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TO:	CHAIR AND MEMBERS DEARNESS HOME COMMITTEE OF MANAGEMENT MEETING ON JANUARY 7, 2015
FROM:	SANDRA DATARS BERE MANAGING DIRECTOR, HOUSING, SOCIAL SERVICES AND DEARNESS HOME
SUBJECT:	ORIENTATION BRIEFING FOR DEARNESS HOME COMMITTEE OF MANAGEMENT (OVERVIEW OF HOME AND ROLE OF COMMITTEE OF MANAGEMENT)

RECOMMENDATION

That, on the recommendation of the Administrator, Dearness Home and the Managing Director, Housing, Social Services and Dearness Home, that

- i) the following report including orientation information for the Dearness Home Committee of Management **BE RECEIVED** for information; and that
- ii) the Managing Director, Housing, Social Services and Dearness Home **BE DIRECTED** to advise the Licensee, the Corporation of the City of London, of the orientation conducted with the Committee of Management and the information shared.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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BACKGROUND

In order to support the members of the Dearness Home Committee of Management in understanding and fulfilling their responsibilities of ensuring that the Corporation complies with the *Long Term Care Homes Act* (LTCHA), a plan of orientation, education and information / resource sharing has been developed. Information/ resource sharing included in this orientation report to the Committee of Management will cover the following areas:

- Overview of the Dearness Home and Service Provision
- Legislative and Regulatory Requirements
- Roles and Responsibilities – Committee of Management, Licensee, Regulated staff
- Overview of other key requirements of the LTCHA.

Although the Act does not require the Committee of Management to report to the Licensee, Civic Administration is seeking the Committee's support in sharing orientation information with the Licensee (through the Community and Protective Services Committee and Council) to support broader understanding of the services provided at the home and the legislative and regulatory requirements.

Overview of Dearness Home and services provided:

The Dearness Home is a long term care facility owned and operated by the Corporation of the City of London. The home was originally opened in June, 1954 and provided services to 300 residents as well as apartments and rooms for couples and singles. The home was renovated in both 1958-59 and 1970-71 with the capacity rising to 372 residents.

In 2000, City Council approved a redevelopment for the home and in 2002 entered into an "Agreement for Redevelopment of Long Term Care Facility Beds" with the Ministry of Health



and Long Term Care (MOHLTC). Provincial funding was provided to build a new home and redevelop 243 beds in accordance with provincial standards and at a capital cost of \$40 million. The new home opened in 2005 and has been providing supports since that time including 241 long term stay and 2 respite beds as well as an Adult Day program (30 participants per day) and managing the provision of a community Homemakers Program (currently 42 recipients of service).

The home is funded through a cost share relationship with the provincial government, specifically the Ministry of Health and Long Term Care. The provincial funding is flowed through the South West Local Health Integration Network, with which the City has two service accountability agreements, the Long-Term Care Home Service Accountability Agreement (L-SAA) and the Multi-Sector Accountability Agreement (MSAA) (for long term cares services and day program services respectively). Inspections of the long term care services are conducted by MOHLTC and are most often unannounced, in response to concerns or complaints received, as follow up to issues identified at the home or, in some cases, announced including as part of the RQI (Resident Quality Inspections) process.

In 2013, the city contracted with Extendicare (Canada) Inc. for the provision of long term care consulting services and Administrator services at the home. The city continues to own and operate the home and with the exception of the Administrator, all staff (totalling approximately 360) is city staff. The agreement with Extendicare has been reviewed by the MOHLTC and a formal approval process of this agreement is in the process of being finalized and will be brought forward to the Licensee (Corporation via City Council) for review and approval in the near future.

The City of London is a member of the Ontario Association of Non-Profit Homes and Services for Seniors (OANHSS), a provincial membership-based organization that has represented not-for-profit providers of long term care, services and housing for seniors for over 90 years. In addition to providing educational support to both civic staff and board/ council members, OANHSS advocates on behalf of municipal and not-for-profit providers with the provincial government and other regulatory bodies.

