



‘That’s just your interpretation’: Understanding the hazard of legislative misinterpretation in Australian aviation and what applied Hermeneutics can do about it.

*Adrian Park*

*Department of Aviation and Logistics  
University of Southern Queensland*

'Have a look...'



### Waypoint Details

SIGMET CURRENT FOR SEV ICING FCST BTN 5000 FEET AND

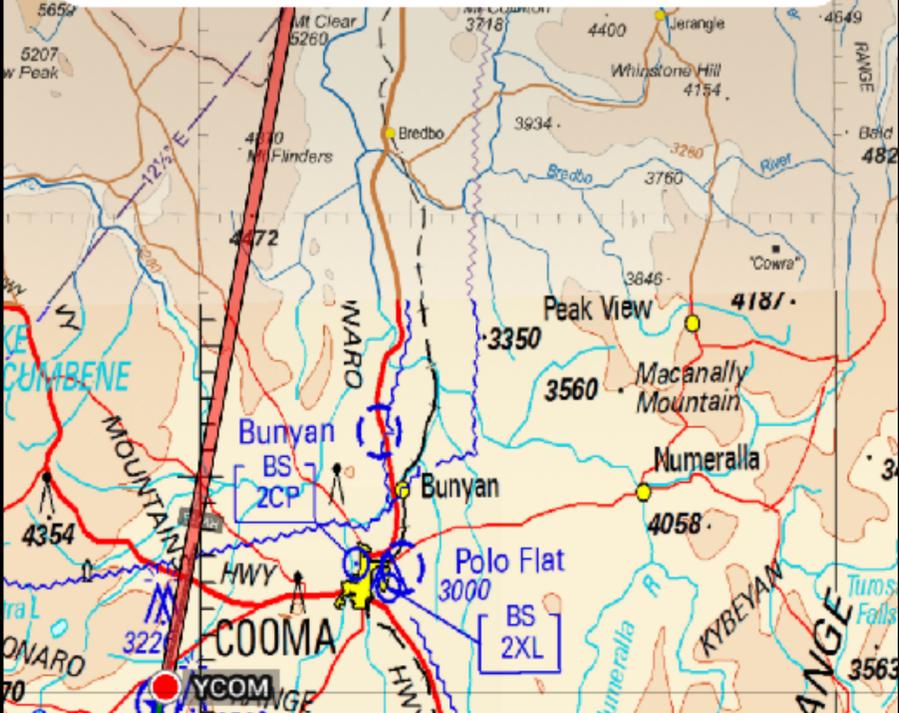
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NOTAMS 11 >

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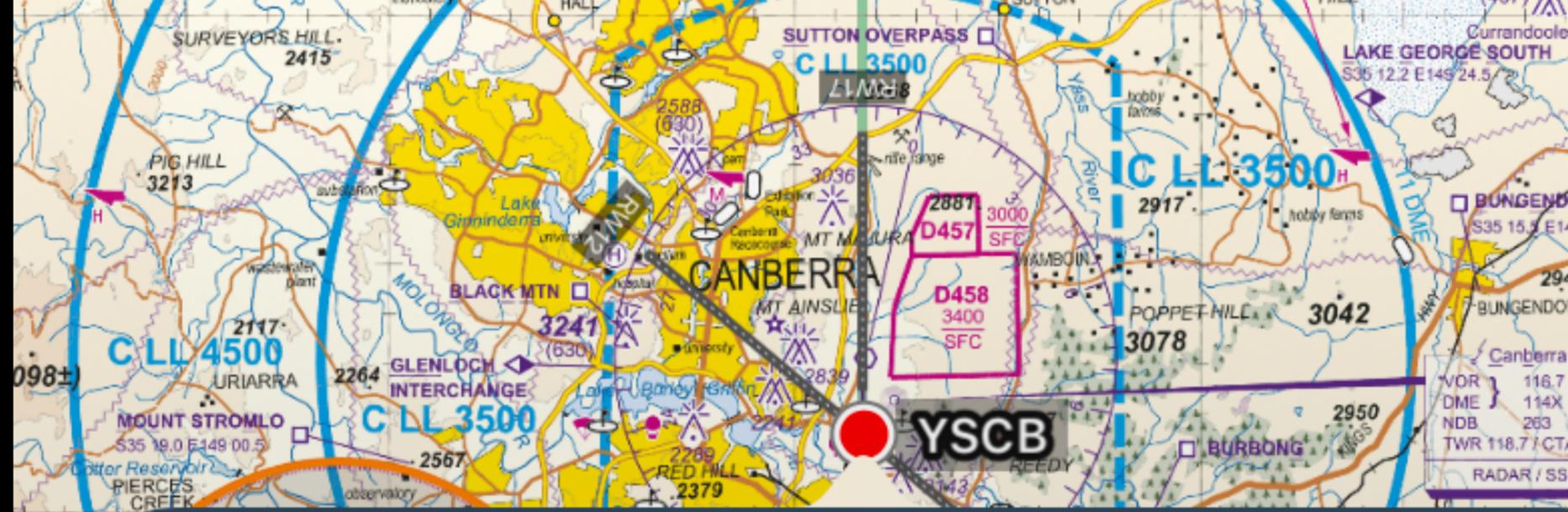
### COMMUNICATIONS

APP	125.900
APP	124.500
ATIS	127.450
ATIS	116.700
AWIS	0283027508



*“The pilot in command of an aircraft must not allow the aircraft to take off for a flight during which the aircraft may fly into known or expected icing conditions, if the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA.”*

~ CAR 238



### Waypoint Details

SIGMET CURRENT FOR SEV ICING FCST BTN 5000 FEET AND

NOTAMS 11 >

### COMMUNICATIONS

APP 125.900

APP 124.500

‘Not impressed...’

