



# Consumer Services Policy and Procedures Manual

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## 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.                                                                                    |



## A. INTRODUCTION

### 1. Background

#### 1.1 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 mediation of disputes, to consumers and motor dealers 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, or the motor vehicle sales industry. Consumer Services Officers are the Registrar’s delegates authorized to:

- Receive and respond to all public enquiries and complaints in an objective and unbiased manner in compliance with an established policy and procedures;
- Analyze and document the nature of enquiries and complaints;
- Provide information and referrals to appropriate resources when applicable;
- Facilitate the resolution of disputes between members of public and dealers when appropriate; and
- Collect information regarding a complaint from the complainant and the dealer, before forwarding that information to the Compliance department for investigation where warranted.

#### 1.2 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.

### 1.3 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 a Compliance Officer.
- **Acronyms and Abbreviations** lists the acronyms and abbreviations used in this manual.

### 1.4 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 and 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.



## 1.5 Legislative authority and requirements

### Authority to delegate

- 1.5.1 The Registrar may lawfully delegate any of his powers to a Compliance 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]

### Investigating complaints

- 1.5.2 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)]
- 1.5.3 Where a written request has been made under paragraph 1.5.2, 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)]
- 1.5.4 The Registrar may conduct an inspection for determining compliance 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)]
- 1.5.5 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 record, goods, or other thing, 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

- 1.5.6 “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]





- 1.5.7 **"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**

- 1.5.8 “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]
- 1.5.9 “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]
- 1.5.10 "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]
- 1.5.11 “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]
- 1.5.12 “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]



## **2. Roles and Responsibilities**

### **2.1 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:

- Oversee the processing of enquiries and complaints by Consumer Services Officers and to assist them where required;
- Consult with the Compliance and Licensing departments when required to obtain input on an enquiry or complaint; and
- Review a decision by a Consumer Services Officer when requested by a complainant.

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 or for no grounds to investigate, when a review is requested by a complainant; and
- Identifying potentially high-risk enquiries and complaints for immediate referral to a Compliance Officer for investigation.

### **2.2 Consumer Services Officer**

The role of the Consumer Services Officer is to:

- Receive, respond to, and process all public enquiries and complaints; and
- Encourage dispute resolution when appropriate.

The Consumer Services officer is responsible for:

- Providing information about the VSA 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 and grounds to investigate a complaint;
- Preparing a database record for an enquiry or complaint and forwarding the complaint to a Compliance Officer for investigation when required; and
- Assisting the Compliance Officer with the investigation of a complaint as required.

### **2.3 Manager of Compliance and Investigations (Manager of Compliance)**

The role of the Manager of Compliance and Investigations (Manager of Compliance) is to provide advice to Consumer Services Officers regarding potentially high-risk enquiries or complaints.



On the request of a Consumer Services Officer, the Manager of Compliance is responsible for advising the Consumer Services Officer as to whether a potentially high-risk enquiry or complaint should be referred immediately to a Compliance Officer.

## 2.4 Compliance Officer

The role of the Compliance Officer is to investigate a complaint that has been referred by a Consumer Services Officer.

The Compliance Officer is responsible for:

- Referring an enquiry from a member of the public received by the Compliance Officer to a Consumer Services Officer for processing; and
- Investigating complaints referred to the Compliance Officer by a Consumer Services Officer.

## 2.5 Registrar

The role of the Registrar is to provide overall direction on the processing of enquiries and complaints to the Manager of Consumer Services.

The Registrar is responsible for:

- Delegating authority to VSA staff when required to carry out duties under these policies and procedures;
- Ensuring staff properly exercise their delegated authority; and
- Providing advice to the Manager of Consumer Services as required.



## 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 motor dealer, salesperson, or the motor vehicle sales industry, except the receipt of a complaint application. 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;
- By 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 on how to make a complaint or 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 motor dealer/salesperson, the enquiry record will be attached to the dealer's/salesperson'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 Complaint Handling Policy and Procedures.



### **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 or salesperson; or
  - (c) A consumer transaction.
- 2.1.10 When there is any possibility that the VSA has jurisdiction to investigate 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 or salesperson, the Consumer Services Officer will forward the enquiry to the Compliance department; or
  - (b) A business acting as an unlicensed motor dealer, the Consumer Services Officer will forward the enquiry to the Licensing department.
- 2.1.12 When an enquiry was closed by a Consumer Services Officer and a request to review the decision to close the enquiry is received, the Manager of Consumer Services will review the decision.



