



## OCHE Bi-Annual Update – January to June 2021

Item 7A

November 18, 2021

Tenant Services Committee

**Report:** TSC:2021-76

**To:** Tenant Services Committee (“TSC”)

**From:** Commissioner of Housing Equity

**Date:** October 26, 2021

### **PURPOSE:**

The purpose of this Report is to provide an update to the TCHC Board of Directors (the “Board”) regarding the work scope and functions of the OCHE. In early 2021, the Board requested the OCHE submit a six-month report that covers the period of January 1, 2021, to June 30, 2021, rather than submit a quarterly report for Q1 and Q2. This Report reflects this change. In the future, the OCHE will submit two six-month reports each year to apprise the Board of the work and impact of the OCHE.

This Report also reflects changes in the presentation and content of the Report, following feedback received from the Board of Directors on July 22, 2021, in the context of a discussion regarding the OCHE 2020 Annual Report. The Report focuses on the areas of interest to the Board as expressed at the July 22, 2021 meeting and on the work metrics as outlined in the Board-approved 2021 OCHE Work Plan.<sup>1</sup>

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<sup>1</sup> Report: TCHC:2020-86 – Attachment 1. Access PDF Copy

As a result, this Report describes the work undertaken by the OCHE, while highlighting the systemic recommendations made to TCHC based on the OCHE's audit findings and work with tenants.

### **RECOMMENDATIONS:**

It is recommended that the Tenant Services Committee review and receive this Report for information and forward it to the Board for information.

### **REASONS FOR RECOMMENDATIONS:**

The Board has mandated the OCHE to provide case management services to ensure eviction prevention where possible. On December 11, 2013, the TCHC Board of Directors issued a *Report: TCHC: 2013-78*, which recommended the creation of the Office of the Commissioner of Housing Equity and described its mandate:

*The mandate of the Commissioner of Housing Equity office is to promote resolution of rent arrears and review potential loss of subsidy files which could escalate to an arrears situation. Where the Commissioner makes a determination the resident requires assistance they will engage TCH in connecting the resident to appropriate resources.<sup>2</sup>*

The Board's decision to create the OCHE and its mandate followed the recommendation to create the OCHE as described in the LeSage Report<sup>3</sup>, in which Justice LeSage in Section 6 of the Report recommended that:

*TCHC should establish a new independent office, the Commissioner of Housing Equity, with sufficient staffing and resources. The central function of the Commissioner of Housing Equity is to resolve rent arrears situations, through mediation, and reduce those matters which proceed to the Landlord and Tenant Board ("LTB"). Through this process the Commissioner's Office will link tenants with available community support agencies to get assistance, as needed and identified.*

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<sup>2</sup> Report: TCHC:2013-78. Access PDF copy

<sup>3</sup> Report On The Eviction Of Al Gosling And The Eviction Prevention Policy Of Toronto Community Housing Corporation. Access PDF copy

The case management function of the OCHE is again articulated in the OCHE 2021 Work Plan.<sup>4</sup>

The OCHE's case management work is carried out by the Early Resolutions Officers, who identify tenants' barriers to paying rent and address any additional underlying issues in order to avoid eviction. The OCHE employs a relational model to its work by building relationships with tenants, TCHC staff, and external community agencies. Working together as an interdisciplinary team, the OCHE provides a holistic approach to addressing arrears, avoiding evictions, and creating sustainable tenancies.

An additional area of the work of the OCHE, which has evolved over time, has been the audit role. As part of working with tenants to resolve arrears, the Early Resolution Officers conduct an audit, assessing whether or not TCHC has followed its arrears collection policies<sup>5</sup> and procedures<sup>6</sup>. Upon completion of the audit, the Commissioner makes recommendations to TCHC regarding how they can improve their work and avoid errors in the future. Often these recommendations are tenant-specific, but in cases where the findings have a greater impact, the Commissioner will make systemic recommendations.

