

Complaints

Compliance Assistance Module

RHRA
Retirement Homes Regulatory Authority

RHRA Retirement Homes Regulatory Authority

This Compliance Assistance Module is designed to assist operators in understanding the requirements of select portions of the Act and Regulation. It is not, and does not replace, the home-specific training that is required by the Act and Regulation. *Retirement Homes Act, 2010 and Ontario Regulation 166/11* .

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The RHRA has created Compliance Assistance Modules (CAM) to provide licensees with clarity on our expectations related to compliance with the *Retirement Homes Act, 2010* (the Act) and Ontario *Regulation 166/11*.

Please note: Information, directions, and recommendations included in the CAMs are for general assistance only, and should be read in conjunction with the *Act* and Regulation. The CAM covers only select aspects of the *Act* and Regulation, and in the event of any conflict between the CAM and the *Act* and/or Regulation, the *Act* and/or Regulation prevails.

The CAM may be changed at any time without notice.

Licensees should consult the Act and Regulation for current legislation and compliance requirements.

The CAMs do not constitute legal advice and users should consult their own legal counsel for the purposes of interpreting the Act and Regulation.

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Introduction

Welcome to the RHRA *Compliance Assistance Module* on the subject of Complaints.

This Module has three main purposes:

- To provide you with basic information regarding Ontario's legal, regulatory, and inspection framework for the operation of retirement homes,
- To explain what the Act and Regulations have to say about how retirement homes need to deal with complaints from residents, family members, and others,
- To present some familiar, day-to-day scenarios to test your understanding of how complaints should be received and acted on.

Applying what you learn in this program will help your home to comply with legislated requirements concerning complaints.

Procedure for Complaints to Licensees

Module Objectives

In this Module, we'll focus on a particular set of legal and regulatory requirements that every home is expected to meet – requirements concerning how *complaints* are handled.

In this Module you'll learn:

- Exactly what the *Act* and *Regulations* have to say on this topic
- How to go about preparing compliant complaint procedures for your home
- The difference between legal requirements and best practices
- Some suggestions on how to keep records concerning each complaint you receive, and how to conduct trend analysis

Tips for Effective Complaints Handling

Before we look in detail at what the law says about how complaints must be dealt with, let's take a moment to highlight some personal practices that will help you handle complaints effectively.

First, it's important to know in advance what your home's Complaints Procedure says. You should know how to recognize that a complaint is being made, what to do about it, and the importance of avoiding delays in dealing with complaints.

Handling Complaints Effectively:

- Know in advance what your home's Complaints Procedure says about how to handle complaints
- Take all complaints seriously
- Acknowledge the complainant and listen actively
- Determine expectations
- Stay alert to complaints involving allegations of abuse or neglect
- Treat complaints as opportunities for improvement

What the Act and Regulations Require

The *Act* requires that homes have a written Complaints Procedure that meets the requirements of the *Regulations*.

Further, homes must be able to demonstrate that they are actually using the procedure.

The legislation does not dictate how each home's procedure should be organized or written. Rather, it gives each home latitude to develop procedures that fit the context of its needs.

What is important is that the procedure meets the minimum requirements of the *Act* and *Regulations*.

Dealing with complaints effectively is a good way to reduce the likelihood that the RHRA will be contacted regarding a complaint about *your* home.

Legislative requirements relating to complaints procedures are found in four main topic areas:

- The need to have a written Complaints Procedure
- How to deal with complaints
- Record keeping
- Complaints analysis

In many cases, complaints will relate closely to other parts of the legislation dealing with allegations of abuse and neglect.

There are also related legislative requirements about information packages, regarding both complaints and abuse and neglect.

Written Complaints Procedure

Over many years, experience in retirement homes has demonstrated that complaints from residents, family members, and others can be extremely valuable in identifying safety concerns and issues that have a negative impact on residents' lives.

The *Act* requires a retirement home to have a written Complaints Procedure that individuals can use to complain about the operation of the home, together with the procedure that the home will follow in dealing with each complaint.

The exact wording of the Act:

> **Written Complaints Procedure**
>
> A73. (1) Every licensee of a retirement home shall ensure that there is a written procedure for a person to complain to the licensee about the operation of the home and for the way in which the licensee is required to deal with complaints.

Dealing with Complaints

Further guidance on requirements for a written Complaints Procedure is provided in Section 73 (2) of the Act, which directs attention to detailed requirements in the Regulations regarding procedures for responding to complaints.