### **Jurisdiction – when a trailer is a motor vehicle**

2.1.13 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.

2.1.14 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.*

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

### **Jurisdiction – consumer transaction**

2.1.16 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.

2.1.17 An “individual” means a natural person and not a company or corporation<sup>1</sup>.

2.1.18 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**

2.1.19 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.

2.1.20 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;

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<sup>1</sup> 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)



- (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.
- 2.1.21 If 50% or more of the intended use of a vehicle was for business purposes, the VSA does not have jurisdiction.
- 2.1.22 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.
- 2.1.23 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.
- 2.1.24 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**

- 2.1.25 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 Insufficient Information Letter**

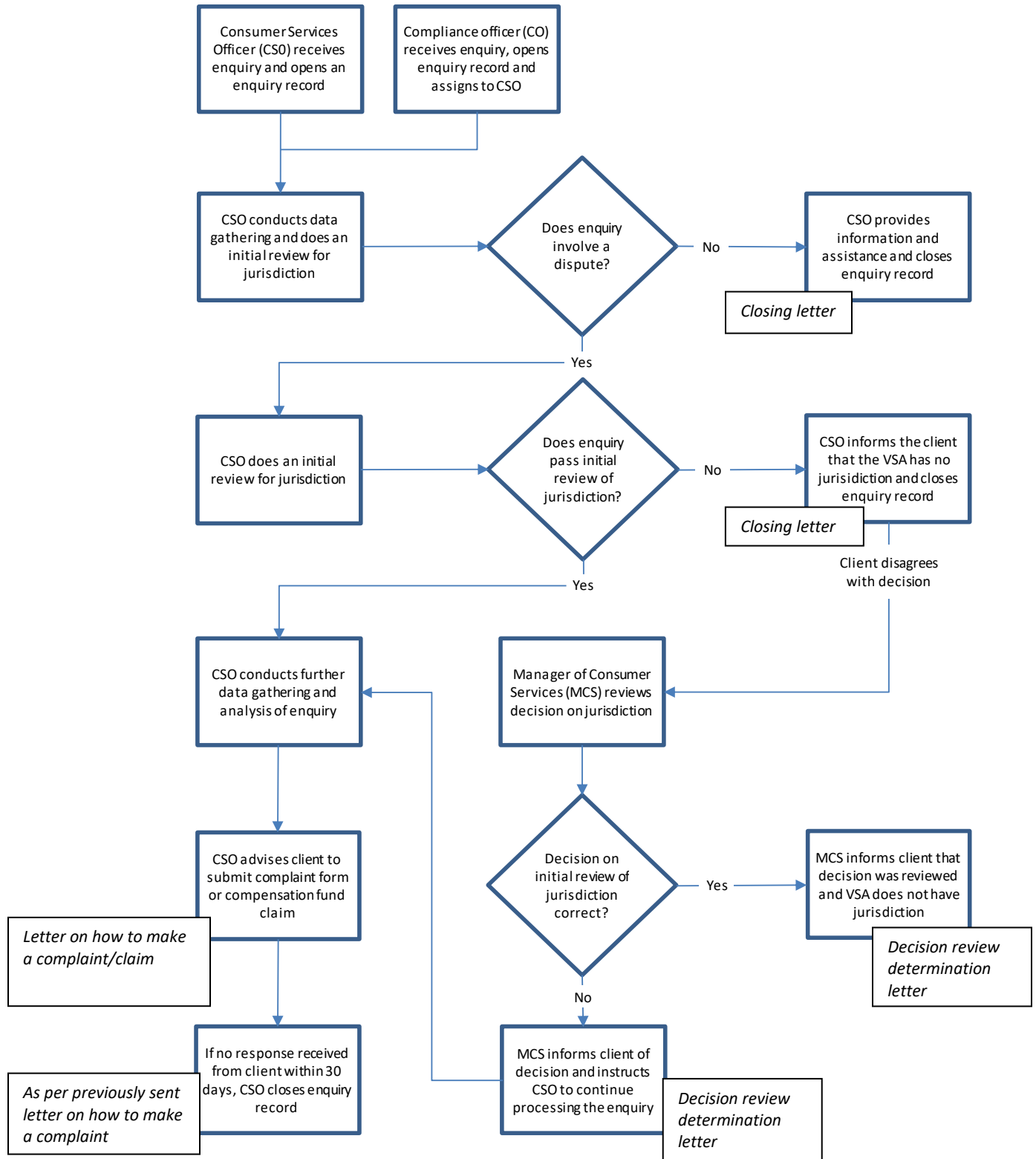
- 2.1.26 When a Consumer Services Officer has advised a member of public that additional documentation or information is required to further process the enquiry, the Consumer Services Officer will close the enquiry after 30 days, if no response is received, as per the previously sent Insufficient Information Letter.

