



## **GUIDELINES FOR RECONSIDERATION OF REFERRALS TO REMEDIAL PROGRAMS**

Approved by:

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Guidelines for Reconsideration  
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The following guidelines are for use by adjudicators in reconsideration of a referral to a remedial program. The guidelines are designed to assist the adjudicator in balancing the need for public safety and the need for fairness in the exercise of delegated discretion under the *Motor Vehicle Act* (MVA). Section 25.1 of the MVA provides the Superintendent with authority to refer a driver to remedial programs if the Superintendent or his or her delegate determines that a person's driving record is unsatisfactory or if the Superintendent considers that, with respect to the person's driving skills, fitness or ability to drive and operate a motor vehicle, it is in the public interest to make a referral. Section 117 of the MVA gives the Superintendent authority to delegate powers, duties, or functions to OSMV staff. The role of the adjudicator is to review a driver's referral to a remedial program taking into account all relevant considerations, including the considerations outlined in this document, the legislation, the facts of the case, and the principles of administrative fairness.

## **1.1 Common Referrals**

In the absence of evidence that the remedial purpose of s. 25.1 will not be served by a referral to remedial programs, referrals will generally be to both RDP and IIP where the impaired driving sanction is:

- 1 *Criminal Code of Canada* (CCC) conviction or MVA violation;
- 3 or more administrative impaired sanctions within a 5 year period; or
- Where the driver has previously completed a remedial program and receives a subsequent alcohol related prohibition.

Where the impaired driving sanction is a single 90 day Immediate Roadside Prohibition (IRP) or Administrative Driving Prohibition (ADP), the referral will generally be to RDP with an initial assessment conducted by the service provider to inform the Superintendent's decision as to whether a referral to IIP is also warranted. Where the initial assessment conducted by the service provider indicates a high risk, the Superintendent will generally also make a referral to IIP.

As well, drivers can be referred to remedial programs when the Superintendent or their delegate forms the opinion that referral to remedial programs is in the public interest with respect to the person's driving skills, fitness or ability to drive.

The driver may seek reconsideration of the referral decisions. All reconsiderations of referrals are evidence-based and result from a thorough review of the driver's driving record and other relevant evidence. The reconsideration process is designed to ensure that the remedial programs fulfill their remedial purpose and operate in a manner that is both fair and in the public interest.

## 1.2 General Considerations

The driver has a right, under the principles of administrative fairness, to know the case he or she must meet. Accordingly, an adjudicator can only consider information that is available or has been made available to the driver prior to the reconsideration decision, or that is provided by the driver or the driver's representative. That is, the information relied upon by the adjudicator on reconsideration must be either produced by the driver or disclosed to the driver before the decision is made. With this in mind, in reconsidering a remedial program referral an adjudicator should consider all of the following, if they exist:

- the driver's driving record, consisting of:
  - all administrative impaired driving sanctions within a 5 year period;
  - all alcohol-related driving CCC convictions; and,
  - documentation from previous OSMV remedial programs within a 5 year period;
- the driver's RDP initial assessment (applicable for certain referrals to IIP);
- the driver's application for reconsideration; and
- all of the driver's relevant written submissions and evidence.

## 1.3 Guiding Factors

Reconsideration of referrals to remedial programs provides an opportunity for the driver to provide further evidence as to whether the remedial purpose of section 25.1 will be furthered by a referral in the driver's specific circumstances. This means that the Superintendent provides the driver with a process to ensure that a referral does not place an unreasonable burden upon the driver that would defeat the remedial purpose of the program.

Guidelines are offered to assist adjudicators in making consistent decisions that are neither fettered nor arbitrary. The guidelines are not binding rules and the adjudicator must consider all relevant evidence in the circumstances of each individual case in order to determine whether the referral should be upheld, varied or cancelled.

In reconsidering a referral the adjudicator should consider, in the context of the principles of administrative fairness, whether:

- The driver's impaired driving behaviour demonstrates either an unsatisfactory driving record or shows that the driver poses a high risk to public safety that can be addressed by participation in remedial programs (**Threshold Factors**)
- In the circumstances of the driver's case, the burden of compliance for the individual driver outweighs the benefit of the remedial programs (**Compliance Factors**)

### 1.3.1 Threshold Factors

In order for a referral to remedial programs to be authorized under s. 25.1, the Superintendent or their delegate must determine that:

- the person's driving record is unsatisfactory; or
- with respect to the person's driving skills, fitness or ability to drive and operate a motor vehicle, it is in the public interest for the person to attend or participate in one or more remedial programs.