A written Complaints Procedure must address all four of the regulatory requirements, namely that:

- Each complaint must be investigated. If the complaint alleges harm or risk of harm to one or more residents, the investigation must begin immediately
- If possible, the complaint must be resolved and a response provided within 10 business days;
- If the resolution of a complaint takes more than 10 business days, receipt of the complaint must be acknowledged within 10 business days along with an estimate of when resolution can be reasonably expected
- The response, directed to the person who made the complaint, must explain what has been done to resolve the complaint – or why the home believes the complaint to be unfounded

The exact wording of the Act and Regulations on this topic:

Requirements for procedure
A73. (2) The procedure shall comply with the regulations. 2010, c. 11, s. 73 (2).

Procedure for complaints to licensee

R 59 (1) Every licensee of a retirement home shall ensure that every written or verbal complaint made to the licensee or a staff member concerning the care of a resident or operation of the home is dealt with as follows:

1. The complaint shall be investigated. If the complaint alleges harm or risk of harm to one or more residents, the investigation shall be commenced immediately.
2. The complaint shall be resolved if possible, and a response that complies with paragraph 4 provided within 10 business days of the receipt of the complaint.
3. For those complaints that cannot be investigated and resolved within 10 business days, an acknowledgement of receipt of the complaint shall be provided within 10 business days of receipt of the complaint, including the date by which the complainant can reasonably expect a resolution, and a follow-up response that complies with paragraph 4 shall be provided as soon as possible in the circumstances.
4. A response shall be made to the person who made the complaint, indicating,
   i. what the licensee has done to resolve the complaint, or
   ii. that the licensee believes the complaint to be unfounded and the reasons for the belief. O. Reg. 166/11, s. 59 (1).

Record Keeping

Resident complaints can be made verbally or in writing.

In either case, homes are required to keep a written record of the complaints they receive. The record must include, as a minimum:

- The nature of the complaint and the date it was received
- Actions taken to resolve the complaint, including dates for actions already taken and time frames for follow-up action
- A description of the final resolution, if any, of the complaint
- Descriptions of responses provided to the complainant, including dates
- Replies from the complainant

The home is also required to ensure that the record is kept in a readable and useable format that allows a complete copy of the record to be readily produced on request by an inspector.

Please note that the Regulations allow an exception to the record keeping rules in the case of verbal complaints resolved within 24 hours. This is further explained in the next screen.

The exact wording of the regulations regarding record keeping:

Record Keeping

R 59 (2) The licensee shall ensure that a written record is kept in the retirement home that includes,

(a) the nature of each verbal or written complaint;
(b) the date that the complaint was received;
(c) the type of action taken to resolve the complaint, including the date of the action, time frames for actions to be taken and any follow-up action required;
(d) the final resolution, if any, of the complaint;
(e) every date on which any response was provided to the complainant and a description of the response; and
(f) any response made in turn by the complainant.

Format and retention of records

R 56. (1) In this section,
"record" means any document or record of information, including personal health information, in any form. O. Reg. 166/11, s. 56 (1).

(2) This section applies to all records that the licensee of a retirement home is required to keep under the Act or this Regulation, including records relating to a resident, and documentation that the licensee is required to keep when providing a care service to a resident. O. Reg. 166/11, s. 56 (2).

(3) The licensee shall ensure that each of the records is kept in a readable and useable format that allows a complete copy of the record to be readily produced. O. Reg. 166/11, s. 56 (3).

(4) The licensee shall ensure that each of the records is retained for a reasonable length of time to be determined based on the nature of the record. O. Reg. 166/11, s. 56 (4).

(5) In addition to subsection (4), if a record is a record that subsection 55 (1) requires the licensee to keep in respect of a resident of a retirement home, the licensee shall ensure that the record is retained for no less than seven years from the last day on which the person is a resident of the home and that a copy of the record is available in the home at all times during that period. O. Reg. 166/11, s. 56 (5).

(6) The licensee shall ensure that records relating to a resident or to the police background checks required by section 64 of the Act or the declarations required by subsection 13 (3) of this Regulation with respect to staff who work in the retirement home are kept in a manner that protects the security and confidentiality of the records. O. Reg. 166/11, s. 56 (6).

(7) The licensee shall develop a written policy detailing how the licensee will comply with the requirements in this section. O. Reg. 166/11, s. 56 (7).

As mentioned in the previous screen, the regulations allow an exception to the record keeping rules in the case of verbal complaints resolved within 24 hours.

If the verbal complaint does not involve abuse or neglect and can be resolved within 24 hours, there is no requirement to keep a record.

The word "resolved" means that the complaint is dealt with in accordance with the requirements of the legislation. It does *not* mean that the outcome must always be satisfactory to the complainant.

The exact wording of this Regulation:

Procedure for complaints to licensee

R 59 (4) Subsections (2) and (3) do not apply with respect to verbal complaints that the licensee is able to resolve within 24 hours of the complaint being received. O. Reg. 166/11, s. 59 (4).Complaints Analysis

The written complaint records that your home keeps must be analyzed at least quarterly as a means of detecting complaint trends or patterns that may suggest improvements to your home's operations.