#### **Referral to Compliance before complaint application is received**

- 2.1.27 When an enquiry indicates that an immediate risk to a person's safety may exist or there may be ongoing criminal activity, the Consumer Services Officer will consult with the Manager of Consumer Services or the Manager of Compliance.
- 2.1.28 When warranted, the Manager of Consumer Services or the Manager of Compliance will instruct the Consumer Services Officer to immediately assign the enquiry for investigation by a Compliance Officer.



### 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 voice-mail 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 Officer who receives public enquiry mail:
  - (a) Source stamps the contents of the envelope;
  - (b) Records an enquiry in the database; and
  - (c) Conducts data gathering.
- 4.1.7 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

- 4.1.8 When a member of the public attends the VSA in person with an enquiry, Reception notifies Consumer Services and a Consumer Services Officer conducts an enquiry interview and data gathering.
- 4.1.9 When the complainant wishes to make a complaint application while at the VSA, the Consumer Services Officer leaves the interview room, while the member of public works on the application.

### Intake – Compliance Officer

- 4.1.10 When a Compliance Officer receives an enquiry from a member of the public, the Compliance 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**

4.1.11 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 name and location; and
- (c) A detailed statement about the reason for the enquiry.

### **Initial review for jurisdiction**

4.1.12 The Consumer Services Officer conducts an initial review to determine whether the VSA has jurisdiction to investigate the enquiry.

4.1.13 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).

4.1.14 When the Consumer Services Officer determines that the VSA may have jurisdiction to investigate the enquiry, the Consumer Services Officer continues to process the enquiry.

### **Further data gathering and analysis**

4.1.15 When the VSA may have jurisdiction to investigate 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**

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

4.1.17 When the enquiry was received by phone or in-person, the Consumer Services Officer may provide a verbal response but also provides a written response to the enquiry.

4.1.18 When the enquiry was received in writing, the Consumer Services Officer provides a written response to the enquiry and:

- (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.



- 4.1.19 After responding, the Consumer Services Officer records the response in the enquiry record and maintains the status of the record as open.
- 4.1.20 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**

- 4.1.21 When the Consumer Services Officer determines that the VSA has no jurisdiction to investigate 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.
- 4.1.22 When the enquiry was received by phone or in-person, the Consumer Services Officer may provide a verbal response but also will provide a written response.
- 4.1.23 When the enquiry was received in writing, the Consumer Services Officer sends a Closing Letter by mail or email and:
  - (a) Scans and uploads any original enquiry documentation to the enquiry record; and
  - (b) Returns any original enquiry documents to the sender.
- 4.1.24 After responding, the Consumer Services Officer records the response in the enquiry record and maintains the status of the record as open.
- 4.1.25 If no further communication regarding the enquiry is received within 30 days of the response, the Consumer Services Officer closes the enquiry as per the previously sent closing letter.

#### **Further action required by consumer**

- 4.1.26 When the VSA may have jurisdiction to investigate an enquiry, the Consumer Services Officer provides information on how to make a complaint application to the VSA.
- 4.1.27 When the enquiry concerns a dispute with a dealer, which is no longer in business, the Consumer Services Officer provides information on how to make a compensation fund claim application.
- 4.1.28 After responding, the Consumer Services Officer records the response in the enquiry record and maintains the status of the record as open.
- 4.1.29 If the Consumer Services does not receive a response to the informational letter with instructions on making a complaint or compensation fund claim application within 30 days, the Consumer Services Officer closes the enquiry as per the previously sent informational letter.



### **Immediate referral to Compliance**

4.1.30 When an enquiry indicates that a dealer or salesperson may:

- (a) Present a risk to a person's physical safety;
- (b) Be engaging in criminal activity such as fraud or odometer rollbacks; or
- (c) Have sold a vehicle that does not meet the requirements of the *MVA* and is unsafe to drive, the Consumer Services Officer consults with the Manager of Consumer Services or the Manager of Compliance.

