

Dispute Resolution Guidelines



Dispute Resolution

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Dispute Resolution

1 ABBREVIATIONS

TSC	Taxi Services Commission
VSBC	Office of the Victorian Small Business Commissioner
VCAT	Victorian Civil and Administrative Tribunal

2 RELEVANT LEGISLATION

Transport (Compliance and Miscellaneous) Act 1983
(sections 135F, 162L and 162M)

Privacy and Data Protection Act 2014 (including the Information Privacy Principles)

Taxi Services Commission Privacy Statement

3 DEFINITIONS

Permit Holder: Permit holder means the holder of an accreditation as a taxi-cab under Part VI, Division 4 of the Transport (Compliance and Miscellaneous) Act 1983

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4 INTRODUCTION

On 30 June 2014, the Taxi Services Commission (TSC) introduced a new set of conditions under section 162L of the Transport (Compliance and Miscellaneous) Act 1983 (the Act) that are implied into every driver agreement (implied conditions).

The implied conditions relate to the following:

- parties' earnings
- disputes
- maintenance costs
- drivers' leave entitlements
- insurance
- termination
- bond

These dispute resolution procedures outline the processes that the TSC uses to deal with disputes between a driver and permit holder regarding a driver agreement and, in particular, the implied conditions.

For any disputes arising in relation to a driver agreement, the parties are required under the implied conditions to meet within seven days, or longer period agreed between the parties, to try and resolve the matter between themselves. Where the parties are not able to resolve the matter, the dispute resolution process will be followed in a timely, accurate and non-discriminating manner.

Drivers and permit holders must have their dispute reviewed by the TSC before going to the Office of the Victorian Small Business Commissioner (VSBC) or the Victorian Civil and Administrative Tribunal (VCAT).

1. Parties may only refer their dispute to the VSBC if they have been unable to resolve the dispute with preliminary assistance from the TSC, and the TSC has issued a certificate allowing one or both parties to refer the dispute to the VSBC.
2. Parties may only refer their dispute to VCAT if:
 - a) The TSC has issued a certificate stating that it considers that the dispute is unlikely to be resolved with the assistance of the VSBC; or
 - b) The parties have referred the matter to the VSBC, the dispute is still not resolved through the alternate dispute resolution process of the VSBC and the VSBC has issued a certificate under section 162PA of the Act.

The dispute resolution process aims to extend the chain of responsibility to industry participants and encourages them to better communicate and resolve issues themselves in the first instance.

5 POLICY STATEMENT

The TSC is committed to facilitating the effective and efficient resolution of disputes relating to a driver agreement.

The TSC will:

- provide an accessible, well publicised, transparent, consistent and easy-to-use system for lodging disputes;
- adhere to the Privacy and Data Protection Act 2014 (Vic) (PDP Act) when dealing with personal information;
- assess the nature of the dispute;
- recognise and address the needs of industry participants;
- respect the cultural and religious beliefs of all industry participants; and
- provide, wherever possible, an accurate and realistic response to all parties.

5.1 Privacy

Industry participants have the right to provide feedback and to complain if dissatisfied with the provision of a service by the TSC.

Industry participants also have the right to expect that their personal details will be respected and handled in the manner prescribed by the PDP Act. In addition, industry participants have the right for any special needs to be respected and to be treated without discrimination.

Personal information collected during the assessment of a dispute is used to resolve the dispute in a timely way. Personal information may need to be passed between TSC officers in order to do this.

Industry participants must be made aware of the TSC privacy obligations at the point of collection of their personal information. This may be done with a statement by the TSC officer that illustrates why the personal information is collected and how it will be used. (See Information Privacy Principle 1.3 for specifics). Written correspondence (letter, facsimile or email) must incorporate a privacy statement. <http://www.taxi.vic.gov.au/about-us/privacy-policies/internet-privacy-statement>

<http://www.privacy.vic.gov.au/privacy/web2.nsf/pages/information-privacy-principles#collection>

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5.2 Language

The need for interpreter services must be considered, particularly if complex issues are to be addressed. Even when an industry participant has moderate English language skills, they may need assistance if English is their second language.

5.3 Disability awareness

Industry participants may have intellectual, physical, sensory, psychiatric or a combination of these disabilities and may therefore have specific communication requirements.

TSC officers need to be able to assess each situation in a non-judgemental way and ensure the industry participant is provided with whatever assistance is required.

