
4 Community Services and Health and Wellness: Protection of Persons in Care

Summary

Overall, we found adequate processes in place to investigate and ensure timely resolution of allegations of abuse reported under the Protection of Persons in Care Act at the Departments of Health and Wellness and Community Services. Investigations were well-documented and carried out in a timely manner.

However we found that neither Department has an appeal process if those involved are not satisfied with the outcome of the investigation. Protection of persons in care deals with a vulnerable sector of our society; these individuals should have every opportunity to be protected from abuse. An effective appeal process is an important aspect of a complaints-based program such as protection of persons in care. It provides for a second assessment of a file for those who are not satisfied with the outcome of an investigation. Accordingly, we have recommended an appeal process be implemented.

We found that Community Services has implemented a quality control program to ensure legislative requirements have been met for all files. This program includes management signoff on files. At the time of our audit, the Department of Health and Wellness was in the process of developing a quality assurance program. We have recommended that Health and Wellness complete and implement their quality assurance program including management signoff as evidence of file reviews.

We also identified some other minor concerns and have made recommendations for improvement around the information systems used to track investigations and the education provided on the Protection of Persons in Care Act.



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Background

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- 4.1 The Protection of Persons in Care Act (the Act) came into effect on October 1, 2007. This legislation is designed to protect patients or residents 16 years of age and older receiving care in hospitals, residential care facilities, nursing homes, homes for the disabled licensed under the Homes for Special Care Act, or group homes licensed under the Child and Family Services Act.
- 4.2 All service providers or administrators of facilities which fall under the Protection of Persons in Care Act are required to promptly report all allegations or instances of abuse as well as any likelihood abuse could occur. The Departments of Community Services (Community Services) and Health and Wellness (Health and Wellness) are responsible for the administration of the Act.
- 4.3 Initially, the Act did not include unlicensed small option homes (facilities with three or fewer residents). However, effective December 20, 2010, any facility with one or more residents which is approved or funded by Health and Wellness as a community-based option or by Community Services as a small option home now falls under the Protection of Persons in Care Act.
- 4.4 Complaints regarding allegations of abuse under the Act are made through a 1-800 number, and are forwarded to the investigation group at either Health and Wellness or Community Services depending on the facility involved.
- 4.5 During 2010, Health and Wellness received 203 referrals (2009 - 129). Following investigations, 14 (2009 - 14) allegations were determined to be founded, meaning the investigators determined that abuse had occurred.
- 4.6 Community Services received 139 referrals in 2010 (2009 - 76). Of these allegations, 14 were ultimately determined to be founded (2009 - 16).
- 4.7 Prior to July 2010, investigations for Community Services' facilities were performed by staff in the regional offices. In July 2010, these responsibilities were centralized in Halifax under the Licensing Services section of the Department.
- 4.8 At Health and Wellness, investigations under the Act are conducted centrally by the Monitoring and Evaluation section of the Continuing Care branch. These staff, who also perform facility licensing, are located in Halifax.

Types of Facilities Covered by the Protection of Persons in Care Act

Department of Community Services	Department of Health and Wellness
Adult Residential Centre Developmental Residence Group Homes Residential Care Facilities Residential Rehabilitation Centre Small Option Homes	Nursing Homes Residential Care Facilities Small Option and Community-Based Residences Hospitals

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Audit Objectives and Scope

- 4.9 The purpose of this audit was to determine whether the Department of Health and Wellness and the Department of Community Services have adequate processes to investigate and ensure resolution of reported allegations of abuse under the Protection of Persons in Care Act in a timely manner.
- 4.10 The objectives of the audit were to determine whether the Departments:
- have adequate systems to investigate and ensure resolution of allegations of abuse received under the Protection of Persons in Care Act in a timely manner;
 - have processes to ensure reporting requirements under the Protection of Persons in Care Act are met;
 - have adequate management information systems to effectively manage their responsibilities under the Protection of Persons in Care Act;
 - adequately monitor their responsibilities under the Protection of Persons in Care Act; and
 - have appropriate processes to educate the public and designated health facilities on the provisions of the Protection of Persons in Care Act.
- 4.11 The audit period for most of our work was January 1, 2009 to December 31, 2010. We examined complaints related to small option homes from December 20, 2010 (when these homes came under the Protection of Persons in Care Act) to February 28, 2011.
- 4.12 This engagement was conducted in accordance with Sections 18 and 21 of the Auditor General Act and auditing standards established by the Canadian Institute of Chartered Accountants. Generally accepted criteria consistent

with the objectives of this audit do not exist. Audit criteria were developed specifically for this engagement.

- 4.13 Our audit approach included a review of legislation, regulations, departmental policies and procedures, interviews with staff, and file testing.
- 4.14 As part of our typical audit process, we ask auditees to sign a letter indicating that they agree the criteria we have selected represent appropriate standards for the audit. In this instance, management at both Departments disagreed with two of our criteria related to the need for a formal appeal process.
- 4.15 It is unusual for an auditee to refuse to accept the criteria we select for an audit. While we may sometimes discuss and update initial criteria, we are generally able to reach a resolution which is agreeable to our Office and the auditee.
- 4.16 After the Departments informed us they disagreed with some of our criteria, we re-examined our audit plan and concluded that an appeal process is an important component of this type of program. It provides an avenue for those who are not satisfied with the outcome of an investigation to request a second opinion on the merits of their complaint.
- 4.17 We proceeded with our audit using our original criteria, including those related to an appeal process. Ultimately we found that neither Department had an established appeal process; this is discussed in greater detail later in this Chapter.

Significant Audit Observations

Systems to Investigate and Resolve Allegations of Abuse

Conclusions and summary of observations

We found the policies Health and Wellness and Community Services use to investigate and ensure timely resolution of allegations of abuse are adequate. We identified issues at Community Services when the regional offices were responsible for the Act, but these issues have been addressed since responsibility was centralized. Although we identified minor improvements at both Departments, our file testing showed that policies were generally followed; allegations were investigated and action was taken in a timely manner. However we found that neither Department has established an appeal process if someone is not satisfied with the outcome of an investigation. An appeal process is important because

it provides an opportunity for another examination of a complaint to assess whether the complaint is founded; we have recommended that an appeal process be implemented. We also noted that it is not possible for either Department to completely ensure that reporting requirements are met, as all reporting is from third parties.

4.18 *Background* – Authorities and roles for the investigation of complaints are clearly described in policies and are understood by management and investigators at both Departments.

4.19 Health and Wellness and Community Services use the same policy manual. We found the policies to be adequate to guide investigations and ensure timely resolution of complaints.

4.20 During our audit, the Departments were collaborating to produce an updated policy manual. Work on this updated manual began in January 2009 and is expected to be complete in December 2011.

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Recommendation 4.1

The Department of Health and Wellness and the Department of Community Services should complete and implement their new policy manual.

4.21 *Complaints* – Complaints regarding alleged instances of abuse of someone in care are phoned in to a 1-800 number and directed to one of four intake centres, depending on geographic location. Information is recorded on an intake form and faxed to the head office of either Community Services or Health and Wellness depending on the facility involved. We found there is no consistent process for each intake centre to ensure that faxes are appropriately received by the central Department office. There is a risk that a fax may not reach the correct destination, resulting in an allegation of abuse not being reviewed and investigated.

Recommendation 4.2

The Department of Health and Wellness and the Department of Community Services should establish a process to ensure all complaints are tracked on intake to ensure the complaint was received at the appropriate central office.

4.22 *Sample selection* – We tested 35 files at Community Services and 30 files at Health and Wellness to determine whether investigations were in compliance with the current policy manual. The additional five items tested at Community Services were selected from the small option homes which came under the Act as of December 20, 2010. An additional sample was not selected at Health and Wellness as there were no complaints for small option homes under that Department's responsibility during our audit.

- 4.23 We selected our testing samples from the records at both Departments. Due to the nature of this program, which relies on complaints from facility administrators, staff, patients, family, or other third parties, it is impossible for either Department to ensure that all complaints have been brought forward for investigation. Additionally, since there is no tracking from the intake centres to central office, we cannot be certain that all complaints made were included in the records at the Departments. Implementing Recommendation 4.2 above would address the issue of completeness once complaints are received.
- 4.24 *Community Services file testing* – At Community Services, we divided our testing between files investigated prior to July 2010 which were handled by regional offices, and complaints since that time which were handled centrally by the Department’s Licensing Services section. We conducted testing at two out of four regions (Western and Northern).
- 4.25 We identified many issues in the older Community Services files when investigations were conducted regionally. We found incidents in which investigations were not conducted in a timely manner or were not adequately documented. Once complaint follow-up and investigation were centralized at Community Services, our testing showed policies were generally followed and complaints were followed up in a timely manner.
- 4.26 *Health and Wellness file testing* – We found complaint follow-up and investigation by Health and Wellness to be well-documented and completed in a timely manner.
- 4.27 *Policy compliance* – We found both Departments generally complied with existing policies. We did identify two policies which are not consistently followed by staff at either Department. These are detailed in the following paragraphs.
- 4.28 *Initial contact* – The policy manual requires initial contact with the complainant be made within three hours of receipt of the complaint. Management at both Departments informed us they believe a three-hour window is not realistic. Health and Wellness management told us they set an informal standard of 24 hours for initial contact. However this is not documented and it is not reflected in policy.
- 4.29 The draft policy manual both Departments are working on includes an initial contact time of 24 hours. During our audit, we tested to see whether files met the current three-hour standard, as well as the planned 24-hour standard.
- 12 of 30 files tested at Community Services met the initial contact standard of three hours; an additional 12 files had initial contact

within 24 hours. The remaining six files fell outside this range; however five of those files were investigated by regional offices prior to centralization of investigations in July 2010. As indicated earlier, we noted improvements once investigations were centralized with head office. In the one instance from head office which took more than 24 hours to make contact, the complaint was filed via a letter rather than the 1-800 number; staff contacted and met with the complainant following receipt of the letter.

- 20 of 29 files tested at Health and Wellness met the initial contact standard of three hours; all remaining files had an initial contact within 24 hours.

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4.30 *Investigation process* – Investigators are required to notify the patient or resident (or persons acting legally on their behalf) that an allegation of abuse has been made, an investigation will take place, and the patient or resident will be notified of the outcome. Management from both Departments told us that there are situations in which it is not in the best interest of the patient or resident to follow this policy. An example of this would be a patient with dementia who does not have a power of attorney. However, the policy does not provide any discretion regarding patient or resident notification. Our testing identified several instances in which both Departments were not in compliance with this policy. Additionally, this policy has not been updated in the draft policy manual which is expected to be available by December 2011.

- 5 of 19 files tested at Community Services lacked the required notification.
- 9 of 20 files tested at Health and Wellness lacked the required notification.

Recommendation 4.3

The Department of Health and Wellness and the Department of Community Services should ensure the revised policy manual reflects current and planned practices. Additionally, processes should be put in place to ensure that all policies are followed.

4.31 *Appeals* – Health and Wellness and Community Services do not have an appeal process for decisions made regarding whether complaints of abuse under the Protection of Persons in Care Act are founded. We believe an appeal process is an important mechanism to review the appropriateness of investigation decisions and to resolve disputes regarding the outcome of investigations. The protection of persons in care program provides protection to a vulnerable sector of our society. When an allegation or complaint of abuse is investigated and the individual making the complaint

does not agree with the outcome, there should be an opportunity to ask that the investigation decision be revisited. An effective appeal system would help offer assurance that all facts are considered and that the outcome of an investigation is fair and complies with the Act.

- 4.32 Management at both Departments told us they do not believe an appeal process is necessary for this program.

Recommendation 4.4

The Department of Health and Wellness and the Department of Community Services should implement an appeal process for Protection of Persons in Care investigations.

Program Monitoring and Management Information Systems

Conclusions and summary of observations

Community Services has implemented an adequate quality assurance program to ensure investigations are completed and are in compliance with legislation. We found no similar quality assurance program at Health and Wellness. We also found that neither Department has developed performance indicators to assess the effectiveness of the Protection of Persons in Care program. Additionally, we identified concerns with the program data collected due to a large number of data entry errors. While these errors did not impact on the quality of investigations, they could make it more difficult for either Department to assess its performance. While Health and Wellness attempted to address this matter by moving to a new database system, the software which is currently in use is not supported by that Department's IT staff.

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- 4.33 *Quality assurance* – Since centralization, Community Services has implemented a process in which completed files are reviewed by the Manager of Protection of Persons in Care and Licensing. This review includes a detailed checklist which ensures all files are appropriately documented and legislative requirements are addressed.
- 4.34 We found the Department of Health and Wellness did not have a quality assurance process. Department management told us they monitor program operations to ensure compliance with legislation and policies through peer review, consultations, and review of investigation reports. However there is no evidence of any management oversight, such as a file signoff following review. During our audit, Health and Wellness management showed us a new checklist which they were developing; if implemented, this checklist will help result in a robust and well-documented quality assurance program.

Recommendation 4.5

The Department of Health and Wellness should implement a quality assurance program to ensure files meet standards. This should include management signoff for completed reviews.

4.35 *Information Systems* – Both Departments originally used Microsoft Excel spreadsheets to record complaint and investigation data. We found a large number of data entry errors in the samples we selected for testing.

- 29 of the 35 files tested at Community Services contained discrepancies between system and file documentation.
- 13 of the 30 files tested at Health contained discrepancies between system and file documentation.

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4.36 While these errors did not impact on the quality of investigations, they could make it more difficult for either Department to assess its performance.

Recommendation 4.6

The Department of Health and Wellness and the Department of Community Services should develop processes to ensure that the data recorded in their systems is accurate and complete.

4.37 In December 2010, Health transitioned to using a Microsoft Access database to track details surrounding investigations. Field restrictions on data types and pre-populated templates in this database help to reduce the risk of data entry errors. However Health and Wellness' IT group does not provide IT support for Microsoft Access. This is concerning; if a significant software problem occurred, staff may not be able to resolve the issue and information could be lost.

4.38 Additionally, the implementation of Microsoft Access at Health and Wellness means the two Departments are using different systems to track investigations for the same program area. The data collected for this program is not overly complex. Using different systems could lead to inconsistent data and reduce the comparability between the two programs.

Recommendation 4.7

The Department of Health and Wellness and the Department of Community Services should identify and implement a single information system with appropriate IT support.

4.39 *Performance indicators* – Neither Department has performance indicators for the Protection of Persons in Care program. Performance indicators

and supporting data are important components which help management to oversee programs. Appropriate performance indicators provide information regarding program effectiveness and achievement of program goals. Without adequate performance measurement, it is not possible for management at either Department to ensure this program is operating effectively.

Recommendation 4.8

The Department of Health and Wellness and the Department of Community Services should establish performance indicators to measure achievement towards meeting program goals.

Education

Conclusions and summary of observations

We found both Departments provided education and training for staff at facilities impacted by the Protection of Persons in Care Act prior to the implementation of the new Act. We also found that Health and Wellness and Community Services continue to provide education on an ongoing basis as needed. Additionally, information regarding the Act is available to the general public on both Departments' websites.

- 4.40 The Departments of Health and Wellness and Community Services developed an initial mail-out to facilities in 2007 and provided various education sessions across the province for department, facility and district health authority staff prior to the implementation of the Protection of Persons in Care Act in October 2007.
- 4.41 Since that time, both Departments have also provided information presentations for various audiences, including staff and management of health care facilities on an ad hoc basis.
- 4.42 Community Services has tracked the participants attending its presentations; Health and Wellness has not kept similar records. By tracking attendance, Community Services can identify which facilities have received Protection of Persons in Care training.

Recommendation 4.9

The Department of Health and Wellness should maintain complete records identifying which facilities have received training on Protection of Persons in Care; this information should be used to determine ongoing training requirements.

4.43 Both Departments have appropriate information readily available on their websites and upon request allowing members of the public to become more aware of the Act.

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Response: Department of Community Services

The Department of Community Services would like to thank the Auditor General for the opportunity to respond to this chapter concerning investigation and resolution of reported allegations of abuse under the Protection for Persons in Care Act. The Department of Community Services (DCS) appreciates any recommendations and observations which will assist in improving the safety of residents living in Homes for Special Care. Licensing Services agrees with each recommendation and will implement the recommendations within the capacity of available resources and under the direction and approval of the Minister of Community Services.

The following is the list of recommendations made by the Office of the Auditor General on the completion of their 2010-11 Protection for Persons in Care audit and the accompanying responses from Licensing Services, Nova Scotia Department of Community Services (DCS).

Recommendation 4.1

The Department of Health and Wellness and the Department of Community Services should complete and implement their new policy manual.

4.1 Response: DCS accepts this recommendation and is currently working with DHW to finalize revisions to the policy manual. The revisions to the policy manual will be completed in December 2011 and implemented within this fiscal year.

Recommendation 4.2

The Department of Health and Wellness and the Department of Community Services should establish a process to ensure all complaints are tracked on intake to ensure the complaint was received at the appropriate central office.

4.2 Response: DCS accepts this recommendation and will work with DHW to develop and implement a process to track and follow-up on all complaints (referrals) to ensure they are received at the appropriate central office. This work will be completed within this fiscal year.

Recommendation 4.3

The Department of Health and Wellness and the Department of Community Services should ensure the revised policy manual reflects current and planned practices. Additionally, processes should be put in place to ensure that all policies are followed.

4.3 Response: DCS accepts this recommendation and is currently working with DHW on revisions to the policy manual. The revised manual will include up-to-date policies that reflect current and planned practice. Existing quality assurance measures will be reviewed and revised (if necessary) to ensure all policies are

followed. The revisions to the policy manual/quality assurance measures will be completed and implemented within this fiscal year.

Recommendation 4.4

The Department of Health and Wellness and the Department of Community Services should implement an appeal process for Protection of Persons in Care investigations.

4.4 Response: DCS appreciates the basis for this recommendation and will work with DHW to research this topic and discuss available options. The research findings and options will be presented to DCS Senior Management for review and direction. This work will be completed by the fall 2012.

Recommendation 4.6

The Department of Health and Wellness and the Department of Community Services should develop processes to ensure that the data recorded in their systems is accurate and complete.

4.6 Response: DCS accepts this recommendation and has developed and implemented a process to ensure the data recorded in our system is accurate and complete.

Recommendation 4.7

The Department of Health and Wellness and the Department of Community Services should identify and implement a single information system with appropriate IT support.

4.7 Response: DCS accepts this recommendation and will work with DHW, SNSMR and DCS IT Services to identify possible IT solutions and establish a plan for development and implementation.

Recommendation 4.8

The Department of Health and Wellness and the Department of Community Services should establish performance indicators to measure achievement towards meeting program goals.

4.8 Response: DCS accepts this recommendation and is in the process of establishing performance indicators to measure achievement toward meeting program goals. This work will be completed by the end of this calendar year.

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Response: Department of Health and Wellness

The Department of Health and Wellness (DHW) would like to thank the Auditor General for the opportunity to respond to chapter 4 of 2011 Auditor General's Report on Protection of Persons in Care Act. DHW is pleased that overall the Auditors found adequate processes were in place to investigate and ensure timely resolution of allegations of abuse reported under this Protection of Persons in Care Act which was newly implemented in October, 2007. We are also pleased that the Auditors found that the investigations were well-documented and carried out in a timely manner.

DHW appreciated the opportunity to learn from this audit and are pleased to report some of the issues identified during the audit process have already been addressed and resolved with new processes put in place. We agree with all the recommendations in this auditor's report and plan to implement each recommendation within the capacity of available resources and under the direction and approval of the Minister of Health and Wellness. Following is the list of the recommendations found in Chapter 4 of the 2011 Auditor General's Report for DHW and our specific plans, with timelines where possible, to respond to each recommendation as we strive to continue to improve our processes to protect persons in care.

Recommendation 4.1

The Department of Health and Wellness and the Department of Community Services should complete and implement their new policy manual.

Response 4.1: Department of Health and Wellness agrees with this recommendation and will continue to work with Department of Community Services (DCS) on the new Protection for Persons in Care policy manual. It is anticipated that this work will be completed in December 2011, and implementation will follow within this fiscal year.

Recommendation 4.2

The Department of Health and Wellness and the Department of Community Services should establish a process to ensure all complaints are tracked on intake to ensure the complaint was received at the appropriate central office.

Response 4.2: DHW agrees to work with DCS over the next six months to review the current process and explore options to ensure all Protection for Persons in Care complaints are tracked on intake and also followed up to ensure the complaints are received at the appropriate central office from the Intake Office.

Recommendation 4.3

The Department of Health and Wellness and the Department of Community Services should ensure the revised policy manual reflects current and planned

practices. Additionally, processes should be put in place to ensure that all policies are followed.

Response 4.3: DHW agrees with this recommendation and will ensure the new policy manual will reflect current and planned practices. The current quality assurance file review checklist will be revised to reflect the policy revisions and will be used as a method to ensure policies are followed. It is anticipated that this work will be complete by December 2011.

Recommendation 4.4

The Department of Health and Wellness and the Department of Community Services should implement an appeal process for Protection of Persons in Care investigations.

Response 4.4: DHW agrees with this recommendation and will be collaborating with DCS to research appeals processes and discuss available options. Research findings and options will be presented to DHW Senior Management for review, direction and implementation by Fall of 2012.

Recommendation 4.5

The Department of Health and Wellness should implement a quality assurance program to ensure files meet standards. This should include management signoff for completed reviews.

Response 4.5: DHW agrees with the recommendation and in June 2011 implemented a quality assurance program to ensure files are appropriately documented and legislative requirements are addressed. This includes management signing off for completed reviews.

Recommendation 4.6

The Department of Health and Wellness and the Department of Community Services should develop processes to ensure that the data recorded in their systems is accurate and complete.

Response 4.6: DHW supports this recommendation and has implemented processes to ensure that the data recorded in their systems is accurate and complete.

Recommendation 4.7

The Department of Health and Wellness and the Department of Community Services should identify and implement a single information system with appropriate IT support.

Response 4.7: DHW agrees with this recommendation and will collaborate with DCS, and appropriate IT Services, including eHealth Solutions, to explore possible options, identify a single information system with appropriate IT support,

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and establish a plan for development and implementation. In parallel, a backup system to the current database will be implemented to ensure data is not lost. If staff at Continuing Care Branch, DHW, are unable to resolve any future issues with our current Access database we will contact eHealth Solutions for technical advice and, if required, consider contracting an external resource, which eHealth has agreed to facilitate.

Recommendation 4.8

The Department of Health and Wellness and the Department of Community Services should establish performance indicators to measure achievement towards meeting program goals.

Response 4.8: DHW agrees with this recommendation and will establish performance indicators to measure achievement in meeting goals. Performance indicators will be developed by the end of this fiscal year.

Recommendation 4.9

The Department of Health and Wellness should maintain complete records identifying which facilities have received training on Protection of Persons in Care; this information should be used to determine ongoing training requirements.

Response 4.9: DHW accepts this recommendation and has implemented a process for tracking which facilities have received training and information on the Protection for Persons in Care Act.