In making this threshold determination as to whether s. 25.1 applies to the circumstances of a particular driver's case, an adjudicator may consider:

- The seriousness, type, and number of impaired suspensions, prohibitions, or offences ;
- The RDP initial assessment (where applicable);
- Whether the driver is in the graduated licensing program;
- Previous participation in RDP and/or IIP; and
- Participation in similar or, equivalent programs offered in other provinces.

This is not an exhaustive list, and the adjudicator must consider all relevant information disclosed to the applicant and information provided by the applicant.

**Note:** An indication on the driving record that a person has received a 'Fail' IRP that was issued prior to November 30, 2011 cannot be considered as evidence that the driver had a Blood Alcohol Content over .08 or as evidence of impairment of a person's driving skills, fitness or ability to drive. That is, a 'Fail' IRP issued prior to November 30, 2011 cannot form the basis for any further action with respect to the referral to remedial programs. This means that if this is the only type of impaired driving sanction on the 5 year driving record, the referral must be revoked.

### 1.3.2 Compliance Factors

Compliance factors speak to circumstances raised by the driver that make it unreasonable for them to comply with remedial program requirements without suffering a burden that outweighs the benefits of the remedial program itself. If the driver were to bear these burdens in these types of circumstances, the remedial requirements would more likely than not have a punitive, rather than remedial, effect.

Considerations that may be relevant to the adjudicator's decision with respect to compliance factors include:

- Economic impact, such as:
  - s.15
  - 
  -
- Impact on community:

- s.15
- Infeasibility to install the device in vehicle:
  - s.15
- Whether driving prohibition occurred in a commercial vehicle - this may be important in determining an appropriate variance;
- Access issues:
  - s.15
  -
- Safety of driver:
  - s.15
- Medical restrictions of driver:
  - s.15

This is not an exhaustive list, and the adjudicator must consider all relevant information that is before the adjudicator on the reconsideration. The adjudicator must, after accepting into evidence all relevant information, make his or her own decision as to the weight to be accorded to each piece of relevant evidence.

That is, there are two questions that adjudicators must ask themselves with respect to each piece of evidence submitted:

- Is the evidence relevant to the fact-finding process in the context of the purpose and subject matter of the decision (admissibility); and
- How accurate and reliable is the evidence and how important is the evidence to the key facts upon which the decision will turn (weight).
  - E.g. The evidence is verified by a third party.

#### **1.4 Service Provider Accommodations**

OSVM generally refers drivers to two different remedial programs: RDP and IIP. The RDP provides drivers with education or counselling depending on their needs. Health professionals administer a specific and comprehensive program; therefore, the service provider must work with the client directly to accommodate any reasonable special requirements.

IIP is a program that provides the public with assurance that a driver is not drinking and driving and serves to reinforce the remedial benefits of the education and counselling

programs. The service provider administers a program specified by the Superintendent. Therefore, any accommodations made by the service provider that could impact the public safety outcomes of the IIP require written approval by an OSMV adjudicator and are considered to be a variance.

## **1.5 Variances**

A variance is an alteration to the referral that has been approved by the Superintendent or his delegate. Adjudicators may consider varying the driver's remedial program requirements, where it is reasonable to do so, in order to:

- Ensure public safety is maintained by having the driver complete remedial programs through a varied process rather than cancelling the referral; and
- Allow for remediation without unreasonable burden by having the driver complete the remedial program through a varied process where, without a variance, the driver would face an unreasonable burden as a result of the requirement to complete a remedial program.

### **1.5.1 General Variances**

An adjudicator may vary the remedial requirements to accommodate the driver's circumstances. These requirements, however, cannot be varied in an arbitrary manner, nor can they be varied in ways that do not comply with legislative requirements or that cannot be operationalized.

