



**CONSUMER
PROTECTION BC**



Inspection Guide

Telemarketers

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A special note related to the COVID-19 pandemic

Due to the pandemic, Consumer Protection BC stopped doing in-person inspections of our licensed businesses in March 2020.

Since then, we have learned more about the impact of COVID-19 in the marketplace and on you, as one of our licensed businesses. We have now resumed in-person inspections.

With a few exceptions, our standard inspections policies and rules apply as outlined in this inspection guide. This also means that unless there are mitigating circumstances specific to your business practices, no advance notice of inspection will be made.

We take safety seriously.

Your safety and the safety of our staff matter to us.

Here are some of the changes we've made:

- Inspectors will continue to wear N-95 masks for the foreseeable future.
- Inspectors will have their own supply of PPE and will sanitize their hands and other surfaces.
- Inspectors may ask for licensee-employees to wear masks when communicating with or in the same room as the Inspector. Failing this, the licensee/employees may be asked to remain 2 meters distant from the Inspector at all times.
- Inspectors will allow for their credentials to be examined (from a distance). Inspectors will provide business cards at the time of inspection.
- Where possible, inspectors may ask that they be allowed to isolate themselves in a private area of the business while they perform the administrative functions of the inspection.
- Inspectors will select items to be inspected. This amends the former practice of allowing the licensee's employees assist with that process.

Inspectors may ask you about the status of the location being inspected. These questions will include:

- Have any employees at the location been diagnosed with Covid-19 within the last 2 weeks?
- Is anyone at the licensed location suffering from illness or Covid-19 symptoms?

If you have questions about our protocols and processes, the best option is to speak to the Inspector that engages with you during an inspection.

Thank you,

The Consumer Protection BC Inspections & Case Management Team

Introduction

Consumer Protection BC is responsible for the administration and enforcement of the *Business Practices and Consumer Protection Act* (BPCPA), the *Ticket Sales Act* (TSA), the *Cremation Interment and Funeral Services Act* (CIFSA), and Telemarketer Licensing Regulation (TLR). Together the BPCPA and TLR govern suppliers who engage in the business or occupation of initiating contact with a consumer by telephone or facsimile for the purpose of conducting a consumer transaction.

This guide has been prepared to better inform and educate you on the compliance inspection process. As one of our licensed businesses, it is your responsibility to conduct yourself and operate your business in compliance with the laws and conditions on your license. We recommend you take the time needed to read this guide fully and to make sure that your managers and staff are familiar with the information contained herein.

This guide serves as a reference, so you know what to expect and how to prepare for an inspection conducted by a Consumer Protection BC Inspector.

This is a general overview of the inspection process. This guide is not intended to provide legal advice and it is not an exhaustive review of the legislative provisions affecting you or the operation of your licensed business. We recommend that you get copies of the legislation and review it in detail. You can order from Crown Publications at www.crownpub.bc.ca.

For more general information, visit our corporate website at www.consumerprotectionbc.ca. To learn more about your licensing requirements and legal obligations, [visit the Get & Keep your Licence](#) section of our website. To find out how best to contact us, please [visit the Contact Us](#) page of our website.

Background: our responsibilities

The role of Consumer Protection BC

Consumer Protection BC licenses and inspects regulated businesses, responds to consumer inquiries, investigates alleged violations of consumer protection laws, classifies all general release and adult films, and provides information and referrals to consumers.

As part of our responsibility to ensure compliance with the law and conditions on a licence, we regularly perform risk-based inspections as well as inspections in response to consumer complaints. When an inspector identifies issues of non-compliance, the inspector may open a complaint file. When the eventual outcome of a complaint file results in voluntary compliance with the law or some form of enforcement action being taken by the Director, the outcome is published to our website. We share this information to enable consumers to make informed decisions.

The role of the licensee

You are legally responsible for compliance with the laws and licensing conditions as it relates to the operation of your business. You are also responsible for ensuring your employees and agents are acting in compliance with the laws and licensing conditions applicable to your business.

You must fully cooperate with an inspector. Providing false or misleading information to an inspector or obstructing or hindering an inspection are serious contraventions of the laws we administer. A person who obstructs, hinders, or makes misleading statements to an inspector is subject to prosecution under the *Offence Act*.

