



Durham Community Housing Directives

Housing Services Division | Financial Housing Services
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Subject:	Occupancy Standards and Overhoused Households
Directive Number:	RGI 2019-02
Date:	December 20, 2019

Purpose

To set occupancy standards for rent-geared-to-income (RGI) tenants and co-op members, and establish guidelines and procedures to move overhoused RGI tenants and co-op members. The intent of this directive is to:

- ensure RGI tenants and co-op members are housed in reasonably sized accommodation according to their family size
- assist housing providers in responding to the changing needs of their tenants and co-op members
- support RGI tenants and co-op members in determining what is reasonable in relation to their unique household needs.

Background

Under the Housing Services Act, the Region of Durham may establish local occupancy standards regarding the size and type of unit in which an RGI tenant or co-op member may live.

Durham may also set local rules and processes about moving overhoused RGI tenants and co-op members.

Occupancy Standards

Local occupancy standards set out the maximum and minimum unit size for which an RGI tenant or co-op member is eligible, as well as the implications of:

- dependent students living away from home
- shared custody
- foster care
- live-in caregivers

- additional bedroom for medical reasons.

Where exceptions are made to occupancy standards, the housing provider or Durham Access to Social Housing (DASH) must document the reasons on the RGI tenant, co-op member or applicant file and include appropriate verification.

Largest Unit

The largest unit for which an RGI tenant or co-op member is eligible has one bedroom for each member of the household – with spouses expected to share a bedroom.

Smallest Unit

The smallest unit for which an RGI tenant or co-op member is eligible has one bedroom for every two members of the household.

Bachelor Units

Bachelor units are only for single people and for couples with no children.

Dependent Students Living Away from Home

Dependants who live temporarily away from home while attending school continue to be included under occupancy standards if they:

- live in the RGI unit when not attending school (e.g. during summer break)
- are dependent on their parents for financial support.

This normally applies to dependents attending college or university away from home, but it can also apply to students at other types of schools, such as private elementary or secondary schools or residential schools. The dependant may be a full-time or a part-time student.

Shared Custody

Where parents share custody of a child, the child will be included under the occupancy standards if they live in the RGI unit at least 40 per cent of the time.

If each parent resides in a separate RGI unit and they share custody, it is possible for the child to be included as part of both households with respect to occupancy standards.

Foster Care

Foster care provides a temporary home for children who are in the care of a Children's Aid Society (CAS). Children may need foster care for just a few days, a week, several months or possibly years.

Children in foster care are normally not included under occupancy standards.

Children in the temporary care of relatives may be included under the occupancy standards if the care arrangements are intended to be long term. In making this decision, housing providers and DASH should consider the length of time the child has already resided with the relative, the stated intent of the parent(s) and any applicable CAS plan of care.

Live-in Caregivers

Caregivers may provide support for a child, a senior or a person with a disability. They may be funded privately by the RGI tenant/co-op member or a member of their family, or they may be funded by a community agency or a government source such as the Ministry of Children, Community and Social Services (MCCSS).

Live-in caregivers do not maintain accommodation outside the RGI unit. They are normally considered part of the RGI household for both the calculation of RGI and occupancy standards.

If an RGI tenant or co-op member has an employment contract with a live-in caregiver, and is required under the terms of the employment contract to provide them with accommodation, they can be provided an extra bedroom. In these circumstances, the live-in caregiver is not part of the household for the calculation of RGI, and the tenant or co-op member remains eligible for the extra bedroom only while the employment contract is in effect.

Caregivers who maintain accommodation elsewhere are not entitled to a bedroom, even if they provide overnight care.

Additional Bedroom for Medical Reasons

An RGI tenant or co-op member may be entitled to an additional bedroom if it is reasonably necessary due to a disability or medical condition. This may include circumstances where:

- spouses cannot share a bedroom due to a disability or medical condition
- an extra bedroom is required for storage of medical or disability related equipment.

RGI applicants, tenants and co-op members must provide medical verification supporting the need for an additional bedroom. The medical verification must provide sufficient information to assist the housing provider or DASH in determining if an additional bedroom is required or if the medical condition or disability can be otherwise accommodated. Medical verification only stating that an extra bedroom is required is not sufficient.

The following medical conditions will not normally be considered for an additional bedroom because spouses are unable to share:

- snoring and sleep apnea

- frequent night time waking or insomnia
- temporary medical conditions that make the sharing of a bedroom inconvenient for a short period.

There is a limit of one additional bedroom for medical or disability-related reasons. This additional bedroom will be considered only at the request of the RGI tenant or co-op member.