4.1.31 When the Manager of Consumer Services or the Manager of Compliance determines that there may be an immediate risk to a person's safety or ongoing criminal activity, the Consumer Services Officer:

- (a) Immediately assigns the file to a Compliance Officer; and
- (b) Sends a written response to the enquiry informing that the matter is being investigated and providing information on how to make a complaint or compensation fund claim application.

### **Review of decision to close enquiry for no jurisdiction**

4.1.32 When a member of the public informs Consumer Services that they believe a decision to close an enquiry for lack of jurisdiction is in error, the Manager of Consumer Services:

- (a) Reviews the enquiry record;
- (b) When needed, contacts the member of public to obtain reasons and supporting documents, regarding disagreement with the decision to close the enquiry; and
- (c) Determines whether the decision by the Consumer Services Officer to close the enquiry was made in error.

4.1.33 When the Manager of Consumer Services determines that there was no error in the decision by the Consumer Services Officer, the Manager of Consumer Services sends a Decision Review Determination with the reasons for the decision.

4.1.34 When the Manager of Consumer Services determines that the decision to close the enquiry was made in error, the Manager of Consumer Services:

- (a) Reviews the decision with the Consumer Services Officer and instructs the Consumer Services Officer to continue processing the enquiry; and
- (b) Sends a Decision Review Determination with the reasons for the decision.



## 5. Service Standards

| Activity                         | Service Standard                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Intake – response to voice-mail  | <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. 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 Officer:

- 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);
- 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 investigate it;
- Performs research as needed;
- Notifies the motor dealer of a complaint and requests a dealer response;
- Notifies a complainant of a response, when the dealer response is received; and
- Assigns the complaint to a Compliance Officer for investigation, if it otherwise has not been resolved.

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

### 2. Policy

#### **Complaint application is required**

2.1.1 A consumer must make a complaint application consisting of a Consumer Complaint Form and required supporting documents before the VSA will investigate a complaint.

2.1.2 A complaint application must be:

- (a) Completed in English or French; and
- (b) Signed by the complainant or the complainant's legal representative.



### **Meaning of “complainant”**

2.1.3 For purposes of the Consumer Complaint Form, the complainant is the person, who entered into the transaction with the 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 without an investigation by a Compliance Officer when the complaint 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.

### **When no grounds for investigation**

2.1.5 A Consumer Services Officer may close a complaint without an investigation by a Compliance Officer when the complaint does not involve a possible contravention of:

- (a) The MDA and regulations;
- (b) The BPCPA;
- (c) The Motor Dealer General Guidelines or Advertising Guidelines; or
- (d) A condition on a dealer or salesperson licence.

### **Where complainant disagrees with a decision to close a complaint due to a lack of jurisdiction or grounds to investigate**

2.1.6 When a complainant indicates that a decision to close a complaint due to a lack of jurisdiction or grounds to investigate was made in error, the Manager of Consumer Services will review the decision.

### **Encouraging dispute resolution**

2.1.7 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.

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

### **Notifying motor dealer of a complaint and requesting a response to complaint**

2.1.9 A Consumer Services Officer will send a Notice of Consumer Complaint to the dealer, which is the subject of the complaint, provide a 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 a complaint.

2.1.10 Prior to disclosing of a Consumer Complaint Form to the 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**

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

(a) Review the Motor Dealer Response form 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 form and the supporting documents submitted by the motor dealer as part of the motor dealer response to a complaint.

### **When complaint may not be disclosed to dealer before investigation**

2.1.12 When a Consumer Services Officer has reason to believe that the dealer may alter or destroy evidence if the complaint is disclosed, (e.g. where the complaint concerns dealer fraud), the Consumer Services Officer will consult with the Manager of Consumer Services to determine whether:

(a) The complaint should be disclosed as usual; or

(b) The complaint should be referred to a Compliance Officer for immediate investigation.

### **Assigning complaint investigation to Compliance Officer**

2.1.13 Except as provided for deposit complaints below, a Consumer Services Officer will assign all complaint investigations to a Compliance Officer, even when the complainant and dealer have resolved the complaint.