Where the adjudicator has confirmed that the referral to remedial programs is reasonable in light of the driving record and public interest considerations, but due to personal circumstances, compliance with remediation requirements would create an unreasonable burden for that driver, an adjudicator may:

- if the burden cannot be overcome, revoke the requirement;
- prohibit the driver from driving for an additional specific term under s. 93 of the *MVA* and revoke the remedial program requirements once the additional prohibition has been served;
- vary the RDP or IIP term or waive the IIP requirement; or
- administer a combination of variances.

### **1.5.2 RDP Variances**

Before seeking reconsideration of the referral, the driver should consult with the RDP service provider to determine whether the program can be delivered in a manner that addresses their particular constraints. Where it does not appear that the driver has first consulted with the RDP service provider to seek accommodation, the adjudicator should direct the driver to seek such accommodation before the reconsideration request will be

considered. If the driver has exhausted available options with the RDP service provider, the adjudicator must consider all relevant information that is before the adjudicator in order to determine whether to uphold the referral as originally made, vary the referral or cancel it.

Accommodations that the adjudicator may consider include:

- Timeframe variances
  - E.g. the adjudicator may extend the 12 month RDP completion term to allow the driver more time to complete the program;
- Substitution of different remedial program
  - E.g. Driver provides evidence that an alternative program will meet the remedial purpose while accommodating their specific circumstances.

**Note:** Substitute counselling or education programs will only be considered at the request of the driver. Adequate information about the substitute program must be submitted by the driver. The adjudicator does not have a duty to seek out additional information to determine if the program is equivalent to the RDP.

### 1.5.3 IIP Variances

The IIP is administered by a service provider through OSMV oversight. Any variances to the program need to be considered by an adjudicator to ensure public safety is maintained. In consideration of the driver's circumstances an adjudicator may request variance to the program from the service provider which may include:

- Modifications to account for medical conditions
  - E.g. Ignition interlock device's required air volume may be lowered to accommodate a respiratory disorder.

**Note:** More variance options will become available when practicable.

## **OFFICE OF THE SUPERINTENDENT OF MOTOR VEHICLES**

### **GUIDELINES FOR REFERRALS TO REMEDIAL PROGRAMS**

Approved by:

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Office of the Superintendent of Motor Vehicles

Date: April 22, 2013



Section 25.1 of the *Motor Vehicle Act* (MVA) provides the Superintendent with authority to refer a driver to remedial programs if the Superintendent or his/her delegate determines that:

- a person's driving record is unsatisfactory; or
- with respect to the person's driving skills, fitness or ability to drive and operate a motor vehicle, it is in the public interest to make a referral.

Section 117 of the MVA gives the Superintendent authority to delegate powers, duties, or functions to staff of the Office of the Superintendent of Motor Vehicles (OSMV).

The following guidelines are for use by the Superintendent's delegated staff to determine if a driver will benefit from a referral to a remedial program for the purpose of separating their alcohol and/or drug use from their driving. The guidelines are designed to assist staff in balancing the need for public safety with the requirements of procedural fairness.

Staff members refer drivers to remedial programs by taking into account all relevant considerations, including those outlined in this document - the enabling legislation, the facts of the case, and the principles of administrative fairness.

While review of the driving record may be triggered by specific drinking and driving or drugs and driving events, or patterns of events, the staff member must make the decision whether to make a referral to remedial programs on the basis of the specific information about each driver that is before that decision maker. For example, where the record is clear from the outset that the driver has a disability that will prevent effective participation in the Ignition Interlock Program (IIP), that information must be considered before making the initial referral to remedial programs even where the driving event is as serious as a *Criminal Code of Canada* (CCC) conviction.

In the absence of evidence that the remedial purpose of s. 25.1 will not be served by a referral to remedial programs, referrals will generally be made to both the Responsible Driver Program (RDP) and the IIP where the impaired driving sanction is:

- One CCC or MVA conviction;
- Multiple administrative impaired sanctions within a five year period that demonstrates a pattern of impaired driving; or
- Where the driver has previously completed an OSMV remedial program.

Where the impaired driving sanction is a single 90 day Immediate Roadside Prohibition (IRP) or Administrative Driving Prohibition (ADP), the referral will generally be to RDP with an initial assessment conducted by the service provider to inform the Superintendent as to the level of risk presented by the driver. Where the initial assessment conducted by the service provider indicates a high risk, the Superintendent or his/her delegate will generally also consider making a referral to IIP, taking into account all other relevant information before the staff member.

Drivers can also be referred to remedial programs when the Superintendent or his/her delegate forms the opinion that referral to remedial programs is in the public interest with respect to the person's driving skills, fitness, or ability to drive.

## 1.1 General Considerations

In determining if a driver should be referred to a remedial program, delegated staff should consider all of the following records, actions or documents (if they exist):

- the driver's driving record, consisting of:
  - all administrative impaired driving sanctions within a five year period;
  - all impaired driving CCC convictions; and
  - documentation from previous remedial programs within a five year period;
- where applicable, the driver's RDP initial assessment; and
- any other relevant information before the staff member.

## 1.2 Guiding Considerations

In assessing the above, staff should consider whether the severity and/or pattern of impaired driving behaviour poses a significant public safety risk that could be addressed through remedial programs.

Staff should consider the following factors:

- The seriousness, type, and number of impaired suspensions, prohibitions, or offences;
- The RDP initial assessment (where applicable)
  - Risk of further alcohol related driving incidents; and
  - Other information included in that report;
- Previous participation in RDP and/or IIP;
- Participation in a graduated licensing program;
- Participation in other remedial programs
  - Similar or equivalent programs in other provinces; and
- All other relevant information before the decision maker.

**Note:** An indication on the driving record that a person has received one 'Fail' IRP that was issued prior to November 30, 2011 cannot be considered as evidence that the driver was over 0.08. That is, one 'Fail' IRP issued prior to November 30, 2011 cannot form the basis for any further action with respect to a referral to remedial programs. This means that if this is the only type of impaired driving sanction on the five year driving record, the referral cannot be maintained or confirmed. If this type of IRP is in conjunction with another impaired driving sanction, it cannot be used as evidence of a pattern of impaired driving.

## 1.3 Referrals to the Responsible Driver Program and Ignition Interlock Program

The Superintendent or his/her delegate refers drivers to the RDP and/or IIP when the person's driving record is unsatisfactory or where, with respect to the person's driving skills, fitness or ability to drive and operate a motor vehicle, it is in the public interest for the person to attend or participate in one or more remedial programs.

An impaired driving conviction under the CCC, an administrative driving prohibition (IRP or ADP), or multiple impaired driving prohibitions is evidence of the severity and/or pattern of impaired driving behaviour that may merit remedial intervention. The RDP provides the Superintendent with a tool to

support remediation of the driver's driving behaviour and assist with the separation of their drinking and/or drug use from their driving. The IIP provides the Superintendent with a tool to protect public safety by monitoring a driver to see if their behaviour is and continues to be reformed and serves to reinforce the remedial benefits of the education and counselling programs.

Drivers who are convicted of CCC or MVA offences may appeal their convictions through the judicial system. Drivers who receive an administrative driving prohibition of any type may request an administrative review of that prohibition under the MVA. For referrals to remedial programs, drivers may apply to the Superintendent for a reconsideration of the decision to refer them to RDP and/or IIP.

The following sections outline guidelines for referring drivers to the RDP and/or IIP. The guidelines are not binding rules and delegated staff must consider all relevant evidence in the circumstances of each individual case in order to determine whether the referral is warranted.

### **1.3.1 Referrals to RDP and IIP based on Alcohol-Related *Criminal Code* or *Motor Vehicle Act* Convictions**

It is an offence for a driver to operate a motor vehicle when impaired, or when the concentration of alcohol in the blood exceeds 80 milligrams of alcohol per 100 millilitres of blood, as prescribed under Sections 224 of the MVA and sections 253 and 255 of the CCC. It is also an offence for a driver to refuse to provide a blood or breath sample when demanded by a police officer, as prescribed under Section 226 of the MVA and section 254 and 255 of the CCC.

Drivers convicted of offences under sections 224 or 226 of the MVA or sections 253, 254 or 255 of the CCC are considered by the Superintendent to be, *prima facie*, a risk to public safety. Therefore, these drivers are usually, unless absent of evidence to the contrary, appropriately referred to both RDP and IIP. Additionally, when referred, drivers convicted of these offences must **complete** the RDP before they can re-apply for their interlock-restricted driver's licence. These drivers can seek reconsideration of the referral to one or both programs to ensure fairness and to ensure that the Superintendent considers all relevant information in maintaining the referral.

