



## **Durham Community Housing Directives**

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<b>Subject:</b>	<b>Regional Review Process</b>
<b>Directive Number:</b>	<b>RGI 2019-04</b>
<b>Date:</b>	<b>December 20, 2019</b>

### **Purpose**

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To outline the process by which a Regional Review or appeal is requested and conducted.

### **Background**

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Under the Housing Services Act, the Region of Durham is required to have a review body to conduct reviews of decisions about rent-geared-to-income (RGI), modified housing, placement on the Durham Access to Social Housing (DASH) wait list, and the Durham Portable Housing Benefit (Durham PHB). The Regional Review Panel is the review body responsible for the review or appeal of these decisions. These are called Regional Reviews.

The Regional Review Panel also conducts Regional Reviews of decisions about the Durham Housing Benefit (DHB), Housing Stability Program (HSP), and other housing or homelessness programs that may be established by the Region of Durham.

The Regional Review Panel also conducts reviews of decisions by the Durham Regional Local Housing Corporation (DRLHC) to deny/refuse to offer an RGI or modified unit to an applicant on the DASH wait list. All other community housing providers are responsible for reviews of denials/refusals to offer in line with their own local policies, by-laws or rules; however, they may choose to assign this responsibility to the Regional Review Panel.

Housing providers, DASH and other decision makers are required to forward all requests for review or appeal to the Regional Review Panel in accordance with this directive.

## **Types of Decisions Open to Regional Review**

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Applicants, tenants and co-op members may request a Regional Review of a decision of:

- ineligibility for RGI
- ineligibility for a modified unit
- the amount of RGI payable
- the size of the unit in which a household is eligible for RGI, including any requirement to move to a smaller unit
- ineligibility for Special Priority (SPP)
- ineligibility for Critical priority status on the DASH wait list
- ineligibility for immediate in-situ RGI
- refusal to offer an RGI or modified unit (DRLHC only).

Applicants for or recipients of the Durham Housing Benefit (DHB), the Housing Stability Program (HSP), the Durham PHB and other Regional housing or homelessness programs may request a Regional Review of a decision of:

- ineligibility for the benefit or financial assistance
- the amount of the benefit or financial assistance.

