



**Office of the Auditor General: Investigation into
the Reporting of an Incident at a City of Ottawa
Long-Term Care Home, Tabled at Audit
Committee – April 30, 2018**

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City of Ottawa Long-Term Care Home



Acknowledgements

The team responsible for this investigation, comprised of PricewaterhouseCoopers LLP, under the supervision of Sonia Brennan, Deputy Auditor General and the direction of Ken Hughes, Auditor General, would like to thank those individuals who contributed to this project, and particularly, those who provided insights and comments as part of this investigation.

Original signed by:

Auditor General

Executive summary

Purpose

In the fall of 2017, the Office of the Auditor General (“OAG”) received anonymous letters (the “Letters”) with respect to allegations of questionable management practices in relation to an alleged incident of sexual abuse, that occurred at a City of Ottawa (the “City”) Long-Term Care Home earlier in 2017. In response to the Letters, the OAG initiated a special investigation project (the “Investigation”) to review management practices at this Home.

The objective of the Investigation was to refute/validate the allegations/concerns raised in the Letters in relation to management’s actions and to provide a fact-based report.

Background and rationale

The City operates four Long-Term Care (LTC) Homes, located throughout the city that provide a range of services and programs designed for the well-being of all residents. Each of the City’s LTC Homes is managed by an Administrator who is accountable to the City’s Director of Long-Term Care Services.

The LTC Homes are governed by the Long-Term Care Homes Act, 2007 (the “LTCHA”) and Ontario Regulation 79/10 (the “Regulation”). The LTCHA came into force on July 1, 2010. In addition to complying with the LTCHA, the City also has implemented certain policies and procedures (“P&P”) to which City employees are required to adhere.

In 2017, an alleged incident of sexual abuse (the “Incident”) occurred between two residents after a male resident took a female resident (confined to a wheelchair) to his room. The Incident was discovered by a Personal Support Worker (“PSW”). Other staff members who responded to the Incident included another PSW, a Registered Practical Nurse (“RPN”) and a Registered Nurse (“RN”). Based on the RN’s understanding of the circumstances and guidance from the On Call Manager, certain decisions were taken in response to the Incident. On the shift of the Incident, the Police and the Ministry of Health and Long-Term Care (“MOHLTC”) were not notified.

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The next day, the day shift RN (“RN#2”) arrives at the Home and becomes aware of the details surrounding the Incident through her review of Progress Notes in GoldCare¹ and has concerns that the MOHLTC and the Police were not contacted. RN#2 contacts the On Call Manager (the same On Call Manager as the evening the Incident occurred) and provided additional details of the Incident. Based on this additional information provided by RN#2, they both agree that the Police and MOHLTC should be notified.

The Letters state that the On Call Manager did not recognize the Incident as sexual abuse and he should have known that the Police should have been notified immediately following the occurrence of the Incident.

Scope and approach

The scope of the Investigation was to obtain the facts surrounding management’s response/actions to the Incident under the requirements of the LTCHA, the Regulation and the City’s P&P for reporting an incident. The scope of the Investigation relates specifically to management’s alleged actions/inactions in response to the Incident and does not include investigating the nature/description of the Incident, including its occurrence.

The approach to the Investigation was designed to gather evidence to refute or validate the allegations/concerns raised in relation to management’s response to the Incident and whether they complied with the LTCHA, the Regulation and City P&P. The Investigation was comprised of conducting interviews, reviewing the LTCHA, the Regulation and certain of the City’s P&P, and examining relevant documentation.

¹ GoldCare is the City’s health and information management software program to manage resident health care information/records

Findings

The findings as a result of the Investigation are as follows:

- 1. Inconsistencies in external reporting requirements between: (1) the City's P&P No. 750.56 – Critical Incident System – Mandatory and Critical Incident Reporting² (“P&P 750.56” or the “Reporting Policy”); (2) the City's P&P No. 750.65 – Abuse³ (“P&P 750.65” or the “Abuse Policy”); and, (3) the requirements under the LTCHA and the Regulation.**

We compared the content of the City's relevant P&P with the LTCHA and the Regulation and identified inconsistencies in terms of when to report an alleged resident-to-resident sexual abuse incident.

S.24 (1) of the LTCHA states that when a person has reasonable grounds to suspect abuse of a resident by anyone, the suspicion must be reported immediately.

The quick reference guide (the “Guide”) contained within the City's P&P 750.56 requires immediate notification to the MOHLTC and the Police **only if** the alleged abuse resulted in **injury**. P&P No. 750.56 is also inconsistent with P&P No. 750.65 – Abuse⁴ which states that the MOHLTC must be notified immediately if there are: 1) reasonable grounds to suspect that sexual abuse has occurred or may occur, and; 2) there was touching, behavior or remarks of a sexual nature, or sexual exploitation directed to a resident; and 3) it was not consensual.

- 2. The Home's management did not immediately report the Incident to Police and MOHLTC as per the City's P&P 750.65, the LTCHA and the Regulation.**

Based on our understanding of the facts surrounding the Incident, the matter should have been reported immediately to both the Police and the MOHLTC in accordance with the City's P&P 750.65, the LTCHA and the Regulation. Based on information from the examination of records and interviews conducted, the MOHLTC and the Police were notified on the day following the Incident. This action was in response to RN#2 enquiring and following up on the matter with the On Call Manager.

² rev. September 2016

³ rev. February 2017

⁴ rev. February 2017

3. There is a discrepancy between the particulars that the RN states was verbally reported to the On Call Manager in relation to the Incident and what the On Call Manager recorded in the on call log.

When incidents occur after hours, the Charge Nurse is required to contact the On Call Manager. We noted that the GoldCare Incident Report (“GIR”) contains explicit details of the Incident that was completed by the Charge Nurse that was not documented in the On Call Manager’s on call log. The On Call Manager stated during his interviews that these explicit details were not verbally reported to him by the Charge Nurse. In the event that they had been provided, he would have changed his determination that the Incident did meet the definition of sexual abuse, thus requiring immediate reporting to the Police and the MOHLTC. The MOHLTC and the Police were notified the following day when these additional details were reported to him by RN#2 on the following day shift. During the interview with the Charge Nurse (RN), it was her position that the explicit details were provided to the On Call Manager.

4. Reported inadequate staff-to-resident ratio, which has implications on staff and their ability to provide the expected level of resident care.

During the course of conducting interviews with personnel, a recurring concern that arose is that the front-line staff feel that the staff-to-resident ratio is not conducive to the work demands. Resulting in staff burnout, absenteeism and staff not consistently following protocols.

5. Measures to mitigate the occurrence of the Incident were not implemented on a timely basis.

The male resident was located in a unit at the Home where the majority of residents are female; and, many of whom do not have the mental capacity to have a consensual relationship. Based on the review of Progress Notes recorded on the day shift prior to the occurrence of the Incident, staff documented an incident report categorized as “*Inappropriate Sexual Behaviour*” which involved the male resident. Immediate treatment documented in the Progress Notes stated that medication was administered, the resident was spoken to and was being closely monitored. An additional entry was initiated on the same day involving the male resident, which documents that he made sexual comments and exhibited sexual behaviour. Stronger measures to protect the female residents within the unit were only implemented after the occurrence of the Incident by providing one-on-one monitoring of the male resident. The male resident was eventually transferred to an all-male unit within the Home. The occurrence of the

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Incident may have been mitigated had management taken additional proactive measures due to the environment and the male resident's identified sexual behaviours.

6. The perception of staff is that the Home's management does not consistently respond to concerns on a timely basis.

During the course of the Investigation, a recurring fact noted by the interviewees is that there is a perception that the Home's management does not always respond to concerns on a timely basis. In some instances, staff had the impression that there is a lack of follow through by management in developing and implementing action plans to address issues identified at the Home.

7. Lack of awareness within the Home of the City's Fraud and Waste Hotline (the "Hotline") for raising concerns.

During the course of the Investigation, it was noted that the majority of the interviewees were not aware of the Hotline. For those employees who were aware of the Hotline, they were not aware that it could be used to report concerns with respect to non-compliance of City practices or other non-financial questionable related matters. It appears that the perception of the Hotline is for reporting matters or concerns of a financial nature only.

8. The City's email backup procedures limit the City's ability to recover sufficient electronic evidence in support of internal investigations.

The City's email backups are overwritten every three months. Given that several months may lapse from the date of the initial occurrence/incident, to the time in which it is detected/reported and an investigation commenced, overwriting email backups every three months limits the City's ability to recover possible evidence related to the matter(s) under investigation. Without sufficient evidence, the City may not be able to take the appropriate actions including pursuing or seeking recoveries to protect the City's interests.

Conclusion

Based on our examination of records and interviews with relevant personnel, the Home did not report an alleged abuse incident immediately in accordance with the City's P&P 750.56, the LTCHA and the Regulation. The basis for management's decision to not immediately report the Incident to the Police and the MOHLTC was due to purported incomplete information provided by the Charge Nurse (RN) to the On Call Manager. The

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On Call Manager did not follow up with the Charge Nurse to discuss the purported lack of reporting detail that was provided on the evening of the Incident to mitigate a reoccurrence. It was the Charge Nurse's position that complete facts were reported to the On Call Manager, as reflected in the Progress Notes recorded in GoldCare.

While we did note some discrepancies within the City's own policies (P&P 750.65 and P&P 750.56) in relation to reporting alleged abuse, the City's commitment to zero tolerance of abuse requires all staff to take appropriate action to report alleged abuse incidents immediately. When the Incident under the scope of this investigation was followed up by another nurse (RN#2) on a subsequent shift, the Incident was reported in accordance with the City's P&P 750.56, the LTCHA and the Regulation.

The reported inadequate staff-to-resident ratio has an impact on the Home's ability to provide comprehensive resident care on a consistent basis. Front-line staff feel that the staff-to-resident ratio is not conducive to their work demands, resulting in staff burnout, absenteeism and the inability to consistently follow protocols during the course of their duties. It is recommended that the City review the staffing model in the City's long-term care homes to identify and remedy any found gaps.

Based on the information obtained during interviews and our review of Progress Notes, there was an identified known risk of potential sexual abuse based on behaviours exhibited by the male resident earlier the same day of the Incident. Based on documentation in the Progress Notes, medication was administered to the male resident and he was closely monitored; however, stronger measures were only taken after the Incident by the implementation of one-on-one monitoring. The male resident was eventually transferred to an all-male unit within the Home. Had additional safety measures been taken by staff on shift, the Incident may have been prevented.

Staff have a perception that management does not take action on a timely basis when matters are raised within the Home. Specifically, the matters identified during the course of the interviews conducted related to the staffing allocation within the Home.

Furthermore, there is a lack of awareness of the Hotline as an anonymous reporting mechanism to voice concerns. It is recommended that the City actively promote the awareness and purpose of the Hotline to all City employees.

The City's email backups are overwritten every three months, which limits the City's ability to recover possible evidence related to the matter(s) under investigation. It is recommended that the City review existing email backup procedures to ensure the

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safeguarding and preservation of email for a sufficient time to support future investigations.

Recommendations and responses

Recommendation #1

That the City review and revise P&P 750.56 and P&P 750.65 so that both policies are aligned with each other and in accordance with both the LTCHA and the Regulation.

Management response:

Management agrees with this recommendation.

Currently, P&P 750.65 is reviewed and updated annually following a management debrief of all incidents that occurred in the long-term care homes during the calendar year.

P&P 750.56 and 750.65 will be reviewed and revised to ensure they are aligned, and in accordance with the Long Term Care Homes Act and Regulation. This will be completed by the end of Q3 2018.

Recommendation #2

That the City consider streamlining P&P 750.56 and P&P 750.65 so that they are succinct and facilitate referencing by staff who are responding to incidents.

Management response:

Management agrees with this recommendation.

All staff review P&P 750.65 as part of the annual mandatory training.

P&Ps are available onsite for staff to reference. Hardcopy P&Ps are available in binders located centrally in the Home. Staff can also access P&Ps through any desktop computer, either on the Long-Term Care page of the City's intranet on Ozone or by clicking the P&P icon installed on each desktop.

Management will conduct a consistency review of both P&P 750.56 and 750.65 to streamline procedures when reporting incidents. Management will provide revised versions to staff by Q3 2018.

Long-Term Care Residents and/or their families receive P&P 750.56 and 750.65 in their information packages upon admission to the Home so that they are aware of

staff's duty to report. Updated versions of these P&Ps will also be provided to Residents/Power of Attorney when they are updated.

Recommendation #3

That the City provide mandatory regular training (i.e. annually) and coaching to staff on the City's P&P, the LTCHA and the Regulation in relation to the identification, response and reporting (both internal and external) to management of incidents of abuse. Such training should also outline the consequences in the event a City employee fails to report.

As part of the training curriculum, it is recommended that the City implement a system for evaluating staff's understanding of the relevant City P&P, the LTCHA and Legislation.

As part of the training curriculum, it is recommended that the City provide incident call intake guidance to all On Call Managers so that full particulars of incidents are obtained to allow for decision-making that meets the requirements of the City's P&P, the LTCHA and the Regulation.

Management response:

Management agrees with this recommendation.

Staff are provided with mandatory annual training on abuse and neglect. This training includes a review of the City's P&Ps as well as the requirements of the LTCHA and Regulation.

All staff review P&P 750.65 as part of the annual mandatory training. Following their review of the P&P, staff sign a declaration that they have read and understood the material and they are prompted as to whether or not they have any questions concerning the content. In addition to P&P 750.65, supervisors and managers are also required to review P&P 750.56, and sign a similar declaration acknowledging that they have read and understood the contents of the P&P.

Since Q3 2017, all staff have received enhanced in-person training on the prevention, recognition and reporting of abuse and neglect, which addresses the consequences of the failure to report abuse and neglect. The training includes case scenarios demonstrating different types of abuse and discussion points for staff to talk about abuse and potential abuse. Following the training, staff complete

a test to evaluate their understanding of the material. Staff who do not achieve a mark of 100% on the test receive a one-on-one follow-up session.

Graphic posters, including a slogan (“See something? Hear something? SAY something”) and quick reference cards have been developed to serve as a visual reminder for staff of their obligation and duty to report alleged or suspected abuse and neglect. Each Home has also scheduled an annual abuse awareness week providing further opportunities to educate and inform residents, families, volunteers and staff on the prevention of abuse and neglect.

A training module for on-call managers will also be developed and delivered at an upcoming Extended Services Management Team meeting by Q4 2018. To accompany the training, a new reference document will be developed with a standardized list of intake questions to ensure that consistent and complete information relating to an incident is obtained. This reference document will also be reviewed with all registered nursing staff.

Recommendation #4

That as part of the recommended mandatory training to be provided to employees, that it include subject content with respect to increasing the awareness of the obligation and duty to report. This includes providing and documenting full particulars of an incident so that management has the necessary information to make decisions in accordance with relevant policies, procedures and legislation.

Management response:

Management agrees with this recommendation.

As indicated in the response to Recommendation #3, the current annual enhanced training on the prevention of abuse and neglect includes information on the obligation and duty to report.

The annual training will be enhanced to include additional information on describing and documenting incidents and clarifying which information should be provided to supervisors and on-call managers when reporting incidents. This will be launched in Q3 2018 as part of the annual mandatory training program.

Recommendation #5

That City management of Long-Term Care Services in collaboration with the management teams of the City's long-term care branches review their staffing model and implement an action plan to address any gaps identified through the review process.

Management response:

Management agrees with this recommendation.

Long-Term Care services completed an engagement process for its stakeholders in Q4 2017. Based on feedback received from stakeholders during this process, a review of staffing levels was already identified as a necessary step towards improving Long-Term Care services.

As part of the compliance plans submitted to the Ministry of Health and Long-Term Care, a direct care service delivery model review has been completed by an independent third party reviewer, which will include a benchmarking exercise of direct care staffing hours in long-term care homes in the province. Management expects to receive the results of this review in Q2 2018.

Long-Term Care management will review recommendations received related to its service delivery model and will develop an action plan to implement changes to address any gaps based on approved direction and timing determined by Council given the financial implications.

Recommendation #6

That the Home review their procedures for responding to identified inappropriate sexual behaviours exhibited by residents to ensure that appropriate safety measures are taken on a proactive timely basis. This will assist in mitigating the occurrences of abuse and protect all residents.

Management response:

Management agrees with this recommendation.

As part of the 2018 annual mandatory training plan, a module on de-escalation, "10 Ways to De-escalate" has been assigned to all direct care staff as a reminder of effective de-escalation techniques.

The program content has already been updated for 2018 and now includes a formal review of the Care Plans and Kardexes to ensure they contain all necessary information.

Each Home also leverages the Behavioural Support PSW champion in the Home, who has received additional training in responsive behaviours and is available as a resource for all staff to consult with during incidents. Long-Term Care services has received additional funding for 2018 from the Local Health Integrated Network to provide additional hours of Behavioural Support in each Home.

Long-Term Care Services has also consulted with the outreach team from the Royal Ottawa Hospital to identify best practices in de-escalation techniques for inappropriate sexual behaviours exhibited by residents.

A group of staff representing all four City Homes will review procedures and best practices and recommend improvements, which will be implemented by Q1 2019.

Recommendation #7

That the Home's management develop a system for prioritizing and tracking all staff reported issues, their resolution and management's communication plan for sharing progress with staff on a timely basis.

Management response:

Management agrees with this recommendation.

The management team at the Home will communicate the existing mechanisms, corporately and within the Long-Term Care Homes, for reporting and escalating staff issues and will ensure that communication related to specific issues are timely. This will be completed by the end of Q3 2018.

Recommendation #8

That the City launch awareness training on the City's *Employee Code of Conduct*, which may include an annual declaration process.

Management response:

Management agrees with this recommendation.

A preliminary *Employee Code of Conduct* eLearning module is currently under development by the City Clerk and Solicitor's Office. The aim is that this module will be supplemented by others in the future as part of the ongoing work to raise

awareness of the *Employee Code of Conduct* and to foster consideration of ethical issues amongst City staff. The module will review the ethical foundation of the *Employee Code of Conduct*, the basis of ethical decision-making, the City's expectations of employees, and how to report improper (unethical) conduct or breaches of the *Code*. The City Clerk and Solicitor's Office is currently reviewing ways in which to encourage consideration of ethical issues, which may include quizzes and practice exercises so employees can test their ability at identifying and deciding how to handle ethical dilemmas. The initial module and others will be made available on iLearn via Ozone and uLearn (for non-networked employees).

The City currently offers several courses with ethics-related material in their content, including the New Employee Orientation program for newly hired employees. In addition, the City Clerk and Solicitor's Office regularly delivers information sessions on ethical issues to large and small employee groups, and also often posts articles in employee communications such as *In the Loop* as an element of its *Code*-related communication plan.

Additional (mandatory) training for newly promoted/hired supervisors and managers is also required which contains linkages to the *Code*. The curricula include 'Supervising/Managing in a Unionized Environment' and 'Leading a Diverse Workforce', which is the supervisor/manager version of 'Respectful Workplace Training'.

Additionally, the City Clerk and Solicitor's Office is looking at expanding the ethics and *Employee Code of Conduct* curricula and training offerings, which are planned to be available starting in Q4 2018/Q1 2019. Management will also look at opportunities to promote the Fraud and Waste Hotline in future *Code*-related training and communications.

Management will consider an annual declaration process as part of its ongoing efforts to raise awareness of the *Employee Code of Conduct* and ethical issues to all employees.

Recommendation #9

That the City actively promote the awareness and purpose of the Hotline to all City employees on a regular basis.

Management response:

Management agrees with this recommendation.

Management will engage the internal communications unit within the Public Information and Media Relations branch to actively promote the Fraud and Waste Hotline through a variety of communication channels with a focus on strengthening awareness of the Hotline amongst all City staff.

The City currently offers several courses with ethics-related material in their content and information is broadly available for employees with respect to accountability and transparency (the Employee Code of Conduct, the Fraud and Waste Hotline and the Lobbyist Registry) on the front page of the City's intranet "Ozone". Orientation for new employees and training provided to new managers references the Hotline and provides an overview of staff's responsibilities with respect to the Fraud and Waste Policy.

As indicated in the response to Recommendation #8, the City Clerk and Solicitor's Office is looking at expanding the ethics and *Employee Code of Conduct* curricula and training offerings, which are planned to be available starting in Q4 2018/Q1 2019. A preliminary *Employee Code of Conduct* eLearning module is currently under development by the City Clerk and Solicitor's Office. The aim is that this module will be supplemented by others in the future as part of the ongoing work to raise awareness of the *Employee Code of Conduct* and to foster consideration of ethical issues amongst City staff. The module will review the ethical foundation of the *Employee Code of Conduct*, the basis of ethical decision-making, the City's expectations of employees, how to report improper (unethical) conduct or breaches of the *Code* and will reference the Fraud and Waste Policy and Hotline. Management will also incorporate information with respect to the Fraud and Waste Hotline in future *Code*-related training.

Recommendation #10

That the City review existing email backup procedures to ensure the safeguarding and preservation of email for a sufficient time to support future investigations.

Management response:

Management agrees with this recommendation and has already undertaken this work.

In response to one of the recommendations in a previous audit, the City reviewed the existing three-month retention period for emails in June of 2011. It was confirmed that there was no Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), labour relations or other legal or corporate requirements for extending the email archiving period from 90-days to a longer period. Given the consensus that there is no corporate requirement, as well as the cost to implement a two-year archive (estimated at between \$150K and \$500K), no changes to the current email management practices and associated policies are planned. The results of the Email Retention Review were summarized in an information report that was tabled at the IT Sub Committee on August 22, 2011, the Finance and Economic Development Committee on September 6, 2011 and Council on September 14, 2011.