

## SERVICE MANAGER DIRECTIVE 20-04

### SUBJECT: HOUSING PROVIDER REFUSAL TO OFFER COMMUNITY SAFETY

The policies and procedures in this Directive are to be implemented by the Centralized Wait List Administrator or by Housing Providers funded by the City of Ottawa for the programs checked below:

X	Public Housing Program
	Rent Supplement Program (commercial)
	Ontario Community Housing Assistance Program (OCHAP)
	Community Sponsored Housing Program (CSHP)
X	Provincial Reformed ( <i>Provincial, Federal/Provincial Non-Profit</i> )
X	Provincial Reformed ( <i>Provincial Co-operative</i> )
X	Limited Dividend Program
X	Section 26/27
X	Section 95 – Private
X	Section 95 – Pre 86 MNP
X	Pre-86 Urban Native Housing Program
X	Post-85 Urban Native Housing Program
X	Centralized Wait List (CWL) Administrator

If your program is not checked, this Directive does not apply to your project(s).

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#### PURPOSE:

The purpose of this Directive is to communicate to housing providers and the Centralized Wait List administrator, the amendments to Ontario Regulation 367/11 under the *Housing Services Act, 2011* (HSA) related to community safety that came into effect September 23, 2019.

#### LEGISLATIVE AUTHORITY:

Housing Services Act, 2011 section 76.  
HSA Ontario Regulation 367/11 sections 50 & 77.  
HSA Ontario Regulation 318/19

#### BACKGROUND:

The Community Housing Renewal Initiative was introduced by the Province of Ontario in April 2019. As part of this initiative there were a number of regulatory amendments to the *Housing Services Act, 2011* that were announced on September 23, 2019. Certain amendments were introduced to support community safety within prescribed social housing projects, with the aim to reduce gang-related violence and improve the safety of residents and others within the community.

All prescribed social housing providers that are a designated housing project under the *Housing Services Act, 2011* are required to adhere to the legislative and regulatory

requirements and comply with the Service Manager's local rules pertaining to the Centralized Waiting List and access to rent-geared-to-income assistance in social housing.

Ontario Regulation 367/11 sets out rules for filling vacant rent-geared-to-income units and special needs housing units. In general, the housing provider must offer the unit to the highest priority household. For housing projects under Program 1(a) or (b) (public housing) or Program 6(a) or (b) (provincial reformed), a housing provider may refuse to offer a unit to a household only in certain limited circumstances.

Effective September 23, 2019, HSA O. Reg 318/19 was introduced, and O. Reg 367/11 s. 50 & s. 77 were amended to set out an additional ground upon which a housing provider may refuse to offer a unit to a household. The rule provides a new tool that housing providers may use to address safety concerns.

The rule does not require housing providers to refuse a unit to anyone. Rather the rule allows housing providers to refuse a unit to a household if certain criteria are met. Operational details for the application of the permitted refusal are set out below.

#### **DIRECTIVES:**

A prescribed social housing provider may refuse to offer a unit to a household if:

1. a member of the household was previously evicted from a housing project listed in the Housing Services Act, 2011; through an order of the Landlord and Tenant Board based on an illegal act (commonly referred to as an "N6") for serious illegal activity within the past five years; and
2. the housing provider has reasonable grounds to believe the household will pose a risk to the safety of others in the housing project.

The ability of the housing provider to refuse to offer a unit to a household applies regardless of whether the household was evicted from a HSA prescribed housing project within the City of Ottawa or elsewhere within the province of Ontario.

#### **N6 - Notice to End A Tenancy for Illegal Acts**

An N6 notice is a Landlord and Tenant Board form that is given by a housing provider to a tenant to end a tenancy for illegal acts or for misrepresenting income in rent-geared-to-income (RGI) housing. After providing an N6 notice to a tenant, a housing provider may apply to the Landlord and Tenant Board for an eviction order. The new ground of refusal only applies where the Landlord and Tenant Board ordered an eviction based on an N6 notice for an illegal act. The new ground of refusal does not apply where the Board ordered an eviction based on an N6 for misrepresentation of income. In addition, it does not apply if the eviction order has been overturned by a final decision on an appeal.

The N6 upon which a housing provider may refuse to offer a unit must be issued based on one or more of the following types of illegal acts:

Production, trafficking, or possession for the purpose of trafficking an illegal drug;

- Illegal production, distribution or sale of cannabis;
- Physical violence or attempted physical violence against another person;

- Physical harm, attempted physical harm, or a risk of physical harm to another person;
- Human trafficking; or
- Use of threats to, intimidation of, and harassment of another person.

The housing provider must have reasonable grounds to believe the household will pose a risk to the safety of one or more individuals at the housing project including residents and housing provider staff. A person who, as a tenant, was named in an eviction order based on an illegal act could potentially be refused, even if the person was not directly involved in the illegal act.

### **Process to Refuse to Offer a Rent-Geared-to-Income Unit**

Housing providers shall complete the following steps prior to exercising their option to refuse to offer an RGI unit to a household based on an N6 Eviction:

1. Confirm that within the past 5 years the tenancy of a member of the household was ordered terminated by the Landlord and Tenant Board based on a N6 or N6C (notice for non-profit housing co-operatives) notice for one or more illegal acts, trade, business or occupation as listed in the policy above;
2. Confirm the N6 Order terminating the tenancy/occupancy has not been cancelled or overturned since it was issued;
3. Confirm the terminated tenancy/occupancy was in a HSA prescribed housing project within Ontario; and then
4. Determine if there are reasonable grounds to believe the household will pose a risk to the safety of others in the housing project.

Once all steps have been completed and if the housing provider chooses to refuse to offer the unit:

1. The housing provider shall notify the household of the refusal and include the following details in the notification:
  - the date the decision was made;
  - the reasons for the decision; and
  - information about how to request a review of the decision and the deadline for doing so.
2. If the household so requests, the housing provider shall review the decision to refuse to make the offer.
3. The rules under paragraphs 1 and 2 apply only to the first refusal by a housing provider to make an offer to a household and not to subsequent refusals by the housing provider with respect to the same household

### **Review of Decision - Refusal to Offer (O. Reg 367/11 S. 50(1))**

Housing providers must have a written policy clearly outlining the internal policies and procedures in place to review 'refusal to offer' decisions. The refusal to offer appeal process is the responsibility of the housing provider.

### **Service Manager Notification**

When a housing provider refuses to offer a unit to any household based on a N6 eviction, the housing provider shall notify the Service Manager of the refusal within two (2) business days

using the attached “*Housing Provider Decision to Refuse RGI unit – N6/N6C*” form, which includes providing a copy of the notification to the household. This record will be maintained by the Service Manager for analysis of the use of the rule by housing providers. The Service Manager does not have legislated oversight of the refusal of offers under this rule.

**Centralized Wait List Notification**

The housing provider must notify the Centralized Waiting List of their refusal to offer an RGI unit within two (2) business days of their decision to refuse to offer an RGI unit.

**Consistent Application of the Rule**

Housing Providers are expected to apply the rule consistently and fairly to all households. To this end, the Service Manager requires either confirmation that the Housing Provider does not intend to avail itself of this refusal option or if it does, a copy of a Board of Director Resolution approving the practice of refusing to offer a unit based on an N6 Eviction, and confirming that all legislative, regulatory and Service Manager requirements will be followed when refusing an offer of housing.

**ACTION REQUIRED:**

Consider and where desired, implement all Refusal to Offer rules as set out in the Housing Services Act and further outlined in this Directive effective January 1, 2020.

Lisa Goodfellow  
Program Manager, Social Housing

Dated: December 30, 2019