



County of Wellington Social Services Department – Housing Services DIRECTIVE

Directive Number: 2020-01

Effective Date: March 1, 2020

This directive has been developed by the County of Wellington in its role as Consolidated Municipal Service Manager (CMSM) and applies to housing providers funded under the following social housing programs:

√	Provincially Reformed Non-Profit Housing Programmes
√	Provincially Reformed Co-operative Housing Programmes (Co-ops)
	Local Housing Corporation (LHC)
√	Service Manager Funding Agreement (Post EOA)

Subject: Refusal by a Housing Provider

Legislative Reference: Housing Services Act, 2011 (HSA) O.Reg. 367/11 S.50
Housing Services Act, 2011 (HSA) O.Reg. 367/11 S.77

Directive Reference Directive 2020-03 “Centralized Waiting List – Applicant Selection and Offer Reporting”

This Directive replaces and repeals Directive 2013-15 “Refusal by a Housing Provider”.

Background

HSA O.Reg. 367/11 S.50 permits the CMSM to make a local rule that a household on the Centralized Waiting List (CWL) for rent-geared-to-income (RGI) assistance can be refused by a housing provider under certain conditions.

Direction

1. Prescribed Reason Permitted for Refusal to Offer

As prescribed in O.Reg. 367/11 S.50, a housing provider is permitted, despite any other rule, to not offer a household an RGI unit under any of the following circumstances:

- 1.1 The housing provider has a mandate under HSA S.76 and offering the unit to the household would be contrary to that mandate;
- 1.2 The housing provider has reasonable grounds to believe, based on the household’s rental history, that the household may fail to fulfill its obligations to pay rent for the unit in the amount and at the times the rent is due;

- 1.3 The housing provider is a non-profit housing co-operative and the household does not agree to accept its responsibilities as a member of the housing provider or the housing provider has reasonable grounds to believe that the household will not accept or will be unable to accept those responsibilities;
- 1.4 The unit is one in which individuals will reside in a shared living situation and the housing provider has reasonable grounds to believe that it is unreasonable for the household to reside in the shared accommodation.
- 1.5 All of the following criteria are satisfied:
 - i. Within the past five years,
 - A. the tenancy of a member of the household was ordered terminated by the Landlord and Tenant Board based on a notice of termination given under section 61 of the Residential Tenancies Act, 2006, or
 - B. the occupancy of a member of the household in a member unit of a non-profit housing co-operative was ordered terminated by the Landlord and Tenant Board based on a notice of termination given under paragraph 5 of section 94.2 of that Act.
 - ii. The tenancy or occupancy that was ordered terminated was in a designated housing project.
 - iii. The order terminating the tenancy or occupancy has not been cancelled under section 21.2 of the Statutory Powers Procedure Act or overturned under section 210 of the Residential Tenancies Act, 2006.
 - iv. The order terminating the tenancy or occupancy was grounded on an illegal act, trade, business or occupation involving one or more of the following:
 - A. An illegal act, trade, business or occupation described in clause 61 (2) (a) or 94.4 (4) (a) of the Residential Tenancies Act, 2006.
 - B. The illegal production, distribution or sale of cannabis.
 - C. The trafficking of persons.
 - D. The use or attempted use of physical violence against another person.
 - E. Physical harm, attempted physical harm, or a risk of physical harm to another person.
 - F. The use of threats to, intimidation of, or harassment of another person.
 - v. The housing provider has reasonable grounds to believe that accommodating the household would pose a risk to the safety of one or more other persons at the housing project. O. Reg. 367/11, s. 50 (1); O. Reg. 318/19, s. 9.

2. Special Needs Housing

As prescribed in HSA O.Reg. 367/11 S.77, a housing provider is permitted, despite any other rule, to not offer a household a Special Needs Housing unit under the previously mentioned circumstances as well as the following circumstance:

- 2.1 The level of support services that are provided in respect of the unit is significantly greater or significantly less than the level of support services required by the household.

3. Notification and Review of Decision

The housing provider's system for selecting households must include rules that provide for the following, if a housing provider refuses to make an offer to a household that it would otherwise have been required to make:

- 3.1 The housing provider shall notify the household of the refusal.
- 3.2 If the household so requests, the housing provider shall review the decision to refuse to make the offer.
- 3.3 The rules under paragraphs 3.1 and 3.2 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. O. Reg. 367/11, s. 50 (3).

Application

4. Process for Refusal by a Housing Provider

Once the housing provider has refused to offer a unit to a household on the CWL, the housing provider must:

- 4.1 Send a letter to the applicant that states the housing provider refuses to offer the unit to the household. Check Yardi memos for any special instructions or alternate contact information for applicants that cannot be contacted directly. The letter must include the following:
 - The prescribed reasons the housing provider is relying on to refuse the applicant
 - Details about how the prescribed reason applies to the applicant. This would include specific information the housing provider has obtained during the application process and was used in the decision to refuse the applicant.

Co-ops Only

If prescribed reason identified in 1.3 above is used for refusal, the letter must provide specifics about how the applicant does not meet the responsibility requirements of membership.

- Advise the household of its right to a Review of the Decision and provide instructions on how to request a Review.
- 4.2 Fax/email to the Housing Programme Advisor a copy of the letter to the applicant; and
 - 4.3 In Yardi, under "Refused", select "HP – Denied" and add a memo providing details related to the refusal. Housing providers must update Yardi within 48 hours of processing the refusal.

***Safety Protocol for Special Priority (SP) Applicants**

If the housing provider has refused to offer a unit to a Special Priority (SP) household, the housing provider must:

- Notify Applicant Services immediately; and
- Prepare the letter according to the steps above and fax/email the letter to Applicant Services, who will ensure that the notice is delivered to the Special Priority applicant on behalf of the provider. This is to ensure the safety of the applicant.

5. Pending a Review of the Decision

A housing provider's refusal to offer a unit to an applicant does not mean the unit must be held vacant until a Review has been conducted. Once a housing provider has complied with Section 4, the provider may move to the next household on its list. The applicant will remain on the list and the provider may decide to offer a subsequent vacancy to that applicant in the future.

6. Maintenance of Documents

All documents relating to a housing provider's decision to refuse to offer a unit, including the letter to the household and the information used in making the decision, must be maintained on file for at least 7 years after the day the decision letter was given to the household.

These records must be available for the CMSM to review at any time during this period.

The Refusal by Housing Provider local rule is effective immediately.

If you require additional information, please contact the Housing Programme Advisor.



Mark Poste
Director of Housing

Appendix: Notice of Refusal to Offer letter (sample)



Alternative Formats Available Upon Request.