the recall is not to be conducted in the UK
- ▶ Countries affected

In cases where the safety defect appears to stem from a fault in an aftermarket part produced by another supplier, VOSA should be advised, giving as much information as possible.

The producer or distributor will also inform VOSA of all subsequent decisions on remedial action.

Actions taken following investigation

Under the GPSR, it is the responsibility of the producer or distributor to effectively warn the user of the risk when it has been identified. The priority when dealing with a consumer protection issue is to take the most appropriate and proportionate action that will ensure the risk is reduced.

The primary responsibility for investigating and deciding on the appropriate remedial action lies with the producer or distributor, but VOSA will offer views and make recommendations on the measures proposed under the responsibilities given to them by the GPSR.

There are a number of actions that producers or distributors can take following a safety defect investigation. However, VOSA has responsibility for monitoring the following:

- ▶ A non-code action
- ▶ A safety recall

For more information regarding actions taken by producers or distributors and the safety recall process please see sections 1 and 2 of the **Manufacturers' Guide to Recalls in the Automotive Sector**.

User notifications

As soon as the producer or distributor decides to undertake a safety recall, they will take all reasonable steps to notify all users of the aftermarket parts affected. They may use any appropriate method to notify users in order to call in aftermarket parts for the purpose of examination, repair or replacement, as required.

Producers or distributors may use a number of different methods to locate users. This could include:

- ▶ Manufacturers' sales records
- ▶ Supplier or distributor records
- ▶ Retail sales records
- ▶ Warranty information
- ▶ Customer loyalty programmes
- ▶ Driver Vehicle and Licensing Agency

There are a number of ways producers or distributors may use to share the recall message. This could include:

- ▶ Social media
- ▶ Direct mailing
- ▶ Email
- ▶ Websites (including producers' or distributors' own and trade associations)
- ▶ Radio campaigns
- ▶ National press advert
- ▶ Retail outlets
- ▶ Wholesale outlets

User responsibilities are described in the **Consumer Guide to Safety Defects** and the **Consumer Guide to Safety Recalls**.

Publishing of information

All safety recalls and non-code actions will be published on VOSA's website.

In addition, safety recalls will be published bi-annually in the recalls e-bulletin. This is available on GOV.uk and monthly by signing up to VOSA's alerts via the website.

It should be clear that VOSA's primary role is to protect users. It therefore reserves the right, under ministerial authority, to publish at any time, information of public interest. Before doing so, VOSA will consult the producer or distributor, and where appropriate, the aftermarket part producer and/or distributor concerned.

VOSA will not disclose publicly information on matters of commercial confidence unless there appear to be overriding safety considerations.

Monitoring

Producers or distributors will notify VOSA of the response rate at three monthly intervals, until the safety recall or non-code action is complete or it is mutually agreed that the campaign be closed for reporting purposes.

Producers or distributors should take all reasonable steps to locate and rectify users aftermarket parts.

Imported aftermarket parts

In the case of a potential safety defect affecting aftermarket parts imported by an independent importer, that importer shall bear the responsibilities specified in this Code.

Exported aftermarket parts

The Code does not cover exported aftermarket parts. Measures to be taken in relation to these will depend upon the legal and administrative arrangements prevailing in the country of import. However, the consultees of the Code are prepared to participate in any international discussions with a view to agreements designed to harmonise arrangements governing notification of safety defects and related remedial action.

Further information

This Code of Practice is drawn up and has been revised as a consequence of the implementation of Directive 2001/95/EC on general product safety and the General Product Safety Regulations 2005. It is not intended to interpret, qualify or supplement English Law.

You retain your rights under the GPSR and copies can be obtained at www.legislation.gov.uk.

Any further information is obtainable by contacting VOSA, via the details provided below.

This Code of Practice is produced in tandem with the VOSA **Manufacturers Guide to Recalls in the Automotive Sector**.

For Further Information Contact:

The Vehicle Safety Branch
Vehicle and Operator Services Agency
Berkeley House
Croydon Street
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Contact centre Tel: **0300 123 9000** or email vsb@vosa.gsi.gov.uk or find us on www.gov.uk/vosa.

Visit our websites:

for commercial customers and private motorists
www.gov.uk

for corporate information
www.gov.uk/vosa

Contact us:

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