Developmental Services Compliance Framework

Training Package for Service Agencies

January 2016

Why we are introducing this…

- 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 of services. The Developmental Services (DS) Compliance Team has addressed the recommendations in 2014 Auditor General of Ontario's Annual Report regarding the Ministry of Community and Social Services' (MCSS) inspection and compliance processes.

- The revised compliance inspection approach was created in consultation with the Developmental Services sector. The ministry consulted with the Provincial Network on Developmental Services ("Provincial Network"), the Quality Assurance Measures Reference Group, and a 10 person working group consisting of Provincial Network members and one family member.

- In addition, the Ministry conducted three WebEx consultation sessions to seek feedback from all Ministry funded service providers on the proposed process in the summer of 2015.

Highlights

The Ministry has developed a revised Compliance Inspection approach that includes:

- A greater focus on compliance assistance and support;

- Annual inspections of applicable Ministry-funded agencies;

- All applicable residential sites to be inspected every seven years;

- Consistent timelines for non-compliance follow-up, including corrective measures based on the differing severity of non-compliant requirements;

- A mechanism for issue dialogue and resolution for agencies to clarify expectations about the requirements;

- The posting of compliance inspection results as a measure to increase the transparency and accountability of agencies; and

- Introducing enforcement measures such as limiting eligibility of non-compliant agencies to apply for additional in-year or "new" funding for initiatives; and taking action on existing enforcement measures, where and when warranted. Note: agency base funding will not be impacted.

Objectives of Training

To gain an understanding of the new compliance inspection process.

This training will:

- Highlight the compliance framework in an easy to understand manner;

- Walk you through each step of the process and identify the tools, resources and supports that are available to you;

- Clarify what you need to do prior to, during and after the compliance inspection;

- Clarify public posting requirements;

- Clarify timelines and enforceable action based on the risk rating of each requirement, and,

- Increase your knowledge of and compliance with the requirements outlined in Ontario Regulation 299/10 regarding Quality Assurance Measures (QAM) and the Policy Directives made under the *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008* (SIPDDA).

DS Compliance Framework

Compliance Support

Information, support and resources are in place to assist service agencies in understanding the requirements and evidence required to meet MCSS expectations.

Support one another to assist with compliance inspections.

Compliance Improvement

Inspection occurs

Issue dialogue and resolution mechanism available to clarify compliance requirement

Provide timelines to service agency to achieve compliance

Post inspection results at 10 day mark (or earlier if compliant)

Enforcement (if necessary)

Notice of Compliance Order

10 days for high risk

40 days for low or moderate risk

Compliance Order

Director to establish timeframe to achieve compliance

Extreme cases of persistent non-compliance:

Immediate takeover (s. 31)

Termination of funding (s. 30(7)

Compliance Support | Notice of Inspection

A notification letter will be forwarded to the Executive Director/Chief Executive Officer and the President of the Board of Directors three weeks prior to the compliance inspection.

The notice will include links to recommended resources to assist your service agency in achieving compliance prior to the inspection:

- Developmental Service Compliance Inspection: Indicator List
- Developmental Services Comprehensive Inspection List
- Behavioural Support Plan (BSP) Reference Guide
- QAMClear

The notification letter includes:

- The date, time and location of entrance meeting;
- Who is required to participate;
- The purpose of compliance inspections;
- The list of documents required at the time of the orientation meeting; and
- A tip sheet offering a suggested process when preparing for an inspection and describing the resources available.

Indicator List / Program Requirements

The Developmental Service Compliance Indicator List ("Indicator List") outlines program requirements and indicators used to assess and confirm compliance.

The Indicator List should be used in conjunction with the Compliance Inspection Report.

The Indicator List's sections were designed to reflect the order that they appear in the Compliance Inspection Report.

- **INTENT**

  - The Intent outlines the rationale for each requirement under the regulation and the policy directives.

Indicator List / Program Requirements cont'd

- **INDICATORS**

  - The Indicators, though not exhaustive, specify methods that the service agency may use to show or indicate compliance with the sections of the legislation and policy directives.

  - They highlight the colour coded risk ratings for each requirement. It is recommended that priority be given to addressing the red (Immediate) and yellow (High) requirements. Once immediate and high requirements have been achieved, then moderate and low priority requirements are to be addressed.

- **REQUIRED FOR COMPLIANCE**

  - The Indicator List focuses on two types of indicators: documentation and physical inspection.

Please note that the Indicator List is not intended to replace legal advice that the service agency may need to seek with regard to their compliance with the requirements.

Compliance Support | QAMClear

During the Ministry's consultations, some agencies expressed concern about inconsistencies, including:

- Varying interpretations on the intent of the regulation;
- Differences in what is required to meet compliance; and
- Changes in compliance status between inspections for the same measured requirement.

In response, the Ministry has prepared a supplemental tool, "QAMClear," to guide Program Advisors, Program Supervisors and agencies in addressing specific issues or questions.

QAMClear includes the following information:

- QAM or policy directive requirements;
- Intent of the requirement;
- Issue identified as a result of the analysis and the feedback from the sector; and
- Operational Guidance - evidence for compliance or non-compliance.

Going forward, QAMClear will be accessible on the QAM website (www.qamtraining.net) and will be updated as necessary.

Compliance Support | # QAM Website

The Ministry has developed several documents to assist you in preparing for the compliance inspection, and these resources are accessible on the QAM website (www.qamtraining.net).

1. Developmental Service Compliance Inspection: Indicator List

    The Indicator List includes:
    - The policy intent of the requirements;
    - Applicability of the requirements to SIPDDA-funded services and supports;
    - Differing severity of non-compliant requirements;
    - Specific indicators used to assess and confirm compliance during inspections; and
    - Service agency actions required to meet the requirements.

2. QAM training eLearning system: http://elearning.qamtraining.net/

QAM Website cont'd

3. Developmental Services Comprehensive Inspection List
    Complete list of all 280 requirements.

4. Behavioural Support Plan (BSP) Reference Guide
    Aligns the BSP requirements in the regulation with the policy directive, provides additional information on policy intent and to clarify the Ministry's expectations of agencies in meeting the requirements.

5. Compliance Tip Sheet
    The tip sheet provides suggestions to assist agencies in achieving compliance in advance of an inspection. The tip sheet will normally accompany an inspection notification letter.

Additional Resources

MINISTRY PROGRAM ADVISOR

- Program Advisors are responsible for:

    - Conducting agency based inspections, evaluating and monitoring the operations of agencies to ensure compliance with legislative standards;

    - Identifying issues and making recommendations for corrective action/improvements;

    - Providing clarification to service agencies on the inspection process and timelines; and

    - Communicating the Ministry's expectations for strengthening Developmental Service compliance.

MINISTRY PROGRAM SUPERVISOR

- Program Supervisors are responsible for monitoring and supporting service agency compliance with the QAM requirements.

Compliance Support | Additional Resources

- **COMMUNITY TABLES**

  - Agency mentorship

  - Sharing policies and procedures, best practices, operation templates and resources

- **UMBRELLA AGENCIES and NETWORKING OPPORTUNITIES**

  - *PROVINCIAL NETWORK*
    - Provide expertise, feedback and advice
    - QAM subject experts

  - *COMMUNITY LIVING ONTARIO*
    - Represents 107 local Community Living associations across Ontario

  - *ONTARIO AGENCIES SUPPORTING INDIVIDUALS with SPECIAL NEEDS (OASIS)*
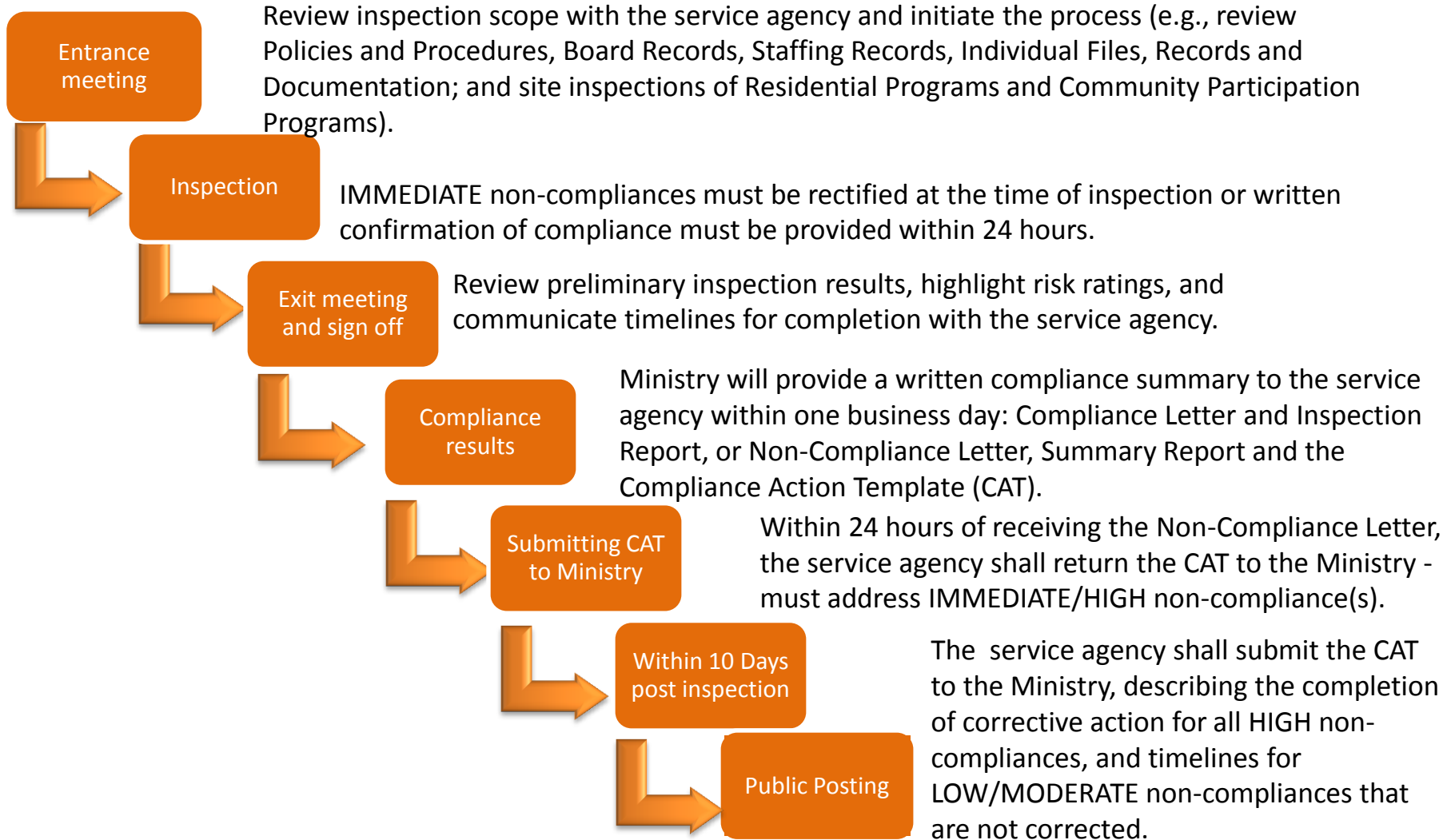   - Provides leadership through sharing ideas, information and knowledge

What Do We Inspect?

- **There are 280 requirements under QAM and supporting policy directives that we inspect:**
    - Policies and Procedures = 62
    - Board Records = 9
    - Staff – Volunteer Records = 27
    - Individual Records = 98
    - Records and Documentation = 50
    - Site Inspection = 34

The number and content of requirements may vary depending on the types of services and supports that are in scope for the inspection.

- **Compliance inspections are divided between an agency's office and residential sites. They typically include**:
    - On-site inspection of residential sites and community participation programs;
    - Review of some staff member files; (includes full-time, part-time, relief, casual staff)
    - A sampling review of files, including Individual Support Plans; (and Behaviour Support Plans if needed) for individuals receiving services and supports;
    - A review of Incident and Serious and Enhanced Occurrence Reports;
    - Confirming completion of staff training requirements;
    - Review of individual's financial records;
    - Medication storage and administration;
    - Review of Health & Safety Records, Reports and Checklists; and
    - Review of maintenance and equipment records.

Compliance Improvement

Inspection Activities

Entrance meeting

Review inspection scope with the service agency and initiate the process (e.g., review Policies and Procedures, Board Records, Staffing Records, Individual Files, Records and Documentation; and site inspections of Residential Programs and Community Participation Programs).

Inspection

IMMEDIATE non-compliances must be rectified at the time of inspection or written confirmation of compliance must be provided within 24 hours.

Exit meeting and sign off

Review preliminary inspection results, highlight risk ratings, and communicate timelines for completion with the service agency.

Compliance results

Ministry will provide a written compliance summary to the service agency within one business day: Compliance Letter and Inspection Report, or Non-Compliance Letter, Summary Report and the Compliance Action Template (CAT).

Submitting CAT to Ministry

Within 24 hours of receiving the Non-Compliance Letter, the service agency shall return the CAT to the Ministry - must address IMMEDIATE/HIGH non-compliance(s).

Within 10 Days post inspection

The service agency shall submit the CAT to the Ministry, describing the completion of corrective action for all HIGH non-compliances, and timelines for LOW/MODERATE non-compliances that are not corrected.

Public Posting

What to Expect at an Entrance Meeting

Review inspection scope with the service agency and initiate the process:

- Describe the purpose of compliance inspections for service agencies receiving funding under SIPDDA.

- Confirm inspection schedule for residential site and/or community participation program.

- Identify random selection of staff and volunteer records for sites/programs inspected.

- Discuss post-inspection non-compliance follow-up activities and timelines. Remember to address Immediate and/or High rated non-compliances first.

WHY?

- For immediate rated non-compliances at the time of inspection, you will only have 24 hours to provide written confirmation of your corrective action(s) and/or an action plan describing safeguards and timelines for completion.
- High rated non-compliances are to be rectified within 10 business days.

- Discuss available compliance supports and address any service agency questions.

- Schedule the close-out meeting to discuss inspection findings, trends, best practices and clarify expectations and specific timelines based on the severity of non-compliances.

Compliance Improvement | Issue Dialogue and Resolution

- The Ministry has developed an informal issue dialogue and resolution mechanism for service agencies to contact the corporate developmental services compliance team to:

    - Address any issues that may arise during the compliance inspection process, and/or
    - Clarify the intent of the QAM requirements and Policy Directives under SIPDDA.

- As issues are resolved, the Compliance Team will identify both the issue(s) and resolution(s) on the QAM training website and in the QAMClear for your future reference.

- Issue dialogue and resolution inquiries must be submitted in writing by the service agency to DSCompliance@ontario.ca

- Inquiries should have a clear objective (e.g., the purpose is to clarify directions for compliance or provide feedback on the requirements and policy directives).

- **The Director may decide to initiate enforcement activities at any time in accordance with the legislation.**

What to Expect at an Exit Meeting

Review inspection results:

- Highlights of organizational best practices;
- Review areas of non-compliance;
- Description of risk rated non-compliances and timelines to address non-compliance; and
- Sign off on compliance inspection reports if all parties are in agreement with the contents of the inspection report. If the agency does not agree with the inspection findings they do not have to sign. In cases of disagreement it is recommended that an inquiry be submitted to DSCompliance.ca.

Upon completion of the inspection, the service agency will be deemed either compliant or non-compliant.

Compliant
- The Compliance Letter and Inspection Report will be sent within 24 hours to the service agency's Board Chair, cc. Executive Director and cc. Program Supervisor. The Inspection Report outlines all QAM and policy directive requirements and includes additional notes.
- No further action is required.

What to Expect at an Exit Meeting cont'd

Non-Compliant

- The Non-Compliance Letter, Summary Report and Compliance Action Template (CAT) will be sent within 24 hours to the service agency`s Board Chair, cc. Executive Director and cc. Regional Program Supervisor.

- The Summary Report outlines all non-compliances and includes what is required for compliance with the Regulation 299/10 QAM and policy directive requirements.

- The CAT will be completed by the service agency to provide the corrective measures and to confirm completion of the non-compliance requirements or an action plan to address how the agency will address the non-compliance(s).

Contact your ministry Program Advisor/Program Supervisor for all inquiries – the DS Compliance email address should only be used when resolution has not been achieved.

Compliance Reporting Timelines

IMMEDIATE

Non-compliance shall be corrected at the time of site inspection.

If non-compliance cannot be resolved at the time of inspection, written confirmation of compliance (email) must be provided to the Ministry within 24 hours.

Within 24 hours of receipt of Non-Compliance Letter, the service agency shall return the CAT to the Ministry indicating the completion of corrective measures for IMMEDIATE non-compliances.

HIGH

Within 24 hours of receipt of Non-Compliance Letter, the service agency shall return the CAT to the Ministry to address non-compliances rated HIGH. Action plan shall also include whether the service agency will complete corrective action within 10 business days or if the agency anticipates any issues with meeting the timelines.

Within 10 business days, the service agency shall submit a copy of the CAT to the Ministry describing the completion of corrective action.

LOW TO MODERATE

Within 10 business days, the service agency shall submit a copy of the CAT to the Ministry describing the completion of corrective action.

Within 30 business days of receipt of the Post Inspection Follow Up for Outstanding Low to Moderate Requirement Letter, the service agency shall submit a copy of the CAT to the Ministry describing completion of corrective action.

Review the New Policy Directive

- Beginning January 25, 2016, service agencies will be required to post a hard copy of the Letter of Compliance or Non-Compliance that is issued by the Ministry following a compliance inspection.
    - A Compliance or Non-Compliance Letter shall be sent to the agency for posting if the service agency remains in non-compliance 10 business days post exit meeting.
    - The most up-to-date Compliance Letter or Non-Compliance Letter shall be displayed in a prominent location within the service agency's main entrance, where it is easily visible to the Ministry Program Advisor and the general public.
    - The Compliance or Non-Compliance Letter is to be posted within three business days of receipt from the Ministry.
    - The Compliance or Non-Compliance Letter is to remain posted until the completion of a subsequent compliance inspection (or when the Ministry sends someone to confirm compliance has been achieved).
- Service agencies that remain in non-compliance and follow the timelines for correcting non-compliance requirements the Director (under SIPDDA) deems <u>not solely</u> within their control to rectify, will receive a separate <u>Non-Compliance Letter</u> with an explanation.
    - The explanation will indicate that the service agency is in non-compliance for reasons not solely within their control and is being monitored by the Ministry.

Recap of Inspection Steps

Notification Letter

Three weeks prior to inspection the Program Advisor will provide information and a notification letter outlining available supports to help the service agency understand the process and expectations.

Entrance meeting

Review inspection scope with the service agency and initiate the process (e.g., review of Policies and Procedures, Board Records, Staffing Records, Individual Files, Records and Documentation; and site inspections of Residential Programs and Community Participation Programs).

Inspection

IMMEDIATE non-compliances must be rectified at the time of inspection or written confirmation of compliance provided to the Ministry within 24 hours.

Exit meeting and sign off

Review preliminary inspection results, highlight risk ratings, and communicate timelines for completion with the agency.

Compliance results

Program Advisor will provide written compliance summary to the service agency within one business day: Compliance Letter and Inspection Report, or Non-Compliance Letter, Summary Report and CAT.

Submitting CAT to Ministry

Within 24 hours of receiving the Non-Compliance Letter, the service agency shall return the CAT to the Ministry - must address IMMEDIATE/HIGH non-compliance(s).

Within 10 Days post inspection

The service agency shall submit the CAT to the Ministry, describing the completion of corrective action for all HIGH non-compliances, and timelines for LOW/MODERATE non-compliances that are not corrected.

Public Posting

Enforcement | Process and Timelines

- The Ministry will act reasonably before taking enforcement action (e.g., consider whether non-compliance with a requirement is within the service agency's sole control to rectify).

If an agency fails to comply, a Director appointed under SIPDDA could issue a compliance order.

- The appointed Director would review the inspection file and circumstances to determine if a compliance order is warranted and/or reasonable.

- 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 based on circumstances and outlined in the notice.

- A Notice of Compliance Order will identify what is required in order to achieve compliance and by what date this must be completed.

- The service agency will have 14 calendar days or other time period specified in the notice (e.g., 10 business days) to respond with evidence of compliance or provide a written submission before a compliance order may be issued. The appointed Director may reconsider the decision to issue an order at this time.

Enforcement | Process and Timelines

- A Director may issue a Compliance Order after considering a submission, or if no submission was received, after the time period required in the notice has expired.

- If a service agency fails to comply with a compliance order, the Ministry could terminate the funding agreement, and/or in extreme circumstances (in accordance with grounds under the Act) a failure to comply could result in an immediate takeover.

- In the case of a Developmental Services Ontario (DSO) application entity, the Minister may revoke their designation. The Ministry could also terminate their funding or initiate a takeover (in accordance with grounds under the Act).

- The Ministry may withhold "new" MCSS funding for adult developmental services or initiatives in the event that a compliance order is issued. Examples of "new funding" currently include:
  - In-year funding enhancements
  - Any special initiatives. (e.g., Employment and Modernization Fund (EMF)).