Governance of the Home - Legislative and Regulatory Requirements:

Long term care homes in Ontario are governed by the *Long Term Care Homes Act (LTCHA)*. The Act, and its accompanying regulations (Regulation 79/10) which came into effect on July 1, 2010, are very prescriptive and outline roles, responsibilities and requirements for service provision and for stakeholders. Under the Act, the Corporation of the City of London is a “licensee” which is defined to include “the municipality ...that maintains a municipal home...approved under Part VIII” (of the Act). The role of the Licensee (the Corporation) is to comply with the Act. Section 119 of the Act reinforces the mandatory requirement for the City to operate a home, stating that “Every southern municipality that is an upper or single-tier municipality shall establish and maintain a municipal home”.

The Act and Ontario Regulation 79/10 differentiate municipal homes (Part VIII homes) from private and not-for-profit with regard to key governance requirements. As an example, Section 69 (1) requires all “directors and officers” of a corporation to:

- a) Exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and
- b) Take such measure as necessary to ensure that the corporation complies will all the requirements under this Act

The City of London does not have “corporate directors”. Instead Section 69(2) provides that “in the case of a long term care home approved under Part VIII, the members of the Committee of Management will fulfil that role.

- **Committee of Management:**

The Committee of Management serves as an oversight body to ensure the Corporation complies with the Act. The Committee of Management is only authorized to deal with matters that fall under the LTCHA. Under Section 132, Municipal Council is **required** to appoint a



committee of management for the home, from members of Council. With respect to the Corporation, the Committee of Management has adopted the Terms of Reference contained in City of London By-law A.-6582-255 (Copy attached in Appendix A).

The main duty of the Committee of Management is set out in section 69 of the LTCHA:

Every member of the Committee of Management shall:

- (a) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; AND*
- (b) take such measures as necessary to ensure that the corporation complies with all requirements under the Act.*

Other legislation also governs Committee actions. The Committee is a “local board” as defined under the *Municipal Act* and is therefore subject to the “open meeting” requirements of the *Municipal Act*. However, unlike other local boards, Council has no authority under the *Municipal Act* to pass by-laws:

- for the governance structure of the Committee of Management (s. 10(6) MA)
- for the accountability and transparency of the Committee of Management or its operations
- to dissolve or change the Committee of Management. (s. 216(3) MA)
- to establish codes of conduct for members of the Committee of Management (s. 223.1 MA).

The *Municipal Conflict of Interest Act* also applies to the committee and committee members are required to declare any pecuniary interests. The Committee of Management is separate and apart from Council and can only be composed of members of municipal Council. A member of the Committee of Management cannot be a member of the Family Council for the home.

With respect to records, the *Municipal Freedom of Information and Protection of Privacy Act* applies to records of the Committee of Management and any requests a member receives for records of the Committee should be directed to the Clerk’s office

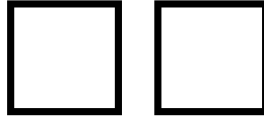
Committee members should exercise due diligence in fulfilling their obligations (e.g. full and candid discussion, independence, participation and preparation). It is an offence for a member of the Committee of Management to fail to comply with section 69 of the LTCHA.

Other Obligations for Committee of Management members:

- The Committee of Management and its members will receive information and may receive concerns related to services with the home. Under the Residents’ Bill of Rights, every resident “a person admitted to and living in a long-term care home”, has right to raise concerns or recommend changes in policies and services on behalf of himself/herself or others to a member of the Committee of Management (s. 3 LTCHA).
- The Committee also has responsibilities related to reports to the Ministry. Any person, and therefore any member of the Committee has this obligation, who has reasonable grounds 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 (s. 24 LTCHA):
 - Improper or incompetent treatment or care of a resident that resulted in harm or a risk of harm to the resident.
 - 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.
 - Unlawful conduct that resulted in harm or a risk of harm to a resident.
 - Misuse or misappropriation of a resident’s money.
 - Misuse or misappropriation of funding provided to a licensee under this Act or the *Local Health System Integration Act, 2006*.

A Committee of Management member is guilty of an offence if they fail to make a report required by section 24. A Committee of Management member is guilty of an offence if they

- (a) coerce or intimidate a person not to make a report required by this section;
- (b) discourage a person from making a report required by this section; or
- (c) authorize, permit or concur in a contravention of the duty to make a report his



section.

Individual members of the Committee of Management could face penalties of not less than \$50.00 and not more than \$1000.00.

It is important to note that there is also a Prohibition against Discouraging a person from disclosing anything to an Inspector, the Director, or giving evidence in a proceeding.