2.1.14 The Compliance Officer will review the complaint, investigate as required, and close the complaint in accordance with the Compliance Policy and Procedures Manual.

### **Deposit complaints**

2.1.15 When a complaint concerns the failure to return a deposit, a Consumer Services Officer may close the complaint without assigning it to a Compliance Officer if:

(a) The complainant and the dealer have resolved the complaint prior to:

i. Receiving the dealer's response to the complaint; or

ii. The date on which the dealer's response is due;

and

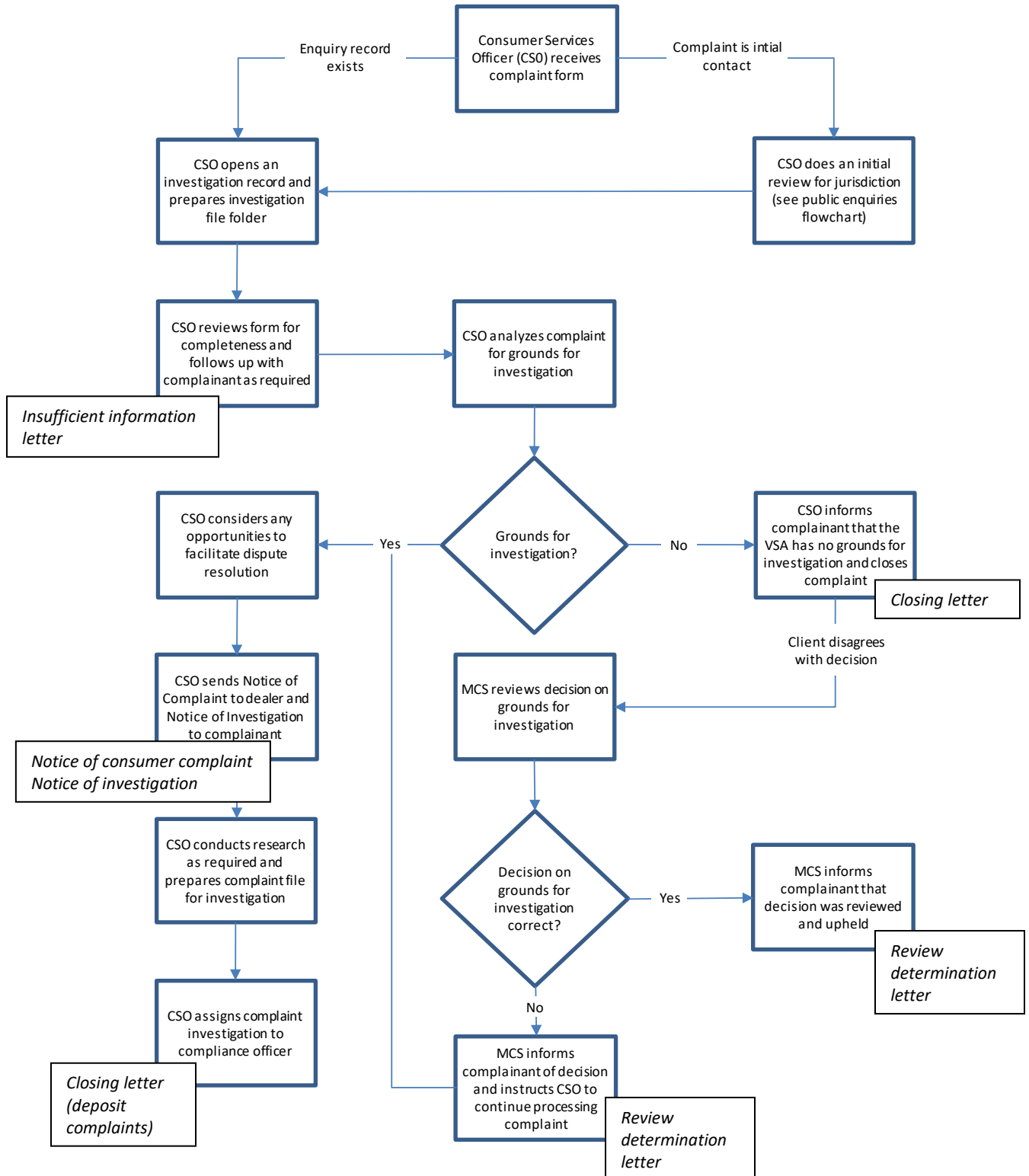
(b) The dealer has had fewer than three (3) investigations related to deposits in the previous two (2) years.

