Chapter 6

Equipping California Long-Term Care Ombudsman Representatives for Effective Advocacy: A Basic Curriculum

THE PROBLEM-SOLVING PROCESS: INVESTIGATION

Curriculum Resource Material for
Local Long-Term Care Ombudsman Programs

Developed and Revised by Sara S. Hunt, Consultant

Office of the State Long-Term Care Ombudsman Program
California Department of Aging
1300 National Drive, Suite 200
Sacramento, California 95834
Telephone: (916) 419-7510
www.aging.ca.gov
stateomb@aging.ca.gov

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I. INTRODUCTION[1]

The first function of a Long-Term Care Ombudsman Program (LTCOP) listed in the federal Older Americans Act is to:

> *Identify, investigate, and resolve complaints that are made by, or on behalf of, residents…*[2]

This chapter focuses on the investigation process and skills used by Long-Term Care Ombudsman (LTCO) representatives. Investigation is the foundation of resolving problems. Another chapter, "The Problem-Solving Process: Resolution," discusses the process and skills LTCO use to implement necessary changes after an investigation.

As a LTCO how you approach identifying, investigating, and resolving complaints directly affects:

- your relationship with residents and staff,
- your ability to achieve the desired outcome,
- future relationship with residents, families, and staff, and
- the reputation of the LTCOP.

II. OMBUDSMAN APPROACH TO PROBLEM SOLVING

In an institutional setting, certain practices and methods of operation are developed to ensure efficiency. While efficiency is a legitimate business concern, these practices and methods may conflict with the needs of individual residents. It has been argued that a "good facility" is one that attempts to balance the need for efficiency with quality of life issues; a "bad facility" is more likely to focus solely on efficiency.[3] Moreover, nursing homes are based on the medical model with its emphasis on health and safety concerns. These concerns sometimes overshadow the right to make choices that involve at least some degree of risk: an example is the use of restraints.

Problem solving or complaint resolution is the primary means that ombudsman representatives use to ensure that residents' rights are understood and honored in such an environment. It involves educating residents, staff and others about rights, and helping to find practical solutions to problems that arise when the interests of the facility and the interests of the individual conflict.

Responding to and resolving complaints can be difficult. There will be times when you will be called upon to support the resident in a decision that may be clearly harmful to him/her. There will also be times when you will be trying to balance the rights of one resident against the rights of another. After all, in any communal setting, there will be differences of opinion and preference.

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[1] Much of this chapter content is adapted from the *Long-Term Care Ombudsman Program Manuals* from Louisiana and Alaska, developed by Sara S. Hunt. Alaska manual available on www.ltcombudsman.org

[2] Older Americans Act, § 712(a)(3)(A)(i).

[3] Wayne Nelson, Ph.D., Deputy Director, Oregon Ombudsman Program. "What Kind of Ombudsman Are You?" Speech delivered at the 13th Annual Louisiana Ombudsman Conference.

Whatever the situation, the process is the same. Complaint handling is really nothing more than a problem-solving process. It is a systematic, rational process you follow—from receipt of a complaint through investigation and resolution. As you handle more and more complaints, you will adapt this process to your own style. Eventually, it will become second nature.

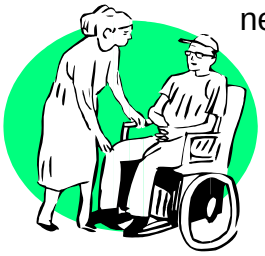
Uniqueness of the Ombudsman Approach[4]

The LTCO's goal in problem solving is achieving satisfaction for residents. The *approach* an ombudsman uses is critical not only to the immediate outcome but also to effectiveness in the future with residents and staff. *If residents see ombudsman representatives working to build relationships, residents are better able to trust LTCO to help them without feeling that their own relationships with staff will be strained.* Therefore, as an ombudsman, you must carefully select your strategies and be skillful and thoughtful in investigating and resolving problems. This resource chapter is designed to assist you in understanding the process and in refining your skills.

> *The ombudsman's main responsibility is problem solving.*

Real problem solving requires taking the time to understand what factors affect how the staff is working, as well as what the resident is experiencing. Since the LTCO's primary responsibility is problem solving, you can take the time to get to know the resident's situation in depth and to look into creative solutions that are workable for the staff and residents. A solution will work only if it is based on mutual understanding and if it works for all parties.

Ombudsman representatives seek to work in such a way that staff understand more of what is at the heart of a resident's concerns and find ways to respond to the resident's needs. As a result, ombudsman representatives hope to see a difference in the way care is provided for an individual in both observable aspects and attitudinal aspects. Working on behalf of one resident can lead to changes in facility policies and routine practices. Thus, all residents benefit.



The ultimate goal of the ombudsman approach to problem solving is to help staff become more responsive to residents and residents better equipped to directly express their concerns to staff.

Common Problems

Common problems likely to surface in facilities include:

- Loneliness, the need for someone to talk with
- Boredom: not enough social or personal activities
- Problem with roommate(s)
- Lack of privacy
- Poor food service or quality
- Inability to get services, care, or
- Inability to live independently coupled with a desire on resident's part to leave facility
- Use, accounting, and safe-keeping of personal funds and personal possessions
- Limited opportunities to go outside the facility for community activities
- Need for assistance to find or purchase services

[4] Adapted from "Ombudsmen as Problem Solvers" by Barbara Frank, in the *Training and Resource Manual for Volunteer Resident Advocates*. Connecticut Nursing Home Ombudsman Program. 1996.

attention because of physical or communication problems
- Physical or chemical restraints
- Neglect
- Transfer from one room to another without notice

- Transfer to another facility because of change from private pay to Medicaid
- Need for assistance to document or make complaints

- Insufficient medical or nursing care
- Physical or mental abuse
- Additional or high charges for "extra" services
- No rehabilitative care

- Conservator/Guardianship issues
- Loss of dignity and self-respect based on general treatment in facility
- Need for legal assistance to make will or to make arrangements for disposing of personal funds or possessions, or for other matters

Barriers to Self-Advocacy

Residents may be unable to express their particular needs without assistance from others. Barriers to self-advocacy are manifold. There are at least three kinds of barriers to self-advocacy, as indicated below. They are psychological/psychosocial barriers, physical and mental barriers, and information barriers.

Psychological/Psychosocial

- Fear of retaliation
- Sense of isolation
- Lethargy
- Disorientation
- Loss of confidence
- Depersonalization
- Disdain for the label c*omplainer*
- Social pressure to conform
- Fear of upsetting the family
- Belief that this is the best it can be
- Sense of hopelessness and/or despair
- Inability to question authority
- Mystique about medical issues
- Lack of familiarity with staff
- Lack of experience with assertive behavior, particularly for women
- Stereotypes, fears about age
- Sense of weakness resulting from illness

Physical and Mental

- Hearing loss
- Loss of speech
- Immobility
- Memory loss or other impairments in cognitive functioning
- Inaccessibility of staff
- Impaired vision
- Diminished physical strength
- Effects of medications
- Depression

Information

- The resident lacks information concerning:
- Rights, entitlements, benefits
- Authority within the facility
- Legal and administrative remedies
- Alternatives
- How to improve the situation
- The right to complain and how to advocate for change

Role of the Ombudsman/Advocate

As an ombudsman, you will be an advocate acting on behalf of residents. In some cases, you will be able to educate, support, and encourage residents to engage in self-advocacy, to represent themselves. In other situations, you will be representing the resident. Resident empowerment needs to be a part of your problem solving strategies. There are some basic guidelines to remember in advocacy. These "do's and don'ts" are listed in Tables 1 and 2.

Another important aspect of the role of advocate is personal style, or demeanor, in presenting problems to staff. An approach that is hostile, aggressive (rather than assertive) or blaming will cause great damage to your working relationship and make it difficult for you to collaborate with the facility staff in solving problems. On the other hand, a style that is too passive will not be effective in ensuring that the resident's rights are respected.

As an advocate, you are called upon to be respectful, and sometimes even empathetic, to the concerns of the facility. Yet you must also be persistent and professional in your pursuit of the implementation of a resident's rights. You can serve the resident's interests best if your manner is "firm, fair, and friendly."[5]

Table 1. The Do's of Advocacy
• Respect the confidentiality of all complaints made to you. • Be a good listener. • Assure the resident that you are there to listen to his/her problem. • Speak clearly and slowly so that the resident can understand you. • Talk to the resident in a quiet, private area. • Explain things in a few words, rather than in long paragraphs, acronyms and jargon. • Be objective, yet understanding. • Give an accurate picture to the resident of what he/she can expect. • Convey a sense of care and a desire to help to the resident. • Remember that some residents may distort or exaggerate; therefore, an accurate and reliable assessment of the problem is necessary. • Work with the resident, the staff, and the administration in solving

Table 2. The Don't's of Advocacy
• Do not provide physical or nursing care. This is the responsibility of the staff working in the facility and is for the resident's protection as well as the advocate's. • Do not bring unauthorized articles into the home such as food, drugs, prescriptions, tobacco, alcoholic beverages, or matches. • Never treat the residents as children. They have a lifetime of experience. • Do not diagnose or prescribe for a resident. • Do not make promises that may be impossible to keep. • Do not advise residents on business or legal matters; refer them to appropriate professionals. • Do not be critical of the residents or the facility. • Do not engage in arguments, but rather, stick to the question or problem at hand. • Do not forget that you are not an inspector of the facility. You are there

[5] Wayne Nelson, Ph.D., Deputy Director, Oregon Ombudsman Program. "What Kind of Ombudsman Are You?" Speech delivered at the 13th Annual Louisiana Ombudsman Conference.

