



Consumer Services Policy and Procedures Manual

Version 8
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1. Table of Contents

Record of Updates	5
A. INTRODUCTION	6
2. Background	6
2.1 Role of Consumer Services.....	6
2.2 Purpose of this manual	6
2.3 How this manual is organized.....	7
2.4 Policy and the authority of the Registrar.....	7
2.5 Legislative authority and requirements.....	7
Authority to delegate.....	7
Dispute resolution.....	8
Investigating complaints	8
Jurisdiction – consumer transaction.....	8
Jurisdiction – Motor vehicle.....	9
3. Roles and Responsibilities	10
3.1 Manager of Consumer Services	10
3.2 Compensation Fund Claims Manager	10
3.3 Consumer Services Officer	10
3.4 Consumer Services Support Coordinator	11
3.5 Manager of Investigations	11
3.6 Investigations Officer	12
3.7 Compliance Officer	12
3.8 Manager of Industry Standards	12
3.9 Industry Standards Officer	13
3.10 Advertising Standards Officer	13
3.11 Manager of Licensing.....	14
3.12 Licensing Officer.....	14
3.13 Registrar.....	15
3.14 Director of Investigations, Licensing and Legal Services.....	15
3.15 Paralegal.....	16
3.16 Director of Consumer Services and Industry Standards	16
B. PUBLIC ENQUIRIES	18
1. Overview	18
2. Policy.....	18

CONSUMER SERVICES
POLICY AND PROCEDURES
MANUAL

Version 8

Record keeping	18
Enquiry regarding a complaint about the VSA.....	18
Enquiry from licensee	19
Impartial information gathering	19
Providing information about licensees	19
Initial review for jurisdiction	19
Jurisdiction – when a trailer is a Motor vehicle	19
Jurisdiction – consumer transaction	20
Jurisdiction – primary use of vehicle.....	20
Closing enquiry –information provided	21
Closing enquiry – no response to request for additional information	21
Notification to Investigations and Industry Standards departments before complaint application is received	21
Progressive Enforcement.....	21
Levels of Authority:.....	23
3. Flowchart – Public Enquiries.....	24
4. Procedures	25
Intake – telephone call or voice mail	25
Intake – email.....	25
Intake – mail or fax	25
Intake – in-person	25
Data gathering	26
Initial review for jurisdiction	26
Further data gathering and analysis	26
Closing an enquiry – no further action	26
Closing an enquiry – no jurisdiction.....	27
Further action required by consumer.....	27
Immediate notification to Investigations and Industry Standards departments	28
5. Service Standards	29
C. CONSUMER COMPLAINTS	30
1. Overview	30
2. Policy.....	31
Complaint application is required.....	31
Meaning of “complainant”	31
Complaints outside the jurisdiction of the VSA	31

Encouraging dispute resolution	31
Notifying dealer of a complaint and requesting a response to complaint	32
Disclosure of dealer response to complainant	32
When complaint may not be disclosed to dealer before investigation.....	32
Assigning complaint investigation to the Manager of Investigations.....	32
3. Flowchart – Consumer Complaints	34
4. Procedures	35
Intake – when enquiry record exists.....	35
Intake – when complaint is initial contact	35
Review for completeness.....	35
Review for jurisdiction	35
Notifying dealer of a complaint and requesting a response to complaint	36
Notice of complaint disclosure	36
Notifying complainant of a Motor dealer response to a complaint	37
Reviewing resolved complaints for compliance issues.....	37
Flowchart – Redacting Dealer Response	38
Conducting research	39
Referring complaints for investigation to the Manager of Investigations.....	39
D. DEALER COMPLAINTS.....	40
1. Overview.....	40
2. Policy.....	41
Wholesaler application is required	41
Meaning of “complainant ”	41
Dealer Complaints outside the jurisdiction of the VSA.....	41
Encouraging dispute resolution	41
Notifying a wholesaler of a dealer complaint and requesting a response	41
Disclosure of a wholesaler response to the dealer complaint	42
When a dealer complaint may not be disclosed to a wholesaler before investigation	42
Assigning dealer complaint investigation to the Manager of Investigations	42
Reviewing resolved dealer complaints for compliance issues.....	42
3. Procedures	44
Intake – when enquiry record exists.....	44
Intake – when complaint is initial contact	44
Review for completeness.....	44
Review for jurisdiction	44

CONSUMER SERVICES
POLICY AND PROCEDURES
MANUAL

Version 8

Notifying wholesaler of a complaint and requesting a response to complaint.....	45
Notice of complaint disclosure	45
Notifying complainant of a Motor dealer response to a complaint	46
Reviewing resolved dealer complaints for compliance issues.....	46
E. SERIOUS COMPLIANCE ISSUES.....	47
1. Overview	47
Definition	47
2. Reporting	47
Reporting by a Consumer Services Officer	47
3. Consultation	47
Consultation conducted by the Manager of Consumer Services	47
4. Compliance Enforcement Model.....	48
Application	48
ACRONYMS AND ABBREVIATIONS	49

Record of Updates

Version	Date	Summary of Update
1	March 1, 2013	Original
2	July 25, 2014	Eliminating process step for peer review and manager review of draft decisions by CSO's to close enquiries and complaints for lack of jurisdiction or grounds to investigate; amended service standards; document formatting.
3	August 25, 2015	Removing all links; adding procedure for redacting Motor dealer responses.
4	January 30, 2018	Changes to complaint disclosure procedures - excluding supporting documents from complaint and Motor dealer response to complainant; clarification on processing incomplete complaint applications; general readability changes.
5	February 5, 2018	Changes to complaint disclosure procedures – disclosing entire Motor dealer response (response form and supporting documents) to complainant.
6	December, 2021	Changes made to the role of Manager of Compliance (now Manager of Investigations), and Compliance Officer. Roles added: Manager of Industry Standards, Industry Standards Officer, Director of Consumer Services and Industry Standards, Paralegal, and Advertising Standards Officer. Compliance Officer now has a new definition, but the old role is now replaced by the Investigations Officer role. Complaints against wholesalers and broker agents added in the policy. Added progressive enforcement model.
7	April 1, 2023	Changes made to the role of Consumer Services Officer. Role added: Consumer Services Support Coordinator Added policy and procedures for Part D-Dealer Complaints and Part E- Serious Compliance Issues. Changes to the policy are made the reflect the adaption of the ADR model at the VSA.

A. INTRODUCTION

2. Background

2.1 Role of Consumer Services

Under the Delegated Administrative Authority Agreement (the “DAA Agreement”), between the VSA and government, the primary responsibility of the VSA is to maintain and enhance consumer protection and public confidence in the Motor vehicle sales industry. The Consumer Services department plays a key role in fulfilling this responsibility as well as supporting two of the VSA’s core business functions identified in the DAA Agreement:

- The provision of information and assistance, including the voluntary and impartial dispute resolution to consumers, Motor dealers, broker agents and wholesalers regarding their rights and responsibilities under the Act and any other applicable consumer protection statutes; and
- Consumer education initiatives that provide information verbally, in printed materials, and *via* the internet, to raise consumer awareness of their rights and responsibilities, when purchasing or leasing vehicles.

Consumer Services is the VSA’s first point of contact for a member of the public, who has a question or concern regarding a dealer, salesperson, wholesaler and a broker agent or the Motor vehicle sales industry. Consumer Services Officers are the Registrar’s delegates.

The primary focus of the Consumer Services is:

- Information and assistance with public enquiries to the VSA,
- Assistance with voluntary and impartial resolution of disputes,
- Case management for formal consumer and industry complaints to the VSA,
- Case management for claims against the Motor Dealer Customer Compensation Fund,
- Ensuring effective information sharing with other VSA departments.

2.2 Purpose of this manual

The purpose of the Consumer Services Policy and Procedures Manual is to document the policies and procedures that support receiving and responding to public enquiries and complaints regarding the Motor vehicle sales industry in BC. The Manual is intended to assist the VSA in maintaining a fair and consistent process for addressing enquiries and complaints, while meeting the requirements of the applicable legislation, administrative fairness, and natural justice.

2.3 How this manual is organized

This manual is divided into the following parts:

- **Part A – Introduction** – provides background information about the role of Consumer Services, this manual, the authority of the Registrar, and the legislative authority and requirements related to the operation of the Consumer Services.
- **Part B – Public Enquiries** – provides the policies and procedures regarding the intake and processing of public enquiries up to the point at which either the enquiry is closed, or a complaint or compensation fund claim application is received.
- **Part C – Complaints** – provides the policies and procedures for processing complaints up to the point at which the investigation of the complaint is either closed by a Consumer Services Officer or assigned to an Investigations Officer.
- **Acronyms and Abbreviations** lists the acronyms and abbreviations used in this manual.

2.4 Policy and the authority of the Registrar

The legal authority to require that a dealer provide information regarding a complaint is granted to the Registrar under the *Motor Dealer Act* (the “MDA”) and the *Business Practices and Consumer Protection Act* (the “BPCPA”). Under the MDA, the Registrar is given the authority to delegate any of the Registrar’s powers to VSA staff or any other person the Registrar deems appropriate to exercise those powers. Those acting with the Registrar’s delegated authority are under the same obligations as the Registrar when exercising that authority.

The role of the Consumer Services Policy and Procedures is to assist the Registrar and VSA staff in ensuring that public enquires, and complaints are received and addressed in an open, structured and consistently fair manner.

The procedures in this manual do not bind the Registrar or otherwise hinder or limit the authority and discretion of the Registrar, when receiving and addressing enquiries and complaints. The principles of natural justice require that the Registrar consider the unique facts and context of each case when determining what action should be taken.

2.5 Legislative authority and requirements

Authority to delegate

- 2.5.1 The Registrar may lawfully delegate any of his powers to an Investigations Officer, Industry Standards Officer, Licensing Officer, Consumer Services Officer, or any other person the Registrar deems appropriate to exercise those powers. [MDA s. 1(1) – definition of Registrar]

Dispute resolution

2.5.2 Under the Delegated Administrative Authority Agreement (DAA), the VSA is delegated a responsibility for provision of information to consumers and Motor dealers regarding their rights and responsibilities under the MDA and any other applicable consumer protection statutes, as well as assistance with resolution of disputes [DAA. S. 7(a)(iii)].