2.1.16 When a dealer has had three (3) or more previous investigations related to deposits, the Consumer Services Officer will assign the complaint to a Compliance Officer for review and closing, even when the complainant and dealer have resolved the complaint.





### Flowchart – Consumer Complaints





### 3. Procedures

#### **Intake – when enquiry record exists**

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

#### **Intake – when complaint is initial contact**

- 3.1.2 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 Officer creates a new complaint record in the database.

#### **Review for completeness**

- 3.1.3 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 complainant to provide within 30 days:
- (a) The required information or documentation; or
  - (b) An explanation why the required information or documentation cannot be provided.
- 3.1.4 If the required documentation or information is not provided within 30 days, the Consumer Services Officer determines whether the VSA can obtain the required documentation or a reasonable substitute from another source.
- 3.1.5 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.
- 3.1.6 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 investigate the complaint based on the incomplete complaint application. If jurisdiction is not established, the Consumer Services Officer will close the complaint without investigation and notify the complainant in writing:
- (a) Of the reasons for closing the complaint; and
  - (b) Of the complainant's right to request a review of the Consumer Services Officer decision not to investigate the complaint by the Manager of Consumer Services.

#### **Review for jurisdiction**

- 3.1.7 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 or salesperson; or
  - (c) A consumer transaction,



the Consumer Services Officer closes the complaint and sends a Closing Letter to the complainant and notifies the complainant:

- (a) Of the reasons for closing the complaint; and
- (b) Of the complainant's rights to request a review of the Consumer Services Officer's decision not to investigate the complaint by the Manager of Consumer Services.

3.1.8 When the Consumer Services Officer determines that the VSA may have jurisdiction to investigate the complaint, the Consumer Services Officer continues to process the complaint.

#### **Review for grounds to investigate**

3.1.9 The Consumer Services Officer analyzes the complaint and reviews the dealer or salesperson record to determine whether there are grounds for the VSA to investigate the complaint.

3.1.10 When the Consumer Services Officer determines that the complaint does not involve a possible contravention of:

- (a) The *MDA* and regulations;
- (b) The *BPCPA*;
- (c) The Motor Dealer General Guidelines or Advertising Guidelines; or
- (d) A condition on a dealer or salesperson licence,

the Consumer Services Officer closes the complaint without investigation by a Compliance Officer and sends a Closing Letter to the complainant notifying the complainant of:

- (a) The reasons for closing the complaint; and
- (b) The complainant's rights to request a review of the Consumer Services Officer's decision by the Manager of Consumer Services.

3.1.11 When the Consumer Services Officer determines that the VSA has grounds to investigate the complaint, the Consumer Services Officer continues to process the complaint.

#### **Review of Consumer Services Officer's decision to close complaint due to a lack of jurisdiction or no grounds to investigate**

3.1.12 When a complainant informs Consumer Services that they disagree with a Consumer Services Officer's decision to close a complaint for a lack of jurisdiction or grounds to investigate, the Manager of Consumer Services:

- (a) Reviews the complaint;
- (b) When required, contacts the complainant to obtain reasons and documents supporting their disagreement with the Consumer Services Officer's decision; and
- (c) Determines whether the decision was made in error.



- 3.1.13 When the Manager of Consumer Services determines that the Consumer Services Officer's decision was correct, the Manager of Consumer Services sends a Decision Review Determination to the complainant with the reasons for the review determination.
- 3.1.14 When the Manager of Consumer Services determines that the Consumer Services Officer's decision was made in error, the Manager of Consumer Services:
- (a) Instructs the Consumer Services Officer to continue processing the complaint; and
  - (b) Sends a Decision Review Determination to the complainant with the reasons for the Manager of Consumer Services' determination.

### **Encouraging dispute resolution**

- 3.1.15 The Consumer Services Officer analyzes the complaint to determine whether there any opportunities for dispute resolution prior to the complaint being forwarded to a Compliance Officer for investigation.
- 3.1.16 When the complainant has not attempted to resolve the dispute directly with the dealer, whenever appropriate, the Consumer Services Officer encourages the complainant to contact the dealer and attempt to resolve the dispute.