Again, the Regulations allow an exception to the analysis rules in the case of verbal complaints resolved within 24 hours.

Complaints Analysis

R 59 (3) The licensee shall ensure that,

(a) the written record is reviewed and analyzed for trends at least quarterly;

(b) the results of the review and analysis are taken into account in determining what improvements are required in the retirement home; and

(c) a written record is kept of each review and of the improvements made in response. O. Reg. 166/11, s. 59 (3).

Analysis Exception

R 59 (4): Subsections (2) and (3) do not apply with respect to verbal complaints that the licensee is able to resolve within 24 hours of the complaint being received. O. Reg. 166/11, s. 59 (4).

Protection Against Abuse and Neglect

A fundamental requirement of the Act is that retirement homes must protect residents from abuse by anyone – staff members, other residents, family members, or anyone else. They must also ensure that the home and its staff do not neglect residents.

To support its commitment to providing a zero tolerance environment, the retirement residence must prepare a written policy promoting zero tolerance of abuse and neglect – and ensure compliance with the policy.

The applicable requirements:

Protection against abuse and neglect

A67. (1) Every licensee of a retirement home shall protect residents of the home from abuse by anyone. 2010, c. 11, s. 67 (1).

Same, neglect

A67. (2) Every licensee of a retirement home shall ensure that the licensee and the staff of the home do not neglect the residents. 2010, c. 11, s. 67 (2).

Resident absent from home

A67. (3) The duties in subsections (1) and (2) do not apply if a resident is absent from the retirement home, unless the resident continues to receive care services from the licensee or the staff of the home. 2010, c. 11, s. 67 (3).

Policy to promote zero tolerance

A67. (4) Without in any way restricting the generality of the duties described in subsections (1) and (2), the licensee shall ensure that there is a written policy to promote zero tolerance of abuse and neglect of residents and shall ensure that the policy is complied with. 2010, c. 11, s. 67 (4).

Definitions of Abuse and Neglect

When dealing with possible instances of abuse or neglect, definitions are important.

NEGLECT

Neglect, in relation to residents, means the failure to provide a resident with the care and assistance required for his or her health, safety, or well-being and includes inaction or a pattern of inaction that jeopardizes the health or safety of one or more residents.

ABUSE

Abuse, in relation to a resident, means physical abuse, sexual abuse, emotional abuse, verbal abuse or financial abuse, as may be defined in the regulations in each case.

PHYSICAL ABUSE

Physical abuse means:

(a) the use of physical force by anyone other than a resident that causes physical injury or pain,

(b) administering or withholding a drug for an inappropriate purpose, or

(c) the use of physical force by a resident that causes physical injury to another resident,

It does not include the use of force that is appropriate to the provision of care or assisting a resident with activities of daily living, unless the force used is excessive in the circumstances.

SEXUAL ABUSE

Sexual abuse means:

(a) any consensual or non-consensual touching, behaviour or remarks of a sexual nature or sexual exploitation that is directed towards a resident by a licensee or staff member, excluding:
- touching, behaviour or remarks of a clinical nature that are appropriate to the provision of care or assisting a resident with activities of daily living; or
- consensual touching, behaviour or remarks of a sexual nature between a resident and a licensee or staff member that is in the course of a sexual relationship that began before the resident commenced residency in the retirement home or before the licensee or staff member became a licensee or staff member

(b) any non-consensual touching, behaviour or remarks of a sexual nature or sexual exploitation directed towards a resident by a person other than a licensee or staff member.

EMOTIONAL ABUSE

Emotional abuse means:

(a) any threatening, insulting, intimidating or humiliating gestures, actions, behaviour or remarks, including imposed social isolation, shunning, ignoring, lack of acknowledgement or infantilization that are performed by anyone other than a resident, or

(b) any threatening or intimidating gestures, actions, behaviour or remarks by a resident that causes alarm or fear to another resident if the resident performing the gestures, actions, behaviour or remarks understands and appreciates their consequences.

VERBAL ABUSE

Verbal abuse means:

(a) any form of verbal communication of a threatening or intimidating nature or any form of verbal communication of a belittling or degrading nature that diminishes a resident's sense of well-being, dignity or self-worth, if the communication is made by anyone other than a resident, or

(b) any form of verbal communication of a threatening or intimidating nature made by a resident that leads another resident to fear for his or her safety if the resident making the communication understands and appreciates its consequences.

FINANCIAL ABUSE

Financial abuse means any misappropriation or misuse of a resident's money or property. The RHRA considers financial abuse to include theft of a resident's funds or property.