Inspection process

Scheduling and notification

Inspectors attend businesses located throughout the Province, sometimes arriving unannounced. The BPCPA, CIFSA and MPA allows for an inspector to enter a business at any reasonable time to determine compliance with the law, conditions on a licence, the suitability of a licensee or an applicant for a licence.

Authority to inspect

It is your responsibility to cooperate fully during an inspection. In most instances, an inspector will provide their official identification on arrival, or a request can be made for them to produce it. You must not do anything to obstruct, hinder, or interfere with an inspector's entry and inspection of a business.

The BPCPA gives the inspector the authority to:

- Inquire into any business, affairs or conduct of a person
- Inspect, audit or examine any record, goods or other things or the provision of services in the premises
- Inspect a vehicle or vessel that is being used for business purposes
- Require a person who has possession or control of any records, goods, or other things in the premises, vehicle or vessel to produce the records, goods or things

- Make a record, including a record on film, audio tape, video tape or otherwise, of the premises, vehicle or vessel or any other things in the premises, vehicle or vessel
- Remove any record from the premise, vehicle or vessel for purpose of making copies
- Remove and retain any record, good or other thing that may be required as evidence from the premises, vehicle or vessel.

Conclusion of inspection

Once the inspection is complete, the inspector will review the results with you or the manager on duty at the time of the inspection. The inspector may discuss any non-compliance identified during the inspection at this time. A Certification of Inspection will be prepared by the inspector and a digital copy will be emailed to you at the email address identified in your My Account set up with Consumer Protection BC.

In order to receive the digital copy of the Certificate of Inspection, you must have your My Account set up. If your email is not entered into the My Account, you will not receive the Certificate of Inspection and other pertinent documents related to the inspection. To setup your My Account, please go to www.consumerprotectionbc.ca and select “MyAccount Login” or contact operations@consumerprotectionbc.ca for assistance.

Post Inspection Report and follow up

After returning to the office, the inspector will document the inspection, update your file and, if required, inform other departments within Consumer Protection BC of the inspection results.

The inspector will update the Inspection Checklist¹ and email you a report with the results of the inspection to the email address you provided in My Account. The report will identify any alleged violations that you must correct and/or any alleged violations for which the inspector recommends that enforcement action be taken by the Director. Any further instruction(s) will be noted in the inspector’s notes in the report.

For more information on the enforcement process, please see the section below entitled “Enforcement.”

We may conduct a follow up inspection to ensure that non-compliance found at the previous inspection is corrected.

Enforcement

If an inspector detects violations that they believe should proceed to enforcement hearing, they will notify you of these alleged contraventions in the report issued after the inspection. The inspector will also prepare a Report to the Director (RD) document for the Director of Inspections & Case Management. A copy of the RD will also be sent to you. The RD will identify the allegation(s) proceeding to enforcement hearing and the evidence the inspector is relying on to support the allegation(s). You will be given an opportunity to respond to the allegations made in the RD. A decision-maker will then decide whether the allegation took place, and whether statutory action such as an administrative

¹ See Appendix – Inspection Checklist

penalty, licensing action or other remedial order is appropriate. Note: the decision to impose an administrative penalty is at the discretion of the Director or the delegated decision maker.

Before deciding to impose an Administrative Monetary Penalty (“AMP”) and calculating the amount of the AMP, the decision-maker will consider the factors set out in section 164(2) of the BPCPA. To calculate the amount of the AMP the decision-maker will normally apply the policy of Consumer Protection BC, “Calculating Administrative Monetary Penalties Policy and Procedures.”, including its AMP Penalty Matrix. This policy is available on the website of Consumer Protection BC at www.consumerprotectionbc.ca. You can access the policy electronically by clicking the following link: [Admin Penalty Policy and Procedure](#).

If you are dissatisfied with the decision, you may apply for a reconsideration of the decision.

Further information on the policies and procedures relating to the calculation of administrative monetary penalties and the reconsideration process can be found by visiting the About us (Our policies) section of our website at www.consumerprotectionbc.ca.

