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Ombudsman Toronto Report

An Investigation into
Toronto Community Housing Corporation's
Medical and Safety at Risk Priority Transfer Process
For Tenants

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EXECUTIVE SUMMARY

Toronto Community Housing Corporation (TCHC) supplies critical social housing to 106,578 people in Toronto, in 55,512 rental units of various sizes throughout the City. Ninety-three per cent of TCHC tenants have rent that is geared to their income (so they can afford to live in stable housing in Toronto.)

TCHC operates in an environment of challenge and constraint. Hundreds of TCHC units are closed and sit empty because of disrepair, even though every unit is badly needed.

More than 61,000 households (about 181,000 people) are waiting for social housing in TCHC. In addition, there are more than 1400 existing TCHC households (as of December 5, 2017) waiting for a transfer to another TCHC unit because their current unit puts their health and/or safety at risk.

In the fall of 2015, Ombudsman Toronto investigated two complaints about TCHC's handling of applications for Medical and Safety at Risk priority transfers. The first was from a young mother who feared for her safety after she witnessed a violent crime. TCHC denied her application twice, even after learning that she had fled to a shelter with her child and that while she was there, an intruder entered her unit and left a gun in her child's drawer.

Another family applied for a transfer after someone fired gunshots into their unit and two of their children were assaulted while walking home from school. This family was denied a transfer because they had difficulty getting police documentation to support their application, since the case was still under investigation. When they made a second application with the required documentation, TCHC staff lost their application for four months.

After we helped resolve both of these complaints, Ombudsman Toronto was left with concerns about whether the priority transfer process is fair and responsive to the needs of TCHC tenants. We therefore decided to launch an Investigation into how TCHC handles Medical and Safety at Risk priority transfers.

We examined 606 applications for these categories of priority transfer and found many problems with the fairness and effectiveness of the current process:

- Although it is described as a “priority transfer process” there are 1,413 approved households on the Medical and Safety at Risk priority list (1,069 Medical and 344 Safety at Risk), waiting to be transferred.
- Nearly 55% of those households have been sitting on this priority transfer wait list for *five years or more*. Seventy-six per cent have been on the list for two or more years. There are a number of reasons for this. One is the fact that under a rule set by the City, households whose units are larger than what they need (called

"Overhoused") have a higher priority level. There are currently 1328 households on the Overhoused priority transfer list.

- The exceptionally long time households may have to wait to transfer raises false expectations among people on the Medical and Safety at Risk priority list, and is unresponsive and unfair to the needs of tenants.
- The current list does not identify or prioritize tenants with the most urgent health or safety needs. This is also unfair.

Our Investigation also found cases where applications for Medical or Safety at Risk priority were arbitrarily and unfairly rejected. The decision-makers at TCHC responsible for approving these applications:

- have no rules of procedure to guide their decision-making;
- do not have a consistent understanding of the eligibility criteria, which results in inconsistent decisions that sometimes go against stated TCHC policy; and
- often give inadequate explanations for their decisions, or do not provide reasons.

The poor functioning of the priority transfer process means that in some circumstances they consider urgent, local managers approve discretionary transfers without documenting them, bypassing established policy and procedures entirely. This compounds the unfairness for those families and individuals on the waiting list.

Fairness demands that TCHC change the process for Medical and Safety at Risk priority transfers to respond more effectively to tenants' health and safety needs, create more transparent and consistent procedures and better inform tenants. This report recommends that TCHC, with the City's support:

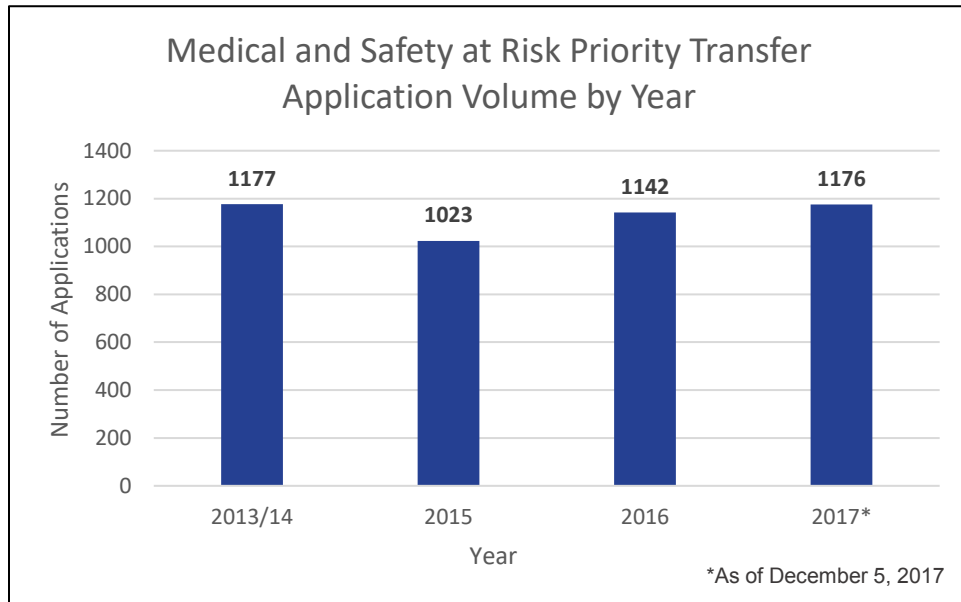
- create a higher priority "Crisis" transfer category for the most urgent cases, ranked higher than the Overhoused priority;
- give the Crisis category clearly defined criteria to ensure that it identifies households with "direct, immediate and acute risks to health and/or safety" caused by their unit in a fair and timely way;
- design and implement a procedurally and substantively fair process for deciding who qualifies for a Crisis priority transfer;
- provide clear, accessible and understandable information to tenants about how a household will qualify for a Crisis priority transfer and how to apply;
- design and implement a process to effectively serve the needs of Crisis priority transfer tenants once identified;
- review the existing Medical and Safety at Risk priority transfer waiting list and decide whether to eliminate or maintain it, while individually informing all tenants on the list that they can apply for the new Crisis priority transfer category; and

- eliminate discretionary transfers once the process for Crisis priority transfers is operating, with any exceptions requiring proper documentation and approval of the CEO.

INTRODUCTION

1. Toronto Community Housing Corporation (TCHC) is Toronto's publicly-owned social housing provider. The City of Toronto is its sole shareholder.
2. TCHC provides mostly rent-geared-to-income (RGI) housing. RGI directly connects the cost of housing to a household's ability to pay, in the form of reduced rent.
3. About 93% of TCHC's tenants pay RGI rates. The other 7% pay market rent.
4. TCHC is the largest social housing provider in Canada. It operates over 350 high-rise and low-rise buildings across the city.¹ Currently, it houses over 106,578 residents in 55,512 units. Its housing portfolio consists of direct-managed properties as well as properties managed by private companies under contract with TCHC.
5. Toronto has an urgent shortage of RGI housing. According to November 2017 reports from Housing Connections, the organization that connects external applicants with social housing units, roughly 61,000 households are waiting to get into TCHC units. This represents approximately 181,000 people.
6. More than 600 TCHC units are closed and sit empty because they are in such a state of disrepair that they pose a risk to tenants. In April, 2017, when TCHC closed 134 units for this reason, the media reported that TCHC would need to close many more without major government investment. On July 4, 2017, City Council passed a motion directing TCHC to ensure that no additional units are permanently closed in 2018 and 2019.
7. Aside from the 61,000 external households waiting for a housing offer from TCHC, many existing TCHC tenants seek to transfer to a different unit. Hundreds of tenant households apply for Medical and Safety at Risk priority transfers each year, as represented below.

¹ TCHC website. www.torontohousing.ca (accessed October, 2017).



8. Applications that are approved are placed on a waiting list for transfer. As of December 5, 2017, there were 1413 Medical and Safety at Risk priority transfer households on the waiting list. These households have had their applications approved, and are waiting to move to a new unit.
9. Whether and how quickly TCHC offers a different unit to existing tenants who wish to move depends on various factors, including what, if any, priority status they have, where they want to move and their housing needs. It also depends on what vacant units TCHC has available to rent at any given time.
10. When a vacant unit becomes available, TCHC makes offers to households on the internal transfer waiting lists, in order of priority. These lists are discussed in detail below. Only when these internal lists have been exhausted can a housing offer be made to any of the 61,000 households waiting to get into TCHC units.
11. Our Investigation revealed that TCHC's current Medical and Safety at Risk priority process is fundamentally unfair – to current TCHC tenants and to prospective ones.

12. We therefore recommend that TCHC completely overhaul it by:
- creating a new Crisis category that is higher in priority;
 - ensuring that the new Crisis priority transfer process does not suffer from the same procedural shortcomings that affect the current Medical and Safety at Risk priority transfer process;
 - reviewing the existing Medical and Safety at Risk priority waiting list and deciding whether to eliminate or maintain it; and
 - no longer accepting applications for Medical and Safety at Risk priority.

OMBUDSMAN TORONTO INVESTIGATION

HOW WE GOT INVOLVED

13. In the fall of 2015, a young mother, Ms. D, complained to Ombudsman Toronto. She had witnessed a violent crime outside her TCHC residence. Fearing for her safety, she applied for a Safety at Risk priority transfer. She abandoned her unit and moved into a shelter with her child.
14. TCHC initially denied her application for priority transfer. In the meantime, someone broke into Ms. D's unit and left a gun in her child's drawer. She contacted TCHC to find out why her application was denied and notified them about the break-in and the weapon. TCHC told her that if she provided more information about the incidents, she would likely be approved.
15. Ms. D worked hard to gather supporting documents, only to be denied again. We reviewed the decision letter she received, and found that the reasons TCHC provided for denying the transfer were vague and contradicted its own policy. When we contacted TCHC, it escalated the matter to upper management, who re-reviewed the file and overturned the denial.
16. At around the same time, Family G also complained to Ombudsman Toronto. Someone had fired gunshots into their living room from a vehicle outside. Soon after, two of the family's teenaged sons were assaulted walking home from school.
17. Family G had applied for a Safety at Risk transfer, and were denied. With their application, they had submitted a letter from police stating that a police report was not available because the case was under investigation.
18. TCHC's decision letter denying the application cited a lack of specific information about the incidents and insufficient supporting documentation. It advised Family G to apply again with a police report, but Family G did not know how to obtain a police report when the police would not provide one.

Neither TCHC site staff nor TCHC's decision letter explained what the family could do in this situation.

19. After making inquiries with TCHC, we told the family what alternative police documentation they needed. The family, however, encountered great difficulty obtaining any documentation from Toronto Police Services. With our help, they were able to put together a second application with more supporting documentation. TCHC Management also telephoned the Toronto Police Service at our suggestion to verify the threat the family faced.
20. Family G contacted us again four months later because they had not heard from TCHC about the status of their new application. We followed up and learned that TCHC staff had misplaced the application and had not submitted it for review.
21. We applied pressure on TCHC staff to find the application and forward it for consideration, which they did. TCHC approved the application and, because of the considerable delay, it backdated the decision, making it effective as of the date that the application would have been considered had there not been a lag with processing the request (resulting in it being higher on the waiting list than if the actual decision date were used).
22. The experiences of both Ms. D and Family G raised serious questions about the overall fairness of the priority transfer process at a systemic level. We decided to investigate, and notified TCHC in writing of this on April 12, 2016.

THE INVESTIGATION

23. Our Investigation reviewed the administration of TCHC's Medical and Safety at Risk priority transfer process. We focused on the procedural, substantive and equitable fairness of the process from the application stage, to the decision-making stage, to the way in which TCHC conveys its decisions and makes offers.
24. Procedural fairness concerns how decisions are made. Substantive fairness concerns the decisions themselves. Equitable fairness concerns how people are treated and whether their needs are met.
25. During our Investigation, we reviewed relevant policy documents and legislation. We requested priority transfer application packages for all decisions made between January 2015 and April 2016.
26. We reviewed 606 applications and decisions. Our review was extensive, focusing on a variety of components, including: application themes, how TCHC made decisions and reasons given for decisions.

27. We interviewed 26 witnesses from TCHC who have a role in the priority transfer process, from site staff to TCHC's executive leadership.
28. We also spoke with some TCHC tenants.
29. Finally, we spoke with leaders and other staff from the City's Shelter Support & Housing Administration and Social Development, Finance & Administration divisions.
30. Our Investigation required TCHC to produce a significant volume of TCHC records. TCHC was cooperative throughout, promptly supplying us with the documents we requested and access to witnesses we needed to interview.

INVESTIGATION REPORT

31. This report:
 - outlines TCHC's structure
 - discusses the policy framework and legislative context in which the priority transfer process is situated
 - briefly describes the history and evolution of the priority transfer process
 - presents an overview of the current process as it is intended to operate
 - examines in detail how the process operates in practice
 - recommends that TCHC stop accepting new applications for Medical and Safety at Risk priority transfers, and instead create a new Crisis priority transfer category
 - lays out the procedural problems with the current Medical and Safety at Risk priority transfer process, and makes recommendations so that the new Crisis priority transfer process will not suffer from the same shortcomings

STRUCTURE OF TORONTO COMMUNITY HOUSING CORPORATION

32. TCHC is a non-profit housing corporation. It is entirely owned by one shareholder: the City of Toronto. A Board of Directors of 13 members, including members of City Council, citizens, and TCHC tenants, oversees TCHC.
33. TCHC's housing portfolio is divided into 13 operating units (OUs). TCHC staff manage OUs directly, or private companies do so under contract. Contract-managed OUs are required to follow TCHC's policies and procedures.
34. Each OU is made up of a housing portfolio within a specific geographic region. Each OU administers TCHC's daily operations with respect to rent collection,

handling tenant accounts, managing tenant disputes, responding to maintenance issues, etc.

35. TCHC-managed buildings are headed by an Operating Unit Manager. In contract-managed buildings, a Property Manager serves the same function as an Operating Unit Manager. In this report, Operating Unit Managers and Property Managers are referred to collectively as site managers.
36. Within each OU that TCHC manages, Tenant Services Coordinators are tenants' first point of contact with TCHC. They collect rent, monitor tenant accounts, and liaise with building superintendents. In contract-managed buildings, Property Administrators serve the same function as Tenant Services Coordinators. In this report, Tenant Service Coordinators and Property Administrators are referred to collectively as site staff.
37. Site staff are responsible for helping tenants with priority transfer applications. This will be discussed in greater detail later in this report.
38. TCHC's Asset Management Division oversees the corporation's day-to-day operations, from building maintenance activities to tenancy administration. It also oversees contract-managed properties and is responsible for ensuring that they comply with TCHC policies.
39. Program Services is a unit within Asset Management that supports OUs with regard to RGI administration and tenancy management. Its role has grown over the past three years to include many centralized functions for the OUs, from RGI review to managing the process for making offers of vacant units. One of these centralized functions is the Transfer Review Committee ("TRC").
40. The TRC makes decisions on Medical and Safety at Risk priority transfer eligibility.
41. The Manager of Operational Initiatives, who reports to the Director of Program Services, manages the TRC. The Manager of Operational Initiatives also serves as a part-time decision-maker on the TRC.
42. TCHC's Community Safety Unit (CSU) is responsible for providing corporate and building security and delivering safety programs for residents. CSU maintains a frequent presence in TCHC communities. The TRC often relies on CSU's records, especially in the context of Safety at Risk applications.

LEGISLATIVE AND POLICY FRAMEWORK

PROVINCIAL LEGISLATION AND PROVINCIAL & LOCAL PRIORITY RULES

PROVINCIAL LEGISLATION – THE HOUSING SERVICES ACT

43. In 2011, Ontario enacted the *Housing Services Act* ("HSA"). The HSA replaced the *Social Housing Reform Act, 2000*. The HSA and its regulations set out the rules that govern social housing programs across the province. They also allow municipal service managers that administer social housing programs (including the City of Toronto) to set certain local rules.
44. When offering social housing units to households (both those already in social housing and those looking to enter), service managers must first look to the prescribed provincial priority rules and then to their own local priority rules.²

PROVINCIAL PRIORITY RULES

45. The provincial priority rules are established by O. Reg. 367/11 under the HSA, in sections 52-58. The highest priority when allocating vacant units must be given to households that meet the eligibility criteria for the special priority household category ("SPP³"). Essentially, this category applies where one member of a household is experiencing abuse by another member or is being sponsored as an immigrant by their abuser.⁴
46. Housing Connections, a City agency that manages the centralized waiting list for subsidized housing in Toronto, assesses all applications for SPP.

