Ombudsman Program Communication with Family Members

Working with Families:
Technical Assistance Brief 2

SPEAKING WITH FAMILY MEMBERS FOR THE FIRST TIME

By the time a family member contacts you, it is likely that they have been dealing with concerns related to their loved one for some time and may be frustrated. Before you begin processing a complaint, **give the family member time to tell their story and express their feelings**. Ombudsman program representatives are often the first to really listen to what a family member is saying.

Below are some approaches to ensure you acknowledge a family member's feelings before seeking the information necessary to handle a complaint. In addition to demonstrating that you heard the family member's concerns and feelings, these approaches may help defuse an emotionally charged situation to enable everyone to focus on the issues.

> "It sounds like you care a lot about your aunt. It must be very upsetting to find her with food all over her face and clothes when you come in to visit."
>
> "So, what I'm hearing is that you are frustrated that the nursing home administrator has not addressed the problems that you have taken to him on several occasions. Is that right?"
>
> "It sounds like you have tried everything you can think of and done the best you can, but your mother is still not getting the help she needs at meals. That must be so frustrating for you. Let's see what we can do to try to make things better."

IMPORTANT POINTS TO ADDRESS DURING THE FIRST CONVERSATION WITH FAMILIES

- Discuss the **role of the Ombudsman program** (see next section), including that you will ultimately take direction from the resident whenever possible.
- Ask about **expected outcomes.** Some families just want information and will continue to address the problem on their own, while others may want your assistance. This discussion can also provide you with important information about the motivation of the person. For instance, if a son's goal is to get the administrator fired, the case is not about the resident.

- Explain that all Ombudsman program representatives (paid and volunteer) receive **specialized certification training, are screened for conflicts of interest, and complete annual continuing education.**
- **Be clear about what you can and cannot do.** For example, you could say, "We're going to try to work through this, but sometimes there are situations that go beyond my scope. For example, if there is a nursing or food safety issue where an inspection is needed, that would be something the state licensing agency or state inspectors would have to handle.
- Explain that with the **residents' consent**, you will investigate and get back to them as quickly as possible.

EXPLAINING THE ROLE OF THE OMBUDSMAN PROGRAM TO FAMILY MEMBERS

Most family members have never heard of the Ombudsman program. When they contact the program, it is generally because someone has told them "the Ombudsman program can help" with a problem they have run into with a long-term care facility. Since most families are not aware of Ombudsman program responsibilities and what the program can and cannot do, it is critical that you give families a clear understanding of your role from the very beginning.

Take particular care to explain that the resident is your client, for example:

> "The resident, your mother, is our client and we're going to do the best we can for her."
>
> "I am a resident advocate. I am here for your mother and what she needs, and hopefully we can all work together on this."
>
> "I'm in a very unique position. I have the honor of being the trustee of your mother's wishes. It's important that you understand that your mother will guide me in working this out."

At times a family member may say that their loved one has dementia and that it is pointless to speak with her. Responses you can use in this situation include:

> "Please understand that I am duty bound to meet with the resident face-to-face even if she can't communicate."
>
> "I will go and see her. I'll talk with her about this and then we can see where we'll go from there."
>
> "I understand what you are saying, but my obligation is to go and speak with her first. It's important that I see for myself."

Your first conversation with family members must include an explanation of how the Ombudsman program works and what families can expect. You may want to refer to the *Long-Term Care Ombudsman Program: What You Must Know* fact sheet as guidance for this discussion. To reinforce and remind families about the points you cover, you may want to provide them with a copy of the fact sheet.

HELPING FAMILIES UNDERSTAND WHY RESIDENTS MAY NOT WANT TO ACT ON A COMPLAINT

Out of concern for their loved one, and their desire to resolve the problem, a family member may struggle with understanding why you won't intervene if the resident does not want your assistance. From the family perspective, it can be difficult to comprehend why their loved one might not want to have a problem addressed.

In addition to citing federal requirements that the Ombudsman program's role is to represent residents' interests, you can use the following points to further explain why it is important that residents have confidentiality and that you honor their wishes.

- **Residents have very little control over their lives in the long-term care facility** and few opportunities to make meaningful decisions. Proceeding without their consent further undermines resident control over their own lives.
- **Residents often "choose their battles" regarding what concerns they voice and what they "put up with."** A family members' concern - as important as it may be - might not be one of the "battles" that a resident wishes to wage.
- **Regardless of physical or cognitive limitations, residents are adults with the right to direct their own lives**, including making choices that others, even family, may not support.
- **Residents' fear of retaliation cannot be overemphasized.** Even if a resident does not experience retaliation, the fear is very real. Residents live in the facility 24 hours a day, seven days a week, and are often afraid to criticize the facility since they are dependent on the staff for the most basic things in daily life.

REPORTING BACK TO FAMILIES WHEN A RESIDENT DOES NOT WANT ACTION TAKEN

After speaking with a resident who does not want you to proceed with a complaint, ask the resident if you can let their family member know that they do not want your assistance. Even though the family member contacted you with the complaint first, you need resident consent to proceed with the complaint, and resident consent to share information with their family. Keep in mind that most family members care deeply about their loved one and are concerned about their well-being. For that reason, simply saying that you "can't do anything because you don't have the resident's consent" is not the best response.

Instead, assure the family member that although the resident did not want your help now, you will check back with the resident the next few times you are in the facility to see if the resident has changed her mind.

You can inform the family that depending on the type of complaint, you might be able to resolve it for other residents without identifying the resident. See if there are 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.

In rare circumstances, in addition to the resident not wanting your assistance, they may not even want you to let their family know that they don't want your assistance. In those situations, you need to respect the resident's privacy and follow resident direction. It may be helpful to inform family members before you speak with the resident that you cannot share anything with them about your conversation with the resident without the resident's permission.

ADDITIONAL CONSIDERATIONS:

- If the resident is doing well although the family member is concerned, you could share your observations about the resident with the family member, by sharing that she looked good and appeared content. At other times, with resident permission, you could share more than your observations and let the family member know the resident is pleased with her care, likes the staff, and enjoys her room. Both approaches could help reassure family members.
- You could try to help the family member put herself in her loved one's position and imagine how she might feel if she lived in the facility 24 hours a day.
- You could also encourage the family member to share their concerns with their loved one. Sometimes the resident or the family member may change their minds about acting on a complaint after a conversation.

ESTABLISHING CREDIBILITY WITH FAMILIES

Your credibility directly affects your effectiveness. You build credibility by being knowledgeable and accurate in what you say and doing what you say you will do. When people know that you are reliable, trustworthy, and straightforward, they are more likely to work with you.

An important part of establishing credibility with family members is being honest about what you can and cannot do. Only make a commitment if you know you can keep it. For instance, while you may want to reassure a worried family member by telling them that you will take care of the problem, you don't know what you may encounter with even a simple problem. Instead of promising to solve the problem, let the family know that you will do your best to help find a solution that works for everybody, such as, **"We're going to try to fix this and we'll give it our best effort."**

To establish credibility, you need to be direct and open with families. This includes informing them about the risks and benefits of any particular action that may be taken. Your actions on behalf of a resident may lead to results that you had not intended and that may not be desirable.

You should do your best to think through and anticipate what some of the consequences may be and share them with family members before proceeding. In addition, explain that there may be other consequences that you can't foresee. Being upfront with families allows them to know from the start what they may be facing and permits them to make an informed decision about whether and how to proceed.

Misperceptions Can Impact Ombudsman Program Credibility

Misperceptions about your role or intent also affect your credibility as an Ombudsman program representative. Your actions send a message about your role and your work, but that message may not be the one you want to communicate. Consider the following scenario.

- You arrive at a facility half an hour before a care plan meeting you are attending with a resident and their family to support them in addressing concerns. Since there is time before the meeting you decide to speak with the administrator to follow up on a separate issue. The family member arrives and observes you speaking with the administrator. The family member may think you are talking about their loved one's concerns, assume you are on the "facility's side" as a conflict of interest, and lose trust in you as a resident advocate.[1]

Examples of other situations where your actions could create a misperception of conflict of interest include:

- You live in a small town and run into the administrator of the town's only nursing home while you are shopping at the grocery store. You have a friendly chat with her.
- The nursing home contacts you and asks you to attend a care plan meeting concerning the care of a resident. The nursing home tells you that the resident's two sons will attend the meeting. You go to the meeting without talking to the resident or the resident's sons.

Your credibility, one of the Ombudsman program's greatest strengths, can be affected when family members observe actions that can lead them to believe that you are "on the facility's side." To avoid or minimize where misperceptions might arise, you can take the following steps:

- Explain to family members as part of initial complaint intake that to investigate and resolve complaints you must speak with facility staff. As a result, they may see you talking with facility staff. However, you will not disclose anything to facility staff without resident and/or resident representative consent.

[1] Institute of Medicine. *Real People Real Problems: An Evaluation of the Long-Term Care Ombudsman Programs of the Older Americans Act*. 1995. p. 114. https://www.ncbi.nlm.nih.gov/books/NBK231095/

- Plan to meet with the resident and family members prior to the start of a care plan meeting. You could meet in front of the facility, in the resident's room, or in the lobby. Walk into the care plan meeting with the resident and family. Sit next to the resident, if possible, or the family members.
- When asked to attend a care plan meeting by the facility, inform staff that you will not participate unless the resident and/or family members (resident representative) have given you permission. Contact the resident and their family to speak with them about the situation and whether they wish you to be present.
- When you encounter facility administration and staff in the community, interact with them as you would in the facility - be professional, courteous and polite, but not overly friendly
- If you went to school with a staff person or have some other connection with a facility employee, follow your program's policies and procedures regarding conflict of interest, and disclose that connection to residents and families from the start so they don't think you were hiding something if they learn about it later.
- If the facility contacts you for assistance with an issue, inform the facility that they should encourage the resident or family to call you directly if they would like you involved.

As noted by the Institute of Medicine study[2], perception is "an important and ongoing consideration in an effective ombudsman program."

The National Long-Term Care Ombudsman Resource Center

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[2] Institute of Medicine. *Real People Real Problems*. 1995.