6 ASSESSMENT MANAGEMENT MODEL

6.1 Dispute assessment

The TSC acknowledges that parties involved in a dispute may refer the matter to the TSC for assessment. Officers will then assess the nature of the dispute and decide whether to:

- provide preliminary assistance in resolving the dispute, for example, advising the parties to ensure that they are fully aware of their rights and obligations and there is full and open communication between the parties concerning the matter;
- take compliance action (may include improvement notice, infringements or disciplinary action against a person's accreditation); or
- both of the above.

All disputes received will be assessed on a case-by-case basis and may be escalated if a safety issue is identified. Assessment Officers are empowered to resolve and close disputes if, after providing preliminary assistance, it appears to the TSC that an implied condition has not been breached or there is a lack of evidence surrounding the matter.

7 FEEDBACK HANDLING PRINCIPLES

The dispute resolution process has been developed to deal with disputes relating to the implied conditions.

7.1 Commitment

A commitment by TSC officers at all levels, to the efficient and fair resolution of disputes of the implied conditions.

7.2 Fairness

The dispute resolution process will recognise the need to be fair and objective to the driver, permit holder and those industry participants involved in a dispute.

7.3 Resources

Sufficient staff resources will be provided for the dispute resolution process and each officer will have appropriate levels of authority to make decisions about disputes.

7.4 Visibility

The dispute resolution process will be well publicised to industry participants and will include clear information about their right to lodge a dispute relating to a driver agreement, and how such disputes can be submitted.

7.5 Access

The dispute resolution process will be accessible to all and ensure that information is readily available on the details of making and resolving a dispute.

The dispute resolution process and supporting information will be easy to understand and use and be in plain language.

The TSC will not charge a fee for providing preliminary assistance with a dispute.

7.6 Responsiveness

All participants will be dealt with courteously and within the specified times frames established by the TSC.

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7.7 Remedies

The TSC may:

- provide preliminary assistance in resolving the dispute
- if satisfied that the permit holder has breached an implied condition, issue an improvement notice to the permit holder under section 135F of the Act and identify the appropriate remedy
- prosecute either party under section 162M of the Act for breaching the implied conditions, or the permit holder under section 135F(5) for failing to comply with an Improvement Notice;
- refer either party to the Accreditation & Licensing team to consider whether there are grounds for taking disciplinary action against the person's driver or permit holder accreditation.

7.8 Objectivity

The dispute resolution process will ensure that each dispute is addressed in an equitable, objective and unbiased manner.

7.9 Data collection

Appropriate systematic recording of disputes, the affected parties and their outcomes, will be captured and kept in a secure database known as Resolve Integrated Response Management System (Resolve). Resolve is a complete contact management system. Feedback forms on the TSC website are automatically captured in Resolve.

All data collection undertaken at the TSC will comply with the TSC Privacy Statement.

7.10 Systemic and recurring problems

Disputes will be classified and analysed for identification and rectification of systemic and recurring problems relating to particular industry sectors or specific industry entities.

7.11 Accountability

Monthly reporting on the operation of the dispute resolution process against documented performance standards will be carried out.

7.12 Reviews

The dispute resolution process will be reviewed on an annual basis to ensure that it is efficiently delivering effective outcomes.

7.13 Customer focused

Those TSC staff involved in the dispute resolution process will adopt a customer focused approach when dealing with any industry participant. This will ensure they are open to feedback, including organisational complaints, and will show commitment to resolving disputes by their actions.

8 HOW TO LODGE A DISPUTE

NOTE: All disputes are to be handled by the TSC Dispute Resolutions Team.

- Industry participants can seek assistance in relation to questions about a driver agreement.
- Industry participants can lodge a dispute in writing or, if special assistance is required, verbally with the TSC.
- The Dispute Resolution Officer receiving the dispute will inform the industry participant if further information is required.

8.1 Online

All disputes must be lodged with the TSC in writing. Industry participants should submit disputes via the Complaints and Feedback link at www.taxi.vic.gov.au.

8.2 By telephone or facsimile

8.2.1 The Dispute Resolution Team can be contacted by:

Telephone: 1800 638 802
Facsimile: (03) 8683 0772

8.2.2 Disputes submitted by mail

Industry participants can download a PDF or Word accessible version of the form from the TSC website or request to have a copy posted out to them.

Completed forms should be sent to:

Dispute Resolution Team
Taxi Services Commission
GPO Box 1716
Melbourne VIC 3001

8.2.3 Other means

Should additional assistance be required, an industry participant can make an appointment to visit the TSC customer service centre.

Industry participants may also attend the TSC security desk to lodge a dispute.

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8.3 Information needed to lodge a dispute

It is important that participants provide the TSC with as much information as possible to assist in the timely assessment and resolution of their dispute. This includes:

- a detailed account of the implied condition that was breached and the circumstances amounting to the breach;
- information that may be required to help identify the breach, including (as relevant):
 - receipt or documentation
 - taxi registration number
 - the permit holder's name and phone number
 - the driver's contact details and DA number and
 - a copy of the driver agreement, if available.