Investigating complaints

2.5.3 If the Registrar receives a complaint about a Motor dealer, the dealer must provide information about the complaint, if the Registrar requests the information in writing. A written request for information must indicate the nature of the complaint. [MDA s. 25(1) and (2)]

2.5.4 Where a written request has been made under paragraph 2.5.2, the Registrar or a person designated by the Registrar may, at any reasonable time during normal business hours, enter the business premises of the dealer to make an inspection with respect to the complaint. [MDA s. 25(3)]

2.5.5 The Registrar may conduct an inspection for determining compliance issues with:

- i. The MDA and regulations;
- ii. The BPCPA and regulations; or
- iii. A compliance order, property freezing order, undertaking, or court order made under the BPCPA. [BPCPA s. 149(a)(i) and (iii)]

2.5.6 For the purposes of an inspection, the Registrar may do the following:

- (a) Enter the business premises of a person at any reasonable time;
- (b) Inquire into any business, affairs, or conduct of a person;
- (c) Inspect, audit, or examine any records, goods, or other things, including the provision of services on the premises;
- (d) Inspect a vehicle or vessel that is being used for business purposes;
- (e) Require any person who has possession or control of any of the records, goods, or other things on the premises, vehicle, or vessel to produce the records, goods, or things;
- (f) Make a record, including a record on film, audio tape, video tape, or otherwise, of the premises, vehicle, or vessel and anything on the premises or in the vehicle or vessel;
- (g) Remove any record from the premises, vehicle, or vessel for making copies; and
- (h) Remove and retain any record, good, or other thing that may be required as evidence from the premises, vehicle, or vessel. [BPCPA s. 150(1)].

Jurisdiction – consumer transaction

2.5.7 “Motor dealer” means a person who, in the course of business, engages in the sale, exchange, or other disposition of a Motor vehicle... to another person for **purposes that are primarily personal, family, or household**. [MDA s. 1(1) – definition of Motor dealer – emphasis added]

2.5.8 **“Sale”** means a lease, exchange, or other disposition or supply of a Motor vehicle to **an individual primarily for the individual’s personal or family use**. [MDA s. 1(1) – definition of sale – emphasis added]

Jurisdiction – Motor vehicle

2.5.9 “Motor vehicle” means a self propelled vehicle designed or used primarily for travel on a highway, as defined in the *Highway Act*, and **includes a trailer, as defined in the *Motor Vehicle Act (the “MVA”), designed or used primarily for accommodation during travel or recreation, but does not include:***

- (a) An all terrain vehicle, as defined in section 1 of the *Motor Vehicle Act Regulations* (the “MVA Reg”);
- (b) A farm tractor or Motor assisted cycle, as those terms are defined in the MVA; or
- (c) Machinery primarily intended for construction, mining, or logging purposes. [MDA s. 1(1) – definition of Motor vehicle – emphasis added]

2.5.10 “Trailer” means a vehicle that is at any time drawn on a highway by a Motor vehicle, except:

- (a) An implement of husbandry;
- (b) A side car attached to a Motorcycle; and
- (c) A disabled Motor vehicle that is towed by a tow car. [MVA s. 1 – definition of trailer]

2.5.11 “All terrain vehicle” means a wheeled or tracked vehicle designed primarily for recreational use or for the transportation of property or equipment exclusively on marshland, open country, or other unprepared surfaces, and includes any trailer attached to the vehicle. [MVA Reg. s. 1 – definition of all terrain vehicle]

2.5.12 “Farm tractor” means a Motor vehicle designed and used primarily as an implement of husbandry for drawing agricultural equipment. [MVA s. 1 – definition of farm tractor]

2.5.13 “Motor assisted cycle” means a device:

- (a) To which pedals or hand cranks are attached that will allow for the cycle to be propelled by human power;
- (b) On which a person may ride;
- (c) To which is attached a Motor of a prescribed type that has an output not exceeding the prescribed output; and
- (d) That meets the other criteria prescribed under section 182.1 (3). [MVA s. 1 – definition of Motor assisted cycle]

3. Roles and Responsibilities

3.1 Manager of Consumer Services

The Manager of Consumer Services has overall responsibility for the process of receiving and responding to public enquiries and complaints. The role of the Manager of Consumer Services is to:

- Ensure timely processing of public and industry enquiries, and complaints by the Consumer Services department and to assist staff where required;
- Ensure effective information sharing with appropriate VSA departments;
- Identify enquiries and complaints involving allegations of issues capable of current and/or future harm if not confined to the one transaction between a licensee and a member of public (“serious compliance issues”). Serious Compliance issues are defined in part E, section 1.1.

The Manager of Consumer Services is responsible for:

- Overseeing the day-to-day operation of the Consumer Services department and addressing issues as required;
- Reviewing a Consumer Services Officer’s decision to a complaint for lack of jurisdiction;
- Overseeing performance of the VSA’s consumer resources tool My Self-Help and the VSA’s Online Dispute Resolution platform; and
- Identifying potentially serious compliance issues as defined in part E, section 1.1, for immediate notification to Investigations department and Industry Standards department.

3.2 Compensation Fund Claims Manager

The role of the Compensation Fund Claims Manager is held by the Manager of Consumer Services.

The Compensation Fund Claims Manager is responsible for overseeing case management for claims against the Motor Dealer Customer Compensation Fund.

3.3 Consumer Services Officer

The role of the Consumer Services Officer is to:

- Receive, respond to, and process all public enquiries and complaints in a timely, fair and unbiased manner;
- Facilitate dispute resolution when appropriate;
- Provide case management for formal public and industry complaints to the VSA.

The Consumer Services officer is responsible for:

- Providing information about the VSA’s services and the vehicle sales industry to the public;
- Impartially gathering and documenting information about an enquiry or complaint;

- Determining whether a complaint application is complete, and whether the VSA has jurisdiction to act on it;
- Facilitating dispute resolutions including providing information and access to the VSA's Online Dispute Resolution platform for eligible disputes;
- Creating and maintaining a database record for an enquiry or complaint;
- Forwarding the complaint to Investigations department when required;
- Notifying the Manager of Consumer Services of any enquiry or complaint involving any serious compliance issues as defined in part E, section 1.1, that may need the attention of the Industry Standards department or Investigations department.

3.4 Consumer Services Support Coordinator

The role of the Consumer Services Support Coordinator is to support Consumer Services Department and other departments of the VSA involved in responding to public and industry enquiries and complaints to the VSA.

Consumer Services Support Coordinator has overall responsibility for:

- Performing clerical and administrative functions during all stages of the enquiry and complaint process;
- Conducting searches of various platforms; and
- Assisting with documents and records management.

3.5 Manager of Investigations

The Manager of Investigations has overall responsibility for investigations, and enforcement activities. The role of the Manager of Investigations is to:

- Oversee the Investigations staff conduct of investigations;
- Provide advice and direction on the conduct of investigations where required;
- Engage in preliminary dispute resolution procedures, such as warning letters and undertakings, with licensees where applicable; and
- Determine when a compliance issue identified by Investigations staff should go to a hearing before the Registrar.

The Manager of Investigations is responsible for

- Providing advice and support to Investigations staff as required;
- Reviewing the results of all consignment application inspections and providing advice on approval of a consignment application to the Manager of Licensing;
- Reviewing an Investigations Officer's plan for a proactive curber (unlicensed dealer) investigation to ensure the safety and legality of the plan;
- Discussing with licensees early resolution options for non-compliance; and

- Initiating an investigation by an Investigations Officer where the Manager of Investigations or the Registrar becomes aware of a systemic or wide-ranging compliance issue.

3.6 Investigations Officer

The role of the Investigations Officer is to:

- Conduct investigations as required; and
- Ensure procedural fairness in any and all investigations and/or dealings with consumers, dealers, etc; and
- Refer serious compliance issues, as defined in part E, section 1.1, to the Manager of Investigations.

The Investigations Officer is responsible for

- Conducting licensee liaison visits;
- Providing appropriate advice on compliance issues to licensees;
- Investigating compliance issues, compensation fund claims and the criminal record or offence history of a licensee or applicant for licence where required and completing investigation reports; and
- Referring serious compliance issues, as defined in part E, section 1.1, to the Manager of Investigations.

3.7 Compliance Officer

The role of the Compliance Officer is a combination of the roles of Investigations officer and Industry Standards Officer and has the duties and responsibilities of both roles. The purpose of this role is to take a pro-active approach to preventing consumer complaints and follow up on any complaints or concerns.

3.8 Manager of Industry Standards

The Manager of Industry Standards has overall responsibility for inspections, and related enforcement activities.

The role of the Manager of Industry Standards is to:

- Oversee the Industry Standards staff conduct of inspections, and liaison visits;
- Provide advice and direction on the conduct of inspections where required;
- Engage in education initiatives with licensees where applicable;
- Refer serious compliance issue, as defined in part E, section 1.1, to the Manager of Investigations.

The Manager of Industry Standards is responsible for:

- Providing advice and support to Industry Standards staff as required;

- Reviewing the results of all consignment application inspections and providing advice on approval of a consignment application to the Manager of Licensing;
- Referring serious compliance issues, as defined in part E, section 1.1, to the Manager of Investigations.

3.9 Industry Standards Officer

The role of the Industry Standards Officer is to:

- Establish and maintain a relationship with licensees and be the primary point of contact on compliance issues for licensees;
- Conduct inspections as required; and
- Refer serious compliance issues, as defined in part E, section 1.1, to the Manager of Industry Standards.

The Industry Standards Officer is responsible for:

- Conducting liaison visits and inspections;
- Providing appropriate advice on compliance questions and issues to licensees;
- Investigating compliance issues found during inspections and liaison visits and obtain licensees cooperation with the goal of voluntary compliance; and
- Referring serious compliance issues, as defined in part E, section 1.1, to the Manager of Industry Standards.

3.10 Advertising Standards Officer

The role of the Advertising Standards Officer is to

- Oversee Motor vehicle advertising;
- Enforce advertising requirements;
- Support advertising compliance activities in order to provide for consistent application of advertising standards across the province; and
- Refer serious compliance issues, as defined in part E, section 1.1, to the Manager of Industry Standards.

The Advertising Standards Officer is responsible for:

- Researching, monitoring and inspecting Motor vehicle advertising in all media, including the internet, and identifying compliance issues;
- Addressing compliance issues with licensees and manufacturers, including taking appropriate enforcement action;
- Investigating issues found during inspections and liaison visits and obtaining licensees cooperation with the goal of voluntary compliance; and
Referring serious compliance issues as defined in Part E, section 1.1, to the Manager of Industry Standards.