### **Notifying motor dealer of a complaint and requesting a response to complaint**

- 3.1.17 After the Consumer Services Officer has established that:
- (a) The complaint application is complete; and
  - (b) The VSA's jurisdiction and grounds to investigate the complaint exist; or
  - (c) 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 it is protected from disclosure under FIPPA.
- 3.1.18 The Consumer Services Officer sends a Notice of Consumer Complaint to the 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 Motor Dealer Response form;
  - (c) A request that the dealer return the completed Motor Dealer Response form and provide all dealer records related to the complaint within 10 business days of the date of the notice:  
and
  - (d) The information about the next steps in the complaint process.



3.1.19 When the Consumer Services Officer believes that there is a reasonable possibility that the dealer may alter or destroy evidence, if the complaint is disclosed, (e.g. where the complaint concerns fraud), the Consumer Services Officer will consult with a Manager of Consumer Services to determine whether:

- (a) The complaint should be disclosed as usual; or
- (b) The complaint should be referred to a Compliance Officer for immediate investigation.

#### **Notice of complaint investigation to complainant**

3.1.20 When Consumer Services Officer established that:

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

the Consumer Services Officer sends a Notice of Investigation to the complainant informing the complainant of:

- (i) The disclosure of the Consumer Complaint Form to the motor dealer; and
- (ii) The next steps in the complaint process.

#### **Notifying complainant of a motor dealer response to a complaint**

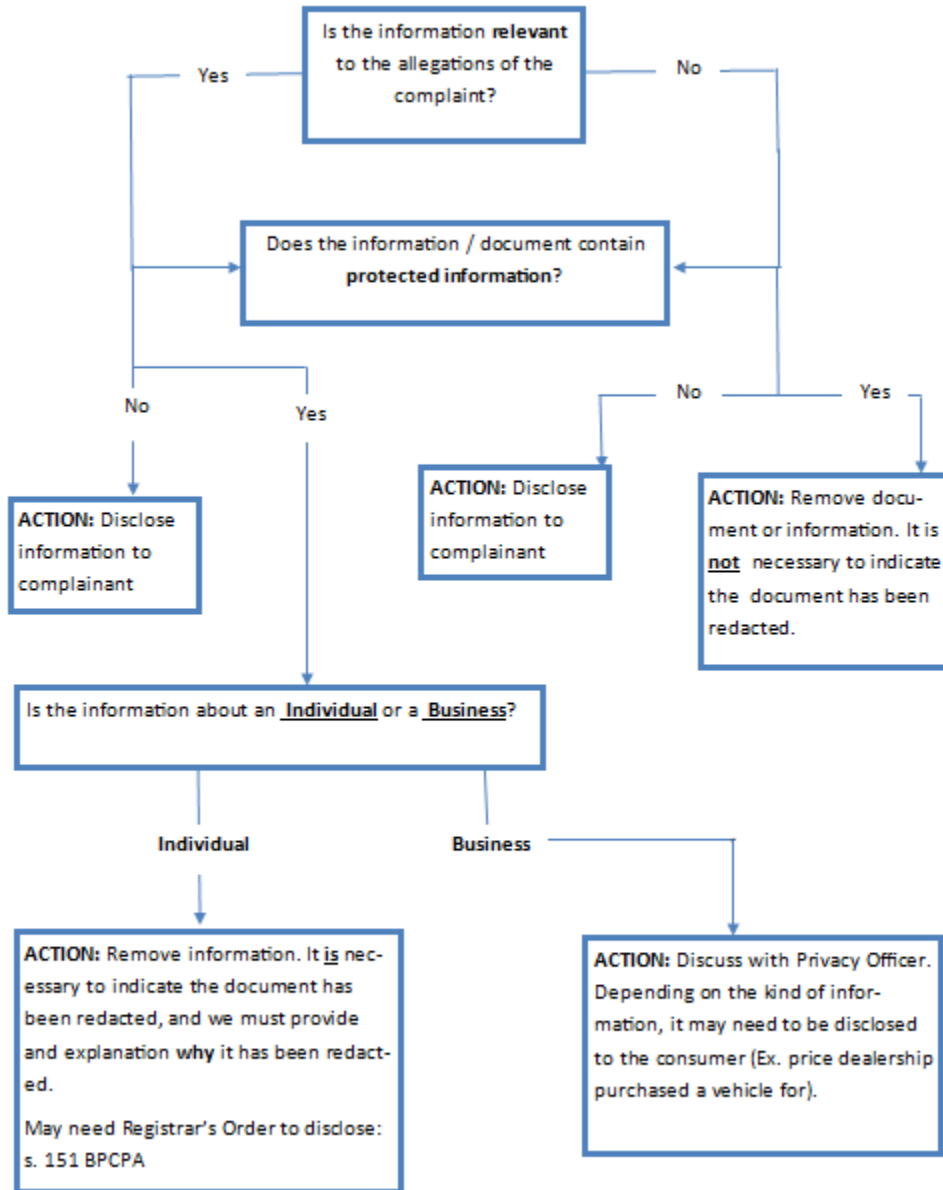
3.1.21 When a motor dealer response to a complaint is received, the Consumer Services Officer will:

