

Retirement Homes Regulatory Authority (RHRA) Fee Information Note & Q&As for Residents

About the RHRA's Fee Review Process

RHRA is proposing to increase its fees for 2023 to be able to deliver on its mandate to protect and ensure the safety and well-being of seniors living in Ontario's retirement homes under the Retirement Homes Act, 2010 (the Act).

RHRA *must* set and charge fees to recover the costs of its activities in fulfilling its mandate. This obligation is established in both the Act, and in our Memorandum of Understanding (MOU) entered into with the Minister for Seniors and Accessibility (MSAA) to whom we are accountable.

RHRA is committed to transparency and is holding a public consultation to ensure stakeholder feedback is considered in the fee setting process. The fee consultation period opens on Tuesday, August 23, 2022 and closes on Wednesday, September 21, 2022.

RHRA welcomes all stakeholders, including residents and their families, to participate in our public consultation on the fee proposals. You can access our fee consultation and submit feedback through our website at www.rhra.ca. The following Questions and Answers may help should you have any questions about RHRA or the consultation materials.

ABOUT RHRA

1. Who is the RHRA?

The Retirement Homes Regulatory Authority (RHRA) is an independent, self-funded, not-for-profit organization that has been mandated by the Ontario government to administer the *Retirement Homes Act, 2010 (Act)* and ensure that all retirement homes follow the regulations in the *Act*. RHRA ensures and protects the safety and well-being of seniors living in Ontario's retirement homes.

There are about 780 licensed retirement homes in Ontario, most of which are private, for-profit operations. Approximately 60% of the suites are owned by chain operators, and the balance by independents. They have models that range from independent living to memory care and from six to more than 200 residents. Residents pay for care services in the home or may choose to get care provided by public home care or by privately hired caregivers.

2. How does RHRA help and support residents?

RHRA puts residents first by ensuring retirement homes follow the rules. RHRA does this by inspecting homes to ensure they comply with the Act and takes action when they do not. We respond to complaints from residents and their families, address reports of harm or risk of harm to residents, and share unbiased, up-to-date, transparent information about all licensed retirement homes. We have a role to and educate the public, retirement home sector and residents on the Act. The fee increase helps ensure RHRA can continue to fulfill its resident protection mandate.

3. How is RHRA funded?

The RHRA is a self-funded not-for-profit regulator. Fees are billed to retirement home licensees to cover expenses that include inspections, complaint handling, investigations, prosecutions, community partnerships and engagement, public awareness about resident's rights, governance programs, responding to government oversight and reporting requirements, and general administration.

The RHRA is a responsible steward of funds collected from the sector and does not charge residents for fees for retirement home regulation.

4. Why do residents need a regulator – what happens if the RHRA doesn't exist?

The RHRA is an independent, unbiased, self-funded not-for-profit regulator mandated by the government to administer the *Retirement Homes Act, 2010 (The Act)*. It is the only organization charged with this critical role, helping protect the safety and wellbeing of seniors living in Ontario's retirement homes.

The sector has been growing in capacity over the past 10 years and is poised to continue to grow in future. The health profiles of residents vary in retirement homes ranging from independent through to high-care needs.

As with all care environments, there is significant potential for negative outcomes, particularly when some resident populations can be more vulnerable. In the wake of the pandemic, public expectations are high for the oversight of these kinds of environments. For these reasons among others there is a clear moral imperative to set and enforce standards of care.

When issues do arise in this sector there is an expectation to demonstrate rigor in oversight to instill public confidence that an impartial overseer is looking after the public's interests. For context, over the past year, the RHRA received more than 1,000 reports of harm/risk of harm. The types of issues include:

- Abuse/neglect of residents (such as inattention to resident needs; verbal abuse; confinement)
- Improper/Incompetent treatment or care (such as medication administration failures; not living up to care plans; harm arising from rough or incompetent physical care)
- Failures to address 'behaviours' (such as resident to resident violence; wandering)

5. How does the RHRA respond to homes that don't follow the law and at the same time ensure residents have a safe place to live?

The RHRA puts residents first by ensuring they can live with confidence and dignity in retirement homes. This includes inspecting homes to ensure they comply with The Act and taking action when they do not, addressing reports of harm or risk to residents and responding to all resident and family complaints, issuing enforcement actions and ensuring that homes come into compliance with The Act.

The RHRA is recognized for its risk-based model which based on our experience and informed by experts. This model allows us to monitor higher-risk homes more frequently and then respond proportionately to mitigate the risk. When a home is in non-compliance, the

RHRA has tools it can quickly use to help bring it into compliance. This includes additional inspections, monetary fines or placing conditions on a license.

The RHRA will revoke a licence, but the preferred approach is to help homes achieve compliance. We take every action to help home achieve compliance, with the aim of keeping seniors safe and in the retirement home they have chosen.