3.11 Manager of Licensing

The Manager of Licensing has overall responsibility for the process of licensing.

The role of the Licensing Manager is to:

- Oversee the Licensing Officer's review of an application, renewal or change and assist where required;
- Consult with the Investigations department or Industry Standards department where required to obtain further input on an application, renewal, or change; and
- Where required, make decisions or recommendations to the Registrar regarding an application, renewal, or change.

The Manager of Licensing is responsible for:

- Determining who will be the subject of background checks in relation to an application for a dealer licence or consignment privileges, a wholesaler licence, and a broker-agent licence, where required;
- Approving or rejecting an application, renewal or change when referred to by a Licensing Officer;
- Adding or removing conditions on a licence;
- Recommending approval or rejection of an application, renewal, or change, including any terms or conditions, to the Registrar where required; and
- Identifying and referring issues regarding the conduct of licensees to the Registrar.

3.12 Licensing Officer

The role of the Licensing officer is to:

- Be the primary point of contact regarding licensing matters for licensees and the public;
- Receive and review all applications, renewals, and changes to licensing;
- Approve an application, renewal or change that, upon review, meet the designated requirements; and
- Refer an application for consignment privileges, and any other application, renewal or change that, upon review, may not meet designated requirements to the Manager of Licensing

The Licensing officer is responsible for:

- Determining whether an application, renewal form or change form is complete and informing the applicant when it is incomplete;

- Ensuring that any designated fees have been paid prior to completing the processing of an application, renewal, or change;
- Determining whether an application, renewal or change to a licence meets the designated requirements and approving them when the requirements are met;
- Referring an application, renewal or change to the Manager of Licensing when the Officer determines that the requirements have not been met or identifies other issues that should be further considered before deciding whether to approve; and
- Referring all applications for consignment privileges along with the results of the Officer's review of the application to the Manager of Licensing.

3.13 Registrar

The role of the Registrar is to:

- Provide overall direction to the Director of Consumer Services and Industry Standards; Director of Investigations, Licensing and Legal Services; Manager of Consumer Services, and the Consumer Services department; Manager of Investigations; the Investigations department, Manager of Industry Standards, and the Industry Standards department; and
- Conduct investigations and consumer complaint hearings as necessary.

The Registrar is responsible for:

- Delegating authority to VSA staff where required to carry out their duties under these policies and procedures;
- Ensuring staff properly exercise their delegated authority;
- Providing advice to the Manager of Investigations and Manager of Industry Standards on compliance issues as required;
- Directing the Investigations department to investigate or Industry Standards department to conduct an inspection when necessary; and
- Conducting hearings on compliance matters and consumer complaints where required.

3.14 Director of Investigations, Licensing and Legal Services

The role of the Director of Investigations, Licensing and Legal Services is to:

- Oversee the Investigations team through the Manager of Investigations to ensure investigations are completed in a timely, consistently fair, thorough, objective and legally defensible manner;
- Oversee the Licensing team through the Manager of Licensing to ensure that licensing applications are reviewed and processed in a thorough, timely and fair manner and accordance with the appropriate legislation;
- Monitor the VSA's administration of the applicable legislation;

- Respond to public and industry complaints about the Investigations department in accordance with VSA Service Complaints Policy;
- Provide legal advice on complex investigations, ensuring the investigation is completed in a timely manner, is legally defensible, and fair;
- Review all legal documents; and
- Represent the VSA and the Motor Dealer Compensation Fund Board as legal counsel before hearings on compliance and consumer complaints matters where required.

3.15 Paralegal

The role of the Paralegal is to support the Director of Investigations, Licensing and Legal Services, the Manager of Investigations, and the Manager of Industry Standards in the preparation of enforcement related documents and by coordinating selected enforcement processes.

The Paralegal is responsible for:

- Providing administrative support for Motor Dealer Customer Compensation Fund board meetings;
- Assisting Investigations and Industry Standards Officers with drafting investigation closing letters and warning letters;
- Assisting Investigations and Industry Standards Officers, the Director of Investigations, Licensing and Legal Services, the Manager of Investigations, and the Manager of Industry Standards, with drafting affidavits and assisting with hearing processes;
- Assisting Investigations Officers with drafting Production Orders;
- Liaising with internal and external legal counsel, court reporters and conducts research for court proceedings;
- Coordinating hearings before the Registrar and drafting legal documents required for hearings and court proceedings; and
- Assisting the Registrar with legal processes as required.

3.16 Director of Consumer Services and Industry Standards

The Director of Consumer Services and Industry Standards has overall responsibility for the strategic and operational leadership for the VSA departments with the Registrar's delegated authority – Consumer Services and Industry Standards.

The responsibilities of the Director of Consumer Services and Industry Standards in regard to the Consumer Service department is to ensure that the department functions consistent with the VSA's mandate, applicable legislation requirements, policy and procedures and, Regulatory Philosophy, and its Compliance Enforcement Principles.

POLICY AND PROCEDURES
MANUAL

- Oversee the Consumer Services department through the Manager of Consumer Services to ensure information, assistance and case management for formal complaints are provided in a timely, fair, thorough, objective and legally defensible manner;
- Monitor performance of the VSA's My Self-Help tool and VSA's online dispute resolution platform; and

Respond to public and industry complaints about the Consumer Services department in accordance with VSA Service Complaints Policy.

B. PUBLIC ENQUIRIES

1. Overview

A public enquiry is any contact with a member of the public that involves a question or concern regarding a VSA licensee (i.e.. Motor dealer, salesperson, wholesaler, broker agent) or the Motor vehicle sales industry. The receipt of a Complaint Application is not considered a public enquiry. The policies and procedures related to the processing of a complaint application are addressed in Part C of this manual.

After receiving a public enquiry, a Consumer Services Officer may respond to an enquiry by:

- Providing requested information or a referral to other sources of assistance;
- Determining that the enquiry is outside the jurisdiction of the VSA, providing an explanation and suggesting a referral to other sources of assistance when appropriate; or
- Providing information and options for resolving dispute including information on
 - VSA's My Self-Help,
 - VSA's Online Dispute Resolution platform,
 - Making formal complaint to the VSA,
 - Making Motor Dealer Customer Compensation Fund claim.

This part of the manual deals with the processing of enquiries up to the point at which a complaint application has been received.

2. Policy

Record keeping

- 2.1.1 A Consumer Services Officer will open an enquiry record in the VSA database for every public enquiry received and will record all communications related to an enquiry in the record.
- 2.1.2 When an enquiry relates to a specific VSA licensee (i.e. Motor dealer, wholesaler, salesperson, broker agent), the enquiry record will be attached to the licensee's record in the VSA database.
- 2.1.3 All hard-copy correspondence received in relation to an enquiry will be scanned and uploaded to the enquiry record and
- (a) When the enquiry is closed without an investigation, the original documents will be returned to the sender; or
 - (b) When the enquiry results in a complaint investigation, the original documents will be kept in the investigation file.

Enquiry regarding a complaint about the VSA

- 2.1.4 When a public enquiry concerns a complaint about the VSA or its employees, the Consumer Services Officer will provide information about the VSA's Service Complaints Policy.

Enquiry from licensee

2.1.5 When Consumer Services receives an enquiry from a licensee regarding licensing or employment issues, the Consumer Services Officer will refer the enquiry to the Licensing or Learning Department without opening an enquiry record.

Impartial information gathering

2.1.6 When gathering information regarding an enquiry or complaint or providing assistance with making a complaint application, a Consumer Services Officer will not provide advice or input on the consumer's description of the events.

Providing information about licensees

2.1.7 When an enquiry is about a VSA licensee, a Consumer Services Officer will assist in obtaining information about a licensee available from the VSA website, including licensing status and record of compliance actions.

2.1.8 When more information about a licensee is requested than is available on the VSA website, such as complaint history, a Consumer Services Officer will provide information on how to access records in accordance with the VSA's Policy on Privacy Access Requests under the *Freedom of Information and Protection of Privacy Act of BC* (the "FIPPA").

Initial review for jurisdiction

2.1.9 A Consumer Services Officer will close an enquiry without recommending making a complaint or a compensation fund claim application when the enquiry does not involve any of the following:

- (a) A car, truck, Motorcycle, recreation vehicle, or other Motor vehicle as defined in the MDA;
- (b) A licensed Motor dealer, salesperson or other licensee; or
- (c) A consumer transaction.

2.1.10 When there is any possibility that the VSA has jurisdiction to act on an enquiry, a Consumer Services Officer will continue to process the enquiry.

2.1.11 When the enquiry concerns:

- (a) An unlicensed individual acting as a Motor dealer, salesperson or other licensee, the Consumer Services Officer will forward the enquiry to the Investigations department; or
- (b) A business acting as an unlicensed Motor dealer, wholesaler or broker-agent the Consumer Services Officer will forward the enquiry to the Licensing and Industry Standards departments.

Jurisdiction – when a trailer is a Motor vehicle

2.1.12 When assessing whether a trailer is a Motor vehicle, the determining factor will be whether the trailer was designed or used primarily for accommodation during travel or recreation.

2.1.13 A trailer that was designed for accommodation, during travel or recreation is a Motor vehicle, even where it was not primarily used for these purposes.

Rationale

The definition in the MDA clearly indicates that a trailer that was either designed or used primarily for accommodation during travel or recreation is a Motor vehicle. This means that a trailer that was designed for this use is a Motor vehicle even where the trailer has been used for other purposes, such as permanent accommodation, after it was purchased.

2.1.14 A Consumer Services Officer may use the Trailer Check Sheet to assist in determining whether a trailer is a Motor vehicle.

Jurisdiction – consumer transaction

2.1.15 For determining the jurisdiction of the VSA, a consumer transaction means a transaction:

- (a) Involving or related to a sale, lease, exchange, or other disposition of a Motor vehicle between a Motor dealer and an individual; and
- (b) In which the sale, lease, exchange, or other disposition was primarily for personal, family, or household purposes.

2.1.16 An “individual” means a natural person and not a company or corporation¹.

2.1.17 The individual must be:

- (a) A party to the transaction giving rise to the enquiry or the complaint; or
- (b) A person who is legally entitled to act in place of the person who was a party to transaction, such as an executor or committee.

