

Backgrounder on CVSE's Dispute Resolution Process

A statement of Fairness and Justice from the Administrative Justice Office

'Fair and just decisions are important not just to the individuals affected by the original decision, but also to the larger public interest in the proper and fair administration of government programs.

Fair and just decisions:

- Are legally and factually correct, and made with appropriate understanding of the relevant policy factors
- Made using processes that comply with the applicable rules of natural justice or procedural fairness

The fundamental rules of natural justice/procedural fairness require that:

- The person know what is being considered and
- Have an opportunity to present their version

In our process dispute resolution involves both parties playing an active role. This may well lead to higher satisfaction rates with outcomes. This is a significant benefit in our ongoing working relationship with industry stakeholders.

Mutual development, implementation and participation in the CVSE dispute resolution process will help to eliminate the adversarial aspect of dispute resolution. Industry engagement with relevant discussion may lead to a more complete understanding of each other's perspectives. A longer term benefit may be an actual reduction in disputes heard as education and understanding is broadened.

Process Principles

Why Dispute Resolution is the Right Thing To Do

Whenever a decision is made about a person by someone in government, employees are expected to follow several guiding principles. Our administrative enforcement actions may, at times have unintended punitive operational implications to industry members. The principles contained within this standard should assist us in eliminating such occurrences.

Most enforcement officers are familiar with law as it relates to criminal proceedings or enforcement processes under provincial legislation. Many of the decisions made by officers however may fall under programs that are administrative in nature even though they are linked to regulations. Certain employees are granted powers and authorities to determine if participants are in compliance with program requirements.

Administrative fairness:

Is “a set of legal principles established by the courts”? The principles entitle individuals to certain procedural rights when government departments make decisions that affect them, such as when a peace officer makes an administrative decision. These guiding principles apply to *all* ministry staff engaged in administrative decision making. If those principles are violated, a court may overturn a decision. Many ministries’ therefore have incorporated a reconsideration process into their program policies.

An affected person:

Is defined as any individual or group who may experience an adverse effect generated by the proposed activity or decision.

Briefly the principles are outlined below:

- The affected person has a right to know the case against them, have an opportunity to respond, with full disclosure of any and all information on which the decision was based
- The decision maker must have no bias, or appearance of bias with no personal interest
- Reasons for the decision must be clear and substantive with supporting evidence and reasons for action taken clearly related to a regulation or program requirement

The Benefits

There are tremendous benefits when these principles are maintained. The following are several key benefits attributed to well developed and administered decision making process:

- clients are adequately informed
- Client *and* government rights are protected
- Reasoned and well supported decisions
- Reduce complaints and/or requests for review
- Increase transparency and public confidence

The Process

The dispute resolution process was developed in consultation with industry stakeholders, CVSE staff and management, legal service branch (LSB) and other governmental agencies.

This process is restricted to the following two major areas:

Out of Service Criteria

British Columbia is a member of the North American wide Commercial Vehicle Safety Alliance. Although CVSE uses the criteria and our inspectors are trained to a standard of inspection embraced by the signatory's, the criteria themselves are linked to our Acts and Regulations. CVSE inspectors have authority granted under the Inspectors Authorization Regulation BC Reg 372/92.

Notice and Orders

These are issued under authority of Division 25.08 of the Motor Vehicle Act Regulations and the process does relate to those enforcement actions taken under that authority.

Areas that are Out of Scope

There are a number of very specific situations that do not fall with the scope of this process. Should the affected person identify and allege any of the following concerns they should be immediately directed to a supervisor. The CVSE employee or the supervisor must clearly state the issue is not subject to this particular dispute resolution process. The employee or supervisor must advise the affected person that there are alternate processes available to address the concern.

Out of scope are allegations of:

- Officer misconduct, inappropriate behaviour or unprofessionalism
- Any allegation of a human rights violation on any protected ground
- Any other systemic issue not captured above

Also out of scope are:

- Violation ticket
- Vehicle impounds

Once the CVSE staff member is satisfied that the issue falls within the scope of the Dispute Resolution Process the framework to resolve the issue in a timely manner with due consideration of all circumstances should be followed.

[Please see the Process Flow Chart here.](#)