Drivers convicted of an offence under section 224 or 226 of the MVA are prohibited from driving a motor vehicle for 12 months. Drivers convicted of offences under section 253, 254 and 255 of the CCC are prohibited from driving, and their driver's licence is automatically suspended as follows:

- For the first conviction – minimum of one year
- For the second conviction within a 10 year period – three years
- For three or more convictions – indefinite licence suspension (ILS). Drivers in the ILS program must wait a minimum of five years and complete RDP before they can reapply for a driver's licence.

Delegated staff must review the driver's driving record to confirm if the MVA or CCC conviction was alcohol-related. As a guideline, if this criterion is met, staff may consider referring the driver to both the RDP and IIP on the basis of the severity of the MVA or CCC conviction. However, before making any referral staff must review all evidence and determine if a referral is appropriate for each individual case.

### **1.3.2 Referrals to RDP based on 90 day Driving Prohibitions**

Drivers may receive either of the following alcohol-impaired administrative driving prohibitions:

### ***Administrative Driving Prohibition (ADP)***

A 90-day ADP may be issued by police officers to impaired drivers who have a blood alcohol level over the legal limit (80 mg/100 ml) or who fail or refuse to comply with the demand for breath or blood alcohol test. The prohibition is separate from any CCC charges that may result from the same incident. An ADP results from breath or blood testing on an evidentiary device and the prohibition starts 21-days from the date the driver receives the Notice of Driving Prohibition.

When the prohibition period ends, drivers may obtain a new driver's licence from an ICBC driver services centre. New driver's licences issued as a result of an ADP are for a two year term, instead of the five year term, and are subject to a reinstatement fee.

### ***Immediate Roadside Prohibitions (IRP) - FAILS/REFUSALS***

A 90-day IRP may be issued by police officers to drivers at the roadside who produce a FAIL result on an Approved Screening Device (ASD) or who refuse or fail to provide a breath sample. The prohibition is effective immediately and is served with a mandatory 30-day vehicle impoundment.

**Note:** An indication on the driving record that a person has received a 'Fail' IRP that was issued prior to November 30, 2011 cannot be considered as evidence that the driver was over 0.08 or as evidence of impairment of a person's driving skills, fitness, or ability to drive. A 'Fail' IRP issued prior to November 30, 2011 cannot form the basis for a conclusion that the driver shows a pattern, in conjunction with other drinking and driving events, of impaired driving that would support a referral to a remedial program.

Absent evidence that a referral to the RDP is not warranted, a 90 day prohibition is generally considered to be evidence that the driver requires some remediation. Thus, a referral to RDP can be made unless other evidence before the staff member shows that the referral is not reasonable. The driver will have an opportunity to seek reconsideration of the referral to RDP.

Once in the RDP, the driver will undergo an initial assessment conducted by the service provider that indicates the level of continued risk the driver poses. Delegated staff will review the initial assessment report and any other relevant information to determine whether a referral to IIP is appropriate in the circumstances of the driver's case.

**Note:** See Section 1.3.3 for more information. Before making any referral, delegated staff must review all relevant evidence and determine if a referral is appropriate for each individual case.

### **1.3.3 Referrals to IIP based on 90 day Driving Prohibitions**

Once a driver is referred to the RDP they should register with the service provider, Stroh Health Care (Stroh) and undergo an initial assessment. This assessment is used by Stroh to determine which stream of RDP is appropriate for the driver. Based on the assessment, Stroh will send a report to the Superintendent for review by a staff member, which in concert with their driving record, will determine if the driver poses a risk to public safety that merits referral to the IIP. In determining if a driver should be referred to IIP, staff should consider:

- The seriousness, type, and number of impaired suspensions, prohibitions, or offences on the driver's driving record
- The RDP initial assessment report
- Any relevant considerations with respect to the impact of the IIP referral on the driver
- If the driver is participant of a graduated licensing program

Considering the above, the staff member must determine if the driver poses a significant risk to continue to drink and drive, and if so, should be referred to the IIP.