Both roles of the OCHE are articulated in the OCHE Terms of Reference<sup>7</sup> under section 3, which outlines the three functions of the OCHE:

*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 Tenant Board 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 Landlord Tenant Board; and*

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<sup>4</sup> Report: TCHC:2020-86 – Attachment 1. Access PDF Copy

<sup>5</sup> TCHC Eviction Prevention Policy for Non-payment of Rent. Access PDF copy

<sup>6</sup> TCHC Arrears Collection Repayment Process. Access PDF copy

<sup>7</sup>OCHE Terms of Reference, last updated 2018. Access PDF copy

*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.*

In this Report, you will find the results of the OCHE case management and audit work and an overview of the OCHE's systemic recommendations to TCHC from January 1 to June 30, 2021. In addition, a comparison of the audit findings for 2021 is provided with the same period of time in 2020.

## 1.0 OCHE CASE MANAGEMENT HIGHLIGHTS

Between January 1 and June 30, 2021, 278 Households were referred to the OCHE to address arrears, stabilize the tenancy, and be audited for compliance with the TCHC Eviction Prevention Policy and Arrears Collection Process. These referrals included:

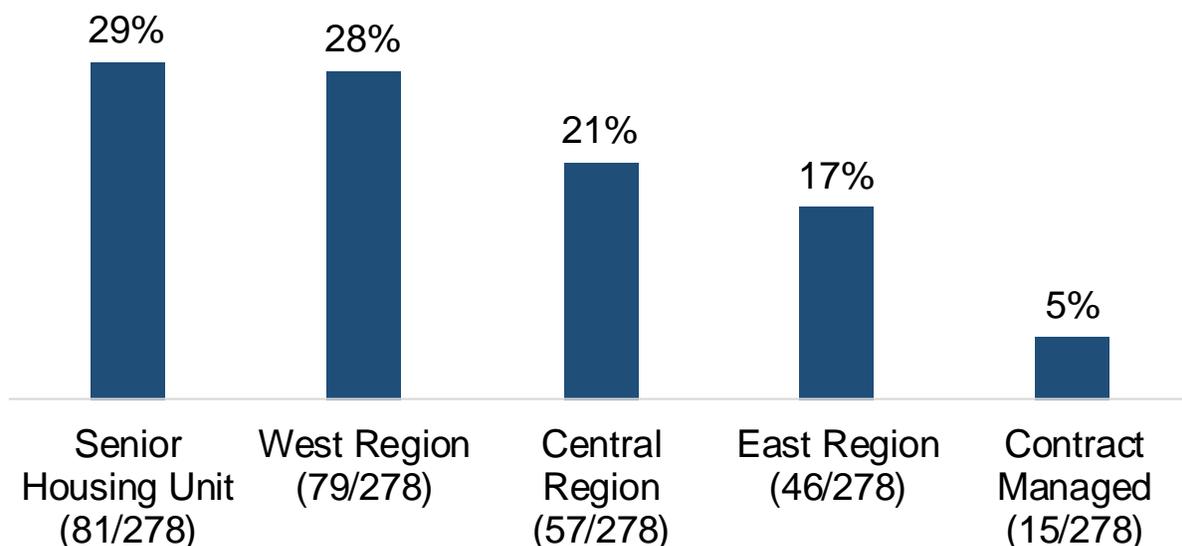
- 194 Senior Persons
- 53 Vulnerable Persons
- 31 Family Referrals

This represents a 55% increase from January 1 to June 30, 2020, when the OCHE received 179 referrals for arrears.

In this period of time, 81% (197/243) of these households avoided the need for eviction by working with the OCHE. This is comparable to 2020, when 80% (173/216) avoided the need for eviction.

## 1.1 REFERRALS BY REGION

The following chart shows the number of referrals to the OCHE by region:



## 1.2 ARREARS MANAGED

In this period, the OCHE recovered \$1,003,129.00 by managing arrears:

- \$147,036 direct payments, which included:
  - \$85,644 directly from tenants.
  - \$30,100 Ontario Works /Ontario Disability Support Program Housing Stabilization Fund
  - \$23,594 in direct payments from Tenants' families and
  - \$7,689 in payments directly from Ontario Works / Ontario Disability Support Program
- \$614,212 in OCHE brokered repayment agreements between TCHC and Tenants.
- \$241,881 by resolving Loss of Subsidies.

The following chart compares the arrears at the time of referral to the OCHE in the first half of 2021 to the same period in 2020:

	2020 (Q1/Q2)	2021 (Q1/Q2)
<b>Average Arrears at Time of First N4</b>	\$1,381	\$2,067
<b>Average Arrears at Time of Referral</b>	\$3,139	\$4,945
<b>Average Month Of Referral to OCHE After Arrears Started Accumulating</b>	12 Months	14 Months

## 2.0 COMMISSIONER'S SYSTEMIC RECOMMENDATIONS STEMMING FROM CASE MANAGEMENT FINDINGS

When the OCHE receives a referral from TCHC, the Early Resolution Officer attempts to resolve the arrears while addressing the underlying issues which contributed to them. When the underlying issues are identified and supports are put in place to stabilize the tenancy, the Commissioner makes tenant-specific recommendations to TCHC to ensure housing sustainability. Many of these recommendations are systemic in nature, as the issue addressed is a common TCHC-wide issue with potential impact across the portfolio.

The two most common issues relating to the accumulation of rental arrears are described below, along with the systemic recommendations made by the Commissioner to TCHC to address these issues.

### **1. Tenants not realizing they owe arrears of rent.**

The common reason for this is that tenants use pre-authorized debit and do not realize their payment was returned due to Non-Sufficient Funds (“NSF”). They may suffer from memory loss or mental health issues, or they do not notice until they receive notification from TCHC. Alternatively, Ontario Works or the Ontario Disability Support Program, which usually pays a tenant’s rent directly to TCHC, have stopped or suspended the payments.

#### **The Commissioner has made these recommendations to TCHC to address this issue:**

- Ensure that when working with tenants who receive Ontario Works or Ontario Disability Support Program, to reach out to their caseworkers when payments are missed. Caseworkers may issue direct payments that include an arrears repayment amount and assist with obtaining funds through the HSF.
- When a payment is returned due to NSF, promptly reach out to the Tenant to resolve the issue. In some cases, the NSF is due to the Tenant’s pension income being reduced because they did not file their latest income tax return. In these cases, it is recommended that tenants are referred to a Community Service Coordinator to assist with referrals for tax filing. In some cases, retroactive payments for pensions that have been stopped are paid to tenants providing them with enough money to make lump-sum payments towards the arrears owing.

### **2. Tenants report having difficulty managing their finances.**

Tenants have explained to Early Resolution Officers that they do not have enough money to cover their monthly rent payments due to lack of income and poor financial management and literacy.

Tenants report on a variety of issues contributing to poor money management. These can include addictions, other debts, poor budgeting skills, or physical and mental challenges, including memory issues.

**The Commissioner has made these recommendations to TCHC to address this issue:**

- When brokering repayment agreements with Tenants, complete a budget with the tenants, discuss money management strategies and select reasonable repayment amounts that are likely to succeed.
- Refer Tenants to outside organizations for assistance with money management. These may include the voluntary trustee who can access tenants' bank accounts and make authorized payments on the tenant's behalf, such as rent or hydro bills. These are successful because the voluntary trustee withdraws the needed funds for bill payments on the day the tenant is paid, ensuring that money will be available for rental payments.
- Some tenants do not have the capacity for managing their finances and should be referred to the Ontario Public Guardian and Trustee. Generally, the OCHE assists with these applications.
- Other tenants may need assistance with debt management/consolidation, and Credit Counselling of Canada may assist tenants in managing debts and stop more debt from accumulating.
- Set up recurring payments (preauthorized debits) for rent to be paid directly from the bank to TCHC each month. This is a helpful arrangement for tenants who may be forgetful.
- Identify and provide referrals for addictions counseling.

### 3.0 COMMISSIONER'S SYSTEMIC RECOMMENDATIONS AS REPORTED THROUGH CASE-SPECIFIC AUDIT REPORTS

The OCHE issued 260 Reports to TCHC with a total of 755 Systemic Recommendations in this period. The Recommendations flow from errors made by TCHC staff or from the expertise and experience of the Early Resolution Officers in order to ensure a transference of skills to TCHC to build capacity and increase TCHC effectiveness.

The following table describes the nature and frequency of these recommendations:

<b>Arrears Collection Process Recommendations</b>	<b>Total Number of Reports recommendations were made</b>
Only send Eviction Prevention Policy letter 1 once/ do not send multiple copies	67% (173/260)
Refer to the OCHE according to the Arrears Collection Process timelines	38% (99/260)
Send the N4 between the 5 <sup>th</sup> and 7 <sup>th</sup> business day of the first month of arrears	35% (91/260)
Make direct contact with the tenant in the first month of arrears	35% (90/260)
Adhere to TCHC's <i>Documentation Standards</i> when recording notes on tenants' files	17% (45/260)
Only send N4 once/ do not send multiple N4s	10% (25/260)
Do not send Eviction Prevention Policy Letter 3 to Senior or Vulnerable tenants	7% (19/260)
Send Eviction Prevention Policy letter 1 in the first month of arrears	5% (12/260)
Send an N4 to the tenant	4% (11/260)
After finding an error in the N4, issue the new one within the Arrears Collection Process timelines	4% (10/260)
Enter Local Repayment Agreements with tenants in writing	3% (9/260)
Make direct contact with the tenant to address the arrears	2% (5/260)
Send Eviction Prevention Policy Letter 1	2% (4/260)

<b>Tenant Engagement Recommendations</b>	<b>Total Number of Reports recommendations were made</b>
Reach out to caseworker should tenant miss a rent payment	16% (42/260)
Refer file to Community Services Coordinator should tenant miss a rent payment	14% (36/260)
Provide customized supports to tenants as required (i.e., Interpreters)	14% (36/260)
Reach out to family member should tenant miss a rent payment	7% (17/260)
Create custom payment schedules for the tenant	5% (14/260)

<b>Loss Of Subsidy Process Recommendations</b>	<b>Total Number of Reports recommendations were made</b>
Issue a reminder letter before the Loss of Subsidy takes effect according to the timelines	22% (6/27)
Make direct contact with the tenant after issuing the Notice of Decision	19% (5/27)
Make direct contact before issuing the Notice of Decision	15% (4/27)
Send the Notice of Decision according to the timelines	7% (2/27)

### **3.1 RECENT SYSTEMIC CHANGES RESULTING FROM CASE-SPECIFIC RECOMMENDATIONS**

Effective June 28, 2021, the new TCHC Arrears Collection Process was implemented to correspond with the roll-out of the new HoMES system. The new Arrears Collection Process aims to decrease the time arrears are able to accumulate to avoid escalating arrears and potential applications for eviction to the Landlord Tenant Board (“L1 Application”). Early intervention results in lower arrears owed and the quicker resolution of owed arrears.

As a result of the systemic recommendations made by the Commissioner in 2020 and early 2021, the new Arrears Collection Process was crafted to consider the barriers faced by TCHC frontline staff in addressing the arrears quickly. The new Arrears Collection Process removes administrative barriers that slow down the Eviction Prevention Process, and emphasis is placed on engaging with tenants quickly to address arrears through a fulsome relational approach which encourages tenants to share and work through underlying issues with the TCHC frontline staff. In cases where the arrears remain unresolved, this engagement will be followed by a prompt referral to OCHE.

The Commissioner made the following Systemic Recommendations regarding the development of the new:

- That the Notice to Terminate the Tenancy (“N4”) should be served consistently and served early in the process (between the 13<sup>th</sup> and 15<sup>th</sup> calendar day of the first month of arrears).
- That frontline staff should be provided ongoing training on how to engage with tenants effectively.
- That frontline staff should spend more focused time with the tenants to explore the underlying reasons for the accumulation of arrears.
- That TCHC limit the number of letters sent to tenants to one, unless there are exceptional circumstances. More direct types of contact should be utilized.
- That TCHC work with the OCHE to develop a new, more customer-friendly, and readable letter for tenants to advise them of their arrears, rental obligations, and rights.

- That TCHC refer unresolved arrears files to the OCHE earlier in the process.
- That frontline staff set appointment times with tenants rather than rely on walk-ins at the HUBs. This is important not only to respect tenants' time, but also because it makes workflow more efficient.

It is noteworthy that these recommendations were adopted and incorporated into the new Arrears Collection Process.

#### **4.0 COMMISSIONER'S SYSTEMIC RECOMMENDATIONS THAT HAVE RESULTED IN POLICY CHANGE AT TCHC:**

The Commissioner makes systemic recommendations through various methods across the organization. The Commissioner makes systemic recommendations in each Report issued to TCHC and the Tenant following an OCHE referral and intervention. Early Resolution Officers participate in the HUB model as consultants to transfer expertise and build capacity when frontline staff require it. The Commissioner engages in policy discussions related to eviction prevention, arrears, seniors and vulnerable persons. As a result of the OCHE's involvement in these areas during the past six months, the following policy changes have been or are soon to be implemented at TCHC.