**‘Have a Look’?**

**Cancel the flight?**



**Interpretation**

**THE TEXT**

**CAR 238**

**‘Have a Look’?**

**Cancel the flight?**



**Hermeneutics**

**THE TEXT**

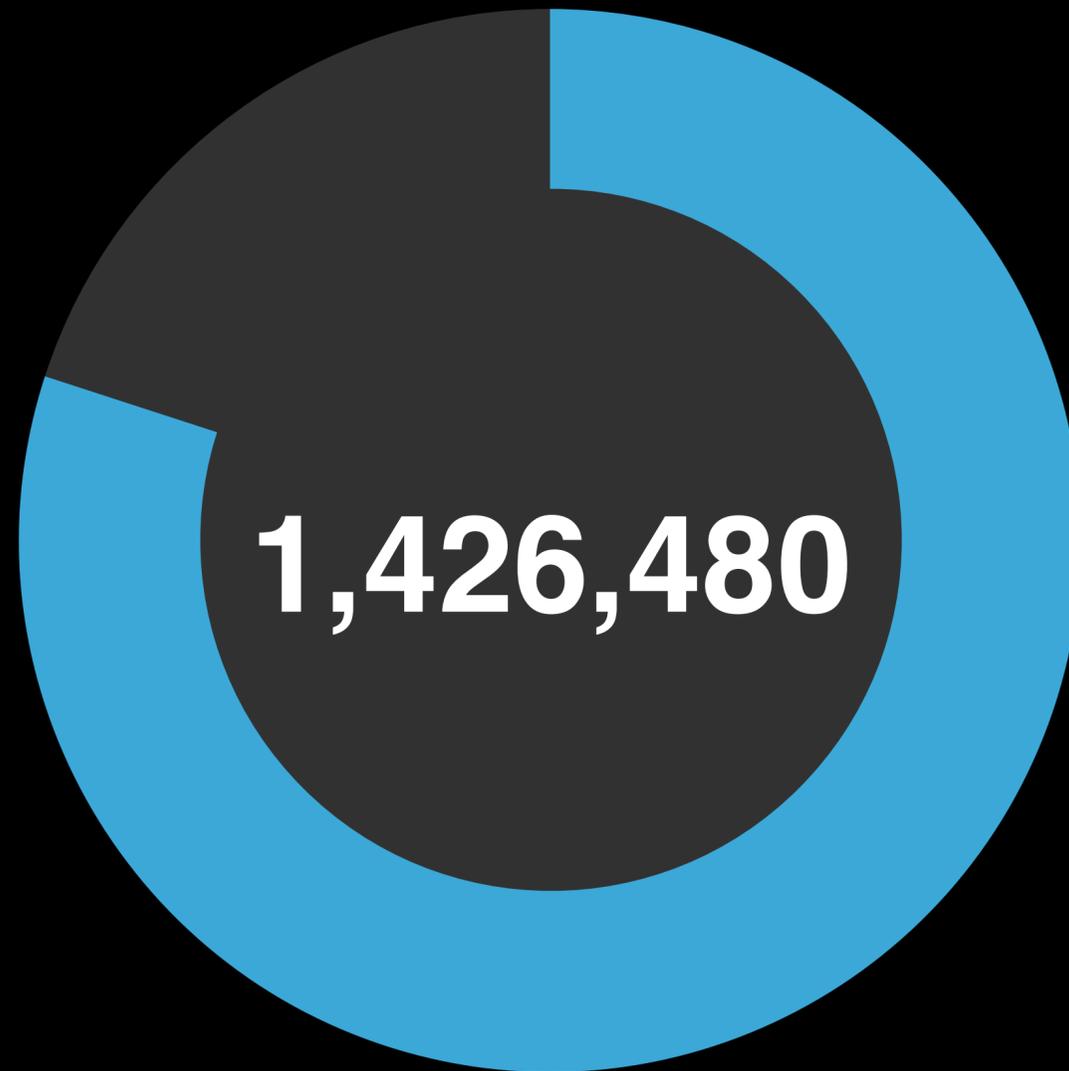
**CAR 238**

# **Hermeneutics**

‘explores how we read,  
understand, and handle  
texts’



# Your aviation word count:



...*and growing*



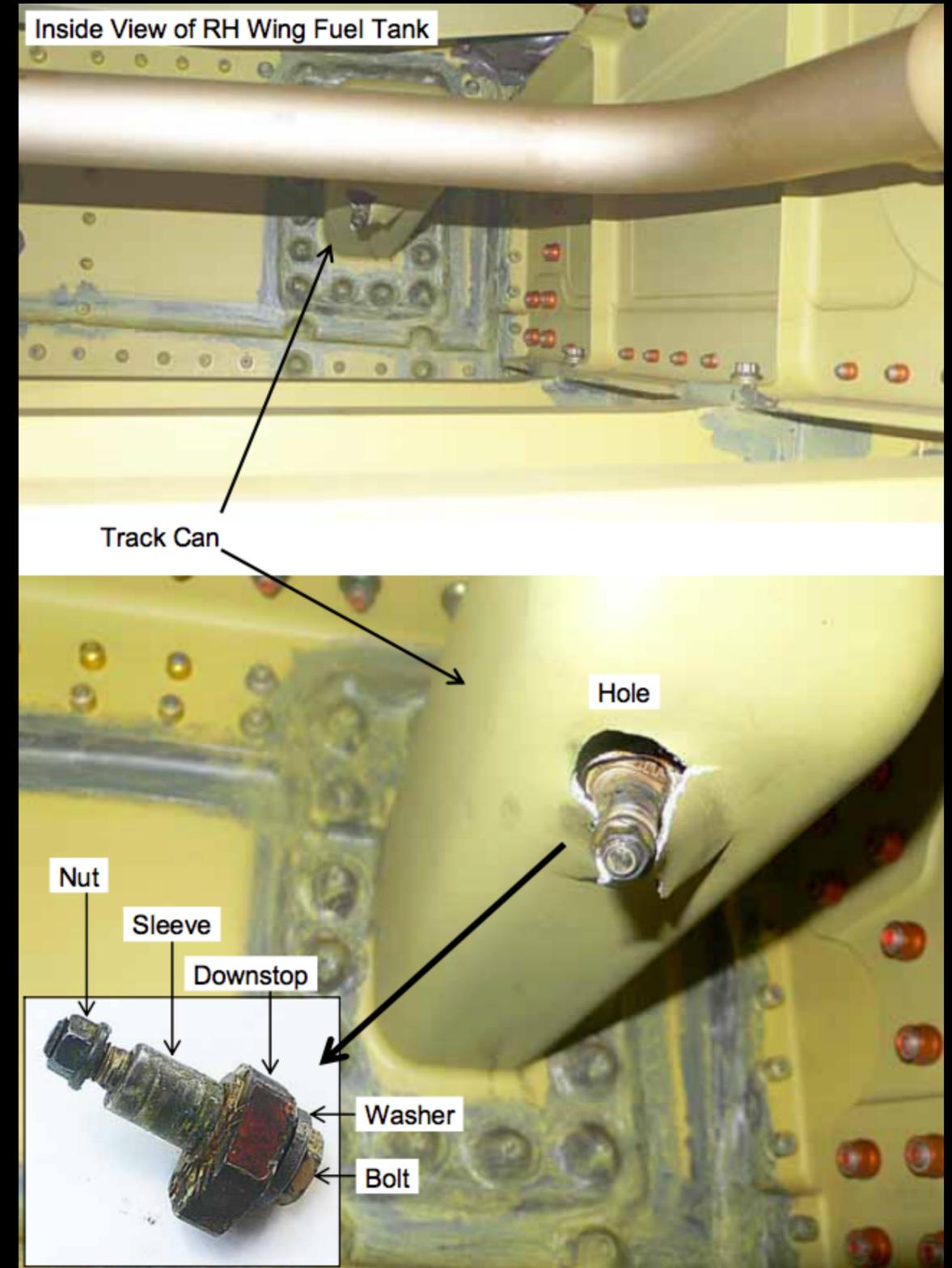
“On the next convenient maintenance opportunity, the nut on the down-stop assembly should be removed, the threads on the bolt be coated with thread locking compound and a new nut be installed and tightened with a torque of 50–80 in-lbs”.



~ *Japan Transport Safety Board, 2009, pp.46*

‘The single biggest problem in communication is the illusion that it has taken place.’

*~George Bernard Shaw*



*‘Two white lights operable by the pilot and trainable in azimuth and elevation without removing his/her hands from the flying controls...’*

*~ CAO 29:11*

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MAY 16 2013 SAVE PRINT LICENSE ARTICLE

## Paramedic dragged to death by helicopter, report finds

Megan Levy

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A paramedic who was killed during a cliff rescue on the NSW south coast was inadvertently dragged off a cliff ledge by a rescue helicopter that was meant to winch him and his patient to safety, a report into the accident has found.

Light was fading quickly at Carrington Falls, near Wollongong, on Christmas Eve in 2011 as special rescue paramedic Michael Wilson attempted to rescue an injured canyoner from a waterfall known as Bridal Veil Falls.

Mr Wilson, 42, had abseiled down to the injured canyoner, who had set off an emergency personal locator beacon earlier that afternoon after falling from the top of the cliff.

Mr Wilson had planned for his patient and himself to be winched into the helicopter as it hovered near the cliff ledge, about 15 metres from the base of the waterfall.

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*...most believed they were compliant  
due to their 'interpretation'*

re-intepretation  
Why the **misinterpretation**?  
confusion

re-intepretation?  
**Better questions about** misinterpretation  
confusion?

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2500 years of  
Hermeneutics

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Dictionary

hermeneutics



# hermeneutics

/,hə:'mi'nju:tiks/ 

*noun*

# Seven Hermeneutical Guiding Principles

Authorisation      Textualisation

Conceptualisation      Socialisation

Seven Hermeneutical  
Guiding Principles

Institutionalisation

Emotionalisation      Mediation

# Decision Making

Understanding

Meaning



**TEXT**

*'...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA'*

*It's not the text that has authority, it's  
the interpretation...*



‘...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA’

**TEXT**



**The CEO suggested this was ‘totally legal...’**

*~ Fice, 2011, Appeals Tribunal Transcript*

‘Spoken words are the symbols of mental experience  
and written words are the symbols of spoken words.’