Table 1. The Do's of Advocacy
problems. • Remember that it may take some questions and perseverance to get to the real problem. • Make an effort to understand the total situation or problem by seeking out as many sources of information as possible. • Remember that the resident may tire easily, have a short attention span, digress during conversations, or simply become confused. • Keep accurate records as requested for the program.

Table 2. The Don't's of Advocacy
to listen to individual complaints and try to resolve them.

III. POLICY CONSIDERATIONS

Documentation

Documentation is extremely important for accurate reporting and for allowing others who may later become involved in a complaint to know what steps you've already taken. Furthermore, any complaint may at some time become a source of litigation, and clear documentation will be critical.

Some ombudsman representatives find keeping a diary or journal of their visits helpful. This allows them to remember personal information about residents, observations of potential problems, and events that may not seem significant at the time, but turn out to be important later. It may also make it easier to complete the forms your local LTCOP requires for reporting your activities to the State Long-Term Care Ombudsman Program (SLTCOP). Be sure that whatever type of documentation you keep is consistent with the policies of your local LTCOP.

Confidentiality

All records and information obtained during an investigation or during the resolution process must be held in confidence. Information may only be disclosed if the complainant or resident or his/her legal representative consents to the release of the information or by court order. The federal law concerning confidentiality and disclosure can be found in the Older Americans Act [42USC3058g (d)(2)].

Explain the confidentiality policy to the complainant at the outset of the complaint-handling process. Unless explicitly given approval to reveal someone's name, you must keep the name and identity of a resident or complainant confidential. In cases where the resident/complainant agree to reveal their identity, a signed consent form documenting that permission was given and stating who will be told their identity is required. Check with your local LTCOP Coordinator for copies of these forms.

Permission to disclose the identity also applies to asking complainants other than the resident for permission to tell the resident that they contacted you. You need to ask, "Is it okay to tell Mrs. Jones that you contacted me about this problem?" You will usually be told "Yes." The section on ethical dilemmas offers guidance on how to proceed if you are told "No."

Sometimes people will make a complaint only under the condition of anonymity. If an individual insists on having his/her name kept secret, explain that, while you will do everything possible to protect their identity, there is the possibility that the facility may be able to determine who made a complaint. Explain that some complaints are virtually impossible to investigate without revealing the identity of the resident. For example, a complaint regarding a resident's finances may not be adequately checked unless financial records are reviewed, which would immediately indicate who had filed a complaint.

If the use of a complainant's name is initially denied but is needed to proceed further with a complaint investigation, talk with the person again to:

- explain the situation,

- request to use the complainant's name, and
- discuss any potential risks involved in the complainant's being identified.

See Table 3 for additional guidance on this issue.

> *A guarantee that retaliation will not occur should never be offered to obtain the complainant's permission to use his/her name.*

Encouraging Self-Advocacy

You should encourage the complainant to act on his/her own behalf. This is especially true if the complainant is the resident. Offer information, support, and guidance, but encourage the complainant to take action to resolve the problem. Sometimes a complainant may be willing to participate in the problem-solving process if you can join them in any meetings to offer assistance. A more complete discussion of encouraging self-advocacy, empowerment, can be found in the chapter, "Residents' Rights." If the complainant is not the resident, it may be necessary to ask the complainant if they have determined **what the resident wants** in the matter.

If the resident prefers that you act on their behalf, remember that you can do no more than what the resident gives you approval to do. You must also report back to the resident on your progress.

Sometimes a resident will insist that nothing be said or done. In such cases, you have no choice but to continue to check back with the resident to see if he or she wishes to proceed at a later date.

Alternatively, you might find other residents with the same issue who are willing to pursue it to resolution. By resolving the issue for others, you might be able to resolve it for the resident who does not want you to proceed on her behalf.

IV. DILEMMAS IN RECEIVING COMPLAINTS

You will inevitably find yourself in a number of complaint situations that pose ethical dilemmas or call for special handling. The key to knowing how to respond to many of these situations is to remember that you *represent the resident*. The Ombudsman Code of Ethics in the chapter, "History and Role of the Long-Term Care Ombudsman Program," can be helpful in clarifying your role. Table 3 lists seven typical situations that may occur and gives suggestions for dealing with these dilemmas.

Table 3. Typical dilemmas and suggested responses.

Dilemma	Suggested Response
A family member complains about a resident's care, but the resident says everything is fine and asks you not to proceed.	*Your primary responsibility is to the resident*. If pursuing the investigation would identify the resident, you must discontinue it unless the resident grants permission to proceed. As an alternative, if you feel there is a problem with the care in the facility, you might be able to pursue a more general investigation, taking care not to do anything that would reveal the resident's identity.

The resident complains, but a family member urges you "not to rock the boat."	This case is more clear-cut: the resident has requested assistance, and you should honor that request. Explain to the family that you are obligated to assist residents in resolving problems.
Relatives want you to investigate their complaint, but do not want the resident to know what you are doing. (For example: two relatives are involved in a dispute over who is to provide for the resident's expenses; or, relatives may fear that the resident will be upset or alarmed by a problem.)	This is a particularly sensitive situation. It may be advisable to have a general conversation with the resident to ascertain whether he/she is concerned about the problem mentioned by the complainant. You will have to judge whether there is a problem concerning the resident. If the resident is being victimized, you are responsible for addressing the problem. You should not become involved, however, in family disputes, which are not affecting the resident's well being.
A resident who is unable to make decisions for himself/herself, but has not been legally declared incapacitated, makes a complaint.	Even though the resident may be confused or unable to express a decision, you should check into his/her complaint. It cannot be dismissed as invalid just because it comes from someone who is confused. However the resident's condition should be considered as one factor in determining whether the complaint is valid. Consider what you know about the resident and about the facility. Try to understand what the resident is expressing; determine if there is an underlying message or unmet need.
A case arises involving a resident for whom a guardian has been appointed.	In most cases, you work through the guardian. Exceptions to this rule would be: • The complaint is about the guardian or some action of the guardian. • The complaint is about the issue of whether the guardian is needed. • The guardianship is a limited one (the resident retains the right to make some decisions). With these types of cases, talk with your LTCO supervisor. It may be advisable to seek advice from the LTCOP legal counsel or from an appropriate legal agency.

Table 3, continued…

Dilemma	Suggested Response
The interest of one resident runs counter to the well-being of a group of residents. (For example: a resident may complain about being denied the right to smoke, but others say that the resident has almost set the facility on fire by smoking in non-smoking areas.)	In such cases, try to determine the facts and help the parties arrive at a solution that, as far as possible, protects the rights of the individual and the group. Your role is to assist in addressing the rights of all residents, not upholding one resident's rights to the detriment of other residents.
A resident will not give you permission to reveal her identity but wants your assistance.	Discuss the reasons the resident does not want her identity revealed. If this will limit your ability to resolve the issue, discuss this with the resident and tell her you will do as much as possible without revealing her identity. If you cannot resolve the issue without revealing her identity, tell her what you've done and why you cannot take the case further. If appropriate, encourage the resident to discuss her concern with the Residents' Council. • Look for supporting evidence during your regular visits. • Look for supporting evidence when visiting other residents; perhaps several other residents share the same issue and you can proceed on their behalf. • Inform the resident that you will be available to pursue this issue if she changes her mind. Check back with her regarding this.
A complainant, other than a resident, insists on remaining anonymous and will not give you any identifying information.	As in the case of residents who do not wish their names used, such persons should not be forced to reveal their identity. The complaint, if specific enough, can be investigated using these techniques: • Look for supporting evidence during your regular visits. • Engage in casual conversations to see how residents feel about the issue. • Review recent complaints/survey reports to see if similar problems have been noted. • If all else fails, file the complaint for future reference in case similar problems arise.

V. USING THE THREE STAGES OF PROBLEM SOLVING

The problem-solving process includes three major stages of action, as indicated in Table 4. The stages are the following: Stage 1, Intake and Investigation; Stage 2, Analysis and Planning; and Stage 3, Resolution and Follow Up.

The first stage is discussed at length in the following narrative. Stage 2 and Stage 3 are discussed in the chapter, "The Problem Solving Process: Resolution." The stages are simply a way of organizing your work as you seek to resolve problems. If you ever wonder what to do next, consult Table 4, the narrative discussion of each stage in the chapters, and Guidelines for Practice in the appendix, to check your work and get additional ideas.

Table 4. Stages in the problem-solving process.

STAGE 1 INTAKE AND INVESTIGATION	
Receive the Complaint	Receive problems, complaints, concerns.
Gather Information	Collect information from interviews, observations, and records.
Verify the Problem	Review information gathered. Assess what seems to be at the root of the problem. The complaint may be only a symptom.
STAGE 2 ANALYSIS AND PLANNING	
Analyze the Situation	Once you identify the problem, consider the causes.
Consider Solutions	Generate alternative solutions or approaches. Who should be involved? When? How? Why?
Identify Obstacles	Anticipate obstacles to help select an appropriate approach.
STAGE 3 RESOLUTION AND FOLLOW UP	
Choose an Approach	From your list of alternative solutions, choose the most efficient way to proceed, keeping any obstacles in mind. Identify alternative strategies in case you need them.
Act	Proceed with the selected plan, but be prepared to use an alternative.
Evaluate Outcome	Check back with the persons involved to evaluate the outcomes. Is the problem solved? Is it partially solved? If not, look for new approaches or information and start again.

To understand how this problem-solving process applies to a LTCO case, take a look at an example. Use the following case as an individual study exercise to focus on the Intake and Investigation steps. White space is included for you to jot ideas and questions. If you work through each step, reading and understanding the remaining information in this chapter will be easier. You will be on your way to approaching situations as an ombudsman.