Jurisdiction – primary use of vehicle

2.1.18 For determining whether a vehicle was used primarily for personal, family, or household purposes, “primarily” means that at least 51% of the use of the vehicle was, or was intended for personal, family, or household purposes.

2.1.19 When making a determination about the primary use of a vehicle, the Consumer Services Officer will consider, when available, any evidence of:

- (a) The intended use at the time of the purchase;
- (b) Any actual use of the vehicle by the complainant; and
- (c) When the vehicle was purchased to replace a vehicle previously used by the complainant, the primary purpose of the complainant’s use of the vehicle being replaced.

¹ Although the general policy is that an individual must be a natural person, there may be circumstances in which a legal entity, such as a family trust, may be considered an “individual”. To qualify, the entity must not have any commercial purpose, must have been acting in the place of the natural person who is making the enquiry or complaint. See *Fireman’s Fund Insurance Co. of Canada v. Shoreline Auto Sales Ltd.* [1986] BCJ No. 1745 (BCSC)

- 2.1.20 If 50% or more of the intended use of a vehicle was for business purposes, the VSA does not have jurisdiction.
- 2.1.21 Business use includes:
- (a) The use of the vehicle to conduct sales calls, to meet with clients, carry or store equipment or inventory, or generally to conduct business, whether the individual is self-employed or employed by a third party; and
 - (b) The purchase of a vehicle primarily for the purposes of reselling the vehicle.
- 2.1.22 Business use does not include a complainant's use of the vehicle to commute to a place of employment if the vehicle is not otherwise used to conduct business.
- 2.1.23 Evidence of the primary use of a vehicle includes:
- (a) The use of the vehicle as indicated on the vehicle's certificate of insurance; and
 - (b) Whether the vehicle was claimed as a business expense on the complainant's income tax return.

Closing enquiry –information provided

- 2.1.24 When the enquiry is for general information or advice that is not related to an interaction with a Motor dealer or salesperson, a Consumer Services Officer will provide a response to an enquiry and will close the enquiry without recommending making a complaint or a compensation fund claim application.

Closing enquiry – no response to request for additional information

- 2.1.25 When a Consumer Services Officer has advised a member of public that additional documentation or information is required to further process the enquiry, the Consumer Services Officer will close the enquiry after 30 days, if no response is received to the request for additional information.

Notification to Investigations and Industry Standards departments before complaint application is received

- 2.1.26 When an enquiry indicates that there is a serious compliance issue, as defined in part E, section 1.1, the Consumer Services Officer will notify the Manager of Consumer Services.

Progressive Enforcement

In addition to the Registrar's authority under the MDA and regulations, the Registrar also has the powers of the "Director" to enforce parts of the BPCPA as they relate to Motor dealers and salespersons.

To address non-compliance, the VSA employs a method of progressive enforcement. Progressive enforcement means that the enforcement measures should only become more serious and deterrent in

nature if a corrective action is not taken at the earliest detection of unlawful behavior. Nonetheless, depending on the nature of the non-compliance, the VSA may proceed as needed to any appropriate enforcement measure. The specific enforcement measure used will always depend on the circumstances of each case with the goal of educating and deterring future non-compliance.

The following are the general enforcement practices:

- The Investigations Officer will investigate and submit a report to the Manager of Investigations.
- The Manager of Investigations in consultation with the Director of Investigations, Licensing and Legal Services will consider what if any enforcement response is appropriate.
- In selecting any enforcement response, the VSA Regulatory Philosophy and Enforcement Principles and the VSA's Compliance Enforcement Model will be applied.
- The Manager of Investigations can recommend a licensee voluntarily accept a proposed enforcement response through an undertaking or warning letter. The licensee is free to accept, reject or propose an alternative enforcement response.
- Ultimately, the Registrar is responsible for approving, or if necessary, ordering all enforcement responses.

The following are general enforcement measures that may be used:

- Discussion and advice to allow a licensee to voluntarily come into compliance;
- A written warning;
- A condition added to a licence to be met within a certain time period;
- A violation ticket with a fine;
- An undertaking (a voluntary agreement to undertake conditions with specified consequences for failing to fulfill the agreement); and
- A hearing before the Registrar. After a hearing, the Registrar may impose the following enforcement measures:
 - conditions added to a licence;
 - a compliance order (an order issued where there has been a contravention of the MDA and/or BPCPA);

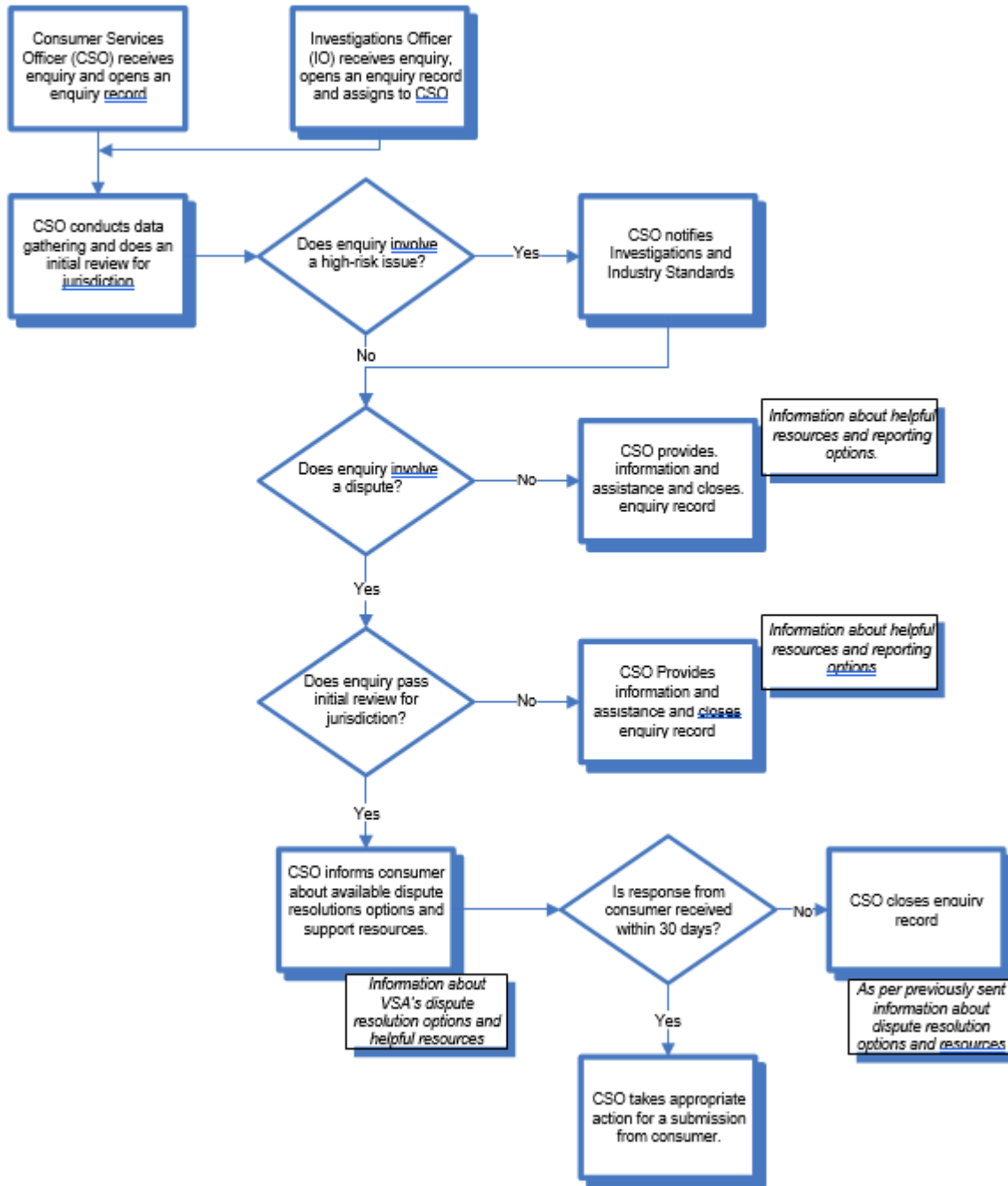
- an administrative penalty (a monetary penalty assessed where there has been a contravention of the MDA and/or BPCPA);
- a suspension of a licence; and
- a cancellation of a licence.

Levels of Authority:

- **Investigator:** An investigator investigates if a breach of the legislation has occurred and reports their findings to the Manager of Investigations. An investigator cannot impose enforcement on a licensee and should not be making recommendations regarding enforcement.
- **Manager of Investigations:** Reviews investigation reports and in consultation with the Director of Investigations, Licensing and Legal Services and where appropriate outside legal counsel, recommends what if any enforcement response is appropriate. The Manager of Investigations engages in discussion with the licensee on the proposed enforcement response.
- **Director of Consumer Services and Industry Standards:** Oversees the Manager of Industry Standards and may be consulted on enforcement response selection.
- **Director of Investigations, Licensing and Legal Services:** Provides legal and policy advice on the allegations and enforcement selection.
- **Registrar:** Must formally approve or order all enforcement responses, including written warnings.

If necessary, a compliance order, administrative penalty and an undertaking made under the MDA and/or the BPCPA may be filed in the BC Supreme Court and enforced as a court order.

3. Flowchart – Public Enquiries



4. Procedures

Intake – telephone call or voice mail

- 4.1.1 All public enquiry calls to the VSA are directed to Consumer Services.
- 4.1.2 The Consumer Services Officer who answers a public enquiry call or retrieves a public enquiry voicemail, records an enquiry in the database and conducts data gathering.

Intake – email

- 4.1.3 An email received in the VSA Consumer Services email box generates an autoreply acknowledging receipt and communicating the service standards to the sender.
- 4.1.4 The Consumer Services Officer who reviews an email enquiry, records an enquiry in the database and conducts data gathering.