~ *Aristotle*

‘...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA’

# Language has limits

'...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA'

# and conditions

‘The pilot in command of an aircraft must not allow the aircraft to take off for a flight during which the aircraft may fly into known or expected icing conditions, if the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA.’

~ *CAR 238*

**‘The pilot in command of an aircraft must not allow the aircraft to take off for a flight** during which the aircraft may fly into known or expected icing conditions, if the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA.’

~ CAR 238

'The pilot in command of an aircraft shall ensure that the aircraft to take off or land is in a condition to fly into known terrain, obstructions, terrain features or man-made structures that may be in the area in which the aircraft may operate. If the aircraft is not adequately equipped with anti-icing equipment of the type and quantity directed by CASA.'

**The proper place for what is to be made most prominent is the end**

Strunk Jr., William; *The Elements of Style*

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# The case of the \$13 million comma and why grammarians are rejoicing

OPINION

**The Conversation** By Roslyn Petelin, University of Queensland

Updated 21 Mar 2017, 5:24pm

**Portland-based company Oakhurst Dairy will potentially owe \$US10 million (\$13 million) to 75 milk-truck drivers in the US state of Maine because of a missing comma in a legal clause.**

Last week, Judge David J Barron upheld an appeal in a class-action lawsuit, opening his opinion with:



‘The pilot in command of an aircraft must not allow the aircraft to take off for a flight during which the aircraft may fly into known or expected icing conditions, if the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA.’

## **WHAT COMES AFTER?**

~ *CAR 238*

‘The pilot in command of an aircraft must not allow the aircraft to take off for a flight during which the aircraft may fly into known or expected icing conditions, if the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by  
CASA.’

**‘An offence against [this] sub-regulation is an offence of strict liability. Note: For strict liability, see section 6.1 of the Criminal Code’**

~ CAR 238





‘The pilot in command of an aircraft must not allow the aircraft to take off for a flight during which the aircraft may fly into known or expected icing conditions, if the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by  
CASA.’

**‘An offence against [this] sub-regulation is an offence of strict liability. Note: For strict liability, see section 6.1 of the Criminal Code’**

Meaning isn't just  
read...

Conceptualisation



**Authorising Influences**

**The CEO suggested  
this was 'totally  
legal...'**

*~ Fice, 2011, Appeals  
Tribunal Transcript*

'...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA'

**TEXT**

Are we **Safe?**

The main object of this Act (Civil Aviation Act 1988) is to establish a regulatory framework for maintaining, enhancing and promoting the **safety** of civil aviation, with particular emphasis on preventing aviation accidents and incidents.

# The **Royal** Regulation

# The **Safety** of Civil Aviation

A Definition of  
**Safety?**

Conceptualisation



**Authorising Influences**

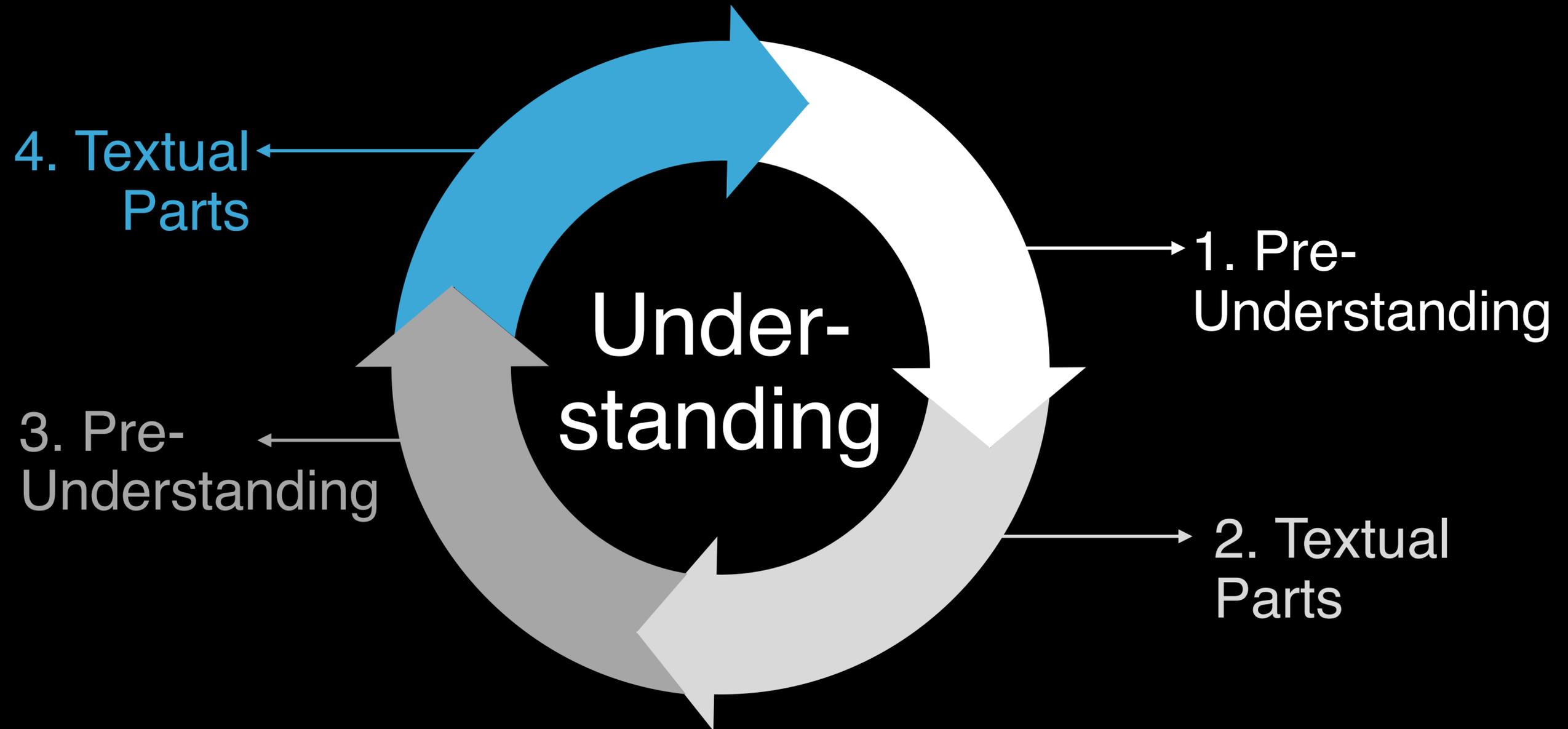
**The CEO suggested  
this was ‘totally  
legal...’**

*~ Fice, 2011, Appeals  
Tribunal Transcript*

‘...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA’

**TEXT**

# Conceptualisation



the Hermeneutical Circle

# Conceptualisation

4. Textual  
Parts

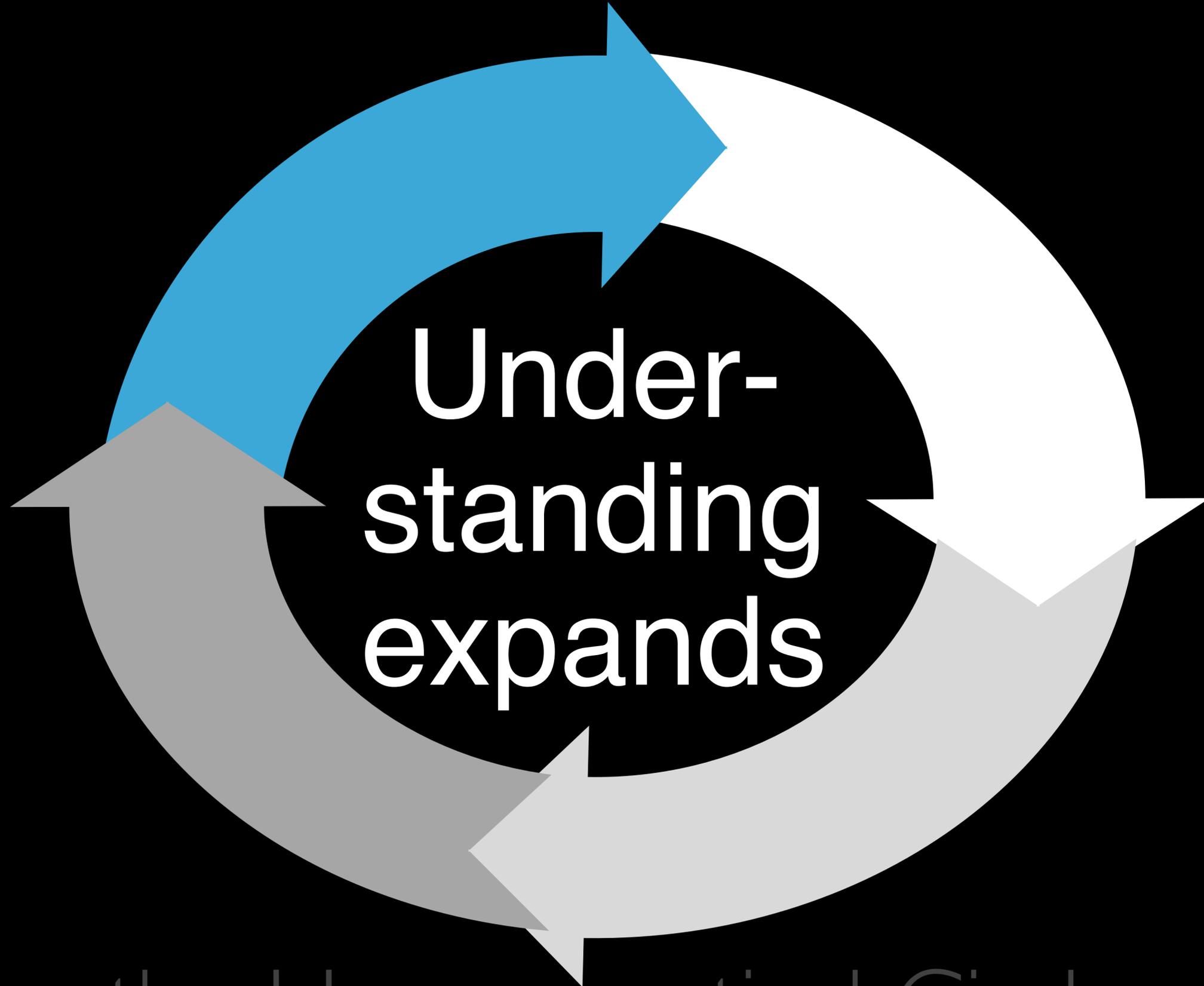
1. Pre-  
Understanding

Under-  
standing  
expands

3. Pre-  
Understanding

2. Textual  
Parts

the Hermeneutical Circle



# Conceptualisation

4. Textual  
Parts

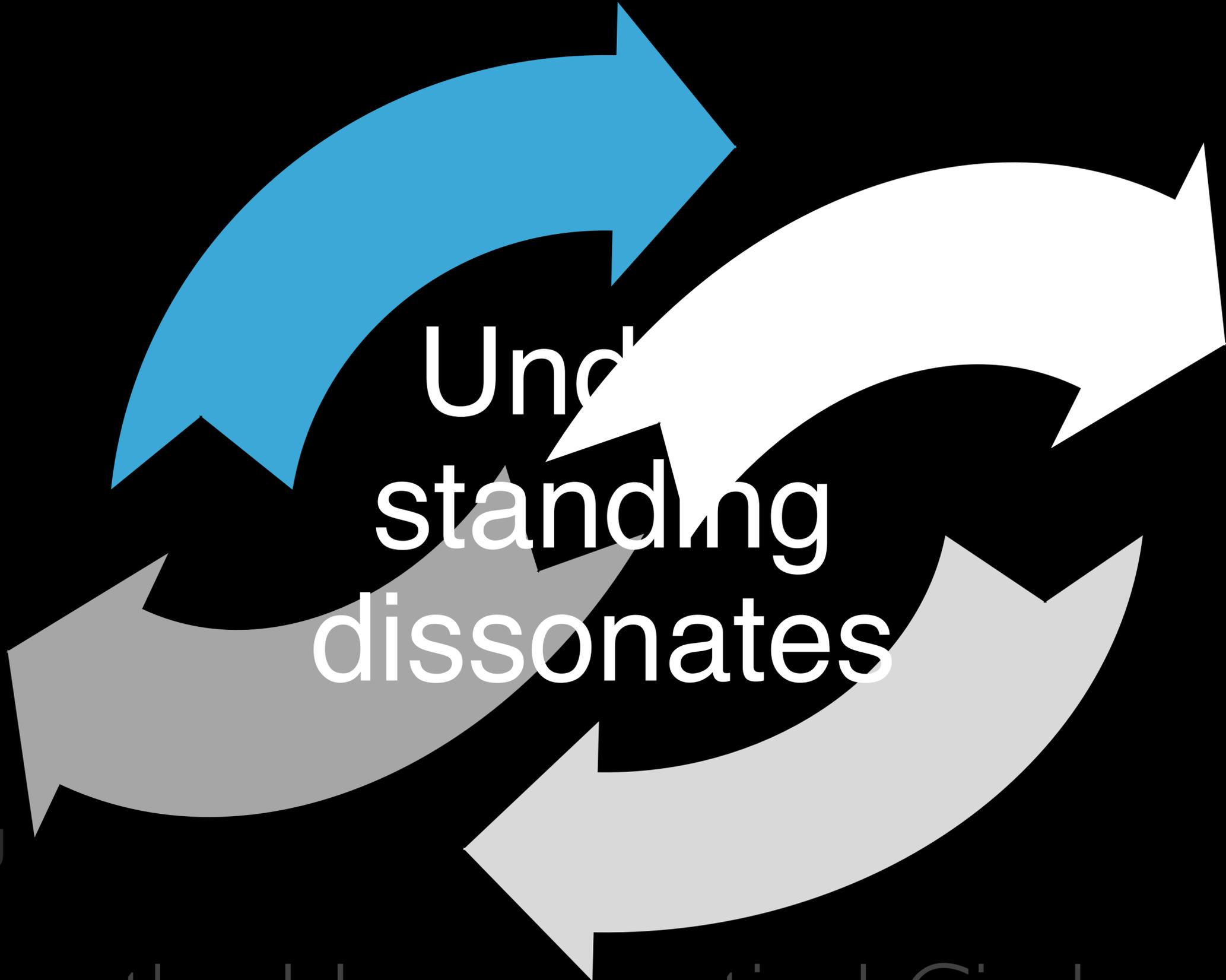
1. Pre-  
Understanding