Extenuating Circumstances

Housing providers and DASH may allow for exceptions to occupancy standards in extenuating circumstances with the approval of the Housing Services Division.

Applicants and Incoming RGI Tenants and Co-op Members

DASH determines and records the largest unit size for which an RGI or modified housing applicant is eligible under the occupancy standards. Applicants will then be able to view and express interest in all vacancies for which they are eligible under the occupancy standards.

At the time of offer, the housing provider must verify that the RGI applicant is eligible for the vacant unit under the occupancy standards. If a housing provider refuses to offer a unit because it is outside the applicable occupancy standards, the provider must notify both the applicant and DASH.

Housing providers have discretion to offer a new RGI tenant or co-op member:

- a smaller unit than they would otherwise qualify for, if the RGI tenant or co-op member agrees
- a larger unit if there are compelling reasons for the exception and with the approval of the Housing Services Division (e.g. the incoming tenant or co-op member is pregnant and will be within the occupancy standards within a reasonable time in the future).

Review of Occupancy Standards

DASH reviews applicants' occupancy standards annually while on the wait list.

Housing providers must review RGI tenants and co-op members to determine if they are in the right size unit under the occupancy standards:

- at the time of annual review
- when there is a change in the size or composition of the household

- at the request of the household.

Underhoused RGI Tenants and Co-op Members

Underhoused RGI tenants and co-op members live in units smaller than the smallest unit permissible under the occupancy standards. These tenants or co-op members may request:

- an internal transfer to a larger unit
- a transfer to a larger unit with the same or a different provider through DASH.

Housing providers may or may not offer priority for transfer to underhoused RGI tenants or co-op members at their sole discretion in accordance with their internal transfer policies.

RGI tenants or co-op members requesting transfer to a unit that is the same size or larger than their current unit do not have priority on the DASH wait list.

Overhoused RGI Tenants and Co-op Members

Overhoused RGI tenants and co-op members live in units larger than the largest unit permissible under the occupancy standards.

Overhoused RGI tenants and co-op members are not required to transfer to smaller units until they have been overhoused for 12 consecutive months. However, they may choose to move at any time.

Notice of Overhousing

When an RGI tenant or co-op member becomes overhoused the housing provider will give them notice stating:

- they are overhoused, including the largest size of unit for which they are eligible under the occupancy standards
- notice that they have been placed on the internal transfer list, if applicable
- they will be placed on the DASH wait list to move to a smaller unit if they remain overhoused for 12 consecutive months.

Overhoused RGI tenants or co-op members cannot appeal at this stage as they are not required to move.

Housing providers are required to use the [Notice of Overhousing](#) template letter in the Resources for Community Housing Providers section on the Region of Durham's website.

Housing providers must follow up after the RGI tenant or co-op member has been overhoused for 12 consecutive months. Normally, this occurs 12 months after the date on the [Notice of Overhousing](#). However, if this notice is delayed because the RGI tenant or co-op member did not report a change (e.g. when someone moved out of the unit), the housing provider may consider the time they have already been overhoused in determining when to follow up.

First 12 months

During the first 12 months that an RGI tenant or co-op member is overhoused, the housing provider may place them on their internal transfer list to move to a smaller unit at their current property or another property in their portfolio. Placement on the internal transfer list and offers of housing during the first 12 months are at the sole discretion of the housing provider in accordance with their internal transfer policy.

RGI tenants or co-op members may also choose to apply to the DASH wait list during the first 12 months. They must submit their [Transfer Application](#) form to their housing provider, who will then forward it to DASH. If the RGI tenant or co-op member does not return the [Transfer Application](#) form, the housing provider will notify them that they are no longer eligible for RGI.

Any offers received during the first 12 months of being overhoused have no impact on RGI eligibility.

Review at 12 months

If an RGI tenant or co-op member remains overhoused for 12 consecutive months, the housing provider will determine if they are:

- required to be placed on the DASH wait list to move to a smaller unit
- temporarily deferred from being placed on the DASH wait list
- indefinitely eligible to remain in their current RGI unit (subject to regular annual review).

Placement on DASH wait list to move to a smaller unit

After 12 months, overhoused RGI tenants and co-op members are normally required to be placed on the DASH wait list to move to a smaller unit. The housing provider is responsible for adding overhoused RGI tenants or co-op members to the DASH wait list.

An RGI tenant or co-op member may remain on the current housing provider's internal transfer list at the sole discretion of the housing provider while also on the DASH wait list for transfer.