### **1.3.4 Referrals to RDP and IIP: Multiple Impaired MVA Prohibitions**

In addition to 90 day driving prohibitions, drivers may also receive 24-hour driving prohibitions and escalating warn-range immediate roadside prohibitions. 24 hour prohibitions may be issued on their own, at the same time as one of the impaired CCC or MVA charges, or at the same time as a 90 day ADP.

#### ***24-Hour Driving Prohibition***

Under section 215 of the MVA, police officers can prohibit drivers from driving for a period of 24 hours if the police officer has reasonable and probable grounds to believe that the driver's ability to operate a vehicle is affected by alcohol or drugs. A 24-hour driving prohibition results in an immediate ban of driving privileges. If considered necessary, police also have the discretion to impound the driver's vehicle.

#### ***Immediate Roadside Prohibitions (IRP) - WARNS***

Drivers found to be in the "warn" range (between 0.05 and 0.08 per cent BAC) face the following sanctions:

- 3-day driving prohibition if it is the first time caught in the warn range;
- 7-day driving prohibition if it is the second time caught in the warn range within five years; or
- 30-day driving prohibition if it is the third time caught in the warn range within five years.

#### ***Pattern of Impaired Driving***

Drivers with a pattern of impaired driving pose a high risk to public safety and therefore generally necessitate remedial intervention. Staff should consider referring a driver to the RDP and IIP if they have a pattern of impaired driving that includes any combination of three 24 hour prohibitions, ADPs (on dates that are separate from any 24 hour prohibitions) or IRPs (WARNS, FAILS, and/or REFUSALS) within a five year period.

ADPs and IRP FAILS/REFUSALS will also trigger a review of a driver's record to determine a possible referral. The multiple event trigger of the driver's record is intended to draw attention to patterns of impaired driving that might not otherwise be triggered, yet pose a high risk to public safety.

**Note:** If a majority of the administrative driving prohibition events are drug related, as opposed to alcohol related, the IIP will likely serve no remedial purpose and the staff should consider only referring the driver to RDP.

Staff must review the driver's driving record to confirm if:

- The driver's history of impaired sanctions shows an unsatisfactory driving record, or evidence that, in light of the person's driving skills, fitness or ability to drive and operate a motor vehicle, or it is in the public interest to make a referral;
- Impaired prohibitions served for the same impaired driving event are considered one event:
  - E.g., a 24 hour prohibition may be served with an ADP, in this case both sanctions are considered as part of the same impaired driving event and therefore, cannot be counted separately for the purposes of establishing a pattern of impaired driving; and
- The prohibitions are alcohol-related as opposed to drug-related offences.

As a guideline, if the criteria are met the staff should consider referring the driver to both the RDP and IIP on the basis of the public safety risk associated with the driver's pattern of impaired driving. However, before making any referral, staff must review all evidence and determine if a referral is appropriate for each individual case.

### **1.3.5 Referral to RDP and/or IIP: Remedial Program Re-offenders**

If a driver is sanctioned for an impaired driving event within five years of their completion of a remedial program, as a guide, staff should consider whether the driver should be referred to additional remedial programs. The following table is intended as a guideline only; staff must determine an appropriate referral based on the individual facts of the case.

	<b>Driver Circumstance</b>	<b>Additional Remedial Programs</b>
1	Driver has completed RDP within 5 years	Driver will generally be referred to RDP and IIP.
2	Driver has completed RDP and IIP within 5 years	Driver will generally be referred to RDP and IIP. IIP term may be increased.
3	Driver has been referred to RDP, but not yet completed	Driver will generally be referred to IIP (upgraded). Stroh should be notified.
4	Driver is currently participating in IIP	Driver's interlock term will generally be extended.
5	Driver has re-offended multiple times	Driver may be referred to IIP for a longer term.
6	Driver is a drug re-offender	Driver will generally be referred to RDP only, with licence not allowed until RDP completion.