Intake – mail or fax

- 4.1.5 All mailed and faxed public enquiries received at the VSA are directed to Consumer Services.
- 4.1.6 A Consumer Services Support Coordinator who receives public enquiry mail:
 - (a) Source stamps the contents of the envelope;
 - (b) Scans and emails the Consumer Services department a copy of the public enquiry mail
 - (c) Reviews the mail submission for any original submissions; if original documents are submitted the Consumer Services Support Coordinator mails them back to the consumer. If there are no original submissions the Consumer Services Support Coordinator will ensure the documents are shredded. disposes of the documents in the form of preparing to shred.
- 4.1.7 A Consumer Services Support Coordinator who receives public enquiry mail:
 - (a) Records an enquiry in the database; and
 - (b) Conducts data gathering.
- 4.1.8 A Consumer Services Officer who receives a public enquiry fax:
 - (a) Date stamps the cover sheet and source stamps the remaining pages of the fax;
 - (b) Records an enquiry in the database; and
 - (c) Conducts data gathering.

Intake – in-person

- 4.1.9 When a member of the public attends the VSA in person with an enquiry, if a Consumer Services Officer is available they will conduct an initial interview and do data gathering. If a Consumer Services Officer is not available, the Consumer Services Support Coordinator will advise the person with an enquiry to contact the Consumer Services Department and will present the person with a business card for Consumer Services.

4.1.10 When the complainant wishes to make a complaint application while at the VSA they are provided with a copy of the Consumer Complaint Form to take with them.

4.1.11 Intake- Investigations Officer/Industry Standards Officer

When an Investigations Officer receives an enquiry from a member of the public, the Investigations Officer:

- (a) Records an enquiry in the database;
- (b) Notifies Consumer Services of the enquiry when assistance is required from a Consumer Services Officer with processing the enquiry.

Data gathering

4.1.12 When gathering information regarding an enquiry, the Consumer Services Officer explains the enquiry process and obtains the following information:

- (a) Name and contact information of a member of public making an enquiry;
- (b) Dealer/Salesperson/Wholesaler/Broker agent name and location; and
- (c) A detailed statement about the reason for the enquiry.

Initial review for jurisdiction

4.1.13 The Consumer Services Officer conducts an initial review to determine whether the VSA has jurisdiction to act on the enquiry.

4.1.14 When the Consumer Services Officer determines that the enquiry does not involve:

- (a) A car, truck, Motorcycle, recreation vehicle, or other Motor vehicle as defined in the MDA;
- (b) A licensed dealer or salesperson; or
- (c) A consumer transaction,

the Consumer Services Officer closes the enquiry (see Closing an enquiry – no jurisdiction below).

4.1.15 When the Consumer Services Officer determines that the VSA may have jurisdiction to act on the enquiry, the Consumer Services Officer continues to process the enquiry.

Further data gathering and analysis

4.1.16 When the VSA may have jurisdiction to act on the enquiry, the Consumer Services Officer:

- (a) Identifies the nature of the complainant's loss in the enquiry record; and
- (b) Completes the data gathering and analysis.

Closing an enquiry – no further action

4.1.17 When the enquiry was a request for general information not involving a dispute, the Consumer Services Officer responds with information and assistance as required.

- 4.1.18 When the enquiry was received by phone or in-person, the Consumer Services Officer may provide a verbal response and document it in the database or provide a written response to the enquiry. A written response to the enquiry is considered best practice.
- 4.1.19 When the enquiry was received in writing, the Consumer Services Officer provides a written response to the enquiry and the Consumer Services Support Coordinator:
- (a) Scans and uploads any original documentation provided by the sender to the enquiry record; and
 - (b) Returns any original documents received with the enquiry to the sender.
- 4.1.20 After responding, the Consumer Services Officer records the response in the enquiry record and maintains the status of the record as open.
- 4.1.21 If no further communication regarding the enquiry is received within 30 days of the response to the enquiry, the Consumer Services Officer closes the enquiry record as per the previously sent response to an enquiry.

Closing an enquiry – no jurisdiction

- 4.1.22 When the Consumer Services Officer determines that the VSA has no jurisdiction to act on an enquiry, the Consumer Services Officer sends a written response to the enquiry:
- (a) Explaining the reasons for the enquiry being out of the VSA’s jurisdiction; and
 - (b) Providing the option to contact the VSA to discuss the matter, if the member of public feels that the decision to close the enquiry was made in error.
- 4.1.23 When the enquiry was received by phone or in-person, the Consumer Services Officer may provide a verbal response and document it in the database but may also provide a written response.
- 4.1.24 When the enquiry was received in writing, the Consumer Services Officer sends a Closing Letter by mail or email and the Consumer Services Support Coordinator:
- (a) Scans and uploads any original enquiry documentation to the enquiry record; and
 - (b) Returns any original enquiry documents to the sender.
- 4.1.25 After responding, the Consumer Services Officer records the response in the enquiry record and closes the enquiry.

Further action required by consumer

- 4.1.26 When the VSA may have jurisdiction to act on an enquiry, the Consumer Services Officer provides applicable information about:
- (a) VSA’s My Self-Help tool, VSA’s Online Dispute Resolution platform, and/or
 - (b) how to make a complaint application to the VSA.
 - (c) how to make a compensation fund claim application

- 4.1.27 After responding, the Consumer Services Officer records the response in the enquiry record and maintains the status of the record as open.
- 4.1.28 If the Consumer Services Officer does not receive a response to the informational letter with instructions on making a complaint or compensation fund claim application within 30 days, the enquiry closes as per the previously sent informational letter.

Immediate notification to Investigations and Industry Standards departments

When an enquiry may involve serious compliance issues, as defined in part E, section 1.1, the Consumer Services Officer notifies the Manager of Consumer Services.

5. Service Standards

Activity	Service Standard
Intake – response to voicemail	<p>Call returned as soon as possible and within 24 hours of receipt of a voice mail.</p> <p>If a voice mail is received near the end or after normal business hours, on the weekend or a holiday, or during a high call volume period, the call will be returned no more than 4 days after receipt of the voice mail.</p>
Intake – response to email	<p>Email returned as soon as possible and within 24 hours of receipt of an email.</p> <p>If an email is received on the weekend, a holiday, or during a high email volume period, a response will be sent no more than 4 days after receipt.</p> <p>All emails sent to the general Consumer Services email address receive an autoreply confirming receipt and indicating that the VSA will respond as soon as possible.</p>
Intake – response to mail or fax	<p>Member of public contacted as soon as possible and within 24 hours of receipt of the enquiry.</p> <p>If the enquiry is received near the end or after normal business hours, on the weekend or a holiday, or during a high enquiry volume period, the member of public will be contacted no more than 4 days after receipt of the enquiry.</p>
Open enquiry record	<p>Enquiry record opened as soon as possible and within 24 hours of receipt of the enquiry.</p> <p>If the enquiry is received near the end or after normal business hours, on the weekend or a holiday, or during a high enquiry volume period, the enquiry record will be opened no more than 4 days after receipt of the enquiry.</p>

C. CONSUMER COMPLAINTS

1. Overview

A complaint refers to the submission by a complainant to the VSA of a complaint application consisting of a Consumer Complaint Form and the required supporting documents. Receipt of a complaint application may be the result of an earlier enquiry as described in Part B of this manual. Alternatively, the submission of a complaint application may be the first contact that Consumer Services has with a complainant.

After receiving a complaint application, a Consumer Services Support Coordinator:

- Records the receipt of the complaint application in the enquiry record (when there is an existing enquiry), or creates a new record in the VSA database (when the complaint application is the first contact of a complainant with the VSA);
- Performs research as needed.

After receiving a complaint application, a Consumer Services Officer performs case management for a complaint including but not limited to the following:

- Reviews the complaint application for completeness and follows-up with the complainant if required information or documentation is missing;
- Reviews the complaint application to determine whether the VSA has jurisdiction to act on it;
- Notifies Manager of Consumer Services if the complaint involves serious compliance issues, as defined in part E, section 1.1,. Determines if use the VSA's Online Dispute Resolution Platform is an option and if so, provides access to it;
- Obtains research as needed;
- Notifies the Motor dealer of a complaint and requests a dealer response;
- Provides a copy of the Motor dealer response to a complainant;
- If the dispute has been resolved the Consumer Services Officer reviews the dealer's compliance history and notify the Manager of Consumer Services of the dispute resolution and may send a closing letter to parties if directed by the Manager of Consumer Services
- If the complaint remains unresolved, the Consumer Services Officer assigns the complaint to the Manager of Investigations

This part of the manual deals with processing of complaints up to the point at which the complaint is forwarded to an Investigations Officer for investigation.

2. Policy

Complaint application is required

- 2.1.1 A consumer must submit to the VSA a complaint application consisting of a Consumer Complaint Form, and required supporting documents before the VSA will act on a complaint.
- 2.1.2 A complaint application must be:
- (a) Completed in English or French.

Meaning of “complainant”

- 2.1.3 For purposes of the Consumer Complaint Form, the complainant is the individual who entered the transaction with the Motor dealer and whose name appears on the worksheet or the sale, lease, consignment, or deposit agreement.

Complaints outside the jurisdiction of the VSA

- 2.1.4 A Consumer Services Officer may close a complaint when the complaint application does not involve any of the following:
- (a) A car, truck, Motorcycle, recreation vehicle, or other Motor vehicle as defined in the MDA;
 - (b) A licensed dealer or salesperson; or
 - (c) A consumer transaction; or
 - (d) A possible contravention of:
 - (i) The MDA and regulations;
 - (ii) The BPCPA;
 - (iii) The Motor Dealer General Guidelines or Advertising Guidelines; or
 - (iii) A condition on a dealer or salesperson licence.

Encouraging dispute resolution

- 2.1.5 When the complainant has not attempted to resolve the dispute directly with the dealer, when appropriate, the Consumer Services Officer will encourage the complainant to contact the dealer and attempt to resolve the dispute.
- 2.1.6 When appropriate, the Consumer Services Officer will continue to encourage communication between the complainant and the dealer to support the resolution of the dispute.
- 2.1.7 If the complaint does not involve serious compliance issues, as defined in part E, section 1.1, , the Consumer Services Officer will determine if using the VSA’s Online Dispute Resolution platform (the “ODR platform”) is an option to resolve the dispute between the parties, and, if so, will provide access to the ODR platform to the complainant.

Notifying dealer of a complaint and requesting a response to complaint

- 2.1.8 A Consumer Services Officer will send a Notice of Consumer Complaint to the Motor dealer, which is the subject of the complaint, provide the Motor dealer with copy of the Consumer Complaint Form (without the supporting documents submitted by the complainant as part of the complaint application), and request a dealer response to the complaint.
- 2.1.9 Prior to disclosing a Consumer Complaint Form to the Motor dealer, the Consumer Services Officer will review the form and make redactions to prevent any unauthorized disclosure of personal information contained in the Consumer Complaint Form in accordance with the VSA Privacy Policy and Procedures.