An RGI tenant or co-op member has the right to request a Regional Review of the decision that they are required to move to a smaller unit because they are overhoused. As part of their reconsideration, the housing provider will review the current household circumstances to determine if there is reason to temporarily defer placement on the DASH list or to allow the tenant or co-op member to remain in their unit indefinitely (subject to regular annual review).

Temporary deferral of placement on DASH wait list

If requested by the RGI tenant or co-op member, the housing provider may temporarily extend the time that they may remain overhoused in their unit. In making its decision, the housing provider should consider the:

- reasons the RGI tenant or co-op member is overhoused
- anticipated changes to household circumstances in the future
- impact of moving the RGI tenant or co-op member.

Circumstances that may warrant an extension to the time that a household remains overhoused include, but are not limited to:

- Someone in the household is pregnant.
- There are children in the temporary care of the Children's Aid Society (CAS), and there is a plan of care for them to be returned to the household.
- The RGI tenant or co-op member is disabled and is actively seeking a roommate or a live-in caregiver to join the household.
- The RGI tenant or co-op member is temporarily unable to move to a different unit because of illness or disability.
- The RGI tenant or co-op member will be eligible to apply for seniors housing within the next two years, and an extension will provide them with stability prior to moving to a seniors unit.
- The RGI tenant or co-op member is overhoused by only one bedroom, and there is reason to believe that they may need to further downsize within the next two years (e.g. as children age and move out of the household). An extension will limit the number of times the household must move.
- The RGI tenant or co-op member is on the housing provider's internal transfer list and the housing provider supports their request to remain in their community.

Temporary extensions to the time an RGI tenant or co-op member may remain overhoused can be granted for up to 6 months at a time – to a maximum of 36 months in total, including the initial 12 months.

Extensions beyond 36 months may be granted in exceptional circumstances with the approval of the Housing Services Division.

Decisions about temporary extensions and the reasons for their approval or denial must be clearly documented on the RGI tenant or co-op member's file and communicated to them.

Indefinitely eligible to remain in unit

In exceptional circumstances, it may be necessary to allow an overhoused RGI tenant or co-op member to remain in their current unit indefinitely (subject to regular annual review). This may be required when a move is likely to be excessively disruptive to the tenant or co-op member (e.g. a frail senior of advanced age who has lived in the unit for decades).

Decisions to indefinitely extend overhousing must be approved by the Housing Services Division.

Housing providers will ensure that the reason for the exception is still valid at the time of each annual review.

Adding Overhoused Tenants/Co-op Members to the DASH Wait List

The housing provider is responsible for adding overhoused RGI tenants or co-op members to the DASH wait list. The housing provider must:

- notify the tenant or co-op member that they are required to be on the DASH wait list to transfer to a smaller unit
- provide the tenant or co-op member with a [Transfer Application](#) form to be returned to the housing provider within 10 days
- forward the [Transfer Application](#) form to DASH once received.

Housing providers are required to use the [Overhoused – DASH Transfer Required](#) template letter in the Resources for Community Housing Providers section on the Region of Durham's website.

The [Transfer Application](#) form is also available in the Resources for Community Housing Providers section on the Region of Durham's website.

Once the [Transfer Application](#) form is returned to them, the housing provider will complete the "To be completed by housing provider" section and send it to DASH, noting the:

- name of the current housing provider
- size of unit to which the RGI tenant or co-op member must transfer

- date the RGI tenant or co-op member was first overhoused.

If the tenant or co-op member does not return the [Transfer Application](#) form, they are ineligible for RGI.

DASH Procedures

The housing provider is responsible for forwarding the [Transfer Application](#) form to DASH. If DASH receives a [Transfer Application](#) form directly from a current community housing tenant or co-op member, DASH will contact the housing provider to determine how to proceed. The housing provider will determine if the applicant is eligible for an internal transfer or if they should be added to the DASH wait list.

When DASH receives a [Transfer Application](#) form from the housing provider for an overhoused RGI tenant or co-op member, they will place the applicant on the DASH wait list and record the:

- overhoused target
- application date according to the date that the RGI tenant or co-op member first became overhoused as reported by the housing provider
- minimum property selections for all community housing providers and rent supplement landlords in the municipality in which the tenant or co-op member lives (north Oshawa or south Oshawa only for Oshawa residents).

DASH may work with the overhoused tenant or co-op member to select other properties outside of the current municipality but should ensure that a reasonable minimum number of property selections are made.

- If the tenant or co-op member wants to move to a different municipality, all properties in that municipality must be selected.
- If the tenant or co-op member wants to move to select properties across multiple municipalities, normally at least six properties must be selected.