8.4 What happens when a dispute is lodged?

1. The TSC acknowledges receipt of the dispute within five business days.
2. The TSC notifies the other party of receipt of the dispute.
3. The TSC assesses the nature of the dispute to identify if any breach of the implied conditions has occurred.
4. The TSC provides the parties with preliminary assistance in resolving the dispute. For example, advising the parties to ensure they are fully aware of their rights and obligations, and ensuring there is full and open communication between the parties about the matter.
5. If the dispute is not resolved after preliminary assistance, the TSC may issue a certificate allowing one or both of the parties to refer the matter to the VSBC or VCAT (as applicable).
6. If one of the parties has breached an implied condition, the TSC will take appropriate action in relation to a breach. The TSC will contact the parties involved if further information is required. If the assessing officer requires further information from the person lodging the dispute:
 - 6.1 The person will be given 14 days to provide the additional information.
 - 6.2 If the person does not provide the requested information to the TSC by the due date, the TSC will provide both parties with preliminary assistance, and the file will be closed with letters sent to both parties advising them of the outcome.

7. The permit holder involved may be required to submit records to the TSC for assessment.
8. The permit holder involved may be issued with an improvement notice under section 135F of the Act to remedy an identified breach.
9. The permit holder involved may receive an infringement notice for failing to comply with the improvement notice, if the matter is not remedied within the timeframe given.
10. The TSC may refer either party to the Legal and Regulatory Services (Enforcement and Fraud Control) for investigation and potential prosecution under section 162M of the Act for breach of an implied condition. If the breach is remedied, a letter advising the parties of the outcome will be sent and the case will be closed.

8.5 Responding to unreasonable correspondence

The TSC will not respond to unreasonable or vexatious correspondence it receives directly, indirectly or is copied into. Unreasonable correspondence may be sent from an individual or a company. Unreasonable correspondence can be grouped into five categories:

1. Unreasonable persistence
2. Unreasonable demands
3. Unreasonable lack of cooperation
4. Unreasonable arguments
5. Unreasonable behaviour.

Correspondence for which the sender cannot be reliably identified will be reviewed on an individual basis to determine if the correspondence is unreasonable or vexatious.

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9 RECORDING DISPUTES

9.1 Dispute logging

All details are to be entered into Resolve in a timely fashion, regardless of how the dispute is received. Disputes lodged through the internet are recorded directly in Resolve. The dispute is assessed to determine the appropriate course of action.

An acknowledgement is forwarded to the driver advising of the actions to be taken by the TSC. The acknowledgment may also request further evidence, such as receipts and documents, to substantiate the claims being made.

The file is then allocated on Resolve to the relevant assessment officer and if appropriate, an investigation and response is prepared.

9.2 Populating Resolve

The following details will be recorded in Resolve:

- driver's name and contact details
- if applicable, the relevant implied condition (parties' earnings, maintenance costs, insurance, driver's leave entitlements, termination and bond)
- how the dispute was received (email, fax, in person, internet, letter, telephone, other)
- incident date, time and the issues relevant to the dispute
- the dispute summary section
- diary notes to capture all work that has been done and action that has been taken relevant to the dispute
- the outcome code and description for each issue.
Note that these fields cannot be completed until the assessment and/or investigation has been finalised and required actions have been determined.

10 EXPECTED TIMELINES

Where possible, a communication from the TSC will be provided for:

Stage 1

The implied conditions require the parties involved to meet within seven days of one party notifying the other of a dispute in an attempt to resolve the matter.

Stage 2

If the matter is resolved, the TSC will have no further involvement from this point on.

If the matter is not resolved, the dispute is lodged with the TSC and will be acknowledged within five business days.

Stage 3

Providing that all information is received by the TSC in Stage 2, assessment of the dispute will commence and will be completed within seven business days.

Stage 4

If the permit holder is found to have breached an implied condition, the TSC may issue an Improvement Notice giving the permit holder a minimum of 14 business days to remedy the breach.

Stage 5

If the permit holder complies with the Improvement Notice, the dispute resolution process is finalised. Letters will be sent to all parties advising them of the outcome of the investigation.

The total process time to this point is approximately 26 business days.

** (an extra 14 days may be required if further information is required at Stage 2).*

*** (should the permit holder remain non-compliant at Stage 5, an additional 14 days may be required to prepare a brief of evidence for forwarding to the Legal and Regulatory Services (Enforcement and Fraud Control).*