Disclosure of dealer response to complainant

- 2.1.10 When a Motor dealer response to a complaint is received, the Consumer Services Officer will:
- (a) Review the Motor dealer response and make redactions to prevent any unauthorized disclosure of personal or proprietary business information, contained in the Motor dealer response in accordance with the VSA Privacy Policy and Procedures; and
 - (b) Provide the complainant with a copy of the Motor dealer response and the supporting documents submitted by the dealer as part of the dealer response to a complaint.

When complaint may not be disclosed to dealer before investigation

- 2.1.11 When a complaint involves serious compliance issues, as defined in part E, section 1.1, above, the Consumer Services Officer will consult with the Manager of Consumer Services to determine whether:
- (a) The complaint should be disclosed as per section 2.1.10 above; or
 - (b) The complaint should be immediately referred to the Manager of the Investigations department.

Assigning complaint investigation to the Manager of Investigations

- 2.1.12 A Consumer Services Officer will refer complaints requiring investigation to the Manager of Investigations in accordance with the Investigations Policy and Procedures Manual [\[link\]](#).

2.1.14 If the dispute that is the subject of the complaint is resolved between the parties Consumer Services Officer will:

- I. Review the dealer's complaints history for the past 2 years and determine if there are 3 or more complaints involving similar issues within the past 2 years.
- II. Notify the Manager of Consumer Services of the complaint resolution.

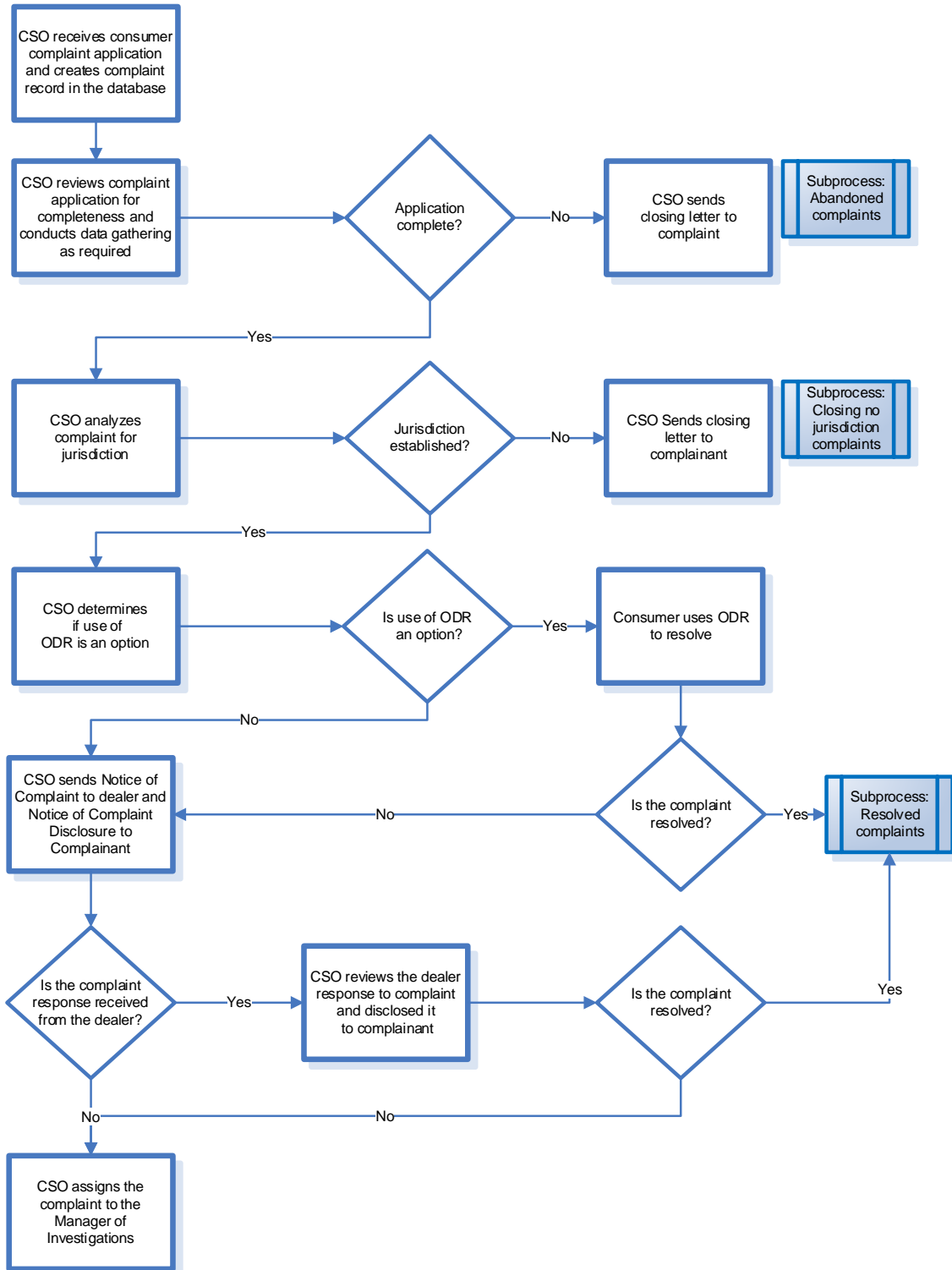
The Manager of Consumer Services will:

CONSUMER SERVICES
POLICY AND PROCEDURES
MANUAL

Version 8

- I. Consult the Manager of Investigations and Manager of Industry Standards to determine if any compliance action is needed for the Motor dealer's conduct. A compliance action may involve education and/or inspection by the Industry Standards department, or an investigation with a potential subsequent compliance action by the Investigations department.
- II. If no investigation and /or compliance action is required, the Manager of Consumer Services will notify the Consumer Services Officer to send a closing letter to the parties and close the file.

3. Flowchart – Consumer Complaints



4. Procedures

Intake – when enquiry record exists

- 4.1.1 On receiving a complaint application for which an earlier enquiry record exists in the database, the Consumer Services department will use the existing record to document the complaint.

Intake – when complaint is initial contact

- 4.1.2 When the complaint application is the complainant's initial contact with the VSA, regarding the complaint and there is no corresponding enquiry record, the Consumer Services department creates a new complaint record in the database.

Review for completeness

- 4.1.3 The Consumer Services Officer reviews the complaint application for completeness. When the complaint application is incomplete, the Consumer Services Officers sends an Insufficient Information Letter to the complainant outlining the deficiencies and requesting the complainant to provide within 15 days:

- (a) The required information or documentation; or
- (b) An explanation why the required information or documentation cannot be provided.

- 4.1.4 If the required documentation or information is not provided within 15 days, the Consumer Services Officer determines whether the VSA can obtain the required documentation or a reasonable substitute from another source.

- 4.1.5 When documentation or information that is required, but not provided by the complainant, the Consumer Services Officer proceeds with complaint handling, if a reasonable substitute can be obtained by the VSA from another source.

- 4.1.6 When the required documentation or information is not provided by the complainant and a reasonable substitute cannot be obtained by the VSA from another source, the Consumer Services Officer assesses the VSA's jurisdiction to act on the complaint based on the incomplete complaint application. If jurisdiction is not established, the Consumer Services Officer closes the complaint and notifies the complainant in writing of the reasons for closing the complaint.

Review for jurisdiction

- 4.1.7 When the Consumer Services Officer determines that the complaint is outside the jurisdiction of the VSA, because it does not involve:

- (a) a car, truck, Motorcycle, recreation vehicle or other Motor vehicle as defined in the MDA
- (b) A licensed dealer, salesperson or other licensee;
- (c) A consumer transaction; or
- (d) A possible contravention of:

- (i) The MDA and regulations;
- (ii) The BPCPA;
- (iii) The Motor Dealer General Guidelines or Advertising Guidelines; or
- (iv) A condition on a dealer or salesperson licence,

The Consumer Services Officer drafts a Closing Letter to the complainant and requests for the Manager of Consumer Services to review the draft closing letter. Once the closing letter is approved the Consumer Services Officer send the letter and notifies the complainant of the reasons for closing the complaint.

- 4.1.8 When the Consumer Services Officer determines that the VSA may have jurisdiction to act on the complaint, the Consumer Services Officer continues to process the complaint.

Notifying dealer of a complaint and requesting a response to complaint

- 4.1.9 After the Consumer Services Officer has established that:

- (a) The complaint application is complete; and
- (b) The VSA's jurisdiction to act on the complaint exists; or
- (c) Motor Dealer records are required to complete this assessment,

The Consumer Services Officer prepares to disclose the Consumer Complaint Form to the Motor dealer by reviewing the Consumer Complaint Form and making redactions to prevent any unauthorized disclosure of personal information, considering:

- i. If the information is relevant to the complaint; and
- ii. If the information is protected from disclosure under FIPPA.

- 4.1.10 The Consumer Services Officer sends a Notice of Consumer Complaint to the Motor dealer, which is the subject of the complaint, containing:

- (a) A copy of the Consumer Complaint Form (redacted for privacy purposes as needed, without the supporting documents submitted by the complainant as part of the complaint application);
- (b) A request that the Motor dealer provides a response to complaint and all dealer records related to the complaint within 10 business days of the date of the notice; and
- (c) The information about the next steps in the complaint process.

- 4.1.11 When the complaint involves serious compliance issues, as defined in part E, section 1.1, the Consumer Services Officer consults with a Manager of Consumer Services to determine whether the complaint should be:

- (a) disclosed as per section 3.1. 11 above; or
- (b) immediately referred to the Manager of Investigations department.

Notice of complaint disclosure

- 4.1.12 When Consumer Services Officer established that:

- (a) The complaint application is complete;
- (b) The VSA's jurisdiction is established or dealer records are required to complete this assessment; and
- (c) The Notice of Consumer Complaint has been sent to the Motor dealer, the Consumer Services Officer sends a Notice of Complaint Disclosure to the complainant informing the complainant of:
 - (i) The disclosure of the Consumer Complaint Form to the dealer; and
 - (ii) The next steps in the complaint process.