DASH will notify the overhoused RGI tenant or co-op member that they have been placed on the DASH wait list to transfer to a smaller unit, and:

- They must register for the DASH Vacancies Site within 10 days.
- They should regularly log in to the DASH Vacancies Site and express interest in vacancies. If they do not, they may be offered any vacancy in the municipality where they currently live or in other areas for which they have indicated housing preferences.
- They will become ineligible for RGI if they refuse an offer to transfer.

RGI Ineligibility

An overhoused RGI tenant or co-op member is ineligible for RGI if they:

- fail to return the [Transfer Application](#) form to their housing provider within 10 days of the request
- refuse one offer of housing, including internal transfer offers after 12 months.

DASH may consider additional offers in extenuating circumstances.

The housing provider and DASH must keep each other advised if the overhoused tenant or co-op member is not following the process to move.

- If the housing provider determines that an overhoused tenant or co-op member is ineligible for RGI, they must notify DASH only if the tenant or co-op member is also on the DASH wait list. DASH will remove them from the wait list.
- If DASH determines that an overhoused tenant or co-op member is ineligible for RGI, they will remove them from the wait list and notify the current housing provider. The housing provider will send notice of RGI ineligibility.

Notice of RGI Ineligibility

The housing provider is always responsible for notice of RGI ineligibility. They will give the RGI tenant or co-op member notice that they:

- are ineligible for RGI in their current unit because they are not following the process to move to a smaller unit – i.e. they have not returned the [Transfer Application](#) form or they have refused an offer to transfer
- must pay the market rent or housing charge beginning the first day of the month following 90 days from the date of notice
- have the right to request a Regional Review.

Regional Reviews – Appeals

If an applicant on the DASH list requests a Regional Review, the request will go to the housing provider. If the decision of ineligibility was made without input from DASH, the provider will reconsider the decision and proceed in accordance with the appeal in accordance with Durham Social Housing Directive [RGI 2019-04 Regional Review Process](#).

If DASH made the determination of ineligibility, the housing provider will reconsider the decision in consultation with DASH. The housing provider and DASH will determine by consensus whether to uphold the ineligibility decision or to overturn the decision and allow for another offer.

If the decision is upheld on reconsideration, DASH will normally complete the Regional Review Package, forward it to the Regional Review Panel and attend the Regional Review Panel. The housing provider and DASH may jointly determine that the housing provider is more actively involved. DASH will ensure that the housing provider is copied on all correspondence with the Regional Review Panel.

Communication with DASH – Housing Provider Updates

Housing providers continue to be responsible for determining RGI eligibility of overhoused tenants and co-op members. Housing providers must notify DASH if an overhoused RGI tenant or co-op member on the DASH wait list:

- is no longer overhoused and required to transfer
- moves out
- is no longer eligible for RGI
- accepts an offer to transfer to a smaller unit
- refuses an offer to transfer to a smaller unit
- changes telephone numbers or other contact information.

Housing providers should communicate with DASH using the online [Notice to DASH – Tenant and Co-op Members Changes](#) in the Resources for Community Housing Providers section on the Region of Durham’s website.

If DASH has had no contact with an overhoused tenant or co-op member or with their current housing provider in 12 months, it will contact the housing provider directly to update the file and determine if the RGI tenant or co-op member should remain on the DASH wait list for transfer.

DASH Referrals and Offers

Overhoused RGI tenants and co-op members will be referred to housing providers before all other applicants on the DASH wait list – except SPP transfer applicants at their current property requesting transfer to another provider.

Applicants who do not regularly express interest on the DASH Vacancies Site may be referred for any vacancy in the municipality where they currently live or in other areas for which they have indicated housing preferences.

DASH will notify the current housing provider when an overhoused RGI tenant or co-op member is referred to another housing provider. DASH will also notify

the current housing provider of the outcome of the referral, including the move-in date if the offer is accepted.

Modified and Supportive Units

Tenants and co-op members who live in modified or supportive units are not required to move to a smaller unit as long as they continue to be eligible for the modification or support service - even if they are eligible for RGI and otherwise determined to be overhoused.

No action is required for these tenants and co-op members.

Effective Date

This directive comes into effect on January 1, 2020.

Housing providers may consider time prior to January 1, 2020 in determining if an RGI tenant or co-op member has been overhoused for 12 consecutive months.

Repealed Rules

This Directive replaces Durham Social Housing Directive RGI 2018-03 Occupancy Standards and Overhoused Households.

Legislative Authority

Housing Services Act, s. 42, 43
Ontario Regulation 367/11, s. 32.2, 38, 42