Example: Mrs. Bronner's Purse

> As a LTCO you are visiting residents in Peaceful Acres Nursing Facility. When you stop in Mrs. Bronner's room, she whispers in an angry voice, "My purse is missing!"

What are some potential reasons that Mrs. Bronner says her purse is missing?

- She can't remember where she put it.
- Her daughter took it to have the strap repaired.
- Another resident wandered into the room and picked up the purse.
- Someone stole it.
- She never had a purse in Peaceful Acres.
- The purse is behind the bed where Mrs. Bronner can't see it.
- What Mrs. Bronner really wants is the special handkerchief her husband gave her that she always kept in her purse.
- Mrs. Bronner's purse is in her room but she is remembering a favorite purse she had many years ago.
- She left her purse in the dining room, and it is now in the box of "lost and found" items in the facility.

Because there are so many possible explanations for Mrs. Bronner's statement, how would you determine why Mrs. Bronner said her purse is missing? List a few ideas. Make a note of any questions you have. If these are not answered by the time you finish reading this chapter, ask your Ombudsman Program Coordinator for guidance.

Potential Action Steps to Determine Why Mrs. Bronner Says Her Purse is Missing

Potential Steps or Actions	How Might This Step Help You?

Potential Steps or Actions	How Might This Step Help You?

My Questions

After making a few notes, look at Tables 5, 6, and 7 on the following pages. These tables list potential actions that you might take to determine what Mrs. Bronner really means when she says her purse is missing.

Table 5. Information that could help resolve complaint.

Interview individuals…	Seek Information Such as the Following…
Mrs. Bronner	1. A description of her purse 2. What she remembers about the purse, when she last had it, where she keeps it when she is not using it, what she does with it when she uses it. 3. What actions Mrs. Bronner has taken to locate her purse. 4. Is Mrs. Bronner really wanting her purse or is she seeking something else, perhaps something that she associates with the purse? 5. Does Mrs. Bronner want your help? 6. Will she let you use her name if you talk with anyone else?
Mrs. Bronner's daughter, with Mrs. Bronner's permission.	1. What can she tell you about Mrs. Bronner's purse? 2. Has she taken any action regarding Mrs. Bronner's missing purse? 3. When did she last see Mrs. Bronner's purse? 4. If she thinks Mrs. Bronner is looking for something else, what might it be? 5. Has she had any experiences with other items missing in Peaceful Acres? If so, how has the facility responded?
Other residents with Mrs. Bronner's permission	1. Have they seen Mrs. Bronner with a purse? If so, when? What does she do with her purse? Does she take it whenever she leaves her room? Has she talked with them about the missing purse? 2. Have any of their possessions disappeared in the facility? Do they leave things out in their rooms? How do they keep things that are important secure? What is the experience of other residents related to retention and use of their own things?

	3. What happens if something is missing?
With the Residents' Council or an officer	1. Has the Council dealt with issues of missing possessions? What actions did the Council take? 2. What happened when these issues were discussed? 3. Were these issues in the past or are they current issues?
Peaceful Acres staff, with Mrs. Bronner's permission	1. What do they know about Mrs. Bronner's purse? 2. What does the facility do with misplaced items—items that are found but staff cannot identify the owner? 3. What are the facility's policies for handling missing possessions?

Table 6. Observations that could help resolve the complaint.

Observe…
1. Do you see a purse in Mrs. Bronner's room?
2. With Mrs. Bronner's permission and someone else present, assist her in looking in her closet, drawers and on the floor, for her purse. Follow the policies of your LTCOP and SLTCOP regarding looking for a resident's possessions.
3. Do you remember seeing Mrs. Bronner with a purse during any of your visits?
4. Do you see other residents with purses or using other personal items?
5. Is Mrs. Bronner's room located close to an outside entrance to the facility?
6. How are the entrances to the facility monitored?

Table 7. Documents that could help resolve the complaint.

Review Documents…
1. What do federal and State laws and regulations say that might be relevant to this issue?
2. Do your notes or the LTCOP records on Peaceful Acres indicate similar problems? If so, when did they occur? What was the cause? What was the outcome?
3. If pertinent, review minutes from the Residents' Council's meetings, with their permission.
4. Look at licensing and certification reports (CMS-2567) from the facility to see if similar issues were cited.
5. Look at the facility's policies regarding missing belongings and security of possessions.

By engaging in the preceding activities, you are conducting an *investigation.* The steps you would ordinarily take to help you determine the reason Mrs. Bronner says, "My purse is missing," are the basics of a long-term care ombudsman's investigation.

The primary tools of investigation are: interviewing observing, reviewing documents.

VI. STAGE 1: INTAKE, INVESTIGATION AND VERIFICATION

Intake and investigation is the initial stage in problem solving. It is fundamental to your ability to successfully resolve an issue. This stage includes three steps that are discussed in the following narrative: recognizing and receiving complaints; gathering information; and verifying and defining the problem.

Intake: Recognizing and Receiving Complaints

What is a complaint? This basic question is a confusing one for many LTCO. Are complaints only those problems you report to the State, only those you refer to a regulatory agency, or anything a resident voices as a concern?

In its simplest definition, *a complaint is any expression of dissatisfaction or concern*. However, this does not mean that you launch a full-scale investigation every time someone says today's lunch tasted bad. Many people express dissatisfaction just to let off steam or to have some way of expressing themselves about things over which they have little control. They may not expect or want you to intervene on their behalf. Some residents may be disoriented as to time and express concerns that relate to past events that are no longer relevant. Your task is to be skillful in **listening, observing, and asking questions** in order to determine when such expressions are actual requests for assistance or indicate a problem that you might need to pursue.

> *Be skillful in listening, observing, asking questions.*

Identifying Unvoiced Complaints

Problems sometimes exist in a facility without anyone complaining about them. An absence of complaints may not mean that all the residents are receiving quality care or experiencing an acceptable quality of life. There are many reasons why residents are reluctant to voice complaints. Some of these were listed on the preceding pages; others are listed in the chapter, "Residents' Rights."

A lack of voiced complaints should be taken as an indication of the need to reach out to the residents. Regular visits in a facility will make you a familiar figure to the residents. Once you have established trust, residents and their families may begin to assert their rights and voice their concerns. Your ability to detect hints of residents' concerns that are not explicit and to observe situations that require action is as important as your ability to respond to a direct request for assistance.

Sources of Complaints

An ombudsman may receive problems or complaints from a variety of sources, including:

- Residents
- Relatives or friends of residents
- Local advocacy or friendly visitor groups
- Facility staff
- Social work and human service agencies
- Hospital personnel
- Legislators and political leaders

Most of your complaints will probably come from visits in the facility or from telephone calls to the local LTCOP office. If possible, cultivate relationships with staff members or residents who can contact you on behalf of residents with less ability to communicate.

There are three important factors to remember about sources of complaints:

Few residents will make a complaint unless they are visited regularly by an ombudsman. Most residents will not feel comfortable complaining to a stranger for fear of reprisal, and therefore, need to know and trust a person before talking openly about their concerns. In addition, many residents do not know that they have the right to complain, or they feel that making a complaint will not do any good.

> In some facilities, a residents' council, grievance committee, or community council (composed of residents, relatives, and community members) may bring problems to you. Complaints made by such groups help to protect and support an individual resident. Sometimes these organizations become mere "rubber stamps" for the facility administration, so you will have to learn how much they really represent the interests of residents.

Relatives of residents are one of the most common sources of complaints. Family members may hesitate to complain for fear of retaliation to their loved ones. Families also fear that once the facility staff has labeled them as "complainers" their credibility will decrease. Your visits in a facility will help families learn about the LTCOP.

> Keep in mind that the needs and interests of families are not necessarily the same as the needs and interests of the residents. Residents face the stark reality of spending 24 hours a day in a facility and may feel a vulnerability that their relatives do not understand. Furthermore, residents' concerns may seem small to people living outside the facility but may have a major impact on residents' daily quality of life.

Long-term care facility staff members are a common, if not frequent, source of complaints. Staff complaints may be based on a variety of motives. On one hand, many staff are concerned about residents and want to provide the best care possible. When conditions in a facility are poor, staff may look for outside help in trying to correct the problems. On the other hand, some staff can become disgruntled with their employer because of low pay, poor working conditions, or other disputes with management. **Since your role as a LTCO is to address concerns of residents, be careful to avoid becoming an ombudsman for facility staff**. Offer to conduct in-service training programs or to share resource information with the facility to improve the environment for everyone who lives and works there.

Investigation: Gathering Information

Before you can resolve most complaints, you will need to gather additional information about the situation from a variety of sources. This process, which is the second step in Stage 1, is frequently referred to as *investigation.*

There are a number of other officials whose responsibilities include investigating complaints or conditions in long-term care facilities. Some of these are: surveyors for the licensing and certification agency, the Fire Marshall's office, and law enforcement officials. Each of these has its own set of rules and standards of evidence that must be met in order to determine the validity of the complaint and any corrective actions or penalties that might be applied.

An ombudsman has the freedom to be an independent thinker.

As a LTCO, your primary role is to advocate, to act on behalf of residents. Your actions must always be directed by residents, grounded in fairness, and in compliance with the laws, regulations, and policies of the State's LTCOP.

The *purpose* of a LTCO's investigation is to determine whether the complaint is verified and to gather the information necessary to resolve it. Verified means that it is determined after work (interviews, observation, record inspection, etc.) that the circumstances described in the complaint are generally accurate.[6] An investigation is a search for information. You must seek information that will either prove or disprove the allegations made by the complainant. The successful resolution of a complaint often depends on the quality of the investigation. A poor investigation can lead to a valid complaint being dismissed.

