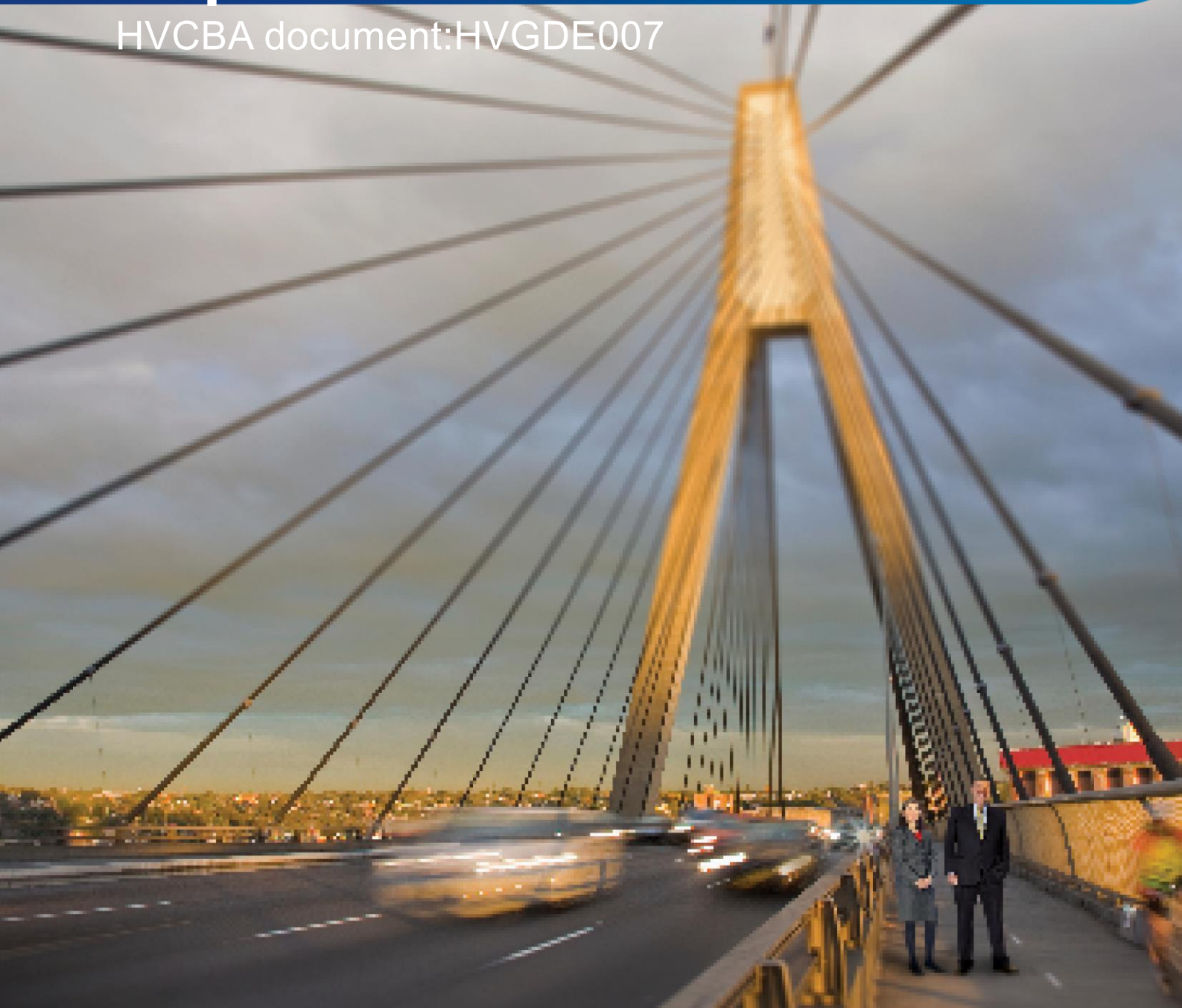




Applying for High Risk Variation - Clause 4.2(d) requirements

HVCBA document:HVGDE007



Contents

1. Purpose	4
2. Background	4
3. Application for high risk (anticipated) variation to the requirements of Clause 4.2(d)	4
3.1 Application Criteria	4
3.2 Applying for a high risk (anticipated) variation to the requirements of 4.2(d)	5
4. Application for an unanticipated high risk variation to 4.2(d)	6
5. Additional audit and procedural requirements	7
6. Breaches	9
7. Terms and Abbreviations	10

Effective date: TBC

First published: 7 July 2015

Author: Senior Manager Education and Training
Date: 03 August 2020
Version: 4.0
Reference: Reference HVGDE007
Division: Safety Environment and Regulation
Review date: Review Date 30 September 2023

Bribery is against the law

Most people involved with issuing and obtaining a licence are honest.