LOCAL PRIORITY RULES

47. The HSA requires service managers to make local rules setting the size of unit (number of bedrooms) for which a household is eligible, based on the number of people living in the unit. These are called occupancy standards.
48. Under O. Reg. 367/11, service managers may make a rule that a household will stop being eligible for RGI if it occupies a unit that exceeds the unit size for which it is eligible.
49. If a service manager chooses to make such a rule, the rule must provide that a household in a unit that is too large will not lose RGI eligibility so long as it is complying with the process to be transferred to a smaller one.

² *Housing Services Act*, S.O. 2011, ss. 48(1) & (2).

³ Special Priority is commonly called SPP. It is not clear what the acronym stands for.

⁴ *HSA*, s.54.

50. The City of Toronto has made a local rule in this regard and has created a corresponding priority transfer category called "Overhoused".
51. The City created the Overhoused priority to maximize the use of TCHC's housing stock. It is impractical and unfair for one or two people to occupy a family-sized unit. This is so especially because larger units are in very high demand.
52. After being notified that it meets the criteria for the Overhoused category, a household must choose at least five housing developments in which they prefer to live. If a year has passed and the housing provider has made three offers for any of the requested developments, and the household has declined them all, the household will lose RGI eligibility. At this point, the housing provider must charge them market rent.
53. The City of Toronto's Shelter, Support & Housing Administration Division (SSHA) has created an RGI Administration Manual⁵ to provide direction to staff and directors of agencies that administer RGI on behalf of the City of Toronto, including TCHC. The RGI Administration Manual directs that an Overhoused RGI household has priority on the housing provider's internal transfer waiting list, second only to any SPP household on the list.⁶
54. The City has therefore established a local Overhoused priority transfer category that is the second highest priority, after the provincial SPP category. The City has created this priority because of the high demand for, and low supply of, units with more than two bedrooms.
55. The City's RGI Administration Manual also states that a housing provider may develop its own internal transfer waiting list for other priorities. These internal priorities will rank below SPP and Overhoused. TCHC developed the Medical and Safety at Risk priority transfer categories pursuant to this authority.

TCHC TENANT TRANSFER POLICY & GUIDELINES

56. TCHC tenant transfers follow both a policy and a guideline document.

POLICY

57. TCHC's Tenant Transfer Policy ("the Policy") identifies the criteria for transferring tenants internally within TCHC's portfolio from one unit to another. The Policy, which has not been updated since July 2006, cites as its legislative authority the now-repealed *Social Housing Reform Act, 2000*.

⁵ Most recent update: January 2015.

⁶ RGI Administration Manual. Local Rules – Overhoused Households, Ch. 4: Occupancy Standards.

58. The Policy's explanatory statement asserts that TCHC is committed to facilitating transfers in an efficient and equitable manner. It provides that TCHC will administer transfers in chronological order based on date of approval of the request for transfer and in order of priority status, as outlined in the Policy.
59. The priority transfer order set out in the Policy is as follows:
1. *Special Priority (SPP – Provincial priority)*
 2. *Overhoused (City of Toronto local priority)*
 3. *Temporary Relocation⁷*
 4. *Medical or Safety at Risk*
 5. *Underhoused*
 6. *Non-Priority Requests*
60. As noted above, there is no requirement for the Medical or Safety at Risk priority transfer categories, but TCHC chose to create them under the Policy. Both categories have the same level of priority and are combined into one waiting list.
61. Under the heading "Accountability", the Policy states that TCHC will establish appropriate implementation guidelines, processes and tools.
62. The Policy provides for a review within 18 months of its implementation. As previously noted, however, TCHC has not updated the Policy since its approval in July 2006. According to the Vice President of Asset Management, it was on TCHC's work plan for review in 2017. This will be discussed later in this report.

GUIDELINES

63. In 2013, TCHC created guidelines for implementing the Policy⁸ and separate guidelines for Medical or Safety at Risk priority transfers.⁹ TCHC released the revised Tenant Transfer Policy Guidelines in October 2014 and February 2016, and the revised Priority Transfer Guidelines and Procedure for Safety at Risk or Medical priority transfers in July 2016. The July 2016 update created separate guidelines for staff and for tenants (referred to collectively in this report as "the Guidelines"¹⁰).

⁷ This is a narrow category that applies only when a unit is so severely damaged it is temporarily uninhabitable. Site managers determine whether the household is eligible for a transfer, and also make housing offers.

⁸ October 2013.

⁹ November 2013.

¹⁰ In this report, where the term "Guidelines" is used without further specification, it refers to both the Tenant and Staff Guidelines collectively.

64. Both the Staff and Tenant Guidelines provide information about eligibility criteria, application and selection process, required documentation and the processing of applications for transfers. The Staff Guidelines contain more information about processing applications. They introduced significant changes to the impact of arrears on a tenant's application and an important change to the documentation requirements for Safety at Risk applications.

ELIGIBILITY CRITERIA FOR MEDICAL AND SAFETY AT RISK PRIORITY TRANSFERS

65. The Guidelines outline eligibility criteria for Medical and Safety at Risk priority transfers as follows:

Medical

A member of the household has a serious medical condition and a licensed health care professional has determined that:

- *the current accommodation substantially aggravates the medical condition AND*
- *a different unit would materially contribute to stabilizing or improving the health of the household member AND*
- *location preferences selected will contribute to stabilizing or improving the medical needs of the household member OR*
- *a distressing event occurred in the unit that caused and is substantially aggravating the medical condition OR*
- *the household member has a need for specific support services that would only be available by transferring the household member to a new location.*

The medical documentation must be from a licensed medical professional that includes the necessary information, including functional limitations and capabilities of the tenant that clearly state what features in the current unit are making the medical condition worse and how the features of another unit would improve the health of the tenant. Tenants seeking medical priority status are expected to provide their cooperation and support to facilitate the process which may include, but is not limited to a request for further medical documentation or clarification from the licensed medical professional as to the nature of the functional limitations and capabilities.

Safety at Risk

Households may be deemed Safety at Risk when:

- *They have been a victim of criminal activity (including criminal harassment and where there has been a physical and/or emotional experience), which they feel in conjunction with this crime, is likely to continue due to their residence/location of their home in the community.*

For example: A member of a household is a victim of violence, where the abuser does not reside with the victim and the victim does not meet the criteria for Special Priority (SPP). The victim has been subjected to repeated physical or sexual assault, bullying or stalking in the community they live (sic).

OR

- *Having witnessed a crime where there is a requirement to be a witness in a public proceeding and the potential for future contact with the accused in the community where their residence is located is likely or where the criminal has knowledge of and access to their unit.*

AND

- *Anonymity, on the part of the member(s) of the household is being sought.*

For example: A member of a household witnessed a crime and will provide testimony in court proceedings.

66. There are minor differences between the criteria as set out in the Policy and in the Guidelines. The TRC relies on the version outlined in the Guidelines.

BRIEF HISTORY AND EVOLUTION OF THE PRIORITY TRANSFER PROCESS

67. As noted, TCHC's current priority transfer decision-making process is centralized at the TRC. Before 2013, site staff received and reviewed transfer applications from tenants within each individual OU. That OU's site manager would then decide whether to approve or deny the application.
68. According to senior executives within Asset Management, TCHC held staff, resident and stakeholder consultations in 2012 that identified a need for a fairer, tighter and more consistent decision-making process for priority transfer applications.

69. They told us that OU staff were not applying eligibility criteria consistently and the process lacked transparency. As well, TCHC executives were concerned that site managers were approving transfer applications that did not meet eligibility criteria because the relationships site staff forged with their tenants made it difficult to say no.
70. TCHC leaders believed that a high number of approvals was creating long waiting lists and wait times for tenants approved for a priority transfer.
71. For these reasons, in October 2013, Program Services centralized decision-making with the creation of the TRC.
72. At that time, TCHC decided not to re-review transfer applications previously approved under the decentralized model, in spite of the concern that many of the approved applications might have failed to meet the eligibility criteria.
73. Since 2013, Program Services has made small modifications to the priority transfer review process, to try to formalize and clarify the procedure. This has included changes to the composition of the TRC membership and the introduction of a dedicated clerk to support the TRC (the Special Initiatives Clerk, or SIC). Further, TCHC has attempted to clarify how its staff apply the Tenant Transfer Policy, as evidenced by the evolution of the guidelines.

WHAT THE GUIDELINES SAY ABOUT HOW THE PRIORITY TRANSFER PROCESS SHOULD WORK

74. According to the Guidelines for staff, households who wish to apply for either Medical or Safety at Risk priority transfers must fill out:
- a Transfer Request Form;
 - an Application for Safety at Risk and/or Medical Priority Form; and
 - a transfer map, with a minimum of five TCHC developments to which they wish to move.
75. Site staff are expected to provide these forms to tenants. Households must also provide supporting documentation as required.

76. Safety at Risk priority transfer applications require the following additional documentation:
- a police report or written confirmation from the Operating Unit or Contract Property Management staff that the incidents identified were verbally verified with the Toronto Police Service staff in charge of the case **and** one or more of the following:*
- *a restraining order;*
 - *a community agency support letter;*
 - *a victim services letter; and/or*
 - *CORA reports.¹¹*
77. According to the Guidelines, documentation to support a Safety at Risk application must not be older than three months. They state however that older documentation may be included to demonstrate ongoing threats from an identifiable group or individual. The identity of the group or individual presenting the risk does not have to be provided if providing it will put the household at risk. The documentation must indicate the location and other details of the incident(s).
78. Medical priority transfer applications do not require any specific supporting documentation, but nothing that accompanies the application can be older than three months. If a household applies for a Medical priority transfer because they want to move closer to specific support services, the supporting documentation must identify the location of the services they require.
79. Site staff are responsible for collecting all relevant documentation from the household, reviewing the transfer application package to "ensure completeness" and forwarding it to the TRC. If the household's documentation does not support their request, site staff are to seek clarification from the household about why they believe that moving will improve their situation. Site staff may also request additional information if required. They then "summarize the circumstances of the household", providing relevant details to explain the reason for the request and any other information that will assist the TRC in making a decision.
80. Site staff must document all actions taken regarding this process in HMS¹² notes or the EasyTrac¹³ record.

¹¹ CORA is the record-keeping IT database that the CSU uses to catalogue their attendance to security incidents. It is not clear what the acronym stands for.

¹² TCHC'S database of tenant client files.

¹³ TCHC's computerized task monitoring tool and record-keeping database.

81. After a household submits a complete transfer application to their OU, site staff are to complete the Priority Transfer Request Summary Form, open an EasyTrac record, scan and attach the entire application and assign the EasyTrac to the TRC within five business days of receipt.
82. The dedicated SIC in Program Services receives the applications. The SIC reviews applications, and determines whether they are complete. If a package is missing documentation, the SIC returns the package to the OU within five business days of receipt for follow up. After determining that a package is complete, the SIC prints it and assigns it a TRC meeting date.
83. The Guidelines state that the TRC is responsible for "reviewing these applications and deciding whether the documentation provided meets the criteria for the priority."
84. The TRC must review priority transfer requests within 20 business days of receipt. In general, a TRC panel meets every two weeks to consider applications. The TRC has rotating membership. Each panel is made up of three panelists: a Chair (a Program Services staff member), and two other members. One is an Operating Unit Manager. The second is a manager from Resident Services, Contract Management or any other TCHC business unit. There are four TRC Chairs.
85. The TRC considers the transfer application and decides whether to approve or deny it. It prepares a Record of Decision ("ROD") on which each member is to record their vote and the reasons for it.
86. The SIC reviews the ROD, and updates the EasyTrac record, to reflect the decision.
87. A signed copy of the decision letter and the ROD are attached and the Easytrac is closed.
88. The Guidelines do not specify how the TRC should make decisions. The TRC has no rules of procedure.
89. The Guidelines state that within four business days of approving a transfer, or within 15 days in the case of a denial, the SIC will notify the household in writing of the TRC's decision.
90. An approval letter informs the household that based on their selected areas of preference, TCHC staff will make offers for a transfer in chronological order. This order is based on the level of priority and the transfer approval date. The Guidelines then direct the SIC to add the household to the internal transfer waiting list as of the date the TRC received a complete application. It is unclear why this apparent inconsistency exists in the Guidelines.

91. In the case of a denial, a letter is sent notifying the household of the reason for denial and whether the TRC is requesting additional information.
92. Decisions of the TRC are final and not subject to appeal. Households whose applications are denied may reapply at any time by completing a new application.

HOW THE PRIORITY TRANSFER PROCESS WORKS IN PRACTICE

93. We found that in practice, the priority transfer process differs in significant ways from what the Guidelines contemplate. We address those differences in the following areas: application process, decision-making, offers, complaints and escalations.

APPLICATION PROCESSING

94. Households wishing to apply for Medical or Safety at Risk priority transfers must fill out an application, collect relevant documentation, and submit it to their local OU. Site staff review the application and then send it to Program Services for review by the TRC.

PROCESSING APPLICATIONS AT THE OU LEVEL

95. The Guidelines state that site staff are responsible for collecting all relevant documentation from the household, reviewing the application package to ensure completeness, and forwarding it to the TRC.
96. According to the Director of Program Services, site staff:

are responsible for gathering the information and making sure the packages are complete. And they should be reviewing it... there is that obligation on the OU staff to do that. When they receive the package they should be going through it with the tenant.
97. The evidence shows, however, that in practice, OUs take very different approaches to processing applications.
98. Some site staff we spoke to said that they go through applications in detail to check for completeness, discuss the details of the application with the tenant, and explain to them how their building choices could affect their likelihood of being moved faster. Some said they even call the tenant's physician to ask for further documentation to support Medical priority transfer applications.
99. One said that they ask tenants on what grounds they are applying and why they want to move. They also told us that they try to explain to tenants the

level of detail they should include "so that [applications] come back truly supporting what [the tenant's] needs are."

100. Another told us that they also explain to tenants that the decision will be made by the TRC:

I say to them "it goes down to 931 Yonge Street and three people that will look at your application, and they'll decide whether you meet the criteria." So I often tell them that the more information you give, the better, because they don't know you as well as I know you. You're not going to have an opportunity to meet with them face-to-face, so whatever you can put in this package, whether you think it's relevant or not, put it in.

101. Other site staff said that they review the tenant's building choices with them, to ensure they have chosen enough locations, and that the selected locations are consistent with the tenant's stated medical or safety needs.

102. One told us that they make suggestions to the tenant to assist in making sure their application is consistent with their stated needs:

There's sometimes situations where say the physician will have said that the person needs to be closer to family supports to assist them with their life, but the building choices are all over the map. You know, the family is in Etobicoke, but this person has asked for Yonge and Eglinton and that doesn't look serious to the TRC and they're going to send that back probably not approved. So I'll talk to [the tenant] and say, "you know you're saying you need to be closer to family supports, but this location puts you 10 km further from your family supports." I try to give tenants as much information as I can to help them with that.

103. Other site staff, however, are far less involved. One described their role as that of "a post [office]": they simply send applications on to the TRC without reviewing them.

104. Another told us that generally, they do not meet with tenants applying for priority transfers and that "99.9 per cent of the time" the OU Clerk collects the information from the tenant because site staff "have our own stuff going on" and "are not the first [point of contact] for the tenant".

105. One tenant told us he has been applying for Medical priority transfer for the past 1.5 years, and that site staff "kind of tell you how to fill [the forms] out" but "they don't really have time to sit down and go over the whole thing with you." He told us that site staff say "sign this and choose five buildings and then bring it back to us."

106. Another tenant who had applied for a Medical priority transfer told us site staff were not willing to answer her questions. She said that even though her application was approved, not being able to understand the waiting list process was frustrating. She said she felt dismissed when she tried to seek clarification from TCHC.
107. The Director said that site staff "should be helping tenants with location choices." To do this, they could be going "into the portfolio database" to determine whether the tenants' chosen locations are consistent with their needs.
108. However, one site staff told us that they did not have information about buildings, and would not, for example, be able to tell a tenant with mobility issues whether a location was a townhome with stairs or not. They said that they could call that particular building's superintendent to find out, but said they did not have the time to take those extra steps. Another said they would not review a tenant's location choices, because they believed it was the TRC's "job to look at everything, review it and come back."
109. One tenant told us that one of the biggest issues with the priority transfer process was the fact that tenants do not know what circumstances may be likely to qualify for priority status. She recommended that TCHC do a better job of educating staff, who, in turn could better communicate requirements to tenants. In her words, "before you waste your time and get your hopes up and go get a letter from your doctor, [TCHC should tell you what you] actually have to do to qualify."
110. She also told us that site staff often tell tenants not to call them directly, but to contact the TCHC call centre instead.
111. Our comprehensive review of applications and decisions showed that of 432 denied applications, 20 denial letters pointed to the fact that the applicant's building choices were inconsistent with their needs.

