



POLICY # A-22 Staff Reporting and Whistle Blower Protection

Approval Date: 2011

Approval Authority: Leadership Team, Norview Lodge

Effective Date: 2011

Revision Date/s: March, 2013, September 12, 2018, June 2, 2022, March 2023

Legislative Reference: Fixing Long-Term Care Act, 2021

Preamble

This policy is part of the Home's ongoing efforts to identify and respond to any conduct that may pose a risk of harm to Residents or staff, or to the operation of the Home. This policy reflects the strong whistle-blowing protections in the Fixing *Long-Term Care Act, 2021*, and reporting under this policy will assist in home in meeting the requirements of the Act in this and other areas.

Section 30 of the Fixing Long-Term Care Act, 2021 forbids retaliation or threats of retaliation against a person for disclosing anything to an inspector or any other personnel of the Ministry or Director, or for giving evidence in a proceeding under the Act or during a coroner's inquest. Under section 30 (6), staff members, management, officers, and directors cannot discourage these disclosures.

Purpose

1. To ensure that there is no retaliation against those who make reports in good faith under this policy; and
2. To ensure compliance with reporting and whistle-blowing provisions of the Act.
3. To ensure compliance with Norfolk County's Code of Conduct.

Staff Reporting

Any staff or board member who is aware of, or suspects any of the following must report it as soon as possible in accordance with the reporting procedures in this policy:

1. Improper or incompetent treatment or care of a Resident that resulted in harm or a risk of harm to the Resident.
2. Abuse of a Resident by anyone, or neglect of a Resident by the licensee or staff that resulted in harm or risk of harm to the Resident.
3. Unlawful conduct that resulted in harm or risk of harm to a Resident.
4. A violation of section 30 under the Fixing Long-Term Care Act, 2021.
5. Verbal complaints concerning Resident care or operation of the Home
6. Any retaliation against a person for making a report under this policy, or for disclosing anything to an inspector or the Director, or for giving evidence in a proceeding under the Act or in a coroner's inquest.

Staff Reporting and Mandatory/Immediate Reporting Under the Fixing Long-Term Care Act, 2021

Staff should be aware that section 28(1) of the Act requires certain persons to make immediate reports to the Director where there is a reasonable suspicion that certain conduct or events occurred or may occur. (Section 28(1) is set out in the Appendix to this policy and for clarification about who must report see section 113 of the Act regulation, which is included in the Appendix). Staff should immediately report to their supervisor and / or Administrator through this policy any conduct or event that may lead to a mandatory/immediate report under section 28(1). Staff should also understand that it is an offence under the Act to discourage or suppress a section 28(1) report.

No Retaliation or Discouragement of Reports

The Home will protect staff members and board members from harassment, coercion, penalty or discipline in the context of the following:

1. Reports in good faith under this policy, and
2. Disclosure of anything to an inspector or the Director, or giving evidence in a proceeding under the Act or during a coroner's inquest.

The Home will protect a Resident (and his or her family members, SDM, and persons of importance) against any threats or discrimination in connection with the Resident's disclosure of anything to an inspector of the Director, or his or her giving evidence in a proceeding under the Act or during a coroner's inquest. A Resident will not be

discharged from the long-term care home, threatened with discharge, or in any way be subjected to unfair treatment because of anything mentioned in subsection (1).

Staff members and board member must not do anything to discourage any of the following:

1. Reports under this policy,
2. Mandatory/immediate reports under the Act, and
3. Disclosures to an inspector or the Director, or the giving of evidence in a proceeding under the Act or during a coroner's inquest.

A staff member or board member who retaliates, threatens a Resident, or discourages report in breach of this policy may be subject to disciplinary action, which may include termination.

Reporting in Good Faith

In making a report under this policy, a person must not act maliciously or in a bad faith. A person who makes a report maliciously or in bad faith may be subjected to disciplinary action, which may include termination.

Implementation Procedure:

A. Reporting

1. The Home will process and respond to reports of Resident abuse and / or neglect through its policy Zero Tolerance of Abuse and Neglect.
2. The Home will process and respond to verbal complaints through its policy Managing and Reporting Complaints.
3. All Reports under this policy should be to a staff member's immediate supervisor or designate. Where an immediate supervisor is implicated, or where a staff member is uncomfortable reporting to their supervisor, the report should go to the Administrator.
4. Reports concerning management staff members should be to the Administrator; or if the report implicates the Administrator, to the General Manager of Health and Social Services or designate.
5. Reports concerning conduct of professional staff or service providers (physicians and medical students, dentists, nurses in the extended class,

Manager/Supervisors of Nursing and Personal Care) should be to the Administrator.

6. A staff member or board member who experiences any form of retaliation before or after submitting a report should immediately inform their supervisor or a member of the management team; or in the case of a board member, the Board Chair or a Vice-Chair.

B. Investigation

1. The person receiving the report will review, and if warranted, investigate and resolve the subject matter of the report. Where necessary, that person will advise or involve members of the management team.
2. Responsibility for investigation and resolution may be referred to the management team or the County's Human Resources and Staff Development Department. The Home expects staff members to cooperate during any investigation.
3. If feasible and appropriate, the Home will inform the individual who made the report about the results of an investigation and the steps taken to address the conduct in question.

C. Confidentiality

The Home will accept reports under this policy on an anonymous or confidential basis. The Home's normal procedure will be to keep all reports confidential to the extent possible, subject to the need to conduct an effective investigation or to take action to comply with the Act or other law. The home will not tolerate any attempt by a person or group to identify a person who submits a report in a good faith on an anonymous or confidential basis.

D. Staff Orientation and Training

Staff members will receive orientation and annual re-training on the reporting obligations under the Act, the home's internal procedures for reporting, and the whistle-blowing protections in the Act.

APPENDIX A: MANDATORY/IMMEDIATE REPORTS

The first excerpt sets out the matters that must be immediately reported to the Director – section 28(1). The second excerpt sets out certain staff to which this requirement does not apply – section 113 of the regulation and the definition of “staff” from the Act.

Reporting certain matters to Director

28. (1) A person who has reasonable ground to suspect that any of the following has occurred or may occur shall immediately report the suspicion and the information upon which it is based to the Director:

1. Improper or incompetent treatment or care of a Resident that resulted in harm or a risk of harm to the Resident.
2. Abuse of a Resident by anyone or neglect of a Resident by the licensee or staff that resulted in harm or a risk of harm to the Resident.
3. Unlawful conduct that resulted in harm or a risk of harm to a Resident.
4. Misuse or misappropriation of a Resident's money.
5. Misuse or misappropriation of funding provided to a licensee under this Act or the *Local Health System Integration Act, 2006 or the Connecting Care Act, 2019.*

Non-application re certain staff

113. Paragraph 4 of subsection 28 (5) of the Act does not apply to a staff member who,

- (a) Falls under clause (b) or (c) of the definition of "staff" in subsection 2 (1) of the Act;
- (b) Only provides occasional maintenance or repair services to the home; and
- (c) Does not provide direct care to residents.

"staff" in relation to a long-term care home, means persons who work at the home,

- (a) As employees of the licensee;
- (b) Pursuant to a contract or agreement with the licensee, or
- (c) Pursuant to a contract or agreement between the licensee and an employment agency or other third party; ("personnel")