

Retirement Homes Regulatory Authority Risk Officer Annual Report 2019

Submitted by Nav Sandhawalia
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Introduction

The Retirement Homes Regulatory Authority, (“RHRA” or “Authority”) was established under the *Retirement Homes Act, 2010* (“Act”) and, while it is considered an independent body from the provincial government, it is subject to government oversight through a written Memorandum of Understanding (“MOU”) with the Ministry of Seniors and Accessibility. The Authority administers the Act and regulations and oversees the enforcement of provisions contained within.

The Act requires that an independent, statutory officer (i.e. Risk Officer) be appointed by the Authority. The duties of the Risk Officer are set out in section 24(3) of the Act as follows:

The Risk Officer:

- a) shall review and assess the effectiveness of the Authority’s administration of this Act and the regulations, including the Authority’s activities and proposed activities related to ensuring that licensees meet the care standards and safety standards set out in this Act and the regulations, and respect the rights of residents set out in the Act and regulations, and;*
- b) shall perform the other duties and exercise the other powers that are prescribed, 2010, c11, s 24(3)*

The Risk Officer is appointed by the Board of Directors of the RHRA, in accordance with provisions set out in the Act, the MOU between the RHRA and the Minister responsible for Seniors and Accessibility, and RHRA’s by-law Number 1. They are accountable to perform such duties and issue reports to the RHRA Board through its Governance, Regulatory Affairs, and Nominations Committee. Notwithstanding these reporting requirements, the Risk Officer role is established as both statutory but also an independent position, with clear expectations that the Risk Officer carries out their duties in an independent manner.

Overview, Scope and Approach

Prior to finalizing the scope for this report, a considerable amount of time was spent continuing to understand RHRA’s business, reviewing formal reports (e.g. annual report, strategic report, etc.), speaking with the Board, and speaking with RHRA Management. Through this process, a scope was formulated independently and is the subject of this report.

The focus of this report is the Complaints Process. As outlined in Section 82 of the Act, RHRA has developed a “process for handling complaints that the Registrar receives about an alleged contravention of a requirement under this Act with respect to a retirement home”. The Complaints Process is made available to residents, families of residents, or others who believe that aspects of the Act have been contravened.

The work undertaken to arrive at the recommendations within this report included a number of discussions with RHRA management and staff, the Complaints Review Officer, a number of retirement home operators, and complainants, in addition to independent research and analysis. Specifically, four complainants were interviewed, in addition to three retirement home

operators against which complaints were submitted. The sample size for interviews was chosen to ensure a robust representation, which included complainants and retirement home operators which ranged in size, operational maturity, geography, and complexity of the complaint. The purpose of the discussions was to ensure that any recommendations noted within this report were developed based on a robust understanding and feedback from all parties involved in the Complaints Process.

Prior to beginning fieldwork, a few fundamental questions were developed which helped guide and focus the review process. Specifically, the questions guiding the review were:

- Is the Complaints Process designed effectively?
- Is the Complaints Process operating efficiently?
- Is the Complaints Process meeting objectives?
- Is there room for improvement?

More broadly, the goal of this report is to provide pragmatic and value-added recommendations to assist the Authority to more effectively administer the Act and help ensure residents can live “with dignity, respect, privacy and autonomy, in security, safety and comfort and can make informed choices about their care options”.

Although there are a number of findings and recommendations below, I am glad to report the Complaints Process has been designed for success and is meeting the overall objective of handling complaints that may have contravened aspects of the Act. The recommendations noted below will help refine and best position the Complaints Process for continued success into the future.

Findings and Recommendations

- 1) Finding:** Currently the turnaround time from when a complaint is first filed to when it is ultimately closed varies and is dependent upon complexity, RHRA resource constraints, risk, etc. Although timelines for the various phases of the Complaints Process are tracked, there are currently no targets for how long each phase or the entire process should take. The interviews revealed some negative feedback on the length of time it took RHRA to turnaround in various phases of the complaints process.

Recommendation: Consider developing ‘internal use only’ service level targets for the Complaints Process. The targets should be based on an assessment of risk and complexity of each type of complaint as these variables significantly impact the time required to complete the various phases of the Complaints Process. These internal targets will, in-part, help RHRA management assess resource needs and manage complainant expectations with regard to turnaround times.

- 2) **Finding:** Issues are often raised with the RHRA which do not constitute a contravention of the Act; thus, they do not meet the threshold to follow the formal Complaints Process. In some of these cases, the complainant is directed to work with the home to resolve their issue or they may be directed to another agency which has jurisdiction over the particular issue. In some instances, communication with the operator / home helps resolve the issue raised by the complainant.

Recommendation: RHRA should consider opportunities to work with the operator / home and complainant to mediate both complaints that contravene the Act and those complaints that do not contravene the Act. Mediation should focus on trying to resolve those issues for which the complainant has already endeavoured to resolve the issue through the home's Complaints Process. This suggested approach also ties back to subsection 84(3) of the Act, which affords the Registrar to, amongst other actions, attempt to 'mediate or resolve the complaint'.

- 3) **Finding:** Complainants are required to submit their complaints via written and signed documentation, after which they are contacted by phone. After this initial touch-point, complainants are most often only contacted via formal written communication throughout the process, which in some instances can take many months. Note: recently there has been an informal effort to more proactively contact complainants verbally throughout the Complaints Process.

Recommendation: Formalize guidelines for which the complainant is contacted on regular intervals throughout the Complaints Process. This will help complainants feel as though their concerns are being appropriately reviewed and will in-turn reduce their anxiety and frustration. This proactive outreach may require additional resource time; however, it will increase complainants' satisfaction of the Complaints Process.

- 4) **Finding:** Currently all complaints follow a pre-determined process with all final decisions resting with the Registrar regardless of the risk and complexity of the complaint. A Registrar's Decision Meeting is held on a routine basis, which provides the Registrar an opportunity to ask any questions and gain a fulsome understanding of the complaint being reviewed, prior to making a final decision.

Recommendation: Consideration should be given to enacting a Deputy Registrar who, at minimum, is able to make decisions on certain complaints. Parameters should be developed which guide the types of complaints on which the Deputy Registrar can opine. This analysis should take into account, amongst others, the risk and complexity of the complaint. This suggestion may also help improve the turnaround time for some types of complaints given the shared workload between the Registrar and Deputy Registrar. It should be noted that section 23.1 of the Act allows for the RHRA Board of Directors to appoint a Deputy Registrar.

- 5) **Finding:** Currently, follow-up on anonymous complaints primarily occurs only for serious concerns, which are outlined in Section 75 of the Act. Note: this analysis and corresponding response aligns with the RHRA's risk approach (i.e. proportionate to the risk of harm). Other anonymous complainants are asked to complete the required forms and submit accordingly prior to the formal Complaints Process commencing.

Recommendation: Consideration should be given to whether anonymous complaints, based on credibility and a risk analysis, should be followed-up. This may include, reaching out to the complainant or inspecting a home. Depending on the particulars of an anonymous complaint, there also may be an opportunity to re-direct the issue to another process within the RHRA (e.g. tips).

- 6) **Finding:** All partially or fully completed complaint forms are pursued, which includes contacting the complainant numerous times if they are non-responsive. This entails a significant amount of time given some complainants do not respond or do not fully complete the required paperwork even after various contacts by the RHRA team.

Recommendation: Develop parameters to guide how complaints are pursued in those situations where the complainant is, or has become, non-responsive. This should include an assessment of risk and complexity of the complaint. This will help alleviate some resource constraints, while still allowing the RHRA to focus on those complaints which are higher risk.

- 7) **Finding:** Although the RHRA uses a data analytics process that assesses risk through various factors including compliance, non-compliance and harms, information on the nature of complaints is currently not incorporated into the risk assessment of homes.

Recommendation: Evaluate opportunities to incorporate the contextual feedback from complaints for the benefit of consumers, in addition to assessing how the Complaints Process can inform the broader risk assessment of an operator or home. Both of these recommendations help to better meet the Fundamental Principle of the Act, which includes ensuring residents live 'in security, safety' and 'can make informed choices'. Furthermore, RHRA should consider the value of including information obtained during the Complaints Process to inform educational outreach.

- 8) **Finding:** In a majority of cases, the Complaints Process is initiated once a formal, signed consent form is received by the RHRA. This is currently the only method for a consumer or other stakeholder to initiate the Complaints Process. Complainants also have limited resources which easily guide them as to whether they should follow the Complaints Process path or whether there are other options which may better help resolve their issue.

Recommendation: Enhance the ease of use in relation to the Complaints Process. In particular, consider developing a more robust 'self-help' online presence which

consumers can use as an initial tool to help resolve their issue. This approach would help guide consumers as to how their concerns could best be resolved and may eliminate some of the complaints which are submitted to the RHRA. Privacy and consent would have to be considered, but the RHRA may also consider whether there is an opportunity to refer individuals to relevant 3rd parties which can better address their concerns / issues (e.g. relevant health college for Regulated Health Professionals).

Additionally, the RHRA should consider how complaints can be submitted via various channels, including phone and other electronic means. It is acknowledged that for legal purposes this initial intake may require a subsequent written consent form.

Other Observations/Comments:

- During the course of my review and discussions with various stakeholders, including operators, it was evident there is an overall appreciation for the approachability of RHRA staff. This positive feedback is a testament to RHRA staff and management who have worked diligently in the past years to refine the Complaints Process, which aligns with attributes of a modern and accessible regulator.

Concluding Remarks

As outlined under Sections 81 to 88 of the Act, the RHRA has developed a process to handle complaints in a robust manner that provides an independent conduit for residents, families of residents, and other stakeholders that believe the Act has been contravened by a home or operator. During the course of my review, it was evident the Authority takes great care with complaints, working collaboratively internally amongst operational departments and closely with operators and homes to help address complaints.

The Complaints Process has been refined over the past years by the Authority and the recommendations noted above will help build upon the success already achieved. I encourage the Authority to continue their successful approach to ‘continuous improvement’, which is a fundamental mindset to help meet the ever-changing needs of retirement home residents.

I would also like to thank Jay O’Neill, CEO and Registrar of the Authority and his management team for their support throughout my review. Their openness and enthusiasm to support my work in a transparent manner helped ensure that my recommendations are practical, aligned with the Act, and best positioned to further solidify the success of the Complaints Process.

Nav Sandhawalia, Risk Officer
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