- (a) Review the Motor Dealer Response form and the supporting documents, 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.

3.1.22 When a Motor Dealer Response form has been reviewed for redactions, the Consumer Services Officer will send a Notice of Dealer Response to the complainant with a copy of the Motor Dealer Response form and any supporting documents submitted by the motor dealer as part of the dealer response to a complaint, redacted as needed.



## Flowchart – Redacting Dealer Response





### **Conducting research**

3.1.23 The Consumer Services Officer obtains 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.

3.1.24 When the complaint involves the history, condition, or title to a vehicle, the Consumer Services Officer obtains a CarProof and CARFAX report and, if needed, a Personal Property Registry record.

### **Assigning complaint investigation to a Compliance Officer**

3.1.25 Except as provided for deposit complaints below, the Consumer Services Officer assigns the complaint investigation to the Compliance Officer in the dealer's region when:

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

3.1.26 When assigning a complaint investigation to a Compliance Officer, the Consumer Services Officer includes the following documents in the investigation record in the database and in the investigation file:

- (a) The complaint application, including the Consumer Complaint Form and supporting documentation, submitted by the complainant as part of the complaint application;
- (b) All subsequent documentation provided by the complainant;
- (c) The Notice of Investigation;
- (d) The Notice of Consumer Complaint;
- (e) The dealer response to the complaint, including the Motor Dealer Response form and supporting documentation submitted by the dealer as part of the response;
- (f) The results of research on the vehicle history; and
- (g) Any other documentation relevant to the complaint.

3.1.27 The Consumer Services Officer will notify the Compliance Officer of the complaint investigation assignment. When needed, the Consumer Services Officer will prepare a hard copy of the file for the Compliance Officer and deliver or arrange for delivery of the file to the Compliance Officer.

### **Deposit complaints**

3.1.28 Where a complaint concerns the failure to return a deposit, the Consumer Services Officer closes the complaint investigation file without assigning it to a Compliance Officer if:

- (a) The complainant and the dealer have resolved the complaint prior to:
  - i. Receiving the dealer's response to the complaint; or
  - ii. The date on which the dealer's response is due;



and

(b) The dealer has had fewer than three (3) previous investigations related to deposits in the previous two (2) years.

3.1.29 When a dealer has had three (3) or more investigations related to deposits in the previous two (2) years, the Consumer Services Officer assigns the complaint investigation file to a Compliance Officer, even if the complainant and dealer have resolved the complaint.

3.1.30 When closing a complaint investigation file under paragraph 3.1.28, the Consumer Services Officer sends a Closing Letter to the complainant, with a copy to the dealer.

**Assistance with Compliance investigation**

3.1.31 Consumer Services Officers assist Compliance Officers in the investigation of the complaints as required.





## ACRONYMS AND ABBREVIATIONS

|         |                                                                            |
|---------|----------------------------------------------------------------------------|
| BPCPA   | Business Practices and Consumer Protection Act, S.B.C. 2004, c. 2          |
| DAA     | Delegated Administrative Authority Agreement                               |
| FIPPA   | Freedom of Information and Protection of Privacy Act, R.S.B.C 1996, c. 165 |
| MDA     | Motor Dealer Act, R.S.B.C. 1996, c. 316                                    |
| MVA     | Motor Vehicle Act, R.S.B.C. 1996, c. 318                                   |
| MVA Reg | Motor Vehicle Act Regulations, B.C. Reg. 26/58                             |
| PIPA    | Personal Information Protection Act, S.B.C, c. 63                          |
| VSA     | Vehicle Sales Authority of British Columbia                                |