1. Administrative delays in the Arrears Collection Process can be a cause of increased arrears accumulation. The Commissioner recommended a pilot in 2020 to address these delays and loosen the requirements and criteria for referring files to the OCHE in situations where TCHC was unable to address the arrears. As a result, the Quick Referral Process was implemented during COVID, which allowed TCHC to send arrears files as needed via the Arrears Collection Process to the OCHE, with reduced documentation and need for staff resources to address arrears sooner. In 2021, the Commissioner recommended that TCHC adopt the Quick Referral Process permanently. TCHC accepted the recommendation and implemented the process in January 2021, with positive feedback from both OCHE and TCHC staff and tenants.

2. The OCHE has consistently messaged that building positive relationships with tenants is integral to frontline staff addressing arrears early and sustaining tenancies. The Commissioner has recommended more face-to-face communication between tenants and frontline staff. Recently, TCHC has implemented the HUBs, in part, to enable these closer relationships to form between tenants and frontline staff. OCHE staff participated in the frontline consultations and served on the TCHC frontline advisory table. The OCHE staff continue to be available to consult frontline TCHC staff as needed to support relationship building with tenants. Additionally, the OCHE has offered training on interpersonal skills to frontline TCHC staff. TCHC will be collecting data based on HUBs to determine which HUBs need more training, more staff, or more OCHE support.

## **5.0 PRE EVICTION AUDIT PILOT**

The OCHE and TCHC have entered into a seven-month Pilot to examine if it would be valuable to TCHC and their tenants to have the OCHE audit files in which there has already been a Landlord Tenant Board hearing and Eviction Order prior to the enforcement by the Sheriff. The Pilot follows media attention related to five tenants evicted during COVID. The Toronto Ombudsman expressed concern that evictions during this period of time required extra caution. As such, TCHC and the City of Toronto Ombudsman approached the Commissioner with a proposal for a Pilot in which the OCHE would begin auditing all arrears eviction applications prior to TCHC filing for eviction enforcement with the Sheriff. The purpose of the audit is to provide TCHC with an extra layer of accountability by ensuring that all policies and procedures have been adhered to prior to enforcing an eviction with the Sheriff's Office.

The Pre-Eviction Audit Pilot commenced in May 2021 and will run to December 31, 2021. It includes all arrears evictions, including those of non-senior and non-vulnerable tenants. The mandate of the OCHE during the Pilot is to determine whether or not TCHC made a significant error that contributed to the decision to evict a tenant; and likely, would have resulted in the continuation of the tenancy had the error not occurred. Unlike the regular work undertaken by Early Resolution Officers to preserve tenancies by resolving arrears, the review function of the Pilot only involves auditing for the following potential findings:

- TCHC followed the Arrears Collection Process and adhered to all policies and procedures with no errors and the eviction should proceed.
- TCHC made minor errors in regard to the Arrears Collection Process and related policies and procedures; however, these errors did not significantly impact the outcome and therefore, the eviction should proceed.
- TCHC made a significant error in regard to the Arrears Collection Process and related policies and procedures and the eviction should not proceed. Instead, the file should be returned to TCHC or referred to the OCHE for further intervention in order to sustain the tenancy.
- Frontline staff made insufficient contact with the tenant to address the arrears.
- The tenant had been making consistent rent payments since the Order to Evict was issued.
- The tenant had an unidentified vulnerability.

At the end of the pilot, the OCHE and TCHC will report back to the Board on the findings of the pilot.

**IMPLICATIONS AND RISKS:**

The OCHE provides the Board with oversight of TCHC's operations related to evictions due to arrears of rent and ensures that tenants avoid eviction where possible. The OCHE reports regularly on its activities and TCHC's performance in the areas within OCHE's jurisdiction. This regular reporting by the OCHE ensures the Board is aware of the OCHE's activities taken on its behalf and that they continue to align with the goals of the Board and TCHC.

**SIGNATURE:**

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