

**SUPPLEMENTAL
QUESTIONS AND ANSWERS
Service Agencies and Application Entities (DSOs)**

Developmental Services Compliance Inspections

GENERAL

1. Why is the Ministry introducing a new compliance framework?

- The Ministry puts a high priority on seeking to ensure that individuals with developmental disabilities have a secure and safe place to live and are able to fully participate in their communities.
- Over the last year we have worked in close partnership with the developmental services sector to develop a new inspection framework that aims to ensure safety and security and quality services. The Ministry is also responding in a practical way to the recommendations outlined in the Auditor General's 2014 Annual Report to improve DS compliance.

2. How do these changes relate to the Developmental Services Transformation?

- The compliance framework supports the Developmental Services Transformation Principles of safety, security and accountability.
- Compliance inspections provide assurances to the Ministry, individuals receiving services and supports, and the public, that adults with developmental disabilities are receiving quality standards of care, in a safe and secure environment

3. What are the significant changes that will affect service agencies in responding to outstanding compliance requirements?

- Starting in January 2016, we are strengthening our inspection oversight by:
 - ✓ Introducing risk-based timelines for compliance so that immediate and high-risk situations may be quickly resolved.
 - ✓ Conducting annual inspections of all DS agencies funded by MCSS and completing inspections of all applicable residential sites operated by those agencies every seven years.
 - ✓ Requiring agencies to publicly post the results of Ministry inspections. Introducing enforcement measures such as limiting eligibility of non-compliant agencies to apply for “new” MCSS funding for adult

developmental services or initiatives, though this will not affect the agency's base ministry funding.

- ✓ The Ministry would take the agency's particular circumstances into careful consideration before taking any enforcement actions

4. While the priority appears to be for residential service providers, are all DS adult funding codes including 8888 DS Specialized Services, 9134 Passport Agencies, 9135 Community Networks of Specialized Care, etc... eligible for compliance inspections?

- Quality Assurance Measures apply to all service agencies funded under SIPDDA. The Ministry conducts compliance inspections at the offices of adult developmental services agencies (to look at policies and procedures manuals, human resource files, and talk with staff), as well as on-site inspections of:
 - ✓ Supportive group living residences (which can include specialized accommodation)
 - ✓ Intensive support residences
 - ✓ Community participation services and supports
- Inspection includes a paper based review only for the following programs:
 - ✓ Host family residences
 - ✓ Caregiver respite services and supports.
 - ✓ Supported Independent Living program
 - ✓ Application Entities (DSOs)

5. How frequently will inspections be completed for service providers?

- Inspections will be conducted on each agency every calendar year. Individual residential sites (i.e., supported group living and intensive support residences) will be scheduled for inspection every seven (7) years.
- DSOs will be inspected every two (2) years.

6. Are there plans for the new Framework to be shared with Outside Paid Resources (OPRs)?

- Currently, DS Compliance Framework training is being conducted with service agencies funded under SIPDDA only.
- It is the service agency's responsibility to ensure that any Outside Paid Resource (OPR) that they may contract with is complying with the requirements set out in their third party contract with the Outside Paid Resource (OPR). (This includes compliance with the applicable quality assurance measures requirements).

- An Outside Paid Resource (OPR) may attend the DS Compliance Framework training that is provided to the service agencies.

COMPLIANCE SUPPORTS

1. How much notice is given to service agencies/DSOs prior to a compliance inspection?

- All service agencies and DSOs will receive three weeks' notice prior to the inspection.

2. What happens if there is a conflict with the scheduled inspection timeframe and pre-planned agency activities e.g., (Provincial Conference, Annual General Membership Meeting)?

- All service providers are provided with three weeks' notice of upcoming compliance inspection. Exceptional circumstances will be evaluated and consideration may be given to accommodating scheduling conflicts.
- The Ministry will try to schedule inspections around any major conferences or meetings, if known ahead of time.

3. How should I prepare for a compliance inspection as efficiently and effectively as possible?

- In preparation for the inspection, you should review the inspection (checklist) report that you received from your Program Advisor, which was attached to your notification of inspection letter to determine which requirements apply to your agency. The number and content of requirements may vary depending on the types of services and supports that are in scope for the inspection.
- Review the Developmental Service Compliance Indicator List to ensure that you are familiar with the intent of each requirement.
- Compliance resources for service agencies are posted on the QAM training website www.gamtraining.net. These materials will assist in meeting the requirements of the Regulation.

4. What resources are available for me to refer to?

- Available resources on the training website include:
 - ✓ An E-learning module for QAM
 - ✓ E-copies of the DS Compliance Inspection Indicator List and relevant legislation and regulations
 - ✓ QAM plain language guides including the directive on Behavioural Support Plans, and Person Centred Planning
 - ✓ Serious Occurrence Reporting Guidelines and forms

- ✓ List of training packages on the use of physical restraint that have been identified by the Ministry for use with adults with a developmental disability

5. What value does the DS Indicator List have for me?

- The DS Indicator List is a valuable resource as it:
 - ✓ Outlines potential agency indicators Program Advisors use to assess and confirm compliance
 - ✓ Provides the policy intent of the specific requirements
 - ✓ Indicates the risk rating of each requirement based on the colour coded “Immediate” (red), “High” (yellow), “Moderate” (blue) and “Low” (green)
 - ✓ Includes examples of corrective actions required by an agency to meet compliance. (i.e., copy of a policy, approved fire safety plan, confirmation of corrective action, etc.)

6. Why doesn't the Developmental Services Compliance Indicator List include the DSO requirements?

- DSOs are expected to comply with all of the requirements listed under Part V of Regulation 299/10, Quality Assurance Measures, with respect to Application Entities and the policy directives.
- DSO requirements do not fall under the category of ‘Immediate’ or ‘High’ risk ratings.

7. Am I only expected to be in compliance after the inspection?

- No. It is the Ministry's expectation that agencies and DSOs be in compliance with the QAM and policy directive requirements at all times.

COMPLIANCE IMPROVEMENT

1. What is the Ministry's expectation for public posting?

- Agencies are required to post a hard/paper copy of the Letter of Compliance or Non-Compliance that is issued by the Ministry following a compliance inspection.
- The letter must be posted at or near the main entrance of the administration office in a prominent location so that the letter is clearly visible to those who enter within three days of receiving the letter.

2. How long does the letter have to be posted?

- Once your agency receives a Letter of Compliance, it must remain posted until the completion of a subsequent compliance inspection.

3. Can someone call me by telephone to ask what our compliance results were?

- Yes. While a copy of the letter need not be posted at each site/location owned or operated by the agency or DSO the agency/DSO is expected to respond to any questions about the compliance or non-compliance status of any site (e.g., a supported group living residence, a community participation support program, a DSO satellite office).

4. Why do the Summary Report and Compliance Action Template (CAT) indicate a non-compliance requirement rated as “Immediate” risk, if the agency corrected the requirement at the time of inspection?

- Even if rectified at the time of inspection and prior to sign off, all “Immediate” non-compliance requirements will be recorded on the summary report and on the Compliance Action Template (CAT), as well as the actions taken to rectify the observed non-compliance.
- The inspection report will be updated to indicate corrective actions were taken prior to sign off if the agency submits their formal response within 24 hours.

5. What reporting requirements are needed within 24 hours of receiving a copy of the Summary Report for “High” risk rated non-compliances?

- The service agency shall submit a copy of the Compliance Action Template within 24 hours of receiving a copy of the Summary Report; column D shall include a clearly articulated plan describing what has been done and tentative completion date.

6. What if an agency is not able to complete corrective action(s) within 10 business days for “High” rated non-compliances?

- Agencies should identify that they anticipate that they will not be able to comply when they update their Compliance Action Template (CAT) and submit their 24 hour response to the Ministry.
- If the service agency subsequently becomes aware that they will not be able to complete corrective action within 10 business days, the agency shall notify the Program Advisor and the Program Supervisor as soon as possible prior to the expected deadline.
- The service agency/DSO shall submit a copy of the Compliance Action Template within 10 business days, column D shall include a clearly articulated plan describing what has been done and expected completion date.

- If the service agency remains in non-compliance following 10 business days the developmental services compliance team will evaluate the submission and take appropriate action. For example, consideration will be given to whether the non-compliance is within the service agency's control to rectify or not.
- A letter of Non-Compliance will be sent to the service agency and they will be required to post in a prominent location.

7. If the DSO or agencies are not able to comply with “Low to Moderate” requirements within 10 business days of sign off, is an additional timeframe provided?

- If the service agencies or DSO are not able to comply with “Low” to “Moderate” risk rated requirements within 10 business days of sign off, the service agency/DSO may be provided with up to an additional 30 business days to complete corrective action(s).

8. How would the DSO or agency indicate to the Ministry that they are not able to comply with “Low to Moderate” requirements within 10 business days?

- Agencies should identify that they will not be able to comply when they update their Compliance Action Template (CAT) and submit their 24 hour response to the Ministry.
- If the service agency subsequently becomes aware that they will not be able to complete corrective action within 10 business days, the agency shall notify the Program Advisor and the Program Supervisor as soon as possible prior to the expected deadline.
- The service agency/DSO shall submit a copy of the Compliance Action Template within 10 business days, column D shall include a clearly articulated plan describing what has been done and expected completion date.

9. What if, at the time of the inspection, there is a different interpretation between the service agency and the program advisor of the QAM requirements and/or policy directive?

- The service agency has the option to seek written clarification from the DS Compliance Team at DSCompliance@ontario.ca. The agency is not required to sign off on the Inspection Report if they disagree with the inspection results.
- Inquiries should have a clear objective (e.g., purpose is to clarify directions for compliance or provide feedback on the requirements and policy directives).
- Inquiries must be put in writing by the agency and forwarded to DSCompliance@ontario.ca
- Contact your Program Advisor/Program Supervisor if you need anything – only use the DS Compliance email if you are not able to come to a resolution.

10. In the event that the developmental services compliance team is not able to respond to an issue prior to the exit meeting, how long do we have to come into compliance?

- The timelines for compliance will vary based on the severity of non-compliance or how complicated the issue is. The Ministry will indicate the date by which you will be required to come into compliance.
- The developmental services compliance team will respond to your issue request, generally within 2 business days.
- Some issues may require more time to consult with legal services and/or the policy branch. We will be reasonable in assigning specific compliance deadlines when issues are complex and take time to resolve.

11. Who is the Ministry contact for agency questions or issues that may occur after the compliance report is signed off?

- The Program Advisor and Program Supervisor work cooperatively to support agencies in addressing compliance related issues. Please contact the most appropriate Ministry representative.

12. Does the third party review of behaviour support plans fall under the “within the agency’s control category”?

- Yes, they fall under the agency’s control category.
- Service agencies will have up to 10 business days to confirm the completion of the third party review. If your agency remains in non-compliance following 10 business days the Developmental Services Compliance Team will evaluate the submission and action accordingly.
- The Developmental Services Compliance Team will assess the situational circumstances preventing the completion of corrective measures within the timelines. They may then provide an extension letter containing a revised timeline.

COMPLIANCE ENFORCEMENT

1. What is the process for enforcing compliance?

- Where the developmental services compliance team has concerns regarding non-compliance(s), the Director (appointed under SIPDDA) will review the inspection file and circumstances to determine if a compliance order is warranted.

- Before issuing a compliance order, the Director must provide notice of the proposed order, reasons for it, and the time frame for compliance. The timelines for compliance would be set out in the notice of proposed order based on circumstances.
- The Notice of Compliance Order will identify what is required in order to achieve compliance and the required completion date.
- The agency will have 14 calendar days, or such other time period specified in the notice, to respond with evidence of compliance and/or provide a submission before a compliance order may be issued. The appointed Director may reconsider the decision to issue an order at this time.
- A Director may issue a Compliance Order after considering a submission, or if no submission is received, after the time period in the notice has expired.

2. What if the service agency's ability to meet the outstanding requirement is deemed by the Ministry to be not solely within the agency's control to rectify?

- In those instances, the agency will receive a separate Non-Compliance Letter with an explanation.
- The explanation will indicate that the agency is in non-compliance for reasons not solely within their control and is being monitored by the Ministry.
- The Ministry will monitor the situation related to the outstanding non-compliance(s) to determine if the service agency is making a reasonable effort to come into compliance before taking enforcement steps.

3. Who becomes aware that a Notice of Compliance Order has been issued to my agency?

- The Notice of Compliance Order is addressed to the service agency's Executive Director. A copy will be sent to the Board President/Chair of the service agency.

4. Can a service agency appeal a Notice of Compliance Order?

- A service agency receiving a Notice of Compliance Order can submit a submission to the Director of the Service Delivery and Supports Branch with respect to the proposed order. The director will consider the written submission prior to making a decision to issue the order.

5. How do I submit a response to a Notice of Order?

- Send your written submission to the attention of Sal Marrello/Kevin Lockwood, Developmental Services Compliance Team by mail, email or by fax as follows:

Mail: Service Delivery and Supports Branch, 80 Grosvenor Street, 7th Floor,
Hepburn Block
Toronto, Ontario, M7A 1E9
Email: DSCompliance@ontario.ca
Fax: 416-212-1499

- If you wish to make your submissions in another manner, you may contact the Ministry by telephone at 1 (416) 327-4962 or by email at DSCompliance@ontario.ca.

6. How long will I have to respond to the Notice of Compliance Order?

- The service agency will have approximately 14 calendar days from the receipt of the Notice of the Order to make a written submission to the Director of the Service Delivery and Supports Branch.
- The submission will then be reviewed and considered prior to making a decision to issue a Compliance Order.
- If no submission is received, the Director may issue a Compliance Order.

7. If I am issued an order, what funding will my agency not be eligible for?

- The Ministry may withhold “new” funding in the event that a compliance order is issued.
- Examples of “new funding” currently include: In-year funding enhancements and any special initiatives. (e.g., Employment and Modernization Fund [EMF]).

8. What else could the Ministry do to enforce compliance?

- If an agency fails to comply with a compliance order, the Ministry could terminate the funding agreement. In the case of a DSO or funding entity the Ministry may revoke their designation.
- In very limited instances, the Minister may appoint someone to take over and manage the affairs of the agency or DSO or funding entity. This would occur based on grounds set out in s. 31(2) (a) and (b), not necessarily as a result of failing to comply with an order under s.30.
- The Ministry would take the agency’s particular circumstances into careful consideration before taking any enforcement actions