

Dispute Resolution Model for the Proposed Civil Resolution Tribunal

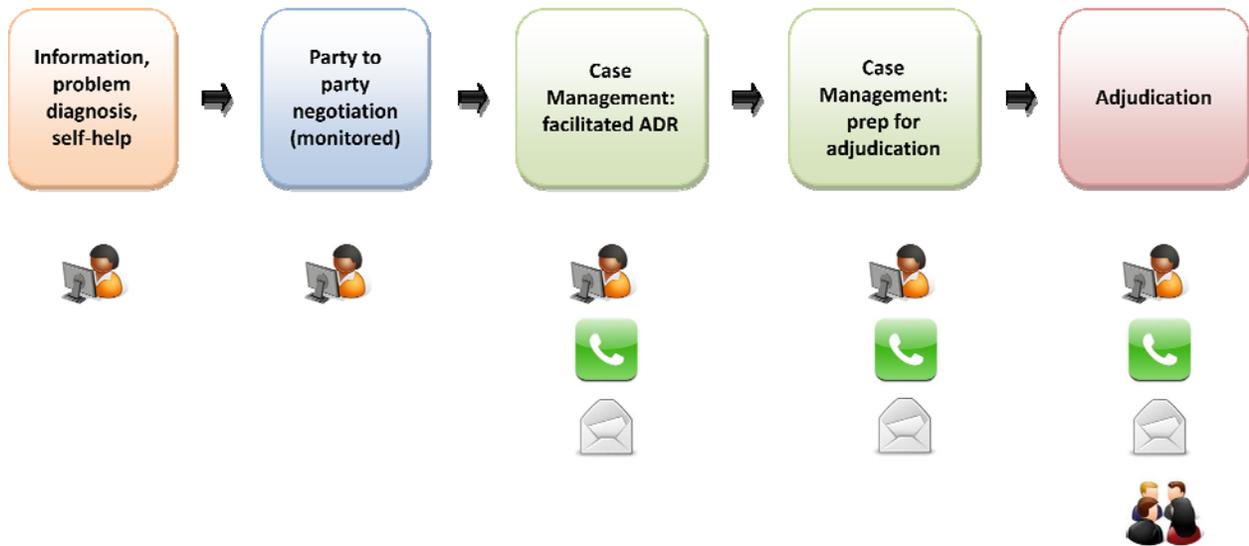
The proposed Civil Resolution Tribunal will offer services designed to encourage early resolution of disputes, using the minimum level of tribunal resources necessary to do so. Where formal adjudication of a dispute is required, the tribunal will actively case manage the dispute so that the adjudication is conducted quickly and efficiently. In all cases, the level of resources applied to a dispute will be proportionate to the nature of the dispute and the issues involved.

A. Pre-Filing

The tribunal will maintain a website that will be designed to help British Columbians identify, prevent and manage issues before they develop into full-blown disputes. Online information and education will be available to help businesses and individuals assess their options for dispute prevention and resolution and determine when and how to engage the tribunal's services.

B. Tribunal Dispute Resolution Stages

The following chart indicates the steps that a dispute would follow through the tribunal and the service channels (online, telephone, mail, in-person) available for each step:



Note: ADR is alternative dispute resolution.

1. Information, Problem Diagnosis and Self-help

If users cannot resolve their issues using the basic information on the tribunal's website, they will be able to review online tips, tools and strategies to encourage resolution. The information and services available in this phase will be open to all British Columbians who may need assistance with a dispute, even if the subject matter of the dispute is not within the tribunal's statutory decision-making jurisdiction.

2. Online Party-to-Party Negotiations

If the parties are unable to resolve the dispute on their own, one of the parties may request access to the online, party-to-party negotiation service provided and monitored by the tribunal (often referred to as online dispute resolution or ODR). Once the party has provided the necessary information and paid the applicable fee, the tribunal will notify the other parties to the dispute, providing specific information about the dispute and options for resolving it.

If the other parties to the dispute agree to participate, the online negotiation tool (or platform) will guide the parties through a structured negotiation phase, with the goal of facilitating a mutually acceptable settlement. The parties can access the platform through the Internet, at their own convenience. The parties can participate in the negotiations at different times, when and where it is convenient for them. The tribunal will provide templates and time lines and tribunal staff may occasionally provide case-specific suggestions to help the parties with their discussions. However, the parties will be expected to lead the process at this stage. The negotiation will end if no agreement is reached within a specified period of time.

3 Case Management and Facilitated Settlement Discussions

If the online dispute negotiation phase does not produce a resolution, any of the parties involved may pay the applicable fees and request active facilitation and resolution by the tribunal. All other parties must consent to resolution of the dispute by the tribunal before the tribunal can get further involved in the dispute, except for strata corporations, which can be compelled to participate.

In the next phase, the tribunal will focus on active case management and will typically involve a mediation-type approach. A tribunal case manager will contact the parties, either online or by telephone, and discuss the issues, canvas each of the parties' goals for resolution and explore options for settlement.

In case the mediation does not produce a settlement, the case management phase will also focus on preparing the parties for the adjudication phase. The case manager will ensure each of the parties has a clear understanding of the issues involved and the other parties' position on the issues. The tribunal may direct the parties to produce and provide the other parties with access to information that is relevant to the dispute and which may be accepted into evidence if the dispute continues to the adjudication phase. Most of the document exchange and communication during this phase will occur online.

4. Adjudication

Any case that is not settled by agreement will ultimately be resolved by adjudication. The adjudicator designated by the chair of the tribunal to hear the dispute will review the adjudication material and ensure that the parties had an adequate opportunity to exchange and examine all the relevant facts, voice their respective views and hear opposing arguments.

Adjudicators will decide most cases based on the evidence and arguments submitted through the tribunal's online tools. However, when necessary, the adjudicator will have discretion to conduct a telephone or video hearing. In rare situations, determined by the tribunal's rules, face-to-face hearings may be held. The tribunal will have the authority to decide the outcome of the case and make binding decisions. The tribunal may also order that the unsuccessful party must pay the successful party's expenses, excluding legal costs.

C. Other Features

Feedback and Continuous Improvement: To maximize the effectiveness of the tribunal and to foster high user satisfaction levels, the tribunal will incorporate a continuous improvement approach to its processes. Each user will be asked to provide feedback about their experience with the service. This information will be used to continually modify and improve the tribunal's services and processes.

Enforcement: Parties will be able to file final decisions and orders of the tribunal with either the B.C. Provincial Court or B.C. Supreme Court. Once filed, the tribunal's order can be enforced as though it were an order of that court.

Delivery of Tribunal Services: A significant proportion of the tribunal's services will be delivered online. Video, telephone, mail and face-to-face services will also be used to address specific user needs (such as the needs of users with certain disabilities) or the circumstances of particular disputes. This flexible approach will maximize resource efficiencies and will serve British Columbians as conveniently as possible, particularly those residing in rural and remote areas. The tribunal's technology will provide a model for service enhancement and transformation across the administrative justice system.

Tribunal Services to People with Disabilities: The tribunal's website and online services will be designed to adhere to web content accessibility (WCA) guidelines levels one and two, which were established as part of the American Web Accessibility Initiative. (The guidelines are available at: www.w3.org/WAI/guid-tech.html.) In addition, traditional, non-web-based services will be available to meet the needs of users with certain disabilities who do not have access to other supports.

Fees: There will be no fees to access the self-help information on the tribunal's website. Fees to access the tribunal's party-to-party negotiation platform will be nominal and set at a cost-recovery level. Additional fees will be charged as the dispute moves into the case management and adjudication phases, which may encourage parties to settle earlier in the process. Those fees will be lower than equivalent small claims fees, providing some cost recovery, while deterring frivolous cases. Fees can be recovered by the successful party.