SUMMARY SHEET

112. The transfer request summary sheet includes two boxes for site staff to complete. The instructions say:
- Provide a summary stating why the tenant is requesting a priority transfer and state whether they meet/do not meet the criteria for that specific priority.
 - Provide details of the actions taken by site staff to resolve any maintenance, pest control or neighbour dispute issues identified by the household in their application (if applicable).

113. The Director of Program Services told us that she expects site staff to complete the application summary sheet in every case. She added that they are expected to reference the information in the application package and to include any additional information.
114. One TRC Chair told us that the summary sheet represents "some kind of communication between the site staff and the tenant" and may help the TRC in its decision-making process, but it does not have to be filled out. They said that when they see a blank summary box, they assume site staff are "not really looking at [the application] and haven't checked to see if it's something that meets the criteria."
115. We collected information from the summary boxes of 551 Medical and Safety at Risk priority transfer application packages.¹⁴ Of these, 24 summary boxes were completely blank, and 18 included phrases like "see attached documentation."
116. The rest of the summary sheets presented a range of detail. Some summary boxes included a one or two sentence summary of the application, such as: "because of break-in at unit, suffering from anxiety and stress and cannot sleep." Others included the steps taken at the OU level to address the tenant's problem. In one case in which a household member was contemplating suicide, site staff included information about an EasyTrac request to a Community Services Coordinator to check on the tenant, to ensure his safety while the TRC was reviewing the application.
117. The understanding among site staff we interviewed about what should be included on the summary sheet varied widely.
118. Some told us that they did not believe they were required to fill out the summary sheet. One expressed hesitation: "Who am I [to give an opinion]?... a doctor has written down that this person needs to move." The same person advised us that within their building portfolio, the OU Clerk receives the tenant's information and application materials and completes the summary.
119. One site staff did not feel equipped to write summaries since they did not believe they had to know why the tenant wanted to move: "You can't write a summary if you don't know the facts... What's the reason for the TRC if you have to do all the [work]?"
120. The SIC said that when they receive a priority transfer application with an empty summary sheet they are "supposed to send them back and say 'you need to provide more information'." The SIC told us that instead of sending the summary sheet back, they had developed a practice of sending site staff an

¹⁴ 55 of the 606 applications we reviewed had no summary sheet attached.

email asking specific questions, which the SIC then records and appends to the application.

121. The SIC commented that "a lot of site staff don't want to provide a summary, but they don't realize that's limiting the tenant from getting approved." The SIC also noted that in some OUs, tenants submit applications to OU Clerks and site staff do not meet with the tenant. The SIC expressed concern about this: "maybe [site staff is] getting the story from the Clerk, but it's miscommunicated along the line."

PROCESSING TIMES AT OU LEVEL¹⁵

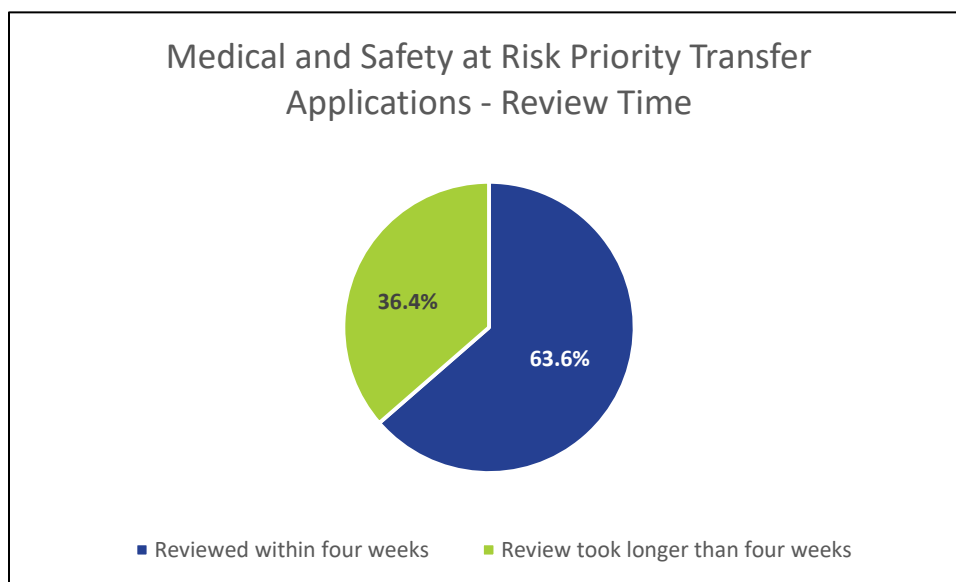
122. The Guidelines require that site staff send completed applications to the TRC within five business days of receipt.
123. Family G submitted their application in May 2016 and it sat at the OU until our office contacted TCHC in September 2016. Following a search of its files prompted by our call, the OU found the application and sent it to the TRC. In this case, the decision was backdated to the time the family submitted the application. However, as will be discussed later, backdating only happens when a delay is noticed. There is no system in place to identify delay and no common understanding of what constitutes delay.

PROCESSING TIMES AT PROGRAM SERVICES

124. The Guidelines state: "the TRC will review priority transfer requests within 20 business days, or four weeks, of receipt." Approval letters are to be sent within four business days of the TRC meeting, and denial letters are to be sent within 15 business days of the meeting. The Guidelines do not say what will happen if these timeframes are not met.
125. Of the 606 Medical and Safety at Risk priority transfer applications and decisions we reviewed, 122 were missing documentation which made it impossible to determine how long it took for the TRC to process the application and issue a decision letter.

¹⁵ Our review only considered delay at the TRC. With the data TCHC provided, we could not analyze the question of delay at the site level.

126. Of the remaining 484, we found that only 308 (63.6%) were reviewed within the required four weeks. One-hundred and seventy-six (36.4%) took longer to review, up to 18 weeks in one instance. There were also some outliers – reviews that took 28, 49 and 52 weeks (one year).



BACKDATING DELAYED APPLICATIONS

127. The TRC has no rules on how to deal with cases where there has been a delay in site staff submitting an application or in the TRC reviewing it.
128. In some cases, the TRC backdates the approval date of a decision, shortening the timeframe within which an offer is made. In the case of Family G, our office brought the delay to the Director of Program Services' attention, and after the TRC approved the application, it adjusted the decision date to compensate for site staff's error.
129. The Manager of Operational Initiatives explained that the TRC may decide to backdate a decision because the tenant "shouldn't be penalized for an error that staff made."
130. The TRC Chairs we interviewed expressed different views on the appropriateness of backdating approved applications. One said that if they "catch" an administrative error resulting in delay, they backdate the decision. Another said that Chairs have no authority to backdate, and that it is up to the Director to make that decision. A third told us that it is the SIC's responsibility to backdate a decision.

COMMUNICATION FROM PROGRAM SERVICES TO SITE STAFF

131. TCHC conveys information about the priority transfer process to site staff through training, by direct communication with staff in Program Services, and through mass email communication.

SITE STAFF AND TENANTS' UNDERSTANDING OF POLICY

132. Our interviews with site staff revealed varying degrees of understanding of TCHC's policy and guidelines respecting transfers.
133. Some site staff we interviewed knew that a priority transfer application could be processed at the OU level even if a tenant had rental arrears, but others believed that tenants with arrears could not apply for transfer, and said they would not send an application to the TRC if arrears were owing.
134. A tenant told us they believed that most tenants in TCHC have no internet access, and suggested that TCHC consider using educational materials like posters and pamphlets, as well as more direct interaction between tenants and site staff.
135. Most witnesses at the OU level, including site managers, were unaware of a significant change to the Guidelines in July 2016. The Guidelines now provide that a police report is no longer required for Safety at Risk priority transfer applications. In the absence of one, staff can telephone the police and receive verbal confirmation of the incident or threat.
136. Site staff also showed varying degrees of understanding about whether Safety at Risk applications should include CORA reports (the security reports generated by CSU), and if so, how tenants should obtain them.
137. One site staff said that they did not check for CORA reports and assumed the TRC would do so.
138. In the case of Family G, site staff suggested the household make a freedom of information request for the CORA report.
139. According to the Guidelines however, site staff are expected to pull any CORA reports and include them, together with any other accompanying documentation, as part of the application they send to the TRC.

TRAINING ON PRIORITY TRANSFERS

140. Training for staff on priority transfers occurs periodically at TCHC. The topic is covered at new site staff training. The most recent site staff training took place in June 2016. Priority transfers were also covered at "refresher training" for staff in May 2015.
141. A senior TCHC executive told us that TCHC does not have the resources to hold refresher training sessions on the priority transfer process frequently. Instead, they focus on a new area of training each year when they "perceive there's a density of need, or [if] the opportunity presents itself."
142. They said that in 2016, TCHC was "uniquely in a position where [they] were almost fully staffed [at site level]" so they coordinated training without impacting service delivery. By contrast, in past years, they have been "so understaffed that taking staff away from the front-line business was almost impossible."
143. We reviewed presentation slides for both training events in June 2016 and May 2015, which revealed some departures from the criteria listed in the Guidelines.
144. For example, in a list of "common errors", both sets of training materials say that requests for Medical priority transfers as a result of maintenance issues with the unit do not qualify for transfer under the criteria.
145. However, our review of the applications showed that the TRC has, in fact, approved Medical priority transfer applications which cite a lack of maintenance as the reason for the transfer request.

TENANCY QUESTIONS AND TRANSFER COMMITTEE EMAIL ACCOUNTS

146. Program Services administers two email accounts through which its staff communicate with OU staff regarding the TRC process. They are called Tenancy Questions and Transfer Committee respectively.
147. The Director of Program Services told our investigators that the Tenancy Questions email account was set up "years ago" as a generic mailbox for OU staff to contact head office for "support on administrative policies, procedures, anything around RGI calculation, tenancy management." Two Program Service Coordinators reply to questions, at times consulting with management or the legal department, at their discretion.

148. Senior management explained that the advice they provide in response to questions from staff is not monitored for accuracy:

It's up to each individual to research the answer... There aren't any checks... the assumption is that the two people answering are experts and are answering appropriately. That's not to say that [procedures and rules] aren't constantly changing.

149. Most OU staff we spoke to, including site managers, said they relied on Tenancy Questions to answer questions about policies and procedures. One site staff who has been in their current role for the past fifteen years said they did not use it. They believed it was a resource for new staff only. They said in any event that they knew "most of the stuff" because they had been employed with the corporation for over 20 years and that "nothing much has really changed."
150. The SIC manages a second email account, Transfer Committee, on behalf of the TRC. Through the Transfer Committee email account, the SIC communicates directly with OU staff, providing information about the TRC's process and following up with site staff about incomplete applications.
151. Our review of both email accounts revealed several common topics, including but not limited to: arrears, the police report requirement for Safety at Risk documentation, and information in the summary sheet. We found that advice provided on these email accounts was not always in line with the Guidelines. Also, our review highlighted areas in which the Guidelines are unclear.
152. For example, in a Transfer Committee email from February 2016, the SIC sent a Safety at Risk priority transfer application back to the OU because no police report had been included, although the email noted that the application had a Toronto Police Service General Occurrence report attached. The Guidelines do not specify what kind of police report is acceptable for a Safety at Risk application.
153. A September 2016 Transfer Committee email to a site staff member stated that an application was incomplete because the Toronto Police Service incident report lacked detail.
154. The Program Services emails we reviewed regarding police reports also revealed inconsistent advice on this subject.
155. Similarly, the emails we reviewed revealed inconsistent advice to site staff about the process for asserting a medical need for an additional bedroom.

156. That process differs from the Medical priority transfer process, and site staff administer it. We found site staff are receiving inconsistent advice about when each process applies.

PROCESSING OF APPLICATIONS IN PROGRAM SERVICES

157. According to the Guidelines, the SIC receives priority transfer application packages for the TRC. The SIC reviews each package for completeness. If incomplete, the SIC is to return the package to site staff within five business days of receipt for follow-up.
158. When the SIC is satisfied that an application package is complete, they print it and assign it to a TRC meeting date.
159. The SIC's job description identifies one of their roles as follows:
- Assesses and prepares packages for centralized processes ensuring completeness and compliance to TCHC processes including identifying when requests or applications are incomplete or where more information is required to ensure decisions are made in accordance with established policies.*
160. The SIC told us that when applications have "minimal information", they call staff to ask for more details: "if I can collect more information that the site staff didn't do, [and] they don't always have the time to do the extra research or digging... I'll do that." They gave the example of receiving an application for a Medical priority transfer for a traumatic event that occurred in the unit, but the application did not include CORA reports or TCHC records of the event. The SIC got those and added them to the application.
161. The SIC estimated that they go back to site staff for additional information in about 40% of the applications sent on to the TRC.
162. The SIC told us that a large part of their role is to educate site staff on requirements for priority transfer applications. They gave an example of the July 2016 Guideline update, which states "additional bedroom requests [including those based on medical requirements] must be reviewed [and decided] by OUs". Despite this change, some site staff continue to send requests for additional bedrooms based on medical need to the TRC.
163. The SIC told us that educating staff about the priority transfer process was not technically part of their duties. They went on to say however, that they provide the information to serve tenants better, and that when staff are better informed about the process, it helps both the SIC and tenants in the long run.

- 164. The Manager of Operational Initiatives told us the SIC provides "additional one-on-one support and provides [information] back to site staff to say 'this is an incomplete application and here's what you can do for it.'"
- 165. One site staff we spoke to believed that it was the SIC's role to ensure applications were complete, not theirs. For this reason, they did not "need much training" on priority transfers.

FINDINGS AND RECOMMENDATIONS ON APPLICATION PROCESSING

- 166. The evidence shows there are significant differences across TCHC in how site staff process priority transfer applications. The level of detail a household provides in their application depends heavily on the extent to which site staff assist the household and review the paperwork.
- 167. The contents of the application package are essential to any household's prospect of success in obtaining priority status. These differences in the amount of help that site staff provide to households in getting their application packages together are therefore unfair.
- 168. The Guidelines do not make it clear whether site staff are simply to receive applications from households and send them to the TRC, or whether they are to play an active role in helping tenants make the application as strong as possible. This, too, leads to unfairness.
- 169. TCHC should develop a system to ensure that in every case, site staff meet directly with tenants to review their application and help them to strengthen it, before sending it to the decision-maker. This should be a clear job responsibility of site staff.
- 170. TCHC should train site staff on how to properly assist tenants in preparing their applications.
- 171. We found that site staff have inconsistent and often poor understandings of the priority transfer process and its criteria. This prevents them from being able to accurately inform, advise and support tenants.
- 172. The current Tenancy Questions and Transfer Committee email accounts could be a useful tool to convey information to staff to help them more effectively serve tenants. Currently, however, the accuracy and usefulness of the information provided through these email accounts is inconsistent. Sometimes, it is simply wrong.
- 173. TCHC must take steps to ensure that communication between Program Services and site staff is accurate and consistent. There must be stronger managerial oversight over training content, and over the advice being sent to

staff on an ongoing basis. Site staff must have access to reference materials that provide consistent and accurate advice about the priority transfer process.

174. In order to ensure that tenants understand the priority transfer process, TCHC should develop plain language educational materials for them, and make them available in several different formats.

TRC PROCEDURES AND DECISION-MAKING

175. Priority transfer applications are decided by the TRC, after which the decision is recorded and communicated to the household via letter.
176. We examined how the TRC evaluates applications and makes decisions. We also examined how it records and communicates those decisions.

TRC MEETINGS

177. According to the Guidelines, the TRC is to review priority transfer requests within 20 business days of receipt. It meets for one day every two weeks. Our review revealed that on average, the TRC reviews 46 applications per meeting.
178. Each TRC panel is made up of three members, a Chair (a member of Program Services), a site manager, and one manager from Resident Services or another TCHC business unit. All site managers rotate through the TRC and attend two meetings per year. Until June 2016, non-Chairs on the committee participated on a volunteer basis. Due to low attendance, however, participation is now mandatory.
179. There are officially four members of Program Services who rotate as TRC Chairs, although on occasion, others may fill in.
180. The job of the TRC is to review a priority transfer application and either approve or deny it. If the TRC denies the application, the applicant household may reapply and provide new supporting documentation at any time.
181. There is no training for TRC members, and the TRC has no rules of procedure. In the words of one senior staff member: "there's not an actual process... when [members] come in, the Chair explains... how it works and they have the Guidelines right there."
182. The three members sit around a table. One reviews an application and records their decision on the Record of Decision form. That application is passed to the next person for review until all applications have been reviewed by all three members. If the panel does not initially agree on an application, they try to reach consensus.