## **Overview of Regional Review Process**

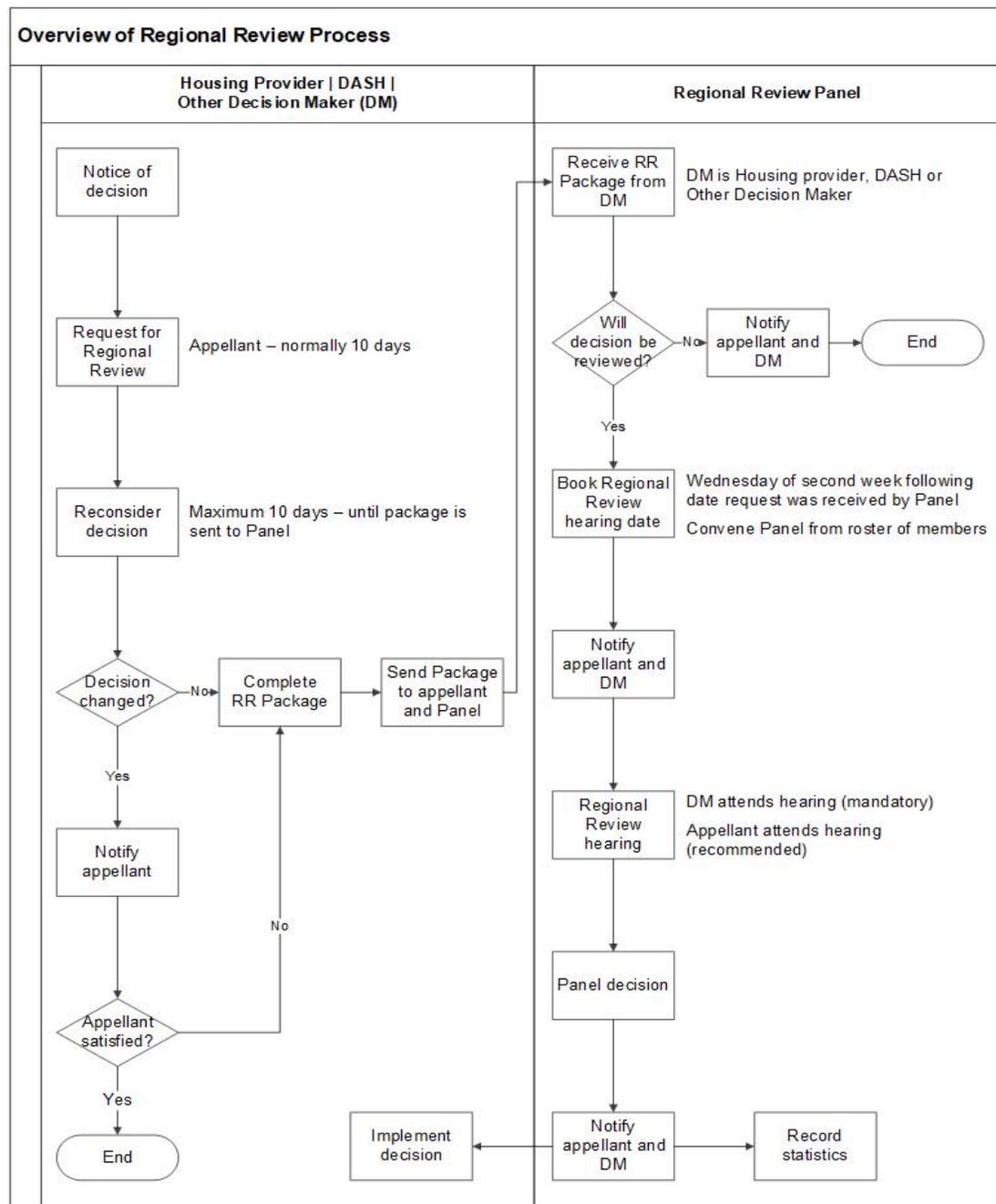
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Housing providers, DASH and other decision makers must:

- give written notice of appealable decisions, including the right to request a Regional Review
- reconsider decisions when requests for Regional Reviews are received
- complete the Regional Review Package and forward copies to the appellant and to the Regional Review Panel
- attend the Regional Review hearing to present the decision
- implement decisions of the Regional Review Panel in a timely manner.

The Regional Review Panel will:

- schedule the date for the Regional Review hearing
- notify the housing provider, DASH or other decision maker and the appellant of the date of the Regional Review hearing
- conduct the Regional Review hearing to review the original decision and determine whether to uphold or change the decision
- notify the housing provider, DASH or other decision maker and the appellant of the Panel's decision.



## Notice of Original Decision

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Housing providers, DASH and other decision makers must notify tenants, co-op members, applicants and recipients of housing or homelessness benefit or financial assistance in writing of appealable decisions within 7 days of making the decision.

A notice of a reviewable decision must contain the following statement of the right to request a Regional Review:

If you disagree with this decision, you may request a Regional Review of it within 10 business days. To request a Regional Review, you must write to [housing provider or DASH] stating the reasons that you disagree with the decision. If we are unable to address your concerns, we will forward your request to the Regional Review Panel for review.

## Requests for Regional Reviews

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Appellants are normally required to submit written requests for Regional Reviews to the housing provider, DASH or other decision maker within 10 days of the notice of the decision.

- Program guidelines for the Durham Housing Benefit, the Housing Stability Program (HSP) and other housing or homelessness programs outside of the HSA may set different timelines for appeal requests.

If a request for a review is received more than 10 days after the decision, the Regional Review Panel may still conduct the review if it is satisfied that there are compelling or unavoidable reasons for the delay. Housing providers, DASH and other decision makers cannot refuse to proceed with the review based on a delayed request. Only the Regional Review Panel can make this decision. If a delayed request is received, the decision maker may request that the Panel:

- Not hear the review
- Conduct an expiated review without a hearing (see below)
- Conduct a regular Regional Review hearing.

Requests for Regional Reviews should normally be in writing and include:

- the decision that is being appealed
- the date the decision was made
- the reasons why the appellant disagrees with the decision

- supporting documentation that the appellant would like the Panel to consider.

Housing providers, DASH and other decision makers should attempt to ensure that the appellant's documentation is complete prior to forwarding the request to the Regional Review Panel.

The appellant may withdraw their request for a Regional Review at any time. If the request has already been forwarded to the Regional Review Panel, the notice must be submitted to the Panel in writing.

## **Reconsideration of Decision**

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Housing providers, DASH and other decision makers must reconsider the original decision whenever a Regional Review is requested. The benefit of this reconsideration is to avoid unnecessary Regional Review hearings where the:

- appellant provides additional information that may affect the original decision
- housing provider, DASH or other decision maker and the appellant are able to reach a resolution that is acceptable to the appellant
- decision was made in error.

If the appellant is satisfied with the results of the reconsideration, the request for appeal is not forwarded to the Regional Review Panel.

If the appellant is not satisfied with the results of the reconsideration, the housing provider, DASH or other decision maker must complete the Regional Review Package and forward it to the Regional Review Panel and the appellant within 10 days. This normally occurs when the:

- original decision is upheld after reconsideration
- original decision is changed after reconsideration, but the appellant is not satisfied with the new decision
- housing provider, DASH or other decision maker is unable or unlikely to decide about whether to uphold or change the original decision within 10 days.

If the request pertains to a decision of ineligibility for Special Priority status, DASH must conduct its reconsideration, and if necessary, forward the request with the Regional Review Package to the Regional Review Panel within 2 days of receiving the request for review.

If the request pertains to a decision related to the Durham Housing Benefit, Housing Stability Program (HSP) or other housing or homelessness programs

outside of the HSA, the reconsideration must be conducted in accordance with the guidelines of that program.

## **Regional Review Package**

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If the housing provider, DASH or other decision maker is unable to resolve the situation to the satisfaction of the appellant within 10 days of receiving a request for a Regional Review, they must complete the Regional Review Package and forward copies to both the Regional Review Panel and to the appellant.

The Regional Review Package consists of:

- a completed [Regional Review Summary Form](#) including a summary of the reasons for the original decision
- a copy of the appellant's written request for the Regional Review and any additional information or documentation submitted by the appellant
- a copy of the notice of the original decision
- a copy of the RGI calculation, if this is the decision under review
- any other information or supporting documentation used in making the original decision.

The housing provider, DASH or other decision maker must send a copy of the Regional Review Package to the appellant with the [Notice of forwarding of Regional Review Package to Panel](#) advising that:

- the request for review has been submitted to the Regional Review Panel
- the Regional Review Panel will notify the appellant of the date, time and location of the Regional Review hearing – which is likely to be the Wednesday two weeks following the date of notice
- the appellant will be invited to attend the hearing
- the housing provider, DASH or other decision will be attending the hearing.

The [Regional Review Summary Form](#) and [Notice of forwarding of Regional Review Package to Panel](#) template letter can be found in the Resources for Community Housing Providers section on the Region of Durham's website.

## Regional Review Panel

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The Regional Review Panel consists of Regional staff from the Department of Social Services and representatives from community housing providers and other partners delivering housing or homelessness services.

The Housing Services Division provides administrative support to the Regional Review Panel.

A roster of interested participants from each of these sectors is maintained and updated on a regular basis. The names of rostered Panel members are available to housing providers, community agencies and to the general public by request to the Housing Services Division.

Panel members receive no remuneration for their participation in Regional Reviews.

All Panel members who participate in reviews of decisions under the Housing Services Act (HSA) must have knowledge of the HSA and its regulations and are required to complete RGI training as provided by the Region of Durham.

When a Regional Review is requested, a Panel of three members will be convened consisting of:

- one person from the Housing Services Division
- one person from the Department of Social Services, which may be from the Housing Services Division
- one person from the housing provider or community partner sectors.

The Regional Review may proceed with only two Panel members at their sole discretion.

The Regional Review Panel is an independent body that does not represent the service manager, housing provider or other decision maker in relation to the original decision.

Panel members are required to declare all affiliations with any social housing providers and housing and homelessness community partners in the region. All Panel members are required to declare a conflict and not participate in Regional Reviews where they:

- are affiliated with the housing provider, DASH or other party that made the original decision
- participated in making the original decision
- discussed the original decision with the housing provider DASH, or the community partner that made the decision prior to the review.

Information obtained during the conduct of a Regional Review is confidential and is not shared outside of the review. All members of the Regional Review Panel are required to sign confidentiality agreements.

The Region of Durham reserves the right to accept, deny or repeal anyone's membership on the Regional Review Panel.

## **Scheduling of Regional Review Hearings**

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Regional Review hearings are normally scheduled for the Wednesday of the second week following the date that a request for a Regional Review is received by the Panel. The hearings will generally be conducted at the offices of the Housing Services Division. If there are no requests for a Regional Review, the Panel will not meet.

The Panel may accommodate requests for hearings on alternate days or at alternate locations at its sole discretion.

When a Regional Review Package is received, the clerk to the Regional Review Panel will:

- convene three Panel members to participate in the Regional Review
- send written notice of the date, time and location of the Regional Review hearing to the appellant and to the housing provider, DASH or other decision maker.

If the Panel receives a request that does not qualify for a Regional Review, the clerk will send notice to the appellant and to the housing provider, DASH or other decision maker indicating that the original decision cannot be appealed to the Panel and the reasons for this.

Regional Reviews must be completed within 30 days of the appellant's request for a Regional Review.

If the request pertains to a decision of ineligibility for Special Priority status, the Regional Review must be completed within 10 days of the request.

## **Conduct of Regional Review Hearings**

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Regional Review hearings are normally conducted in person, and are attended by the Panel members, the appellant, and the housing provider, DASH or other decision maker. The Panel may accommodate either party by conference call into the hearing as required.

Appellants are strongly encouraged to attend the Regional Review hearing. They may bring a legal representative, interpreter or support person with them

to the hearing; however, legal representation is not required for the Regional Review.

The housing provider, DASH or other decision maker must attend the Regional Review Hearing to present a summary of their decision and detail the reasons for it.

The Regional Review Panel will not present information on behalf of the housing provider, DASH or other decision maker.

At the Regional Review hearing:

- The housing provider, DASH or other decision maker will present a summary of their decision and detail the reasons for it. They will provide clarification of information or documentation that was previously submitted, but will not normally introduce new information unless it was received after the Regional Review Package was sent to the Panel.
- The appellant will detail their disagreement with the original decision and may provide additional information or documentation to support this.
- Both the appellant and the housing provider, DASH or other decision maker will be given an opportunity to speak to any information presented by the other party.
- The Regional Review Panel may ask questions of both the appellant and the housing provider, DASH or other decision maker.
- The decision under review will not normally be discussed with one party in the absence of the other.

The Panel will make all reasonable efforts to contact an appellant, housing provider, DASH or other decision maker if they fail to attend the hearing without prior notice to the Panel. If they cannot be contacted, the hearing may proceed in their absence.

### **Expedited Reviews Without Hearings**

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Expedited reviews without hearings may be conducted as requested by the housing provider, DASH or other decision maker in the case of delayed requests for review. The Panel has sole discretion to determine if it will conduct the expedited review, refuse to hear the appeal, or convene a regular Regional Review hearing.

The Panel may also conduct a Regional Review without a hearing with the agreement of both the appellant and the housing provider, DASH or the other decision maker.

Expedited reviews without hearings will be based on the written submissions of both parties. One or more Panel members may conduct the review. Expedited reviews will be completed within 5 days of receiving the request.

## **Decisions of the Regional Review Panel**

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The Regional Review Panel will meet in private to make its decision. Panel decisions will be made by consensus. Panel members will base decisions on:

- oral and written submissions presented by the appellant and the housing provider, DASH or other decision maker at or prior to the Regional Review hearing
- legislative requirements
- Regional policies and procedures
- precedents set by earlier decisions of the Panel.

In making its decision, the Panel may seek clarification from legal, policy or finance staff of the Region of Durham regarding the implementation and/or interpretation of Regional policies and required legislation – provided the staff member had not previously discussed the original decision with the appellant, the housing provider, DASH or other party involved in making the original decision.

The Panel will send notice of its decision to the appellant and to the housing provider, DASH or other decision maker within 5 days of the hearing date.

The housing provider, DASH or other decision maker will ensure that the Panel's decision is implemented in a timely manner.

All decisions of the Panel are final and will not be reconsidered.

## **Timelines for Regional Reviews**

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Regional Reviews must normally be completed within 30 days of the appellant's request for a Regional Review.

- If the request pertains to a decision of ineligibility for Special Priority status, the Regional Review must be completed within 10 days.
- If the request pertains to a decision related to the Durham Housing Benefit, Housing Stability Program (HSP) or other housing or homelessness programs outside of the HSA, the Regional Review must be conducted in accordance with the guidelines of that program.

- If the Panel conducts an expedited review without a hearing, the Regional Review must be completed within 5 days of receiving the request.

Housing providers, DASH and other decision makers must conduct their reconsideration within these time frames. If they are unable to resolve the situation to the satisfaction of the appellant, they must forward the request with the Regional Review package to the Panel:

- within 10 days of the appellant's request for a Regional Review for RGI, modified housing or the Durham PHB.
- within 2 days of the appellant's request for a Regional Review of a decision of ineligibility for Special Priority status
- in accordance with the program guidelines for the Durham Housing Benefit, Housing Stability Program (HSP) or other housing or homelessness programs outside of the HSA.

The Panel will send notice of its decision to the appellant and to the housing provider, DASH or other decision maker within 5 days of completing the review.

## **Monitoring**

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The Housing Services Division will monitor the Regional Review process and periodically prepare reports to summarize the activities of the Panel. These reports will be provided to all housing providers and Regional Council and may include:

- statistical information
- recommendations arising from the outcomes of Regional Reviews.

These reports will not contain information that identifies the appellants or the housing providers or community partners involved in the Regional Reviews.

## **Denials/Refusals to Offer**

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Housing providers may deny/refuse to offer a unit to an applicant referred by DASH for the following reasons:

- the vacancy is for a seniors' unit and no one in the applicant's household is over the age of 60
- based on rental payment history, the housing provider reasonably believes that the applicant may not pay the rent/housing charge on time or in full
- the applicant has been denied membership in the co-operative housing provider with the vacancy

- the vacancy is for shared accommodation and the housing provider believes that it is unreasonable for the applicant to reside in shared accommodation
- in the previous 5 years, the applicant was evicted from community housing under an order of the Landlord and Tenant Board for a serious illegal act, and the housing provider reasonably believes that they pose a risk to the health or safety of someone living at the property with the vacancy. Serious illegal acts include:
  - 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
  - Use of threats to, intimidation of, and harassment of another person

Where an applicant is refused an offer for any of the above reasons, the housing provider must notify the applicant of the reason for the denial and of their right to appeal. It is the responsibility of the housing provider to conduct this review. Notice and right of appeal is required for the first denial only.

All housing providers – with the exception of the DRLHC - must establish procedures for the conduct of reviews of denials/refusals to offer. These procedures must include that:

- the denial must be in writing and set out the reason and the right to request a review
- the review must be conducted by someone not involved in making the original decision to deny the offer
- timelines to complete the review and provide notice of the decision.

Housing providers are encouraged to have short timelines for reviews as they cannot offer the vacant unit to the next applicant on the DASH wait list until either:

- the time to request the appeal has expired
- the review has been completed.

Housing providers are encouraged to seek the input of the Regional Review Panel in conducting reviews of refusals to offer. Housing providers may also choose to assign this responsibility to the Regional Review Panel as part of their local procedures.

The Regional Review Panel conducts reviews of decisions by the Durham Regional Local Housing Corporation (DRLHC) to deny offers.

### **Effective Date**

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This directive comes into effect on January 1, 2020.

### **Repealed Rules**

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This Directive replaces Durham Social Housing Directive RGI 2014-04 Regional Review Process.

### **Legislative Authority**

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Housing Services Act, s. 155, 156, 158  
Ontario Regulation 367/11, s.138