Notifying complainant of a Motor dealer response to a complaint

4.1.13 When a Motor dealer response to a complaint is received, the Consumer Services Officer will:

- (a) Review the Motor dealer's response to complaint, and redact any personal or proprietary business information relating to the dealer or a third party in accordance with the FIPPA, considering:
 - i. If the information is relevant to the complaint, if it is protected from disclosure under FIPPA, and if it is information pertaining to an individual or a business otherwise protected from disclosure under FIPPA; and
 - ii. If the redactions may or may not need to be indicated to the complainant depending on the circumstances of the complaint.

4.1.14 When a Motor dealer's response has been reviewed for redactions, the Consumer Services Officer will send a copy of the dealer's response to the complainant, redacted as needed.

Reviewing resolved complaints for compliance issues

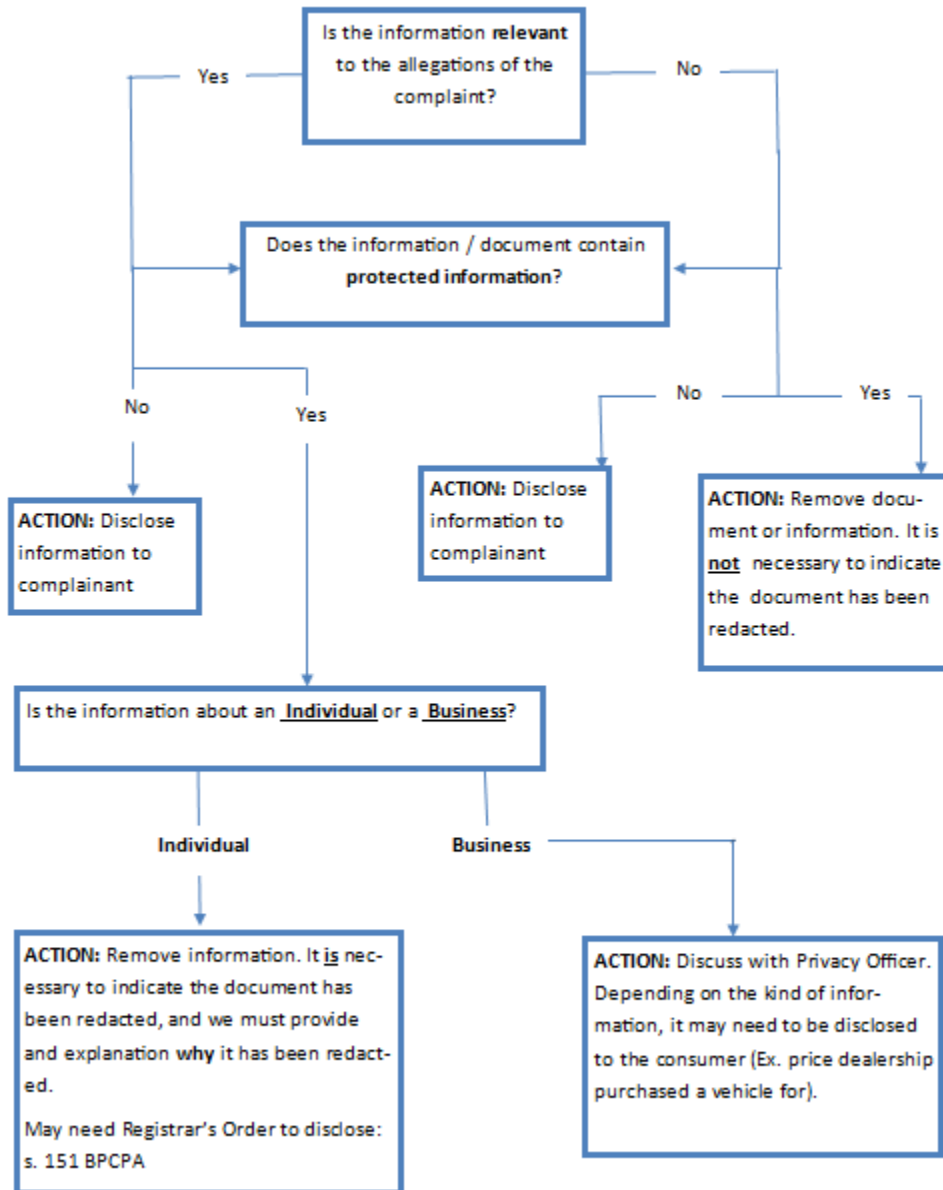
4.1.15 If the dispute that is the subject of the complaint is resolved between the parties Consumer Services Officer will:

- I. Review the dealer's complaints history for the past 2 years and determine if there are 3 or more complaints involving similar issues within the past 2 years.
- II. Notify the Manager of Consumer Services of the complaint resolution.

The Manager of Consumer Services will:

- III. Consult the Manager of Investigations and Manager of Industry Standards to determine if any compliance action is needed for the Motor dealer's conduct.
- IV. If compliance action is needed, the complainant will be assigned to the Manager of Investigations to compliance review and action, and/or the Manager of Industry Standards will launch an inspection based on the compliance issues.
- V. If no investigation and /or compliance action is required, the Manager of Consumer Services will notify the Consumer Services Officer to send a closing letter to the parties and close the file.

Flowchart – Redacting Dealer Response



Conducting research

4.1.15 The Consumer Services Officer and Consumer Services Support Coordinator obtain the following records when relevant:

- (a) The current ICBC certificate of ownership and registration for the vehicle;
- (b) The ICBC APV9T Transfer Tax Form for the transfer of the vehicle to the dealer prior to the transaction with the consumer; and
- (c) The ICBC APV9T Transfer Tax Form for the transfer of ownership to the complainant.

4.1.16 When the complaint involves the history, condition, or title to a vehicle, the Consumer Services Officer and Consumer Services Support Coordinator obtain and CARFAX report and, if needed, a Personal Property Registry record.

Referring complaints for investigation to the Manager of Investigations

4.1.17 The Consumer Services Officer refers the complaints to the Manager of Investigations when:

- (a) The dealer's response to the complaint is received; or no dealer response has been received within the time allotted for the response.
- (b) The complaint is unresolved.

D. DEALER COMPLAINTS

1. Overview

A dealer complaint refers to the submission by a dealer of a wholesaler complaint application made against a VSA licensed wholesaler consisting of a Wholesaler Complaint Form and the required supporting documents. Receipt of a wholesaler complaint application may be the result of an earlier enquiry as described in Part B of this manual. Alternatively, the submission of a wholesaler complaint application may be the first contact that Consumer Services has with a complainant.

After receiving a wholesaler complaint application, a Consumer Services Support Coordinator:

- Records the receipt of the wholesaler complaint application in the enquiry record (when there is an existing enquiry), or creates a new record in the VSA database (when the wholesaler complaint application is the first contact of a complainant with the VSA);
- Performs research as needed.

After receiving a wholesaler complaint application, a Consumer Services Officer performs case management for a complaint including but not limited to the following:

- Reviews the wholesaler complaint application for completeness and follows-up with the dealer if required information or documentation is missing;
- Reviews the wholesaler complaint application to determine whether the VSA has jurisdiction to act on it;
- Notifies Manager of Consumer Services if the dealer complaint involves serious compliance issues, as defined in part E, section 1.1,.
- Obtains research as needed;
- Notifies the wholesaler the complaint and requests a response;
- Provides a copy of the wholesaler's response to the dealer;
- If the dispute has been resolved the Consumer Services Officer reviews the wholesaler's compliance history and notifies the Manager of Consumer Services of the dispute resolution and may send a closing letter to parties if directed by the Manager of Consumer Services
- If the dealer complaint remains unresolved, the Consumer Services Officer assigns the complaint to the Manager of Investigations

This part of the manual deals with processing of complaints up to the point at which the dealer complaint is forwarded to an Investigations Officer for investigation.

2. Policy

Wholesaler application is required

2.1.1 A dealer must submit to the VSA a wholesaler application consisting of a Wholesaler Complaint Form, and required supporting documents before the VSA will act on a complaint.

2.1.2 A complaint application must be:
(a) Completed in English or French.

Meaning of “complainant”

2.1.3 For purposes of the Wholesaler Complaint Form, the complainant is the business who entered the transaction with the wholesaler and whose name appears on the worksheet or the sale, lease, consignment, or deposit agreement.

Dealer Complaints outside the jurisdiction of the VSA

2.1.4 A Consumer Services Officer may close a dealer complaint when the wholesaler complaint application does not involve any of the following:

- (a) A car, truck, Motorcycle, recreation vehicle, or other Motor vehicle as defined in the MDA;
- (b) A licensed wholesaler or salesperson; or
- (d) A possible contravention of:
 - i. The MDA and regulations;
 - ii. The Motor Dealer General Guidelines or Advertising Guidelines; or
 - iii. A condition on a wholesaler dealer or salesperson licence.

Encouraging dispute resolution

2.1.5 When the dealer has not attempted to resolve the dispute directly with the wholesaler, when appropriate, the Consumer Services Officer will encourage the dealer to contact the wholesaler and attempt to resolve the dispute.

2.1.6 When appropriate, the Consumer Services Officer will continue to encourage communication between the dealer and the wholesaler to support the resolution of the dispute.

Notifying a wholesaler of a dealer complaint and requesting a response

2.1.7 A Consumer Services Officer will send a Notice of Dealer Complaint to the wholesaler, which is the subject of the dealer complaint, provide the wholesaler with copy of the Wholesaler Complaint Form (without the supporting documents submitted by the dealer as part of the Wholesaler Complaint application), and request a response.

2.1.8 Prior to disclosing a Wholesaler Complaint Form to the wholesaler, the Consumer Services Officer will review the form and make redactions to prevent any unauthorized disclosure of personal information contained in the Wholesaler Complaint Form in accordance with the VSA Privacy Policy and Procedures.

Disclosure of a wholesaler response to the dealer complaint

2.1.9 When a wholesaler response to a dealer complaint is received, the Consumer Services Officer will:

(a) Review the response and make redactions to prevent any unauthorized disclosure of personal or proprietary business information, contained in the response in accordance with the VSA Privacy Policy and Procedures; and

(b) Provide the dealer with a copy of the response and the supporting documents submitted by the wholesaler as part of the response to a complaint.