183. We spoke to many witnesses who have worked at TCHC since before it centralized the priority transfer process by creating the TRC. Without exception, they agreed that this was a significant improvement over the process it replaced.
184. One former site manager said that previously, when consideration of applications was done locally, "nobody was getting denied a priority because you had to be the one who has to face your tenant every day and say 'no, we turned down your application'."
185. Commenting on the centralized approach, one senior staff member pointed out, "at least we have more oversight now of how many applications are being received, denied, approved, and they're all there for everyone to view. It's pretty transparent."

HOW THE TRC MAKES DECISIONS

186. The evidence we gathered suggested that where a TRC panel is unable to reach consensus on an application, it generally decides based on majority rule.
187. We did, however, see instances where individual Chairs overrode the other two panel members' majority decisions. We asked several Chairs whether they believed they could overrule a majority decision. Most believed that they could do so following a discussion with the Director, or if majority decision did not satisfy the eligibility criteria.
188. By contrast, the Director told us that there was no "real circumstance" under which the Chair could overrule a majority decision.
189. Our review of the available decisions discovered three examples where the same Chair had overruled a majority decision. In one, he told us it was because the panel had not sat down together to review the applications, but rather, had reviewed them individually, without an opportunity to discuss them. He said that the majority decision made in that one case "clearly did not meet criteria" so the Chair had overturned the decision.
190. Of the 606 Medical and Safety at Risk priority transfer decisions we reviewed, we were able to determine that 392 (64.7%) were based on majority rule. However, 172 applications (28.4%) were missing Records of Decision. We were therefore unable to determine how many of those, if any, were the result of the Chair overriding the majority.

REASONS IN RECORD OF DECISION

191. The Record of Decision ("ROD") is used to record whether each of the three TRC panel members decided to approve or deny the application at hand, and why. The ROD is an important document because it is used to prepare the decision letter.
192. The ROD form includes space for each of the three panel members to write their decision, including reasons. The form says: "Please state why the request meets the criteria or why it does not meet the criteria." Nothing on the form suggests that a member has the option of not providing reasons.
193. Twenty-eight point four per cent of the files we reviewed (172 of 606) were missing an ROD form. On the remaining files, reasons on the ROD were often vague, or the reasons section was left blank.
194. Our review found that RODs rarely recorded reasons for approving transfer requests. Senior management told us, "we encourage it, but right now it's not a part of our procedure" and that "it's difficult to force someone to write something down if they don't have really any comments to make."
195. The Director said that it is left to the TRC members' discretion to provide reasons, as long as the Chair had "the information and [was] writing it out" in the decision letter.
196. The Director acknowledged that TCHC has not provided TRC members with training or guidance on the level of detail to be included in reasons on the ROD.

THE CRITERIA ARE UNCLEAR AND INCONSISTENTLY APPLIED

197. The eligibility criteria for Medical and Safety at Risk priority transfers are set out in the Guidelines.
198. With respect to the criteria, we found two broad problems. The first was that the criteria were insufficiently clear, and TRC members often had different understandings about what they required. The second problem was that even when TRC members shared a common understanding of what the criteria meant, the members applied them inconsistently.
199. Despite TCHC's attempts to provide guidance in the training materials and the Guidelines on how the TRC should apply the criteria, we found that different members of the TRC have very different understandings of how the criteria apply. This leads to marked inconsistency in decision-making, resulting in unfairness to tenants.

EXAMPLE 1: MAINTENANCE-RELATED MEDICAL PRIORITY TRANSFER APPLICATIONS

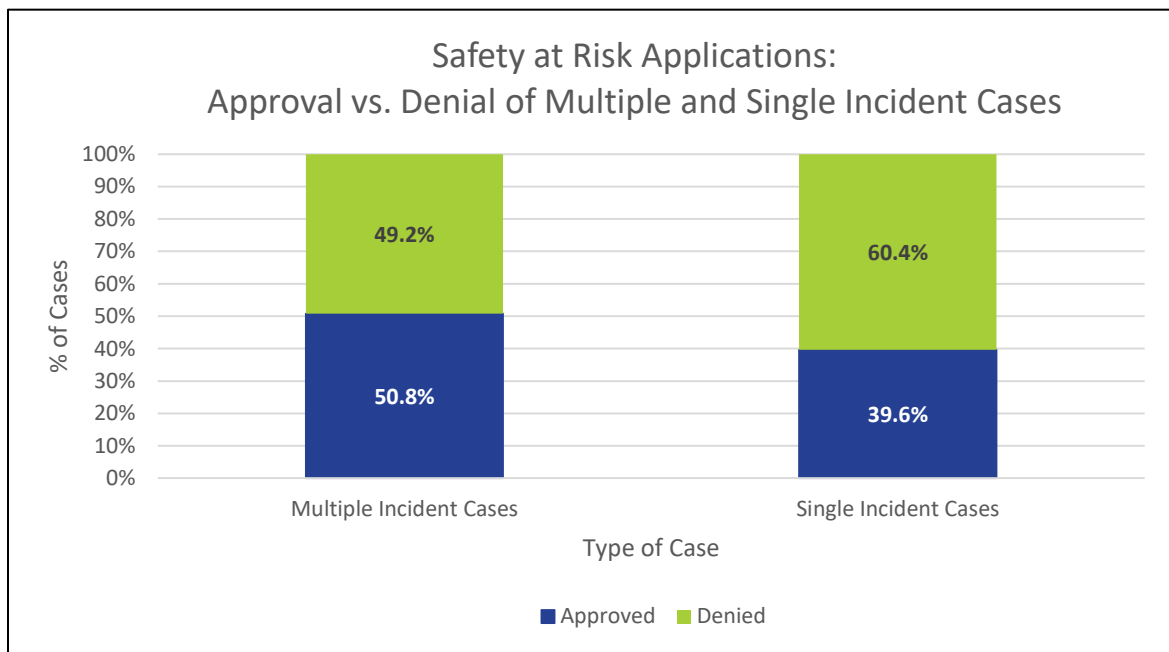
200. The June 2016 site staff training materials state simply: "maintenance issues do not qualify for Medical priority."
201. The Tenant Guidelines say that if a household identifies maintenance issues (pests, mould, odour, noise) or community issues (neighbour disputes), staff must indicate in the Priority Transfer Summary what steps have been taken to resolve the identified issue(s).
202. Our review of Medical priority transfer applications and decisions revealed applications related to the following: reactions to mould, dust, cockroaches, cleaning agents, pest control chemicals, rodent droppings, poor ventilation, smoke, and odours as well as other environmental irritants. We reviewed 85 maintenance-related applications for Medical priority, of which the TRC approved four.
203. Of the four approved applications, three reported smoke, and the fourth reported smoke, cleaning agents, dust, and mould. Two of the four applicants reported severe depression and suicidal tendencies. The other two reported respiratory illnesses.
204. For three of the approved applications, we were unable to determine the reasons for approval. Two of the files had no Record of Decision attached. The third had a ROD without any recorded reasons. For the fourth approved application, the ROD showed one vote for denial and two for approval. The reasons recorded for the two approvals were not directly linked to criteria for Medical priority. One TRC member noted the length of time the tenant had resided in the current bachelor unit (19 years) and the fact that a note was included from his psychiatrist. The other approving member wrote only "Medical documentation supports."
205. Two of the four applications included a summary of steps taken by the OU to address maintenance issues. Neither OU had reported that the maintenance issues could not be resolved. The other two applications did not give any indication that maintenance requests had been made or note any steps taken by the OU to try to resolve the maintenance concerns.
206. TRC Chairs we spoke to said it is possible to approve a Medical priority transfer application relating to a maintenance issue. One Chair said that they "need to see that the OU can't fix the [maintenance] issue" before approving the application. They recalled a decision to approve an application where the building's boiler was making the tenant's unit too hot, and could not be fixed.

207. In light of this apparent inconsistency, we asked several witnesses why the training materials for site staff state simply that maintenance issues do not qualify for Medical priority. No one could give us a clear answer.

EXAMPLE 2: REQUIRED DOCUMENTATION FOR SAFETY AT RISK PRIORITY TRANSFER APPLICATIONS

208. The tenant Guidelines note that Safety at Risk priority transfer applications are "commonly denied" for the following reasons:
- no detailed report provided or confirmed by the Toronto Police Service
 - incident occurred off TCHC property
 - incident is a one-time occurrence and there is no indication that the household was targeted for the crime
209. The Guidelines do not specify what type of Toronto Police Service report is required to support a Safety at Risk application. Our review of applications showed that of the 68 denied Safety at Risk applications, 13 (19.1%) of those denial letters noted the absence of a police report, or insufficient detail in the police report, as the reason for denial.
210. In one case we reviewed, the ROD cited the location of the incident as a reason for denial of the application. It concerned a teenager who was robbed and assaulted on the street by three known suspects who were then arrested by police. The teenager wrote a letter in support of his family's Safety at Risk priority transfer application. He said that he knew the suspects because he went to school with them, and said that they told him "not to tell anyone because they know where I live." He said that since he had identified the suspects, and anticipated having to testify in court, he no longer felt safe at home.
211. All three panel members denied the application for various reasons: that there was no indication a crime would happen again; that the crime did not take place on TCHC property; that there were no "grounds to believe" that the suspects knew where he lived "other than [the victim's] testimony"; that there was no verification of "possible retaliation from suspects".
212. The decision letter did not mention the location of the crime as a reason for denial. It simply said "The supporting documentation provided indicated that the situation was an isolated incident and there is no evidence that there is an ongoing threat to your household."

213. Despite the Guidelines' assertion that Safety at Risk priority transfer applications are commonly denied for one-time occurrences, our review showed that although the approval rate is higher for multiple incident cases than it is for single events, i.e., (31 of 61, or 50.8%) versus (19 of 48, or 39.6%), single incident cases are still approved. This is more likely to be the case where the evidence suggests that a household has been directly targeted.



214. One senior manager told us that several factors including the alleged perpetrator's knowledge of the victim's address, multiple occurrences, or the severity of a single occurrence could all contribute to the TRC's understanding of a situation and whether the criminal activity mentioned in the application is "likely to continue."
215. Another said "You have to see the whole picture, the whole story." However, when asked whether clearer criteria might lead to more consistency in TRC decisions, she agreed:

Yeah. What does "likely to continue" mean? How should that be presented? [Is it] because I know him and he knows where I live? For some of [the criteria], further explanation should be more clear to the Chairs.

EXAMPLE 3: DISTRESSING EVENT IN THE UNIT

216. A tenant may be eligible for a Medical priority transfer if a member of the household has a serious medical condition and a licensed health care professional has determined that a distressing event occurred in the unit that caused and is substantially aggravating the medical condition.
217. The criteria do not specify whether tenants applying for Medical priority in this circumstance require additional documentation to corroborate the distressing event. Some site staff told us they would include CORA reports if they knew they existed, but that otherwise, documentation is not required.
218. Management told us that only medical documentation is required for a Medical priority transfer, but there has to be enough information within the medical documentation or other documentation provided (to substantiate the occurrence).
219. In one application, a tenant applied for Medical priority as a result of "extreme stress" resulting from other tenants in her building having physically and verbally abused her. The TRC's decision letter said that her application was denied because she had not provided enough evidence about the abuse. On the ROD, two panel members justified the denial by noting that she had not provided a CORA report or police report to verify the abuse.
220. In another application, a tenant applied for a Medical priority transfer when her depression, anxiety and Post Traumatic Stress Disorder symptoms (flashbacks, nightmares and auditory hallucinations related to past abuse) worsened. According to the medical information the applicant submitted from her psychiatrist, she had previously been treated for these symptoms. They were triggered again after a former tenant of her unit confronted the applicant there. The psychiatrist wrote that following the incident, the applicant had been experiencing hypervigilance and was unable to sleep for more than four and a half hours each night.
221. The TRC's denial letter simply stated that the request did not meet criteria for a Medical priority transfer, without reasons.
222. The denial letter also said that in any future application, the tenant should provide "an Occurrence report from the Toronto Police Service, if she had reported the incident to police."

EXAMPLE 4: SYMPTOMS TRIGGERED BY UNIT OR BUILDING

- 223. The criteria for a Medical priority transfer includes a requirement that "the current accommodation substantially aggravates the current condition."
- 224. We found inconsistent decision-making about whether this referred to the household's specific unit or the building in which it was located, or whether it could be either one.
- 225. In some cases, the TRC denied applications because the medical issue was aggravated by a feature of the building, rather than the unit itself. In others, such applications were approved.

EXAMPLE 5: UNABLE TO CLIMB STAIRS

- 226. The criteria are not clear about how the TRC should consider certain medical impairments such as people who have difficulty climbing stairs. The TRC has taken inconsistent approaches.
- 227. Our Investigation identified 66 tenants who applied for Medical priority transfers because they were unable to manage stairs in their unit or building due to a medical condition (such as arthritis). Over a five month period, from October 2015 to February 2016, the TRC approved 36 out of 66 (54.5%) of these applications. Of the 30 applications it denied, 12 were "reassigned" to the accessibility program at TCHC.
- 228. Senior management told us that those 12 files were reassigned because they believed this was a matter of accommodation that should be handled through a different process.
- 229. They made the decision to reassign these files without TCHC's Accessibility Unit's approval. Ultimately, however, the Accessibility Unit advised that they could not assist in transferring tenants who were unable to climb stairs. The TRC, however, did not follow up with those applicants who had been "reassigned", either to reassess their applications or to encourage them to reapply.
- 230. We were told that five months later, around the time of the July 2016 Guideline update, Program Services decided to differentiate between applications concerning stairs inside a unit and stairs outside the unit. There was nothing in the Guideline, however, to reflect this.
- 231. The TRC would "automatically approve" applications relating to stairs outside a unit. For stairs inside the unit, the TRC was to deny the application and refer the household to the Accessibility Unit to assist with requests for unit modifications. This new approach was not documented anywhere.

EXAMPLE 6: POLICE VERIFICATION FOR SAFETY AT RISK

232. Information from police is a mandatory requirement for tenants applying for a Safety at Risk priority transfer.
233. The Guidelines state that an application:
- [M]ust include a police report or written confirmation from [site staff] that the incidents identified were verbally verified through a conversation with the Toronto Police Service staff in charge of the case and one or more of the following: Restraining order and/or community agency support letter and/or victim services letter and/or CORA reports.*
234. The evidence showed inconsistency in how TCHC, from site staff to TRC members, interpreted the term "police report."
235. In cases where police are still investigating a matter or where it is before the courts, the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) restricts what information the police may share. When households wishing to apply for a priority transfer request information from police to support their application, police often respond with a form letter advising them of this.
236. There are, however, other types of reports that police can provide even in these circumstances. These are called general occurrence reports or incident reports. They omit identifying information and are more generic than a detailed report that would not be permitted under MFIPPA.
237. The Guidelines refer simply to a "police report". They do not differentiate between the type of report that may not be available under MFIPPA and other types, which could provide essential evidence to support a household's application for a priority transfer.
238. We found that this lack of clarity in the Guidelines has led to inconsistency in practice. One Chair told us he would accept a form letter from the police saying they could not release identifying information, as long as it was accompanied by additional supporting information. However we also found eight applications that the TRC denied because the police reports the applicant provided "lacked detail."
239. Further, despite the fact that the Guidelines were amended in July 2016 to provide that verbal confirmation to site staff of an incident by police may replace a written report, most site staff we spoke to were unaware of this.

EXAMPLE 7: THE THREE MONTH OLD DOCUMENTATION REQUIREMENT

240. The Guidelines also say that the documentation provided for Safety at Risk priority transfer applications must be "current", or from "within the past three months", but that "older documentation" may be included to demonstrate ongoing threats from "an identifiable group or individual." The Guidelines also say that the supporting documentation should specify the location of the crime, and provide details about the incident.
241. When we asked TRC members how recent a criminal incident must be for a household to qualify for Safety at Risk priority, Chairs and panel members had different answers. One Chair said the cut-off was three months, although they would consider whether the OU had delayed in sending the application. Another Chair said the cut-off was "three to six months" but that they would accept documentation from within a year. Another Chair said there was "no official cut-off date." Other TRC members gave answers ranging from "it's intuitive" to "I don't know."
242. The Director told our investigators that the three month requirement was introduced in the Guidelines because "we were receiving applications with documentation that was stale" and Safety at Risk priority "is about immediate risk." She said that if an applicant was presenting documentation from "a year ago" and nothing else had happened in the interim, then "maybe [their] safety isn't at risk."

EXAMPLE 8: LOCATION OF CRIME

243. The location of criminal activity is another element of the Safety at Risk priority transfer criteria about which TRC members have different understandings. One Chair said that if the criminal activity took place off TCHC property, the application would not meet the criteria. They pointed to the Guidelines, which say that applications are commonly denied because of crimes taking place off TCHC property. Other panel members said that it didn't matter where the crime took place, as long as the perpetrator knew where the victim lived.
244. Senior management told us that while the Guidelines state that crimes that took place off TCHC property are "commonly denied", this does not mean they are "always denied". They acknowledged, however, that this statement in the Guidelines could be a deterrent for potential applicants where the crime putting their safety at risk took place off TCHC property.

EXAMPLE 9: LOCATION OF SUPPORTS

- 245. Another area of inconsistent TRC understanding and decision-making concerns Medical priority transfer applications where a household wants to move closer to a specific support. The Guidelines do not direct TRC members on how to apply this criterion by assessing whether a new location would support the household member's need for a specific support service.
- 246. We reviewed 55 applications where applicants claimed that a move was necessary to be closer to support systems (family, hospitals, medical services, social supports). The TRC denied 42 (76.4%) of those. Five of the denial letters referred to the applicant's preferred transfer location(s) as a reason for refusing the request. One Chair told us that if a tenant applies for a Medical priority transfer, it's "front line staff's responsibility to explain [the] suitability of [building] choices."
- 247. Senior management told our investigators that TCHC does not have a way to define proximity to supports. They said that site staff are expected to ask the tenants "what makes these locations easier for [supports] to get to you and you to get to them." They also said the TRC might consider whether the location preference is close to a subway line, or whether there are "easy transportation" options.

EXAMPLE 10: TRC MEMBERS CREATING NEW CRITERIA

- 248. We found that in some cases, TRC members created their own criteria when assessing applications. In one case mentioned above, a panel member used a tenant's long length of stay in his unit as a reason to approve his application for a Medical priority transfer. In another, the same panel member used the short time the tenant had been in their unit to deny a request. Despite this, Chairs and panel members we interviewed said that length of stay is not an eligibility criterion.
- 249. Our review also found that TRC members sometimes approved applications that did not meet the criteria on the basis of what they called "compassionate grounds".
- 250. The Guidelines do not provide discretion to approve applications that do not meet the criteria. One Chair said that the TRC cannot "always tie all of our decisions to the [criteria] because... people have different experiences." This approach was supported by another Chair we spoke to.
- 251. In one case, a household sought a Medical priority transfer because of a traumatic incident impacting the entire household that took place outside the

unit. The TRC approved the application, citing on the ROD that it "doesn't meet criteria but approving on compassionate grounds."

252. When asked about it, the Chair for that meeting said:

We all just felt really badly... it didn't really meet the criteria. There was a lot of news coverage around it, the CEO was involved... I guess we just sort of looked at it and said "yeah, let's give [them] the approval" and we knew it didn't qualify.

253. Senior management said that they were not aware of the TRC approving applications on compassionate grounds. They said, however, that "there's a bit of subjectivity when you're making these decisions" and, whether it's Safety at Risk or Medical priority transfers, it can be hard for a panel member to deny a request because "people have compassion."

EXAMPLE 11: PRIORITIZING SPECIFIC MEDICAL CONDITIONS

254. The criteria do not provide much information about how to assess specific conditions, leading some Chairs to prioritize certain medical conditions over others. One Chair told us that if they saw a Medical priority transfer application from a tenant reporting suicidal tendencies, they "wouldn't need any more information on that file" and would approve it. This Chair said simply that they did not want to be responsible for denying a new unit that they believed could "save [tenants'] lives."
255. Other TRC members we spoke to also observed that suicide-related Medical priority transfer applications tended to be approved. The criteria are however silent on this.
256. We reviewed 10 Medical priority transfer decisions referring to the risk of suicide as a reason for the application. The TRC approved nine of these applications. We discussed the one application that was not approved with the Chair who had sat on the panel that decided the application. After reading it, the Chair said they could not recall why they denied it, and would now approve the application if they could.

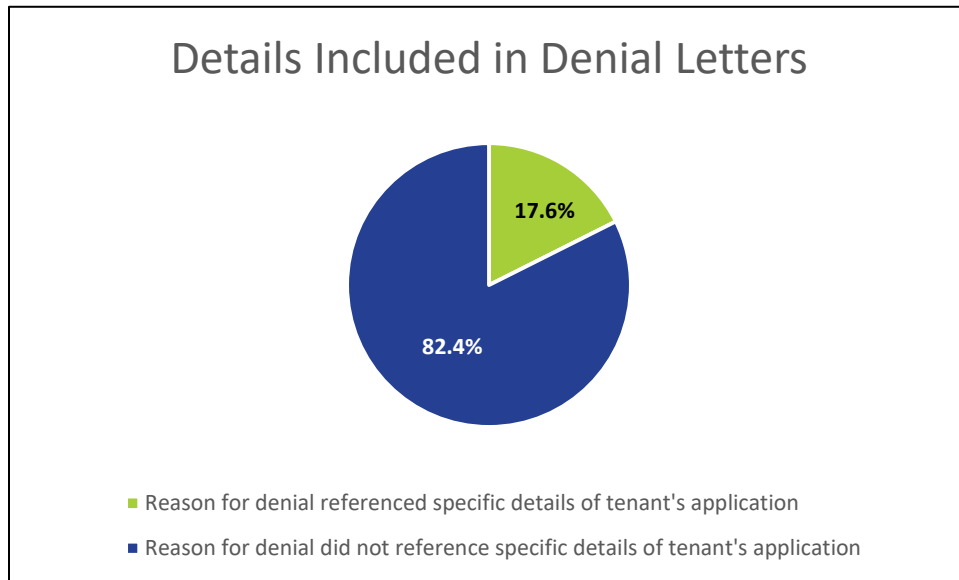
DECISION LETTERS

257. After each TRC meeting, the panel gives the files to the SIC, who reviews the ROD and drafts decision letters. The SIC forwards the draft letters to the panel Chair, who reviews them, makes edits if necessary, then signs and returns them to the SIC for mailing.

258. The SIC drafts decision letters based on the comments in the ROD. When we asked what happens when an ROD does not include much detail, the SIC said they ask the Chair to explain the reason for the decision.
259. The SIC said that for every letter, they read through the application again, as they do not want to "write something that was inconsistent with what's in the application package." They were not directly instructed to review the applications but believe it is important to have a thorough understanding of who they are writing to.
260. We were told by several staff that decision letters for approved applications do not generally contain reasons for the decision. Reasons are acknowledged to be necessary, however, in denial letters.
261. Of the denied applications we reviewed that contained both an ROD and a decision letter, only 146 of 313 (46.6%) provided reasons that matched the corresponding ROD. Just over half, or 162 of 313 (51.8%) of the files reviewed had decision letters that did not match the ROD reasons.
262. One manager told us that it is hard for the SIC to draft denial letters based on the information in the ROD because "we don't really have a lot of space in that ROD to include a lot of the information from the other documents."
263. Another described the SIC's denial letters as simply "template letters" into which the SIC inserts the reason for approval or denial noted on the ROD. When we asked why Chairs don't write the letters, we were told that it was to assist with the volume of work and that the TRC would not meet its timelines if the Chairs wrote the letters. The intent is for panel members – particularly the Chair – to fill out the ROD "properly" so that there is no need for further review.
264. One Chair told us they did not usually make any changes to the SIC's letters due to lack of time. They said that after the SIC finishes the letters, the Chairs are expected to "literally review the letters, make sure the account number is the same, the person's name is the same... make any changes that I think should be made, send it back to [the SIC], have my signature on it."
265. That Chair said that the reasons given in a denial letter should match the reasons given in the ROD, and that is one of the things they look for when reviewing the SIC's letters. They said however that they do not have time to review all the letters:

So when I'm reviewing my letters, I'll pick a couple of them, I'll go back into a couple actual files and review them again to make sure that what's being put here is the same as what I documented. I don't do it to every single one. I spot check.

266. Our review of 606 Medical and Safety at Risk priority transfer applications showed that of the 432 that were denied, only 76 (17.6%) of the letters made reference to specific details in the applications.
267. Of the remaining 356 (82.4%) denial letters that made no reference to the specific details of the tenant's application, we found that most letters contained standard boilerplate language. Six letters contained no reasons at all.



268. Most Medical priority transfer denial letters that did not refer specifically to the application contained one or more of the following generic statements:
- The locations chosen are inconsistent with the tenant's stated needs.
 - Not enough information was provided on how features of the unit affect the tenant's condition.
 - Not enough information was provided on the location or type of support services needed that are only available by transferring the tenant.
 - TCHC cannot guarantee a smoke-free, noise-free, pest-free, allergen-free, clean or safe environment.
 - The tenant's concern is a maintenance issue, and they should call their OU to address the problem OR a work order has been created by the TRC in response to the tenant's application.
 - The tenant has already been approved for Medical or Safety at Risk priority.
 - The tenant's building already meets the applicant's stated needs.

269. Most Safety at Risk priority transfer denial letters that did not refer specifically to the application contained one or more of the following generic statements:
- The evidence submitted suggests the incident was isolated and there is no ongoing threat to the tenant's safety.
 - The tenant was not targeted.
 - The police report is missing, or not detailed enough.
 - The incident(s) complained of took place too long ago.
270. When we asked one Chair how much detail should be provided in a denial letter, they said that they did not know. This Chair said they did not include a lot of detail, but instead, focused on "highlighting" why the applicant's request failed, using what they called a "generic way of saying [why] an application didn't meet the criteria."
271. A former Chair said they considered whether the letter would make sense to the person reading it, and whether the reasons provided were accurate. When asked whether decision letters should include specific details from the application, the same Chair said that the letters were intentionally vague: "they're trying to write the letters in a consistent way, so that it isn't personal."
272. This Chair acknowledged that connecting the criteria for priority transfers to the specific details of the application could make it easier for tenants to understand why their application was denied. They added however, "it could also be more of a reason for people to accuse us of some discriminatory practice against their particular application." They said they believed "people are very quick to accuse and I think that's why we're trying to use the same wording for each one."
273. The Director told us that letters should give enough information about why an application was denied to allow a tenant to understand the reasons for the TRC decision. The letters should include "a bit of detail from the tenant's own circumstance." She acknowledged that there is "definitely room for improvement" in this area.
274. There has never been training for Chairs on how to provide reasons for their decisions, or on how much information or detail decision letters should include.
275. Senior management told us that there was no "specific standard" guiding Chairs on how much detail to include when giving reasons for denials. They said it was up to each Chair to determine how much detail to include, but that Chairs were encouraged to provide as much as possible.

FINDINGS AND RECOMMENDATIONS REGARDING TRC PROCEDURES AND DECISION-MAKING

276. TCHC employees across the board agree that TCHC significantly improved the priority transfer decision-making process when it centralized it with the creation of the TRC.
277. Our Investigation revealed however that in many respects, the TRC's practice results in inconsistent and unfair decisions.
278. The TRC is an adjudicative body whose decisions have a significant impact on the lives of tenants, by granting them or denying them priority transfer status. For this reason, a considerable degree of procedural and substantive fairness are required to ensure that it makes fair decisions.

NO RULES OF PROCEDURE

279. TCHC has no rules of procedure to guide decision-making on priority transfer applications. This means there is no information available to tenants, the public, or TCHC staff about how decisions will be made, recorded and communicated.
280. Without rules of procedure, it is difficult to fairly address issues such as delay in application processing. This creates inconsistency and unfairness.
281. TCHC should have rules of procedure to guide decision-making. This will ensure that decision-making is carried out in a procedurally fair manner. Rules of procedure should include features such as staff's roles, timelines, how decisions are made, how delays are addressed and what, if any, recourse an applicant will have if their application is denied.
282. As a matter of fairness, rules of procedure must be readily available and understandable to all staff and tenants.

INCONSISTENT APPLICATION OF ELIGIBILITY CRITERIA

283. For decisions to be fair, criteria must be clear and applied consistently. We found that the current process is lacking in both these respects.
284. Some examples of areas in which the criteria are unclear and/or being inconsistently applied include the following:
- medical priority transfer applications involving a maintenance issue
 - what kind of police verification is required for a Safety at Risk priority transfer application

- under what circumstances police or CORA reports are needed to support a Medical priority application
- whether or not the criminal activity that forms the basis of a Safety at Risk priority application must have taken place on TCHC property
- whether a single occurrence of criminal activity can support a Safety at Risk priority application
- how recent the documentation supporting a Safety at Risk application must be
- whether a medical condition must be aggravated by something within the tenant's unit, or in the building at large
- how to assess proximity to supports
- whether certain medical conditions should be prioritized over others

285. TRC members do not have a consistent understanding of how to apply the eligibility criteria. While the Guidelines and TCHC training materials offer some guidance, there is an unacceptable lack of clarity among decision-makers about how to apply the eligibility criteria. This results in inconsistent decisions in similar cases. It is unfair to tenants who apply for priority status.
286. Some TRC members believe that they may deviate from the criteria in order to approve an application on compassionate grounds. With no clear authority for this kind of decision-making and without a common understanding or definition of compassionate grounds, unfairness inevitably results.
287. TCHC should consider whether decision-makers should have any discretion to approve any application where the criteria are not met. If so, fairness requires that it clearly state this in rules of procedure, and that it list the principles decision-makers must consider in exercising such discretion.

UNTRAINED DECISION-MAKERS

288. Having rotating TRC panel members contributes to inconsistent decision-making. The problem is compounded by the fact that TCHC provides no specific training for TRC members, either on the eligibility criteria or on effective and fair adjudication.
289. TCHC should restrict the number of staff involved in decision-making. Designated decision-makers should receive in-depth initial and ongoing training on the eligibility criteria. Equally important, they should be trained on procedural fairness and on how to fairly and consistently apply the criteria.

DECISION-MAKERS DO NOT PROVIDE ADEQUATE REASONS

290. The law is clear that in an administrative setting, reasons for a decision are essential, not optional. They are a crucial element of fairness. A person who

has applied for something from a public body and whose application has been denied is entitled to know why.

- 291. Reasons are important because they inform parties of why a decision was made. They also facilitate compliance with the rules, and enhance confidence in the decision-making process.
- 292. Without adequate reasons, it is difficult for a household to understand why a decision was made, and what information they might need to provide in order to be successful should they choose to reapply.
- 293. In most of the TRC decision letters we saw, reasons were not provided. When they were, they were more a mere restatement of the criteria than an explanation of why the application did not meet those criteria. At times, the decision letters were also inconsistent with what was recorded in the ROD, calling into question the integrity of the process itself.
- 294. Our Investigation revealed that in general, TRC members do not take the time to fill out the ROD with complete reasons for why they are denying or approving an application.
- 295. This in turn means that the SIC is often left to try to "reconstruct" the reasons for the decision, either by reviewing the application afresh or by consulting with the TRC Chair. Besides being inefficient, this is unfair to tenants. The job of explaining decisions belongs to the decision-makers, not the SIC.
- 296. The decision letter the TRC sends to applicants should not be an after-thought to the process. That letter is essential, as it is the means by which an applicant learns the result of their priority transfer application. As a matter of basic fairness, it must clearly and accurately reflect the TRC's reasons for reaching the decision, especially where the application is denied.
- 297. TCHC should train decision-makers on how to write high quality decision letters that contain sufficient reasons for decisions, making specific reference to the individual case.

INTERNAL WAITING LISTS, OFFERS AND ESCALATIONS

- 298. This report has, so far, examined the procedural and substantive fairness shortcomings of the priority transfer process. In addition, the process suffers from serious equitable fairness problems. TCHC must address the procedural, substantive and equitable problems to make its priority transfer process fair. In this section, we discuss the equitable fairness problems with the priority transfer process.

- 299. We investigated what happens after a decision is made to grant Medical or Safety at Risk priority transfers. In particular, we examined the internal waiting list, backdating of approved applications and the effect of the Overhoused priority category on these households.
- 300. We also reviewed what happens when households are not satisfied with the TRC's decisions, and how complaints are escalated.

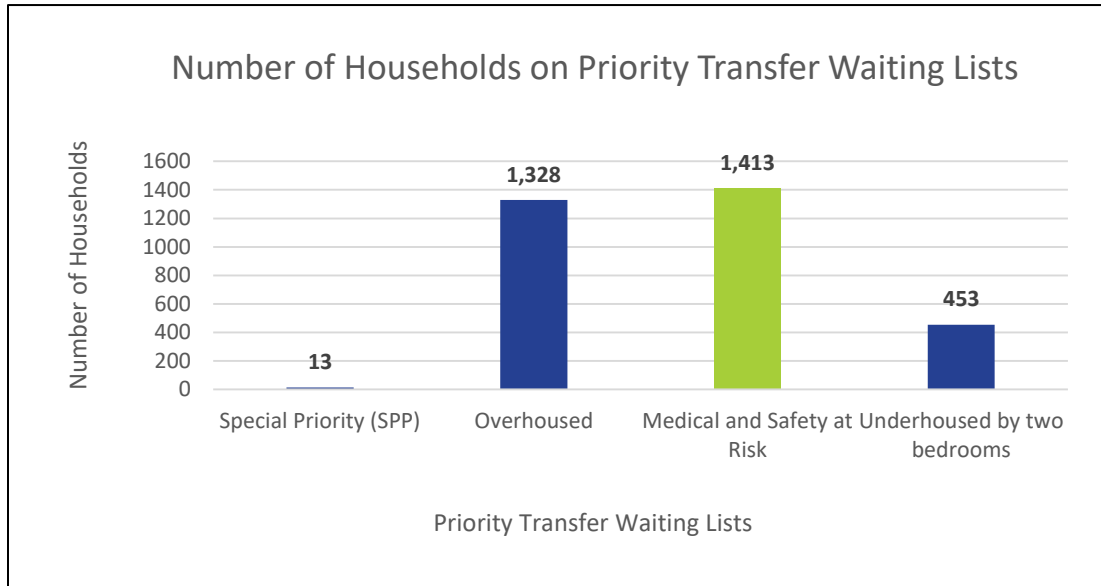
INTERNAL WAITING LIST

- 301. As noted above, TCHC is currently obliged to offer accommodation to tenants on the Special Priority, Overhoused and Temporary Relocation waiting lists before it gets to households with Medical or Safety at Risk priority.
- 302. According to the Guidelines, TCHC offers units to tenants based on the date of their application for Medical or Safety at Risk priority transfer. Once the TRC has approved an application, TCHC adds it to the waiting list according to the date on which the TRC received a completed application. In practice, applications are added to the waitlist according to the date on which the TRC approves them. Applicants must choose a minimum of five locations into which they wish to transfer.
- 303. TCHC centralized the offer-making process in 2013 to a group of eight employees in Program Services called the Rental Task Force. They told us: "When a vacancy becomes available [The Rental Taskforce] does all the legwork... contacting people to make offers, doing their checks to see if there are [arrears owing], before we actually contact the tenant to make the offer."
- 304. Property management companies with which TCHC contracts also have tenant placement officers who manage vacancies for contract-managed properties.
- 305. As mentioned above, the Overhoused priority category ranks above the Medical and Safety at Risk priority categories.

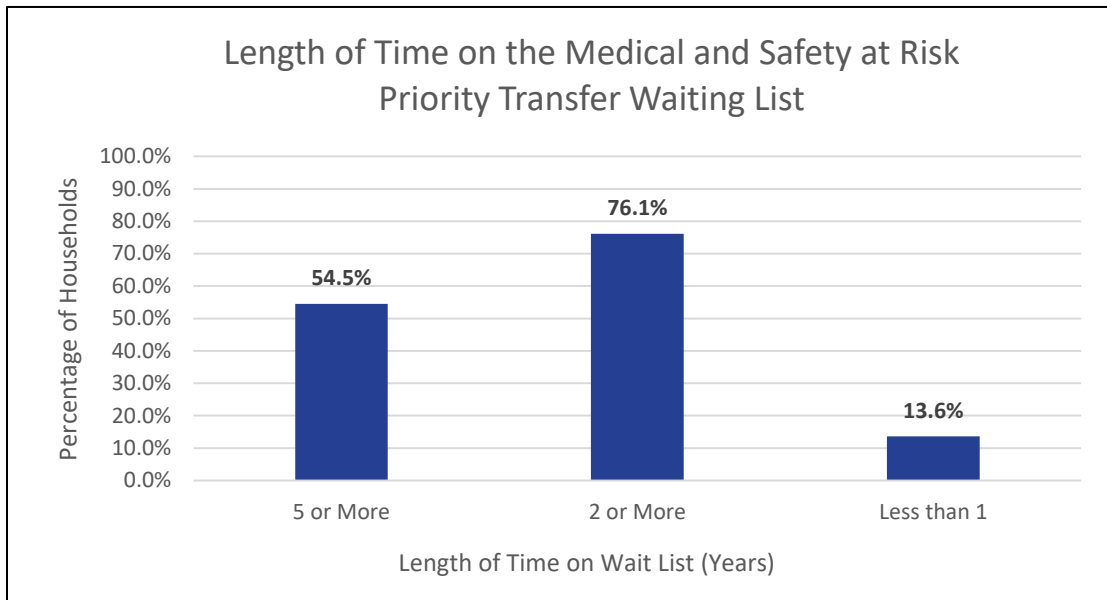
HOW THE WAITING LISTS WORK

- 306. When a unit is available to rent, TCHC staff start at the top of the internal waiting lists, and work their way down until they find someone who has identified that particular building or development as one of their preferred choices. A household is permitted three refusals before it is removed from its priority list.

307. As of December 2017, the number of households on each priority transfer waiting list was:
- SPP: 13
 - Overhoused: 1,328
 - Medical and Safety at Risk: 1,413 (1,069 Medical and 344 Safety at Risk)
 - Underhoused by two bedrooms: 453

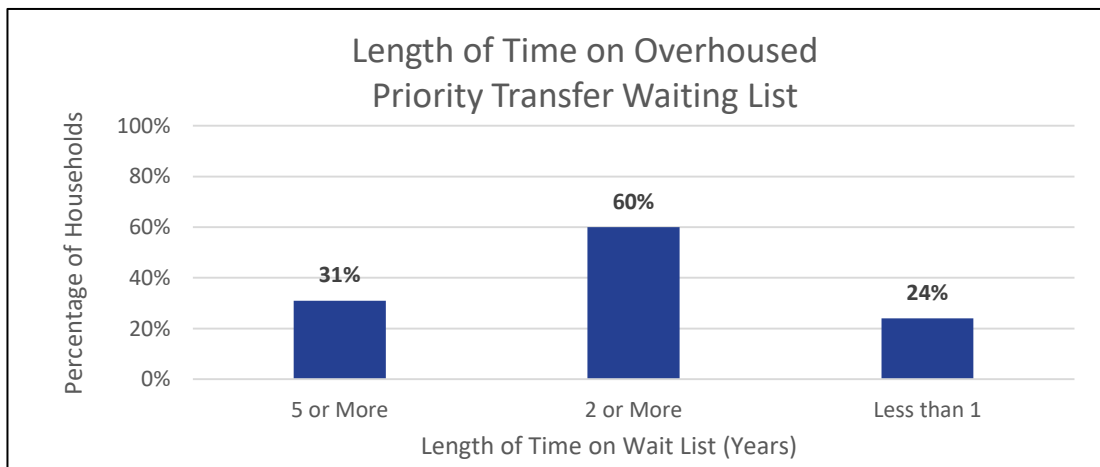


308. As of August 2017, 54.5% of households had been on the Medical and Safety at Risk priority transfer waiting list for five years or more. Seventy-six point one per cent had been on the waiting list for two or more years. Only 13.6% had been on the waiting list for less than one year.



***THE CITY'S OVERHOUSED PRIORITY SEVERELY LIMITS THE EFFECT OF THE
MEDICAL AND SAFETY AT RISK PRIORITY***

309. As noted above, there were 1,328 households on the Overhoused priority transfer waiting list as of December, 2017.
310. According to TCHC, 31% of those households have been on the Overhoused priority transfer waiting list for over five years. Sixty per cent had been on the list for two years or more. Only 24% had been on the Overhoused list for less than one year.



- 311. One key reason for the large number of households with Overhoused priority is the fact that under the HSA, the City cannot terminate a household's RGI assistance because it is overhoused so long as the household is following the process to be transferred to a right-sized unit. Further, a household's RGI eligibility continues by law for one year after the City notifies it that it has been deemed overhoused, even if it is refusing housing offers.
- 312. TCHC management told us that often, households on the Overhoused priority transfer list repeatedly turn down offers of smaller, more appropriately-sized units, to postpone the prospect of having to move.
- 313. The Overhoused priority is creating a bottleneck for the households on the priority waiting lists below it. Being on the Medical and Safety at Risk priority transfer waiting list has limited practical meaning for tenants. It takes a very long time for TCHC to move a household on the Medical and Safety at Risk priority list to alternative accommodations.
- 314. The effect of this situation is unfair to all tenants on the Medical and Safety at Risk priority list. Even the most urgent cases do not get to move because they are stuck on a bloated, stagnant waiting list that is directly behind another bloated, slow-moving list.

OTHER WAITING LIST CHALLENGES AND PROBLEMS

- 315. TCHC management also highlighted the challenge that with an aging TCHC tenant population, increasing numbers of households find their units to be inaccessible.
- 316. Another challenge lies in the fact that 65% of TCHC's vacant housing stock is made up of bachelor units. The next highest density is in one and two bedroom units. A TCHC executive explained that TCHC's housing stock is "not aligned with the demand for family sized units. People need three, four, and five bedroom units right now. And we don't have any."
- 317. In some cases, TCHC staff bypass the TRC process, and the transfer waiting lists, altogether.
- 318. One site manager we spoke to said that when necessary, they would "exercise discretion" to offer an alternative unit to a vulnerable household in their own OU. They gave an example of a man who had had two strokes and had collapsed in front of his building. The site manager said that instead of having the tenant apply for a Medical priority transfer, and deal with a "bureaucratic process", they opted to transfer the tenant immediately on their own initiative.
- 319. When we asked TCHC management about this, we were told that there was no policy allowing or governing that practice, but that it was likely "a legacy

issue", from when services were previously decentralized and OUs managed their own transfers. They acknowledged that bypassing the centralized process in this way was not appropriate, as it arbitrarily and unfairly pushed some people's need to transfer to a new unit ahead of others'. Further compounding this problem is the fact that this may be done without the approval, or even the knowledge, of anyone at TCHC above the individual site manager.

320. Because individual cases of OUs transferring households directly are not documented or reported, TCHC does not know how often they occur.

TENANT EXPECTATIONS

321. One TCHC manager told us that they believe the priority transfer process "gives people false hope", when they may have to wait for "three or four years" for one of their alternative accommodations to be offered to them.
322. Once approved for priority status, he said, tenants continually come into their OU office asking when they will be transferred. Site staff must explain to tenants that they "have a priority, but there are 5000 other people waiting and they have priorities and it depends on how many of those people want the same...size or location that you do."
323. It is difficult for TCHC staff to explain the waiting list to tenants, he said, since if someone is subsequently approved for a higher level of priority than someone already on the list, a household may shift from being third on the waiting list one week to fifth on the waiting list the following week. While the waiting list itself is not particularly difficult to administer in terms of considering a household's eligibility, "the people piece is very difficult to manage."
324. Without exception, TCHC staff and management we spoke with said that the priority transfer process creates an expectation among tenants that once approved, they will be moved quickly. In reality however, because of a severely limited number of family sized units and long wait lists for internal transfers, this is simply not the case.
325. A TCHC executive explained the decision not to review the waiting list when the TCHC centralized the approval process in 2013 as follows:

We had a lot of discussion on "should we go back through the thousand people in this list, reassess them and maybe take people off?" I didn't want to do that. Because you can't tell people one thing, and then have [them] show up two years later and say "oh, we looked at it through a different lens and now you aren't on the list." I didn't see a means of accomplishing that respectfully. So we just left the people... on the list, and started to try to control it with the centralized process.

326. One TCHC tenant suggested that TCHC should consider checking in more often with households on the waiting list: "Let's say your request was accepted, then you have no idea where or when you are going to move." She suggested TCHC follow up regularly with households on the waiting list rather than just "sending [tenants] into the abyss."
327. During his interview about the priority transfer process, one TCHC executive mentioned TCHC's "antiquated" IT systems which, he said, pose a challenge for "every business process that we try to administer." He said that TCHC has now received funding to procure an integrated housing management system, which he expects to "remedy all of the challenges" they have across "every administrative process", including vacancies and transfers. He said TCHC expects the new IT system to be up and running by fall 2018.

COMPLAINTS, ESCALATIONS AND IMMEDIATE TRANSFERS

COMPLAINTS

328. The Guidelines contain no procedure for appeal, internal review of decisions, or complaints about the TRC process or its result. They simply state that a household whose application is denied may apply again with new information at any time.
329. Staff reported that tenants sometimes call site staff, TRC Chairs, or even the Manager of Operational Initiatives after the TRC denies their application for priority status. Tenants complain that:
- they do not agree with the decision
 - they do not understand why their application was denied
 - the TRC took too long to make a decision
 - they wish to appeal but do not know how
330. Despite the fact that TRC Chairs sign decision letters and Program Services sends them, the letters direct tenants to call site staff if they want additional information about the decision.
331. When we asked about this, we were told that a tenant's "first point of contact is always site staff. If [site staff] can't answer the questions, they will refer the tenant to the particular Chair who wrote the letter."
332. Site staff reported different approaches to dealing with tenants who do not agree with the TRC's decision. Some said they would talk to the tenant about the decision, and review the application again, but that they would not refer the tenant to the TRC Chair who wrote the letter. Others said they would refer an unhappy tenant to the site manager. One said they would review a letter with a tenant if the tenant requested, and said that if the tenant wanted to apply again, they would ask them to write a note about how their safety or medical

situation personally affects them and their family, and resubmit their application to the TRC.

333. Generally, site staff told us that they did not feel equipped to explain why the TRC denied an application, as they were not involved in the decision-making process.
334. We also asked Chairs about cases where tenants have questioned TRC decisions. One Chair told us that if a tenant contacted them after their application was denied, they would explain the reason why and would notify the OU if the tenant said they wished to reapply. Another Chair said that they did not receive many calls from tenants, which they found surprising. Another Chair said tenants were welcome to call them directly, and that they would explain why the application was denied, document the details of the conversation and "try and refer tenants back to their OU" for the OU to coordinate a new application.
335. When we approached TCHC about Ms. D's decision letter and the denial of her application, the Director of Program Services reviewed and overturned the TRC's decision. When we asked whether she had overturned a decision before, the Director replied that she had not. She pointed out that the Guidelines allow for a new application at any time.

ESCALATIONS AND IMMEDIATE TRANSFERS

336. Site managers and senior staff told us that in some cases, TCHC executive management moves a household from their current unit into a vacant unit without the tenant having to wait on the internal waiting list. This can happen without the household having to apply for a Safety at Risk or Medical priority transfer at all, or in a case where their application has been denied. These immediate transfers are directed by the Vice President of Asset Management at his discretion.
337. TCHC does not track these immediate transfers, and was not able to provide us with a list of them. Therefore, the evidence about this practice is anecdotal.
338. Only the VP of Asset Management has the discretion to move a household immediately in this way.
339. Different members of TCHC management provided various scenarios that had resulted in an immediate transfer:
- an adolescent girl was beaten by her schoolmates
 - a woman's rapist moved into her building
 - a tenant was moved immediately because of mould in their unit
 - another tenant was moved because of a sink backing up

340. A Director told us that immediate transfers could take place if there was a safety reason, such as a home invasion. He said that sometimes, when there is media coverage or the involvement of an advocate such as a City Councillor, safety-related issues may result in an immediate relocation.
341. Another Director agreed that some situations that would meet the criteria for a Safety at Risk priority transfer could be assigned an immediate relocation with enough advocacy, bypassing the priority transfer review process and waiting list altogether. They expressed concern that when an elected representative is advocating for a constituent to be moved, the situation is not always "as dire as they would make it appear."
342. The same Director also told us that two households facing similar threats to their safety might be transferred at different times depending on their ability to "make connections." They said that a household that was "very quiet" and had "no outside agencies helping them" would not be able to access an immediate transfer like one that successfully advocated for itself, even when the circumstances were essentially the same.
343. Sometimes, TCHC's Community Safety Unit ("CSU") may escalate a household's concerns. Occasionally the police will contact TCHC to report a concern about an individual's safety that the police believe would improve with a transfer. In such cases, staff may escalate the file for immediate transfer.
344. We asked the VP of Asset Management how he determines whether a household qualifies for immediate transfer, in the absence of any criteria. He told us that he first looks at "the human-level situation" and whether there are children or "vulnerable people" at risk in the household. He said that he tries to weigh the benefit of moving the household outside of the process (and the risk of not doing so) against the reality that there are "thousands of other people who have been through the process, are on a waiting list and are in essentially the same situation."
345. After assessing the situation of the household, and consulting with others (for example the site manager, or staff in CSU, the Accessibility Unit, or the Toronto Police Service), he determines when to agree to a request for immediate transfer, and when to refuse.
346. He said some situations are so compelling that "we don't have a lot of time at that point for the bureaucracy of the process", referring to the time it takes for a household to compile a Safety at Risk or Medical priority transfer application, for the TRC to consider it, and for an offer of a transfer to occur.
347. He said that when he does order an immediate transfer, he looks for "as equitably as we can, an alternative that we can move that family into. That might be a vacant unit that isn't in high demand."