What will be inspected

Remember that while inspectors attend businesses to test for compliance with the laws we administer and any conditions we have imposed on a licence, they are also there to educate and answer questions. Please feel free to approach them about any business issues or problems related to the laws we administer.

Typically, you can expect that an inspector will do some of the following:

- Review the legislation and the conditions on a licence for any issues that are identified;
- Inspect the physical layout of the business;
- Inspect legal, financial and other business records;
- Observe and record your business practices, identify deficiencies or problem areas that may lead to non-compliance;
- Identify any contraventions;
- Answer your questions and help you understand your obligations


To find out what an inspector will examine during the inspection, please read a sample inspection checklist (Appendix-Inspection Checklist). Note: the items on the checklist are not an exhaustive list of the items an inspector may examine.

Documents and records

You must produce all business records and documents requested by the inspector. Since business records are not always kept on the premises, an inspector may schedule an inspection in advance so you can make sure the records are at the business for the inspection. Sometimes, the inspector may require that you provide additional records at a later date. Refusing to provide records or providing false or misleading information is a serious contravention of the law.

Appendix A - Inspection Checklist

The following are the types of types of things that the inspector is checking during an inspection of your business. This is not a comprehensive list and not all items on this list are inspected during each inspection.

		Licence #: _____		
		Date of inspection: _____		
Question	TELEMARKETER INSPECTION REPORT	Y	N	N/A
GENERAL LOCATION & LICENCE				
1	What is the nature of the telemarketers business? Fundraising, Consumer Goods/Services:			
2	Does the telemarketer record solicitation calls?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3	Does the telemarketer accept funds? If so, how are the funds accepted and where are the deposited?			
4	Does the number of FTE's disclosed by the telemarketer appear to be consistent with payroll, office space and campaign size(s) of the telemarketer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5	TLR 4(1) Is the telemarketer only operating from locations it is licensed to so do?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6	TLR 4(2) Has the licensee immediately notified the Director of any change of address from where it conducts business?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7	TLR (5) Was the licensee displaying their Consumer Protection BC licence in a conspicuous location at the place of business?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8	TLR 6(2)(d)(i) and (ii) Has the licensee corporation immediately reported any change of senior officers or a material change to the beneficial ownership of the licensee's shares to the Director?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9	TLR 8(2) (a) - (c) Has there been no communication or attempt at communication with consumers by phone or fax on Stat Holidays, weekends from 10am to 6pm and weekdays from 9am to 930 pm?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10	TLR 8(3) Has the licensee restricted multiple solicitations with respect to the same consumer transaction or fundraising event to only once within and 30 day period?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11	TLR 8(4) Has the licensee ensured its outgoing telephone or fax communication does not have the call information of the phone number or fax number blocked?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question	TELEMARKETER INSPECTION REPORT	Y	N	N/A
12	TLR 8(5)(a) When the licensee initiates contact with consumers to enter into distance sales contracts, is the supplier's address and phone number disclosed to the consumer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	TLR 8(5)(b) When the licensee initiates contact with consumers to solicit money or other property, is the consumer provided with a detailed description of the purpose for the solicitation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14	Does the licensee received permission from consumers to communicate with the consumer more frequently than once in every 30-day period? (same direct sales or fundraising event) If yes, document	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CONTRACTS – DISTANCE SALES				
15	BPCPA 47(2)(a)(i) Before entering into distance sales contracts that are electronic, does the supplier make the disclosure of information required under BPCPA 46 such that the consumer must access it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16	BPCPA 47(2)(a)(ii) Does the supplier ensure the consumer can review and print off distance sales contracts executed in electronic form?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	BPCPA 47(2)(b)(i) and (ii) Before consumers entered into electronic distance sales contracts, were the consumers able to correct errors and accept or decline the contracts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18	BPCPA 19(a) & 48(2)(a) If executing a distance sales contract, does the supplier ensure the contracts contain the suppliers name or DBA registered with BC Corporate registry?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19	BPCPA 19(b) & 48(2)(a) If executing a distance sales contract, does the supplier ensure the contracts contain their address?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20	BPCPA 19(c) & 48(2)(a) If executing a distance sales contract, does the supplier ensure the contracts contain their phone and fax number?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21	BPCPA 19(f) & 48(2)(a) If executing distance sales contracts, do the contracts contain and itemized purchase price for goods or services to be supplied under the contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	BPCPA 19(g) & 48(2)(a) If executing distance sales contracts are any other costs payable such as taxes and shipping costs listed in the contracts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23	BPCPA 19(h) & 48(2)(a) If executing distance sales contracts, do the contracts contain a description of charges that cannot be reasonably determined by the supplier at that time?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24	BPCPA 19(i) & 48(2)(a) If executing a distance sales contract, does the supplier ensure the contracts contain a detailed statement about the terms of payment(s) under the contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25	BPCPA 19(j) & 48(2)(a) If executing distance sales contracts, does the supplier ensure the contracts contain the total price under the contract including any cost of credit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26	BPCPA 19(n) & 48(2)(a) If executing distance sales contracts, do the contracts contain information about any other terms and conditions or restrictions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question	TELEMARKETER INSPECTION REPORT	Y	N	N/A
27	BPCPA 48(2)(b) & (c) If executing distance sales contracts, do the contracts list the consumers name and date the contract was executed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28	BPCPA 46(1)(b) If executing distance sales contracts, do the contracts contain (all suppliers') email addresses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29	BPCPA 46(1)(c) If executing distance sales contracts, does the supplier ensure the contracts contain disclosures about the goods or services and any technical specifications?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30	BPCPA 46(1)(d) If executing distance sales contracts, do the contracts contain disclosures of the currency in which the amounts are payable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31	BPCPA 46(1)(e) If executing distance sales contracts, do the contracts contain information about the delivery arrangements, the shipper's identity and the place of delivery of the goods?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32	BPCPA 46(1)(f) If executing distance sales contracts, do the contracts contain information about the supplier's cancellation, return or exchange policies that apply to the transaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33	BPCPA 46(2) For distance sales contracts, is the information the supplier / telemarketer disclosed under BPCPA 46(1) , disclosed in a clear and comprehensible manner?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34	For distance sales contracts, how does the telemarketer (in this case also a supplier) ensure the disclosures required in BPCPA 46(1) are made BEFORE consumers enter into contracts?			
DISTANCE SALES/FUTURE PERFORMANCE CONTRACTS				
35	BPCPA 23(2)(a) For distance sales contracts where the supply of good or services is in the future, do the contracts list the supply date(s)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36	BPCPA 23(2)(b) For distance sales contracts where the supply of goods or services is in the future, do the contracts list the date on which the supply of goods or services will be complete?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37	BPCPA 23(2)(c) For distance sales contracts where the supply of goods or services is in the future, do the contracts list the amounts of periodic payments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
RECORDS RELATED TO DISTANCE SALES CONTRACTS				
38	TLR 7(1)(a) Does the licensee keep records for each distance sales contract that include consumer addresses, phone and fax numbers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39	TLR 7(1)(b) Does the licensee keep records for each distance sales contract that include the date the contracts were executed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40	TLR 7(1)(b) Does the licensee keep records for each distance sales contract that include the date the contracts were executed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question	TELEMARKETER INSPECTION REPORT	Y	N	N/A
RECORDS RE: TELEMARKETING FOR SOLICITATION OF MONEY/ PROPERTY				
41	TLR 7(2)(a) For consumers who agree to contribute money or other property during solicitation by licensee, does the licensee keep records of beneficiary name, address, phone and fax?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42	TLR 7(2)(b) For consumers who agree to contribute money or other property during solicitation by licensee, does the licensee keep records of the purpose the money or property was solicited?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43	TLR 7(2)(c) For consumers who agree to contribute money or other property during solicitation by licensee, does the licensee keep records of the consumer names, addresses, phone and fax numbers?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44	TLR 7(2)(d) For consumers who agree to contribute money or other property during solicitation by licensee, does the licensee keep records of the dates on which consumers agreed to contribute?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45	TLR 7(2)(e) For consumers who agree to contribute money or other property during solicitation by licensee, does the licensee keep records of the amount of money, value/description of the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For more information about your obligations as a licensed business, our processes and our organization, please visit www.consumerprotectionbc.ca.