



OCHE Systemic Recommendations Report – August 1, 2019, to September 30, 2021

Item 2G

December 9, 2021

Board of Directors

Report: TCHC:2021-75

To: Board of Directors (the “Board”)

From: Tenant Services Committee (“TSC”)

Date: November 18, 2021

PURPOSE:

The purpose of this report is to identify the past systemic recommendations made by the Commissioner of Housing Equity to TCHC, for information purposes, for the Board. The Commissioner has been advised that TCHC will provide their response to the systemic recommendations made by the Commissioner in an accompanying report.

At the July 22, 2021, TCHC Board of Directors meeting, the Board passed the following resolution:

“Request that the OCHE and TCHC Management report to the Board identifying, and reporting on the status of TCHC’s response to past systemic recommendations.”

In this report, the OCHE has identified and outlined all the systemic recommendations made to TCHC from August 1, 2019, to September 30, 2021. This timeframe follows the previous reporting period of April 2014 to July 2019¹, in which the Commissioner provided a report to the Board on all recommendations made to TCHC within that period.

¹ OCHE Recommendations to TCHC from April 1, 2019, to July 12, 2019. Access PDF copy

RECOMMENDATIONS:

It is recommended that the Board:

1. Receive the OCHE Systemic Recommendations Report – August 1, 2019, to September 30, 2021, for information; and
2. Approve the recommendation to expand the OCHE’s jurisdiction from that of working with Senior and Vulnerable tenants to that of working with all tenants living in Toronto Community Housing. Thus allowing the OCHE to support tenants in arrears of rent prior to TCHC filing an *Application to Evict a Tenant for Non-Payment of Rent and to Collect Rent a Tenant Owes* (“L1 Application”) to the Landlord and Tenant Board.

**Of note, this change in jurisdiction does not require additional funding for the OCHE 2022 budget.

REASONS FOR RECOMMENDATIONS:

The Commissioner reports directly to the Board through the Tenant Services Committee. The OCHE operates independently of TCHC management in carrying out its mandate. The OCHE collaborates with TCHC to ensure compliance to service standards and to avoid evictions for senior and vulnerable tenants.

The mandate of the OCHE is articulated in the OCHE’s *Terms of Reference*², under Section 3, where the recommendation function of the Commissioner is described as follows:

Recommend: *To provide guidance to TCHC Staff, Senior Management and the Board on TCHC compliance and make recommendations for improvements to TCHC’s eviction prevention and loss of subsidy policies and procedures.*

The Commissioner carries out the recommendation function of the OCHE in the following ways:

² OCHE Terms of Reference – January 2018. Access PDF copy

- a. While working with individual tenants who have been identified as senior or vulnerable to avoid eviction and identify underlying issues, the OCHE completes an audit to ensure TCHC's compliance with the Arrears Collection Process, Eviction Prevention Policy and applicable legislation has been followed. At the conclusion of this work, the Commissioner issues a report containing tenant-specific and systemic recommendations to TCHC.
- b. The Commissioner works collaboratively with TCHC Senior Management to provide recommendations to improve TCHC's Eviction Prevention and Loss of Subsidy Policies and Procedures.
- c. The Commissioner provides recommendations to TCHC senior management based on OCHE's expertise regarding senior and vulnerable tenants.

FORMAT OF THE REPORT:

This report identifies and categorizes the systemic recommendations made by the Commissioner to TCHC from August 1, 2019, to September 30, 2021. The recommendations have been classified into theme-based auditing categories. This is a value-added approach, which will be helpful to TCHC to recognize the risks associated with not following the recommendations and also provide advice on how to improve service delivery. In addition, a consistent theme-based categorization of recommendations will allow TCHC and OCHE to monitor compliance over time.

The following themes emerged following a review of the systemic recommendations and are detailed by the theme-based audit categories in the chart below:

THEME-BASED SYSTEMIC AUDIT RECOMMENDATIONS	
1. ADMINISTRATIVE DELAYS AND INEFFICIENT USE OF RESOURCES	Administrative delays and inefficient use of resources create unnecessary costs to the organization, in particular: added time in which arrears are allowed to accumulate, reduced customer service levels, and inhibited workflows.
2. NON-COMPLIANCE WITH POLICIES AND PROCEDURES	Failure to comply with internal policies and procedures, specifically those related to the Eviction Prevention Policy, Arrears Collection Process, Loss of Subsidy Process and applicable legislation (<i>Residential Tenancies Act, 2006, Housing Services Act, 2011</i>) presents a liability to the organization and inequitable service to tenants.
3. UNRELIABLE INTERNAL INFORMATION	TCHC has guidelines for recording information using internal databases, such as HMS, EasyTrac, and HoMES. Not following these guidelines can lead to inaccurate and unreliable information, interrupted workflows, and reduced trust in TCHC staff.
4. QUALITY OF SERVICE	Quality of service is vital for relationship building with tenants, fostering positive living environments, and ultimately keeping tenants housed.