It is important to be *objective* in gathering information. You must not make assumptions about the validity of a given complaint, even if you believe there are problems in a facility. Being an objective investigator does not mean that you lessen your efforts to improve the care and quality of life for long-term care residents. It means that you keep an open mind so as not to be blind to evidence that does not fit a particular theory about the root cause. More explanation about this follows in the section, "When a Complaint Cannot be Verified."

The investigation involves *preparation*—deciding what information is relevant—and using various techniques to collect it. As stated earlier, the most common techniques ombudsman representatives use are interviewing, observation, and the use of documents. In order to use these techniques well, there are certain skills you need. These skills are discussed in relation to the relevant steps in the problem-solving process.

Preparation for an Investigation[7]

When you receive a complaint (intake), take time to adequately prepare before jumping into an investigation. How do you decide what information is relevant and how you might collect it? There are some basic steps to follow. Take a look at these steps and see how they apply to your work by reading about Mr. Michards' experience.

[6] Administration on Aging National Ombudsman Reporting System instructions recommended in 2006.

[7] Much of this section is adapted from the *Oregon Long-Term Care Ombudsman Certification Manual*, Section 7, Investigating Complaints. 2005.

STEPS TO PREPARE FOR AN INVESTIGATION

1. Separate the problems
2. Categorize the complaint and identify relevant laws or regulations.
3. Consider potential cause(s) or hypotheses.
4. Identify all participants.
5. Identify relevant agencies
6. Identify steps already taken.
7. Clarify the result the complainant is seeking.

Example:

> Mr. Michards, a private pay resident, had been in the nursing home for several months when his wife started to notice a tremendous change in his behavior. Mrs. Michards says, "He became chronically sleepy at just about the time he began losing weight." She believes that her husband was placed on an improper diet. "How could he be given an appropriate diet when the doctor never sees him?" she exclaims to you, the ombudsman. "He loves milk, but it's always warm here. I bring him snacks and they're always gone. Just like his clothes. I am being overcharged terribly and they can't keep track of anything. I am still trying to get them to replace the hearing aid they lost two months ago! Can you help me?
> "

Step 1: Separate the Problems

Gather as much specific information as possible in your first contact with the complainant. Separate the problems in clear statements and rank the problems in order of importance to the resident or the complainant. This ranking will set the priority for which problems you address first. After you have a clear list of all the concerns, go back and ask questions to fill in the details.

- Be sure to find out when the incident occurred. Is it a recent event or did it happen six months ago? The time frame might affect how much evidence you can find. It could also affect whom you interview and what kind of resolution will be sought.
- Find out where the incident occurred. If the situation occurred in the facility, it might be handled differently than if it occurred in the community while the resident was out for an appointment. The physical location within the facility might also affect the investigation and resolution.

Example:

> Mr. Michards has experienced a sudden, unexplained change in behavior, becoming chronically sleepy. This began about a week ago.
> Mr. Michards has experienced some weight loss, perhaps due to an inappropriate diet. He lost ten pounds in three weeks.

The doctor is not examining Mr. Michards often enough. He last saw the doctor two months ago.

Mr. Michards has lost his hearing aid. The complainant last saw it in its usual place on his bedside table a week ago when she left after dinner at about 6:00 PM.

Mr. Michards' milk is always warm. This is true at all meals. The milk is served in a plastic glass on the tray with a plastic wrap covering it. Mr. Michards cannot remove the cover without assistance.

Mr. Michards is losing his clothes. When Mr. Michards moved into the facility three months ago, the complainant brought in six pairs of socks, three pairs of pants, six shirts, six pairs of underwear and six T-shirts. The complainant does the laundry herself once a week. The complainant labeled the clothes as the facility instructed her to and added them to the inventory. Since admission, the complainant has had to replace three shirts, both pairs of pants, all of the socks and all of the underwear and T-shirts.

Mrs. Michards feels she is being overcharged by the facility. She pays a base fee of $3500 per month and then for some extra items that she can't specifically recall that vary each month.

Your problem statements should be detailed and concrete. They should be clearly agreed upon by both you and the complainant.

Step 2: Categorize the Complaint and Identify Relevant Laws or Regulations
Categorize the complaint, or in the case of a complex complaint, each of the individual elements. Know what kind of complaint you are dealing with.

Example: The warm milk complaint is a dietary problem.

Once you have categorized the complaint, research relevant law or regulations.

Example: The warm milk complaint is addressed in the Federal Code of Regulations "Requirements for Nursing Facilities"[8], §483.35 Dietary Services (d) Food, "Each resident receives and the facility provides: (1) Food prepared by methods that conserve nutritive value, flavor, and appearance; (2) Food that is palatable, attractive, and at the proper temperature (42CFR483.35)."

In other words, the law says milk should be cold!

Step 3: Consider Potential Cause(s) or Hypotheses
A hypothesis is nothing more than a beginning assumption about the nature of the problem. It is made in order to draw out and test its logical consequences. It is more than a guess. It is a set of propositions, assumptions and generalizations that possibly explain something.

[8] "Medicare and Medicaid Requirements for States and Long-Term Care Facilities." Volume 42, *Code of Federal Regulations*.

You might think of the hypotheses as a speculative theory. To put it another way, in developing a hypothesis you are considering possible causes.

Think of it this way. There are usually many reasons problems occur. Developing a theory, or hypothesis, allows you to list a possible cause or causes of the problem. Developing a hypothesis is what you were doing in working on Mrs. Bronner's missing purse complaint.

Example: What are the possible causes of the simple complaint about warm milk? In other words, what are your possible hypotheses?

a. The aides may be too slow in serving dinner.
b. The milk sits too long in the kitchen even before being placed on the tray.
c. The milk sits on the delivery tray too long in the hall prior to being serviced.
d. If Mr. Michards doesn't feed himself, perhaps he has to wait too long for assistance.
e. Mr. Michards can't feed himself and the staff aren't aware of it.
f. Mr. Michards might leave the milk on his tray as the last thing to be consumed.
g. There are not enough aides to serve the meals properly.
h. Mr. Michards is served last because his room is at the far end of a hall.

You might think of each of the above as a supposition to help inform your investigation. The list can help you select evidence for study and provide a sense of direction for the remainder of the investigatory process. What each of these hypotheses allows you to do is examine the issue of cause and effect in a careful, systematic and consistent way.

Step 4: Identify All Participants

Who is responsible and who has the power to do something about it? It may be important to gather names, telephone numbers, and addresses of all people who have some role in the situation. A complaint about resident care could include: the complainant, the resident, the facility nursing staff, the facility administrator, and the resident's physician. Another health care facility (hospital, nursing home) where the resident was recently treated may be an important contact in determining the cause of the resident's condition. In short, *identify anyone* who knows anything about the complaint or related circumstances and *identify anyone* who has the power to do something about the problem.

Example: Mr. and Mrs. Michards
Aides who assist with dietary services
Dietary supervisor
Mr. Michards' roommate or dining table companions

Step 5: Identify Relevant Agencies

Is there someone else involved? Is there another agency that needs to be involved? For example, a case manager, adult protective services, a legal aid attorney, a representative of the Medicare fiscal intermediary, police, or another LTCO? If there is, they may have information or insights that you want.

Example: Department of Public Health (CDPH), Licensing and Certification Division (surveyors) oversee skilled nursing facilities (SNFs) in California.

Department of Social Services (DSS), Community Care Licensing (licensing program analysts), oversee residential facilities for the elderly (RCFEs) in California.

Step 6: Identify Steps Already Taken
What work has already been done? Has the complainant taken some action? If the complainant has taken some action, you need to know this to avoid duplicating unproductive actions or retracing steps. You also need to know the results of the actions already taken. This can help you anticipate obstacles to resolving the problem. For example, has the complainant talked with the administrator, director of nursing, charge nurse, or supervisor? Has the complainant contacted the physician? Have there been any meetings with the staff? Have any other agencies been contacted?

If the complainant has not taken any action, you can suggest possible steps he/she might take. Advice of this nature helps the complainant learn self-advocacy and may also save you time to work on other problems. Remember, you should *encourage and support self-advocacy whenever possible.*

Example: Who has Mrs. Michards talked with about her complaints?
When did she talk with them?
What response did she receive?
Has she filed a complaint with anyone else?

Step 7: Clarify the result the complainant is seeking.
What outcome does the complainant want? **Is it the same outcome the resident wants if the resident is not the complainant?** By determining the answer to this question, you might save yourself some time and prevent your solving the problem the "wrong" way.

You may see a need to effect policy changes or systemic solutions, but the complainant only wants his/her immediate situation improved. You might have the opportunity to work on the more long-range solutions, but your *primary* focus should be on the complainant's immediate concern.

Example: Mr. Michards will have cold milk to drink.

Mr. Michards will be able to eat the snacks that Mrs. Michards brings whenever he wants them. Staff will offer the snacks to Mr. Michards and will keep them in a labeled container for his exclusive use.

Interviewing
Interviewing is possibly the most frequently used method of gathering information. In order to discover the facts of a case (who, what, when, where, why, and how), you might interview a resident, administrator or operator, or an employee of another agency or institution. Regardless of the position of the person being interviewed and the personal style of the interviewer, there are several factors to consider when

Always go into an interview with a specific purpose in mind.

preparing for an interview. Following a few guidelines will increase your likelihood of success. **You need to be skillful in listening, questioning and note taking.**

FACTORS TO CONSIDER WHEN PREPARING FOR AN INTERVIEW

Setting	Is it comfortable, quiet, and private?
Time Allotted	Will the interview be hurried?
Timing	Will there be interruptions?
Goals	What are the goals of the interview? List these.
Biases	What possible biases do you have? How will they affect the process and the outcome? What preconceived ideas might the interviewee have?

Many of the factors may be beyond your ability to control. For example, you may not be able to see an administrator at a time and place of *your* choosing. The most important item, however, is one you *can* control: Set your goals beforehand. Know what questions you need answered and what specific information you need. What gaps in your knowledge about a complaint are you seeking to fill?

As a general rule, ***it is best to speak to the complainant first*** before securing additional information from other residents, facility personnel, family, or other people. If the complainant is someone other than a resident, talking with the resident next is your second interview. As a LTCO you work on behalf of the resident.
Remember that an interview is a social situation, and that the *relationship* between you and the interviewee will affect what is said. Although you will want to direct the interview in order to achieve its goals, most of your time will be spent *listening*.

It is extremely important to avoid making promises to the complainant regarding the resolution of the problem. It can be tempting, in a sincere effort to comfort a resident, to assure him/her that the problem will be solved. This can lead to false expectations which may eventually be turned against you.

GUIDELINES TO FOLLOW DURING INTERVIEWS

- ❑ **Maintain objectivity.** Do not make assumptions about the validity of the information.
- ❑ **Try to establish rapport** before addressing the problem.
- ❑ **Explain the purpose of the interview** and the function of the ombudsman.
- ❑ **Use open-ended questions to encourage responses** about the problem area such as “What is it like to participate in your care planning meeting?” or “What happens when you ask for a different meal than the one on the menu?”

- **Use close-ended questions** to obtain specific details and facts such as, “Who responded to your request for assistance?” or “Do you get outside the facility for fresh air?”
- **Guide the interview toward the desired goals**, yet be flexible enough to follow-up on any new, relevant information received.
- **Let the interviewee know when the interview is about to end;** summarize what has been accomplished.
- **Explain how the information will be used** and other steps anticipated in conducting the investigation and resolving the complaint.

Skills Involved in Interviewing

The charts on the following pages define and explain the skills involved in each activity. They are:

Interview Skill #1: Listening[9]

GUIDELINES FOR LISTENING DURING INTERVIEWS

- **Be yourself.** Use words, skills and body language appropriate to the situation in a way that fits your personality.
- **Be an active listener.** Listen appreciatively and with understanding. Reduce defensive communication by reflectively listening. Try to be empathetic but keep the interview on track. Treat the interviewee with respect. Try to understand their point of view. Let them explain their perspective.
- **Be alert to more than spoken words when you listen.** Notice inflection of speech, qualities and tone of voice, facial expressions, a glint in the eye, body language, gestures, and general behavior. See if you can detect gaps or omissions in what the person is saying. Sometimes more can be learned from what is *not said* than from what is said.
- **Determine whether the complainant is glossing over some fact** because he/she thinks it "detracts from his/her position." Explain that you are interested in all the facts and that you can only be of help if you know the whole situation.
- **Be comfortable with silence.** Don't rush to fill the gap. Use silence to organize what you've heard. Be patient.
- **Never completely believe or disbelieve everything a person says.** Distinguish facts from someone's opinion, hearsay, characterization, or evaluation. You will have to sort out the difference between the "truth" and fiction. If someone labels a resident as "hostile," for example, find out why (e.g., specific behaviors the resident exhibits, how often, with what people).

[9] Adapted from the *Oregon Long-Term Care Ombudsman Certification Manual*, 2005, and the *Louisiana Long-Term Care Ombudsman Resource Manual*, 1999.

- **Remember that you are the interviewer.** Don't let yourself be interviewed or drawn in personally. Turn questions into statements and reflect them back. A complainant may ask, "Don't you think they are short staffed here?" Your reply could elicit more information, "It sounds like you think there is not enough staff. I'd like to know what leads you to that conclusion."
- **Be alert to problems that may be unintentionally revealed.** The resident may have a very limited notion of what help is available to him/her or may not want to "burden" you with too many problems. Listen for "the problem behind the problem." There is always the possibility that what the complainant is saying is not what is bothering him/her, but is instead voicing feelings that reflect a general feeling of hopelessness.
- **Stick to your interview agenda.** Don't be deflected or distracted by collateral issues. Avoid debates—they are win/lose affairs. Don't offer any information.
- **Stay focused on the current issue.** Don't talk about prior grievances.
- **Know and be prepared to cite your investigative authority** as a LTCO (State and Federal law).

Interview Skill #2: Questioning

As mentioned under "Guidelines to Follow During Interviews," in this chapter different types of questions may be used to gather information. Think through what you want from the interview and then develop questions to help you obtain the information. Table 8, The Questioning Technique, prepared by Robert K. Burns of the University of Chicago, lists various types of questions, the purpose of each, and examples. Refer to it for suggestions as you design interview questions. This table will also be helpful when you are preparing for a meeting to resolve the complaint.

Table 8. The questioning technique.

Type	Examples	Purpose
Factual or "W" Questions	All the "W" questions: What, Why, When, Who, Which, How?	To get information
Explanatory or "Dig Deeper" Questions	In what way would this help solve the problem? Just how would this be done? What other aspects of this should be considered?	To broaden discussion To get deeper thinking and analysis Get at additional facts, reasons, and an explanations

Type	Examples	Purpose
Leading or "New Idea" Questions	Should we consider this as a possible solution? Would this be a feasible approach?	To introduce a new idea To advance a suggestion of your own or others
Hypothetical or "Suppose" Questions	Suppose we did it this way...what would happen? Another company does...is this feasible?	To change the course of the discussion To suggest other, or even unpopular opinions and points of view
Justifying or "Show Proof" Questions	Why do you think so? How do you know? What evidence do you have?	To challenge old ideas To get reasoning and proof To develop new ideas
Alternative or "Make a Choice" Questions	Which of these solutions is best, A or B? Does this represent our choice in preference to...?	To make a decision between alternatives To get agreement
Coordinating or "Get Agreement" Questions	Can we conclude that this is the next step? Is there general agreement on this plan?	To develop consensus To get agreement To take action

Interview Skill #3: Note taking

Your notes will be part of the file, which is the central reference point not only for you and the complainant, but also for agencies to who the complaint may be referred.

TIPS FOR EFFECTIVE NOTE TAKING

- **Maintain rapport** and a good conversational flow during an interview even if it is necessary for you to take notes.
- **If you will be taking notes, explain the reasons why** in order to relieve any anxiety or fear on the part of the person being interviewed.
- **Take note of responses that are especially significant** and/or that you feel are important to remember accurately.
- **Write only information that you are prepared for the interviewee or someone else to see.**
- **Keep your notes short, factual, and to the point.** It is acceptable to include your observations however, *substantiate these with facts*. For example, if you indicate that the floor was

dirty, state that you noticed coffee and juice stains in the day room on Wing C.

- ❑ **Avoid judgmental statements** such as "Resident is obviously a chronic complainer," or "Administrator can't be trusted."
- ❑ **Describe behaviors, do not attempt to label them.** For example, if an administrator is unresponsive to your questions say, "Administrator said he had no comment when I asked about the training and supervision that certified nurse assistants receive. After I asked other questions related to the complaint, the administrator said the interview was over and escorted me to the door."

In other words, substantiate and document your opinions and observations with as much information as possible.

Interview Record Checklist

Include the following information in your record of an interview:

- Names and positions (job title) of everyone present, whether or not they spoke
- Date and time of interview
- Location of interview
- Narrative account of the content of the interview
- Goals that were accomplished and those that were not achieved
- Any new avenues to explore

Observation

Observation is the second most common method of gathering information. Many complaints can be understood and verified only by sharing in the experience of the complainant. Complaints that have to do with items such as staffing, sanitary conditions, and food often can be fully checked only through observation. This section includes tips for observation and a list of questions intended to help you focus on the information that is presented to each of your senses.

T I P S F O R O B S E R V A T I O N

- ❑ When observing conditions in a facility, it is important to *use all the senses*. Refer to Table 9 on the following page for factors to consider.
- ❑ Approach a situation requiring investigative observation with an *open mind and an understanding of what is observed*.
- ❑ Be as impartial as possible. If you look only for evidence that fits a preconceived notion or theory, other evidence may be missed or much of the evidence may be misinterpreted.

- ❑ Prepare for observing by deciding what type of observations will help you investigate a particular case.
- ❑ For example, in a complaint about a resident being given a regular meal instead of a salt-free dinner, you would be able to investigate by seeing the food that is served. By making an unannounced visit to the facility, you could observe a routine mealtime procedure. Familiarity with applicable rules and regulations will allow you to better judge which observations are relevant to the individual case and which are extraneous.
- ❑ Record your observations as soon as possible after they are made to help eliminate errors due to a memory bias, (for example, recording what you expected to find instead of the actual facts of your observation).

Table 9. Guide to sensory observations in a long-term care facility.

Sight	Sound	Smell	Taste	Feel
Do furnishings appear cold, institutional, hard? Are they homelike? Does each resident have a locker or dresser? Are there enough chairs for visitors? Are there pictures, calendars, photos, or art work? What colors are the walls? Bright? Cheery? Dull or drab? Is the paint peeling? Are plants real? Does the facility make maximum use of natural light? Are residents clean, shaved, hair combed? Are clothes wrinkled? Dirty? Are call lights left unanswered? Is the staff neat? Do they smile at residents? Do they wear name tags or have an identifying uniform? Are there several blocks of idle time each day without activities?	Is music piped through corridors too loud or too soft? Is it appropriate for residents? Are call bells ringing often and long? Are there residents with noticeably labored breathing? Are all "noisy residents" in one area? Do staff talk pleasantly with residents? with one another? Do they call each other by name? What statements are made that affect residents' dignity? Is an intercom overused and annoying? Are residents involved in activities that promote conversation? Are visitors loud and disruptive because they don't have a private place for	Is there a strong urine odor? a strong disinfectant odor? Do residents smell of urine or feces? Does the food smell inviting? Do residents smell of colognes, after shave, or perfume? Are air fresheners or other scents used to mask unpleasant odors? Is there an odor from dead flowers, medicine, or alcohol? Is there rotting or spoiled food aroma? Are the chemicals from the beauty shop overwhelming?	Are smells so strong they can be tasted? Is the food cooked completely? Is the coffee cold? Is the water fresh? Are the "chilled items" served at room temperature? Is the fruit fresh? Is the milk sour?	Are sheets soft or stiff? Are blankets scratchy or smooth? Is the building too hot or too cold for residents? Are the floors slippery or gritty? Are the resident's hands cold, skin stiff? Do the wheelchairs fit the size of the resident? Are the stationary chairs upholstered for comfort? Are the safety grab bars secured in the bathrooms and shower areas?

Are food trays left out with uneaten or spoiled products?	group gatherings?			

Using Official Documents[10]

Using official documents is the third most common method of gathering information. Documents such as federal and State laws and regulations tell you the legal requirements that apply to facilities and the legal protections that residents (consumers) have. Other documents such as survey records or resident records provide information about a facility's actions.

There are many types of documents you might review during an investigation. Focus on the ones that are likely to give you the additional information that you need to verify and resolve a complaint. In the early stage of an investigation, it is helpful to read the sections of the laws and requirements or regulations that apply to the complaint. Knowing the applicable provisions helps you decide what to cover in an interview, who to interview, and what to observe.

Access to Resident Records

There are provisions in federal laws, State laws and regulations regarding the confidentiality of resident records and access to these records by residents and ombudsman representatives. The basic provisions are summarized in the table that follows. If you need to know the exact language of these provisions, look them up from the list of references at the end of the table. If issues arise regarding access to resident records, consult with your local LTCOP Coordinator.

A resident's records are defined in the Medicare and Medicaid Requirements as *all records pertaining to himself or herself including clinical records* [42CFR483.10].[11] These records might include social, medical, financial, and contracts or statements or forms signed as part of the admission process. Typically, these records are located in different places in the facility and are not all in one chart.

When to Access Records

Suggest that the resident ask to review his own record.

Since your role as a LTCO is to *empower* residents and their families, whenever it seems appropriate to examine a record, always suggest that the resident ask to review his own record. If the resident wants assistance in understanding what the record contains, he can ask a trusted staff member to explain it or ask you to go through it with him. The resident has the right to have the record explained in everyday terms. There will be times when this action is not possible and you will need to review the record to glean the pertinent information.

[10]Much of this section is adapted from the *Access Module*, Illinois Long-Term Care Ombudsman Program. Sara S. Hunt. August 2001. Available on www.ltcombudsman.org

[11]"Medicare and Medicaid Requirements for Long-Term Care Facilities," Vol. 42, *Code of Federal Regulations*, §483.10 (b)(2)(i).

TIPS FOR WHEN LOOKING AT RESIDENT RECORDS MIGHT BE APPROPRIATE

- ❑ A resident wants to know information that the records contain such as: what is written on her care plan, what the physician ordered, or what financial transactions have been made.
- ❑ In investigating a resident's complaint, you receive conflicting or vague information from staff. Looking at the record will provide another data source that is necessary to understand the issue.
- ❑ Consulting the record is essential to verifying the information you have received regarding the resident's complaint.
- ❑ You need factual information from the record such as information about conservatorship, power of attorney for finances, contact information, the number of times physician visits or contacts were documented.

In most problem-solving situations, you *will not* need to look at the resident's record. You will be focusing on what is or is not being done—the *results* and the *impact* on the resident—not on what is documented in the record. The staff might consult the record to assist them in talking with you and the resident about how to get the results the resident is seeking. When staff look at the record, they might spot problems or gaps in care and identify solutions themselves.

Another consideration when deciding whether to look at a resident's record is that records are sometimes not complete or totally accurate and that they may be difficult to understand. Records are sometimes filled out hurriedly or by staff who do not understand the significance of careful record-keeping. In cases where you do not understand the record, you should consult a specialist to help you.

Because of the confidentiality provisions regarding resident records, facilities usually are appropriately very protective of these documents. When you ask to see someone's records, the facility might be wary, wondering what complaint you are investigating and what you are trying to determine. You might encounter some resistance or a lot of questions. Staff might be defensive and feel you are "checking up" on them. Therefore, you need to follow the preparation tips below.

TIPS FOR PREPARATION TO ACCESS RECORDS

Equip yourself by having the following before you ask for a resident's record.

- ❑ A firm knowledge of the legal basis for your request,
- ❑ The appropriate consent to release records form completed, and
- ❑ Ideas about what to say if you encounter resistance or questions about your case. Depending upon the circumstances you might give a response similar to the ones below.
  - o Mrs. Fisher has the legal right to authorize me to look at her medical record. I've given you her consent form. Please give me her record now.
  - o If I need help understanding the record, I'll let you know. I just need to review the record by myself right now.
  - o At this point, I'm looking for information. I haven't determined if there is a problem.
  - o Due to ombudsman confidentiality policies, I cannot discuss specific details with you. If there is an issue that needs your attention, I'll let you know.

Determining a Resident's Ability to Make Decisions[12]
If a person has decision-making capacity, the doctrine of informed consent applies.

There are three primary principles that guide decision-making:

1. **Informed consent:** An individual can exercise autonomy in making a decision. The individual has:
   - relevant information about the proposed treatment or research,
   - freedom of choice in a non-coercive environment,
   - competency to make and communicate a decision.

2. **Best interest:** This principle is acting in the interests of someone's well-being, health, and welfare.
   - It implies that the benefits of treatment are weighed with the burden of treatment.
   - Patient health and welfare are the controlling values.

3. **Substituted judgment:** A decision-maker, other than the individual, attempts to decide about the acceptability of interventions as the person would have decided had he or she been competent.
   - Individual autonomy, following what the individual wants or would choose, is a priority value.
   - This decision-making process uses, as a primary consideration, what is known about the person's values and preferences.

In working with residents LTCO use decision-making principles in the following order.

1. **Informed consent:** Seeking to be sure the resident has information about options and consequences and is making a decision in a non-coercive setting.

2. **Best interest:** Asking the relevant individuals to jointly discuss a range of options and residents' rights in making a decision.

3. **Substituted judgment:** Focusing on what the resident would want often means trying to get the relevant individuals talking with each other.

There is a danger that best interest or substituted judgments may be used even when the resident has capacity. It is sometimes simply more convenient to rely on others—family members or medical professionals to make decisions for the resident. The ombudsman may need to assist the resident in making her voice heard in these situations and by modeling reliance on the resident's decision-making capacity.

Residents with a Legal Representative
Residents who have a legal representative with decision-making power still retain some ability to participate in their care and exercising their rights. In some cases this is obvious by the type of decision-making mechanism. For example, in California powers of attorney

[12]Adapted from *Working Through Ethical Dilemmas in Ombudsman Practice*. Sara S. Hunt. National Long-Term Care Ombudsman Resource Center, 1989.

for finances[13] are *shared* decision-making tools with the resident retaining the ability to make her own decisions until they are no longer capable. A resident with an advance health care directive (AHCD), still has a voice in her care unless she is unable to make the decision. Residents with conservators or guardians still need to have their desires and preferences considered even if the conservator or guardian has the legal responsibility over that area of decision.[14] With a power of attorney for finances, AHCD or a conservatorship, LTCO need to determine what decision-making rights the resident has or can exercise. Sometimes family members charged with these responsibilities usurp the resident's decision-making.

For clarity, in California the term conservator usually refers to adults over the age of eighteen while the term guardian usually refers to children under the age of eighteen. These terms are frequently interchanged and can be confusing because even in the Welfare and Institutions Code sections 9700 to 9745, which contain the State laws concerning the Ombudsman program, you find both terms.

Table 10. Resident access to records in a nursing facility.

Situation	Procedures for Access
Resident or the resident's legal representative wants to see resident's records	Inform the resident or legal representative that they have the right to see the resident's records: 1. with written or oral request; 2. within 24 hours excluding weekends or holidays; 3. copies may be purchased at a cost not exceeding the community standard charge for photocopies and with 2 working days advance notice.

Legal References

Nursing Home Reform Law. United States Code, Vol. 42, §1396r(c)(1)(A)(iv) and §1395i-3(c)(A)(iv). Medicare & Medicaid Requirements for Long-Term Care Facilities. Vol. 42, *Code of Federal Regulations*, §483.10 (b)(2)(i)(ii), §483.75(l)(4)(iv).

[13] A power of attorney is an agent who does what the resident says to do and only for the time period specified by the resident in the power or attorney.

[14] Centers for Medicare and Medicaid Services. *The Interpretive Guidelines. State Operations Manual, Revision 5*, 11-19-04, Appendix PP §483.10(a)(3)(4).

Table 11. Long-term care ombudsman access to resident records in a nursing facility.

Situation	Procedures for Access
Resident *is capable* of giving consent	Permission of the resident: 1. use *written* consent form provided by your local LTCOP coordinator. 2. verbal consent when resident is physically unable to sign document in presence of a third party as a witness [42USC3058g(d)(2)(ii)]. Staff may want to verify consent with the resident. Document consent in LTCO case record. 3. LTCO exercises judgment regarding resident's ability to give informed consent.
Resident *is not capable* of giving consent	1. Permission of the resident's legal representative. Be sure this person has the *legal authority* to grant access to the resident's records a. Under an AHCD or other powers of attorney: the agent or attorney-in-fact (power of attorney) has legal authority b. The agent or surrogate decision-maker may be the individual making the health care decision. c. A conservator or guardian, appointed by a court whose authority includes the pertinent records 2. Obtain *written* consent from the resident's legal representative.

Situation	Procedures for Access
Resident *is not capable* of giving consent *and* has a legal representative and the issue is regarding the legal representative *or* the legal representative cannot be located within three days despite a reasonable effort.	1. Get the approval of your local Ombudsman Program Coordinator or the SLTCOP to access resident records without consent. 2. Use any relevant forms from your local Program Coordinator or SLTCOP. 3. Document your assessment of the resident's inability to give consent, the use of a form, and your consultation with the SLTCOP in the LTCO case record.
Resident *is not capable* of giving consent, the *legal representative is unknown*, and you believe that the *records will be immediately altered* by staff pursuant to your record review.	1. Get approval of your local Ombudsman Program Coordinator or the SLTCOP to access records without consent. 2. Use any relevant forms from your SLTCOP. 3. Document your assessment of the resident's inability to give consent, the use of a form, and your consultation with the SLTCOP in the LTCO case record. 4. Request a copy of the record. 5. Obtain the name of the legal representative. 6. Within 24 hours you must seek immediate contact with the legal representative, updating him on: the complaint, current investigation, and any findings.

Situation	Procedures for Access
Resident *is not capable* of giving consent and *does not have* a legal representative.	1. Be sure a review of the records is necessary to investigate or resolve a complaint or to protect the rights of the resident 2. Determine if other residents are at risk from the same problem 3. Get approval from your local Ombudsman Program Coordinator or the SLTCOP to access resident records without consent 4. Keep a copy of any relevant, completed forms from the SLTCOP with your case records. 5. Document your assessment of the resident's inability to give consent and the use of this form in the LTCO case record. Use any relevant forms from your SLTCOP. 6. Document your assessment of the resident's inability to give consent, the use of a form, and your consultation with the SLTCO in the LTCO case record.

Legal References

Older Americans Act of 1965, §712(b); Nursing Home Reform Law. United States Code, Vol. 42, §1396r(c)(1)(A)(iv) and §1395i-3(c)(A)(iv); Medicare & Medicaid Requirements for Long-Term Care Facilities. Vol. 42, *Code of Federal Regulations*, §483.10 (b)(2)(i)(ii), §483.75(l)(4)(iv); California Welfare and Institutions Code, Section 9724.

T I P F O R O M B U D S M A N P R A C T I C E
A V O I D S H O R T C U T S T O A C C E S S

- ❑ Your access to resident records is based on you following the procedures in the preceding tables in accordance with State and federal laws. You may encounter a situation where someone other than the resident or complainant offers to show you the resident's record. *Unless you have access to the record according to the LTCOP procedures, do not look at the record.*

Example:

Mr. Farley, a resident, shares a concern and asks you to intervene with the facility on his behalf. He gives you permission to use his name. Access to his records is not discussed since you do not anticipate needing to examine his records to deal with the issue. As you are gathering information pertinent to Mr. Farley's concern, the charge nurse talking with you tries to show you his record to prove the truthfulness of her response.

- Simply state, "I have not discussed reviewing medical records with Mr. Farley. I only want to know how often he has physical therapy and when his next appointment is."

Rationale for this type of response:

- You do have permission to reveal Mr. Farley's identity to work on resolving his issue.
- You do not have his permission to look at his entire medical record.
- You are seeking only the necessary information to understand and resolve the issue. If you determine you need to review his record, you will obtain his consent to access his record.

LTCO model respect for residents'

The difference in your asking for information when you are investigating a problem and in looking at that information in a resident's record that a staff person wants to show you is subtle but important. Ombudsman representatives work to support and encourage residents in exercising their rights; thus, LTCO are responsible for modeling respect for residents' rights.

- If you take a tempting shortcut and look at a record without permission, it will be difficult for you to hold staff to strict standards of confidentiality of resident information.
- If this staff person later realizes she showed you a chart without seeing a release form, she may feel you used her or took advantage of the situation.
- Staff may view you as someone who upholds residents' rights only when it is convenient.

Other Documents

In addition to resident records, there are many other sources of information about facilities that you might want to examine. Some documents are available in facilities such as menus, staffing ratios, activity calendars, and facility policies. The most common documents from other sources are listed and briefly discussed.

Information Available from the Federal Centers for Medicare & Medicaid Services or the California Licensing and Certification Agencies

1. **Ownership:** Facilities receiving federal money must declare ownership information. This information is disclosed on the facility's *cost report* and on the facility's licensure record which can be obtained from the state Medicaid agency or the licensing and certification agency. General information about facility ownership is posted on the Center for Medicare & Medicaid Services (CMS) website under Nursing Home Compare, http://www.medicare.gov/NHcompare You can also obtain facility information

from the California HealthCare Foundation's Nursing Home Search website at http://www.calnhs.org/

2. **Cost Reports:** Facilities report financial operating information to the government on this document.

3. **Survey Results:** The Statement of Deficiencies (CMS-2567) and the Statement of Isolated Deficiencies must be available in the facility. The CMS-2567 is generated by the most recent standard survey, any subsequent extended surveys, and any deficiencies resulting from any subsequent complaint investigations. The CMS-2567 becomes public information 14 days after it is received by the facility.[15] The facility must submit its plan of correction for each deficiency to the licensing and certification agency for acceptance. Selected information from the survey report is available by facility and by state on the CMS website under Nursing Home Compare, http://www.medicare.gov/NHcompare

   Another excellent resource is the California Advocates for Nursing Home Reform (CANHR), a non-profit consumer advocacy organization, posts information about skilled nursing facilities, including survey and complaint information, on its website. The link is: http://www.nursinghomeguide.org/NHG/nhg_txt_home.lasso [16]

   The facilities covered by LTCO and the agencies which license and inspect them are listed. The results of facility inspections and other types of information is available from these agencies. For more information, refer to the chapter, "California's Long-Term Care Setting."

Skilled Nursing Facilities	Department of Public Health (CDPH)
Distinct Part Facilities	Department of Public Health (CDPH)
Intermediate Care Facilities	Department of Public Health (CDPH)
Residential Care Facilities for the Elderly	Department of Social Services (DSS), Community Care Licensing (CCL)

4. **Quality Measures:** Quality measures information comes from resident assessment data that nursing homes routinely collect on all residents at specific intervals during their stay. The information collected pertains to residents' physical, clinical conditions and abilities. This information is available by facility on the CMS website under Nursing Home Compare, http://www.medicare.gov/NHcompare

5. **Nursing Home Staffing:** Nursing staffing information comes from reports that the facility reports to its state licensing and certification agency. It contains the nursing staff

[15] "Medicare & Medicaid Requirements for Long-Term Care Facilities," Vol. 42, *Code of Federal Regulations* §488.325(d) and *State Operations Manual* [Enforcement Procedures for Long-Term Care Facilities], Transmittal no. 13, Chapter 7, Section 7900.
[16] California Advocates for Nursing Home Reform, 650 Harrison Street -- 2nd Floor, San Francisco, CA 94107. (415) 974-5171.

hours for a two-week period prior to the time of the state inspection. CMS receives this data and converts the reported information into the number of staff hours per resident per day. This information is available by facility on the CMS's website under Nursing Home Compare, http://www.medicare.gov/NHcompare

6. **Waiver of Nursing Services:** Waivers can be granted by the State Licensing and Certification Agency to a facility from the requirement to provide licensed nurses on a 24-hour basis and/or the requirement to provide services of a registered nurse for more than 40 hours a week.

Information Available Through Public Records

1. **Conservatorship or Guardianship:** A record of a conservatorship or guardianship is available in the legal records of the local court of jurisdiction in which the conservatorship or guardianship was executed. California law provides that a facility shall give LTCO the name, address, and telephone number of the conservator, legal representative, or next-of-kin of any patient or resident (California Welfare and Institutions Code, Section 9724 (f)).

2. **Ownership and financial information for facilities that are publicly traded:** Corporations file a number of reports such as: a 10-K or Annual Report and a DEF 14-A or Proxy Statement. Both of these reports contain useful information about the management, budget, number and locations of facilities, and stock ownership

3. **Information about individuals who are licensed professionals,** such as doctors, nurses, therapists is available at the California Department of Consumer Affairs website (http://www.dca.ca.gov/) The California Department of Consumer Affairs is responsible for licensing medical professionals: You need to know the correct spelling of the registered name of the individual. CDPH, Licensing & Certification Aid and Technician Certification Section (http://www.applications.dhs.ca.gov/cvl/) maintains a registry of CNA's which contains general information such as name, license number and license expiration date.

Information Which Is Not Required by Federal Law to be Available to LTCO[17]

1. **Incident report:** This is a report of incidents or accidents that occur within a facility.

2. **Quality Indicators Report:** This report contains information about resident functioning based on the resident assessment and can be used as a quality improvement tool by the facility. The State Licensing and Certification Agency generates and maintains this information. At this time, these reports are not required to be available to LTCO and the public. The Quality Measures listed in a previous section are based on the Quality Indicators and are posted on the CMS website.

3. **Notice of involuntary transfer and discharge:** Although a copy of this notice is not required to be sent to LTCO, the notice *must* contain information regarding how to contact the ombudsman.

[17] In some states, LTCO may have access to some of these documents through state law, regulations, or inter-agency agreements.

4. **Reports of complaint investigations by California Licensing and Certification Agencies:** As stated above, any deficiencies resulting from a complaint investigation are public information; the report of the investigation is not.

Verifying and Defining the Problem

Verifying and defining the problem is the third and last step in Stage 1 of the problem-solving process. It involves verifying that the complaint is valid and then defining the underlying problem.

When a Complaint Is Verified

A complaint is *verified* if it is determined after work (interviews, record inspection, observation, etc.) that the circumstances described in the complaint are generally accurate. You have been gathering information in order to determine the facts of the case. Formal verification is simply a matter of

- reviewing those facts,
- ensuring that you have proper *documentation*, and
- deciding if the information supports the allegations in the complaint.

The amount of documentation and formal verification you need, will be determined by the complexity of the issue, the willingness of the facility to accommodate the resident, and in some cases, the resident's cognitive and communication abilities.

When a Complaint Cannot Be Verified

There will be times when a complaint *cannot* be verified. There may be no corroborating statements, or the facts may even contradict the complaint.

Example:

> Mr. Johnson tells you that the Pleasant Manor assisted living facility didn't have enough staff to bathe and dress his mother on Tuesday two weeks ago. His mother has Alzheimer's. When you visit the facility, the residents all appear clean and appropriately dressed. Mrs. Johnson, the complainant's mother, does not recall any problems with dressing and bathing. Your casual conversations with other residents reveal nothing pertinent to this issue: there are no issues with insufficient staff or with residents not receiving assistance with bathing and dressing. Survey reports from this facility as well as your complaint documentation do not mention anything relevant to this issue. The residents' council and family council meetings have not expressed complaints that are similar. You have nothing to proceed on except Mr. Johnson's statement.

Handling these situations will require tact, as the resident/complainant may still be convinced that the problem is valid. Here are some tips:

- Be careful that you do not make the complainant believe you think he/she is foolish.
- A factual, detailed presentation is especially important when telling the complainant that nothing else can be done.
- Explain that not being able to verify the complaint does not mean that you question

the honesty or sincerity of the complainant.
- Discuss any alternative steps that might be available. For example, there may be another agency better suited to deal with the complainant's concern.
- Suggest that the complainant begin to document his or her observations and other information relevant to the problem.

In some cases, *you can still pursue resolution without objective verification.* You may believe that a case has merit although you have been unable to verify it. It is also possible that you have been unable to get access to records or materials that might verify the complaint. In such cases, consider the following actions.

- **Help the resident or complainant represent himself/herself.** Explain that there is little you can do at this time without further proof. Show the person how to document problems as they occur. If needed, explain the "chain of command" in the facility so the individual will know who to talk with if the problem comes up again. Leave telephone numbers and addresses of the LTCOP and other appropriate agencies for future contact.
- **Do whatever you can to resolve the complaint.** Complaints can be resolved without verification in many cases. If the resident complains that the staff is slow to answer his/her call light, you can always discuss the problem with the Director of Nursing (DON), **if** the resident approves. This may cause the DON to initiate her own investigation or quietly resolve the problem.

> ***REMEMBER:*** *You should never represent something as a fact without verification. At the same time, verification should never be used as a tool for limiting attempts to resolve complaints. Rather, it is a self-protective device to prevent a too vigorous pursuit of unfounded complaints.*

Defining the Problem

What is the problem? Your investigation may reveal that the root problem is not the one that was reported to you. For example, you may have been told that articles of clothing are being stolen. During your investigation you may learn that clothing is simply not being returned from the laundry room.

Accurately determining the root problem is essential to finding a lasting solution. Examine the information you gained by **interviewing, observing, and reviewing documents**. Ask yourself, "What is the problem?" Be clear about the root, or the underlying, problem before you try to resolve the issue.

VII. SUMMARY

The purpose of a LTCO's investigation is to determine whether the complaint is verified and to gather the information necessary to resolve it. Ombudsman representatives use **interviews, observations, and documents** to gather factual, objective information about a problem.

Core Principles of the Long-Term Care Ombudsman Program[18]
Complaint Handling

- **Complaints are resident driven**. They begin with the resident, focus on the resident, and end with the resident. When someone else refers a complaint, the ombudsman determines, to the extent possible, what the resident wants before intervening.
- **Complaints are confidential**. Ombudsman representatives do not reveal the identity of a resident without [written] permission.
- **Complaints call for empowerment**. Ombudsman representatives provide information and encouragement to residents or complainants to act on their own behalf with minimal involvement from the ombudsman.
- Though there are many persons involved in a resident's care, **the primary focus of the ombudsman is the resident her/himself.**

[18]http://www.nursinghomeconcerns.com The KIPDA Long-Term Care Ombudsman Program website. Louisville, KY. 2005.

APPENDIX A: THE PROBLEM-SOLVING PROCESS: GUIDELINES FOR PRACTICE

The Problem-Solving Process: Investigation
Guidelines for Practice

As an ombudsman you are responsible for resolving problems on behalf of residents. Regardless of the complexity or simplicity of the issues, there is a standard process you will follow in problem-solving. *This process is dynamic, not rigid.* The amount of time you spend in each step of this process will vary depending upon numerous factors such as:

- the type of facility: one with large numbers of staff and residents or one with a few caregivers and a few residents;
- the complexity of the issue;
- the amount of additional information you will need to be able to understand the issue;
- the number of individuals involved;
- the time factor if meetings need to be attended or appointments made; and
- the responsiveness of the facility to addressing residents' issues.

In a residential care facility for the elderly with only a few residents, your approach to resolving problems might be much more informal than in a facility that is larger.

One of your primary missions is to ***empower*** residents and their family members to resolve problems by themselves. You want to help them have a sense of confidence that they can successfully address issues. You do this by providing information, guidance, and support. If necessary, you go with them to discuss issues with facility personnel or others. The information in these guidelines will also be helpful in your coaching a resident or family member in working through a problem. The process you use as an ombudsman is the same one you'll be advising residents or their family members to use.

The Problem-Solving Process

STAGE I **INTAKE AND INFORMATION GATHERING**	
Receive the Problem	Receive problems, complaints, concerns
Gather Information	Collect information from interviews, observation, and records
Define the Problem to be Addressed	Review information gathered. Analyze to determine what seems to be the problem. The initial problem or complaint may be only a symptom of an underlying issue.
STAGE II **ANALYSIS AND PLANNING**	
Analyze the Situation	Once you identify the problem, consider the causes.
Consider Solutions	Generate alternative solutions or approaches. Who should be involved? When? How? Why?
Identify Obstacles	Anticipate obstacles to help select an appropriate approach.
STAGE III **RESOLUTION AND FOLLOW-UP**	
Choose an Approach	From your list of alternative solutions, choose the most effective way to proceed, keeping any obstacles in mind. Identify alternative strategies in case you need them.
Pursue Resolution	Proceed with the selected plan, but be flexible with alternatives.
Evaluate the Outcome	Check back with the resident or complainant involved to evaluate the outcome. Is the problem solved? Is it partially solved? If not, look for new approaches, information, etc., and start again.

A Quick Reference for Problem Solving

The following list of questions is a "ready-reference" to use in thinking through issues and how to proceed. It is not a comprehensive list nor is it rigid in its order of steps. It's a guide to help clarify thinking and to ensure that you haven't overlooked a key part of the problem-solving process. As previously mentioned, there will be times when problems can be quickly addressed. Resolving problems will not always require such a detailed analysis and resolution process as the following includes.

You can also use this reference to guide your conversations with residents and family members who turn to you for advice regarding working through issues on their own.

Stage 1: Intake and Information Gathering

Receive the Problem: Intake

A. Listening

- ❑ What is the resident* telling you?
- ❑ Are any problems or concerns being expressed?
- ❑ What is being omitted, or glossed over, in the conversation? Is there a problem or concern that isn't being stated directly?
- ❑ Is this an issue that ombudsman representatives address? (Refer to your local LTCOP Coordinator for further guidance.)

B. Checking with the Resident

- ❑ What actions has the resident taken regarding the problem?
- ❑ What response did the resident receive?
- ❑ **What does the resident want**?
- ❑ Does the resident want any assistance from you such as information, suggestions about additional steps to take?
- ❑ Is the resident willing to act on her own behalf in pursuing further action? Does she/he want encouragement, guidance, or support from you?
- ❑ If the resident wants you to be directly involved, will she work with you and be present with you in meetings with other individuals?
- ❑ Will the resident allow you to identify her while you are gathering more information about the situation and trying to resolve it?

* Resident will be used throughout this section with the understanding that you will hear problems from many sources such as family members or staff.

Receive the Problem: Information Gathering

Information gathering primarily occurs in three ways: **interviews, observations, and review of documents.**

Interviews

- ❑ Are there individuals, other than the resident, you need to talk with to help you better understand the problem? In deciding who to talk with *consider* the following:
- ❑ Who has the resident talked with about the problem?
- ❑ Is the problem widespread, affecting several residents, or affecting only one resident? You might need to determine the prevalence of the problem via interviews.
- ❑ Has the resident council discussed or addressed this issue?
- ❑ Who has the authority to change the situation, to resolve the problem?
- ❑ Other than the resident, who might be most knowledgeable about the problem or about contributing factors such as facility policies and practices?
    - ❑ Who do you want to interview?
    - ❑ Why do you want to talk with that individual?
    - ❑ What questions will you ask?
    - ❑ How will you ask the questions to facilitate information gathering and decrease the potential for defensiveness, paranoia, or increased anxiety, from the person with whom you are talking?

C. Observation

- ❑ What, if anything, do you want to observe to increase your understanding of the problem or to give you ideas about alternatives for resolution?

D. Documents

- ❑ What are the pertinent laws, regulations, or policies, that apply to this problem?
- ❑ What other documents will add to your understanding of the problem or provide ideas regarding resolution?

Define the Problem to be Addressed

- ❑ Review all of the information you have pertinent to the problem.
- ❑ Have you been able to verify the complaint?
- ❑ What seems to be the underlying issue? What is the root problem that must be addressed to obtain the outcome the resident wants?
- ❑ Check back with the resident regarding the information you have and the problem to be addressed.

Notes: