

# OCHE Terms of Reference

## **TERMS OF REFERENCE – OFFICE OF THE COMMISSIONER OF HOUSING EQUITY**

**Date:** To be updated after Board approval.

**Background:** The need for a Commissioner of Housing Equity was first identified in Justice Lesage’s *“Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation”* (*“LeSage Report”*) and was reinforced by the City of Toronto Ombudsman’s Report *“Housing at Risk: An Investigation into the Toronto Community Housing Corporation’s Eviction of Seniors on the Basis of Rent Arrears”*.

The Toronto Community Housing Corporation (“TCHC”) Board of Directors approved the creation of the Office of the Commissioner of Housing Equity (“OCHE”) on December 11, 2013. The OCHE was fully staffed and operational as of April 1, 2014.

The Commissioner of Housing Equity (“Commissioner”) reports to the TCHC Board of Directors, through the Tenant Services Committee (“TSC”).

### **1. Recognition of Independent Role**

The OCHE is an independent office that operates at arms-length from TCHC operations and management. The Commissioner carries out the functions and responsibilities of the role in an independent manner.

### **2. Mandate**

- a. The OCHE oversees TCHC staff compliance with TCHC policies and procedures as they relate to Evictions for Arrears and Loss of Subsidy (“TCHC Policies”). As well, the OCHE oversees TCHC staff compliance with applicable legislation<sup>1</sup> and City of Toronto/Service Manager rules, to ensure fair and equitable treatment of seniors and vulnerable tenants living in TCHC.
- b. The OCHE supports successful tenancies at TCHC in accordance with these Terms of Reference. The Commissioner works with TCHC to ensure that necessary support and protections exist for seniors and vulnerable tenants,

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<sup>1</sup> *Housing Services Act, 2011* and *Residential Tenancies Act, 2006*

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and ensures all reasonable avenues have been exhausted for those tenants who have lost their subsidy or face eviction proceedings due to arrears.

### 3. Roles

The OCHE serves three primary roles:

- a. **Review:** To provide assurances to the TCHC Board of Directors that TCHC has complied with all TCHC Policies, applicable legislation and City of Toronto/Service Manager rules; that loss of subsidies for senior and vulnerable tenants are procedurally sound; and matters are referred for eviction proceedings at the Landlord and Tenant Board (LTB) as a last resort.
- b. **Resolve:** To assist senior and vulnerable tenants in achieving healthy and successful tenancies through the resolution of rental arrears and loss of subsidies, and in doing so, reduce the number of referrals to the LTB; and
- c. **Recommend:** To provide guidance to TCHC Staff, Senior Management and the TCHC Board of Directors on TCHC compliance and make recommendations for improvements to TCHC's eviction prevention and loss of subsidy policies and procedures.

### 4. Functions

- a) Independent Audit Function – OCHE Eviction for Arrears Process:
  - i) TCHC, through its Asset Management Division, shall identify senior and vulnerable tenants within 60 days of commencement of TCHC's Arrears Collection Process for referral to the OCHE, where those arrears remain unresolved by way of a local repayment agreement or otherwise.
  - ii) Notwithstanding item 4 (a)(i) above, if a senior or vulnerable file is identified at any later point before an order is issued by the LTB, the tenant's file shall be referred to the OCHE.
  - iii) The OCHE shall complete its Eviction for Arrears Process (defined as the OCHE procedures outlined in this section 4(a), within 45 business days of the referral.
  - iv) The Commissioner may extend the time to complete the OCHE's Eviction for Arrears Process in the event of extenuating circumstances or operational constraints. In such cases, the Commissioner will notify TCHC of the extension. TCHC may identify any operational concerns to the Commissioner.

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- v) In carrying out its Eviction for Arrears Process, the OCHE shall ensure that all TCHC Policies, applicable legislation and City of Toronto/Service Manager rules have been followed by TCHC.
  - vi) Where the OCHE determines that TCHC has not complied with all TCHC Policies, applicable legislation and City of Toronto/Service Manager rules, the OCHE shall advise TCHC of the recommended remedial actions. TCHC shall not submit such tenant's file to the LTB until TCHC has carried out such remedial actions to the satisfaction of the OCHE.
  - vii) Where TCHC disagrees with the Commissioner's recommendations, or where the Commissioner disagrees with the remedial actions taken by TCHC, either party may choose to seek assistance/advice from the Service Manager.
  - viii) Where TCHC proceeds with an eviction for arrears application to the LTB for a senior or vulnerable tenant, TCHC will provide a copy of the Commissioner's Eviction for Arrears Report and Recommendations to the LTB as part of the application.
- b) Independent Audit Function – OCHE Loss of Subsidy Process:
- i) TCHC, through its Asset Management Division, shall identify senior and vulnerable tenants who have lost their rent-geared-to-income subsidy within 15 business days of the revocation of the subsidy.
  - ii) The OCHE is to complete its Loss of Subsidy Process (defined as the OCHE procedures outlined in this section 4(b), within 30 calendar days of referral.
  - iii) In carrying out its Loss of Subsidy Process, the OCHE shall ensure that TCHC is compliant with all TCHC Policies, applicable legislation and City of Toronto/Service Manager rules.
  - iv) Where the OCHE determines that TCHC has not complied with all TCHC Policies, applicable legislation and City of Toronto/Service Manager rules, the OCHE shall advise TCHC of the recommended remedial actions. TCHC shall report back to the OCHE on the outcome of the remedial actions taken.
  - v) In the circumstances where TCHC disagrees with the Commissioner's recommendations, or where the Commissioner disagrees with the remedial actions taken TCHC if supported by the TCHC Board, either party may choose to seek assistance/advice from the Service Manager.
- c) Referrals

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- i) TCHC shall be responsible for referring files within the mandate of the OCHE in accordance with these Terms of Reference.
  - ii) The OCHE may receive contacts from external stakeholders, to determine whether a matter properly falls within the mandate of the OCHE. If the OCHE identifies a matter properly falls within its mandate, the OCHE will identify the matter to TCHC and recommend its referral.
  - iii) In the circumstances where TCHC disagrees with the Commissioner's recommendation, either party may choose to seek assistance/advice from the Service Manager.
- d) Vulnerability  
As envisioned in the *LeSage Report*<sup>2</sup>, during the OCHE's Eviction for Arrears Process the OCHE will assess whether a tenant requires assistance, including a determination of whether a tenant is vulnerable in accordance with the City of Toronto's definition of Vulnerability<sup>3</sup>.
- e) Training:  
Where the Commissioner or TCHC identifies the need for training related to the expertise of the OCHE, the OCHE and TCHC will work together to develop and provide such training to staff.
- f) Consultation:
  - i) The Commissioner will be consulted by TCHC Asset Management and/or Resident and Community Services Divisions with respect to the development or revision of any policy, procedure, practice or program that relates to loss of subsidy or evictions for arrears for seniors or vulnerable tenants.
  - ii) The Commissioner will provide TCHC with recommendations and advice on those areas consulted on.
- g) OCHE's Reports and Recommendations:
  - i) The Commissioner will provide a copy of any written reports and recommendations to tenants and TCHC at the conclusion of OCHE's Eviction for Arrears Process.

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<sup>2</sup> The Honourable Patrick J. LeSage, "*Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation*", May 2010, p. 81

<sup>3</sup> Appendix #1: City of Toronto's Vulnerability Definition

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- ii) The Commissioner will provide written reports and recommendations to TCHC at the conclusion of the OCHE's Loss of Subsidy Process.
  - iii) The Commissioner's reports and recommendations will identify any areas of compliance and non-compliance, and identify any remedial actions to be taken to close any remaining gaps in the eviction for arrears and loss of subsidy management processes.
- h) Dispute Resolution Function between TCHC and the OCHE:  
In the circumstances where the TCHC Board of Directors disagrees with the Commissioner's recommendations, or where the Commissioner disagrees with the remedial actions taken by TCHC as supported by the Board of Directors, either party may choose to seek assistance/advice from the Service Manager.
- i) Alternative Dispute Resolution Function:
- i) The Commissioner ensures that all reasonable avenues of resolution have been exhausted to avoid the need for an eviction proceeding to the LTB due to rental arrears.
  - ii) Where additional reasonable avenues of resolution are identified, the Commissioner will work to promote the resolution to avoid the need for an eviction for arrears to proceed to the LTB.
  - iii) When pursuing resolutions by way of repayment agreements for arrears, the Commissioner will not bind TCHC, but will work with the tenant and TCHC to broker the repayment agreement.
  - iv) Where appropriate, the OCHE shall engage external supports and agencies to assist seniors and vulnerable tenants in resolving their arrears and underlying issues impacting their ability to maintain a successful tenancy.
- j) Linkage of Tenants with Social Supports Function:
- i) Where appropriate, the Commissioner will identify community services or supports that may assist the tenant in maintaining a successful tenancy and attempt to connect the tenant to the identified community services and supports.
  - ii) Where the Commissioner makes a determination that the tenant may require ongoing assistance, he or she will engage TCHC's Resident and Community Services Division and work to identify what may be necessary to achieve a successful tenancy.

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- iii) Where the OCHE identifies matters outside its mandate, the Commissioner shall refer the matter to the appropriate TCHC staff or outside agencies.

### **5. Reports to the TCHC Board of Directors**

a. Annual Work Plan:

- i) The Commissioner is responsible for submitting an annual work plan to the TCHC Board of Directors, through TSC for review and approval.

b. Quarterly Reports:

- i) The Commissioner shall report to the TCHC Board of Directors, through the TSC, on a quarterly basis. These Quarterly Reports shall outline the work of the OCHE, as well as progress against the agreed upon annual work plan.
- ii) The Commissioner shall provide a copy of the Quarterly Reports to the TCHC CEO for his or her comments prior to submitting the report to the TCHC Board of Directors, through the TSC.

c. Annual OCHE Performance Report:

- i) The Commissioner will report annually to the TCHC Board of Directors, through the TSC, on the OCHE's performance for the preceding year, as measured against the approved work plan.
- ii) The Commissioner shall provide a copy of the Annual OCHE Performance Report to the TCHC CEO for his or her comments before submitting the report to the TCHC Board of Directors, through the TSC.

d. Additional Reports to the TCHC Board of Directors:

- i) The Commissioner shall report to the TCHC Board of Directors, through the TSC, as necessary, on any findings of non-compliance by TCHC with its policies and procedures, including applicable legislation, systemic trends, or any other urgent matters identified by the Commissioner.

### **6. Budget**

As part of TCHC's annual budget process, the Commissioner shall be responsible for preparing an annual budget for the OCHE and submit it to the TCHC Board of Directors for approval.

### **7. Operations**

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- a. TCHC shall provide all reasonable infrastructure support required by the OCHE including, but not limited to, information technology, finance, human resources, facilities and communications support, with the recognition of the arms-length relationship of the OCHE, from TCHC's management structure.
- b. The Commissioner shall advise the TCHC Board of Directors, through the Chair of the TSC, of any requests received from media for interviews, comments or information.

### **8. Access to Information**

TCHC shall not unreasonably withhold access to information, records, reports, files, and TCHC management and staff, which the Commissioner identifies as necessary to fulfill the OCHE mandate.

### **9. Term**

- a. The OCHE's current five-year term ends March 31, 2022, subject to review and renewal by the TCHC Board of Directors, through the TSC.

### **10. Dispute Resolution for Terms of Reference**

- a. Issues relating to the interpretation or application of these Terms of Reference shall be identified by the OCHE and/or TCHC to the TCHC Board of Directors, through the TSC, for resolution.

### **11. Review and Approval**

- a. The TCHC Board of Directors, through the TSC, will advise the Commissioner of its decision to extend the OCHE's term by September 30, 2021 (6 months prior to the expiry of term on March 31, 2022).
- b. These Terms of Reference shall be reviewed and approved by the TCHC Board of Directors, through the TSC, as required.

**Next Review Date:** As required.

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## **APPENDIX #1**

### **City of Toronto's Definition of Vulnerability**

Vulnerability is the result of interaction between the challenges a person faces and the resources that they can access when facing those challenges.

A vulnerable resident must be assessed in context- a person's vulnerability or resiliency will depend on their circumstances, environment and resources in the broadest sense.

Vulnerable persons may be isolated, without identified supports, reclusive, or have underlying physical or mental health issues that pose a threat of harm to themselves and/or others.

Threat of harm to self may be due to reduced ability to manage activities of daily living, substance misuse, reduced insight, and/or reluctance to accept support services.