This report is organized into the following three sections:

1. Commissioner's Recommendations Reports
2. Systemic/Process Recommendations
3. Next Steps

SECTION 1: COMMISSIONER'S RECOMMENDATION REPORTS

As noted earlier, while working with individual tenants to avoid eviction and identify underlying issues, the OCHE also conducts an audit to ensure TCHC's compliance with the Arrears Collection Process, Eviction Prevention Policy and applicable legislation. At the conclusion of this work, the Commissioner issues a report containing tenant-specific and systemic recommendations to TCHC. From August 1, 2019, to September 30, 2021, the OCHE issued 1086 such reports with a total of 3271 recommendations to TCHC.

The recommendations contained in this report are systemic in nature and are organized below into the theme-based audit categories.

It is noteworthy that the errors identified through the OCHE's audit of individual tenants are related to tenants who have been identified as senior or vulnerable. It is reasonable to expect that similar errors in process, policy and procedure could be found through the audit of tenant files from the Family Portfolio. This issue will be addressed later in the report in Section 2.4, Pre-Eviction Audit Pilot.

1. Administrative Delays and Inefficient Use of Resources

The Arrears Collection Process was developed to assist staff with ensuring all tenants remain up to date with their rental accounts and, if tenants require assistance to do so, intervention is provided early. Failure to adhere to the timelines of the Arrears Collection Process results in increased arrears balances, evictions, and inequity among tenants. In these instances, TCHC also risks loss of revenue and an increase in uncollectible arrears.

The chart below outlines the Commissioner's recommendations related to administrative delays and inefficient use of resources:

Commissioner's Recommendations regarding Administrative Delays and Inefficient Use of Resources	Total Number of Reports Recommendations were Made
Send the Eviction Prevention Policy Letter 1 once in the first month of arrears / Do not send multiple letters	50% (545/1086)
Serve the Notice to Terminate the Tenancy in accordance with Arrears Collection Process timelines	42% (460/1086)
Refer to the OCHE according to the Arrears Collection Process timeline	42% (459/1086)
Make direct contact with the tenant in the first month of arrears	34% (368/1086)
Send the Notice to Terminate the Tenancy once /do not send multiple Notices to Terminate the Tenancy	15% (168/1086)
After finding an error in the Notice to Terminate the Tenancy, issue a new one within the Arrears Collection Process timelines	6% (61/1086)
Follow the Arrears Collection Process timelines in regard to Community Service Coordinator involvement	1% (10/1086)

2. Non-Compliance with Policies and Procedures

The policies and procedures outlined in the Eviction Prevention Policy, Arrears Collection Process, Loss of Subsidy Process and applicable legislation (*Residential Tenancies Act, 2006, Housing Services Act, 2011*) ensure a fair and transparent process for tenants facing eviction due to arrears of rent. Failure to comply with internal policies and procedures can result in undue evictions, reduced transparency, and a lack of trust in

the process. In these instances, TCHC risks damaging its relationship with tenants and its reputation. The chart below outlines the Commissioner's recommendations related to non-compliance with policies and procedures:

Commissioner's Recommendations related to Non-Compliance with Policies and Procedures Recommendations	Total Number of Reports recommendations were made
Pursuant to the Eviction Prevention Policy, do not send Eviction Prevention Policy Letter 3 to Vulnerable or Senior tenants	12% (137/1086)
Pursuant to the Arrears Collection Policy, ensure the Eviction Prevention Policy Letter 1 is sent to the tenant	11% (122/1086)
Pursuant to the Arrears Collection Process, ensure direct contact is made with the tenant	4% (41/1086)
Pursuant to the Housing Services Act, 2011, issue a reminder letter before the Loss of Subsidy takes effect according to the prescribed timelines	4% (40/1086)
Pursuant to the Housing Services Act, 2011, make direct contact before and after issuing the Notice of Decision regarding Loss of Subsidy	3% (37/1086)
Pursuant to the Arrears Collection Process, ensure Local Repayment Agreements are in written format	3% (30/1086)
Pursuant to the Residential Tenancies Act, 2006, serve the Notice to Terminate the Tenancy to the tenant	1% (15/1086)

3. Unreliable Internal Information

Unreliable internal information stems from non-compliance with TCHC documentation standards, leading to inaccurate record-keeping, invalid legal notices, and preventing proper workflow between staff and business units. In addition, unreliable internal information makes it more difficult for staff to engage with tenants to address arrears and effectively sustain tenancies. While the overall number of recommendations regarding this issue may seem low, they reflect 19% (205/1086) of the audited files.

