

Vehicles safety defects and recalls – operators'/owners' obligations

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Operator Guidance

Don't underestimate the danger!



What's in the guidance?

- 1) What is a Vehicle Safety Defect?
- 2) What is a Vehicle Safety Defect Recall?
- 3) How will I be informed of a Vehicle Safety Defect and/or Recall on my vehicle/trailer?
- 4) Who is responsible for dealing with Vehicle Safety Defects and Recalls?
- 5) How can I find out if my vehicle/trailer has an outstanding Recall?
- 6) What should I do when I am aware of a Recall on my vehicles?
- 7) What should I do if I think my vehicle/trailer has a defect that constitutes a Recall?
- 8) What system should I have in place to address Vehicle Safety Defects and Recalls?
- 9) Where can I find more information?

Operator's guidance on Vehicle Safety Defects and Recalls

Briefing note

A number of concerns have been raised about the effectiveness of the vehicle safety defects and recalls procedures in the UK, both in regards to the process that manufacturers/producers/distributors follow in the identification and rectification of defects and in the operator's understanding of their obligations to check and manage vehicle safety defects and recalls.

Logistics UK has provided this guidance to help operators understand the current process for identifying and dealing with vehicle safety defects and the rectification action required when a safety recall is initiated.

1 What is a vehicle safety defect?

A vehicle safety defect is when there is a design and/or construction fault in a product that is likely to affect its safe operation and where the fault would pose a significant risk to the vehicle's driver, its occupants and/or others.

2 What is a vehicle safety defect recall?

Unfortunately, despite all the controls that manufacturers have in place to avoid such a situation, defects in components do materialise, and the actions that are put in place to deal with these will be dependent upon the severity of the defect. Some defects are minor in nature and may not result in a recall, but other, more serious defects do warrant a vehicle recall.

Where a vehicle, trailer or components manufacturer (or distributor of the products) identifies or is made aware of a safety defect, in the UK they are duty bound to report this to the Driver and Vehicle Standards Agency (DVSA). DVSA is the Government-appointed authority responsible for product safety in the automotive industry.

DVSA works with the vehicle, trailer or components manufacturer (or distributor) to investigate the problem, assess its level of risk and agree on a course of action relevant to the level of risk the defect poses. This will be based on the following criteria:

Action	Risk type
Safety recall (stop drive)	The definition of a safety defect is met, and there is an immediate threat to safety, so the vehicle must not be driven.
Safety recall	The definition of a safety defect is met, but the threat is not immediate or can be mitigated with 'reasonable' consumer action.
Consumer/ garage warning	The definition of a safety defect is met but can be adequately mitigated through vehicle maintenance or similar checks. May be used with a recall.
Amendment to maintenance/ servicing requirements	Used where a 'reasonable' change to maintenance or servicing requirements can detect a potential problem and avoid the defect. Not usually used in isolation due to communication challenges.

Should the criteria of a safety defect not be met, then the following action may be initiated:

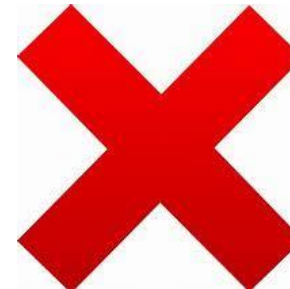
Action	Risk type
Non-safety recall (non-road action)	Does not meet the criteria for a safety defect; however, it would be in the customer's interest to have rectifying work completed through a recall.
Service campaign (no recall)	There is no safety risk, and a recall is not deemed to be in the interests of all users of the vehicle.



What is a Vehicle Safety Defects

LOGISTICS UK

A vehicle safety defect is one where there is a design and/or construction fault in a product that is likely to affect its safe operation and where the fault would pose a significant risk to the vehicle's driver, its occupants and/or others.



What action is required?

- **Identification.**
- **Reporting.**
- **Assessment.**
- **Course of action.**

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Consumer / Garage Warning	The definition of a safety defect is met but can be adequately mitigated through vehicle maintenance or similar checks. May be used with a recall.
Amendment to maintenance / servicing requirements	Used where a 'reasonable' change to maintenance or servicing requirements can detect a potential problem and avoid the defect. Not usually used in isolation due to communication challenges.
Action	Risk Type
Non-safety Recall (non-code action)	Does not meet the criteria for safety; however, it would be in the customer's interest to have the work completed.
Service Campaign (no recall)	There is no safety risk, and it is not deemed to be in the interests of all users of the vehicle.

How will you be informed of a Recall?

All reasonable steps should be taken to identify and notify users.

For vehicles that have registered keepers:

- DVLA data is able to be provided, to help with these notifications.

For unregistered vehicles:

- sales information, etc may be used.

“Code of Practice on Vehicle Safety Defects and Recalls” states:

- 3 notification attempts per motorist should be undertake.

How to report a Vehicle Safety Defect

Complete an online form and send to DVSA:

<https://forms.dvsa.gov.uk/Vsdr/create>



What the law says:

The Road Vehicles (Construction and Use) Regulations 1986

Maintenance and use of vehicle so as not to be a danger, etc

100.—(1) A motor vehicle, every trailer drawn thereby and all parts and accessories of such vehicle and trailer shall at all times be in such condition, and the number of passengers carried by such vehicle or trailer, the manner in which any passengers are carried in or on such vehicle or trailer, and the weight, distribution, packing and adjustment of the load of such vehicle or trailer shall at all times be such, that no danger is caused or is likely to be caused to any person in or on the vehicle or trailer or on a road.



If it all goes wrong, your organisation can be held accountable.

- What process do you have in place?
- Is it working?
- How do you know?

Ignorantia juris non excusat
(Ignorance of the law is no excuse)