Under-  
standing  
dissonates

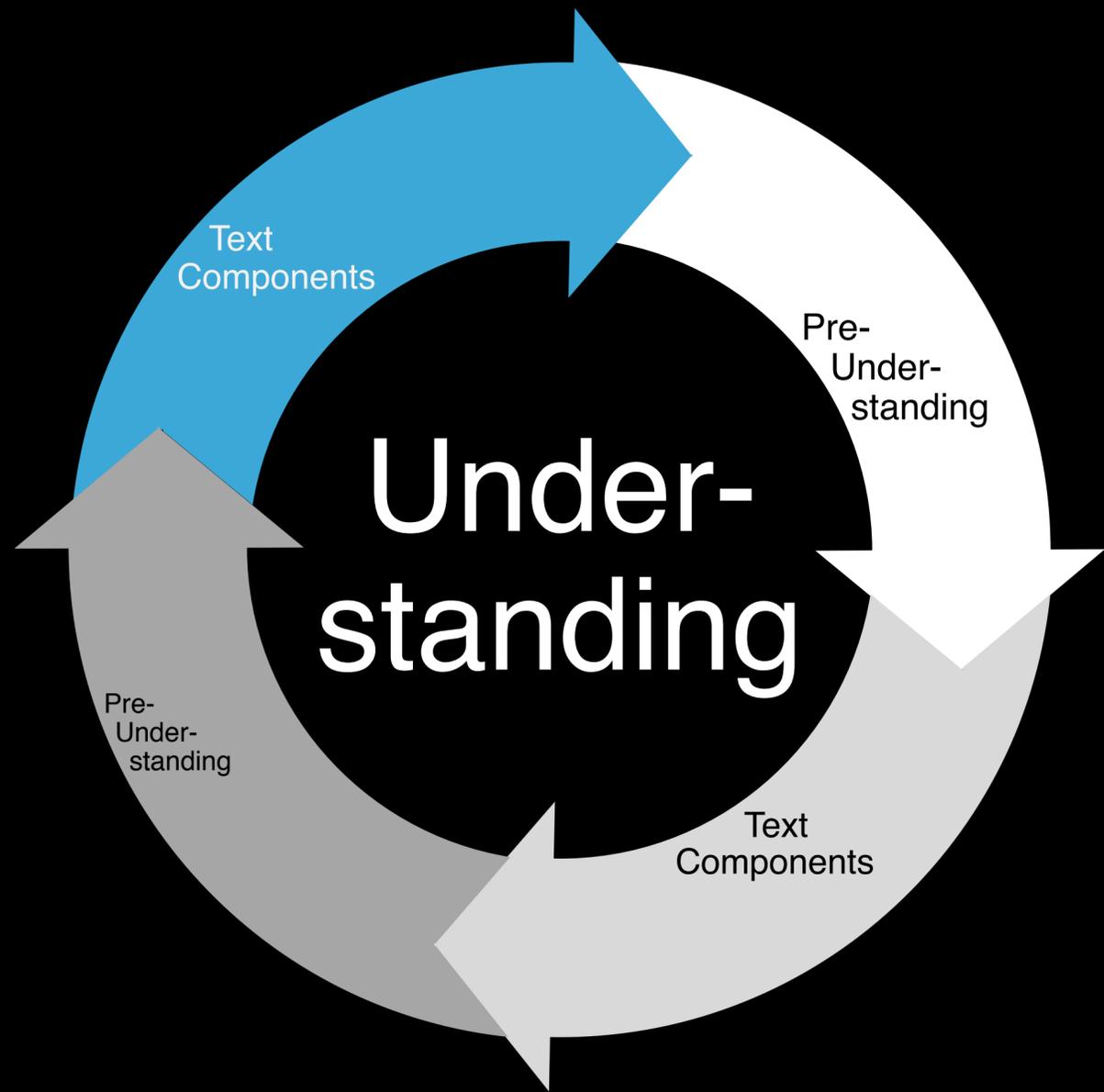
3. Pre-  
Understanding

2. Textual  
Parts

the Hermeneutical Circle



Are we Safe?



*'...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA'*

*'Two white lights operable by the pilot and trainable in azimuth and elevation without removing his/her hands from the flying controls...'*

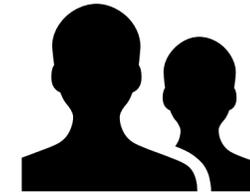
**'Maintaining, enhancing and promoting the safety of civil aviation...'**

‘...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA’

TEXT

# Authorising Influences

Socialisation



The CEO suggested this was ‘totally legal...’

~ Fice, 2011, Appeals Tribunal Transcript

'...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA'

TEXT

# Authorising Influences

**The CEO suggested this was 'totally legal...'**

*~ Fice, 2011, Appeals Tribunal Transcript*

Institutionalisation



'...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA'

# Authorising Influences

**The CEO suggested this was 'totally legal...'**

*~ Fice, 2011, Appeals Tribunal Transcript*

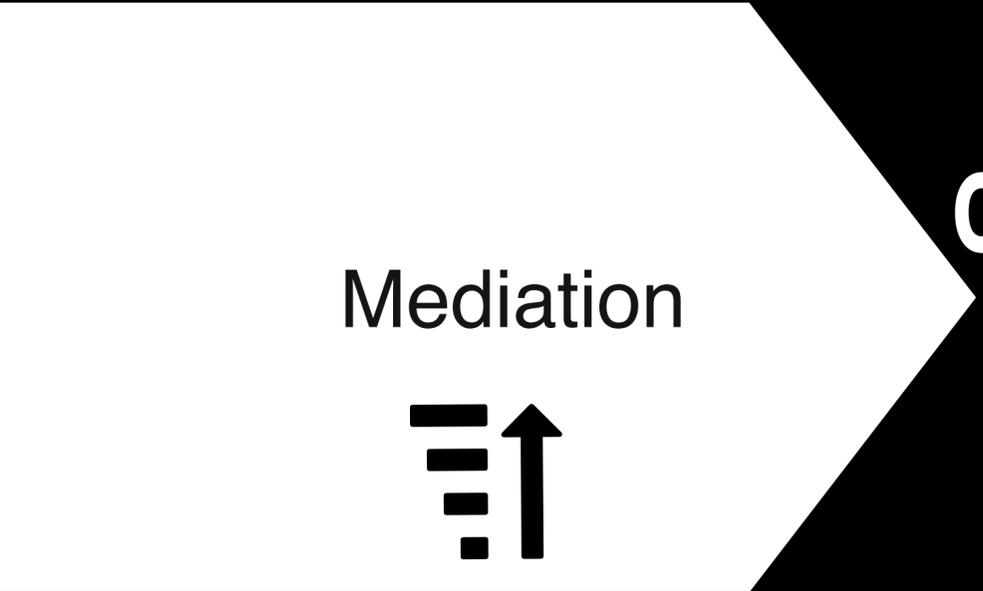
Emotionalisation



# Decision Making

Understanding

Meaning



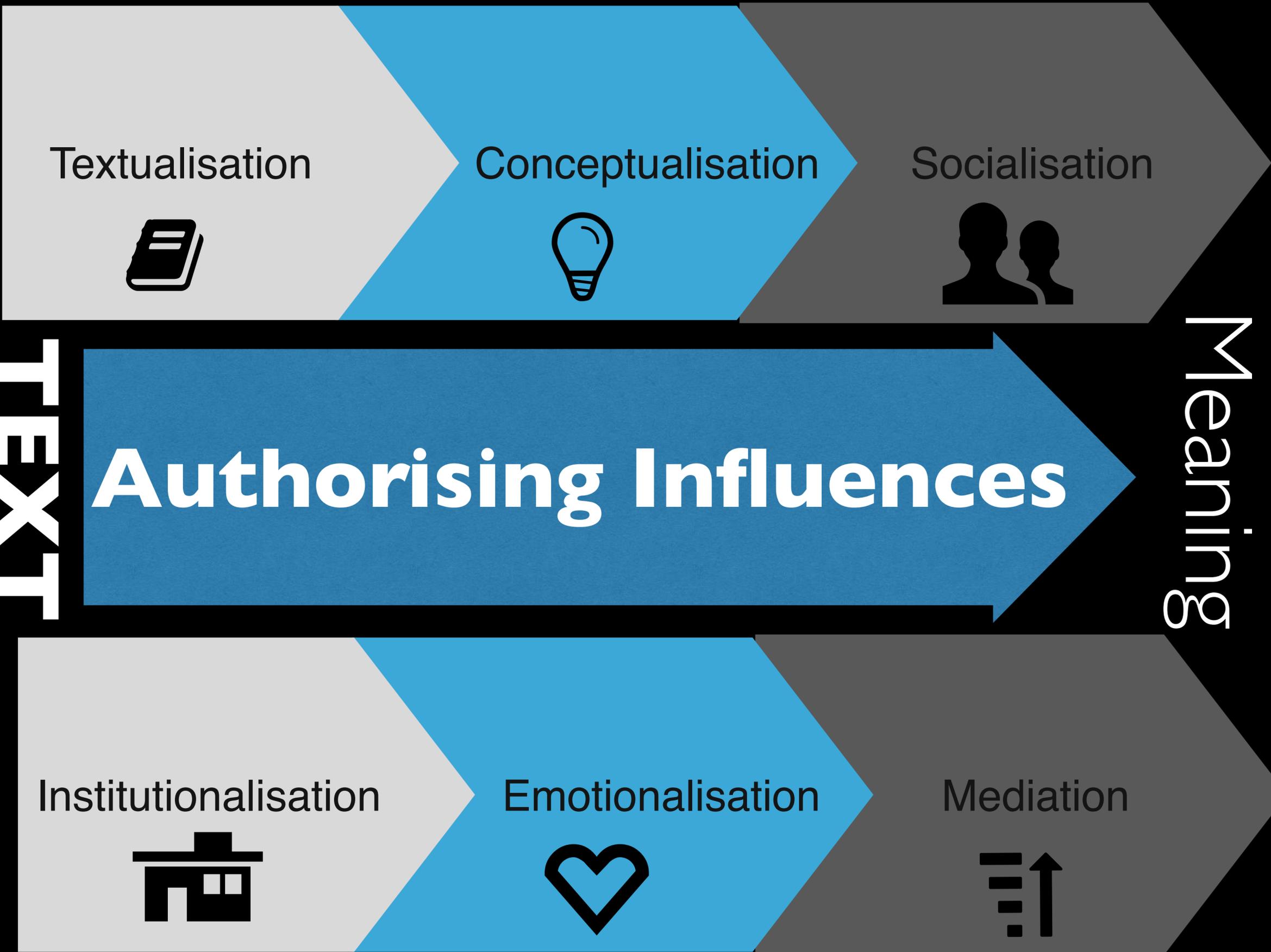
**TEXT**

'...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA'

# Decision Making

## Understanding

### Meaning



‘...If the aircraft is not adequately equipped with either de-icing or anti-icing equipment of the type and quantities directed by CASA’

## TEXT

If a rule is written  
clearly, lucidly,  
succinctly, will it  
always be  
understood?

the **Irony** of  
'Legislationism'

The pen is mightier than the sword,  
but interpretation is  
mightier still...



**Left engine**



**“Speech has power.  
Words do not fade.  
What starts out as a sound,  
Ends in a deed.”**

*~Abraham Joshua Herschel*

**Right wing section**



**Main wreckage**



**Debrief**