



Consumer Services Policy

Version 6
June 22, 2021
Investigations

Consumer Services Policy

1. Table of Contents

| | |
|---|----------|
| 2. Introduction | 2 |
| 2.1 Policy statement | 2 |
| 2.2 Purpose | 2 |
| 2.3 Definitions..... | 2 |
| 3. Policy..... | 2 |
| 3.1 Duties and responsibilities..... | 2 |
| 3.1.1 Director of Fair Trading (as delegated) | 2 |
| 3.1.2 Senior manager of investigations | 2 |
| 3.1.3 Manager of investigations (north or south)..... | 3 |
| 3.1.4 Supervisor of consumer services | 3 |
| 3.1.5 Consumer services officer (CSO)..... | 3 |
| 3.2 Application of the policy | 4 |
| 3.2.1 Public concerns | 4 |
| 3.2.2 Licensing information..... | 4 |
| 3.2.3 Consumer complaints | 4 |
| 3.2.4 Jurisdiction | 5 |
| 3.2.5 Referral to investigations..... | 5 |
| 3.2.6 Grounds for closing a concern record..... | 5 |
| 3.2.7 Encouraging dispute resolution | 6 |
| 3.2.8 Where complaint may not be disclosed | 6 |
| 3.2.9 Transferring a complaint..... | 6 |
| 3.2.10 Closing a concern record..... | 7 |
| 3.2.11 Decisions and reasons..... | 7 |
| 3.2.12 Appealing a closed concern record..... | 7 |
| 3.2.13 Record keeping | 8 |
| 4. Administration..... | 8 |
| 4.1 Related documents and legislation..... | 8 |
| 4.2 Procedures | 9 |
| 4.3 Forms | 9 |
| 4.4 Amendment history | 9 |
| 4.5 Scheduled review date..... | 9 |

Consumer Services Policy

2. Introduction

2.1 Policy statement

AMVIC will maintain a fair and consistent process for addressing concerns and complaints in a timely fashion, which meet the requirements of the *Consumer Protection Act* (CPA) and regulations, designated sections of the *Traffic Safety Act* (TSA) and the *Criminal Code* (CC), administrative fairness and natural justice.

2.2 Purpose

The purpose of the Consumer Services Policy is to document the policy and procedures that support receiving and responding to public concerns and consumer complaints regarding the automotive industry (licensees and registrants) in Alberta.

2.3 Definitions

- i. A “consumer complaint” refers to the written submission of a consumer issue with an Alberta business to AMVIC.
- ii. “complainant” means the person who has submitted a complaint to AMVIC regarding their transaction with an automotive business or licensee;
- iii. “Director” means the Director of Fair Trading (as delegated)
- iv. “respondent” means the business or individual who is the subject of a complaint.

3. Policy

3.1 Duties and responsibilities

3.1.1 Director of Fair Trading (as delegated)

The Director of Fair Trading (as delegated) may lawfully delegate any of their powers to an industry standards officer, licensing officer, consumer services officer, investigator or any other person the Director deems appropriate to exercise those powers. (CPA Section 173.2 – Delegation)

3.1.2 Senior manager of investigations

The senior manager of investigations has overall responsibility for the process of receiving and responding to public concerns and consumer complaints.

The role of the senior manager of investigations is to provide leadership and advice to consumer service officers (CSOs) regarding potentially high risk concerns or complaints.

Consumer Services Policy

The senior manager of investigations is responsible for advising the CSO as to whether a complaint or a potentially high-risk concern should be referred immediately to Investigations.

3.1.3 Manager of investigations (north or south)

The role of the manager of investigations is to assign consumer complaints to an investigator for a formal investigation. The manager of investigations also provides advice to the supervisor of consumer services regarding potentially high risk concerns or complaints and is responsible for ensuring the senior manager of investigations is informed of these issues and that they work together as a team.

3.1.4 Supervisor of consumer services

The supervisor of consumer services is responsible for the process of receiving and responding to public concerns and consumer complaints.

The role of the supervisor of consumer services is to:

- a. inform the senior manager of investigations of key events or files;
- b. oversee the processing of concerns and complaints by CSO's and to assist them where required;
- c. consult with the Investigation department, industry standards department and the licensing department where required to obtain input on a concern or complaint; and
- d. review decisions by CSO's and provide additional follow-up when requested by a client.

The supervisor of consumer services is responsible for:

- a. overseeing the day-to-day operation of the consumer services department and addressing issues as required;
- b. reviewing a CSO's decision to close a concern record when a review is requested by a consumer; and
- c. at the request of a CSO, advising the officer as to whether a potentially high-risk concern or complaint should be referred to an investigator for immediate investigation or to an inspector (industry standards officer) for compliance.

3.1.5 Consumer services officer (CSO)

The role of the consumer services officer is to:

- a. receive, respond to and process all public concerns and consumer complaints;
- b. encourage dispute resolution between consumers and suppliers through alternate dispute resolution;
- c. promote potential compliance issues to the industry standards department for review; and
- d. promote potential CPA violations to the investigations department for investigation.

