



Ombudsman
Toronto

December 10, 2024

Ombudsman Toronto Report

**An Investigation into the City's Decision
to Stop Allowing Refugee Claimants into
Base Shelter System Beds**



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At Ombudsman Toronto, we know we have a responsibility to uphold and ensure fairness in our local government. We understand that this must be done with a respectful and culturally responsive approach, and we commit to ongoing learning, unlearning, engagement, and relationship-building in order to do so.

Land Acknowledgement

Ombudsman Toronto acknowledges that we are on the traditional territory of many nations, including the Mississaugas of the Credit, the Anishinaabeg, the Chippewa, the Haudenosaunee and the Wendat peoples, and that this land is now home to many diverse First Nations, Inuit, and Métis peoples. We also acknowledge that Toronto is covered by Treaty 13 signed with the Mississaugas of the Credit, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands. We are here because this land has been colonized, and we recognize the ongoing harm done to Indigenous communities by this colonial system, including the effects of broken treaty covenants.

African Ancestral Acknowledgement

Ombudsman Toronto is committed to continually acting in support of and in solidarity with Black communities seeking freedom and reparative justice in light of the history and ongoing legacy of slavery that continues to impact Black communities in Canada. As part of this commitment, we would also like to acknowledge that not all people came to these lands as migrants and settlers. Specifically, we wish to acknowledge those of us who came here involuntarily, particularly those brought to these lands as a result of the Trans-Atlantic Slave Trade and Slavery. We pay tribute to those ancestors of African origin and descent.



Ombudsman

Kwame Addo

Ombudsman's Note: This is the first investigation led by the Housing Unit under Deputy Ombudsman (Housing) Reema Patel and Acting Deputy Ombudsman (Housing) Luke Brown and involved efforts by many staff. This included primary investigative work by Laura Wright and Janina Fogels and additional support from May El-Abdallah. It also involved the work of Investigations Counsel, research, policy, communications, and operations staff.



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Executive Summary

“The guy asked, the one in charge from Central Intake, ‘*what is your status?*’. Then Central Intake would just say ‘*we have no stock and you have to wait*’.”

Refugee Claimant



Executive Summary

Overview

Toronto's homelessness crisis is taking a devastating toll on the people and communities of this city. One vulnerable community is the refugee claimants who arrive in Toronto needing support for their journey towards a better life. When they cannot find housing, they have been turning in increasing numbers to the City's already-stretched emergency shelter system. In 2016, there were an average of 459 refugee claimants sleeping in the shelter system every night. By August of 2023 that number had grown to 3,344.

Refugee claimants are historically disadvantaged individuals. They often come to Canada having escaped horrific wars, occupations, and other human rights abuses. When successfully resettled, they thrive and make significant contributions to our communities and the economy. Canada has signed international agreements to protect them, and this country's federal government, provinces, and municipalities share a responsibility for maintaining basic minimum standards for their treatment, reception, and settlement.

On November 7, 2022, staff at Toronto Shelter and Support Services (TSSS) made the decision to stop allowing refugee claimants access to non-refugee-claimant beds due to a lack of space in the City's non-refugee-claimant shelter system. (The City's base shelter system at the time consisted of 20 overnight shelters run by the City and 81 run by community partner agencies.) The refugee claimants were told there was no room.

During the time period under review, there were about 1,700 refugee-specific beds throughout the shelter system, out of a total of about 9,000 shelter beds system-wide.

The City did not disclose the eligibility change for almost six months, until a news conference on May 31, 2023. Staff and elected officials announced then that they were forced to refer refugee claimants to federal supports because of a lack of funding from the provincial and federal governments. The City did not measure the impact of this eligibility change; it did not track the number of refugee claimants affected, or the reason refugee claimants were not given a bed, whether it was because they were not allowed to access an available base shelter bed, or because there were simply no available beds anywhere in the system. Many refugee claimants were living on the



sidewalk or in make-shift shelters with only limited access to sanitation, food and water.

City Council reversed the eligibility change two months later, on July 19, 2023, but it took almost another two more months for that decision to be put into effect and to return to universal access for shelter users.

In July 2023, I appointed Reema Patel as the inaugural Deputy Ombudsman (Housing) for the City of Toronto to lead a new Housing Unit. The Deputy Ombudsman investigates the fairness of the City's housing policies and procedures, with special emphasis on housing as a human right. This report is the unit's first investigation.

What We Did

On September 21, 2023, I announced that the new Housing Unit would investigate whether the City's decision to stop allowing refugee claimants access to base shelter system beds was fair and in keeping with City policies, procedures, and rules. We looked at the City's actions through the lens of the human right to adequate housing, the City's processes leading up to its decision, and how the decision was communicated to City staff and members of the public.

We chose to investigate this matter even though City Council reversed the eligibility change because we wanted to understand what led to this change, and, depending on the investigation's findings, to see whether there were any recommendations we could make to help the City improve its decision making around shelter eligibility.

This investigation was very narrow in scope. We did not look at the City's overall planning and response to the increase of refugee claimants in the shelter system. I acknowledge that City staff did a lot of important work in this area over the past few years, including adding additional shelter beds for refugee claimants; helping to reconfigure an existing shelter to serve queer and transgender refugee claimants; and supporting refugee claimant families by helping them access emergency funds and find temporary hotel spaces. But we did not investigate this overall effort and make no findings on it.

What we looked at was the very specific decision to stop allowing refugee claimants access to base shelter beds.

Our team reviewed the actions and decisions of several City divisions, including Toronto Shelter & Support Services (TSSS), the City's Social Development, Finance & Administration (SDFA), the Office of the Deputy City Manager, the Community & Social Services Division, to whom TSSS reports, and the City Manager's Office. We reviewed



thousands of emails and documents, and interviewed two members of City Council, 19 refugee claimants, 28 members of City staff, and many people providing services, facilities, and shelter to refugee claimants. We also visited three churches sheltering refugee claimants, and one program providing shelter to refugee claimants.

We also examined and analyzed relevant laws and policies. This report provides an analysis of those relevant laws and policies, but it does not constitute legal advice to the City.

What We Found

My investigation found the City of Toronto acted unfairly when it decided to stop allowing refugee claimants into the City's base shelter system. This was also inconsistent with the City's commitment to the right to adequate housing for everyone living in Toronto. I also have concerns with how the decision was carried out: it was poorly thought out, planned for, and communicated. The City did not advance the right to adequate housing for all. The decision amounted to systemic discrimination on the basis of citizenship and race, specifically, anti-Black racism. The decision was contrary to several of the City's own policies – namely the Housing Charter, the Toronto Shelter Standards, and Access T.O.

There was also a lack of transparency and accountability. Our investigators could not determine who made the decision to stop allowing refugee claimants into City's base shelter system. There is no clear written record documenting the City's decisions, and staff have differing opinions about what happened and when. Refugee claimants were not told why they were being asked about their immigration status. Refugee claimant-serving organizations and the public were not informed when the eligibility criteria were initially changed.

City Council had earlier told staff to develop a separate shelter program to help meet the special needs of refugee claimants. During the investigation, staff often pointed to this Council decision as justification for not allowing refugee claimants to use other parts of the City's shelter system. But fairness required that staff be upfront with the public and Council about their plan to stop admitting refugee claimants into non-refugee claimant beds. This did not happen.



Toronto's Housing Charter and the Right to Housing

Non-discrimination is a pillar of the right to adequate housing. In my opinion, the decision to stop allowing refugee claimants into the base shelter system constituted systemic discrimination based on race and citizenship, something prohibited under the Ontario *Human Rights Code*, the City's Housing Charter, and several City policies. Specifically, it amounted to anti-Black racism, as many or most of the refugee claimants who were affected came from African countries. Even if some refugee claimants continued to be referred to non-refugee-claimant-designated shelter beds, the change, as planned and implemented, was discriminatory on its face.

To be clear, my investigation could not establish that the City's eligibility change caused widespread and direct harm to all refugee claimants trying to access Toronto's shelter system.

Rather, the decision itself, and the way it was implemented, are what concern me.

At no point do I think City staff intended to discriminate against the refugee claimants, but under human rights law, and the City's human rights policy, it is the effect or consequence of their actions or policies that matter, not the intent.

Toronto's Housing Charter commits the City to equal treatment with respect to housing, without discrimination, including discrimination based on homelessness or housing status. The Housing Charter also says all people have a right to a safe, secure, and affordable home.

City Policies Not Followed

The decision to exclude refugee claimants from the City's base shelter system not only went against the Ontario Human Rights Code, and was not consistent with the Housing Charter, it also went against two other important City policies:

- The Access T.O. policy states the City cannot deny service to people because of their immigration status, including that of being a refugee claimant. The Access T.O. policy also says staff must also explain to people why they are being asked about their immigration status. The applicants were not told they could lose access to a shelter bed if they disclosed they were a refugee claimant.



- Toronto’s Shelter Standards say, “all persons have the right to seek shelter services.” Staff used immigration status, not just to refer refugee claimants to a suitable shelter, but to stop allowing them access to the base shelter system.

Poor Planning and Implementation

TSSS did not consult with organizations supporting and helping refugee claimants before deciding to stop allowing refugee claimants into the City’s base shelter system. They did also not consult with the City’s Confronting Anti-Black Racism Unit (CABR), which ensures that municipal services are inclusive and accessible to Black Torontonians. Decision-makers at TSSS gave the Toronto Newcomer Office (TNO) just two days to provide input. They did not consult with the Human Rights Office (HRO) until late June 2023, long after the eligibility change was already put into place.

Intake staff did not have clear instructions or phone scripts for more than six months on how to respond to refugee claimants seeking shelter beds. After May 2023, staff told refugee claimants to instead call Service Canada or Immigration, Refugee and Citizenship Canada (IRCC) for help. This advice was unhelpful at best as TSSS management knew the refugee claimants who called would not get any help with finding somewhere to sleep at either organization.

In the weeks following the May announcement, media reported that groups of refugee claimants, predominantly Black and from African countries, were sleeping on the street outside the City’s shelter referral centre at 129 Peter Street. Refugee claimants we interviewed told us they repeatedly called Central Intake and were unable to find a place to sleep in a City shelter. While many of these people were likely turned away because there were no beds available anywhere in the system, some staff confirmed that at least some refugee claimants were turned away, even when shelter beds were available.

Delayed Reversal

On July 19, 2023, Council passed the newly elected Mayor’s motion to ensure that “everyone regardless of status is able to access the City’s shelter system as spaces become available,” which appeared to mean ending the exclusion of refugee claimants from the City’s base shelter system. And the Mayor apologized for how they were treated. But staff at TSSS did not carry out Council’s decision for almost two months, until an article in the Toronto Star disclosed that refugee claimants were still being refused beds in the non-refugee-claimant shelter system.



Recommendations

Without all three orders of government working together, the City will continue to be in a state of crisis when it comes to refugee claimant housing. The City cannot solve the problem on its own; it depends on money and support from the provincial and federal governments. However, when funds are insufficient, the City must still act in a way that is consistent with its commitments and policies to help newcomers.

Considering this report's findings and information gathered in my investigation, I have made 14 recommendations to the administration of the City of Toronto.¹ They include that:

- All future changes to refugee claimant shelter eligibility should conform to the Ontario Human Rights Code, the City's Human Rights and Anti-Harassment/Discrimination Policy, Access T.O., and the Toronto Shelter Standards. Any proposed changes should be reviewed by the City's Human Rights Office, the Confronting Anti-Black Racism Unit, the Toronto Newcomer Office, and other relevant internal experts before their implementation.
- All senior TSSS leadership and staff involved in shelter policy development should be trained in the Anti-Black Racism Analysis Tool. All new shelter policy staff, as part of their onboarding, should be trained in this tool as well.
- The City should develop a comprehensive strategy for meaningfully engaging with refugee claimants and refugee claimant-serving organizations to help plan and deliver shelter services impacting refugee claimants. This strategy should include clear definitions of "meaningful engagement" and set out how the City will incorporate the feedback it receives.
- The City Manager, Deputy City Manager (Community & Social Services), and the General Manager of Toronto Shelter & Support Services, should meet with the Chair of the Housing Rights Advisory Committee and the Executive Director of the Housing Secretariat to discuss the City's obligations to progressively realize housing as a human right.

¹ The full list of recommendations can be found on page 112.



The City Manager's Response

As a matter of procedural fairness, I provided several opportunities for the City Manager and relevant City staff to share feedback on the draft report. I considered their responses and incorporated the information that was relevant and in scope.

On November 26, 2024, the City Manager wrote that he would receive the report on behalf of the organization, but that he did not agree with the report's findings and, subject to Council's decision on the report, would not take any further action in response to the recommendations.

I responded directly to the City Manager and have included his letter and my response as Appendix C and D to this report. What follows is a brief summary of both letters.

In his letter, the City Manager set out:

- The context around the funding challenges facing the City's shelter system, and steps the federal government began taking to support refugee claimants towards the end of 2023.
- Why he disagreed with our assessment of the City's Housing Charter and Access T.O. policy.
- His belief that the report shows a lack of understanding about divisional roles and responsibilities in the City's shelter response, in particular with respect to the TNO.
- His belief that the tone of the report is accusatory in many places and reflects a lack of understanding of the context the City was in at the time as well as roles and responsibilities of other orders of government.

The City Manager previously raised very similar concerns with me, and I had considered and addressed that feedback in the final draft report.

In my response letter, I noted that my report describes the extremely difficult context in which the City was operating, and that the focus of my report was on the City's actions, since we do not have jurisdiction over other orders of government.

It appears that we have a different view on the implications of the nature and applicability of the Housing Charter. The City takes the position that the "right to adequate housing" set out in the Housing Charter is an "aspirational statement that the City works towards." I disagree. The Council-approved Housing Charter is not merely an aspirational statement. It is part of the HousingTO 2020-2030 Action Plan, and



contains 13 implementation steps. The City's policy is "to move deliberately to further the progressive realization of the right to adequate housing recognized in the International Covenant on Economic, Social and Cultural Rights." As a result, the City has an obligation to uphold and progressively implement the right to adequate housing.

And while the City Manager believes that staff were following the steps required in the policy, my report identifies serious gaps in its response. This includes staff failing to adequately consult with affected people, meaningfully consult the City's own experts, and consider the human rights impacts of its decision.

We also disagree on the application of the Access T.O. policy. The City Manager takes the position that the City has never used immigration status to deny clients access to shelter services, and that "staff use a client's refugee status to connect them to the most appropriate programs and services to meet their specific needs." The report shows that the direction given to City staff was that if a refugee claimant disclosed their immigration status to shelter intake workers, that individual had to be offered a bed only in a refugee-designated program and nowhere else. My investigation found that because of this direction, at least some refugee claimants were not given a base shelter bed when one was available.

On the roles and responsibilities of City divisions in administering the City's shelter response, my report is clear that TSSS is responsible for the shelter system, and that they should have consulted the TNO when making the shelter eligibility decision about refugee claimants, since that unit is responsible for the stewardship of the Access T.O. policy.

I noted my disappointment that the City Manager said he will not accept the report or act on its recommendations unless instructed by Council. This is the first time in the history of the Ombudsman's office that the Toronto Public Service has rejected my findings and recommendations in their entirety. In doing so, the City is missing an opportunity to improve its services and advance its commitment to the right to adequate housing.

I am asking Council to direct staff to implement my recommendations. If Council chooses to do so, I will, as always, work collaboratively with staff on the implementation of these recommendations as we advance our shared interest of building a fairer City.

Background

“It was bad. We used to walk around looking for somewhere where the [cardboard boxes] are thrown [out] so you can pick them [up] and use them as mattresses. You don’t have anything to cover yourself.”

Refugee Claimant



Background

1. The City of Toronto has a long tradition of serving newcomers to the city regardless of their citizenship status. This includes refugee claimants and asylum seekers.² It does this through policy-making, program development, and service delivery. Under the Canadian Constitution, immigration is an area of shared federal-provincial jurisdiction. Federal cost-sharing programs, which are the subject of ongoing negotiations, help provinces and municipalities support newcomers to settle and integrate.
2. It is in this context that my office undertook its investigation into the City's treatment of refugee claimants in the provision of shelter space from April 2022 to October 2023, with a focus on the City's decision to stop allowing refugee claimants access to non-refugee-claimant specific spaces in the shelter system.
3. On May 31, 2023, senior City staff and two elected officials held a news conference at which they announced that on June 1, 2023, the City would begin referring refugee claimants looking for a shelter bed to programs and services available to them through the federal government.³
4. They said the City's shelter system was at capacity most nights, despite the fact that the City had added thousands of shelter spaces over the past seven years, and listed several reasons why the need for shelter services kept increasing.
5. At the news conference they explained that, "[b]ecause other orders of government have not provided the crucial funding Toronto needs, the City [was] making difficult decisions in its continued response to the unprecedented demand for emergency shelter across the city."

² Please note that we are using the term "refugee claimants" as an umbrella term to include refugees, refugee claimants, and/or asylum seekers, who may or may not have started an application for asylum.

³ City of Toronto, "City of Toronto updates on shelter system pressures and calls for a sustainable, fair funding model to support people experiencing homelessness." May 31, 2023. <https://www.toronto.ca/news/city-of-toronto-updates-on-shelter-system-priorities-and-calls-for-a-sustainable-fair-funding-model-to-support-people-experiencing-homelessness/>. Accessed August 22, 2024.

McKelvie, Jennifer, "Deputy Mayor Jennifer McKelvie Delivers Shelters Update, May 31, 2023." Uploaded by the City of Toronto, May 31, 2023. <https://www.youtube.com/watch?v=Li5FeWrjANs>. Accessed August 22, 2024.



6. They also said that “[s]tarting on June 1, if space is not available for refugees or asylum seekers in the shelter system, we will be referring them to the federal Immigration, Refugees and Citizenship Canada programs for support.”
7. Over the following weeks, news stories⁴ emerged describing groups of refugee claimants, predominantly Black and from African countries, sleeping on the street outside the City’s downtown shelter referral centre (the Streets to Homes Assessment and Referral Centre – known as SHARC – at 129 Peter Street), apparently unable to find a place to sleep in a City shelter. This led to community organizations and churches, many of them Black-led, stepping in to provide support to refugee claimants who were unable to access shelters.
8. On July 19, 2023, Toronto City Council adopted a motion⁵ to “continue providing refugee-serving shelter spaces to meet the unique needs of refugees while also ensuring everyone regardless of status is able to access the City’s shelter system as spaces become available.” This motion effectively reversed the decision to not allow refugee claimants into the base shelter system.
9. These events raised important questions about the City’s commitment to its human rights obligations, the transparency and accountability of its decision-making, and the impact of its actions on a vulnerable group of people.
10. As a result, I decided to launch an investigation. As I said at the time:

There is no doubt that the City of Toronto is facing a housing crisis. Even so, the City has an obligation to treat all people in Toronto fairly, with dignity, respect, and care. I am launching an investigation to determine if the City’s decision to deny non-refugee shelter spaces to refugee claimants and asylum seekers met that obligation.

11. The issue I investigated is a sign of the growing homelessness crisis, which takes a devastating toll on people and communities in Toronto. Complicating

4 Bingley, Matthew and Jackson, Hannah, “Asylum seekers left on hot Toronto pavement amid funding battle.” Global News, July 5, 2023, <https://globalnews.ca/news/9813138/asylum-seekers-toronto-funding-battle/>. Accessed August 22, 2024.