You are reminded that you must not offer your assessor money, gifts or other favours and that your assessor must not ask you for money, gifts or favours in order to gain a heavy vehicle driver licence without fully demonstrating your driving ability to the criteria requirements.

These practices are illegal

Penalties are severe and include fines and imprisonment. All cases of corruption will be investigated and strong action will be taken against all those involved. If you know or believe that anyone has got or is about to get a heavy vehicle driver licence by offering or responding to a request for a bribe

– or if you suspect or know of any other corruption involving another applicant, driving instructor or assessor, telephone:

- Transport for NSW on 1800 043 642**
- The Independent Commission Against Corruption (ICAC) on (02) 8281 5999**

Code of Conduct

The Code of Conduct for the Heavy Vehicle Competency Based Assessment Industry is a standard issued by Transport for NSW to Registered Training Organisations (Providers) that have been accredited by Transport for NSW to conduct assessments of applicants for heavy vehicle licences. It is issued by Transport for NSW under clause 2.6(a)(i) of the Accreditation Agreement for Heavy Vehicle Competency Assessment (Accreditation Agreement).

Under the Accreditation Agreement, each Provider is required to:

- Comply with the standards of behaviour set out in the Code of Conduct and**
- Ensure that any Assessors engaged by it also comply with the standards of behaviour set out in the Code of Conduct.**

As an Assessor, you are reminded that you are required to comply with the Code of Conduct.

A Provider and/or Assessor found to have breached the Code of Conduct may be subject to penalties and/ or suitability to continue to perform Assessments may be reviewed by Transport for NSW

1. Purpose

The purpose of this guideline is to document the requirements that Registered Training Organisations (RTO) and Heavy Vehicle Competency Based Assessment (HVCBA) Assessors (HVCBA) must meet to apply for a variation to the requirements of the Separation of Training and Assessment (Clause 4.2d).

2. Background

On 1 September 2015, the then Roads and Maritime implemented Clause 4.2(d) of the HVCBA Accreditation Agreement which states that the Provider must ensure that the same Assessor who delivers the Training Course for an Applicant cannot conduct the Assessment. The Clause has been implemented to improve the integrity of the HVCBA Scheme and to mitigate fraud and corruption risks and conflict of interest, by separating the training and assessment roles of Assessors for the one Applicant.

3. Application for high risk (anticipated) variation to the requirements of Clause 4.2(d)

Transport has identified that due to geographical location and/or market depth of assessors within NSW, there are circumstances whereby a Trainer/Assessor may be unable to comply with the requirements of Clause 4.2(d). In these situations, RTOs may submit on behalf of a Trainer/Assessor an application for a high risk variation to the requirements of Clause 4.2(d). Applications must be submitted on the HVCBA Clause 4.2(d) High Risk Variation Application Form with the required supporting documentation, including a detailed framework of how the HRV procedural requirements will be met by the RTO. Applications will be assessed by Transport against a clearly defined list of criteria.

Please ensure to read and follow the instructions when submitting an application for a high risk variation. Applications that do not follow the stipulated guidelines will not be approved

3.1 Application Criteria

Applications for a High Risk variance to the requirements of Clause 4.2(d) will only be considered for the following reasons:

- Regional or isolated location whereby only one Assessor is operating
- Market Depth/Proximity to other HVCBA Assessors
- Sole Trader Assessor unable to collaborate with another Assessor/s due to commercial, or social conflict or other limitation (e.g. availability or business model)

RTOs will be formally advised of the outcome following the review of their application.

Eligible High Risk Variation applications will be approved for a period of six (6) months. RTOs will be required to submit and have applications approved prior to **1 October and 1 April** of each calendar year

High risk variations (anticipated) are for the approved nominated Assessor only.

1. A separate General High risk Variation application is required for each Assessor seeking to conduct assessments under the high risk variation clause
2. The approval for High risk Variation is for an individual approved Assessor only.
3. All approvals are for a period of 6 months expiring on **1 October** and **1 April** annually.
4. Prior to expiry, a new application must be submitted and approved by Transport for NSW to enable an Assessor to operate under the requirements of a HRV.
5. There are mandatory additional audit, administrative and procedural requirements that apply to assessments conducted under a HRV (see section 4)

Approval for variation to the requirements of 4.2(d) will only be granted in those circumstances where an RTO is able to demonstrate that the nominated Assessor cannot viably operate under the requirements of the Separation of Training and Assessment.

Application criteria

Reason
Regional or isolated location whereby only one Assessor is operating
Market Depth/Proximity to other HVCBA Assessors
Sole Trader Assessor unable to collaborate with another Assessor/s due to commercial, or social conflict or other limitation e.g availability or business model

RTOs will be formally advised of the outcome following the review of their application. Note: Full compliance with Clause 4.2(d) is expected. An application for a high risk variation does not exempt applicants from full compliance whilst the application is being assessed.

3.2 Applying for a high risk (anticipated) variation to the requirements of 4.2(d)

An application for variation to the requirements of Clause 4.2(d) must be submitted by email to HVCBA@rms.nsw.gov.au. The application must be submitted by the RTO to the attention of the Senior Manager, Education & Training, Transport for NSW. All applications must be submitted using form (number TBC) and include the following information:

1. Complete application form 5637 [HVCBA Clause \(4.2d\) High Risk Variation](#)
2. The application is for an Assessor operating in a regional or isolated location whereby only one Assessor is regularly operating; or

3. The application is for a Sole Trader Assessor who is unable to collaborate with other Assessor/s due to a commercial, social or conflict of interest situation, availability of other Assessors or other limitation (e.g. business model) which makes collaboration impossible
4. Details of all Trainers and Assessors aligned with the RTO conducting training and assessment in the same geographical location and why collaboration and separation of training and assessment cannot occur using these assessors
5. Written evidence from the RTO detailing actions completed to assist the Assessor with meeting the requirements of the Separation of Training and Assessment
6. A detailed HRV procedural framework for the RTO which includes;
 - How in-cabin camera video files and assessment documentation will be sent to the RTO

*RTOs who have Assessors operating remotely (i.e. not returning to an office location daily) are encouraged to implement technological solutions that enable **secure** upload and transmission of in-cabin camera files to a cloud storage service*

- A list of approved Assessors including Driving Instructor licence details who will be available to complete the video review
 - A detailed procedure for reviewing In-Cabin Camera footage including estimated timeframe for review and the recording of results on HVCORS
 - A Training Course delivery plan for each Assessor that has applied for a HRV. The plan must include details such as *format of how training course is delivered, training course locations, estimated duration for completion of all criteria based on licence class*
 - Statement from the RTO affirming that no actual, potential or perceived conflict of interest exists between Assessors that are involved in the HRV process. If a conflict of interest is declared and the RTO must include details of the conflict, the persons involved, and the steps taken to address the conflict
7. Written application from the Trainer/Assessor detailing specific reasons why the Separation of Training and Assessment is unable to be completed
 8. Details of the nominated location where the Assessor will be operating and unable to meet separation requirements

Approval for a HRV will only be granted in those circumstances where an RTO is able to demonstrate that the nominated Assessor cannot viably operate if the Separation of Training and Assessment is a requirement.

Transport reserves the right in its absolute discretion to grant or refuse variations from Clause 4.2(d).

4. Application for an unanticipated high risk variation to 4.2(d)

An unanticipated high risk variation is where an Assessment has been arranged in accordance with the requirements of Clause 4.2(d) and Assessor 2 is unable to complete the FCA due to an unavoidable reason occurring at short notice for example illness or injury.

Assessor 1 may proceed to undertake the FCA if the following requirements are met. Failure to comply with these requirements may result in a breach of the HVCBA Accreditation Agreement and result in disciplinary action taken against the RTO and/or Assessor. This may include a penalty, and/or cancellation or termination of the HVCBA Accreditation Agreement.

Procedure:

- Complete application form 5638 [Unanticipated High Risk Variation application](#), including specific reason for request.
- Application must be submitted within one hour prior to the scheduled FCA time by emailing to HVTraining@rms.nsw.gov.au
- [Transport for NSW will advise if application is approved and provide a reference number](#)
- [If the request is submitted outside normal business hours, please refer to item 1.5.6. The Assessment may proceed, however the Certificate of Competence may not be issued or result entered on HVCORS until the approval reference number is received from HVTraining. In the event that approval is not given by Transport the FCA must be conducted again](#)

5. Additional audit and procedural requirements

An RTO that receives Transport approval for a High Risk Variation will be required to comply with the following additional audit and procedural requirements. **Additional audit requirements apply to both High Risk Variations and Unanticipated High Risk Variations.**

Failure to comply with these requirements may result in a breach of the HVCBA Accreditation Agreement and result in disciplinary action taken against the RTO and/or Trainer/ Assessor. This may include a penalty, and/or cancellation or termination of the HVCBA Accreditation Agreement and/or including **cancellation for all High Risk Variation approval for all Assessors operating under the RTO**

Procedure:

- All required Training Course criteria is completed by the Trainer/Assessor so that the Applicant is eligible to attempt an FCA/CT. All training course documentation is completed including the issue of a Certificate of Attendance
- RTO or Trainer/Assessor books the FCA (must have a pre- approved HRV) and conducts the FCA in accordance with procedural requirements. On completion, the Assessor advises the applicant of the result and delivers the end of assessment debrief. If the applicant is unsuccessful, normal FCA re-booking procedure for a failed FCA will apply. The RTO is not required to review the failed FCA footage prior to the second or subsequent FCA being conducted.
- If the Applicant is successful the Assessor advises the Applicant that the In-Cabin Camera footage must be verified by the RTO prior to the issue of a Certificate of Competency. RTOs who have Assessors located remotely are encouraged to implement technological solutions

that enable upload of in cabin camera files to a cloud storage service e.g. *Google Drive*, *Dropbox* If the file is required to be sent via traditional mail, this procedure may take between three to five days.

- **Under no circumstances is the Assessor permitted to give the CoC to the Applicant prior to a review of the in-cabin camera footage, RTO approval and recording of the result on HVCORS.**
- The FCA in-cabin camera footage and copies of all training and assessment documentation including Assessor and Applicant log book entries and FCA scoresheet are sent by the Assessor to the RTO or their approved representative within 24 hours of completion of the FCA
- The RTO approved Assessor is responsible for checking the copies or originals of all documentation and for viewing and validating 100% of the FCA in-cabin camera footage. The footage must be validated by an approved Assessor (Assessor 2) who has the same or higher class of driving instructor licence as the Assessment being validated
- Assessor 2 must view 100% of the in-cabin camera footage. Footage viewed must not be fast forwarded, as the audio and recorded footage forms an integral part of the audit and validation process. Assessor 2 must complete the [FCA High Risk Variation Assessment Summary form](#), verify and score the assessment as it proceeds.
- Assessor 2 must record on the assessment form the time and GPS coordinates that both the Hill Stop/Start Ascent and Descent were conducted
- If during the video review Assessor 2 identifies that the applicant has made an error, Assessor 2 must record the GPS coordinates and time on the Assessment Summary Form to identify the exact location and the time that the error was made, as recorded on the video file
- If during the video review Assessor 2 identifies that the Assessor has recorded an error but based on the video review the error is unable to be confirmed by Assessor 2 due to limited vision, Assessor 2 is not required to record an error but must record the GPS coordinates and time and record in the criteria number box the words **error recorded unable to verify**
- Assessor 2 must also record all details of the video review in their Assessor Log book including;
 - Applicant name and licence number
 - Completed Criteria – record the words **HRV FCA video review**
 - Date review completed including start/finish times
 - A notation on the comments section on the bottom of the page that reads **HRV Assessor 2 review**
- If the FCA/CT was conducted in accordance with requirements and Assessor 2 endorses the result as a pass, the RTO must email the completed FCA Assessment Summary form to HVTraining@rms.nsw.gov.au **prior to recording the FCA result on HVCORS**
- Once the assessment summary has been emailed, the RTO is responsible for recording the result on HVCORS. The name of Assessor 2 and Driving Instructor Licence Number must be recorded in the comments section of the FCA/CT results screen. **Details must be recorded in the following format HRVAssessor2 space Instructor Licence Number**

space Assessor last name. For example, if the Assessor's name was Fred SMITH and his Instructor Licence number is 12345 the RTO will record:

HRVAssessor2 12345 Smith

- Once the result has been recorded on HVCORS the RTO is to advise Assessor 1 that the Certificate of Competency may be issued. The Certificate of Competency is to be endorsed by Assessor 1 in the space directly above the RTO number with the following wording **CoC has been sent or given to the applicant on (insert date, time) and (assessor signature)**
- The RTO must retain for audit purposes copies of all in-cabin camera footage, all training and assessment documentation including a copy of the Assessor learner log book entry in accordance with requirements
- If the RTO/Assessor validating the footage determines that the Applicant should not have passed the FCA, the RTO must immediately advise Assessor 1 who conducted the FCA that the result is incorrect and that the Applicant must repeat the Assessment in accordance with usual FCA procedures.
- The Assessor who conducted the FCA must advise the Applicant that the FCA will need to be booked on HVCORS and completed again
- Where an Applicant is determined by the RTO/Assessor reviewing the FCA footage to have not passed the assessment, a [Report of Non-Compliance FCA/CT form](#) must be completed and together with a copy of the FCA Assessment Summary form, forwarded to HVTraining@rms.nsw.gov.au
- Where issues are found upon review of the in-cabin camera footage that are of a serious nature, RTOs are to formally report these to TfNSW by emailing HVTraining@rms.nsw.gov.au within 24 hours of video review
- RTOs are encouraged to have procedures in place that enable review of the video footage and completion of administrative requirements to be completed in a timely manner

Note: Issues of a serious nature refer to those that relate to fraudulent activity and/or directly impact road safety.

6. Breaches

Transport for NSW will be performing audit and review on a regular basis in order to monitor compliance by RTOs and Assessors with the variation to the requirements of Clause 4.2(d). Any non-compliance identified will be reviewed and may result in sanctioning by Transport for NSW, including **cancellation for all High Risk Variations for any Assessor operating under the RTO.**

7. Terms and Abbreviations

Combination tables contain both column and row headers. The data tables below illustrate column and row headers.

Term/Acronym	Definition
Applicant	An individual undertaking HVCBA assessment
Assessor 1	A Licensed Driving Instructor that conducts HVCBA assessments and <i>is attached</i> to a Registered Training Organisation
Assessor 2	A Licensed Driving Instructor that validates the camera Footage must be validated by an Accredited Assessor (Assessor 2) who has the same or higher class of driving instructor licence as the Assessment being validated
Certificate of Attendance	A Certificate issued to an Applicant by an Assessor after the completion of the Training Course
Certificate of Competency (CoC)	A Certificate issued to an Applicant after the successful completion of an FCA/CT
Clause 4.2(d)	Where an Applicant has undertaken a Training Course provided by Provider, Provider must ensure that the Assessor that conducts that Applicants Assessment is not the same person who delivered the Training Course for that Applicant
CT	Competency Test
FCA	Final Competency Assessment
HVCBA	Heavy Vehicle Competency Based Assessment
HVCORS	Heavy Vehicle Competency Online Reporting System
RTO	Registered Training Organisation also referred to as Provider in the Accreditation Agreement
Training course	A course provided to a person to train that person in the driving of a Heavy Vehicle so that person is eligible and prepared to undertake an Assessment. The Training Course also includes

Term/Acronym	Definition
	Applicable Assessment Criteria 1-15 or any other driving instruction
Variation to Requirements	An approval granted by Transport for NSW to an RTO for a variation to the way training and assessment of an Applicant may be conducted