Zero Tolerance of Abuse and Neglect

Building on its protections against abuse and neglect, the Act requires homes to prepare a written Zero Tolerance of Abuse and Neglect Policy – in effect declaring that the home has zero tolerance for abusive or neglectful behaviour, and will follow certain procedures for preventing and responding to it.

A Zero Tolerance of Abuse and Neglect Policy must, among other things:

- Explain what abuse and neglect are
- Affirm that abuse and neglect will not be tolerated
- Spell out procedures for preventing abuse and neglect in the home, and investigating alleged, suspected or witnessed abuse and neglect
- Note the obligation to report to the RHRA any instance of abuse and neglect if it results in harm or the risk of harm to a resident
- Specify the consequences for those who abuse or neglect residents

The complete list of Zero Tolerance of Abuse and Neglect Policy requirements of the *Act* and *Regulations*:

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A67.(5) At a minimum, the policy to promote zero tolerance of abuse and neglect of residents shall,

(a) clearly set out what constitutes abuse and neglect;
(b) provide that abuse and neglect are not to be tolerated;
(c) provide for a program for preventing abuse and neglect;
(d) contain an explanation of the duty under section 75 to report to the Registrar the matters specified in that section;
(e) contain procedures for investigating and responding to alleged, suspected or witnessed abuse and neglect of residents;
(f) set out the consequences for those who abuse or neglect residents;
(g) comply with the prescribed requirements, if any, respecting the matters described in clauses (a) to (f); and
(h) deal with the additional matters, if any, that are prescribed. 2010, c. 11, s. 67 (5).

Policy of zero tolerance of abuse and neglect

R15.(1) The program for preventing abuse and neglect described in clause 67 (5) (c) of the Act shall entail training and retraining requirements for all staff of the retirement home, including,

(a) training on the relationship between power imbalances between staff and residents and the potential for abuse and neglect by those in a position of trust, power and responsibility for resident care; and
(b) situations that may lead to abuse and neglect and how to avoid such situations. O. Reg. 166/11, s. 15 (1).

R15. (2) The procedures for investigating and responding to alleged, suspected or witnessed abuse and neglect of residents described in clause 67 (5) (e) of the Act shall include details outlining who will undertake the investigation and who will be informed of the investigation. O. Reg. 166/11, s. 15 (2).

R15. (3) The policy to promote zero tolerance of abuse and neglect of residents described in subsection 67 (4) of the Act shall,

(a) contain procedures and interventions to assist and support residents who have been abused or neglected or allegedly abused or neglected;

(b) contain procedures and interventions to deal with persons who have abused or neglected or allegedly abused or neglected residents, as appropriate;

(c) identify measures and strategies to prevent abuse and neglect;

(d) provide that the licensee of the retirement home shall ensure that the resident's substitute decision-makers, if any, and any other person specified by the resident,

(i) are notified immediately upon the licensee becoming aware of an alleged, suspected or witnessed incident of abuse or neglect of a resident that has resulted in a physical injury or pain to a resident or that causes distress to a resident that could potentially be detrimental to a resident's health or well-being, and

(ii) are notified within 12 hours upon the licensee becoming aware of any other alleged, suspected or witnessed incident of abuse or neglect of a resident;

(e) provide that the licensee of the retirement home shall ensure that the resident and the resident's substitute decision-makers, if any, are notified of the results of an investigation described in clause 67 (5) (e) of the Act immediately upon the completion of the investigation;

(f) provide that the licensee of the retirement home shall ensure that the appropriate police force is immediately notified of any alleged, suspected or witnessed incident of abuse or neglect of a resident that the licensee suspects may constitute a criminal offence; and

(g) provide that the licensee of the retirement home shall ensure that,

(i) an analysis of every incident of abuse or neglect of a resident at the home is undertaken promptly after the licensee becomes aware of it,

(ii) at least once in every calendar year, an evaluation is made to determine the effectiveness of the policy and what changes and improvements are required to prevent further occurrences of abuse and neglect of residents,

(iii) the results of the analysis undertaken under subclause (i) are considered in the evaluation mentioned in subclause (ii),

(iv) the changes and improvements mentioned in subclause (ii) are promptly implemented, and

(v) a written record of everything provided for in subclauses (ii) and (iv) and the date of the evaluation, the names of the persons who participated in the evaluation and the date that the changes and improvements were implemented is promptly prepared. O. Reg. 166/11, s. 15 (3).

Investigation of Abuse and Neglect

Homes must investigate every alleged, suspected, or witnessed instance of abuse or neglect immediately – no matter how it comes to the home's attention.

This is accompanied by the obligation to take appropriate action in response to every incident.