- Section 26 of the LTCHA provides “Whistle-blowing protection” for individuals that either disclose information to an inspector; disclose information to the Director; or provide evidence in a proceeding (such as court, inquest, or tribunal hearing). The Act forbids anyone from retaliating against another person who provides such information. Retaliation includes dismissing a staff member; disciplining or suspending a staff member; imposing a penalty upon any person; or intimidating, coercing or harassing any person.
- It is an offence for a Committee of Management member to do anything that discourages any person from “whistle-blowing” under s. 26. (s. 26(5) LTCHA)
- It is an offence for a Committee of Management member to do anything to encourage a person to fail to do “whistle-blow” under s. 26 (s. 26(6) LTCHA).
- While the Act is unclear whether penalties are limited for this offence, it does indicate that penalties for a first offence could be maximum of \$25,000 and/or imprisonment for not more than 12 months; penalties for a subsequent offence could be a maximum of \$50,000 and/or imprisonment for not more than 12 months.
- The Corporation still faces the maximum fine amounts if it is guilty of an offence under the Act (not more than \$50,000 for a first offence and not more than \$200,000 for a subsequent offence). Other individuals including administration at the home face the maximum fine amounts if guilty of an offence under the Act (not more than \$25,000 and/or up to 1 year imprisonment, \$50,000 for a subsequent offence and/or up to 1 year imprisonment).

Committee members are advised that there is a Council indemnification by-law (A-5) that may apply in these situations. The Corporation shall indemnify a member of Council in respect of any civil, criminal or administrative action or proceeding by a third party arising out of acts or omissions done or made by such person in his capacity as or by reason of being or having been a member of the Council, including acting in the performance of any statutory duty imposed by any general or special Act, if: (a) he acted honestly and in good faith with a view to the best interests of the Council or the Corporation; and (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he had reasonable grounds for believing that his conduct was lawful.

- **Role of key staff positions in home:**

There are various staff roles within the home including nursing and personal support staff, environmental supports, activation resources and administrative team members. Three specific roles are required under the act:

Administrator (Section 70, LTHCA)

The Administrator shall:

- be in charge of the long-term care home and be responsible for its management
- perform any other duties provided for in the regulations (see Reg. 79/10 s. 212).
- work regularly in that position on site at the home for at least 35 hours per week
- meet certain education requirements, working experience requirements, have demonstrated leadership and communications skills; enrolled in or completed a program in long-term care home administration or management that is a minimum of 100 hours

At the time this report was written, December 12, 2014, the Administrator at Dearness Home meets requirements of legislation.

Director of Nursing and Personal Care (Section 71, LTCHA) (known as Director of Care at Dearness)

The Director of Nursing and Personal Care shall:

- supervise and direct the nursing staff and personal care staff of the long-term care home



- and the nursing and personal care provided by them;
- perform any other duties provided for in the regulations
- be a nurse.

The Licensee shall ensure the Director of Nursing and Personal Care works full-time in that position. The Director of Care at Dearness Home meets this requirement.

Medical Director (Section 72, LTCHA)

The Medical Director shall:

- be a physician
- advise the licensee on matters relating to the medical care in the long-term care home (and in performing this duty shall consult with the Director of Nursing and Personal Care and other health care professionals working in the home)
- perform any other duties provided for in the regulations
- have the following responsibilities and duties:
 - development, implementation, monitoring and evaluation of medical services
 - advising on clinical policies and procedures, where appropriate
 - communication of expectations to attending physicians and registered nurses in the extended class
 - addressing issues relating to resident care, after-hours coverage and on-call coverage
 - participation in interdisciplinary committees and quality improvement activities.

The Medical Director at Dearness Home meets these requirements.

Other Obligations under the Long Term Care Homes Act

In addition to the information outlined above, there are a number of key compliance and legislative requirements outlined through the LTCHA that are important for Committee Members to be aware of. This information is provided for Committee members at this point and over the next several meetings of the Committee, information related to these requirements and current status at the home will be reviewed:

Part II: Residents: Rights, Care and Services

1. There must be a **Residents' Bill of Rights** which the home must respect and promote. The Bill of Rights can be enforced by a resident against a home as if it were a contract;
2. The Home is required to have a **mission statement**
3. The Home must be a **safe and secure environment** for its residents. Specific requirements exist in the Regulation for the following: Doors in a home; elevators; floor space; furnishings; privacy curtains; shower grab bars; bed rails; windows; communication and response system; lighting; generators; cooling requirements; air temperature; plumbing; compliance with manufacturers' instructions
4. There must be a **plan of care for each resident**, and the home must ensure that the resident is reassessed and the plan of care is reviewed and revised at least every six months. The home has a duty to ensure that the care set out in the plan is provided. Requirements for what is contained in plan of care and how it is determined are set out in the Regulation.
5. The Home must ensure that certain nursing services and personal support services are provided including:
 - nursing and personal support (specific requirements in Regs re personal care, bathing, oral care, foot and nail care, transferring and positioning techniques; personal items and personal aids; notification re personal belongings; mobility devices; dress; bedtime and rest routines; end-of-life care; communications methods; availability of supplies);
 - restorative care (transferring and positioning; therapy services; social work and social services work);
 - recreational and social activities;
 - dietary services and hydration (nutrition care and hydration programs, weight changes, menu planning; food production; dining and snack service; registered dietitian; nutrition manager, cooks, food service workers);
 - medical services (attending physician);
 - information and referral assistance;



- religious and spiritual practices; and
- accommodation services (housekeeping, pest control, laundry service, maintenance services, hazardous substances)
- written policy regarding pets in the home
- an organized volunteer program in place

Required interdisciplinary programs must also be in place including:

- Falls prevention and management;
 - Skin and wound care;
 - Continence care and bowel management;
 - Pain management
6. The home must demonstrate that it has implemented processes to ensure appropriate Qualifications of Personal Support Workers.
 7. The home must ensure that a registered nurse be on duty in the home 24 hours a day, seven days a week.
 8. The home must implement a program developed for Responsive Behaviours of residents.

Prevention of Abuse and Neglect

- The Home is required to protect residents from abuse by anyone and shall ensure that residents are not neglected by staff. The home must ensure that there is a written policy to promote zero tolerance of abuse and neglect of residents, and shall ensure that the policy is complied with;

Reporting Requirements

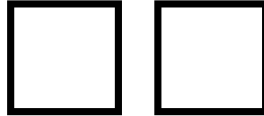
- Broad reporting requirements exist. If a written complaint is received concerning the care of a resident or the operation of the home, the home shall immediately forward the complaint to the Director (MOHLTC)
- The Home must immediately investigate and take appropriate action for each alleged, suspected or witnessed incident of abuse or neglect;
- There are mandatory reporting requirements. Any person who has reasonable grounds to suspect improper or incompetent treatment or care, abuse or neglect or unlawful conduct which results in harm or risk of harm to residents or misuse or misappropriation of a resident's money or funding for the home must immediately report the suspicion and the information upon which it is based to the Director. It is an offence for an officer or member of the Committee of Management, a staff member, or someone who works in a professional capacity with the residents or home to fail to report, or to encourage suppression of a report;
- Immediate mandatory reporting to the Director of critical incidents is required i.e. an emergency; unexpected or sudden death; resident missing for 3 or more hours; a missing resident who returns to the home with an injury; outbreak of reportable disease or communicable disease; contamination of the drinking water supply.
- mandatory reporting to the Director within one business day (resident missing for less than 3 hours; environmental hazard; missing or unaccounted for controlled substance; injury in respect of which person is taken to hospital; medication incident or adverse drug reaction in respect of which a resident is taken to hospital)

Whistle-blowing Protection

Whistle-blowing protection is provided for all persons, including staff, residents and volunteers who disclose information to the Director or inspector or give evidence in a proceeding or inquest. There is a prohibition against retaliation against such individuals. The Ministry must immediately visit the home if there is information of serious harm or risk of serious harm to a resident or if there is information of retaliation or threats of retaliation against a person who has made a report of abuse or neglect;

Minimizing of Restraints

The Act requires provisions relating to the use of restraints and requires the home to ensure that there is a written policy to minimize the use of restraints. The home must ensure that the residents are not restrained for reasons of convenience or discipline, and that specific types of restraint are used only as provided in the Act; common law duty to restrain or confine a person when immediate action is necessary to prevent serious bodily harm to the persons or others is preserved. The Home must ensure that the use of Personal Assistive Devices is used to assist



a resident with routine activity of living only if its use is included in the resident's plan of care.

Drugs and Medications

The home must develop an interdisciplinary medication management system with written policies and protocols.

Part III: Admission of Residents

Admission agreements between the Home and any individual receiving services are required (one for accommodation services, the other for any other services).

Part IV: Councils

The Home must have a Residents' Council and may have a Family Council. The Dearness Home has both and both are extremely active within the home and support the overall administrative and service provision.

Part V: Operation of the Home

Staffing:

- The home must have an Administrator, a Director of Nursing and Personal Care and a Medical Director, meeting both the qualifications and the requisite minimum working hours as indicated previously. Other staffing including nurses, nurse practitioners, personal support workers, dietary and environmental supports and activation staff are also necessary (although not mandated by legislation)

Training:

- The home must ensure all staff have received required training, and annual retraining. Direct care staff must receive training in: abuse recognition and prevention; mental health issues; behaviour management; how to minimize restraining of residents; palliative care; fall prevention and management; skin and wound care; continence care and bowel management; pain management; training in use of physical devices

Orientation for Volunteers:

- The home must develop an orientation for volunteers

Information Package

- The home must provide a package of information to the resident or their substitute decision-maker including prescribed information.

Posting of Information

- Home must post certain prescribed information

Quality Improvement Program

- The home must develop and implement a quality improvement and utilization review system that monitors, analyzes, evaluates and improves the quality of the accommodation, care, services, programs and goods provided to the residents. Must survey residents and families annually to measure their satisfaction with the home.

Infection prevention and control program

- The home must have an infection prevention and control program.

Emergency Plans

- The home must have written emergency plans in place; must test, evaluate, update and review them with staff. They must deal with: fires, community disasters, violent outbursts, bomb threats, medical emergencies, chemical spills, situations involving missing resident, and loss of one or more essential services).

MOHLTC Reporting

- The home must submit a report to the Director (MOHLTC) annually.

Requirements for Recording



- The home must establish and implement processes for the creation, retention and updating of resident records and staff records

Requirements for Financial Process for Residents

- The home must establish trust accounts for residents (maximum amount of \$5000)

Summary

As this overview demonstrates, the business of operating a municipal long term care home is highly regulated and predicated on the compliance requirements outlined in the Long Term Care Homes Act (LTCHA). The role of the Committee of Management of Dearness Home is to oversee the provision of service at the home and identify and supervise issues of compliance. It is important to note, however, that while efforts to meet and maintain compliance consistent with the Act are the primary goal of Dearness administration, it is difficult to unequivocally confirm that the home is compliant with all requirements at all times.

Communication from Civic Administration to the Committee of Management will occur consistent with protocols established in September 2013. The September 9 2013 report Reporting Mechanisms for the Dearness Home Committee of Management, attached as appendix A.

The Ministry, through its inspection processes, will determine any issues and where necessary, issue written notices and/ or written orders requiring the Licensee to address specific issues. In keeping with current practices, the Administrator’s report submitted to each meeting of the Dearness Committee of Management will outline all identified issues of non-compliance. Copies of all MOHLTC inspection reports will also be provided to the Committee of Management as part of the Administrator’s report. With the exception of Compliance Orders, these reports will be provided at the scheduled Committee meetings. The Administrator of the home will continue to advise the Managing Director of any findings of non-compliance made by the MOHLTC, providing information immediately upon receipt of the notification and a copy of the written report once received from the Ministry. Should a Compliance Order be received, the Administrator or designate will immediately advise the Managing Director who will then initiate the reporting protocol for Urgent/ Critical Issues, which includes notification to the Committee Chair. A copy of the Compliance Order will be provided thereafter, as soon as it is received from the Ministry. It is important to note that there is often a lag between when the home receives the written inspection report and when a public version of the report is posted on the Ministry’s website. These reports are also available online at <http://publicreporting.ltchomes.net/en-ca/homeprofile.aspx?Home=M514>.

It is also important to note that despite the highly regulated environment, Dearness Home is a “home” to 243 residents and services provided there are supported by residents’ families, community partners and members of the public. Dearness administration and staff are committed to the residents of Dearness Home and to providing effective supports across the home.

RECOMMENDED BY	REVIEWED AND CONCURRED BY:
ANGIE HEINZ ADMINISTRATOR DEARNESS HOME	SANDRA DATARS BERE MANAGING DIRECTOR HOUSING, SOCIAL SERVICES & DEARNESS HOME

- Cc:
 C. Saunders, City Clerk
 A. Zuidema, City Manager
 L. Marshall, Solicitor II, City of London
 T. Talabis, Regional Director, Extendicare