The consumer services officer is responsible for:

- a. providing information about AMVIC and the automotive industry to the public;
- b. impartially gathering and documenting information about a concern or complaint;
- c. determining whether AMVIC has jurisdiction and/or grounds to investigate a complaint;
- d. recording information, documentation and telephone calls regarding complaints into the AMVIC database accurately and timely;
- e. promoting a file to the manager of investigations (north or south);

Consumer Services Policy

- f. preparing an inspection file and forwarding the complaint to an ISO for inspection where required; and
- g. forwarding a closing letter to both the consumer (complainant) and respondent (business) when a file is closed or concluded.

3.2 Application of the policy

3.2.1 Public concerns

A public enquiry is any direct contact with a member of the public or industry that involves a question or concern regarding a supplier, salesperson or the automotive business industry.

After receiving a public enquiry, a CSO may:

- a. provide information or a referral to other sources of assistance to the complainant;
- b. determine that the concern is outside the jurisdiction of AMVIC and provide the complainant with an explanation and suggestions for other options where appropriate; and
- c. request that the complainant submit a consumer complaint form.

3.2.2 Licensing information

Where consumer services receives an enquiry from a licensee regarding a licensing issue the CSO will refer the enquiry to the licensing department. A CSO may assist a caller in gathering information from the AMVIC website as it relates to a licensee's licensing status and record of compliance actions.

3.2.3 Consumer complaints

A complaint form is solicited by consumer services staff when processing a public concern. Alternatively, the submission of a complaint form may be the first contact that consumer services has with a member of the public. Where a public concern is made in person at the AMVIC office and the complainant decides to complete a complaint form, the CSO will assist the person with completing the AMVIC Online complaint form.

A consumer must lodge a consumer complaint either online or in person before AMVIC will investigate a complaint.

A complaint form must:

- a. be completed in English, and signed by the complainant or the complainant's legal representative; or
- b. have a unique "sign on" to AMVIC online system which acts as a proxy for a signature for online complaints.

After receiving a complaint form, a CSO will:

- a. review the complaint form for completeness and follow-up with the complainant where there is missing information or documentation;
- b. review the complaint to identify whether a CPA violation has occurred and if there are any jurisdictional issues;

Consumer Services Policy

- c. when warranted, notify the supplier of the complaint and request a supplier response;
- d. forward a closing letter to both the consumer (complainant) and respondent (business) when a file is closed/concluded;
- e. encourage alternate dispute resolution (ADR) between the consumer and the respondent if warranted; and
- f. regardless of the outcome of the ADR if a violation of the CPA is identified, transfer the complaint to investigations for follow up.

3.2.4 Jurisdiction

Where there is a reasonable possibility that AMVIC has jurisdiction to investigate or inspect a concern, a CSO will advise the consumer to submit a complaint.

A CSO will only recommend the submission of a complaint form where the concern involves any of the following:

- a. a car, truck, recreation vehicle or other motor vehicle as defined in the Automotive Business Regulation;
- b. a licensee or salesperson; or
- c. a consumer transaction

Where the concern is related to:

- a. an unlicensed individual acting as a supplier or salesperson, the CSO will forward the concern to the industry standards department;
- b. an unlicensed business acting as a supplier, the CSO will forward the concern to the industry standards department; or
- c. where four or more violations are reported within 12 months, the file will be transferred to the investigation department for a full investigation.

3.2.5 Referral to investigations

Where critical information is received that indicates a supplier 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 TSA and is unsafe to drive,

the CSO will clearly document those concerns and consult with the supervisor of consumer services or the senior manager of investigations for further instructions.

Where the supervisor of consumer services believes that there may be an immediate risk to a person's safety or ongoing criminal activity, the CSO will immediately promote the file for investigation, and identify those risks to the senior manager of investigation.

3.2.6 Grounds for closing a concern record

A CSO may close a concern record without an investigation by the investigations department where the CSO determines that the complaint does not involve a possible contravention of:

- a. the *Consumer Protection Act* and regulations:
 - Automotive Business Regulation

Consumer Services Policy

- Internet Sales Contract Regulation
- Cost of Credit Disclosure Regulation
- Designation of Trades and Businesses Regulation
- b. the *Traffic Safety Act* and regulations:
 - Vehicle Equipment Regulation
 - Vehicle Inspection Regulation
- c. the Code of Conduct under Section 11 and 12 of the Automotive Business Regulation including advertising, or
- d. the *Criminal Code*:
 - Section 129 - Offences relating to public or peace officer
 - Section 140(1) - Public Mischief
 - Section 330 - Theft by person required to account
 - Section 334 (a) and (b) - Punishment for theft
 - Section 362(2)(a)(b) - False pretense or false statement
 - Section 366 - Forgery
 - Section 367 - Punishment for forgery
 - Section 368 - Use, trafficking or possession of forged document
 - Section 380 - Fraud
- e. a condition on a business license or salesperson registration.

3.2.7 Encouraging dispute resolution

Where the complainant has not attempted to resolve the dispute directly with the supplier, or their attempts were unsuccessful, the CSO will encourage the complainant to contact the supplier and attempt to resolve the dispute with an authorized supplier representative such as a senior staff member (i.e. service manager, general manager or dealer principal).

When warranted, a CSO will send a notice to the supplier, who is the subject of the complaint, including:

- a. summary of complaint;
- b. a supplier response form; and
- c. a request that the supplier return the completed response form and provide all the supplier records pertinent to the complaint within seven business days of the notice.

A CSO will notify the complainant that the complaint has been disclosed to the supplier.

3.2.8 Where complaint may not be disclosed

Where a CSO has reason to believe that the supplier may alter or destroy evidence if the complaint is disclosed, (i.e. where the complaint concerns supplier fraud), the CSO will consult with the supervisor of consumer services to determine whether:

- a. the complaint should be disclosed as usual; or
- b. the complaint should be referred to the investigations department for immediate investigation.

3.2.9 Transferring a complaint

A CSO will transfer all complaint investigation records to the investigations department or to the industry standards department for inspection.

Consumer Services Policy

3.2.10 Closing a concern record

Where a CSO has advised a complainant that further documentation or information is required to process their concern, the officer will close the concern record after five days if no response is received from the complainant. Should further relevant information be received after the file is closed, the file will be re-opened.

A CSO may close a concern record without an investigation by the investigations department where the concern does not involve any of the following:

- a. a car, truck, recreation vehicle or other motor vehicle as defined in the Automotive Business Regulation and *Traffic Safety Act*;
- b. a licensed supplier or salesperson; or
- c. a consumer transaction.

Prior to closing a concern the CSO Level 1 will consult with a CSO Level 2 to confirm the decision to close the record.

A CSO will send a closing letter to the complainant and if necessary, to the respondent. All closing letters will:

- a. be completed on AMVIC letterhead;
- b. be sent by mail or email;
- c. include reasons for the closure of the concern record. Refer to “Decisions and Reasons” for more information;
- d. include information to contact the supervisor of consumer services if the complainant has questions, requires additional information or disagrees with the decision and reasons for closing the concern record.

3.2.11 Decisions and reasons

Decisions and reasons will be communicated clearly to the complainant and will include the following:

- a. The issue to be decided;
- b. The facts and evidence considered;
- c. The applicable law or policy;
- d. An explanation of how the law or policy was applied to the facts and rationale for the decision;
- e. The conclusion or decision reached;
- f. Information to contact a supervisor or manager with any questions or additional information about the decision and reasons for concluding the concern record.

3.2.12 Appealing a closed concern record

Levels of appeal

Once the concern record is concluded by the CSO, the complainant has the opportunity to appeal the decision to the supervisor of consumer services. The supervisor of consumer services will review all of

Consumer Services Policy

the evidence available and provide the complainant with a closing letter explaining the reason(s) for the conclusion of the concern record.

If the complainant's concerns cannot be resolved with the supervisor of consumer services, then the matter will be referred to the senior manager of investigations. The senior manager of investigations will review all of the evidence available and provide the complainant with a closing letter explaining the reason(s) for the conclusion of the concern record.

If the complainant's concerns cannot be resolved with the senior manager of investigations, then the complainant will be referred to the Alberta Ombudsman.

Appeal Process

To request a review of a closed concern record the complainant must take the following steps:

- a. email or send a written, signed and dated request to the supervisor of consumer services or to the senior manager of investigations. Refer to the section above on "Levels of appeal" to determine which level to appeal to;
- b. include an email address and phone number where they can be contacted;
- c. include the reasons and rationale for the request and any supporting documents. Simply restating the initial complaint will not be considered a reason;
- d. send the request within 30 days of receiving the closing letter.

3.2.13 Record keeping

All email correspondence regarding a public concern will be electronically saved in the appropriate Outlook folder, including the email header information.

All hard-copy correspondence received from a consumer in relation to a concern will be scanned and uploaded to the complaint record.

4. Administration

4.1 Related documents and legislation

Criminal Code

Consumer Protection Act

Traffic Safety Act

Automotive Business Regulation

Cost of Credit Disclosure Regulation

Internet Sales Contract Regulation

Designation of Trades and Businesses Regulation

Vehicle Equipment Regulation

Consumer Services Policy

Vehicle Inspection Regulation

4.2 Procedures

4.3 Forms

AMVIC Online Complaint Form

4.4 Amendment history

| Version | Date | Summary of Update |
|---------|----------------|---|
| 1 | March 12, 2014 | Original approved |
| 2 | Sept. 23, 2015 | Reviewed and approved |
| 3 | Nov. 22, 2016 | Reviewed and approved Revisions by S. Page, Manager of Licensing and CSO Reviewed by J. Bachinski, Executive Director |
| | Feb. 8, 2018 | Administrative updates: <i>Fair Trading Act</i> to <i>Consumer Protection Act</i> , Executive Director to Chief Executive Officer |
| 4 | Sept. 26, 2018 | Updates by senior manager of investigations, conversion to new template |
| 5 | Oct. 2, 2019 | Updates by senior manager of investigations. Reviewed and approved. |
| 6 | June 22, 2021 | Updates required to closing concerns and appeals in consultation with Ombudsman Office |

4.5 Scheduled review date

June 2024