348. He gave two examples of transfers he authorized immediately, because he believed it was "the right thing to do." One of the households was underhoused, headed up by a father caring for four children, whose wife had to return to her home country. Their unit was infested with bedbugs, and the father's four-month old baby was "just covered in bedbug bites."
349. The VP described his visit to the unit, in which the father was "crying, his kids are sitting there watching him cry. You just want to move him." He said he could not remedy the bedbug situation because it was "grave" and that the family had to move out of the unit in order for it to be treated.
350. The other situation he described involved a young man whose family of seven lived in a townhouse. The man was shot in a targeted attack and became paraplegic. After he spent time in the hospital and a rehabilitation facility, TCHC learned that he would soon be returning home in a wheelchair. The family's home was a three story walk-up with the bathroom on the second floor.
351. He described the situation as "complex" since he had been unable to find another unit big enough for the family that would accommodate the young man's needs. He said that he was looking for a unit for the young man and his eldest brother to move to on a temporary basis, while continuing to search for a five bedroom unit for the whole family that could be modified to meet his needs. This could take about one year, he said.
352. The VP of Asset Management estimates that he receives about 25 immediate transfer requests per month, but told us that he approves less than five per year. He told us that he does not track this information. We were unable to confirm the actual number of immediate transfers.
353. We asked him whether, in his opinion, it is fair for TCHC to immediately transfer a household while others wait on the internal transfer waiting list. He said:

From just a principled standpoint, the answer is no. Of course not. You've set up a process. You go out of your way to define the criteria that will govern that process. You communicate it to people, essentially setting an expectation with them. Should you circumvent that? No.

Only because you promised a whole pile of other people that you would abide by something that you told them was your process... [The priority transfer process] was a very poorly conceived process to introduce in the first place. Because the idea that we were going to be able to effect these transfers was ridiculous to begin with. So I look at it in the context of that as well.

354. He said that in his opinion, however, immediately transferring a household "might be fair if we offer a unit nobody else wants." He confirmed he was aware that some people with effective advocates succeed in getting a transfer, while TCHC has "lots of people in the exact same situation, but they went through the process and they don't have an advocate."

TCHC's CONCERNS WITH THE CURRENT PROCESS

355. When we notified TCHC that we would be investigating its Medical and Safety at Risk priority transfer procedures, they told us that they had been planning to review their Tenant Transfer Policy sometime in 2017. TCHC then told us that they had decided to await the conclusion of our Investigation before starting their own review.
356. The Director of Program Services described TCHC's thinking regarding the planned review of the Tenant Transfer Policy as follows: "It's definitely one of the policies that needs to be reviewed and there are challenges and issues with the policy and the way it works now. I think it doesn't work."
357. In discussing TCHC's proposed review, one manager pointed out that the Medical and Safety at Risk priority categories are not provincially legislated, and are also not required by the City as the social housing manager:

We went above and beyond the City's requirements. The only other one that the City suggests is possibly the Underhoused, but other than that, all that is required of us is to have a transfer policy and to have a waiting list for SPP and Overhoused.

358. They went on to state that, in their opinion, the Medical and Safety at Risk priorities are something that TCHC "need to revisit, because of the challenge of managing the existing internal wait lists:

Our waiting list for Medical and Safety at Risk is very large. We have [approximately] 1100 people on Medical and less than that on Safety at Risk. And the way our offering process goes is that you have to exhaust SPP and Overhoused to even get to those. So you're constantly in that Overhoused [waiting list], because there are so many people there. Many times you don't even get to Safety at Risk. So even though you've approved them, it's a false expectation that people are going to get moved right away. 'Cause they're not. So that's why it's important that it's reviewed...

I believe we're just setting up false expectations. That's our highest complaint. People on the waiting list. When am I going to get moved? All you can say is 'it's chronological.' I know it's a slow process. You're always adding people to the other priorities.

359. The same manager commented on the change from the previous decentralized process to the development of the TRC. They emphasized the improvements that came with centralization, but also pointed to continuing challenges in managing the Medical and Safety at Risk priorities:

[The centralized process] is much better than it used to be, because you've got four Chairs, and they're trying to be as consistent as possible based on the Guidelines. And it can be subjective, but I still think it's more consistent than it used to be when you had 100 [site staff] administering it. With 100 different people, you can provide the training possible but not everyone is going to read [the criteria], interpret it, the same way.

360. One challenge TCHC anticipated in its upcoming review of the Medical and Safety at Risk priority transfer process was the question of what it should do with the existing Medical or Safety at Risk priority waiting list:

We would have to go back and see if [decision-makers] were just approving everybody, who maybe didn't meet the criteria. But it's difficult to go back now. I think that will be a whole part of looking at the policy and moving forward: what do we do with the existing folks on the waiting list who may not even have met the criteria?

It was just that people were not moving and we keep adding people. We need to do something. It's not manageable as it is right now. So why create more of that? Is it fair?

361. Another senior TCHC executive described the need to review the process in these terms:

This policy, more so than others, will require probably a pretty in-depth and protracted process to fully update for three reasons:

- 1) It is stale. It hasn't been updated in a significant amount of time. Our operating practices are different than when it was originally drafted.*
- 2) Operationally, the process is difficult for us and for our tenants. It will require quite a bit of consultation to get it right.*
- 3) This process relates to several others on which TCHC is getting additional pressure to remedy: specifically, vacancy management.*

FINDINGS AND RECOMMENDATIONS ON INTERNAL WAITING LISTS, OFFERS AND ESCALATIONS

- 362. The current system, with its delays and uncertainty, is failing to serve tenants' needs. This is so particularly for those with the most pressing Medical and/or Safety at Risk needs. The fact that site managers bypass the priority transfer process by moving tenants within their own housing portfolios illustrates this.
- 363. The evidence we gathered about how TCHC handles requests for immediate transfers reveals a practice that creates an uneven playing field. It favours tenants with stronger advocates. While this practice appears to attempt to address the most egregious cases, it is unfair to allow it to continue.
- 364. One key impetus for centralizing the priority transfer application process in 2013 was to remove decision-making from OU staff. This was because it was hard for them to say no to the tenants they interact with daily. By introducing the centralized TRC process, TCHC intended to address this problem and to add rigour and consistency (and therefore fairness) to the process.
- 365. It appears however that with its immediate transfer process, TCHC may be repeating the behaviours that prompted the 2013 changes.
- 366. TCHC needs a different and better way to identify and serve tenants with the most serious medical and safety needs related to their units.

CONCLUSIONS

THE CURRENT PRIORITY TRANSFER PROCESS IS UNFAIR

- 367. TCHC operates under significant constraints. The most serious of these is the fact that its supply of RGI housing falls far short of meeting the demand.
- 368. Despite these constraints, however, TCHC must treat its tenants fairly. This means being honest with them about what it can and cannot provide. It also means having effective and fair processes to equitably serve those tenants with the most pressing accommodation-related health and safety needs.
- 369. Currently, TCHC is not meeting its duty of fairness to tenants with its Medical and Safety at Risk priority transfer process.
- 370. As this report has discussed, the current process is inconsistent and procedurally and substantively unfair. We identified administrative fairness problems at every stage.
- 371. We also found two overriding and pressing questions of equitable fairness.

372. First, the process does little to actually move tenants who qualify for Medical or Safety at Risk priority transfers.
373. Because of the higher ranking Overhoused priority, and the sheer number of households on these internal priority transfer waiting lists, being approved for Medical or Safety at Risk priority has little or no actual effect on tenants' circumstances.
374. The current priority transfer process requires tenants to go to significant effort to demonstrate serious medical concerns or threats to their safety. They do this for one reason: because they believe that having the priority will mean they will be able to move.
375. By calling this status "priority", TCHC is giving tenants an unrealistic expectation that they will be moved quickly. In reality, as explained above and as TCHC openly acknowledges, tenants on the Medical and Safety at Risk priority transfer waiting list have virtually no prospect of moving quickly. More likely, they will spend months, if not years, waiting for TCHC to offer them alternative accommodation. This is simply not right.
376. TCHC tenants have a right to an honest process, with clear and consistent criteria and realistic time frames. As one TCHC executive put it, "Why are we telling [approved tenants] they're going to move? They're not going to move. It doesn't make any sense to set this customer expectation that is not realistic."
377. The second serious problem of equitable fairness with the current process is that it does not even attempt to identify and serve the most urgent cases first. Tenants in crisis must wait on a bloated and stale waiting list alongside tenants whose medical and/or safety needs are much less serious and immediate. This is inequitable and therefore unfair.
378. The unfairness of the current process is compounded when some tenants with strong advocates bypass it entirely, by contacting executive management and persuading them that their situation is urgent. This sometimes results in tenants being moved immediately.
379. The problems with TCHC's current priority transfer process do not just prejudice existing TCHC tenants. They also affect the thousands of households waiting to get into TCHC units.

THERE IS A NEED FOR A NEW CRISIS CATEGORY ABOVE OVERHOUSED

380. In our view, one way to address these problems is for the City, in partnership with TCHC, to create a new priority status called "Crisis", which will rank below SPP but above Overhoused. The City can do this pursuant to its authority as TCHC's Service Manager under the *HSA*.
381. This new Crisis priority transfer category will require clearly defined and narrow criteria. The criteria should identify cases where a household's current unit is causing or contributing to a direct, immediate and acute risk to the health and/or safety of a member of that household. This risk must be one that can be addressed by moving the household to a different TCHC unit.
382. TCHC needs to design a procedurally and substantively fair process for the new Crisis priority. It must include the following features, at minimum:
- It must have specific, clear and well-communicated eligibility criteria.
 - It must give tenants information about what evidence is required to qualify for Crisis priority status, how the application process works, and what the priority status will mean for tenants in practice.
 - It must clearly set out the role of site staff to help tenants gather evidence to support their applications (which should be a key part of staff's duties).
 - It must provide for training and ongoing information for site staff about the criteria, the process, and what their role requires.
 - TCHC must put in place dedicated decision-makers with training on fair adjudication and decision-writing.
 - There must be Rules of Procedure and strict timelines for decision-making and communicating decisions with reasons.
383. Once tenants qualify for Crisis priority status, TCHC must have a system for quickly and effectively assessing their housing needs and identifying suitable alternative units to offer them. As a matter of fairness to other tenants, households on the Crisis priority transfer waiting list should have limited ability to refuse reasonable offers.
384. This new process should be administered by dedicated and trained staff.
385. TCHC has available to it a variety of stakeholders with whom it can consult on effectively meeting tenants' needs with regard to community safety and vulnerability. For example, the City's Social Development Finance and Administration division (SDFA) runs key programs bringing together various City departments and community organizations to enhance the safety and wellbeing of residents of Toronto.

386. TCHC should explore ways of leveraging existing relationships that it has with the City, as well as with the Toronto Police Service, medical consultants and/or community organizations, and tenants. TCHC should also explore developing new relationships of this type. This will enhance the effectiveness of the process.

THE EXISTING WAITING LIST PRESENTS A DILEMMA FOR TCHC

387. Ideally, no-one would have to live in an accommodation that creates or aggravates any degree of risk to their health or safety. But TCHC has almost 1500 households in precisely that situation - those on the existing Medical and Safety at Risk priority transfer waiting list.
388. Adding a new Crisis priority transfer category will provide fairness for TCHC tenants with the most urgent health and safety needs, but it will not help thousands of others on the existing Medical and Safety at Risk priority list.
389. TCHC has a difficult choice to make with respect to that list.
390. As discussed above, the practical effect for a household of being on that list is minimal. This is because it ranks below Overhoused (a long and slow-moving list) and because the Medical and Safety at Risk priority list itself is bloated and stale.
391. In our view, adding more names to the Medical and Safety at Risk priority list would be unfair to tenants, for all the reasons set out above. It would also be a waste of TCHC's resources.
392. TCHC could choose to eliminate the existing Medical and Safety at Risk priority list entirely. It is reasonable to anticipate that if it does so, some tenants will believe that this is unfair, since they went through a complex process to get their place on that list.
393. Another option would be to leave the existing Medical and Safety at Risk priority list as is, but not add to it. This would have the benefit of TCHC not taking away from tenants a priority that it has given them, for whatever it is worth. The disadvantage would be that TCHC will continue to expend resources administering a priority list with virtually no practical meaning for tenants.
394. Whatever TCHC decides to do with the existing list (i.e. eliminate it or leave it intact), it is essential that TCHC notify every household on that list what it plans to do, and why. It also should clearly inform them that they are eligible to apply for the new Crisis priority transfer status if their circumstances warrant it.

OMBUDSMAN TORONTO RECOMMENDATIONS

395. Based on the evidence gathered in this Investigation and our findings, we make the following recommendations:

A New Crisis Priority for the Most Serious Cases, Ranking Higher than Overhoused

1. The City, pursuant to its authority as Service Manager, should create a new priority transfer category for TCHC called Crisis, to rank below SPP but above Overhoused.

Clear and Narrow Criteria

2. The new Crisis priority transfer category should have specific, clear and understandable eligibility criteria that TCHC will commit to applying consistently and in good faith. This is essential for TCHC to fairly serve tenants whose units are causing or contributing to a direct, immediate, elevated and acute risk to their health or safety that would be addressed if they moved to a different TCHC unit. TCHC should develop these criteria in consultation with the City and any other stakeholders it may wish to engage.

Establishing and Communicating a Fair Process for Tenants to Apply for Crisis Priority Transfers and for TCHC to Evaluate Applications

3. TCHC should provide clear, accessible and readily understandable information to tenants about what evidence is required to qualify for Crisis priority transfers, how to apply, and what will happen once they qualify.
4. The new process should clearly set out and explain the essential role of site staff to help tenants gather evidence to support their applications. This should be a key job duty of site staff.
5. The new process should provide for thorough training and support for site staff. Site staff must have a solid understanding of the criteria, the process for applications and for housing offers, and the key role that they as site staff have in the process.
6. TCHC should develop Rules of Procedure for the processing of applications, decision-making and communicating of decisions with reasons for the new Crisis priority transfer category.
7. The Rules of Procedure should set out clear timelines for each step of the process. Those timelines should take account of the seriousness of the issues being considered. TCHC should commit sufficient resources to

ensure that it consistently meets the timelines it establishes. TCHC should have a system to periodically evaluate this.

8. TCHC should have a group of dedicated decision-makers evaluating applications for the Crisis priority transfers. They should be trained in fair adjudication and decision-writing.
9. TCHC should require and ensure that decisions are made in a way that is procedurally and substantively fair. This includes ensuring that every decision includes sufficient reasons, and that similar cases are dealt with consistently.
10. If decision-makers are to have any discretion to allow applications in cases where the criteria are not met, the Rules of Procedure must state this, and set out how the decision-makers will exercise such discretion fairly.
11. The Rules of Procedure should clearly set out what (if any) recourse is available to tenants whose applications are denied.
12. TCHC should consult with and draw on the experience of the City as it sets out to establish and administer an effective, efficient, transparent administrative decision-making body that is both procedurally and substantively fair. It could also look to the Society of Ontario Adjudicators and Regulators for resources to assist with this.