In the rare event a licence is revoked, the RHRA takes proactive steps to ensure any disruption to residents is minimized, including the appointment of a qualified manager to ensure the home continues to operate. In extenuating circumstances, the RHRA may administer emergency funding to residents to help them with costs of finding alternative care arrangements.

RHRA FEES, FUNDING AND GOVERNANCE

7. Who gets charged RHRA fees?

Retirement home licensees are charged RHRA fees. This fee covers the cost of RHRA operations and functions related to administering the Act.

8. Why is RHRA increasing fees for licensees?

When it comes to fees, the RHRA's focus is on ensuring it has the required resources to continue to deliver on its mandate of resident protection in accordance with *The Act*. This includes appropriately responding to changes such as the increased demand for our assistance and ensuring that our regulatory oversight practices reflect the kinds of care being provided by licensees.

There are significant increases in RHRA's core operations and the current fees have not kept pace with the demand for these activities. For example, we have seen an increase in the number of inexperienced applicants seeking licensure; and risks related to staffing issues leading to non-compliance findings related to neglect, behavioural management and plans of care.

Throughout the 2021/22 fiscal year, the RHRA conducted 447 mandatory report inspections of homes –134 more than the previous year. There was also greater case complexity and significant increases in reports of risk and harm and the RHRA worked to address all complaints quickly, fairly and thoroughly.

The RHRA expanded its capacity to quickly address issues by recently introducing a compliance monitoring function to improve oversight when it has issued compliance orders, management orders and license conditions.

The imperative to increase fees now is the result of minimal annual fee increases since 2010 and the expanded draw on our services.

9. Why does the RHRA need to make such a large change now? Can't it wait for the sector to fully recover from the pandemic or phase in changes gradually?

Fee rate changes were below inflation from when it first started charging fees in 2012 through 2020, and the RHRA was relying on early surpluses, sector growth, and early efficiency improvements to fund maturing operations. However, this was not sustainable longer term. Before this could be addressed the pandemic hit and accelerated activity. Given the pandemic circumstances no fee increase was made for 2021.

For 2022, the RHRA consulted on a very significant fee rate increase. Stakeholders asked for an independent review of RHRA's efficiency, and the Minister called for this review. The RHRA limited its fee increase for 2022 and adjusted its business plans to contain costs so that it could assess the outcome from the independent efficiency review.

The review was completed by KPMG who concluded that overall RHRA was efficient and focused on consumer protection. KPMG did find potential saving of less than 5% of RHRA's annual budget. RHRA has already included approximately 40% of these into its current-year's budget; others require more time to implement.

As part of its review, KPMG also identified the need to adjust cost recovery for RHRA's activities to address unsustainable deficits. For 2023, RHRA has aligned its fees proposals with this report and then adjusted for inflation. Without additional cost recovery RHRA will need to dramatically modify its operations to avoid fully depleting its cash reserves. Doing so would seriously undermine its ability to fulfill its mandate responsibly. Future fee changes will be phased in more incrementally where needed

10. The government should be paying for this. Can you ask the government for money?

Due to the circumstances created by the pandemic, the Province funded RHRA through two Transfer Payment Agreements worth a combined \$7.66M. \$1M was money paid to retirement homes in financial distress, and RHRA was able to use \$4M for operations during FY2021 and FY2022 to stabilize the organization. The balance supported investment in digital infrastructure needed for future efficiency.

Government funding the RHRA is not consistent with how the legislation that governs RHRA is structured and RHRA must seek financial solutions within the legislative framework under which it was created.

11. Who is responsible for ensuring affordability in the sector?

The Ministry for Seniors and Accessibility (MSAA) is responsible for working within government to address issues of affordability. The Minister is also responsible for overseeing the performance of the RHRA with respect to its fulfilment of its mandate. The RHRA has a role to be a responsible steward of funds collected and be mindful of the regulatory burden faced by homes as these costs could contribute to the rates homes charge residents. However, RHRA does not have a direct role in addressing broad affordability questions.

12. If you are ‘residents first’, how can you raise fees when residents are already dealing with inflation and higher cost of living while on fixed incomes?

The RHRA puts residents first by ensuring they can live with confidence and dignity in retirement homes. This includes inspecting homes to ensure they comply with *The Act* and taking action when they do not, addressing reports of harm or risk to residents and responding to all resident and family complaints, issuing enforcement actions and ensuring that homes come into compliance with *The Act*.

When it comes to fees, the RHRA’s has a responsibility to ensure it has the required resources to responsibly deliver on its mandate of resident protection.

RHRA’s fees are charged to the licensee who sets their fees services to residents. The regulatory fee is a very small proportion of the fees a resident pays the home for rental and care services, typically less than 0.5%; this is not changed with the proposed increase in fees.

The RHRA is mindful that some homes may be experience a more difficult time recovering from the pandemic for any number of reasons. To ensure that resident protection is not put at risk by a fee increase, we have proposed a fee reduction process for homes that may be experiencing significant financial strain that could put residents at risk.