The chart below outlines the Commissioner's recommendations related to unreliable internal information:

Commissioner's Recommendations related to Unreliable Internal Information	Total Number of Reports recommendations were made
Ensure HMS Legal codes are accurate and are entered into the database (HMS and HoMES)	13% (138/1086)
Ensure tenant records are accurate and timely (HMS, EasyTrac and HoMES)	5% (59/1086)
Ensure the Notice to Terminate the Tenancy Checklist is completed accurately	1% (8/1086)

4. Quality of Services

TCHC is a diverse community with over 110,000 tenants and 220 dialects spoken. This population includes seniors and people with vulnerabilities, including low-income families. Within such a large community, it is to be expected that there are a number of tenants who require additional services and supports in order to maintain their tenancies. It is necessary for TCHC to provide these tenants with additional supports in order to sustain their tenancies, relying upon both internal and external supports.

This support may take the form of engaging external stakeholders such as caseworkers, family members, interpreters, income tax clinics, as well as internal supports such as Community Services Coordinators. Failure to provide these supports affects vulnerable tenants disproportionately, given that they have less resilience than other tenants and likely would face greater challenges should they be evicted. The chart below outlines the Commissioner's recommendations related to quality of service:

Commissioner's Recommendations Regarding Quality of Service	Total Number of Reports recommendations were made
Reach out to tenants' caseworkers or families should they get into arrears of rent	24% (259/1086)
Refer tenants to a Community Services Coordinator should they get into arrears of rent or require other supports/referrals	18% (192/1086)
Provide flexible and customized supports and accommodations to tenants as required (i.e., interpreters)	6% (61/1086)
Create flexible and custom payment schedules based on tenants' budgets and pay schedules	5% (52/1086)
Proactively identify and refer vulnerable tenants to the OCHE before filing an L1 Application	1% (9/1086)

SECTION 2: SYSTEMS AND PROCESSES

The Commissioner makes systemic recommendations designed to reduce risks to TCHC and its tenants through improved policies and procedural fairness. These recommendations stem from the trends noted through the audit findings in the Commissioner's Recommendations Reports, as noted above, but also from close collaboration between the Commissioner and TCHC. The Commissioner and the OCHE team participate in monthly meetings with TCHC's Senior Management, Early Resolution Officers participation in HUB consultations and cross-divisional discussions. As part of the Commissioner's engagement in these areas, she makes systemic recommendations to TCHC Senior Management regarding policy and procedures. The following four policy recommendations resulted from the Commissioners review of the theme-based audit findings identified in Section 1 as well as subsequent recommendations. These recommendations have recently been implemented by TCHC or are soon to be implemented.

1. The New Arrears Collection Process

The Commissioner and Senior Advisor participated in policy discussions with TCHC Senior Management concerning the new Arrears Collection Process to provide recommendations for improvements to the process and procedures. In addition, an OCHE Early Resolution Officer worked directly with TCHC staff in the development of the new Arrears Collection Process. During policy discussions, the Commissioner made the following seven systemic recommendations for the new Arrears Collection Process:

- That the Notice to Terminate the Tenancy should be served consistently and served early in the process (between the 13th and 15th 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 instead.
- 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.

The new Arrears Collection Process went into effect on June 28, 2021, and was implemented to correspond with the roll-out of the new HoMES system.

2. The Quick Referral Process

Administrative delays in the Arrears Collection Process may cause increased arrears accumulation. In 2020, the Commissioner recommended a Pilot to address these delays and to relax the criteria for referring files to the OCHE in situations where TCHC could not resolve the arrears. As a result, the Quick Referral Process was implemented. This process allowed

TCHC to send arrears files as needed to the OCHE with reduced documentation and the need for fewer staff resources. In 2021, the Commissioner recommended that TCHC adopt the Quick Referral Process permanently. TCHC accepted this recommendation and implemented the process in January 2021.

3. Engagement within the HUB Model

The Commissioner 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. The Commissioner also recommended that TCHC frontline staff change their policy of walk-ins to scheduled meetings with tenants.

Recently, TCHC has implemented the HUB Model, in part, to enable these closer relationships to form between tenants and frontline staff.

The OCHE team participated in the HUB consultations and served on the TCHC frontline advisory table in order to provide expertise, recommendations and to increase capacity at TCHC. The OCHE team continues to be available to consult frontline TCHC staff, as needed, to support relationship building with tenants. This involvement allows the Commissioner, through the OCHE team, to make systemic recommendations related to service delivery on the frontline.

Additionally, the OCHE offers training to TCHC frontline staff for interpersonal skill development, case management skills, and the creation of reasonable repayment agreements. The goal of this training is to ensure that TCHC frontline staff have the skills to put into practice the recommendations of the Commissioner.