### **1.3.6 Other Referrals to the RDP**

Other drivers may be referred to RDP based on their impaired driving history. Referrals are evidence-based and result from a thorough review of the driver's driving history and other reports indicating impaired driving. The following factors are considered:

### ***Severity of Impaired Driving Event***

- evidence of significant alcohol or drug abuse/addiction from authorized medical reports or unsolicited reports from reliable sources
- authorized reports from medical professionals indicating significant alcohol or drug addiction or a significant history of substance abuse
- evidence of other impaired driving incidents
- participation in other alcohol assessment or remediation programs in the past
- driver compliance with previous program requirements
- evidence of involvement in motor vehicle crashes, where alcohol or drugs was a factor
- driver participation in a graduated licensing program

### ***Frequency of Impaired Driving Events***

- evidence that the number of impaired driving incidents have reduced/increased in frequency
- evidence that the driver has been consistently driving impaired over a long period of time
- evidence that the driver was assigned to and recently completed RDP

**Note:** These considerations are not intended to override the guidance described in the remedial program referral sections. Rather, they are intended to assist staff in making decisions in relation to drivers whose driving record may not have been reviewed as a result of one of the patterns of impaired driving that generally triggers the Superintendent's review but who, in the opinion of the staff member, have a significant impaired driving history.

### **1.4 Referral Letter**

If it is determined that a driver will benefit from remedial intervention, a letter should be drafted instructing them of their remedial requirements. The letter should state the important findings of fact, the evidence upon which those findings are based, and the conclusions supported by those facts. It is acceptable to use precedents as long as it is clear that each decision is based on the facts of the individual's case. It is not necessary to refer to every piece of evidence reviewed. However, the letter should set out the important conclusions of fact, law and policy in relation to the decision. The letter should clearly demonstrate why the staff member made the decision. This is important for the OMSV and for drivers, as drivers may apply for a reconsideration of the referral decision.

## Appendix A: Common Triggers for Alcohol sanctions

The following table provides guidance for staff regarding common triggers for review of the driving record and possible associated referrals to remedial programs.

Sanction		RDP	IIP	DL Status
<b>1 CCC or MVA conviction</b>	Alcohol offence on or after Feb 1, 2009	Likely appropriate	Likely appropriate	Licence Not Allowed (Licence allowed with IIP once RDP & Prohibition completed)
<b>3 Admin Impaired Sanctions in a 5 year period</b>	Majority of impaired sanctions on or after Feb 1, 2009 must be alcohol related	Likely appropriate	Likely appropriate	Licence Allowed with IIP
<b>2 Impaired Sanctions in a 5 year period</b>	Class 7 Driver	Review Further	Review Further	Action as applicable
	All other DL classes	No Action	No Action	No Action
<b>1 90 day Prohib (IRP or ADP)</b>		Likely appropriate	Initial Assessment	Licence Allowed
<b>1 90 day Prohib (IRP or ADP)</b>		Referred: RDP Assessed High Risk	Likely appropriate (Adj. Discretion)	Licence Allowed with IIP
		Referred: RDP Assessed Medium Risk	Maybe (Adj. Discretion)	Yes: Licence Allowed with IIP No: No further action
		Referred: RDP Assessed Low Risk	Likely no (Adj. Discretion)	N/A



## Appendix B: Important Program Dates and Past Policy Shifts

Date	Policy Shift
June 15, 2005	RDP begins in British Columbia
February 1, 2009	Ignition Interlock becomes part of remediation for drivers who receive CCC or MVA convictions, 3 administrative sanctions (24 hour prohibitions at the time), and 2 ADPs
September 20, 2010	IRP begins, referrals to RDP and IIP for FAILS, REFUSALS and 30 day WARNS RDP and IIP referrals for 1 ADP
April 12, 2013	Enhanced referral and review process for remedial programs introduced Drivers with CCC and MVA convictions are considered for referral to both RDP and IIP Drivers with multiple (3+) impaired sanctions within a 5 year window considered for referral to both RDP and IIP Drivers with a single 90 day IRP or ADP considered for referral to RDP and undergo initial assessment Drivers with a single 90 day IRP or ADP are considered for referral to IIP separately on basis of initial assessment and Driving Record

## Appendix C: Common Triggers for Drug Sanctions

The following table provides guidance for staff regarding common triggers for review of the driving record and possible associated referrals to remedial programs. IIP is generally not an appropriate referral as the ignition interlock device only measures driver alcohol levels and not other drug levels.

Sanctions		RDP	DL Status
<b>1 CCC or MVA conviction</b>	Drug on of after Feb 1, 2009	Likely appropriate	Likely not appropriate
<b>3 Admin Impaired Sanctions in a 5 year period</b>	Majority drug sanctions	Likely appropriate	Likely not appropriate