Establishing and Communicating a Way for TCHC to Fairly Serve Crisis Priority Tenants

13. TCHC should develop a system to quickly and effectively assess the housing needs of households that have qualified for Crisis priority transfers and to identify suitable alternative units to offer them. Households with Crisis priority should have limited ability to refuse reasonable offers before losing their place on the waiting list. This is so that other households with circumstances warranting Crisis priority can also be fairly served.

Seeking Help Beyond TCHC to Make the Process Fair and Effective

14. TCHC should explore ways of enhancing the new Crisis priority process by leveraging existing relationships that it has with the City, as well as with the Toronto Police Service, medical consultants and/or community organizations. TCHC should also explore developing new relationships of this type.
15. TCHC should clarify what information it requires from police services in Crisis priority transfer applications and in what form. In doing so, it should

consider the restrictions that police sometimes put on the release of information.

Addressing the Current Medical and Safety at Risk Priority List, Which is Bloated and Stale

16. TCHC should consider whether it will eliminate or keep the existing Medical and Safety at Risk priority transfer waiting list.
17. Whatever TCHC decides to do with the existing Medical and Safety at Risk priority waiting list, it should notify every household on that list that they may apply for the new Crisis priority status if they believe they meet the qualifying criteria.
18. Even if TCHC decides to keep the existing Medical and Safety at Risk priority transfer waiting list, we recommend that it stop accepting new applications for Medical and Safety at Risk priority when the Crisis priority process comes into effect.

Communicating the Changes

19. TCHC should develop a communication plan with respect to all of the changes it plans to make to its priority transfer process. This plan should include, at minimum:
 - plain language educational materials to inform tenants about the changes and how they will affect tenants;
 - plain language educational materials to inform TCHC staff about the changes and their new responsibilities; and
 - communication to the public about the changes, including through TCHC's website.

No More Priority Transfers Outside the Established Process

20. Once the Crisis priority process is in operation, TCHC should make no transfers outside the internal transfer process. Any exceptions should be approved by the CEO and documented.

TCHC Should Commit to Making These Changes as Soon as Possible

21. The new Crisis priority is urgently needed. TCHC should develop a detailed implementation plan by the end of March 2018, providing that the Crisis priority process will be in place by the end of June 2018.

RESPONSES OF TCHC AND THE CITY TO THE FINDINGS AND RECOMMENDATIONS

396. Pursuant to s. 172(2) of the *City of Toronto Act, 2006*, Ombudsman Toronto provided TCHC, the City of Toronto City Manager's Office, and the leaders of the City's Shelter Support & Housing Administration division and Social Development Finance & Administration division with copies of the draft Investigation report containing preliminary findings and recommendations. This was to allow them to make representations in response to the draft.
397. After considering representations made by TCHC and the City, Ombudsman Toronto finalized this report in late November 2017.
398. The TCHC President & CEO responded to the final report by letter of January 10, 2018. She stated that she agreed with and supported the Investigation's recommendations. She committed to ensuring the new Crisis priority transfer process would be operational by June 30, 2018.
399. The City Manager also responded by letter of January 10, 2018. On behalf of the City, he also agreed with the report's findings and recommendations, and committed to supporting TCHC as needed in implementing the recommendations.
400. A copy of TCHC's response letter, including a chart setting out the timeline and plan for implementation of each recommendation, is attached as Appendix A.
401. A copy of the City Manager's response letter is attached as Appendix B.

OMBUDSMAN TORONTO FOLLOW-UP

402. Ombudsman Toronto will monitor TCHC's progress in implementing the recommendations.

(Original Signed)

Susan E. Opler
Ombudsman

APPENDIX A: RESPONSE FROM TCHC

Toronto Community
Housing Corporation
931 Yonge Street
Toronto, ON
M4W 2H2



January 10, 2018

Ms. Susan Opler
Ombudsman
City of Toronto
375 University Ave, Suite 203
Toronto, ON
M5G 2J5

Dear Ms. Opler,

**Ombudsman Toronto Investigation Report: An Investigation into the
Toronto Community Housing Corporation's Medical and Safety at Risk
Transfer Process for Tenants**

Toronto Community Housing has had an opportunity to review your draft report regarding the above noted matter. We appreciate the value of your findings and associated recommendations to improve the internal priority transfer process for our tenants. We agree with and support each of the recommendations in your report, and will work diligently towards implementation in order to improve the integrity, fairness and communication of the new process.

We recognize the urgent need for a Crisis Priority Transfer process. We have attached our proposed action plan to address all the recommendations, and we will focus on training staff, with clearly defined responsibilities, to support tenants in understanding the process, preparing qualified applications, and facilitating clear communication at each stage. We fully agree with the need to dedicate trained staff to the fair and consistent adjudication of applications, drafting clear decisions, and coordinating expedited transfers for those qualifying for a Crisis Priority Transfer.

The attached high-level action plan is intended to both confirm our support for the recommendations and highlight how we intend to address each recommendation. We will provide your office with a more detailed implementation plan by March 31, 2018.

Please note that we will consult with your office prior to finalizing the Rules of Procedure, or any associated policy and/or process changes in response to the recommendations in your report. We will report to you on a quarterly basis on our progress to implement the action plan.

I would like to thank you and the members of your team for the thorough investigation, and pragmatic and appropriate recommendations made to strengthen our management of the internal priority transfer process. Your

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insights will guide us in better serving the needs of tenants. We welcome any comments or questions you might have with respect to the attached high-level action plan.

Yours truly,

A handwritten signature in black ink, appearing to read 'Kathy Milsom', with a large, sweeping flourish extending from the bottom left.

Kathy Milsom
President and CEO

Encl.

An Investigation into Toronto Community Housing Corporation's Medical and Safety at Risk Priority Transfer Process for Tenants

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January 10, 2018

Rec #	Recommendation	Agree	Comments	Implementation Timeline
1	The City should, pursuant to its authority as Service Manager, create a new priority category for TCHC called Crisis, to rank below SPP but above Overhoused.	Yes	TCHC will support the City's direction.	Immediate, subject to receipt of direction.
2	The new Crisis priority should have specific, clear and understandable eligibility criteria that TCHC will commit to applying consistently and in good faith. This is essential for TCHC to fairly serve tenants whose units are causing or contributing to a direct, immediate, elevated and acute risk to their health or safety that would be addressed if they moved to a different TCHC unit. TCHC should develop these criteria in consultation with the City and any other stakeholders it may wish to engage.	Yes	TCHC will develop, in consultation with tenants, the City and outside agencies, a new Crisis priority with specific, clear and understandable eligibility criteria, and a system to fairly administer the processes connected to it. The exercise will include an action plan for implementation of the Crisis priority, application process and approval framework.	Outreach to the City and appropriate outside agencies has been initiated to identify individuals who could assist in an advisory capacity. The action plan will be completed by March 2017, with the new Crisis priority process in place by the end of June 2018.
3	TCHC should provide clear, accessible, and readily understandable information to tenants about what evidence is required to qualify for Crisis priority, how to apply, and what will happen once they qualify.	Yes	In consultation with its Tenant Communications Advisory Committee, TCHC will develop a communications plan to accompany the implementation of the revised Crisis priority. The plan will provide clear, accessible, and readily understandable information to tenants about what evidence is required to qualify for Crisis priority, how to apply, and what will happen once they qualify, including the process for relocation after approval is granted.	To meet tenant expectations, communications will begin once this report is made public, continue when shareholder direction is received, and ramp up to and beyond the end of June 2018 implementation date.
4	The new process should clearly set out and explain the essential role of site staff to help tenants gather evidence to support their applications. This should be a key job duty of site staff.	Yes	TCHC will clearly define site staff responsibilities and accountabilities within the revised process to ensure they directly and more substantially support tenants through the application process. Changes will be	Action plan to be completed by March 2018, and all activities completed by June 2018.

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Rec #	Recommendation	Agree	Comments	Implementation Timeline
			reflected in updated job descriptions and standard operating procedures.	
5	The new process should provide for thorough training and support for site staff. Site staff must have a solid understanding of the criteria, the process for applications and for housing offers, and the key role that they as site staff have in the process.	Yes	TCHC will develop a full training plan to equip staff with knowledge, resources and service standards around the application criteria, assessment process and their respective role in supporting tenants throughout the application and transfer process.	Action plan to be completed by March 2018, and all activities completed by June 2018.
6	TCHC should develop Rules of Procedure for the processing of applications, decision making and communicating of decisions with reasons for the new Crisis priority.	Yes	TCHC will develop Rules of Procedure that will apply to the processing and assessment of applications that include a policy, standard operating procedures, and guidelines for internal transfers. The rules will include communication guidelines to address communication needs at each stage of the process as well as clearly articulate reasons for approval and refusal.	Action plan to be completed by March 2018, and all activities completed by June 2018.
7	The Rules of Procedure should set out clear timelines for each step of the process. Those timelines should take account of the seriousness of the issues being considered. TCHC should ensure that it commits sufficient resources to ensure that it consistently meets the timelines it establishes. TCHC should have a system to periodically evaluate this.	Yes	Service standards will be established for each stage of the process, including application, post-application support, assessment, and communication of outcome(s). Service standards will be measured and reported against established targets on a quarterly basis.	This action will be addressed through the Rules of Procedure, and in place—including process to monitor and report quarterly—by June 2018.
8	TCHC should have a group of dedicated decision makers evaluating applications for the Crisis priority. They should be trained in fair adjudication and decision writing.	Yes	TCHC will dedicate specific staff resources to the assessment of internal transfer requests. TCHC will ensure that staff are sufficiently qualified and trained for adjudication and decision writing.	Action plan to be completed by March 2018, and all activities completed by June 2018.

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Rec #	Recommendation	Agree	Comments	Implementation Timeline
9	TCHC should require and ensure that decisions are made in a way that is procedurally and substantively fair. This includes ensuring that every decision includes sufficient reasons, and that similar cases are dealt with consistently.	Yes	TCHC will define compliance requirements within the Rules of Procedure and will introduce an audit process to assist in ensuring consistent application.	This action will be addressed through the Rules of Procedure, and in place—including the audit process—by June 2018.
10	If decision makers are to have any discretion to allow applications in cases where the criteria are not met, the Rules of Procedure must state this, and set out how the decision makers will exercise such discretion fairly.	Yes	TCHC will carefully consider, in consultation with the City and outside agencies as appropriate, whether this level of discretion will be afforded to decision makers and, if so, will define the bounds of discretion.	This will be addressed through the Rules of Procedure, and in place by June 2018.
11	The Rules of Procedure should clearly set out what (if any) recourse is available to tenants whose applications are denied.	Yes	TCHC will determine the need for an appeals process and, if required, will ensure its development and implementation is consistent with other expectations contained herein.	This will be addressed through the Rules of Procedure, and in place by June 2018.
12	TCHC should consult with and draw on the experience of the City as it sets out to establish and administer an effective, efficient, transparent administrative decision making body that is both procedurally and substantively fair. It could also look to the Society of Ontario Adjudicators and Regulators for resources to assist with this.	Yes	TCHC will consult with tenants, the City and outside agencies, as appropriate, and research the best practice of other social housing providers to assist with the development of an effective, efficient, transparent administrative decision-making body that is both procedurally and substantively fair.	Action plan to be completed by March 2018, and all activities completed by June 2018.
13	TCHC should develop a system to quickly and effectively assess the housing needs of households that have qualified for Crisis priority and to identify suitable alternative units to offer them. Households with Crisis priority should have limited ability to refuse reasonable offers before losing their place on the waiting list. This is so that other households with	Yes	The Rules of Procedure will address the process of offering suitable units to approved applicants, including clearly communicated expectations and a limited ability to refuse reasonable offers.	This will be addressed through the Rules of Procedure, and in place by June 2018.

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Rec #	Recommendation	Agree	Comments	Implementation Timeline
	circumstances warranting Crisis priority can also be fairly served.			
14	TCHC should explore ways of leveraging existing relationships that it has with the City, as well as with the Toronto Police Service, medical consultants and/or community organizations. TCHC should also explore developing new relationships of this type.	Yes	TCHC will engage with the City and other relevant agencies, such as Toronto Police Service, relevant medical consultants and community partners to inform both the development of the Crisis priority criteria, the process of assessing applications and the communication of decisions.	Action plan to be completed by March 2018, and all activities completed by June 2018.
15	TCHC should clarify what information it requires from Police Services in Crisis applications and in what form. In doing so, it should consider the restrictions that police sometimes put on the release of information.	Yes	TCHC will explore the extent to which information sharing between Toronto Police Service and TCHC can inform the development and ongoing administration of the Crisis priority application and assessment processes.	Action plan to be completed by March 2018, and all activities completed by June 2018.
16	TCHC should consider whether it will eliminate or keep the existing Medical and Safety at Risk priority waiting list.	Yes	TCHC will evaluate available options to manage the existing Medical and Safety at Risk priority waiting list during the transition phase to the new Crisis priority process, with consideration to fairness to and needs of tenants.	Outreach to the City and appropriate outside agencies has been initiated. The interim process will be in place by the time Shareholder Direction is received.
17	Whatever TCHC decides to do with the existing Medical and Safety at Risk priority waiting list, it should notify every household on that list that they may apply for the new Crisis priority if they believe they meet the qualifying criteria.	Yes	TCHC will appropriately communicate with households on the current Medical and Safety at Risk wait lists, the creation of a new Crisis priority transfer process, the interim process until the new process is in place, and the details about the new Crisis priority and associated process, as they are developed.	Communications will begin once this report is made public, continue when Shareholder Direction is received, and ramp up to and beyond the end of June 2018 implementation date.

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Rec #	Recommendation	Agree	Comments	Implementation Timeline
18	Even if TCHC decides to keep the existing Medical and Safety at Risk priority waiting list, we recommend that it stop accepting new applications for Medical and Safety at Risk priority when the Crisis priority comes into effect.	Yes	TCHC will not operate the existing priority application process once the Crisis priority process takes effect.	The interim process (to be established) to manage the existing Medical and Safety at Risk priority waiting list will be discontinued on June 30, 2018, when the new Crisis priority risk process comes into effect.
19	TCHC should develop a communication plan with respect to all of the changes it plans to make to its priority transfer process. This plan should include, at a minimum: <ul style="list-style-type: none"> – plain language educational materials to inform tenants about the changes and how they will affect tenants; – plain language educational materials to inform TCHC staff about the changes and their new responsibilities; and – communication to the public about the changes, including through TCHC's website. 	Yes	TCHC will develop a comprehensive communication plan with TCHC's tenant demographic in mind and in consultation with the Tenant Communications Advisory Committee, and with clear, plain and relevant information that addresses the needs of tenants and TCHC staff alike. Material will be disseminated through multiple mediums, including TCHC's website.	Communications will begin once this report is made public, continue when shareholder direction is received, and ramp up to and beyond the end of June 2018 implementation date.
20	Once the Crisis priority is in operation, TCHC should make no transfers outside the internal transfer process. Any exceptions should be approved by the CEO and documented.	Yes	The Rules of Procedure will clearly articulate the rules regarding and regulate any exception-based transfers, subject to the explicit approval of the CEO.	This will be addressed through the Rules of Procedure, and in place by June 2018.
21	The new Crisis priority is urgently needed. TCHC should develop a detailed implementation plan by the end of March 2018, providing that the Crisis priority process will be in place by the end of June 2018.	Yes	The commitments noted in this action plan, in response to the recommendations, will be implemented as specified herein, with the new Crisis priority process to be operational by July 1, 2018.	Action plan to be completed by March 2018, and all activities completed by June 2018.

APPENDIX B: RESPONSE FROM CITY



Peter Wallace
City Manager

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January 10, 2018

Susan Opler
Ombudsman Toronto
375 University Avenue, Suite 203
Toronto, ON M5G 2J5

Dear Ms. Opler:

Thank you for providing us with the opportunity to review your draft report headed "An Investigation into Toronto Community Housing Corporation's Medical and Safety at Risk Priority Transfer Process for Tenants".

I also appreciate having staff in the Executive Management, Shelter, Support and Housing Administration (SSHA) and Social Development, Finance and Administration (SDFA) divisions meet with you and your staff and Toronto Community Housing Corporation (TCHC) staff to review the draft report in detail.

We agree with the findings and recommendations as presented in the report.

City staff, including staff in SSHA and SDFA, will support and consult with staff in TCHC on implementing your recommendations and on the development of a new priority transfer category for TCHC called Crisis.

Thank you again for providing the opportunity to review and provide comments on your draft report.

Sincerely,

A handwritten signature in blue ink that reads "Peter Wallace".

Peter Wallace
City Manager