4. Pre-Eviction Audit Pilot

The Pre-Eviction Audit Pilot (“the Pilot”), which commenced in May 2021 and will run to December 31, 2021, was initiated by TCHC and endorsed by the Toronto Ombudsman to ensure all TCHC policies and procedures have been properly adhered to prior to enforcing evictions with the Sheriff. The Pilot consists of the OCHE conducting an audit of all TCHC files (including the Family Portfolio), which have been processed through the Landlord and Tenant Board and have a valid Order to terminate the tenancy due to

arrears of rent. The Pilot includes all arrears files, not just files with senior or vulnerable persons. At the time of writing this report, the OCHE has reviewed 35 files.

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. This process provides an additional layer of protection to tenants and to TCHC, as it ensures all evictions for arrears of rent enforced by the Sheriff have been determined to have been administratively and procedurally fair.

The preliminary results of the Pilot indicate that in 29% (10/35) of the files reviewed, TCHC made significant errors that contributed to the decision to evict the tenant and the Commissioner recommended that the tenancies not be terminated. As a result, TCHC did not terminate the tenancies and instead worked with the tenants to address the arrears and stabilize the tenancies. While this is a positive outcome for the tenants, it is noteworthy that these positive outcomes followed a long and stressful process for the tenants that could have been avoided.

Furthermore, given that the OCHE audit has been conducted so late in the process following the L1 Application to the Landlord and Tenant Board, TCHC has faced increased organizational risk. For example, should the OCHE audit reveal that a significant error did occur on the file and, therefore, the eviction should not be pursued, the Order to Evict from the Landlord and Tenant Board may expire, resulting in arrears becoming uncollectible.

The Pilot findings point toward a need for all arrears files to be reviewed prior to the L1 Application being filed. Based on these Pilot findings, TCHC has determined that it would be beneficial for the OCHE to work with all tenants with rental arrears earlier in the process, as is currently the practice with senior and vulnerable tenants. This will mitigate the significant errors found in the process prior to the Landlord and Tenant Board hearing and

ensure arrears remain collectible and tenants remain housed. Working with TCHC Senior Management, the Toronto Ombudsman has encouraged this change in process and has endorsed the OCHE review of all evictions for arrears prior to filing an L1 Application. The TCHC Chief Operating Officer and the Commissioner are recommending to the Board that this change in the process be implemented effective January 1, 2022.

SECTION 3: NEXT STEPS

Having reviewed the systemic recommendations from August 1, 2019, to September 30, 2021, the Commissioner makes the following recommendations to TCHC for continued improvement in the area of eviction prevention:

1. Training and Capacity Building Recommendations

1. Quarterly training for frontline staff that includes a review of the importance of eviction prevention policies, engagement strategies and accurate record management systems and processes.
2. Mentoring of TSCs by ensuring Supervisors review the Commissioner's Recommendations Reports on an individual basis for the purpose of learning and training.
3. Heightened integration of the OCHE staff in the new HUB Model to improve knowledge and skill transfer.
4. Provide specialized training for TCHC staff in the area of trauma-informed practice from an anti-oppressive lens to facilitate the work with TCHC's diverse clientele.
5. Provide staff with specialized training in the area of anti-Black racism to facilitate the work with TCHC's diverse Black population in collaboration with the Centre for Advancing the Interests of Black People and the OCHE.

2. Pre-Eviction Pilot Recommendation

1. It is recommended that, effective January 1, 2022, the OCHE review all files of tenants in arrears of rent prior to filing the L1 Application. As stated, this recommendation will not require additional funding as workloads will be optimized with staffing realignments within the OCHE.

This expansion of the OCHE's jurisdiction will result in reduced arrears balances, reduced number of evictions, and increased equity among tenants.

3. Ongoing Monitoring of Recommendations

1. It is recommended that TCHC devise and implement a system for tracking and monitoring the implementation of the Commissioner's recommendations.
2. It is recommended that TCHC develop a reporting mechanism to provide regular feedback to the Commissioner and the Board on the status and progress towards implementing the Commissioner's recommendations.

CONCLUSION:

The tenants who live in TCHC face many challenges in life, and the accumulation of arrears is a symptom of those other challenges. The importance of empathy and understanding in all interactions with tenants cannot be overlooked. It is a combination of knowing and applying the policies and processes and working effectively with tenants that will result in better outcomes for both tenants and the organization. It is clear from reviewing the audit findings related to senior and vulnerable tenants, combined with the results of the Pre-Eviction Audit Pilot, that it would benefit TCHC and tenants for the OCHE to review all files with arrears of rent prior to the L1 Application being filed.

By implementing the recommendations of the Commissioner, TCHC will find improved relationships with tenants; fewer arrears accumulating to unmanageable levels; and ultimately, a reduced need for referrals to the OCHE.

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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