

September, 2016

**Retirement Homes Regulatory Authority Response & Action Plan
Regarding the RHRA Risk Officer’s Second Annual Report (June 2016)**

Introduction

Deanna Williams was appointed as the RHRA’s Risk Officer in March 2013. The Risk Officer reports to the Board of Directors and exercises an independent role in assessing the effectiveness of the RHRA’s administration of the Retirement Homes Act, 2010, and O. Reg. 166/11.

The Risk Officer’s second Annual Report focused on the RHRA’s inspection program and included several specific comments for improvement. The report outlined the Risk Officer’s methodology, which included file reviews, attendance at a mock inspection, research, and interviews with staff.

In June 2016, the RHRA Board of Directors reviewed the Risk Officer’s Report and accepted its findings.

The RHRA welcomes the report, which provides further impetus for continuous improvement within the RHRA to advance the safety and protection of retirement home residents.

Once again, Ms. Williams demonstrated a high level of commitment, professionalism, and enthusiasm in her role, and the Board commends her for her work.

Risk Officer Second Annual Report (June 2016) - Comments	RHRA Response to Risk Officer Second Annual Report
<p>1. The Risk Officer noted that in a matter that the RHRA unsuccessfully appealed to the Information and Privacy Commissioner (IPC), the RHRA was unable to gain access to information it had requested of police under the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA). The request was declined because police have discretion whether or not to disclose, and the RHRA is not a designated institution under the MFIPPA. The Risk Officer stated that non-disclosure of such information to the RHRA may create risk to other residents, as well as to the RHRA.</p>	<ul style="list-style-type: none"> • In a postscript to the IPC decision, the adjudicator encouraged police and the RHRA to consider the possibility that section 32(e) of MFIPPA (permitted disclosure), together with s. 75(1) of the RHA (mandatory reporting of harm), could provide a basis for addressing the RHRA’s interest in receiving timely access to requested police information. • If this issue arises in the future, the RHRA will consider the adjudicator’s recommendation to discuss a potential solution with Toronto Police Services Board.

<p>2. The Risk Officer noted that the prevalence of dementia appears to be increasing amongst the older population. As dementia is considered a contributing factor for exit-seeking behavior, resident-to-resident violence and other problematic behaviors in retirement homes, a shift in attention to these trends may be warranted in the routine inspections process. Further, the Risk Officer indicated there may be an opportunity for the RHRA to proactively collect and utilize details about these kinds of incidents, to better identify and mitigate risk to residents.</p>	<ul style="list-style-type: none"> • The RHRA is currently developing a new strategic plan, which will take into account feedback about risks associated with this issue. • In its inspections following allegations of abuse or neglect, the RHRA tracks information about reported incidents of exit-seeking behavior and resident-to-resident violence, and is reviewing ways to improve its retrieval and use of this information for the purpose of risk analysis.
<p>3. The Risk Officer indicated that all homes should ideally be required to determine, before accepting a resident, whether or not they would be able to provide the level of care needed, or to deal appropriately with possible behaviors. However, the Risk Officer also noted that current privacy and confidentiality provisions may present a barrier to mandating such assessments without a requirement for consent.</p>	<ul style="list-style-type: none"> • As noted by the Risk Officer, assessments of residents are subject to the resident's (or substitute decision-maker's) consent. • The RHRA is currently developing educational material for operators regarding requirements for assessments and plans of care.
<p>4. The Risk Officer commented that in reviewing inspection files, she did not see any policies to promote zero tolerance of abuse and neglect that defined any actual practices, actions or steps that must be taken by homes to anticipate and prevent such incidents; but also that this is not a current requirement. In the mock inspection, the Risk Officer did not observe the inspector looking beyond written policies to determine what steps are actually in place to mitigate the potential for such risks. She did note that inspectors generally look to the behavior management strategy and also check on the requirements for analysis of all incidents of abuse or neglect and annual evaluations of the home's policy.</p>	<ul style="list-style-type: none"> • There are legislative requirements for content, but no prescribed form, for homes' policies to promote zero tolerance of abuse and neglect. Considerable variation between various homes' policies is inevitable, and acceptable so long as legislative requirements are met. • When inspecting on specific abuse or neglect allegations, RHRA inspectors review information such as: the home's written policies; the application of its policies; and where applicable, the home's behavior management strategy, its analysis of all incidents of abuse or neglect, and its annual evaluation of its policy. The RHRA is satisfied that this approach to abuse and neglect inspections is appropriate.
<p>5. The Risk Officer noted that a potential risk for seniors may arise in homes that are licensed as retirement homes but also house other residents, such as individuals with pre-existing history or conditions (e.g., mental illness). It is possible that some seniors may choose not</p>	<ul style="list-style-type: none"> • The RHRA notes that disclosure of a home's mixed-use status to prospective residents is not a legislative requirement. However, operators have a duty to protect residents against abuse and neglect; if an inspection indicates a failure to do so, the RHRA may take enforcement action.

<p>to enter or remain in a home if they understood it to be a mixed-use home.</p>	<ul style="list-style-type: none"> • The RHRA can also separately track incidents in mixed-use homes for the purpose of risk analysis.
<p>6. The Risk Officer discussed the RHRA’s review and revision of its risk framework, and concluded that the steps the RHRA is taking towards continuous quality improvement in its inspection program are appropriate and should strongly enhance its effectiveness in ensuring resident safety and protection.</p>	<ul style="list-style-type: none"> • The RHRA concurs, and is now engaged in a strategic planning process, in which it will consider the Risk Officer’s comments on this subject. • The RHRA is always open to recommendations to improve its administration of the legislation.
<p>7. The Risk Officer reviewed the RHRA’s efforts, through orientation and ongoing training, to improve “inter-rater reliability” amongst the inspectors to ensure greater reliability and consistency in results. The Risk Officer suggested an additional possible approach, of having at least two inspectors objectively and independently inspect the same home and then compare and discuss results as a learning exercise to determine where differences exist and why.</p>	<ul style="list-style-type: none"> • The RHRA is currently developing a new strategic plan, and will take the Risk Officer’s comments about this issue into account as part of that process. • The RHRA is always open to suggestions for tools or projects to facilitate quality improvement of its processes.
<p>8. The Risk Officer noted that when corrective action(s) are required following a routine inspection, the inspection report does not always note a timeframe in which the corrective action is expected to be taken. The Risk Officer also commented that it is important that inspection reports ready for posting on the public register include information that is consistent and meaningful to all.</p>	<ul style="list-style-type: none"> • Where an operator has responded to findings of non-compliance in a draft inspection report, the RHRA has changed its inspection reporting to include reference to timelines for corrective action to be taken. The RHRA expects operators to correct non-compliance in all cases, and will conduct follow-up to ensure corrective action has been taken. • The RHRA will take the Risk Officer’s comments regarding its inspection information on the public register into account as part of its strategic plan discussions.