INVESTIGATION OF ABUSE/NEGLECT

A 74 Every licensee of a retirement home shall ensure that,

(a) every alleged, suspected or witnessed incident of the following of which the licensee knows or that is reported to the licensee is immediately investigated:
  (i) abuse of a resident of the home by anyone,
  (ii) neglect of a resident of the home by the licensee or the staff of the home, or
  (iii) anything else specified in the regulations;

(b) appropriate action as determined in the context of this Part and in the circumstances is taken in response to every incident described in clause (a); and

(c) the prescribed requirements, if any, for investigating and responding as required under clauses (a) and (b) are complied with.

Complaints Procedure or Abuse/Neglect Policy?

As you have learned, Ontario law requires retirement homes to have policies and procedures to deal with two distinctly different types of complaints.

The *Complaints Procedure* gives residents, family members, and others a way to raise concerns about quality of care, physical hazards, food and dining room routines, and a host of other factors that contribute to quality of life in the home.

But, if a complaint involves an alleged, suspected, or witnessed instance of abuse or neglect, it must be treated with added urgency and rigour. That is why every home is required have a *Zero Tolerance of Abuse and Neglect Policy*.

For any complaint, only one of these procedures is applied.

If a complaint involves an alleged, suspected, or witnessed instance of abuse or neglect the *Zero Tolerance of Abuse and Neglect Policy* must be applied.

If a complaint is investigated initially using the Complaints Procedure and it becomes apparent that abuse or neglect may be involved, the Complaints Procedure should be abandoned and the investigation should shift to the process set out in the Zero Tolerance of Abuse and Neglect Policy.

The choice of one procedure over the other can sometimes hinge on the difference between allegations of harm or risk of harm, and allegations of abuse or neglect.

For example, a retirement home resident complains that when she tries to go through a particular door equipped with an automatic closer, it often begins to close before she is all the way through. On more than one occasion, she has been bumped and felt in danger of falling.

Does this complaint allege harm/risk of harm, or abuse/neglect?

The woman who feels at risk from a door that closes prematurely is fully justified in making a complaint. The door definitely presents a risk of harm.

Should this case be handled according to the Complaint Procedures – or does the Zero Tolerance of Abuse and Neglect Policy apply?

The first question to ask is: does her experience fit any of the definitions for physical, sexual, emotional, verbal, or financial abuse? The answer is clearly NO.

The second question is: Is it a case of neglect – failure to provide a resident with the care and assistance required for his or her health, safety, or well-being? Inaction or a pattern of inaction that jeopardizes the health or safety of one or more residents? No, that doesn't apply either.

So, while this case involves possible harm, it does not entail abuse or neglect. For that reason, the complaint would be investigated and dealt with using the normal Complaint Procedures, not the more urgent and rigorous Zero Tolerance of Abuse and Neglect Policy.

But don't forget – the investigation of a complaint like this one that alleges risk of harm must begin immediately so that the risk is addressed as soon as possible.

Knowledge Check

Here's a second scenario. A resident's daughter has complained that an unexplained bruise has appeared on her mother's left arm. The home begins to investigate immediately using its Complaints Procedure. The mother suffers from mild cognitive impairment but, during a lucid moment, says that the bruise was caused when a "bad man" grabbed her arm.

In light of the new information, should the investigation continue using the home's Complaints Procedure – or should it shift to the process set out in the Zero Tolerance of Abuse and Neglect Policy?

A. The Complaints Procedure should continue
B. The Investigation should shift to the Zero Tolerance of Abuse and Neglect Policy

Feedback

The correct answer is B.

As this complaint now involves alleged physical abuse, the Complaints Procedure should be abandoned and the investigation should shift to the process set out in the Zero Tolerance of Abuse and Neglect Policy.

Information Packages for Residents

Before an individual begins residence in a retirement home, the home is required to provide the resident and his or her substitute decision-makers with an information package that includes:

- The home's policy regarding zero tolerance of resident abuse and neglect
- The procedure for making a complaint about the operation of the home

Some homes may prefer to provide shortened or simplified versions of these policies in the information package. This is acceptable as long as certain minimum information is included. In both cases, information about how to obtain a *full* copy of the policies must be included in the information package.

The text of the applicable sections of the *Act* and for a list of minimum information package requirements:

Information for residents

54. (1) Every licensee of a retirement home shall ensure that,

(a) a package of information that complies with this section is given to every resident of the home and to the substitute decision-maker of the resident, if any, before the resident commences his or her residency

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54. (2) The package of information shall include, at a minimum,

(c) the licensee's policy mentioned in subsection 67 (4) to promote zero tolerance of abuse and neglect of residents;

(d) the licensee's procedure for complaints mentioned in subsection 73 (1)

Minimum Information Package Contents

The Information Package provided to residents and their substitute decision-makers must include, as a minimum, the following information about your home's *Zero Tolerance of Abuse and Neglect Policy* and *Complaints Procedure*.

Please note that these minimum information requirements apply only to the Information Package, not to the *Policy* and *Procedure* themselves, which must include all of the information required by the *Act* and *Regulations*.

Zero Tolerance of Abuse and Neglect Summary:

Must include:

- General statement that abuse and neglect are not tolerated
- Definitions of abuse and neglect as in the policy
- Reporting requirements relating to abuse and neglect (RHRA s.75, Police, Substitute Decision Makers (SDMs) and others specified by the resident)
- Clear information for residents (and others) about what the home does to investigate abuse/neglect, and what information will be shared with residents/SDMs, and when
- Information about how to obtain a full copy of the Policy

Complaints Procedure Summary:

Must clearly tell residents (and others):

- How to make a complaint
- What they can expect from the home in response
- Information about how to obtain a full copy of the Procedure

Training

Section 14 of the Regulations requires that retirement home staff receive training regarding the home's Complaints Procedure.

This training must be repeated at least once each calendar year, and must be documented.

Staff training

R 14. (1) For the purposes of clause 65 (2) (j) of the Act, every licensee of a retirement home shall ensure that all staff who work in the home receive training in the procedure described in subsection 73 (1) of the Act for a person to complain to the licensee. O. Reg. 166/11, s. 14 (1).

(2) For the purposes of subsection 65 (4) of the Act, the licensee shall ensure that the persons who are required to receive training under subsection 65 (2) of the Act receive the training at least annually. O. Reg. 166/11, s. 14 (2).

(3) For the purposes of paragraph 5 of subsection 65 (5) of the Act, every licensee of a retirement home shall ensure that every staff member who provides a care service to a resident has received or receives training in,

(a) ways to encourage mental stimulation in residents, ways to provide mental stimulation to residents and the positive effects of encouraging and providing such mental stimulation; and

(b) each care service offered in the home so that the staff member is able to understand the general nature of each of those services, the standards applicable under the Act to each of those services and the aspects of each of those services that may be relevant to the staff member's own duties in the home. O. Reg. 166/11, s. 14 (3).

(4) The licensee shall ensure that every staff member receives the training described in subsection (3) and in subsection 65 (5) of the Act as soon as possible and, in any event, no later than six months from the day the person becomes a staff member at the home. O. Reg. 166/11, s. 14 (4).

(5) The licensee shall ensure that the persons who are required to receive the training described in subsection 65 (5) of the Act receive that training on an ongoing basis, namely at least annually after receiving the training described in subsection (4). O. Reg. 166/11, s. 14 (5).

Knowledge Check

Question 1: Homes must investigate every alleged, suspected, or witnessed instance of abuse or neglect immediately, no matter how it comes to the home's attention.

A. True
B. False

Feedback

The correct answer is True.

Homes must investigate every alleged, suspected, or witnessed instance of abuse or neglect immediately – no matter how it comes to the home's attention – and must take appropriate action in response to every incident.

Question 2: Your home is required to provide residents with an Information Package that, among other topics, provide at least the required minimum of information regarding your home's Zero Tolerance of Abuse and Neglect Policy and Complaints Procedure.

Is your home also required to provide residents and substitute decision-makers with the full versions of the Policy and Procedure, if requested?

A. Yes
B. No

Feedback

The correct answer is Yes.

Homes may provide a shortened version of the Zero Tolerance of Abuse and Neglect Policy and Complaints Procedure in the Information Package, but must also provide residents and substitute decision-makers with the full versions, if asked.

Preparing Compliant Procedures

As you have learned, retirement homes are required to have a written procedure that individuals can use to complain about the operation of the home, together with procedures that the home will follow in dealing with each complaint.

If an RHRA inspector finds that your home does not have Complaints Procedures, if the Procedures don't comply fully with the requirements of the *Act* and *Regulations*, or if the complaints aren't being dealt with, your home will be cited for non-compliance.

Your home is then expected to take action to bring its procedures – and the application of those procedures – fully into line with the *Act* and *Regulations*.

In keeping with the legislative and regulatory requirements identified earlier in this program, a compliant Complaints Procedure must:

- ✓ Be presented in a written document
- ✓ Address at least the minimum requirements of both the *Act* and *Regulations* in full
- ✓ Be implemented within the home – meaning that the procedures described in the policy must actually be carried out
- ✓ Be readily available for review by RHRA inspectors on request

Your home's Complaints Procedure does NOT have to:

- X Conform to any set format
- X Go beyond the minimum requirements set out in the *Act* and *Regulations* – although it certainly may if your home wishes
- X Include any best practices suggested by an RHRA inspector – although, again, it may if your home wishes

Best Practices vs Requirements

As you have learned, one of the RHRA's key responsibilities is to inspect homes to ensure that they comply with the *Retirement Homes Act* and *Regulations*.

In addition to pointing out what is expected from your home, an inspector or other RHRA staff member may also suggest that your home adopt some best practices that have helped other homes to perform certain tasks more efficiently and effectively.

With respect to complaints procedures, two best practices have been identified regarding:

- The documentation of complaints
- Conducting complaints trend analysis

Other best practices may be added in the future.

Best Practice for Documentation of Complaints

Each home is required to keep written records including specific information about the complaints it deals with.

Any form of record keeping is acceptable as long as it captures the required information and is readily producible without the need for a staff member to pull different documents from different locations.

However, this is an instance in which the adoption of a best practice – a centralized complaints log – may help to improve your record keeping.

In some homes, the centralized complaints log is a handwritten ledger or document folder. In others, it is a computer-based spreadsheet. In either case, the log should be available to staff and inspectors in an easily accessible location.

It is permissible for homes to combine their records for complaints and abuse or neglect investigations in such a log if makes sense to them.

Best Practice for Complaints Trend Analysis

Complaints analysis is closely associated with record keeping. Without good records, useful analysis is impossible.

As you learned earlier, Section 59 (3) of the Regulations requires that written records of complaints be reviewed and analyzed at least quarterly as a means of detecting complaint trends or patterns. For instance, have the number of complaints related to bathing increased in the last quarter? Have several complaints been received concerning slippery surfaces at building entrances? If so, these trends should be investigated further and appropriate action taken.

A written record must also be kept of each review and of any improvements undertaken.

Using the Compliance Standard

To help homes meet the requirement to track complaints and complete trend analysis on a quarterly basis, the RHRA has identified a number of best practices that homes may wish to adopt.

The best practices provide a basis for continuous improvement of resident security, safety and comfort.

Complaints Log and Analysis Best Practices

All homes are required to track complaints and complete trend analysis on a quarterly basis in keeping with Regulations 59 (2) and 59 (3). The size of a home will influence the level of analysis that it can undertake, but all homes can benefit from considering the following best practices:

- Keep a record of all complaints and responses to complaints in a centralized log using a simple tool such as MS Excel, as this makes it easier both to demonstrate record-keeping compliance and conduct quarterly analyses.
- When recording the information required under the legislation, include as much detail as possible to assist with analysis later on. In particular, make sure you record the steps and actions taken to address and resolve the complaint, and details about the complainant's responses, such as their level of satisfaction, or other comments they make about the home's final resolution of the complaint.
- In addition to tracking the information required under the legislation, your analysis could also consider:
- Type of Complaints (e.g. staff, facility, food quality, quality of service)
- Complainant Type (e.g. residents, family members, others)
- Severity (e.g. critical, major, minor)
- Once a quarter, review the log and identify "patterns" of common complaints (e.g. top three complaints, repeat/common types of complaints over time).
- Identify and document actions taken to deal with the complaint patterns identified by analysis.
- Monitor and review the effectiveness of steps undertaken to address common complaints on a quarterly basis as part of your complaints analysis (e.g. reduction in complaints, increased satisfaction).

Requirements vs Best Practices

RHRA inspectors are required to cite instances of noncompliance with requirements in the *Act* and *Regulations*. However, *best practices* that may have been suggested in the past are never cited, even if they have not been implemented.

The thing to remember is that your home is not *obligated* to implement a best practice such as a centralized complaints log.

What counts is whether or not your home, in its own way, has satisfied the essential requirements of the *Act* and *Regulations*.

Compliance vs Best Practices

How would you answer this question?

If a home already has a process for complaints analysis that seems to work well, is it obligated to change its practices to conform with the RHRA's suggested best practices for complaints analysis?

Knowledge Check

If a home already has a process for complaints analysis that seems to work well, is it obligated to change its practices to conform with the RHRA's suggested best practices for complaints analysis?

A. Yes
B. No

Feedback

The correct answer is No.

Homes are under no obligation to implement best practices suggested by the RHRA. They are obliged only to meet the minimum requirements in the *Act* and *Regulations*. In this case, there is no obligation to change an existing complaints analysis process that is working well.

Key Points Summary

To review, here are some key ideas to remember from this Module.

- Homes are required to have a written Complaints Procedure and to demonstrate that the Procedure is being followed.
- Homes are required to keep a written record of complaints.
- Complaint records must be analyzed at least quarterly as a means of detecting complaint trends and identifying needed improvements to your home's operations.
- Homes must prepare a written policy promoting zero tolerance of abuse and neglect – and ensure compliance with the policy.
- It is important to be aware of the definitions of neglect abuse, and five specific types of abuse: physical, emotional, sexual, financial, and verbal
- Homes must investigate every alleged, suspected, or witnessed instance of abuse or neglect immediately – and take appropriate action.
- Homes must provide residents and substitute decision-makers with an information package that includes, as a minimum:
    - the home's policy regarding zero tolerance of resident abuse and neglect
    - the procedure for making a complaint about the operation of the home
    - homes must also provide access to the full texts of the Policy and Procedure, if requested
- Homes must ensure that annual training of all staff on these two policies is completed and a record of this maintained.
- The RHRA may suggest best practices that have helped homes to perform certain tasks more efficiently and effectively. Remember that these are suggestions, NOT requirements.
- All complaints should be taken seriously.

Compliance Scenarios

In this program, you've learned about legal and regulatory requirements concerning how complaints are received and acted on in retirement homes.

This module gives you a chance to test your understanding by answering some questions about complaint scenarios you may already have encountered in your home.

Scenario 1: Dining Room Cutlery

A resident complains to a food service worker that cutlery should be on the dining tables before residents are seated, rather than being brought out with the meal. Do the complaint procedure requirements set out in the *Act* and *Regulations* apply?

A. Yes
B. No

Feedback

The correct answer is Yes. Homes must ensure that every written or verbal complaint made to the operator or a staff member about the care of a resident or operation of the home is addressed in accordance with the Act and Regulations.

No matter what the nature of a complaint, the requirements need to be met. Complaints are sometimes symptomatic of other issues. It is important to listen to the person making the complaint and discuss their concerns so you understand the root cause.

Scenario 2: Soup Temperature

A resident complains that her soup is not hot enough. The home follows its complaints procedure, and all requirements of the *Act* and *Regulations* are met. Management responds to the resident, explaining that the temperature of the soup is carefully controlled to prevent scalding. The resident is not satisfied with this response. Does the home have to resolve the complaint to the satisfaction of the resident to be in compliance with the complaints handling requirements of the *Regulations*?

A. Yes
B. No

Feedback

The correct answer is No. Homes are encouraged to find a resolution that is satisfactory to the complainant wherever possible. In this example, there may be other creative solutions that can be explored to resolve the resident's concerns.

However, it is not always possible to resolve complaints to a resident's satisfaction. Pay particular attention to documenting these cases, including efforts to resolve the complaint, the complainant's response, and any follow-up actions.

Scenario 3: Dementia and Moved Objects

A resident with dementia becomes agitated whenever a plant is moved from the windowsill in the resident's suite. Each time the resident notices that the plant has been moved, the resident complains to staff. Does the complaints procedure need to be applied to each complaint the resident makes, even though the resident is complaining about the same issue?

A. Yes
B. No

Feedback

The correct answer is Yes. Each time the plant is moved and the resident complains, the complaints procedure must be applied.

To avoid repeated incidents and complaints, the home should try to determine and address the underlying issue. Has the importance of returning the plant to the windowsill been documented in the resident's plan of care and communicated to all staff?

The situation is different if the resident complains repeatedly about a single incident, forgetting that the resident's complaint has been resolved. If the home resolves an incident the first time the resident complains about it, the complaints procedure does not have to be applied again to the resident's repeated complaints for that incident. Instead, the home could put a strategy in place to address the resident's forgetfulness and reassure the resident that the earlier complaint has been addressed. This strategy should be documented – for example, in the resident's plan of care. It is also important to involve the resident's substitute decision-maker, if applicable.

Scenario 4: Rough Handling

A resident's substitute decision-maker complains that the resident is being rushed and handled roughly when bathed. Would your home's Complaints Procedure or Zero Tolerance of Abuse and Neglect Policy be used in this case?

A. The Complaints Procedure would be used.
B. The Zero Tolerance of Abuse and Neglect Policy would be used.

Feedback

The correct answer is B. That's right! Complaints may involve an allegation of abuse or neglect. In such cases, a home is to immediately investigate and address the matter according to the requirements for allegations of abuse or neglect and the home's *Zero Tolerance of Abuse and Neglect Policy*. The complaints procedure will no longer apply to this aspect of the complaint.

Still Have Questions?

If you would like additional information regarding the *Retirement Homes Act* and *Regulations*, Inspections, educational resources, how to respond to an unusual complaint – or other related topics, please reach out to the RHRA in one of these ways:

RHRA website: www.RHRA.ca

Email: info@RHRA.ca

Telephone: 1-855-275-RHRA (7472)

You can also use this Compliance Assistance Module as a reference tool.

We hope this helps you understand and improve compliance with the Act. Please let us know if you found this learning program helpful by completing a short survey.

We value your feedback! Please complete the survey.

Resources

Ontario Regulation 166/11	www.ontario.ca/laws/regulation/110166#BK33
Retirement Homes Act, 2010	https://www.rhra.ca/wp-content/uploads/2018/10/RHRA_Plain_Language_Guide_final-2.pdf


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