5 City of Toronto, City Council Decision of July 19, 2023, “MM8.29 - Securing Shelter and Support for Refugees - by Mayor Olivia Chow, seconded by Deputy Mayor Jennifer McKelvie.” <https://secure.toronto.ca/council/agenda-item.do?item=2023.MM8.29>. Accessed August 22, 2024.



this matter are the City's serious budget challenges and funding disputes between all three orders of government.

12. The right to adequate housing, which is set out in international law, committed to in federal law, and recognized by the City of Toronto in its Housing Charter, means that all people have a right to a home that is safe, secure, and affordable, without discrimination, and to have a voice in decisions and policies that affect their housing. For many, including refugee claimants, temporary and emergency shelters are their only accommodation option.
13. While the City cannot, and should not be expected to, solve the housing crisis on its own, it must use all available resources and tools to continually move forward and progressively realize people's right to adequate housing.
14. Without all three orders of government working together, the City will continue to be in a state of crisis response, shouldering the majority of the responsibility in furthering the progressive realization of the right to adequate housing, including for refugee claimants.
15. But the City must do all it can to ensure the entire shelter system functions in a way that upholds the right to adequate housing of all individuals in the system.

About Ombudsman Toronto and My Investigation



About Ombudsman Toronto and My Investigation

Ombudsman Toronto and the Housing Unit

16. Ombudsman Toronto is an independent and impartial accountability office with the authority to review and investigate complaints about the administration of the City of Toronto, its divisions, agencies, boards, and corporations.
17. In July 2022, City Council requested the Ombudsman consider the resources and structure required to create a Housing Unit, led by a Deputy Ombudsman (Housing). I agreed and appointed a Deputy Ombudsman (Housing) in July 2023. Our office has worked to ensure accountability and fairness in housing matters since it opened its doors to the public in 2009.
18. The Housing Unit has a specifically focused mandate to assess the implementation of the City's housing plans through a human right lens. With this new unit, we are focused not only on the fairness of the City's actions, but also on the City's efforts to advance the progressive realization of the human right to adequate housing for all residents. As part of our work, the Housing Unit carries out investigations related to systemic housing discrimination and systemic hurdles in the City's housing planning and service delivery roles, makes recommendations to help the City fulfil its housing rights obligations, and advocates at a systems level for the right to adequate housing.
19. We use the word "obligation" to describe what we expect of the City when we investigate its policies, procedures, programs, and all other housing-related action it takes. We are not giving the City legal advice or referring to technical legal obligations. We are holding it to account for the promises it has made to advance the right to adequate housing.



Administrative Fairness and Housing as a Human Right

20. My past investigations have focused on administrative fairness, which ensures decisions are arrived at fairly. The concept is based on the recognition of natural justice and procedural fairness.
21. Examples of administrative unfairness include:
 - Unreasonable delay;
 - Incorrect action or failure to take any action;
 - Failure to follow established procedures;
 - Failure to provide adequate information;
 - Misleading or inaccurate statements; and,
 - Inappropriate or incorrect application of policy, procedure, or practice.
22. In this investigation, I also looked at the City's actions through the lens of the human right to adequate housing. In 2019, the City of Toronto updated its own Housing Charter to guide its decision-making, policy development, resource allocation, and service delivery on housing. The Housing Charter adopts a human rights-based approach to housing based on key principles, including that all residents have a right to:
 - A safe, secure, affordable home;
 - Housing that is maintained in a state of good repair;
 - Housing that is accessible;
 - Housing that is culturally appropriate,
 - A home that is part of a complete community with equitable access to a range of opportunities;
 - An equal stake and voice in decisions and policies affecting their communities and their housing; and,
 - Equal treatment with respect to housing, without discrimination, including based on homelessness or housing status.



23. We looked at whether the City's actions were consistent with its Housing Charter and the principles of administrative fairness.⁶

Methodology

Scope

24. The investigation focused on the City's decision to stop allowing refugee claimants to access spaces in City shelters that were not specifically designated for them. The timeline we focused on was from April 6, 2022, to October 3, 2023. We chose April 6, 2022, as the starting date because on that date City Council directed Toronto Shelter & Support Services (TSSS, formerly SSHA)⁷ to begin work on creating a separate shelter system for refugee claimants. We chose October 3, 2023, as the end date since it was shortly after the reversal of the City's decision to stop allowing refugee claimants into the base shelter system.
25. We chose to investigate this matter even though City Council had reversed the eligibility change because we wanted to understand what led to this change, and, depending on the investigation's findings, to see whether there were any recommendations we could make to help the City improve its decision making around shelter eligibility.
26. This investigation was narrow in scope. We did not look at the City's overall planning and response to the increase of refugee claimants in the shelter system. We did not look into the adequacy of staff's efforts to expand the number of shelter spaces available specifically for refugee claimants, or at the City's efforts to advocate for more resources from the federal and provincial governments. What we looked at was the very specific decision to not allow refugee claimants into non-refugee-claimant shelter beds.
27. We considered:
 - The City's processes leading up to its decision;

⁶ More detail on how we interpret and apply the right to housing can be found in Appendix A.

⁷ After we started this investigation, the Shelter, Support and Housing Administration Division ("SSHA") was renamed Toronto Shelter & Support Services ("TSSS"). In this report, we will refer to the division as TSSS.



- The City's communication about its decision, including with City staff and members of the public; and,
 - Whether the City's decision and its implementation were fair and in keeping with City policies, procedures, and rules.
28. Ombudsman Toronto's jurisdiction is limited to the actions of the City administration. Questions about funding for refugee claimant shelter beds and provincial or federal decision-making, including what steps the federal or provincial governments should have taken to better support refugee claimants, fell outside the scope of this investigation.
29. Our team reviewed the actions and decision-making processes of various City divisions involved in this matter, including but not limited to, Toronto Shelter & Support Services (TSSS), Social Development, Finance & Administration (SDF), the Office of the Deputy City Manager (DCM), Community & Social Services, to whom TSSS reports, and the City Manager's Office.
30. As a matter of fairness, we provided a draft copy of my report to the City to review and gave them an opportunity to respond to it. We considered the City's feedback and made changes to the report as I deemed appropriate.

Documents and Interviews

31. During this investigation, we:
- Reviewed thousands of emails and documents (several of which had more than 10,000 pages each);
 - Interviewed 72 people, some more than once, including the two members of City Council who participated in the May 31, 2023, announcement, 19 refugee claimants, 28 City staff members, several leaders in the refugee-claimant-serving sector, healthcare practitioners working with the refugee claimant population, community advocates and frontline outreach workers, and faith leaders who provided shelter in their facilities;
 - Visited three churches sheltering refugee claimants and one refugee-claimant-serving shelter program; and,
 - Conducted legal and interjurisdictional research.
32. One of the challenges this investigation faced was establishing a concrete timeline of events, given the lack of a clear written record to document the City's decisions, and differing opinions from staff about what happened and when.



Toronto's Shelter System

33. TSSS oversees the City's emergency shelter system. The City's shelter system is the largest in Canada, and, according to TSSS, it provides significantly more service per capita than other communities in the Greater Toronto and Hamilton Area (GTHA).⁸
34. Between April 2022 and October 2023, the City directly operated 20 shelters. The City also had contracts with 81 "Purchase of Service" (POS) shelters that are also considered to be part of the base shelter system. The City provides POS shelters with funding but does not directly operate them.

The Base Shelter System and Refugee Beds

35. The City of Toronto's base shelter system offers emergency shelter and overnight services for individuals and families experiencing homelessness. These programs also support clients with their housing applications, including but not limited to, Rent-Geared-to-Income (RGI) housing, private market housing, and referrals to community and health services.
36. In addition to the base shelter system, the City runs shelter programs for temporary responses, including COVID-19 response programs and programs for the winter season and extreme weather. While shelter programs for refugee claimants have traditionally been categorized as temporary responses outside the base system, there are a number of permanent shelter programs specifically designated and with specialized services for individual refugee claimants and families. Family refugee claimants are triaged separately. Non-refugee-claimants cannot access these refugee-specific programs.

⁸ Overview of Toronto's Shelter System and Support for People Experiencing Homelessness, Toronto Shelter & Support Services Presentation to the Housing Rights Advisory Committee, citing Statistics Canada, Table 98-10-0002-01: Population and dwelling counts: Canada and census subdivisions (municipalities); Statistics Canada, Table 14-10-0353-01; Homeless shelter capacity, bed and shelter counts for emergency shelters, transitional housing and domestic violence shelters for Canada and provinces, Infrastructure Canada (2021) (May 13, 2024). <https://www.toronto.ca/legdocs/mmis/2024/hs/bgrd/backgroundfile-245513.pdf>. Accessed October 21, 2024.



37. During the time period under review, there were about 1,700 refugee-claimant-specific beds throughout the shelter system, out of a total of about 9,000 shelter beds system-wide.
38. On April 6, 2022, Council directed TSSS to create a distinct refugee-claimant-serving system within the base shelter system in addition to temporary refugee response programs.
39. During the period in question, TSSS funded refugee-claimant-specific shelter programs run by community partner agencies. COSTI, Sojourn House, Christie Refugee Welcome Centre, Toronto Community Hostel, and FCJ Refugee Centre were the POS refugee-claimant-specific shelters that made up TSSS's "base – refugee" category in its information system (known as SMIS).⁹ There were also various temporary programs: three Red Cross-operated hotels, two COSTI-operated hotels, Homes First, Knight's Inn, and the Pacewood shelter. Of note, the Pacewood shelter, which opened in November 2022, is dedicated to 2SLGBTQIA+ people and focuses on supporting newcomers and refugee claimants.
40. To refer people to emergency shelter beds, TSSS operates Central Intake, a 24/7 call centre, as well as the Streets to Homes Assessment and Referral Centre (SHARC) in the downtown core at 129 Peter Street. At SHARC, staff help people access emergency shelters and other services in the city, including meal programs and drop-in sites. It also runs a program with shelter beds (during the period under review, this was around 30 beds). According to staff, these beds are reserved for people who are chronically homeless – those who, for various reasons, might have a difficult time accessing regular shelter beds.
41. The City also told us they have been leading conversations with the federal and provincial governments about the supports needed for refugee claimants since September 2021, when borders reopened after the COVID-19 pandemic. City leadership stated that "no provincial or federal counterpart was unaware of the growing humanitarian crisis in Toronto or the City's specific requests for support."

⁹ The funding to the various POS shelters changed at times so they were not always receiving funding from the City.



Other Relevant City and Federal Divisions and Bodies

42. Several City and federal government bodies are involved in this investigation. The following is a list and description of the key ones.

Social Development, Finance & Administration

43. The Social Development, Finance & Administration (SDFA) Division helps the City develop and provide social programs and services to promote community engagement and foster strong communities. This Division provides support and leadership to the Deputy City Manager, Community & Social Services, and City Council.

Toronto Newcomer Office

44. Housed within SDFA, the Toronto Newcomer Office (TNO) provides leadership on issues related to newcomers and immigration at the City while promoting inclusion and well-being for all newcomers.

Human Rights Office

45. The Human Rights Office (HRO) provides aid, information, and confidential advice related to various human rights issues pertaining to harassment and discrimination, while also supporting members of the Toronto Public Service, members of Council, and the public. The HRO reports to the Director, Equity & Human Rights, who in turn reports to the Chief People Officer.

City Manager and Deputy City Manager

46. The City Manager is the most senior public servant, reporting directly to City Council, and is responsible for the programs and services delivered by members of the Toronto Public Service.
47. Four Deputy City Managers report to the City Manager. The relevant Deputy City Manager for this investigation is responsible for Community & Social Services, and oversees TSSS and SDFA, among others.



Confronting Anti-Black Racism Unit

48. Housed within SDFA, the Confronting Anti-Black Racism Unit (CABR) was established in 2017 by the City to implement the Toronto Action Plan to Confront Anti-Black Racism. This plan was created to acknowledge and respond to the priorities highlighted by Toronto's diverse Black communities.
49. The CABR Unit supports cross-divisional efforts to identify and remove systemic barriers experienced by Black Torontonians, and ensure that municipal services, spaces, and policies are fully inclusive and accessible to Black Torontonians.
50. One of the action items in the Toronto Action Plan to Confront Anti-Black Racism is to “apply an Anti-Black Racism Analysis to shelter standards and procedures.”¹⁰
51. One of the CABR Unit's resources is the Anti-Black Racism Analysis Tool,¹¹ which encourages the adoption of an Anti-Black Racism Analysis in the development and execution of policies and programs. The tool's main component is a set of questions that can be used to guide decision-making. This tool is meant to apply to all municipal services, spaces, and policies.
52. There is also a separate CABR team housed within TSSS, and it is made up of staff from that division.

Immigration, Refugees and Citizenship Canada

53. Immigration, Refugees and Citizenship Canada (IRCC) is the federal government department responsible for immigration to Canada, refugee claimants, and Canadian citizenship. The IRCC contracts hotels to serve as emergency shelter for refugee claimants.

¹⁰ Toronto Action Plan to Confront Anti-Black Racism, Action 10.2. <https://www.toronto.ca/wp-content/uploads/2022/11/9875-EDC-TORONTO-ACTION-PLAN-TO-CONFRONT-ANTI-BLACK-RACISM.pdf>. Accessed October 21, 2024.

¹¹ City of Toronto, Confronting Anti-Black Racism Unit, Anti-Black Racism Analysis Tool. 2023. <https://www.toronto.ca/wp-content/uploads/2023/01/9513-CABR-Anti-Black-Racism-Analysis-Tool-UPDATED-002.pdf>. Accessed August 22, 2024.



Service Canada

54. Service Canada is the federal government's program that members of the public use to access various social programs and services, such as passport issuance, the Employment Insurance program, Old Age Security, and the Canada Pension Plan. Service Canada is operated by Employment and Social Development Canada, a department of the federal government. Service Canada does not provide temporary or emergency shelter and is not a pathway to access federally run shelters.

Legislative and Policy Framework

55. What follows are some of the key laws and policies that we examined in deciding whether the City's actions were fair and consistent with its human rights obligations.

City of Toronto Act

56. The City of Toronto Act (COTA) is the legislative framework that governs Toronto and sets out its governance structure, accountability, financial management, service provision, and much more. COTA sets out the respective powers of City Council and City staff, and the authority to delegate decision-making to Council, staff, and boards.

Ontario Human Rights Code

57. The Ontario Human Rights Code is a provincial law that sets out human rights obligations the City must follow. This is relevant because, as we describe below, the City's actions involved refugee claimants who have protected rights under the Code.

The City of Toronto Municipal Code

58. The Municipal Code is the collection of the City's bylaws. This includes those bylaws that deal with the administration of government and establishing or regulating municipal divisions, as well as those that govern officers and employees of the municipal government and its divisions.



Toronto Housing Charter and the Right to Adequate Housing

59. In July 2019, the federal government adopted the *National Housing Strategy Act*.¹² This law declares that it is the housing policy of the government of Canada to recognize that the right to adequate housing is a fundamental human right affirmed in international law. Five months later, the City adopted the Housing Charter, part of the 2020-2030 HousingTO Action Plan,¹³ incorporating the international human right into its own policy¹⁴ and in line with the federal legislation. The HousingTO Action Plan establishes a human rights-based approach to all of the City’s housing efforts, which includes the delivery of temporary housing and emergency shelter services.

Human Rights and Anti-Harassment/Discrimination Policy

60. This policy guides the City in preventing and addressing harassment and discrimination in its service delivery and employment practices. The goal of the policy is to recognize the dignity and worth of every person (whether resident, service recipient, or employee) and to create a climate of understanding and mutual respect.

Access to City Services for Undocumented Torontonians (Access T.O.)

61. The Access T.O. policy directs City staff to provide services to all Torontonians regardless of their immigration status. “Services” includes access to shelters. The policy states that immigration status (defined as “a non-citizen’s position in a country—for example, permanent resident or visitor”) is not a requirement and has no bearing on eligibility to receive municipal services, with some exceptions. This policy is also referred to as “Sanctuary City.” More detail can be found at Appendix B.

¹² S.C. 2019, c. 29 s. 313.

¹³ City of Toronto, HousingTO 2020-2030 Action Plan, Toronto Housing Charter – Opportunity for All. 2022. <https://www.toronto.ca/wp-content/uploads/2022/02/948f-Toronto-Housing-Charter-2020.pdf>. Accessed August 22, 2024.

¹⁴ Estair Van Wagner and Alexandra Flynn, “Human Rights Cities: Realizing the Right to Housing at the Municipal Scale,” *UBC Law Review*, Vol. 571:1 (2024), p. 261.



Toronto Shelter Standards

62. The Toronto Shelter Standards¹⁵ are a set of requirements and guidelines for shelter services in the City. All shelters that are funded or operated by the City must follow these standards. In particular, they direct shelter staff on how and when to collect immigration information in the Shelter Management Information System known as “SMIS.” The Toronto Shelter Standards state that shelter providers will not use immigration status as a basis to deny clients access to shelter services. More detail can be found at Appendix B.

¹⁵ City of Toronto Shelter, Support & Housing Administration, Toronto Shelter Standards, Version 5, 2023. <https://www.toronto.ca/wp-content/uploads/2023/03/9828-Toronto-Shelter-Standards230328AODA.pdf>. Accessed August 22, 2024.

Overview

“It was a big rain. All of your documents were destroyed. Even my document which I took at the airport was very damaged.”

Refugee Claimant



Overview

63. The following sections describe, in chronological order, what happened over two different time periods: in 2022, when the City made the decision to stop allowing refugee claimants access to shelter system beds which were not designated for refugee claimants; and in 2023, when the City held a news conference announcing it would refer refugee claimants to “programs and services available to them through the federal government.”
64. I then consider the impact these actions had on refugee claimants. I also review the policies and rules that apply and the degree to which the City’s actions were consistent with those policies.
65. Finally, I make recommendations to ensure that in the future, when the City makes changes to the eligibility criteria for its shelter system, it does so in a way that is principled, administratively fair, and consistent with its human rights obligations.

Facts

“What we were told is ‘all you have to do is call the housing intake.’ So you call housing intake. First and foremost, we didn’t have Canadian numbers, so we had to look for someone with a Canadian number to call. And you’re told the best way to get support is to call every two hours. How can you do that if you don’t have a [Canadian] line to call [with]?”

Refugee Claimant



Facts

66. This story goes back further than we initially thought when I launched this investigation. The City actually made the decision to stop allowing refugee claimants access to the base shelter system in November 2022, but did not publicize it. Then, on May 31, 2023, the City went public with a news conference to announce that they would be referring refugee claimants to federal supports if no refugee beds were available.

2022: City Makes Changes to Shelter Eligibility for Refugee Claimants

67. On April 6, 2022, City Council adopted a staff report called “EC28.9 - COVID-19 Shelter Transition and Relocation Plan Update,”¹⁶ which proposed a new, separate “refugee shelter sector” that would operate in parallel to the existing shelter system, referred to as the base shelter system, on the basis that:

Refugee serving programs are distinct in many ways from services provided in the rest of the shelter system – they offer specialized services and serve a population with distinct needs. Creating a distinct refugee service sector will allow us to better understand and monitor demand for services from very different causes [...]

68. The report explained the growing demand for shelter beds from refugee claimants coming to Toronto. In 2016, according to City data, an average of 459 refugee claimants were accessing the shelter system every night. That grew to 3,209 in 2018. There was a significant drop during the pandemic, with a low of 537 in September 2021. But that number grew once federal borders reopened: there were 1,176 as of March 6, 2022, 1,897 in August 2022, and 3,344 as of August 27, 2023.

¹⁶ City of Toronto, City Council Decision of April 6, 2022, “EC28.9 - COVID-19 Shelter Transition and Relocation Plan Update.” https://secure.toronto.ca/council/agenda-item.do?item=2022_EC28.9. Accessed August 23, 2024.



69. The April 2022 report said creating a new separate refugee-claimant-only system was meant to improve outcomes for refugee claimants. Nowhere in this staff report did it say that the City planned to stop allowing refugee claimants access to the base shelter system. However, throughout this investigation, many staff cited this report as the authority for the decision to stop allowing refugee claimants access to the base shelter system.
70. In late September and early October 2022, TSSS created a Refugee Working Group to plan the new refugee-claimant-only shelter system. This group's membership appears to have shifted over time, but at this point, it included two policy development officers, a manager, and two directors from the division.
71. On October 6, 2022, a member of the Refugee Working Group emailed the General Manager of TSSS, listing several key recommendations for their work, including:
- That “the policy framing for this work be rooted in SSHA's [now TSSS] Council-approved direction to create a dedicated refugee shelter system.” This refers to the report Council adopted in April 2022 described above.
 - The division create eligibility criteria for this separate shelter system versus the base shelter system.
 - If the refugee claimant system became full, TSSS’s response would “be something like ‘The refugee shelter system is at capacity, a waiting list will be established, and newly arriving refugee claimants will be referred to Service Canada for support.’”
 - TSSS consult with the City’s Legal Services Division and the HRO about the above quoted message.
 - The division develop “operationalization procedures” for Central Intake and staff at SHARC.
72. The TSSS General Manager replied by email that day, saying:

This is not about denying service but about dealing with the reality that we only have so much service to offer based on our Council approved budget. The service needs to meet the demands of the many people we work with. Currently there is a disparity in that refugee claimants can access the refugee and non-refugee-claimant shelter programs while non-refugee claimants can only access the non-refugee claimant programs. Data shows that fewer and fewer beds are available for non-



refugee claimants whose needs are diverse but distinct from refugee claimants.

73. The Refugee Working Group developed a draft workplan setting out the groups they were planning on consulting as they developed this new shelter system. This included the TNO, the Legal Services Division, the Human Rights Office, the CABR Unit, and organizations in the refugee-claimant-serving sector. The workplan also set out the need to establish eligibility criteria for this new system, how to classify the new system in SMIS, procedures for front-line staff, and how to communicate internally about this new system.
74. On October 18, 2022, a TSSS manager in the Refugee Working Group emailed the draft workplan to a former TNO manager with considerable expertise in the refugee-serving sector who was, at that time, in a different position at the City. This individual replied that referrals to Service Canada “could be a dangerous proposition in [the] case of undocumented clients,” and that Central Intake staff should not be asking for immigration status when finding people shelter beds, “unless that is a formal requirement of a funding agreement in place for this work.”
75. We asked this staff member what they meant by “a dangerous proposition in [the] case of undocumented clients.” They told us that referring a refugee claimant to any authority without understanding the refugee claimant’s circumstances could lead to a risk that they are detained or deported.
76. The TSSS manager told us they shared this advice against the Service Canada referral with the rest of the Refugee Working Group, and noted to us that staff did not make the referral at that time.
77. On October 20, 2022, two members of the Refugee Working Group met with two members of the TNO. The minutes from this meeting say the TNO was “supportive of our approach.” When we asked TNO staff what that meant, they told us that they did not understand that TSSS was planning to stop allowing refugee claimants into to the base shelter system. Instead, their understanding was that they were helping TSSS prepare for consultations with refugee-claimant-serving shelters.



Implementation

78. On November 1, 2022, a Refugee Working Group member prepared a plan for the approval of the TSSS General Manager to implement what they described as a service change. This Refugee Working Group member sent an email to the General Manager, other key directors and managers at TSSS, and the rest of the Refugee Working Group, saying:

In regards to single refugees, we have met with Central Intake and they are prepared to change their approach starting this week. This means [Central Intake] will stop placing single refugees into non-refugee bedded programs. Clients will be asked to call back when all refugee-programs are full.

Pending your go-ahead, [the Policy Development Officer with the Refugee Working Group at TSSS] will communicate this change to [the Central Intake Manager's] team & we will support [Central Intake] with key messages/FAQ.

79. The Refugee Working Group member also wrote that they were not able to “touch base” with refugee-claimant-serving providers ahead of the service change:

...the working group was planning to touch base with each refugee-serving provider before releasing this communication, in an effort to do this work in a good way. We understand that this is not feasible at this time, but wanted to flag it for you.

80. The email included a draft directive. A directive is a formal document that sets out a change to the Toronto Shelter Standards and must be approved by the General Manager.¹⁷

81. The subject of this draft directive was “Refugee Shelter Response: Eligibility Requirements for Single Clients,” and it said:

¹⁷ 2.4.5 Updating the Toronto Shelter Standards (TSS). Toronto Shelter Standards, above.



As of November 1, 2022, **single refugees / refugee claimants** are only eligible for services within the refugee shelter system. This change will begin to increase base shelter capacity, and the opportunity for local referrals.

SSHA's family sector, 24-hour respite programs and drop-ins will continue to operate without eligibility requirements for access.

[emphasis in original]

TSSS never finished or issued this directive.

82. Instead, the General Manager authorized the change, via email, to divert refugee claimants to shelter beds designated only for them, and to stop allowing refugee claimants access to non-refugee-claimant-designated shelter beds. The General Manager responded to the Refugee Working Group member and members of their leadership team that same day on November 1, 2022, saying:

please do proceed with the changes at Central Intake in terms of referrals. [A TSSS director] is working to support an [sic] net increase in refugee specific shelter space and I think further communication to the sector will be best aligned with the opening of those services.

83. Two different TSSS directors also replied, one on November 1 and the other on November 2. Both acknowledged this change could lead to more refugee claimants arriving at SHARC, and they planned to meet with SHARC staff to prepare for this.
84. On November 4, 2022, a Central Intake manager emailed the Refugee Working Group members to say they had met with their staff that day and that “a lot of questions came out of that meeting (as anticipated).” They also said, “there may be some confusion all [sic] ends about how to identify someone as being eligible for a refugee program versus not” and they were:

[...] ready to move forward with the change at [Central Intake] as per [the General Manager's] request, but this could be a really messy process if we aren't able to align our understanding of the eligibility requirements for refugee programs.



85. The Central Intake manager included a list of 19 questions staff raised about this change, including:
- How do we script it if we have a refugee client calling and they know that a certain non-refugee shelter space is available and they want a bed there?
 - Are there going to be additional refugee beds added?
 - For clients that have applications on humanitarian and compassionate grounds, are they refugee clients? Would they go in the refugee queue?
 - Are they refugees, if they have yet to make the claim, but have every intention to make the claim? Some shelters take clients who have yet to make the claim, but plan to and just need support.
86. According to the TSSS General Manager, the change in eligibility went into effect on November 7, 2022. On that date, the Refugee Working Group was still discussing how to determine eligibility and access to a separate refugee claimant system, and how to implement the eligibility change. The group also had outstanding questions about what Central Intake and SHARC should do if a client asking for a shelter bed did not disclose their immigration status. And, lastly, staff had not yet:
- Consulted with or communicated to the refugee-claimant-serving sector on this change in eligibility,
 - Consulted the City's Legal Services Division,
 - Consulted the City's Confronting Anti-Black Racism unit,
 - Consulted the City's Human Rights Office, or
 - Prepared phone scripts/messaging in advance for the Central Intake and SHARC/129 Peter Street teams to use when this change went into effect.

After Implementation

87. After the first weekend the eligibility change was implemented, a TSSS director asked a SHARC manager and a Central Intake manager how implementing the new process had gone. A SHARC manager replied that three refugee claimants had been referred to the base shelter system and said, "I will follow up with staff again."



88. On December 14, 2022, the SHARC manager emailed staff a reminder about the change.
89. On December 30, 2022, a TSSS director emailed a TSSS data expert asking for information about refugee claimant clients and how they were being referred to the base shelter beds. The director noted that, “[r]efugee clients are continuing to be referred to the base shelter system.” The data expert replied that data limitations aside, they could confirm that both Central Intake and SHARC staff were still referring refugee claimants into base shelter beds.
90. TSSS explained that SHARC staff were not supposed to find anyone shelter beds. Instead, they were supposed to help people call Central Intake from 129 Peter St. and Central Intake staff would find the shelter bed. We asked a SHARC manager about the eligibility change reminders to staff, and why they were needed. The manager said some SHARC staff were “overzealous.” That is, they took it upon themselves to refer refugee claimants directly to base shelter beds. The manager said those staff members wanted to help people, but had to be reminded that making referrals to a shelter bed was not their role.

Approach to Refugee Families

91. We did not identify in written records any clear instructions to staff for whether they would take a different approach to refugee claimant families than they would single refugee claimants.
92. When we asked TSSS whether the change applied to refugee claimant families, they told us that if a refugee claimant family called Central Intake seeking shelter, TSSS staff continued their previous practice: they found and paid for a hotel for the family to stay temporarily and connected them with the Toronto Employment and Social Services Division (TESS) for emergency financial support. TSSS would put that family on a wait list managed by Central Intake and the family would wait at the hotel “until there was space available in the refugee family shelter system.”

What Staff Knew About Refugee Claimants

93. As of October 2022, TSSS’s data showed the top countries of origin of refugee claimants using the shelter system were Uganda, Nigeria, Ethiopia, Kenya, the Bahamas, Mexico, and Colombia, with the caveat that this data accounted for only 44 percent of refugee claimants in the system (since country of origin is not a mandatory field in SMIS).



94. This is relevant because the City had information showing that many refugee claimants in its shelter system came from four African countries and the Bahamas, suggesting that they were of African descent and Black.
95. City staff told us that:
- TSSS reviewed the above data source but was also receiving updates from the Federal Government on claimants' country of origin throughout this crisis. Data from the Federal Government on the top five countries of origin for refugee claimants in Ontario is as follows: For 2022, from highest to lowest: Mexico, Iran, Turkey, India, and Colombia. For 2023, from highest to lowest: Nigeria, Mexico, India, Kenya, and Iran.
96. City staff also told us that according to the United Nations High Commissioner for Refugees (UNHCR) Representative to Canada, “the top five nationalities of asylum claimants in Canada, January to July 2023: Mexico, India, Turkey, Colombia, and Iran.”¹⁸ City staff indicated that this information was in a presentation delivered by the Representative on November 8, 2023, to the City’s Executive Committee.
97. We learned that the City had begun collecting data on racial identity in shelters in 2021. TSSS did not start analyzing the data at the time because, among other reasons, it still had to address several technical issues.
98. A SHARC manager told us that in July 2022, Central Intake staff were instructed to ask callers the following as part of the intake process:

Are you applying for refugee status in Canada?*

No

Refugee claimant: Has not yet made a claim

Refugee claimant: Claim is in progress

Refugee: Claim has been approved

Other

Prefer not to answer

Unknown

If 'Other', please specify

¹⁸ City of Toronto, City Council Decision of November 8, 2023, “EX9.19 - Need for Long-Term Investments to Address Refugee and Humanitarian Crisis” and Presentation from Rema Jamous Imseis, United Nations High Commissioner for Refugees (UNHCR) Representative to Canada, on Asylum Claims in a Global Context. <https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240364.pdf>. Accessed September 30, 2024.



The asterisk next to the question indicates that it is a mandatory question.

99. Central Intake workers would then log that information in their information system (SMIS). In addition, individuals seeking services were asked questions about their country of origin, whether they identified as Indigenous, and could choose a race category that best described them.
100. According to the records we reviewed, staff also had not discussed internally the impact this change could have on refugee claimants, and had not considered the specific types of refugee claimants who would be disproportionately impacted, including whether they were of a particular race, their country of origin, or family status.

Housing Charter and Shelter Standards

101. In interviews with staff, we asked if they considered the Housing Charter when they made this decision to stop allowing refugee claimants access to the base shelter system. Most staff we asked told us they were generally aware of the Housing Charter, but the TSSS General Manager and two directors at TSSS said they did not consider it. The Deputy City Manager told us he was not sure whether staff considered it.
102. We also asked staff if they considered the Toronto Shelter Standards. The General Manager told us that he believed the eligibility change did not change the spirit or direction of these standards (which we describe in more detail in Appendix B). He pointed to the fact that the shelter system was generally operating at capacity:

I would suggest that if we were holding beds back and had vacant beds at the end of each day and were not providing them, then that would be in direct contravention of our shelter standards and Access T.O.

103. The City Manager told us, “as you know, we have Shelter Standards that we try to follow to the best of our ability. In emergency situations, we realized that we have to suspend those desired goals,” and “I think the deviation was an operational reality of access from a numbers perspective and access from a fairness perspective across all those who are experiencing homelessness.”



City's Rationale

104. The main rationale staff gave us when explaining the decision to stop allowing refugee claimants into the base shelter system was that the City's goal was to "divert" or redirect refugee claimants to refugee-specific shelter beds; these shelters provide very specific supports to refugee claimants, including referrals to legal services and settlement services. TSSS staff told us that at the time, they expected to add more beds through partnerships with organizations like COSTI, Homes First, and The 519.
105. Some City staff also said that TSSS has shelters that cater to specific vulnerable populations, which means that they have to exclude other people from those shelters. TSSS told us they have "programs only for seniors, programs only for youth, programs only for people abstaining from substances, programs for queer and trans refugee claimants, programs for 2SLGBTQ+ youth and programs for refugees."
106. Senior City staff including the City Manager, Deputy City Manager, and a TSSS director all relied on the same analogy to explain the service change: that men are not permitted into shelters designated only for women. In other words, staff said they need to exclude some people from some shelters for operational reasons.
107. TSSS told us that "changes to eligibility are becoming essential to manage the scarce shelter resources for those who are most in need. The decision in this matter was based on the principle of fairness to all those seeking services, including others whose rights are protected under the *Human Rights Code*."
108. Staff repeatedly told us that the base shelter system was not designed to help refugee claimants, who they said have different needs than the general population of unhoused people, many of whom struggle with complex mental health and/or substance use issues.
109. One TSSS director said they were concerned about those who "need the system the most" but who could no longer access it because it was full of refugee claimants:

Our data demonstrates that, you know, yes – refugee claimants are getting spaces. And part of it is because they're very adoptive [sic]. They get to understand how the system works and then they take advantage of that. I don't want to say 'advantage,' but they are better – I mean, hey, they travelled to get to this country, right? So, you know, you have those



skills compared to someone who all of a sudden is sober today but has been under the influence for the last two weeks.

The Service Change is in Effect

110. When we asked City staff what impact the service change had, their answers were often imprecise. This was in part due to the passage of time. We conducted interviews in the winter and spring of 2024 about events that happened one to two years prior. Also, many City staff had trouble differentiating the November 2022 change from the May 2023 announcement.
111. We asked City witnesses whether any refugee claimants were denied a shelter bed when there was a base shelter bed available after the November 2022 change. A Central Intake manager told us:

There's a high likelihood that that was the case. That if a non-refugee shelter bed was showing as vacant and we may have had a refugee caller or asylum seeker on the phone, we likely would have told them that there's no available beds, despite there being a non-refugee shelter bed that could be vacant.

112. A TSSS director told us that the winter of 2022-2023 was very cold. This director added that the number of refugee claimant clients asking for shelter beds was low in November 2022, and they did not recall any refugee claimants sleeping outside SHARC that winter. Because of these low numbers, the director said staff were not strictly enforcing the November 2022 eligibility change. The director said "In my memory, [the eligibility change] really escalated in the spring. That's when we took a hard position on it. That's when it was clear."
113. On November 9, 2022, a staff person at SHARC emailed their colleagues saying that since the process for refugee claimant referrals had changed, they were seeing "that this has created increased occupancy pressures on [129] Peter Street." The staff person described further procedures for how to manage what they called the "backlog" of refugee claimant clients.
114. However, another SHARC staff member told us that from November 2022 to the end of May 2023, there were rarely lineups outside the building. They said during that time, there was more "movement" in the system.



From my recollection, we did not have people sleeping outside [in the winter of 2023]. I mean, you might have a couple of people outside waiting, but there seemed to be more movement in the shelter system as a whole...There was space, there was movement, even within all sectors.

115. They also said that winter had many cold weather alerts, which meant the City often opened its warming centres. Refugee claimants were able to access warming centres, which were open from mid-November to mid-April. TSSS told us that they have cots, and that warming centres function as resting spaces with meals and access to washrooms.

2023: City Announces Federal Referral

116. In January 2023, members of the Refugee Working Group, with TNO staff present, met several organizations that run refugee-claimant-specific shelters and programs – including Homes First, Sojourn House, COSTI, and the Christie Refugee Welcome House. The Refugee Working Group asked, in part, whether these programs could handle supporting “overflow” and the increasing numbers of individuals looking for beds. The notes from these sessions demonstrate that most of these programs were also full and overstretched, and serviced refugee claimants experiencing chronic homelessness and those with health/substance use issues.
117. Staff did not tell these organizations that the City had stopped allowing refugee claimants into the base shelter system for months now.

February 7, 2023: TSSS Reports to Council

118. On February 7, 2023, the General Manager of TSSS presented a new staff report to City Council called EC1.5 - COVID-19 Shelter Transition and Relocation Plan Update 2023.¹⁹
119. The report discussed increasing pressures on the City’s shelter system due to a lack of affordable housing, the increased cost of housing, a “volatile economy”

¹⁹ City of Toronto, City Council Decision of February 7, 2023, “EC1.5 - COVID-19 Shelter Transition and Relocation Plan Update 2023.” <https://secure.toronto.ca/council/agenda-item.do?item=2023.EC1.5>. Accessed August 23, 2024.



with high inflation, wages and income supports that are too low to address the high cost of living, and a “growing demand for housing from new refugee claimants and/or asylum seekers as border restrictions have eased.”

120. The report described how the number of “unmatched individual callers” – people looking for a shelter bed but unable to get one – was growing. According to the Division, as evidenced by their Shelter System Flow Data,²⁰ the pace at which people were entering the shelter system was much faster than the pace at which people were leaving.
121. TSSS reported that between 300 and 400 refugee claimants per month had come into its shelter system in the fall and winter of 2022. The report further noted that in 2022, the division added about 790 new spaces to support the arrival of refugee claimants by expanding existing programs. Additionally, the division increased funding to FCJ Refugee Centre’s shelter diversion program, which diverted over 900 individuals from the shelter system in 2022.
122. This report also provided an update on the division’s “Phase 1” workplan, adopted by City Council in April 2022, which described the creation of a separate refugee claimant shelter system. The division said it was coordinating with its key partners to create this system but did not provide many more details on its progress.
123. City Council adopted this report, along with its recommendations. Many of them related to refugee claimants – such as directing the General Manager of TSSS to work with municipalities in the GTHA on a coordinated refugee claimant response, and to continue advocating for more funding from other orders of government.
124. These two reports – dated February 7, 2023, and April 6, 2022 – are what many witnesses in the Division pointed to when explaining the City’s approach to refugee claimants accessing shelters in the spring and summer of 2023.

²⁰ The TSSS’s Shelter System Flow Data is a dashboard that provides data about the number of people experiencing homelessness, and who is entering and leaving the shelter system each month: <https://www.toronto.ca/city-government/data-research-maps/research-reports/housing-and-homelessness-research-and-reports/shelter-system-flow-data/>. Accessed October 25, 2024.



Country of Origin Data

125. As of the fall of 2022, the City had data showing where the majority of refugee claimants were coming from. According to an email on March 16, 2023, from a TSSS data expert to TSSS's General Manager, a TSSS Director, and the staff person who had previously led the TNO but was in a different role at the City, the top 15 countries of origin of refugee claimants in the Toronto shelter system as of March 14, 2023, were: Uganda, Nigeria, Ethiopia, Kenya, Mexico, the Bahamas, Jamaica, Somalia, Tanzania, Sudan, Colombia, Ghana, Iran, Barbados, and Eritrea. The TSSS data expert added a comment:

The shift in source countries hasn't changed much, but we have seen significant increases since last August in some source countries. The number of refugees in our shelters from Uganda and Kenya in particular have increased significantly over this time. (While this report doesn't allow me to provide exact numbers, Uganda and Nigeria are the top two source countries by a fair margin)

126. In short, their data showed that many or most of the refugee claimants in the shelter system were likely of African descent.
127. As in 2022, we did not find evidence in our review that in 2023 TSSS staff considered any other characteristics about the people impacted by this eligibility decision, beyond whether a client was a refugee claimant. For example, they did not look at the race or gender of the people impacted.
128. TSSS told us that while they started gathering racial identity data in 2021, they are still developing the processes required to analyze and report on the data they collect. As of the writing of this report, TSSS told us they are not yet able to report on the data.
129. Given that TSSS had data showing that many or most of the refugee claimants in the shelter system were from African countries, we asked the Deputy City Manager whether he or anyone at TSSS sought advice from the CABR unit prior to making the announcement in May 2023. He said he was not sure if the TSSS General Manager had done so. He then said:

The focus here was to bring more resources to take care of people. And every night, unfortunately because of demand and the shelter system being full, you know, [the TSSS General Manager's] team was having to turn away both refugee and non-refugee groups. And you know, this [the



May 31, 2023, announcement] was a plea for help from the Feds with them having resources and responsibilities for refugees. I think, you know, clearly people were making the connection that more resources could be made available to this group of people, the refugee specific group of people, if the Feds would just help. So I don't think any of this had anything to do with race or, you know, it all had to do with trying to take care of everyone.

130. When we asked again whether he or anyone at TSSS consulted with CABR ahead of the change, the Deputy City Manager said: “I don’t know that specific answer.”
131. We also do not have evidence that anyone from TSSS used the CABR Unit’s Anti-Black Racism Analysis Tool prior to the service change in November 2022 or before the news conference in May 2023.

March 29, 2023: City Manager Reports to Council

132. City Council adopted a staff report dated March 29, 2023, from the City Manager called CC5.5 - Intergovernmental Advocacy Efforts on Toronto's Refugee Claimant Shelter Response.²¹ In the report, the City Manager said federal funding for the Interim Housing Assistance Program (IHAP) was scheduled to end on March 31, 2023, and that the federal government had not yet said whether it would keep funding the program beyond this date.
133. Senior leadership told us that IHAP funding provided around 95 percent of funds the City used to pay for refugee claimants in the shelter system, saying it was a “past practice” dating back several years.
134. In their report, the City Manager and TSSS General Manager described asking the federal government for \$97 million to fund what it called its “2023 Refugee Response Initiative” operations. The City Manager said that without this funding, the City would be “required to reduce programming for this vulnerable population,” adding that due to this lack of funding, “the City will need to review

²¹ City of Toronto, City Council Decision of March 29, 2023, “CC5.5 - Intergovernmental Advocacy Efforts on Toronto's Refugee Claimant Shelter Response.” <https://secure.toronto.ca/council/agenda-item.do?item=2023.CC5.5>. Accessed August 23, 2024.



current programming levels and be prepared to adjust or reduce programming in advance of 2024.”

135. The City Manager told us the purpose of this report was to tell City Council that, without federal funds, TSSS had no money to pay for refugee claimants in the emergency shelter system. He added that the federal government either did not have, or did not share, immigration projections with them, and so the City did not have advance warning that there would be many more people coming to the City that spring, summer, and fall. He told us their federal counterparts did not seem to appreciate the depth of the homelessness crisis in Toronto or to understand the consequences of ending the IHAP funding.

IRCC Abruptly Ends IHAP Funding

136. When the federal government announced its 2023 budget on March 28, 2023, there was no funding earmarked for IHAP.
137. According to several City staff, including a TSSS manager, a TSSS director, and a former TNO manager, the lack of federal support was a surprise, with one City employee saying it was a “shocking development.” The federal government had apparently not warned the City it would stop this funding.
138. Witnesses told us this left the City in a precarious situation financially, since on top of this sudden loss of funding, it was still struggling to pay for the extra costs related to the impact of the COVID-19 pandemic.
139. On April 28, 2023, the Deputy City Manager, Community & Social Services, met with leaders from the GTHA regarding Ukrainian and other arrivals. The City’s minutes from that meeting show that the Deputy City Manager gave the following update:

Had a meeting with IRCC, asked them directly about 2023 budget. There is a line item for shelter or housing for asylum seekers. IRCC claimed that there is no budget for GTHA or asylum seekers...

Our refugee response is absolutely in jeopardy.

We are also communicating this directly through our Deputy Mayor’s office. Our newcomer office will continue to implement our refugee



response program²² and inter agency task force but we have no capacity to expand.

Come the fall, Toronto will be in the position where we will have to start to close programs due to budget shortfall.

The Lead-up to the News Conference

140. In their meeting minutes from the Refugee Working Group for May 3, 2023, staff describe how senior leadership asked for a process to refer refugee claimants to the federal government's IRCC hotel program. Staff could not tell us precisely who made this decision to refer, or when. Some public servants said it was a group decision, and that the senior leadership at the division, the City Manager, and the Deputy City Manager all agreed. However, other City staff we interviewed thought it was a City Council decision. Others thought it might have been made by the Deputy Mayor at the time. The Deputy Mayor told us she did not make, or direct staff to make, the decision.
141. On May 3, 2023, a manager from TSSS asked a Policy Development Officer who was part of the Refugee Working Group to develop a "policy document that outlines a process and options for redirecting any new refugee claimants and/or asylum seekers to IRCC for programs." The policy document was for TSSS's Senior Management Team (made up of directors in the division, the General Manager, and project directors). The manager wrote that the document should include the division's "position (or options)", key aspects of a coordinated approach, and how they would engage with IRCC given that there was a possibility TSSS would refer refugee claimants to IRCC hotels. At this time, TSSS staff (including managers and directors) did not know the location of IRCC hotels, nor how to refer refugee claimants to them.
142. Following this direction, the Policy Development Officer prepared a briefing note for the TSSS General Manager that included the direction to stop allowing refugee claimants to access non-refugee-claimant-specific beds, and to instead refer them to Service Canada. We asked this individual whether they consulted key City policies or other groups relevant to refugee claimant issues when preparing this briefing note. They did not, adding there was not enough time.

²² The City clarified during this investigation that the minutes should have reflected that the TNO did not "implement" the refugee response program and only helped to coordinate the inter-agency task force.



143. Managers at TSSS who were working on this briefing note over the ensuing month wrote to Central Intake on May 10, 2023, asking for phone scripts that Central Intake staff use when identifying whether someone is a refugee. They still had not developed these scripts, even though the City had made the decision to stop allowing single refugee claimants access to the base system in November 2022.
144. On May 10, 2023, City Council declared a homelessness emergency in the City of Toronto.²³
145. In mid-to-late May 2023, the City decided to hold a news conference to announce they would be referring refugee claimants to federal supports. In our review of documentation and in witness interviews, it was not clear who made the decision to hold a news conference. No individual or unit took responsibility.
146. The Deputy City Manager told us he was “part of many of those meetings and discussions” to make this eligibility change and hold a news conference. The City Manager told us he was not involved in the decision-making about this, but that he was “keenly attuned” to the situation.
147. Several managers, directors, and communications staff prepared a news release and a key messages document intended for public use.
148. The final draft of the briefing note was provided to the TSSS General Manager on May 24, 2023. The key elements included:
 - The City does not have funding from the federal government to house refugee claimants in its shelter system – it needs \$97 million for 2023.
 - The federal budget includes funding for IRCC to operate its own hotels for refugee claimants.
 - TSSS will refer refugee claimants to “programs and services available to them via the federal government,” including IRCC hotels.
149. The briefing note included details on specific numbers of refugee claimants in the shelter system – an increase from a low of 530 per night during the pandemic (when borders were closed), to more than 2,800 per night in May

²³ City of Toronto, City Council Decision of May 10, 2023, “EC3.13 – Review of policies and procedures related to Warming Centres.” <https://secure.toronto.ca/council/agenda-item.do?item=2023.EC3.13>. Accessed September 20, 2024.



2023. The briefing note did not mention where the refugee claimants were from or discuss any other of their personal characteristics like race or family status.

Consultation Prior to May 31, 2023

150. Our Investigators found evidence of much activity to prepare for the May 31, 2023, announcement.
151. Despite the briefing note being complete and the news conference scheduled, the staff working on this material continued not to have information on the following points:
 - Direction on what to tell refugee claimant callers when a non-refugee-claimant shelter space was available, but a refugee-claimant-specific bed was not;
 - Clarification on the definition of a "refugee," including whether the new change applied to callers making a humanitarian and compassionate grounds application or to those who had not yet started their refugee claim but intended to;
 - Where IRCC hotels were located, and how to refer refugee claimants to them;
 - What services or supports the federal government would be able to provide refugee claimants calling for emergency shelter.
152. On May 23, 2023, a week before the planned news conference, staff from TSSS's internal CABR team and the TSSS General Manager had a monthly check-in. According to the meeting minutes, prepared by the TSSS CABR staff, the last item of this meeting was "Additional Topics" and the comments on it were attributed to the TSSS General Manager. In the notes for this last item, the minutes say:

Refugee & the Shelters

- Shelters are full & we are unable to accommodate, especially as federal govt is not helping to fund shelter for refugees/asylum seekers
- Many refugees are Black but will not qualify because of their refugee status



- Our strategy is for the provincial government to react and support the refugees
 - Communication is important for staff and clients
 - Refugees will be directed to Service Canada for support
153. On May 26, 2023, five days before the planned news conference, a staff person from the City’s communications division emailed the Executive Director of SDFA, an SDFA director, and the acting manager of TNO, telling them there was a planned announcement “that might impact SDFA,” and that they might soon receive materials to review. The email stated they would need feedback quickly.
154. The Executive Director of SDFA responded, asking for clarification. On May 29, 2023, two days before the news conference, TSSS’s General Manager emailed the SDFA Executive Director and another staff member, who used to lead the TNO, the following:

I will be participating in a press event on Wednesday to announce some changes in the shelter system including:

- The closure of two more shelter hotels by the end of August
- A further change in our physical distancing in the shelter system – i.e. Going back to pre-pandemic spacing
- A change to the way we support refugee claimants – i.e. Only admitting refugee claimants to refugee specific programs. People we can't support immediately will be referred to other Provincial and Federal Programs including Service Canada
- Finally an immediate ask for more support from both levels of government

The third point is one which could be the most controversial. If you are okay I would like us to run our key messages later today.



155. The City's Communications team sent the draft briefing note, key messages document, and the news release to the Executive Director of SDFA, another director at SDFA, and the acting manager of the TNO for their review. Later that day, the TNO acting manager responded to the Executive Director of SDFA and the other SDFA director with feedback on the materials they reviewed, citing many concerns. The acting manager said:

Noting the concerns that TNO has identified are the following:

AccessTO – the proposed changes may contravene the City's AccessTO policy (see more info below).

Legal Ramifications – has legal been engaged in the conversation as per the City's Human Rights and Anti-Harassment Discrimination Policy; citizenship is a protected factor in equal treatment with respect to accessing City services (see below).

Intergovernmental team – wondering if [City staff person involved in intergovernmental discussions] has been advised, she is usually engaged in these types of conversations. [The DCM] also usually flags to [the former manager of the TNO]. ([The former manager of the TNO] has not received any communication on this issue).

We will need to be fully equipped to answer questions and concerns from community partners.

156. Shortly after this email, the SDFA Executive Director texted the Deputy City Manager asking whether the Legal Services Division had been consulted about this change, expressing concern about whether the direction contravenes the City's Access T.O. policy. After a brief exchange, the Deputy City Manager responded that the director of SDFA could contact the Legal Services Division for advice, which the SDFA Executive Director then proceeded to do on May 29, 2023 – two days before the news conference.
157. The legal advice provided to the Executive Director of SDFA is subject to solicitor-client privilege and, therefore, we could not consider that advice.
158. We asked the Deputy City Manager why staff did not seek a legal opinion until two days before the news conference. The Deputy City Manager replied that



“the expectation was that advice would be brought to the table and City Legal would be involved.”

159. There is another in-house City expert TSSS did not consult. This person had previously managed the TNO and while they were working in another division, the individual is considered by many public servants we interviewed as possessing extensive knowledge of refugee claimant issues. When we interviewed the person, they confirmed they were not notified of the decision until May 29, 2023.
160. A TNO staff member told us they were not given much time to consider the proposed announcement:

We got an email at the 11th hour, saying [the May 31, 2023, announcement] was happening imminently [...] We were pretty upset. [TSSS] had not discussed it with us, and we had no idea that it was going to happen. We'd obviously been engaged with various groups of arrivals, and the TNO, as the immigration body within the City, we should be consulted if there are any big decisions being made. And this felt really huge. [...] We would have flagged Access T.O. concerns, among other things. And it felt like a big red flag. And I was worried about the population.

161. The CABR Unit specializes in confronting anti-Black racism at the City. The CABR Unit was not consulted about the upcoming announcement.
162. A staff member we interviewed who supports anti-Black racism work at the City was unsure whether consulting the unit ahead of time would have changed the City's decision, but staff could have helped prepare communities for this change, and explain to them the financial strain the City was under:

It felt like there was an erasure and a lack of understanding of the differential treatment of African asylum seekers and refugee claimants and that was really important for myself and community organizations. So that folks understood that there was a unique experience and reasons why these folks were coming here and that if the City has a commitment to address ABR [anti-Black racism] through the Action Plan to Confront Anti-Black Racism, then it has to be clearly identified that they are responding to African asylum seekers, understanding how anti-Black



racism works. So I just – to me, organizations, we're saying that this is - this is anti-Black racism, the lack of response or the mediocre response.

163. The Human Rights Office gives advice, information, and help about human rights and accommodation issues in City services. TSSS sought advice from the Human Rights Office on June 27, 2023, a month after the announcement was made. Their concerns are discussed further on in this report.
164. Staff were not provided phone scripts about what they were to tell refugee claimant callers seeking emergency shelter until several weeks after the announcement.

Instructions to Staff

165. At about 12:15pm the day of the news conference, a TSSS director emailed all internal and external shelter providers and Central Intake staff to inform them of the event happening later that day. The email said:

Refugees will continue to be referred to refugee-specific shelter programs. Should demand for these programs exceed capacity, individuals will be referred to programs and services available to them through the federal government.

The May 31, 2023, News Conference

166. On May 31, 2023, the General Manager of TSSS, the Chair of the Economic and Community Development Committee (ECDC), and the Deputy Mayor said at the news conference that there were many challenges facing the City's shelter system and described the increasing number of refugee claimants using the system. The Deputy Mayor said a change was coming the next day:

With a lack of funding and resources from the other orders of government, the City of Toronto has to make a very difficult choice. Starting on June 1st, if space is not available for refugees or asylum seekers in the shelter system, we will be referring them to the federal immigration, refugees and Citizen Canada [sic] programs for support. The City will also start to take a phased approach to refer asylum seekers to IRCC hotels. This phased approach will start with an initial review of new



asylum seeker cases needing access to the shelter system and will refer eligible clients to IRCC hotels.

TSSS's General Manager reiterated that message, and added more detail:

As noted by the Deputy Mayor, starting on June 1st, if space is not available for refugee claimants in these specific programs, we will be referring eligible asylum seekers to programs and services available to them through the federal government. We'd hoped we wouldn't need to take these actions, but after almost a year of requesting urgent funding assistance and logistical support, the City is required to make difficult decisions to meet these significant humanitarian needs.

167. In her speaking remarks at the news conference, the Chair of the ECDC was the only one to offer any detail about the people who were affected by this decision, explaining they were “fleeing places like Ukraine, Eritrea, and the like.”
168. The news release added further details, including that the City funds 500 shelter beds for refugee claimants every year, and that there were far more refugee claimants than there were beds (there were around 3,000 refugee claimants in the system at the time). The news release reiterated that the City needed funding from other orders of government to pay for any beds above the 500 they already pay for. The news release stated:

Without further funding from the Government of Canada, the City will have to refer eligible asylum seekers to programs and services available to them through the federal government.

169. The news release did not specify what those federal programs and services were, nor how to access them.
170. When asked why they made this decision and announced it with a news conference, the City Manager said it was not a decision, but a “message to politicians,” which “was why the Deputy Mayor was making the announcement.”
171. The Deputy City Manager characterized the decision like this:

[...] a plea for help from the federal government to get them to jump into the mix to make those hotel programs available so we could really deal with the demand we were facing into Toronto.



172. The TSSS General Manager said of the shelter system's programs:

... [the programs] have very specific focus to meet the needs of street-involved youth with significant mental health issues, or Indigenous men that are homeless, or women who are experiencing homelessness and seniors. The number of refugee claimants in all of these programs was going from maybe one or two people now to upwards of 100 percent of the people that are in the programs. And at the same time, you see a growing number of people in our parks, you see a growing number of people with significant mental health and substance use issues that are not getting into the programs that were designed and built for them, right? And so, this idea of streaming and matching people with the best programs to meet their needs was in the spirit of what we were trying to accomplish here.

IRCC Hotels

173. The morning of the news conference, a director at TSSS contacted the City expert who used to lead the TNO, asking for help in finding the locations of IRCC hotels. Senior TSSS management still did not know where the hotels could be found, or how to refer refugee claimants to them. The City staff member with experience in this area responded that evening that while the federal government did have some hotels for refugee claimants in Ontario:

[...] these hotels are not accepting referrals, and are only for the claimants that made their claim in Quebec and who have agreed to be moved to Ontario by IRCC.

174. This staff member added that the IRCC:

does not have an open program where refugees or claimants can be referred to for emergency shelter in Ontario, and I don't think anywhere in Canada.



Refugee Shelter Providers Taken by Surprise

175. Following the announcement, the Executive Director of one of the refugee claimant shelter providers emailed TSSS, copying many other refugee shelter providers, expressing concerns about the announcement, and asked for an urgent meeting.
176. My office asked six refugee claimant shelter providers and other experts when and how they heard about this change. They all told us they heard about it the day of the announcement, several hearing it “on the news.”
177. At a meeting on June 2, 2023, a group made up of refugee-claimant-serving shelters and other refugee claimant services told TSSS leadership that the decision had the potential to create anti-refugee sentiment, set a precedent that other municipalities might follow, and harm refugee claimants because referrals to Service Canada would not assist.
178. This group also expressed in that meeting that they would have appreciated some warning ahead of time. We heard from the same Executive Director of the refugee shelter that:

It was a press conference, and it was totally unexpected. And I think we were all shocked – those of us that worked in the refugee sector. [...] This came out of the blue. Really no consultation.

TNO Reiterates Concerns with Service Canada Referral

179. At the same time, three staff members from the TNO, two staff members from the Strategic Public & Employee Communications Division (SPEC), and a communications staff member from TSSS were working on a Q&A document about the announcement. The TNO staff emailed TSSS saying a referral to Service Canada was not helpful and asked to have it removed from the City’s communications. The TNO staff also requested that TSSS include their office in all conversations related to this change.
180. On June 5, 2023, staff from TSSS, TESS, S DFA/TNO, and the Deputy City Manager’s Office met to discuss service changes for refugee claimants and asylum seekers. The minutes attribute the following advice to the TNO unit: that the City should be “trying to mitigate the impact that this policy change has on the individuals themselves who are already under immense stress and vulnerability.” The minutes note that clarity was “still urgently needed on the



operationalization” of this decision, and asked about “what it will look like on the ground for both affected individuals and community partners.”

181. In an email chain between TSSS staff, including three of its directors, and TNO staff about edits to a ‘Key Messages’ document concerning the May 31, 2023, announcement, TNO’s acting manager and a staff person both said in comments on the document that since the City was fully funding another refugee response – for Ukrainians – the City’s actions could be perceived as creating a “two-tier system.” A TNO staff person noted the Access T.O. policy states that declaration of status is not a requirement for accessing emergency shelter.
182. In the same email chain, several communications staff were asking for clarity on what federal programs and services existed since they were preparing a Q&A document.

Service Canada Referrals

183. Over the first two weeks of June 2023, a Central Intake manager and a TSSS manager who had been part of the Refugee Working Group developed phone scripts for Central Intake. No scripts were provided in advance of the news conference. None had been provided for the November 2022 change, either.
184. The Central Intake staff person told us:

We need to develop a script and resources for the frontline staff, that Central Intake are going to be delivering this message to the most amount of people. [...] It should have already been on the project management list. [...] There were a lot of afterthoughts and there were a lot of like, you know – we weren’t at the table for so many things.
185. The draft scripts included information such as what to say to refugee claimant callers, what resources to point them to, and how to respond to questions refugee claimant callers were likely to ask. TSSS senior management reviewed these and provided input.
186. Several times throughout the reviewing process for all communications related to this announcement, the TNO recommended removing the Service Canada referral, saying refugee claimants were not able to get emergency shelter by calling that number. A TNO staff member told us they wanted TSSS staff to understand that this referral was a “dead end,” saying:



... to refer folks to Service Canada was going to result in confusion and basically a dead end for a population that is already vulnerable and in one of the more difficult points in their lives [...] we can't refer folks to services that don't exist.

187. The referral to Service Canada remained in both the scripts for staff and the handouts newcomers were later given outside of SHARC.

188. One City public servant told us they were surprised at this direction:

It seemed as if it was made overnight, without a deeper consultation internally [...] What was even more surprising to me was that some of the statements there were actually showing a lack of understanding of the system. For example, there was mention in some documents that these people would be referred to Service Canada and to [IRCC] hotels, while there were no hotels to be referred to. It just didn't make sense to me from that perspective, and I wish there was more time to discuss the decision.

189. We asked senior TSSS and City leadership whether they knew if Service Canada provided emergency shelter to refugee claimants – they all told us that it did not provide shelter. We asked why, then, they gave that number to refugee claimants.

190. The TSSS General Manager said the following:

I think that we were hoping that the federal government and Service Canada – their front-line agents would be able to provide some sort of support as we didn't have anything to provide to people. [...] I wasn't sure if [Service Canada] would be able to help [refugees] or not, but that was going to be the line, to talk to federal staff that might have more information than we did in terms of how to support people. [...] We didn't think immediately that Service Canada potentially would help people. But we have no other numbers to give them in terms of being in touch with the federal government.



191. A director at TSSS who oversees the shelter system, including Central Intake and the Streets to Homes program, said the Service Canada referral was a strategy to get the federal government's attention:

Knowing that Service Canada is not an appropriate space to send them there because they're not going to be able to [get them a shelter bed], but for me it was more about, "hey they will call their managers. These managers will call their district directors. Those district directors will move it up the chain of command." And that's what started happening. Whether people start showing up or calling Service Canada. That's what happened, right? [Service Canada staff] actually started calling us saying "hey, what's going on?" [...] unfortunately, people got caught, like the innocent people get caught up in the cross[fire].

192. On June 14, 2023, in his notes for CBC's Metro Morning radio show, the General Manager of TSSS acknowledged there were no federally funded shelter supports in Toronto. He said they provided the Service Canada phone number "as this is the only direct connection to federal frontline staff."

193. According to another email chain, as of June 14, 2023, TSSS senior leadership did not know the locations of any IRCC hotels, or how to refer clients there. A TSSS Director wrote in an email to the TSSS General Manager, two other TSSS directors, a TSSS project director, and a management consultant in the TSSS General Manager's office:

If [calling Service Canada] is the only entry point into possible federal services (and since [IRCC] are not sharing the addresses of federally funded hotels or providing the referral pathways into any potential federal programs for refugees), then it seems appropriate to say that we provide contact information (phone number) for Service Canada.

194. When we asked this director why the City referred refugee claimants to Service Canada when staff knew there were no federally funded emergency shelters in Toronto, the director replied:

If space is not available in the base shelter system, you're faced with the option of what do you do? Do you tell that person, "we have no space for you in our system? You're going to have to find someplace outside, maybe in a ravine somewhere?" Or do you say, "look, there are some –



like, we know the federal government has a program where they're offering space for asylum seekers. You may want to go and see if there's services that they can provide you." So that decision really is about, "look. We've got nothing here. Go [to the federal government] – they might have something for you."

195. An Executive Director at a refugee-claimant-serving shelter told us:

I think of it from the refugee point of view, like they're already traumatized, they're already escaping persecution. How can you make their experience even worse by making them call Service Canada and get more run around and frustrated and have no idea how the system actually works at all. So, we were reading and just saying how - how did anyone in the City of Toronto think that this was a good idea? [...] it shocked me that someone conceptualized the idea and it actually worked its way up through levels of approval to the point that it got approved that no one - that no one in the City actually flagged this that this is an absolutely horrible idea. But yeah, it really was shocking [on] so many levels.

196. On June 14, 2023, a TSSS manager emailed the draft script for Central Intake staff to several TSSS directors and other staff members. The script included the referral to call Service Canada and asked that Central Intake staff do not encourage refugee claimant callers to call back. The script advised staff to say:

Due to refugee shelter programs being at capacity, it is unknown at this time when a space will become available. Callers will be provided with the number to call Service Canada along with a list of other resources.

197. That list of other resources included immigration assistance programs, organizations that could help refugee claimants get social support such as Ontario Works, and the Toronto Public Library's Settlement Partnerships office. TSSS management approved the script and the resources handout.

198. On June 19, 2023, a manager for Central Intake sent staff a script for them to use and highlighted that it was direction from the Deputy City Manager's office and "has been approved by Senior Leadership in the Division, the Refugee Service portfolio staff, and the communications team."



This manager continued:

The most substantial change to the script includes:

Instructions for callers who identify with refugee/asylum seeker status to contact Service Canada (1-800-622-6232).

We will not be instructing callers to call us back due to capacity in the refugee programs and an unknown time of when spaces may become available. Should callers decide to call us back, we can support, but we will not be instructing them to call us back. More information is in the attached script.

[...]

Please note that **these instructions are coming from Council approved directives** to respond to the severe underfunding by the federal government for refugee supports.

[emphasis in original]

199. A Central Intake staff person told us that some of the materials, such as a long PDF listing various refugee-claimant-serving organizations, were not practical for Central Intake call-takers:

It was developed in a way that was not helpful. We're a contact centre. We can't scroll through like, 15 pages of a ton of text. We need stuff that we're able to quickly find it, give the answer, hang up the call and move on to the next person. And so not only was it created after the fact, it wasn't purpose-built for our environment, either.

Draft Directive

200. On June 19, 2023, a director at TSSS emailed several staff who had been part of the Refugee Working Group in the fall. The director told them it was urgent to get a formal directive "to the system" to not admit refugee claimants into the base shelter system, asking: "Any chance you could have a draft asap[?]"



201. That same day, a manager at TSSS replied with a draft directive. This manager recommended having the Legal Services Division and the HRO review the document before TSSS issued it.
202. The purpose of the directive, as set out in a draft we reviewed, was to provide direction across the entire shelter system on a change in admission for refugee claimants/asylum seekers seeking shelter: “Providers are instructed to not admit refugee claimants/asylum seekers to the non-refugee shelter system, which is at capacity.”

203. The draft directive goes on to say:

This request recognizes that immigration status is not required to receive services and individuals should not be denied services based on status. The request is to ensure that refugee claimants and/asylum seekers receive these distinct services and that all clients, refugee and non-refugee have access to services that meet their needs.

204. In one version of the draft, the same director who had requested the directive proposed adding language that this directive would supersede Section 8 of the Toronto Shelter Standards (which includes the provision that “Shelter providers will not use immigration status as a basis to deny clients access to shelter services”) and the 24-Hour Respite Site Standards.
205. The director emailed the draft to Legal Services and the HRO on June 27, 2023.
206. The HRO responded on July 11, 2023, flagging “potential areas of risk under the City's HRAP [Human Rights and Anti-Harassment/Discrimination Policy] and Ontario Human Rights Code.” The HRO advised that this directive “creates a risk that the City could be found to have engaged in discrimination in the Social Area of Services and Facilities based on the Code-protected ground of Citizenship.” The HRO continued:

[...] we also want to highlight that a Directive such as this has the potential to result in over-monitoring and/or disproportionate scrutinizing of individuals of colour, those who were not born in Canada, and/or those for whom English is a second language, in an effort to assess or clarify their eligibility for access to this City service. It is important to note that in



addition to Citizenship, the HRAP and Code prohibit discrimination on the basis of the following potentially intersecting grounds:

- ancestry; colour; creed; ethnic origin; place of origin; and race.

207. The HRO also commented on the City’s collection of data related to immigration status:

With respect to issue [sic] of collecting information on refugee status at the intake stage, our concern is not about the potential for the City to use this information for the purposes “of assessing a client’s needs, eligibility, and suitability for appropriate referral, placement or supports” but rather the use of this information by the City to exclude certain individuals from accessing a type of City service.

208. As in November 2022, TSSS did not finish a directive related to their eligibility change and/or the May 31, 2023, announcement. When asked why, the TSSS General Manager said they decided not to based on feedback from the Legal Services Division and from their own internal conversations. He elaborated:

It’s not a decision that we took lightly. It’s a decision that we tried and continue to frame in connecting people with the right kinds of service, but it’s perceived at times to be an exclusionary decision, and it gets difficult to issue a directive in talking about that exclusion. So we decided not to do that based on the feedback that we’ve received.

Growing Number of Refugee Claimants on the Street

209. Throughout June and July 2023, more refugee claimants were showing up at 129 Peter Street looking for a shelter bed.

210. On June 21, 2023, the Executive Director of the Ontario Council of Agencies Serving Immigrants (OCASI) and the Executive Director of FCJ Refugee Centre, sent an open letter to the Deputy Mayor and the TSSS General Manager on behalf of the Ontario Coalition of Service Providers for Refugee Claimants. The letter, in part, stated:

We are writing to you to call for urgent action on shelter for refugee claimants arriving in Toronto.



The City of Toronto recently made the alarming announcement that single claimants would be directed to federally-funded hotel-based emergency housing for refugees outside Toronto. This decision leaves the City on the wrong side of our humanitarian obligations to refugee claimants, as well as in violation of the Best Interests of the Child.

We are calling on the City of Toronto to establish a reception centre that would:

- Receive refugee claimants arriving in Toronto
- Provide emergency shelter in Toronto with support to transition to long-term housing
- Provide support services

211. The letter also stated that:

Newly-arrived **single** refugee claimants are typically provided emergency accommodation in homeless shelters where available, but that leaves them without the critical legal support they need to submit their refugee claim within deadline – a deadline that if missed can leave them with almost no options to seek refuge in Canada and may result in their deportation. Homeless shelters are not equipped to provide unique services and supports for refugee claimants, including awareness and training for staff to provide even appropriate and important referrals to other services.

212. However, the Coalition also noted that referring them to federal hotels without providing transport to those hotels left refugee claimants to find their own way there “in an unfamiliar environment where they may not speak the language and without resources.” The Coalition asked the City to receive refugee claimants arriving in Toronto, regardless of family status, to provide them with emergency shelter with support to transition to long-term housing, and to provide other supports for refugee claimants such as legal and health services.

213. The Deputy Mayor responded on July 31, 2023, that the City of Toronto “hears and shares these concerns.” The response included information about the



federal government's July 18, 2023, commitment of \$97 million for the IHAP program, the province's contribution of \$6.67 million to the Canada-Ontario Housing Benefit, and the City's plans to match the province's amount.²⁴ The letter also cites efforts to house more refugee claimants in hotels secured by the City and run by the Canadian Red Cross.

214. The Deputy Mayor added that additional funding from other orders of government was needed for the reception centre, in part, and also for the development of a formal inter-governmental strategy, including a "sustainable and predictable funding model to respond to the large-scale arrival of refugee claimants in Canada." She shared that the City continued to work to establish a dedicated refugee-claimant-specific shelter system, where refugee claimants are able to access settlement supports, namely, "legal supports, language specific supports and access to language-focused programming, and referrals to culturally appropriate community based agencies."
215. On June 23, 2023, a manager for TSSS emailed directors saying their purchase of service (POS) shelters were struggling with refugee claimants showing up at their doors not knowing what to do. This manager requested "direction, resources and clear pathways for refugee claimants showing up at their programs," and provided further details:

Snapshot of refugees at POS:

NaMeRes (inside and outside of their shelter)

Margaret's (constant stream)

Sistering (has 25 refugee women sitting in chairs at the church across the street from their drop in). They are seeking financial assistance to help these women).

Scott Mission has refugees encamped outside and daily walk-ins for showers and support

²⁴ The City told us it has directed the majority of Canada-Ontario Housing Benefits to refugee claimants (71% of COHB available from April 2022 to October 2023).



YWCA has daily walk ins refugees seeking shelter

Covenant House has refugee youth sitting outside their doorway for many days now. Staff are getting increasingly upset that they cannot help them.

216. The manager went on to say:

25 refugee women who have been here [at Sistering] for weeks, sitting in chairs. I made this arrangement this morning with the Church, and we need help paying for extra staffing to cover the space, and some funding for bedding. The arrangement is for overnights only 9 p.m. – 8 a.m. and is out of desperation, as we can't stand seeing these women have to sit up all night, for weeks, with no access to shelters. The City should be ashamed it has allowed this to become such a desperate situation.

217. On June 28, 2023, a director with TSSS replied to the TSSS manager who was raising these issues with the following comments:

The directive is currently with Legal, Newcomers office and Human Rights Office for review. We can anticipate once we release the directive, there will be further pressure for refugee claimants/asylum seekers seeking shelter, and shelter providers will more than likely see an increase of refugees at their doorsteps.

We know it will get worse, before it gets better. We are hoping now that a new Mayor has been elected, the meetings with the Feds can be move [sic] away from dialogue to action.

218. On June 26, 2023, a Central Intake staff person emailed a TSSS director asking whether refugee claimant youth would be allowed into non-refugee-claimant-specific shelter beds. The Central Intake staff person wrote:

There was some staff tension at our recent GM/Director visit to [Central Intake] around refugees and the whole Service Canada direction. If refugee youth are indeed not eligible for non-refugee shelters, can we get someone from the comms team to update messaging around this. It won't be well received at all from staff if refugee youth won't be eligible,



and some more transparency around the rationale for this from the [General Manager's Office] will be helpful.

219. On July 5, 2023, a TSSS manager sent a new email to all Central Intake staff saying: “Regarding refugee youth, just a gentle reminder that they aren’t eligible for non-refugee youth spaces.”
220. The data we reviewed from TSSS showed there was high demand for shelter beds leading up to the May 31, 2023, announcement, and this continued throughout the summer. Between April 2023 and September 2023, the requests for shelter beds stayed fairly consistent from non-refugee claimants, and increased from refugee claimants. The number of people turned away each night (which the City calls “unmet demand”) also increased for both groups during that time.
221. We did not see a direct correlation between the May 31, 2023, announcement and an increase in the number of refugee claimants turned away each night.
222. We also found that from April 2022 to October 2023, the number of refugee claimants in the shelter system increased.
223. Notably, the City also added more shelter beds between May 31 and September 30, 2023, for all singles (refugee claimant and non-refugee claimant) – it increased the number of base refugee shelter beds by 22 percent, and increased the number of temporary refugee response beds (such as Red Cross operated hotels) by 106 percent.
224. What we heard in interviews with several City staff is that the eligibility change did not have a significant impact on the number of refugee claimants in the base shelter system.
225. City staff pointed us to the fact that refugee claimants were still getting into the system, and that TSSS increased beds for refugee claimants during this time, saying that is an indicator that their eligibility change was not discriminatory.
226. While TSSS collects data on the number of refugee claimants denied a base shelter bed, they do not collect the reason why the service was denied. For instance, whether it was because the person identified as a refugee claimant and so was excluded from other available, non-refugee-claimant-specific beds, or because the person did not qualify for an available bed designated only for youth, women, or otherwise, or because all of the beds in the whole system were full. None of the reasons were tracked by TSSS, which makes it difficult to



draw a causal line between the service change and the increasing numbers of people who sheltered on the streets, in churches, and elsewhere.

What We Heard from Refugee Claimants

227. Many refugee claimants resorted to sleeping outside 129 Peter Street (SHARC). Refugee claimant witnesses told us staff at SHARC did not allow them to put up tents.
228. We asked a manager at SHARC about this. They confirmed that all clients, including refugee claimants, were not allowed to put up tents or tarps outside the centre at SHARC. They said this was for a variety of reasons, including not wanting to encourage people to sleep outside SHARC because there was no space inside the SHARC building, there were complaints from neighbours, and concerns that tents were blocking the ramp to access the centre.
229. Some of the refugee claimants we interviewed said they were able to use the washrooms and showers at SHARC but that there was a long line. Some were not able to use the building's showers at all. They said "good Samaritans" dropped by with food and water for them.
230. One refugee claimant we spoke with said they slept outside SHARC for two nights when they arrived.

It was bad. We used to walk around looking for somewhere where the [cardboard boxes] are thrown [out] so you can pick them [up] and use them as mattresses. You don't have anything to cover yourself. [...] The second day, it was raining, so we moved across to a building that had a balcony. We moved there and we brought [cardboard] and slept there. And in the morning a security lady chased us [away].

231. This witness said "a good Samaritan" gave them a sleeping bag, which was helpful. But the witness described the experience as demoralizing. After those first two nights, they were able to convince staff at the Fred Victor drop-in centre to let them sleep in their lobby. They stayed there for a month – sleeping on the floor – until they went to one of the churches, and then to a refugee-claimant-specific shelter.



232. Another person had a similar experience while sleeping outside SHARC:

We had nothing to sleep on, so we scrambled for [cardboard] to sleep on. There wasn't much information about what not to do. There was no access to clean water, you couldn't take a bath. If you were to do that, you would be up at three a.m. just to get in line and sometimes you may not get to the shower. I don't want to remember sometimes because it was traumatizing.

233. One witness said they slept outside SHARC for a month before moving to a church, and then later to a refugee-claimant-specific shelter. They said when it rained, they went inside neighbouring businesses, but the police were called. They said the police were also called when they slept outside a house one morning:

I sleep two hours I think in the morning. The [owner] of that house comes in a car and she wakes me, and she called immediately the police and I run. [...] I was angry because that woman doesn't know my situation.

234. They said the weather was a huge challenge, particularly for protecting their immigration documents.

It was a big rain. All of your documents were destroyed. Even my document which I took at the airport was very damaged.

235. Another individual told us they slept outside SHARC for three days. They said they were lucky because it was July and it was warm, and the daylight lasted until nine in the evening.

236. A medical professional we spoke with who has been working with refugee claimants for many years described what they witnessed in the summer of 2023 outside SHARC:

Really tragic to see. I mean these are people who arrived with a hope to start their lives again. [...] There were people who just had this sense of staring straight ahead. Like they were resigned to where they were, waiting to go to sleep on this very busy city street. It was quite striking. And generally, all Africans. [...] Everyone was Black.



Community and Black-led Church Involvement

237. On July 14, 2023, a group of refugee-claimant-serving organizations, community organizations, faith leaders, and advocates held a news conference outside SHARC. The stated purpose was to bring attention to the “urgent need for governments to address the crisis impacting refugees in Toronto.”
238. Shortly after this news conference, several Black-led churches (Dominion Church International, Revivaltime Tabernacle and Pilgrim Feast Tabernacles), with assistance from community organizations, faith leaders, healthcare workers, and advocates, began to take in refugee claimants who could not find space in the shelter system. They also hired buses to drive people to their churches.
239. Church leaders we spoke with said they heard about the large numbers of Black refugee claimants sleeping outside on the news or through their own networks.
240. We visited the churches and saw that they set up make-shift shelters in whatever space they had available – ranging from a room with bunk beds, a repurposed bank (including its lobby area), a basement storage area, and in hallways. We observed hundreds of people sleeping in crowded rooms, with very few bathrooms. We also observed that everyone at the churches was Black. All 19 refugee claimant witnesses interviewed in this investigation were from African countries.
241. Over the summer months and into the winter of 2023, church leaders told us they housed and fed hundreds of people. One church leader told us they took in 230 refugee claimants over the summer. Another said they ended up with about 250 refugee claimants in July and August.
242. They told us they did this at their own expense.
243. We heard that churches postponed their regular activities because they were overwhelmed by refugee claimants needing shelter, clothing, and food. While they were paying out of their own pockets, they were asking the City for funds, and were not getting any.
244. In late July 2023, the City gave three of the churches some funding to help cover their costs, and provided security and other resources. City staff were also sent to help work with the refugee claimants who were staying at the churches and link them with resources. This helped alleviate some of their challenges, but the churches were still housing and feeding hundreds of people. City Council later



directed that the churches and community organizations be further reimbursed in September 2023 and April 2024.²⁵

245. We spoke with a medical professional who visited the churches who said:

I think people have really gone to heroic lengths to make sure there's a shelter over people's heads. But I think people really do deserve better. Yes – it is better than sleeping outside in the rain or now the cold in front of Peter Street. Absolutely. And I can in no way condemn the people who are working tirelessly to give people housing and they feed them and, whatever it is. But at some point, we have to do better. This is for so many reasons, this is an abject failure.

246. A street outreach advocate pointed out that churches are not shelters, and do not follow the Toronto Shelter Standards.

There's a reason that shelter standards exist because it's for everybody's health and safety. [...] In terms of like, set up and accountability, what happens if somebody is assaulted in the church, who's liable because there's no City contract? So it's not the City that's going to be liable at that point. There was [*sic*] no contracts around meals and stuff. So they were running on donations. It wasn't culturally appropriate food. [...] So there's a lot of issues that I think were not considered and planned appropriately, and I think there's a rhetoric that “well, at least people are not sleeping outside” and for me, even this idea of, these people are not sleeping outside is kind of rooted in some classism and racism. As if we're saying that people don't deserve to actually fight for something better than just not on the streets.

247. We asked senior City staff and decision-makers whether they had concerns about the church conditions. We heard sentiments of gratitude. The City

²⁵ City of Toronto, City Council Decision of September 6, 2023 “CC10.2 - Immediate Federal Government Support Required for Refugee Claimants in Toronto” <https://secure.toronto.ca/council/agenda-item.do?item=2023.CC10.2>. Accessed October 21, 2024.

City of Toronto, City Council Decision of April 17, 2024 “EC11.7 - Reimbursement for Churches and Community Organizations Supporting Refugee Claimants.” <https://secure.toronto.ca/council/agenda-item.do?item=2024.EC11.7>. Accessed October 21, 2024.



Manager said they were thankful the churches stepped in, and said it had to happen because the City's system was overwhelmed.

248. The General Manager for TSSS said churches filling in to provide shelter was better than people sleeping outside.

They were getting support, and people were being sheltered and cared for. Now, do we have concerns about some of the conditions and contexts? Yes. But this was a marked difference than seeing people just sleeping out on the street.

1. Church leaders told us the work they were doing to house and feed hundreds of refugee claimants was a massive effort, and described the toll it took on them, saying they were exhausted by the work and "heartbroken" that there was no better solution for refugee claimants.

City Activates Refugee Capacity Plan

249. On July 25, 2023, City leadership began to put in place its "Refugee Capacity Plan," which is a plan for how the City manages large-scale refugee claimant arrivals.
250. The federal government reinstated IHAP funding, giving the City \$97 million on July 18, 2023. Also in mid-July, the City coordinated with the Red Cross to find hotels for refugee claimants. The City told us that it spent \$200 million on its refugee claimant response in 2023, a "significant investment to assist refugee claimants with accessing shelter." The City explained that it has since received \$192.4 million which covered 95% of its refugee claimant-related costs.
251. Around the same time, the City sent some staff from different divisions to several of the Black-led churches to help register people with Central Intake and to help send them to the newly contracted hotels. The City told us they also sent "catering service, security, logistical support and fire life safety guidance," as well as Public Health inspectors to visit the churches to provide guidance on food handling practices and assessing their emergency shelter set-ups.

What Staff Told Refugee Claimants

252. SHARC staff explained to us that even though they had changed their service eligibility and could no longer admit any refugee claimants to their beds, they tried to help as much as they could: by navigating refugee claimants through the



intake process, facilitating referrals to refugee houses, starting a waitlist, or directing them to call Central Intake for a bed. We were told that for a time, SHARC staff also referred individuals directly to churches that were offering temporary shelter.

253. We heard that when refugee claimants called Central Intake, intake staff tended to ask questions to determine their immigration status/citizenship. They asked questions such as “have you lived only in Toronto for the last 12 months” followed by a field for “country of origin” in the system for the TSSS worker to fill out. They also asked questions such as “are you applying for refugee status in Canada?” Other staff told us the conversations with callers were less formal, and that it would often naturally come up during the call. Central Intake staff would then assign the caller a unique client number and tell them to call back “later” or “in two hours.” Many refugee claimants described to us calling Central Intake dozens and dozens of times over a period of days or weeks, without locating a shelter. Many told us they gave up trying. One individual recounted these difficulties with calling Central Intake:

What we were told is “all you have to do is call the housing intake.” So you call housing intake. First and foremost, we didn’t have Canadian numbers, so we had to look for someone with a Canadian number to call. And you’re told the best way to get support is so call every two hours. How can you do that if you don’t have a [Canadian] line to call [with]?

254. The main way to access a shelter bed is by calling Central Intake. Some TSSS witnesses, including several directors, told us it was possible to access a shelter bed by showing up in person at a shelter. However, front-line TSSS staff, including shelter managers, told us that accessing a bed via walk-in was exceedingly rare, and reiterated that the main way to access a bed was by calling Central Intake. TSSS directors also confirmed this.
255. We also heard from several frontline TSSS staff that if there was no refugee-claimant-specific shelter bed available, but there was a base shelter bed available, they would not give it to the refugee claimant caller.
256. One frontline Central Intake worker said: “I don’t have specifics, but yes, I’m confident this happened.”
257. The same Central Intake worker told us instead of giving the refugee claimant caller the available bed, they would refer them to Service Canada, as instructed. But the Central Intake worker said they would frequently hear from refugee



claimants who called back and “they’d say ‘I already called [Service Canada]. One, two, five times, and they can’t do anything for us.’”

258. Another Central Intake worker said they were not denying all services to refugee claimant callers, but they were definitely not allowing them access to base shelter system beds.
259. A Central Intake shift leader told us that while they were not taking the calls themselves, staff were telling them they were concerned with the eligibility change:

I’m not a call taker so I couldn’t talk to a specific situation. But I know we did receive concerns from our staff. Like, “I can see a space and there’s a person, and I’m not putting them in a space.” And that was a big point of, I don’t want to say contention, but it was a big concern amongst our staff members. As social workers, as call-takers, as people who are on the receiving end of those phone calls, saying, “I can see something, and I have this person, but I’m not allowed to match them up.”

What We Heard from Frontline Staff

260. We interviewed 28 City staff members and heard from many who were either frontline staff or employees who worked and/or interacted with frontline staff. We heard repeatedly that this decision, first implemented in November 2022 and then more fully after May 31, 2023, was very hard on staff – particularly racialized staff, some of whom came to Canada as refugee claimants themselves.
261. On the practical side, staff told us they were not given clear directions or instructions from the decision-makers. Central Intake staff did not have any specific, detailed information to give refugee claimant callers until late June 2023 – almost a month after the news conference.
262. A Central Intake staff person told us that they know they sometimes have to make difficult decisions and implement policies with which they do not agree. However, this staff person said not having any materials, scripts, or other clear instruction was very challenging.
263. A Central Intake call-taker said the messaging from senior management was often unclear and changed frequently. At some points they were told they could not take in any refugee claimants, then at other times they would be told they could take in refugee claimant youth or families. This call-taker said there was



also confusion around whether refugee claimants would be allowed access to warming centres or drop-ins since messaging from TSSS leadership was unclear. They said there were several team meetings where Central Intake staff asked for more information on what to do when refugee claimants called. They said, “there was [sic] never any real answers,” adding that management would just refer to the need for more support from the federal government.

264. Throughout the summer, shelters said they found it difficult to manage the increasing numbers of people seeking emergency shelter. A TSSS manager flagged to directors and other staff in June 2023 that the shelters funded, but not directly operated, by the City were also struggling to manage the number of refugee claimants showing up at their doors and asking for shelter beds.
265. A Central Intake staff person said this of the decision’s roll-out:

In my experience, decisions will happen and they’ll be made up at a higher level. And the people that have to roll that decision out to the folks that are going to be severely impacted by it. So, the clients, the frontline staff – don’t ever get the resources that they need in time. I would say nine times out of 10, we don’t get the resources we need in time to be able to deliver a message from the senior leadership team. [...] We have a whole bunch of questions. In spite of all those questions, we’re still moving forward and we’re not giving answers to the staff [...] The refugee clients may ask questions and the staff would have no answers for them. And so the messiness pieces – we’d be rolling out a decision just in the most ineffective way.

Emotionally Difficult

266. Many staff expressed how difficult it was to implement this decision. Our review of internal documents also showed TSSS staff were having difficulty managing this service change. TSSS leadership told us the Division recognized and responded to the impacts on staff, and the challenges faced by front-line staff and managers given that limited spaces were available. For example, TSSS cited “wellness programs and services” they implemented, and the General Manager and the senior management team told us they conducted site visits and met with SHARC and Central Intake staff in particular.
267. Public servants told us it was difficult going to work knowing they had to turn people away – they said it was often people who were racialized, like



themselves. A frontline worker at Central Intake told us they and other staff saw their own community outside, asking for shelter.

You're speaking to and seeing people who look like you, who look like your family, your friends, and at the end of the day you were left in a position where you're in a position of power, but at the same time it just felt like your hands were tied and there was nothing you could do to help these people. It was traumatizing.

268. A staff person at TSSS said it was “horrific” to watch this unfold in the summer of 2023. They elaborated:

[It was] mortifying. I was embarrassed, ashamed... I'm sitting in those spaces and I just have to be quiet and it was horrible.

269. A Central Intake frontline employee told us:

It was a horrible feeling, you had people who were desperate, they were in need, we're doing this job because at the end of the day we want to support individuals and people and families and youth and it just felt like we weren't able to do that because of the direction that we were being provided.

270. Two shelter staff we spoke with said staff were struggling and supports were not adequate. One said when there are difficult things happening, the City leaders and senior management need to ensure they are helping staff “so they're not burning out and feeling overwhelmed with what they're having to do.”
271. In the late summer, TSSS senior management held meetings with front-line staff to discuss their concerns. At one point, TSSS management brought in an external consultant for several sessions to “acknowledge the impact the [refugee crisis] is having on our staff, especially our Black staff.” Some sessions were specifically for Black staff, while others were for all staff.
272. At least one frontline employee questioned whether a few group sessions was enough, or if they were the right way to address the issues. This staff member shared that they felt there was a significant gap in TSSS management's attempt to address organizational wellness in a way that was meaningful to staff.



273. Notes from a TSSS manager about a debriefing session held in the fall of 2023 with the same moderator who was brought in during August included the following observations from staff:

- Struggling psychologically, feeling powerless to help people, and that it was particularly hard for African staff
- Having difficulty sleeping when it was poor weather knowing there were people sleeping outside
- Overworked and sometimes unable to find time to eat
- Breaking down and crying
- Anxious walking into the building
- Feeling like the Division was not helping them
- Feeling like decisions were made without enough communication to them about it

Comparisons to City’s Treatment of Ukrainians

274. During our interviews, public servants and community witnesses frequently compared the City’s treatment of Ukrainians fleeing the Russia-Ukraine war to its treatment of Black African refugee claimants – often unprompted by us. City staff expressed concerns in emails to each other about the perception of a “two-tiered” system. There are critical differences between these groups, including that the Ukrainians arrived on a federal visa (allowing them and their family members free, extended temporary status to work, study, and stay in Canada until it was safe for them to return home).

275. Between June 6, 2022, and June 15, 2023, the City, in collaboration with the Greater Toronto and Hamilton Area, supported 2,224 Ukrainians from 921 households to move to longer-term housing. In a staff report dated June 23, 2023,²⁶ the City requested that City Council approve about \$15,000,000 be paid to the Red Cross for a block of 70 hotel rooms for Ukrainians to stay for up to

²⁶ City of Toronto, City Council Decision of July 19, 2023, “GG5.4 - Amendment to Non-Competitive Blanket Contract Number 47024284 with Canadian Red Cross Society.” <https://secure.toronto.ca/council/agenda-item.do?item=2023.GG5.4>. Staff report located at <https://www.toronto.ca/legdocs/mmis/2023/gg/bgrd/backgroundfile-237725.pdf>. Accessed August 23, 2024.



two weeks. The contract was to be extended until December 31, 2023. According to this report, there were 181 Ukrainian individuals from 68 households at this hotel site as of June 16, 2023.

276. Other supports set up for Ukrainians by the City, the province, and the federal government included a reception booth at Pearson International Airport, hotel accommodation for up to 15 days, settlement services, a fast-tracked temporary program, childcare fee subsidies, and a detailed City website with information about the Ukrainian response.²⁷
277. A manager for a City-run shelter said the response to African refugee claimants was “disturbing” when compared to the response to Ukrainians.

So we had the Ukrainian refugees in, and they were supported differently. We’ve had other white groups of refugees but they were never called refugees, they were called newcomers. So I thought we were treating the refugees, particularly refugees from Africa, Black refugees, totally differently and that was a big bone of contention among our staff.

278. Another manager for a City-run shelter had similar comments:

It was really, really hard because there was a general feeling, like – because we had just gone through everything with Ukraine. What was just being reported to me is that we were able to support Ukrainians but not Black people fleeing violence in Africa. [...] It’s just so unfortunate because of all this political stuff there’s going on has humans attached to it. [...] It’s not a policy decision: there’s a child, there is a parent, these are humans.

279. One TSSS manager said the responses to largely white Ukrainians and largely racialized African refugee claimants should have been the same.
280. We asked TSSS’s General Manager about this perceived differential treatment. He said the City supported Ukrainian refugee claimants differently because the federal government had a visa program for them. The TSSS General Manager

²⁷ City of Toronto, “Help for People Fleeing Ukraine.” <https://www.toronto.ca/community-people/moving-to-toronto/refugee-resettlement-program/help-for-people-fleeing-ukraine/>. Accessed August 23, 2024.



told us that, “any differential treatment between these two groups was defined by the federal government.”

281. The General Manager also said he did not foresee that the impact would be primarily on Black refugee claimants of African descent, so he did not think to consult groups like the City’s main CABR Unit about their response.
282. City leadership denied to us that their decision or actions surrounding it were discriminatory. When interviewing the Deputy City Manager on this issue, he stressed that the City expected the federal government would step up and accept African refugee claimants into their hotel programs. He acknowledged that Ukrainian (and Syrian) refugee claimants had been treated differently by the federal government.
283. We reviewed criticism the City received from members of the public about the City’s service change. We reviewed one email, which was part of a broader public email campaign, from a resident to the City Manager, the General Manager, and the Deputy City Manager dated July 18, 2023. The resident wrote that refugee claimants had been “abandoned” and forced to live on the sidewalk outside of SHARC. They noted that many of the refugee claimants were Black and African, and some LGBTQIA. They described the situation as “racist and counter to the commitment of the City of Toronto to confront and combat anti-Black racism in city services.”
284. We reviewed this email with the City Manager and asked him about this type of criticism. He said:

Our approach to this was not racist. [...] It was a particularly difficult time for the organizations that support the people and the countries from which they were coming, the cultural backgrounds from which they were coming. And I get it. And some of the reasons for their seeking asylum in Canada was definitely because of some policy changes in those countries, particularly towards the LGBTQIA changes, so we understand that. But that’s not the reason we were enacting operational changes, was to somehow take it out on Black asylum seekers or refugees.



Reversal of the Decision

285. At the July 19, 2023, City Council meeting, the newly elected Mayor tabled a motion called MM8.29 - Securing Shelter and Support for Refugees²⁸ that included nine recommendations. The recommendation most relevant to this investigation was the fifth:

City Council direct the City Manager to continue providing refugee-serving shelter spaces to meet the unique needs of refugees while also ensuring everyone regardless of status is able to access the City's shelter system as spaces become available.

City Council adopted the motion.

286. The Mayor also apologized on July 28, 2023, during a news conference at Revivaltime Tabernacle Church:

I also want, on behalf of the City of Toronto and other levels of government, to apologize. The way they've been treated on the streets and the lack of dignity that they experienced. There's absolutely no excuses whatsoever to be at a new country lost, both physically, spiritually and materially. Some literally lost their belongings, their identification, that is critical for them to apply for refugee status. And that's just not acceptable.²⁹

287. However, staff did not reverse the eligibility decision until almost two months later – in September 2023.

²⁸ MM8.29 - Securing Shelter and Support for Refugees, above.

²⁹ Aguilar, Bryann, "Mayor Olivia Chow apologizes to refugees, asylum seekers who slept on Toronto streets." CTV News, July 28, 2023, <https://toronto.ctvnews.ca/mobile/mayor-olivia-chow-apologizes-to-refugees-asylum-seekers-who-slept-on-toronto-streets-1.6498657?cache=/feed>. Accessed September 23, 2024.



288. On September 8, 2023, the Toronto Star published an article titled “Newcomers still being turned away from main shelter system, city confirms.”³⁰ The article reported that:

Refugees and asylum seekers desperate for shelter are still being turned away from Toronto’s main shelter network, city staff confirm — weeks after Mayor Olivia Chow said shelter policies enacted earlier this year directing newcomers elsewhere had been reversed. [...] However, when asked by the Star if refugee claimants calling the city’s shelter intake line seeking an emergency bed would be denied any available ones in the main, non-refugee system, city spokesperson [communications person] confirmed that was the case.

289. A TSSS staff person emailed the article to the TSSS General Manager, who then forwarded it to the Deputy City Manager, asking if they had heard anything about a reversal. The General Manager said in his email to the Deputy City Manager:

There was no consultation with SSHA [now TSSS] on the spirit of the Mayor’s motion, ie [sic] directing us to change course. With this in the media I will now instruct staff to change their procedures which will no doubt bring many more refugee claimants into the shelter system.

290. Later that day, a Central Intake manager emailed all Central Intake staff informing them that “effective immediately, refugee clients/refugee claimants are eligible for spaces in the non-refugee sector.”
291. According to the City, September 8, 2023, was also the first day that it was able to start referring refugee claimants to IRCC hotels.
292. On September 14, 2023, a director in TSSS emailed all shelter, 24-hour respite site, and drop-in providers the same information – confirming that any refugee

³⁰ Gibson, Victoria, “Newcomers still being turned away from main shelter system, city confirms.” Toronto Star, September 8, 2023, https://www.thestar.com/news/gta/newcomers-still-being-turned-away-from-main-shelter-system-city-confirms/article_45999325-6256-501a-85ba-b5e37c17b2d3.html. Accessed August 23, 2024.



claimant seeking shelter can be referred to any bed that may be available at the time of their request.

293. We asked the TSSS General Manager and the Deputy City Manager why there was a two-month delay. The General Manager told us that usually staff are consulted on motions before they are made – but that did not happen in this case:

We did not interpret this motion. Nobody talked to us about the content of this member's motion. It came to the floor of Council. We did not recognize, rightly or wrongly, that this was a signal to reverse our operational changes. And that didn't happen until, frankly, a media story later in, I want to say the early fall. And conversation direction with the Chief of Staff in the Mayor's office about the desire and direction of the Mayor in Council. And it's at that point that we changed and opened up referring or making any bed available to the first person that calls for it.

294. The Deputy City Manager said he was not surprised there was no consultation on the motion from the Mayor's Office ahead of time, as that happens from time to time. He said he could not speak to why there was a gap between the Council's adoption of the motion and the reversal in September.

295. We also learned during the investigation that at least some staff raised questions to TSSS senior management about City Council's reversal of the decision on July 19, 2023. They said they asked management if the Council motion meant that the decision to stop allowing refugee claimants access to the base system was reversed and did not get clear answers. A staff person at Central Intake told us the following:

I remember listening to a council meeting and I remember Mayor Chow making a statement [...] like "we will ensure that everyone gets a shelter bed regardless of their status in the country" – something of that variation. And I remember hearing that and I was like "oh great, this means everyone's now going to be – like, whatever this November decision was, we're now removing it, and everyone gets a shelter bed." I remember bringing that up at a management meeting with a bunch of other managers within the Division and I was like, "hey did anyone catch that line that Mayor Chow had mentioned?", and to me it was so blatantly obvious that anyone could get a shelter bed regardless of your immigration status in the country. [...] I asked that question because the



direction was still to maintain only refugees to refugee beds and nowhere else. And that's when I came up with this question "did anyone catch that? It sounds like it's the opposite of what we're talking about." And the response was like "oh yeah we'll look into it." And then it came up again that the Mayor had said this publicly and we were doing the opposite, and I brought it up again a second time [...] that the Mayor said "anyone will be admitted," and we were still doing the opposite. And I was getting a response back of "no, we're still holding status quo." So I found that very confusing.

Findings

“The second day, it was raining, so we moved across to a building that had a balcony. We moved there and we brought [cardboard] and slept there. And in the morning a security lady chased us [away].”

Refugee Claimant



Findings

Refugee Claimants Disadvantaged

296. Refugee claimants can face many challenges with respect to social isolation and integration. They also risk detention³¹ and deportation³² if their claims are unsuccessful. While some have connections to friends and family, many claimants come to Toronto with few or no social ties and need to stay in a shelter when they first arrive.³³
297. Context is important. The plight of refugee claimants and asylum seekers is well documented by academics and others, researched over many decades. Trauma and its associated factors are central to this group's experience and make them highly vulnerable within the circumstances of this investigation.
298. I also recognize the housing crisis and the extremely difficult situation the Toronto Public Service found itself in. This matter is not one municipal governments can solve, yet cities bear the brunt of the crisis. The City depends on money and support from the provincial and federal governments. When funds are insufficient, municipal public servants and their political leadership face steep challenges. I am very much aware of this reality, but a number of actions taken by the Toronto Public Service eroded trust with the refugee-claimant-serving sector and others, and caused harm.
299. We cannot say how many refugee claimants were denied a bed because of the City's service change because TSSS did not track the impact of their service

³¹ Government of Canada, Canada Border Services Agency, "Arrests, detentions and removals." July 8, 2020. <https://www.cbsa-asfc.gc.ca/security-secure/arr-det-eng.html>. Accessed August 23, 2024; Human Rights Watch, "Legal Analysis of Agreements Allowing Immigration Detention in Canadian Provincial Jails." April 4, 2022. <https://www.hrw.org/news/2022/04/04/legal-analysis-agreements-allowing-immigration-detention-canadian-provincial-jails>. Accessed August 23, 2024.

³² Government of Canada, Immigration, Refugees and Citizenship Canada, "Claiming asylum in Canada – what happens?" October 6, 2021. https://www.canada.ca/en/immigration-refugees-citizenship/news/2017/03/claiming_asylum_incanadawhathappens.html. Accessed August 23, 2024.

³³ Tides Canada, "Welcome Groups for Refugee Claimants: Volunteer Training Manual." 2020. https://www.togetherproject.ca/wp-content/uploads/2020/01/TP_Manual06_FA1.pdf at pages 4, 8. Accessed August 23, 2024.



change; they collect data on the number of refugee claimants denied a base shelter bed, but not the reason why.

300. The City did not gather the evidence it would need to understand the impact of its service change. In November 2022, it made the decision to stop allowing refugee claimants access to the base shelter system without publicizing it. Also, the City did not track the outcome of this change, further compounding the lack of transparency in its actions. This is not in line with a human rights-based approach, which would require transparent data collection to allow the City to effectively track its progress towards meeting the right to adequate housing.
301. In the summer of 2023, according to City data, about 250 people were turned away from shelters every night, which included refugee claimants and non-refugee-claimants. So even without this eligibility change, the City would have been turning away many refugee claimants throughout 2023, based on the fact there were almost no free beds anywhere in the shelter system.
302. The City pointed to their data showing that refugee claimants were still accessing base shelter beds from November 2022 to September 2023. While that may be the case, the City was turning away at least some refugee claimants even though space was available in the base shelter system.
303. Central Intake staff confirmed to us that they had denied refugee claimants access to an available base shelter system bed.
304. We heard from front-line and management staff that this was, at times, a “leaky” service change – it was not always strictly enforced. Managers told us, and we saw in emails, that they had to remind staff several times to stop admitting refugee claimants into the base shelter system. This may have contributed to the fact that refugee claimants were still accessing the base shelter system during the timeframe under review.
305. There is no doubt the City’s actions had a negative impact on a highly vulnerable group of people in our city. Having reached our borders following undoubtedly very difficult circumstances, it is concerning to think that these same refugee claimants could have faced further hardship in our city due to the actions of our government.
306. I recognize the City’s argument in the April 2022 report to City Council recommending that a separate refugee-claimant-specific shelter system be created. That report described a system at capacity and the need to create a specialized system to properly support refugee claimants. I acknowledge that public servants told us they needed to use scarce resources appropriately.



Senior TSSS staff also expressed their concerns that the increase in the number of refugee claimants in the shelter system was preventing other people from accessing shelter.

307. Staff told us the shelter system was, and is, beyond capacity, and that they had to make extremely difficult choices about who got a bed and who did not. The General Manager and directors at TSSS told us, and we saw repeated in internal documents, that TSSS saw this decision as matching the needs of clients with appropriate programs and supports.
308. Several staff also told us they did not consider the decision to amount to a denial of service to refugee claimants. Instead, as the 2023 draft directive stated, the goal of the decision on May 31, 2023, was “to ensure that refugee claimants and asylum seekers receive these distinct services and that all clients, refugee and non-refugee [*sic*] have access to services that meet their needs.” Staff also told us about their concern that they needed to continue to serve unhoused non-refugee claimants in Toronto, including those with complex and challenging health and mental health and substance use needs.
309. I disagree. The City’s decision prioritized Canadian citizens and others with different immigration status (such as permanent residents) over non-Canadian refugee claimants.
310. Toronto’s shelter system serves thousands of people, many of whom have complex needs and face multiple barriers relating to mental health, physical health, substance use, poverty, homelessness, and more. The City needs to serve them all fairly.
311. The shelter system is very difficult to access. The shelter system has been running at full capacity, and the ability for people to move into more permanent housing and out of shelter spaces has been limited, for many reasons. When someone calls Central Intake, the odds are low that they will get a shelter bed.
312. What the City intended to do here was curtail refugee claimants’ chances of getting a spot by limiting the number of beds they could access.
313. The City should have taken into account refugee claimants’ realities in making decisions about shelter admissibility. But the City did not do this. Instead, the City made what many staff described as an “operational decision.” The City did not consult expert public servants, nor did they analyze their own, albeit incomplete, data, which could have helped them understand the problems with their plan, and better prepare for the consequences.



City Policies Not Followed

314. The City did not follow several important City policies. These policies are intended to protect people who are marginalized. They are based on fundamental human rights principles. By acting in a way that did not comply with these policies, the result, overall, was that the City did not take a human rights-based approach and treated refugee claimants unfairly.
315. What follows is an overview of the key policies that, in my view, the City failed to follow when it made its decision to stop allowing refugee claimants into the base shelter system.

Toronto's Housing Charter and the Right to Housing

316. The City committed to deliver on the right to adequate housing. It set up a system for residents to realize these rights,³⁴ including our Housing Unit, the Housing Rights Advisory Committee, and efforts by the Housing Secretariat to action the right to adequate housing internally within the City administration.
317. The City's decision to exclude refugee claimants from the base shelter system was not in line with its Housing Charter. The City did not live up to its commitment to further the progressive realization of the right to adequate housing.
318. The principles of the Housing Charter fall into three main components: Adequacy, Non-Discrimination, and Participation & Inclusion.³⁵

³⁴ When we talk about rights and obligations, we are referring to the way we hold the City accountable to its commitment to advance the right to adequate housing. We are not giving the City legal advice about legal obligations.

³⁵ More detail on how we evaluate the City's actions under the Housing Charter can be found in Appendix A.



Adequacy

319. City shelters are often the only place to go for newcomers without anywhere to stay or sleep. To be considered “adequate,” shelters must be safe, secure, and support people’s dignity and well-being.
320. I am concerned that the City’s actions deprived at least some refugee claimants access to a safe and warm place to sleep where their basic needs would be met. They were placed at risk of harm.
321. We do not know how many refugee claimants ended up on the street or in churches because of the service change, or because the shelter system was full, or for other reasons. What we do know is that living outdoors was unsafe and compounded refugee claimants’ vulnerability as newcomers. Many people ended up on the sidewalk or in make-shift shelters, with only limited access to basic services such as sanitation, hygiene, food, and water at SHARC. Many more moved to basements and hallways of churches, off City property.
322. For those refugee claimants left homeless when there might have been a base shelter bed available, the City’s actions undermined their dignity. While the City did not consciously set out to harm refugee claimants, the negative impact was evident.

Non-Discrimination

323. The City’s decision was not consistent with the right to non-discrimination and equal treatment.
324. I will not comment on whether the City violated individual refugee claimants’ rights. I did not examine the specific circumstances of each refugee claimant trying to access the shelter system, and under our accountability model, we generally do not comment on the blameworthiness or fault of any specific person or group of individuals. We have been specifically tasked with examining systemic issues, and our investigations are meant to help ensure that the City takes concrete action to combat systemic housing discrimination.
325. The Human Rights Office warned TSSS that the decision carried “a risk that the City could be found to have engaged in discrimination in the Social Area of Services and Facilities based on the [Human Rights] Code protected ground of Citizenship.” Yet the City did not change course.
326. I agree with the HRO’s assessment.



327. There was also a real risk of the City’s decision being found to be indirectly discriminatory – what is called “constructive” or “adverse effect” discrimination. This refers to the fact that many of the people the City was no longer allowing into the base shelter system were not just refugee claimants. They could also be Black, from various African countries, and/or youth, LGBTQIA+, female, pregnant, or living with mental health challenges, or a combination of all of these. All of these often-intersecting elements are characteristics protected by human rights law and the City’s own Human Rights and Anti-Harassment/Discrimination policy.
328. The HRO had also flagged a similar concern for TSSS in pointing out that changing shelter eligibility in this way had the potential to result in “over-monitoring and/or disproportionate scrutinizing individuals of colour, those who were not born in Canada, and those for whom English is a second language, in an effort to assess or clarify their eligibility for this City service,” and pointed to other intersecting personal characteristics protected under the Code and City policy.

Anti-Black Racism

329. The City has an Action Plan to Confront Anti-Black Racism. TSSS also had data, albeit incomplete, showing that many or most of the refugee claimants in the shelter system were from African countries. I acknowledge that the data was not perfect, and that they were hearing from the federal government that the top five countries of origin for refugee claimants across Ontario were not African countries in 2022. However, for the very next year, that federal data included Nigeria as the top country of origin and Kenya as fourth out of the top five. We did not find evidence of real engagement or consideration of this data in terms of decision-makers examining the human rights impacts. The Executive Committee and Council only considered the UNHRC’s data in November 2023, which was one year after the City made the decision to stop allowing refugee claimants access to the base shelter system.
330. In my view, the City should have considered whether its decision to stop allowing refugee claimants into the base shelter system could constitute anti-Black racism. Even though its own shelter data was not perfect, it was enough of a warning signal that the City should have considered this possibility.
331. It is also worth noting that in 2022, TSSS “consulted with clients and staff to understand what changes needed to be made to the Toronto Shelter Standards



to better serve Black clients,” which resulted in TSSS creating a December 2023 Directive, containing the Confronting Anti-Black Racism Standards.³⁶

332. Despite this work, staff proceeded with the November 2022 decision to stop allowing refugee claimants into the base shelter system. They did not properly consider that this could undermine their efforts to better serve Black clients by implementing a change that many staff and refugee-claimant-serving organizations viewed as discriminatory.
333. Unprompted, a number of people we interviewed – including some City staff – compared the City’s eligibility change for largely racialized refugee claimants with the way the City treated mostly white recently arrived Ukrainians.
334. The situation for Ukrainians arriving from their war-torn country was different in almost every way. This is not an apples-to-apples comparison to the situation of refugee claimants arriving from African countries. The federal government fast-tracked Ukrainian newcomers with support from all three orders of government. During this investigation, City leadership stressed that they had no control over the way the federal government designated Ukrainian arrivals and the reception that flowed from that. The federal and provincial governments’ actions were not within the scope of my investigation.
335. I raise this issue not to draw a direct comparison between the two situations. This would not be appropriate, given their inherent differences. I am not evaluating the adequacy of the City’s response to arriving Ukrainians, or the adequacy of the City’s response to non-Ukrainian refugee claimants in Toronto.
336. Rather, I raise this issue because of how some City staff and members of the public saw a stark contrast between the support the City and other orders of government offered to Ukrainians compared to African refugee claimants. Staff and members of the public were understandably angered by what they saw as differential treatment.
337. The City should have known this would happen, and that stopping predominantly Black refugee claimants from accessing the base shelter system would lead to justifiable anger and a loss of trust among many residents and community partners.

³⁶ City of Toronto, Shelter, Support & Housing Administration, Directive 2023-03. December 18, 2023. <https://www.toronto.ca/wp-content/uploads/2023/12/8ccc-TSSDirective-2023-03-CABR-Standards-FINALDec-18.pdf>. Accessed August 23, 2024.



Systemic Discrimination

338. Systemic discrimination is patterns of behaviour, policies, or practices that are part of the structures of an organization, which create or perpetuate disadvantage for certain groups of people, such as racialized persons or non-Canadian citizens.³⁷ Since it opened in 2009, my office has examined systemic issues that might appear neutral in their intent or fair in their application, but have the effect of discriminating against a group of people who share common attributes.³⁸
339. In the case at hand, City leadership did not set out to harm refugee claimants. But under human rights law,³⁹ and as reflected in the City's own Human Rights and Anti-Harassment/Discrimination policy, it is effect or consequence that matters, not intent.⁴⁰
2. I find that the City's service change, and the way the City planned and implemented it, was systemic discrimination on the basis of citizenship and race (specifically, systemic anti-Black racism).⁴¹
340. The City's decision was designed to specifically impact refugee claimants (who are non-citizens) and had the effect of targeting predominantly Black individuals, harming at least some of them by preventing them from accessing a service

37 Ontario Human Rights Commission, "Racism and racial discrimination: Systemic discrimination (fact sheet)." <https://www.ohrc.on.ca/en/racism-and-racial-discrimination-systemic-discrimination-fact-sheet>. Accessed August 23, 2024.

38 Office of the Ombudsman, "Defining Fairness in Local Government" (2013). <https://www.ombudsmantoronto.ca/wp-content/uploads/2023/09/Defining-Fairness-in-Local-Government-Handbook.pdf>. Accessed October 19, 2024.

39 Ontario Human Rights Commission, "Racial discrimination, race and racism (fact sheet.)" <https://www.ohrc.on.ca/en/racial-discrimination-race-and-racism-fact-sheet>. Accessed September 24, 2024.

40 The City's policy defines discrimination as: "Discrimination is any practice or behaviour, whether intentional or not, which has a negative impact on an individual or group protected in the Ontario Human Rights Code (e.g., disability, sex, race, sexual orientation, etc.) by excluding, denying benefits or imposing burdens upon them. Discrimination may arise as a result of direct differential treatment or it may result from the unequal effect of treating individuals and groups in the same way. Either way, if the effect on the individual is to withhold or limit full, equal and meaningful access to goods, services, facilities, employment, housing accommodation or contracts available to other members of society and their membership in a prohibited ground was a factor, it is discrimination."

⁴¹ A recent court decision found that discrimination on the basis of "immigration status" can be considered discrimination on the protected ground of "citizenship." *Imperial Oil Limited v. Haseeb*, 2023 ONCA 364.



previously available to them. Even if some refugee claimants continued to be referred to non-refugee-designated shelter beds, the change, as planned and implemented, was systemically discriminatory on its face.

341. The City treated “refugee claimants” as a category of shelter users, without considering the differences within this group of people. The City did not take an equitable approach, and failed to appreciate any language, socio-economic, or cultural needs and differences among the refugee claimants looking for help. Instead of trying to remove systemic barriers and provide a fully inclusive service, the City’s actions prevented at least some Black, non-citizen newcomers from accessing the base shelter system.
342. We also saw that in terms of planning and implementation, the City sidelined its own internal experts and community partners and did not meaningfully use or improve on any of its disaggregated data. In the decision-making and planning stages, staff did not try to think about who refugee claimants were and where they were from. A failure to identify and then consider the impact of a service change on equity-deserving populations like these is an example of systemic discrimination.
343. I have taken pains to emphasize, and will repeat here, that my investigation could not establish that the City’s eligibility change caused widespread and direct harm to all refugee claimants trying to access Toronto’s shelter system.
344. Rather, the decision itself, and the way it was implemented, are what concern me.
345. Put another way, the City decided to limit refugee claimants’ chances of accessing a shelter bed, and did not put enough thought or work into that decision, its implementation and potential impact. This is a systemic issue since it was about a service change intended to apply across all shelters. As many or most the people disadvantaged and negatively impacted by the change in eligibility would have been Black non-Canadian citizens, this was, in my view, an example of systemic discrimination.

Participation & Inclusion

346. Under the “participation & inclusion” component, I examined how the City made the decision to stop allowing refugee claimants into the base shelter system, and the fact that it did not communicate the decision to newcomers and the refugee-claimant-serving community.



347. The City did not consult with refugee claimants or refugee-claimant-serving organizations before making this decision.
348. Consulting refugee claimants before making this decision may have been challenging, but the City should have tried; the City did not try to speak to groups who had experience supporting refugee claimants, or to people who had recently been through the refugee claim process.
349. The City did not speak to its own internal experts, apart from the TNO, in advance of the November 2022 change. And the TNO understood that TSSS was asking them for support in creating a separate refugee claimant shelter system, not for support in no longer allowing refugee claimants access to the base shelter system.
350. TSSS did not consult the CABR Unit or the HRO before the 2023 news conference. These specialized bodies could have helped explain the problems with the City's proposal. And they might have provided recommendations on how to make the decision in a more thoughtful and deliberate way.
351. And TSSS only notified the TNO, the Executive Director of SDFSA, and a City expert on refugee claimant issues who used to lead the TNO, two days before the news conference. In my opinion, this was not adequate.
352. Finally, the City did not tell anyone about its decision in November 2022. This was poor communication.

City Failed to Follow Right to Housing's Guiding Principles

353. To decide whether the City met its obligations under the right to adequate housing,⁴² we focus on the most relevant of the seven guiding principles of our Housing Rights Framework. These principles informed both my decision-making and the resulting findings in this matter.
354. The **seven guiding principles** of our Housing Rights Framework are:
 - Human rights impacts are the primary consideration;
 - Using all appropriate means;

⁴² For further clarity, when we talk about rights and obligations, we are referring to the way we hold the City accountable to its commitment to advance the right to adequate housing. We are not giving the City legal advice about legal obligations.



- Using maximum available resources;
 - Prioritizing those in greatest need;
 - Meaningful engagement;
 - Collaboration with other governments; and,
 - Environmental sustainability and resilience.
355. We have already addressed concerns about the City failing to consider human rights impacts, prioritize those in greatest need, and meaningfully engage.
356. As set out in the City’s Housing Charter, the progressive realization of the right to housing means the City will invest in housing programs and policies using “maximum available resources” (Implementation Step 9) and “all appropriate means,” including zoning, regulation, enforcement, and other measures, to ensure adequate housing for all (Implementation Step 1).
357. And the City will work with other orders of government to identify respective areas of responsibility and shared obligations to further the progressive realization of the right to adequate housing (Implementation Step 13).
358. I understand that federal and provincial support is needed to find both adequate temporary shelter and permanent affordable housing for fluctuating numbers of refugee claimants. The City identified this need a number of times, publicly. That support was notably lacking in early 2023.
359. The City continues to request that federal and provincial governments step up efforts to provide temporary accommodation for refugee claimants until permanent housing is in place.⁴³ City leadership emphasized to us that the other orders of government have provided a substantial amount of funding. But in 2022-2023, it was just not enough.
360. I will not make findings or recommendations on this complex and politically charged issue because it is out of the scope of this investigation. I will, however, make a few observations.
361. First, the City’s policies do not differentiate on the basis of immigration status. In fact, the policies generally say that the City must not differentiate on the basis of

⁴³ City of Toronto, HousingTO 2020-2030 Action Plan 2020-2021 Progress Report. November 2021. <https://www.toronto.ca/legdocs/mmis/2021/ph/bgrd/backgroundfile-173154.pdf> at page 94. Accessed August 23, 2024.



immigration status. This approach is consistent with the right to adequate housing and human rights law.

362. The second is that with disputes regarding funding, human rights observers, including the Canadian Centre for Housing Rights and the National Right to Housing Network, emphasize that in line with international law, countries or states are not permitted to use jurisdictional divisions as a justification for failing to realize the right to adequate housing.⁴⁴
363. I acknowledge the City's longstanding position and agree there needs to be coordinated change – both regionally among the GTHA and between all orders of government – to better plan for, fund, execute, and operationalize the provision of temporary shelter/housing for refugee claimants. I also acknowledge the significant efforts the City has made to advocate for more funding from other orders of government.
364. Nonetheless, the City did not satisfy its Housing Charter commitments. By no longer allowing refugee claimants into the base shelter system, it failed to act like a government body that was trying to progressively realize the right to adequate housing. In fact, its actions were the opposite, moving the City away from the right to adequate housing.

Access T.O.

365. The City's decision to stop allowing refugee claimants into the base shelter system went against the City's Access T.O. policy.
366. TSSS used refugee claimants' immigration status as a reason to refuse access to base shelter beds. This contradicts the policy's purpose and directly conflicts with its wording. (See Appendix B for more details on this policy and its requirements.)
367. Further, staff did not clearly explain to refugee claimants why they were collecting information on their immigration status. Staff did not tell people that if

⁴⁴ Canadian Centre for Housing Rights & The National Right to Housing Network, "Implementing the Right to Housing in Canada: A Responsibility of All Governments." April 29, 2022. <https://housingrightscanada.com/resources/implementing-the-right-to-housing-in-canada-a-responsibility-of-all-governments/>. Accessed August 23, 2024.



they disclosed that they were a refugee claimant, it could mean they would not get access to a shelter bed.

368. And when staff denied refugee claimants a bed (because there were no refugee-claimant-specific beds available), staff did not tell the caller why they were being denied. Staff simply said something along the lines of “there are no beds available” or “there are no appropriate beds available,” without mentioning anything about their immigration status having played a role in this decision.
369. The Refugee Working Group flagged the need to evaluate compliance with Access T.O. early on, but decision-makers did not evaluate compliance, or appropriately consult with or bring this proposal to TNO’s attention, as they are directed by the policy to do.

Toronto Shelter Standards

370. The City’s decision to stop allowing refugee claimants into the base shelter system went against the Toronto Shelter Standards. (See Appendix B for more details on this policy and its requirements.)
371. The principle of universal access is at the heart of both Access T.O. and the relevant provisions of the Toronto Shelter Standards. Both policies are designed so that “refugee status” and “immigration status” are not a basis to prevent affected individuals from accessing emergency shelters. Exactly the opposite happened when the City decided to stop allowing refugee claimants from accessing non-refugee-claimant beds.
372. After November 7, 2022, if someone disclosed their refugee status, they risked being told there were no beds available and to call back later, even if there was a base shelter bed available at the time of their call. They were not told that if they disclosed their status, this could result in a denial of service. This was not consistent with the Shelter Standards, or with the requirement in Access T.O. to explain the reason that staff are asking immigration-related questions.
373. Some members of senior management argued that allowing refugee claimants into the base shelter system meant denying space for non-refugee-claimants, since there are not enough beds for everyone. They pointed out that many Toronto residents experiencing homelessness have complex needs relating to, for example, mental health or substance use issues, and that Indigenous and racialized peoples are overrepresented in this population. They said that allowing the base shelter system to fill up with refugee claimants meant that



non-refugee-claimants would have nowhere to go, and this was not fair to the “local” population.

374. I recognize that the City is allowed to develop programs to help a specific group of people in order to reduce historical disadvantages. But that is not what happened here.
375. Instead, the City prioritized Canadian citizens and others with different immigration status over refugee claimants.
376. The point that must be made clear is that a group of people, deliberately protected by the City’s own policies, cannot be denied service simply because they are refugee claimants.
377. The final justification we heard was that the City’s overall goal was to divert or redirect refugee claimants to refugee-specific shelter beds, and that those beds were more appropriate for refugee claimants because it allowed staff and other community organizations to provide specialized support to these refugee claimants. Staff repeatedly told us that the base shelter system was not designed to help refugee claimants, who have different needs than others.
378. To this, I’d say: it’s better to have a bed — any bed — than no bed at all. Refugee claimants should also have been given the opportunity to choose for themselves whether to accept a non-refugee-claimant shelter bed. I do not accept the City’s argument.

Administrative Fairness

Transparency and Policy Concerns

379. When asked how staff had the authority to exclude refugee claimants from the base shelter system, the General Manager of TSSS and others pointed us to the authority to add shelter spaces and build shelters. They also referenced the direction from Council to explore the creation of a separate, parallel refugee claimant shelter system, referring to the COVID-19 Shelter Transition and Relocation Plan Update and its Background Report and Presentation.⁴⁵ These

⁴⁵ EC28.9 - COVID-19 Shelter Transition and Relocation Plan Update, above.



refer to the “Phased 24-month Transition Workplan” and the creation of a “dedicated refugee shelter sector to free up existing shelter capacity.”

380. This raises a question of substantive fairness, a matter central to my jurisdiction.
381. The April 6, 2022, staff report talks about creating a separate refugee claimant shelter system. It does not talk about excluding refugee claimants from the rest of the system. By adopting this report, City Council asked staff to create a specialized refugee claimant shelter system to address their unique needs. In my view, staff failed to make clear to Council and the public that their plan was to stop allowing refugee claimants into the base system.
382. Further, TSSS’s work to create this separate, refugee-claimant-specific system was only in the earliest of planning stages – not even close to being done – when TSSS decided to make this eligibility change.
383. I am also concerned that the City’s decision was not consistent with other important City policies.
384. Under Access T.O., staff cannot collect immigration information without explaining the reasons for doing so, which staff did not do.
385. Under Access T.O. and the Toronto Shelter Standards, staff cannot deny people service based on immigration status, which staff did.
386. The decision to stop allowing refugee claimants into the base shelter system also went against the Council-approved Housing Charter, as explained above.
387. Finally, I am very concerned that staff made such a significant change to shelter eligibility largely through email. Basically, staff were told by email to stop allowing refugee claimants into the base shelter system. This process was improper and ignored the principles of administrative fairness at their most basic.
- 388.** As a matter of fairness, a decision this consequential, which went against key City policies, should have been clearly announced to both Council and the public, and should have been implemented in a way that was transparent and properly documented. It was not.

Implementation Problems

389. “Substantive fairness” means that staff need to know how to apply a rule. We cannot expect a decision to be fair if staff are not given the tools to apply the rules properly.



390. The decision to stop allowing refugee claimants into the base shelter system was a new rule.
391. Frontline staff did not know how to apply this rule in a consistent, fair way. That is because they did not know how to decide who to exclude and who to allow into the base shelter system.
392. I recognize that immigration and refugee law is extremely complicated. There are many different types of “refugees,” including people who haven’t made a claim but intend to, people who have made a claim and are awaiting a hearing, people who have had their claim denied but are challenging that decision, and more. A person’s status also changes over time. But staff were not equipped to understand these subtleties.
393. Central Intake staff did not have clear guidance for how to classify someone as a refugee claimant, particularly for those who had not yet made a claim. For example, Central Intake staff were asking whether refugee claimants who made applications on humanitarian and compassionate grounds were to be added to their “refugee queue.”
394. I am concerned that staff were being told to stop giving shelter space to a certain type of person, without being given the tools to know how to identify or appropriately classify that person.
395. Central Intake staff did not have adequate instructions about how to implement the eligibility change either before or after November 7, 2022, when the change was made. Staff still did not have these instructions when the City announced on May 31, 2023, that they would be referring refugee claimants to federal supports. The evidence shows that information such as detailed phone scripts for staff and resources to give refugee claimant callers were not developed or distributed until several weeks later. This led to a confused implementation.
396. Staff also did not have clear instructions about how to treat refugee youth.
397. This was all deeply unfair.

Unhelpful Referrals

398. Administrative fairness requires that public servants give helpful, relevant information to members of the public.
399. In 2023, staff knowingly referred refugee claimants to resources that were not helpful or relevant to them at all: Service Canada and IRCC’s hotels programs.



400. Service Canada could not do anything to help people find shelter, and staff knew it.
401. At the time of the news conference, and for many months afterwards, staff did not know where IRCC's hotels were located, or how to refer refugee claimants to them. Staff were also told by an in-house expert on refugee issues that, at the time, those hotel programs would not take referrals from the City. Yet the City's senior management insisted that refugee claimants be told to contact IRCC for shelter.
402. Senior leadership's insistence to include these unhelpful referrals in their public messaging and in its instructions to staff was unfair. Refugee claimants were not matched with their needs – they were referred to services that did not exist. Senior staff not only knew that the services did not exist, they were repeatedly advised against referring to them. Providing the Service Canada phone number and referring to IRCC hotel programs breached the trust of the newcomers and the communities who serve them. Leadership's rationale for referring people to Service Canada and IRCC falls short of the minimum standard of service owed to this vulnerable group of people.

Lack of Accountability

403. Decisions like those of November 2022 and May 2023 should be made according to a clear process that is properly documented.
404. In this case, staff twice started, but did not finish, draft directives saying refugee claimants could no longer access the base shelter system. A directive would have shown clear reasoning for the change and pointed to the authority required to make the change.
405. However, the directives were never finalized, and we did not get clear responses from City leadership as to why.
406. Further, in our interviews with everyone from frontline staff to senior leadership, not one person was able to clearly identify who made the decision to stop allowing refugee claimants into the base shelter system.
407. My investigation found the General Manager of TSSS ultimately gave the go-ahead to implement the November 2022 service change. It is concerning that no one we interviewed seemed to know who was responsible for making the eligibility change. And no one ultimately took responsibility for the decision to refer refugee claimants to federal supports and announce this publicly via news conference in May 2023.



408. The lack of a directive and of documentation about staff's decision-making reveals a shortcoming in accountability and transparency. This decision was significant, affecting many people, most of all a very vulnerable group of people. This points to the pressing need for a defined process with clear accountability and a chain of command.

Delay in Reversing Decision

409. I am concerned that public servants did not act in a timely manner to adopt Council's direction and reverse the decision to stop allowing refugee claimants into the base shelter system. Staff's explanation of why there was an almost two-month delay was insufficient.
410. City staff failed to implement Council's July 19, 2023, direction, as described above, in a timely manner. It certainly appears to me that senior staff at the City only changed course and implemented Council's direction after a media report.
411. This delay was unacceptable.

Conclusion

“I sleep two hours I think in the morning. The [owner] of that house comes in a car and she wakes me, and she called immediately the police and I run. [...] I was angry because that woman doesn't know my situation.”

Refugee Claimant



Conclusion

412. In 2022 and 2023 the City of Toronto, and particularly senior leadership, were in an extremely difficult situation. It was, as the City Manager described, an “impossible” situation. The shelter system was under immense strain, and no relief from the federal government was in sight.
413. I recognize the efforts the City made to support increasing numbers of refugee claimants in 2022 and 2023. For instance, the City added spaces for them in the shelter system, supported refugee claimant families by placing them in hotels when necessary, and advocated to other orders of government for more funding.
414. I have made a concerted effort to recognize and appreciate the difficulties the City faced. However, these difficulties did not justify the City’s decision on shelter eligibility. The City took an exclusionary step that went backwards, away from realizing the human right to adequate housing. It went against important City policies designed to protect specific groups of people and ensure universal access. It failed to adequately consult or plan for the impact of the decision, and it did not collect the information necessary to analyze and understand the impact of its decision-making.
415. The City’s actions both in 2022 and again in 2023 added challenges and burdens on a highly vulnerable group of people. Turning refugee claimants away from the base shelter system was wrong. Referrals to Service Canada and IRCC hotels were unhelpful and gave people false hope as they struggled to settle and integrate.
416. Public trust is key to a well-functioning, fair government. The City’s actions risked damaging that trust. The City failed to consult the refugee-claimant-serving sector before making this change. It did not consult its own internal experts. Staff did not clearly and publicly make their plans known in advance, nor did they carry out the eligibility change in an orderly way. And many City staff reported feeling upset, frustrated, and powerless. Some staff felt management’s efforts to support them fell short.
417. When the City needs to prioritize eligibility due to a scarcity of resources, I would expect these difficult choices to be made on a set of objective criteria, based on careful data analysis. In providing temporary and emergency shelter, the City must provide an opportunity for meaningful participation and inclusion. Decisions as important as these must be made in an open, transparent way.



418. Even though it was not intended, the City's decision to stop allowing refugee claimants into the base shelter system resulted in systemic discrimination on the basis of race and citizenship.
419. The City has committed to progressively realize the right to adequate housing for all. Instead, with this eligibility change and the way it was implemented, the City failed to uphold that commitment and was deeply unfair to refugee claimants.

Recommendations



Recommendations

In consideration of the information gathered through this investigation and its findings, I make the following recommendations:

420. That the City follow the Toronto Shelter Standards' interim amendment process by using a Directive when making such amendments.
421. That the City ensure all future changes to refugee claimant shelter eligibility adhere to the Ontario Human Rights Code, the City's Human Rights and Anti-Harassment/Discrimination Policy, Access T.O., and the Toronto Shelter Standards by having these proposed changes reviewed by the City's Human Rights Office, the Confronting Anti-Black Racism Unit, the Toronto Newcomer Office, and other relevant internal experts before implementing them.
422. That compliance with these policies be documented through a formal procedure with sign off by the General Manager of TSSS.
423. That the formal procedure above be shared with the Ombudsman by March 31, 2025, prior to implementation.
424. That all TSSS staff involved in shelter policy development as well as senior TSSS leadership (the General Manager and directors) be trained in the Anti-Black Racism Analysis Tool by June 1, 2025, and that all new shelter policy staff, as part of their onboarding, be trained in this tool.
425. That the City develop a framework to analyze any new shelter eligibility changes for alignment with the Toronto Housing Charter before these new changes are implemented.
426. That this framework be finalized by March 31, 2025, and shared with the Ombudsman prior to implementation.
427. That senior executives at the City, including the City Manager, Deputy City Manager (Community & Social Services), and the General Manager of Toronto Shelter & Support Services, invite the Chair of the Housing Rights Advisory Committee and the Executive Director of the Housing Secretariat to a meeting to discuss the City's obligations flowing from its commitment to progressively realize housing as a human right by March 31, 2025.
428. That the City hold a dedicated training session for the directors of TSSS delivered by the Executive Director of the Housing Secretariat (or their designate) on the City's obligations flowing from its commitment to



progressively realize housing as a human right by March 31, 2025. The Executive Director of the Housing Secretariat may wish to consider inviting the Chair of the Housing Rights Advisory Committee and others (as needed) to help facilitate this session.

429. That senior executives at the City, including the City Manager, the Deputy City Manager, and the General Manager of Toronto Shelter & Support Services, offer to hold a round-table session with key refugee-claimant-serving organizations and housing rights advocates to learn from these organizations, with the goal of informing future City decisions related to emergency housing for refugee claimants. If accepted by these organizations, this session should be held by June 1, 2025.
430. That the City develop a comprehensive strategy for meaningfully engaging with refugee claimants and refugee-claimant-serving organizations to help plan and deliver shelter services impacting refugee claimants. This strategy should include clear definitions of “meaningful engagement” and set out how the City will incorporate the feedback it receives.
431. That the City complete its engagement strategy and share it with the Ombudsman no later than June 1, 2025.
432. That the City update Ombudsman Toronto on TSSS's approach to data collection, and explain how data will be used to track progress toward achieving the progressive realization of the right to adequate housing for all shelter users and those trying to access shelter, including refugee claimants. This may be done in consultation with the Data for Equity Unit (People & