

November 21, 2019

Analysis of Regulatory Amendments under the *Housing Services Act, 2011*: Improving Waiting Lists

On April 17, 2019, the Ontario government released the [Community Housing Renewal Strategy](#) (CHRS), which aims to stabilize and grow Ontario's community housing sector by leveraging investments through the National Housing Strategy, creating incentives for community housing providers, and building a more effective access system. In addition, the Ministry of Municipal Affairs and Housing (MMAH) committed to regulatory amendments under the [Housing Services Act, 2011](#) (HSA) in three distinct areas:

1. Simplifying rent-geared-to-income (RGI) rules;
2. **Improving waiting lists**; and
3. Creating safer communities.

After consulting on proposed amendments in the spring, the Ontario government released the new regulations on [September 23, 2019](#). MMAH also released a series of Social Housing Notifications about the amendments to provide more information and clarity about the changes.

This document provides a high level summary of the regulatory amendments related to waiting lists (including [refusal of offers](#) and [tenants transfers](#)), the information learned from the Ministry's accompanying Social Housing Notifications, potential impacts on members, and next steps for ONPHA.

ONPHA made a [submission](#) to the spring 2019 consultations and, overall, we are pleased that the provincial government incorporated some of our feedback to address concerns related to these regulatory amendments. However, some outstanding areas require more detail and clarity. As such, we will continue engaging with the provincial government and representing our members' priorities to improve the community housing sector.

Improving Waiting Lists

There are two dimensions to the Ministry's regulatory amendments to address priority wait list concerns outlined in the accompanying Social Housing Notifications: the first change will require applicants to prioritize their first choice and accept the first unit they are offered; the second change will give Service Managers and housing providers more flexibility to manage tenant transfers. Both of these changes will come



into force on January 1, 2020 (with some flexibility for the enforcement timeframe for the first change, outlined below).

[Refusal of Offers](#)

The amended regulation now states that a household will no longer be eligible for RGI assistance if they refuse an offer in a housing project for which they have expressed a preference and that meets occupancy standards. This replaces the former rule, which allowed households to refuse up to three offers before losing eligibility.

To ensure that households are able and willing to accept their first offer, the amended regulation states that Service Managers must inform and allow households to indicate their preferences for housing projects in the service area, including the ability for households to change or remove their preferences. Until a household indicates their preferences, their preferences would be for any housing project in the service area.

In regard to occupancy standards, the amended regulation states that local rules governing household transfers must provide that households will no longer be eligible for RGI assistance if they refuse an offer to transfer to another permissible unit after a year from being notified that their unit does not meet their Service Manager's occupancy standards (i.e. their unit is larger than permitted).

The amended regulation provides that the refusal of a portable housing benefit will not result in a household losing eligibility for RGI. In addition, Service Managers have the discretion to extend eligibility under extenuating circumstances (e.g. if an applicant is in the hospital, receiving treatment for addiction, or is a survivor of domestic violence or human trafficking and a preferred building is no longer safe due to the proximity of an abuser).

This rule on refusal of offers will apply to all applicants on centralized waiting lists, including Special Priority Policy (SPP) applicants. The SPP gives survivors of domestic violence and human trafficking priority access to RGI housing. The Ministry intends to develop guidance material in collaboration with partner ministries related to SPP applicants.

This change will come into force on January 1, 2020 and all Service Managers will be required to comply no later than January 1, 2021 (to allow sufficient transition time for Service Managers to notify applicants and allow them to alter preferences, if necessary). Service Managers are required to make reasonable efforts to notify households (including those on the waiting list) of this rule.



Tenant Transfers

Previously, if an RGI household wanted to transfer to a unit operated by a different housing provider in their service area, they would have to apply to be added to their Service Manager's centralized waiting list. Under the amended regulation, Service Managers will now have the discretion to determine their own processes for managing these types of transfers, which may or may not include adding households to the centralized waiting list.

To fill a vacant unit, a housing provider (with the approval of the Service Manager) may select a household if they:

- Are occupying a unit operated by a different housing provider in the same service area;
- Are receiving RGI assistance; and
- Have requested to transfer to a unit operated by the housing provider, regardless of whether or not the household is on the centralized waiting list.

This selection process must also comply with the Special Priority Policy.

This change will come into force on January 1, 2020.

Inclusion of ONPHA's Feedback

Overall, ONPHA is supportive of the regulatory changes and is pleased that the Ministry incorporated some of the [feedback](#) that we provided, based on what we heard from members. However, there are some outstanding areas of concern that we hope to address through ongoing government engagement.

ONPHA supported the shift from three offers of refusal to one for RGI waiting list applicants, as we believe it will speed up unit acceptances and move-in processes, reduce administrative and staff resourcing burdens, and help address the financial implications associated with vacancy loss. In addition, ONPHA continues to support the ability of Service Managers to retain authority to make exceptions to this rule under extenuating circumstances.

ONPHA is pleased that the amendment also responds to our recommendation to ensure that Service Managers retain flexibility in selecting households for offers, including the addition of discretion for Service Managers in managing tenant transfers based on local rules and contexts (without the requirement to channel applicants through centralized waiting lists). We believe that this will help address member concerns



related to over/under housing and accessibility (e.g. when providers do not have vacant or appropriate units within their own portfolios), without reducing offers for applicants on the waiting list.

ONPHA is interested in further policy direction and consultation from the Ministry in regard to the possibility of requiring all Service Managers to have a [local rule on asset limits](#) to determine RGI eligibility (currently this is up to the discretion of the Service Manager). The majority of ONPHA members have expressed support for mandatory local asset limits for waiting list applicants, although many members also indicated that further details are needed and that the inclusion of certain assets (e.g. pension savings) in such a limit could be counter-productive and overly-punitive for low-income households. If the decision is made to move ahead with mandatory local asset limits, ONPHA continues to strongly recommend that the Ministry consult on a more detailed proposal (including proposed lower limits, what assets would be included, etc.) ahead of adopting such a requirement.

In regard to SPP applicants, ONPHA looks forward to learning more about the guidance material that the Ministry intends to develop. While we support the policy intent of the SPP, ONPHA has long recommended that the government give Service Managers flexibility to offer housing to SPP and other waiting list applicants simultaneously within service level standards. We believe this would contribute to increasing access to housing assistance for all applicant categories, and give Service Managers the flexibility to develop responsive programs to meet local needs.

ONPHA's Next Steps

Over the coming months, ONPHA will continue to actively engage with government to provide input and seek clarity on outstanding areas of concern related to the new amendments and their impacts on our members, as well as on forthcoming legislative and regulatory developments related to the CHRS as a whole.

In particular, ONPHA will be monitoring for forthcoming guidance materials from the Ministry related to SPP applicants. We will also be following up with the Ministry to learn about potential plans to develop further legislative or regulatory changes requiring Service Managers to establish local asset limits rules.

What can ONPHA Members Do?

Stay tuned to ONPHA's communication channels for more information about provincial developments and our own advocacy initiatives. In the meantime, we strongly encourage all housing providers to engage in



discussions with your staff, board, and Service Managers to make decisions regarding the amended transfer regulations and how it could support your communities.

We're here to help

As the community housing sector continues to evolve, ONPHA is here to support members through the changes and ensure you have what you need to succeed in your missions and be financially viable into the future. Visit us online to see what new [resources](#) and learning opportunities are available for members, including our selection of online and in-person [courses](#) starting January 6, 2020, which will include ABCs of RGI, Ready, Set, (re)Build, Finance Fundamentals, and Supportive Housing Core Competencies.

If you have any questions, please do not hesitate to reach out to us at member.support@onpha.org or 1-800-297-6660.