

Retirement Homes Regulatory Authority Risk Officer

Annual Report 2022 / 2023

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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 for Seniors and Accessibility (“Ministry”). 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.*

The Risk Officer is appointed by the Board of Directors of the RHRA (“Board”), 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 (“Governance Committee”). Notwithstanding these reporting requirements, the Risk Officer role is established as both a 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

Since its inception in 2014/2015, the Risk Officer report has focused on reviewing or providing advice on a well-defined functional program elements. During the scoping exercise for this year's report, time was spent reviewing previous Risk Officer and other RHRA reports, speaking with RHRA staff, and conversing with the Governance Committee. Through this process, it was decided to take a slightly different approach to this year's scope with a focus on a theme, as opposed to a functional program element. As such, the subject of this report is an independent assessment of RHRA's transparency posture.

Through discussions with the Governance Committee, it was agreed-upon that the focus should be transparency within the context of residents and prospective residents. The fundamental principle noted within the Act strongly enforces this point, when it notes that a "retirement home is to be operated so that it is a place where residents live with dignity, respect, privacy and autonomy, in security, safety and comfort and can make informed choices about their care options." Residents and prospective residents are at the heart of this key principle. In this regard, prior to beginning fieldwork, fundamental questions were developed which helped guide and focus the review process.

Specifically, the questions guiding this report were:

- Is RHRA operating in a transparent manner for the best interest of residents and prospective residents?
- Is the information provided to residents and prospective residents clear, concise, and easy to understand?
- Do residents and prospective residents feel they have enough of the right information to meet their needs?

It should be noted that awareness, ease of access to information, and clear communication are related and supportive concepts to transparency that were explored in this report. In part, transparency is improved if information that may already be available is disseminated in different and/or improved methods.

The work undertaken to arrive at the recommendations noted within this report were a result of several discussions with RHRA management and staff, consultation with licensees/operators, discussions with residents and their families, and other external stakeholders (e.g. resident advocacy group) in addition to documentation review and analysis. This approach was undertaken to ensure that any recommendations noted within this report were developed based on a comprehensive understanding of perspectives and feedback from various stakeholders.

Recommendations

Background:

In spring 2021, RHRA retained an external consultant to develop a report ('The Clear Need for Transparency') outlining not only the need for increased transparency, but also to draft a plan of how to get there. In addition to obtaining appropriate approvals, there was a recommendation to create a working group, which launched in early October 2021. An important dilemma for all regulators was noted at the initial kick-off meeting that should be taken into consideration with all the recommendations noted in this report. The dilemma is transparency vs. confidentiality - It was noted that regulators need "to provide the right amount of the right information in the right manner in the public interest". Subsequently, various projects were initiated, including the development of RHRA's Transparency Principles, which were finalized in the fall of 2022 (see Appendix A). It should be noted that all this work (up to March 2023) and related material has been taken into consideration during the development of this report.

Notes:

- The 2021 consultant report was extensive, comprehensive, and provided a baseline for this report. The consultant report had strong research of transparency practices both globally and throughout Canada, which were taken into account.
- References to 'residents and prospective residents' throughout this report also encompasses their respective families and friends.
- Some of the recommendations noted below are large initiatives that may take significant time, effort, and resources. RHRA is encouraged in the interim to continue executing smaller initiatives that support the intent and spirit of the recommendations noted below. Furthermore, the recommendations noted below are overarching in nature, which is not meant to retract or replace, but rather support the various other transparency projects planned or underway by RHRA.

Recommendations:

1) Develop summarized snapshot of all retirement homes

Recommendation: RHRA should summarize and condense information currently available on retirement homes so that it is clear, concise, and easier to comprehend. RHRA should also take this opportunity to assess whether there is other information which is currently not in the public domain, but perhaps should be. For example, this may include disciplinary action details.

Context: Although a large volume of information is available on RHRA's website in relation to each retirement home, it is cumbersome to review and understand. Residents and prospective residents must undertake numerous 'clicks' and review

documentation that does not provide an easy overall story of each retirement home. A clear, concise, and easy to understand approach would help residents, prospective residents, and their families quickly assess each retirement home. Furthermore, RHRA should also assess the balance between summarizing factual information and whether subjective information should also be shared publicly. This is a difficult consideration and one that should be assessed against the principles of transparency, privacy, and other cost/benefit considerations.

2) Update RHRA website

Recommendation: RHRA should revamp the website to enhance user friendliness, while also taking the opportunity to alter content to be clear, concise, and easy to understand.

Context: Although there is a lot of information currently available on the website, it can be difficult to find, as such there is an opportunity to enhance user friendliness. Some examples of information that RHRA may want to consider making more prominent includes the purpose and guiding principles of RHRA with a keen focus on the primary audience of residents and prospective residents. These core fundamentals of RHRA are important to be front and centre, especially for those visiting the website for the first time. If undertaking a revamp of the website, RHRA can also take the opportunity to implement other recommendations noted within this report.

3) Broaden familiarity of RHRA's existence and role

Recommendation: Consider further opportunities to broaden awareness of RHRA with residents, prospective residents, and others who may support or advise these groups. RHRA should focus on targeted efforts as opposed to mass media/advertising.

Context: It is difficult for RHRA to be successful in their mandate if residents and prospective residents are unaware of their existence. Currently there is fairly limited knowledge of RHRA and even less knowledge of RHRA's key function, principles, support offered, etc. This finding was prevalent not only in conversations that led to the creation of this report but is also supported by Innovative Research Group's January 2022 research study, which noted that 'Fewer than 30% of retirement home residents in Ontario have heard of the RHRA¹. RHRA should take a focused and targeted communication/advertising approach in this regard, partnering with community senior centres, doctors, and geriatric nurses to name a few examples. Messaging should be clear, concise, easy to understand, and targeted at residents, prospective residents and their families.

¹ https://www.rhra.ca/wp-content/uploads/2022/04/RHRA-2021-Multi-Stakeholder-Research-Report-FINAL-REPORT-SUMMARY-January-2022_Mar-25-2022.pdf

4) Enhanced proactive relationship directly with retirement home residents

Recommendation: RHRA should create channels of communication by which there is a direct proactive relationship with residents. This can come in various forms but may include options such as: a resident newsletter published by RHRA or routine proactive meeting with resident councils. RHRA should assess whether this is currently within their ability, otherwise work with the Ministry to alleviate any hurdles.

Context: As noted earlier in this report, the Act's fundamental principle focuses on the resident, however RHRA currently has little direct proactive communication with residents. Augmenting this communication channel would help residents better understand their rights, potential risks, and other opportunities to enhance their standard of living. Although residents can reach-out directly to RHRA (for example the complaints process), there is currently no formal direct proactive relationship between RHRA and residents. This recommendation also supports recommendation #3, which in-part, focuses on increasing RHRA's awareness with retirement home residents. In this regard, RHRA should balance the outreach strategy to ensure the right type of information is provided, at the right time, and in an appropriate manner.

5) Update information access and privacy code and related policies/protocols

Recommendation: RHRA should review, update/enhance, and clearly communicate the information access and privacy code, which is designed to outline what information and in what circumstances information can be shared with residents and other relevant third parties. RHRA should also take this opportunity to assess whether proactive communications/information sharing (based on historical evidence) is warranted in certain circumstances.

Context: There are various categories of information, some of which are clearly confidential, some of which are not confidential and can be shared, and other information which RHRA has classified as confidential. Although each situation is unique, RHRA should work on documentation and clearly communicate what information is considered confidential and for what reason. Clear, concise, and understandable version of such guidance should be provided on RHRA's website to ensure stakeholders have a clear understanding of how to request information, what type of information will be provided, and rationale for what type of information will not be provided due to privacy and/or confidentiality reasons. It should be noted that at the time of writing of this report, an updated draft access and privacy code had been developed and was being reviewed.

Concluding Remarks

RHRA has made many positive strides in the transparency initiative, while balancing confidentiality/privacy, however there is still room for improvement. The pursuit for transparency is not one which will ever be 'completed' but rather it is a continuous journey and way of doing business which needs to be embedded in the culture of RHRA. Ultimately the goal should be to provide the right amount of the right information, at the right time, and in the right manner for the interest of retirement home residents and prospective residents, in addition to other stakeholders (e.g. retirement home operators, agencies, etc.) This is no easy task, but an important pursuit which requires RHRA's continued commitment and focus. This pursuit is supported by the Objects of the Act, which notes that RHRA has a mandate to advise, educate, and provide information to align with principles of the Act, all with a goal to ensure the safety, security, and comfort of residents.

In closing, I would like to thank Jay O'Neill, CEO and Registrar of the Authority, and his management team for their continued commitment in supporting the Risk Officer's work. The Risk Officer's duties and powers help provide an independent review of RHRA, which can only be achieved by the support, information, and time that is provided by RHRA management, RHRA Board of Directors, and various external stakeholders who participate in these reviews.

Nav Sandhawalia, Risk Officer
May 2023

Appendix A

RHRA's Transparency Principles

- 1) RHRA's mandate is to protect and ensure the safety and well-being of seniors living in Ontario's retirement homes. This includes ensuring the public has access to transparent, unbiased information that builds trust in RHRA's ability to deliver on its mandate.
- 2) RHRA is committed to providing information on its Retirement Home Database that gives current residents, prospective residents, and their loved ones the information they need to make informed choices about retirement homes, including a home's history of compliance with the Retirement Homes Act, 2010.
- 3) RHRA will continuously improve on its commitment to transparency through its ongoing dialogue with stakeholders, including residents and their families, loved ones and substitute decision makers, in order to assess how well RHRA is delivering on its commitments and to incorporate feedback.
- 4) RHRA is committed to ensuring that the information it provides is timely and easy to find and understand.
- 5) The objectives of informed decision making and RHRA accountability must be balanced with fairness, privacy, and the RHRA's ability to effectively deliver on its mandate.
- 6) The greater the risk of harm to residents, the more important transparency becomes and RHRA will ensure that the public is aware.