When a dealer complaint may not be disclosed to a wholesaler before investigation

2.1.10 When a complaint involves serious compliance issues, as defined in part E, section 1.1, the Consumer Services Officer will consult with the Manager of Consumer Services to determine whether:

- (a) The dealer complaint should be disclosed as per section 2.1.10 above; or
- (b) The dealer complaint should be immediately referred to the Manager of the Investigations department.

Assigning dealer complaint investigation to the Manager of Investigations

2.1.11 A Consumer Services Officer will refer complaints requiring investigation to the Manager of Investigations in accordance with the Investigations Policy and Procedures manual [\[link\]](#).

Reviewing resolved dealer complaints for compliance issues

2.1.12 If the dispute that is the subject of the dealer complaint is resolved between the parties Consumer Services Officer will:

I. Review the wholesaler's complaints history for the past 2 years and determine if there are 3 or more complaints involving similar issues within the past 2 years.

II. Notify the Manager of Consumer Services of the complaint resolution.

The Manager of Consumer Services will:

I. Consult the Manager of Investigations and Manager of Industry Standards to determine if any compliance action is needed for the wholesaler's conduct. A compliance action may involve education and/or inspection by the Industry Standards department, or an investigation with a potential subsequent compliance action by the Investigations department.

CONSUMER SERVICES
POLICY AND PROCEDURES
MANUAL

Version 8

II. If no investigation and /or compliance action is required, the Manager of Consumer Services will notify the Consumer Services Officer to send a closing letter to the parties and close the file

3. Procedures

Intake – when enquiry record exists

3.1 On receiving a wholesaler application for which an earlier enquiry record exists in the database, the Consumer Services department will use the existing record to document the complaint.

Intake – when complaint is initial contact

3.2 When the wholesaler application is the dealer's initial contact with the VSA, regarding the dealer complaint and there is no corresponding enquiry record, the Consumer Services department creates a new complaint record in the database.

Review for completeness

3.3 The Consumer Services Officer reviews the wholesaler complaint application for completeness. When the wholesaler complaint application is incomplete, the Consumer Services Officers sends an Insufficient Information Letter to the complainant outlining the deficiencies and requesting the complainant to provide within 15 days:

- (a) The required information or documentation; or
- (b) An explanation why the required information or documentation cannot be provided.

3.4 If the required documentation or information is not provided within 15 days, the Consumer Services Officer determines whether the VSA can obtain the required documentation or a reasonable substitute from another source.

3.5 When documentation or information that is required, but not provided by the dealer, the Consumer Services Officer proceeds with complaint handling, if a reasonable substitute can be obtained by the VSA from another source.

3.6 When the required documentation or information is not provided by the dealer and a reasonable substitute cannot be obtained by the VSA from another source, the Consumer Services Officer assesses the VSA's jurisdiction to act on the complaint based on the incomplete complaint application. If jurisdiction is not established, the Consumer Services Officer closes the dealer complaint and notifies the dealer in writing of the reasons for closing the complaint.

Review for jurisdiction

3.7 When the Consumer Services Officer determines that the dealer complaint is outside the jurisdiction of the VSA, because it does not involve:

- (a) a car, truck, Motorcycle, recreation vehicle or other Motor vehicle as defined in the MDA
- (b) A licensed dealer, wholesaler, salesperson or other licensee;
- (c) A possible contravention of:
 - (i) The MDA and regulations;
 - (ii) The Motor Dealer General Guidelines or Advertising Guidelines; or
 - (iii) A condition on a dealer or salesperson licence,

The Consumer Services Officer drafts a Closing Letter to the dealer and requests for the Manager of Consumer Services to review the draft closing letter. Once the closing letter is approved the Consumer Services Officer send the letter and notifies the dealer of the reasons for closing the complaint.

3.8 When the Consumer Services Officer determines that the VSA may have jurisdiction to act on the dealer complaint, the Consumer Services Officer continues to process the complaint.

Notifying wholesaler of a complaint and requesting a response to complaint

3.9 After the Consumer Services Officer has established that:

- (a) The wholesaler complaint application is complete; and
- (b) The VSA's jurisdiction to act on the complaint exists; or
- (c) Wholesaler records are required to complete this assessment,

The Consumer Services Officer prepares to disclose the Wholesaler Complaint Form to the wholesaler by reviewing the Wholesaler Complaint Form and making redactions to prevent any unauthorized disclosure of personal information, considering:

- i. If the information is relevant to the complaint; and
- ii. If the information is protected from disclosure under FIPPA.

3.10 The Consumer Services Officer sends a Notice of Dealer Complaint to the Motor dealer, which is the subject of the complaint, containing:

- (a) A copy of the Wholesaler Complaint Form (redacted for privacy purposes as needed, without the supporting documents submitted by the dealer as part of the wholesaler complaint application);
- (b) A request that wholesaler provides a response to complaint and all dealer records related to the complaint within 10 business days of the date of the notice; and
- (c) The information about the next steps in the complaint process.

3.11 When the complaint involves serious compliance issues, as defined in part E, section 1.1, the Consumer Services Officer consults with a Manager of Consumer Services to determine whether the complaint should be:

disclosed as per section 3.1. 11 above; or (b) immediately referred to the Manager of Investigations department.

Notice of complaint disclosure

3.12 When Consumer Services Officer established that:

- (a) The wholesaler complaint application is complete;
- (b) The VSA's jurisdiction is established or dealer records are required to complete this assessment; and
- (c) The Notice of Dealer Complaint has been sent to the wholesaler

(d) the Consumer Services Officer sends a Notice of Complaint Disclosure to the dealer informing the complainant of:

- (iii) The disclosure of the Wholesaler Complaint Form to the dealer; and
- (iv) The next steps in the dealer complaint process.

Notifying complainant of a Motor dealer response to a complaint

3.13 When a wholesaler's response to a dealer complaint is received, the Consumer Services Officer will:

- (a) Review the wholesaler's response to complaint, and redact any personal or proprietary business information relating to the dealer or a third party in accordance with the FIPPA, considering:
 - i. If the information is relevant to the complaint, if it is protected from disclosure under FIPPA, and if it is information pertaining to an individual or a business otherwise protected from disclosure under FIPPA; and
 - ii. If the redactions may or may not need to be indicated to the complainant depending on the circumstances of the complaint.

3.14 When a wholesaler's response has been reviewed for redactions, the Consumer Services Officer will send a copy of the response to the dealer, redacted as needed.

Reviewing resolved dealer complaints for compliance issues

3.1.15 If the dispute that is the subject of the dealer complaint is resolved between the parties Consumer Services Officer will:

- I. Review the dealer's complaints history for the past 2 years and determine if there are 3 or more complaints involving similar issues within the past 2 years.
- II. Notify the Manager of Consumer Services of the complaint resolution.

The Manager of Consumer Services will:

- III. Consult the Manager of Investigations and Manager of Industry Standards to determine if any compliance action is needed for the Motor dealer's conduct.
- IV. If compliance action is needed, the complainant will be assigned to the Manager of Investigations to compliance review and action, and/or the Manager of Industry Standards will launch an inspection based on the compliance issues.
- V. If no investigation and /or compliance action is required, the Manager of Consumer Services will notify the Consumer Services Officer to send a closing letter to the parties and close the file.

E. SERIOUS COMPLIANCE ISSUES

1. Overview

Definition

1.1 A serious compliance issue includes, but is not limited to the following allegations of misconduct:

- I. One or more incidents of alleged or actual theft of money, theft of personal information (identity theft) or other items of value from a consumer or other person by a licensee;
- II. One or more alleged or actual incidents of fraud committed against a consumer or other person by a licensee;
- III. Alleged or actual physical violence or the immediate threat of physical violence by a licensee against a consumer or other person;
- IV. Alleged or actual sale of a vehicle that a professional mechanic has, through a documented inspection, determined not to be suitable for transportation at the time of sale.

2. Reporting

Reporting by a Consumer Services Officer

2.1 Where in the course of receiving information a Consumer Services Officer becomes aware of a circumstance that may, if proven, constitute a serious compliance issue, the Consumer Services Officers to take the following steps:

- I. Create a record in the database noting the alleged serious compliance issue;
- II. Notify the Manager of Consumer Services in writing as soon as practicable.

2.2 Where the Manager of Consumer Services is not available, the Consumer Services Officer is to report the serious compliance issue to the Director of Consumer Standards and Industry Standards or if they are unavailable, the Director of Investigations, Licensing and Legal Services.

3. Consultation

Consultation conducted by the Manager of Consumer Services

3.1 Where the Manager of Consumer Services (or the appropriate Director acting in their place as referred to in section 2.2 above) is notified by a Consumer Services Officer of the existence of an alleged serious compliance issue, they will take the following steps:

- I. Ensure all relevant information and documentation is uploaded in the database by the Consumer Services Officer;

- II. Prepare a summary of the allegation and forward that by email to the Manager of Investigations and Manager of Industry Standards as soon as practicable.

4. Compliance Enforcement Model

Application

- 4.1 Where alleged or actual conduct is believed to be a serious compliance issue, consideration will be given if an interim measure is necessary to protect the public interest, until a full investigation can be finalized. See the Compliance Enforcement Model. Such measures can include:
 - Adding conditions on a licence,
 - Short notice hearing before the Registrar to request:
 - (a) a suspension of a licence pending completion of an investigation, or
 - (b) a compliance order prohibiting certain conduct, or requiring specific conduct pending the completion of an investigation,
 - (c) requesting the registrar apply for the appointment of a receiver-manager by the BC Supreme Court,
 - (d) issuing a property freeze order against the licensee or any other person who holds assets of the licensee, and
 - (e) any other order authorized by the Motor Dealer Act or the Business Practices and Consumer Protection Act which is necessary to protect the public interest, pending the finalizing of an investigation.

ACRONYMS AND ABBREVIATIONS

BPCPA	Business Practices and Consumer Protection Act, SBC 2004, c 2
DAA	Delegated Administrative Authority Agreement
FOIPPA	Freedom of Information and Protection of Privacy Act, RSBC 1996, c 165
MDA	Motor Dealer Act, RSBC 1996, c 316
MVA	Motor Vehicle Act, RSBC 1996, c 318
MVA Reg	Motor Vehicle Act Regulations, BC Reg. 26/58
PIPA	Personal Information Protection Act, SBC, c 63
VSA	Vehicle Sales Authority of British Columbia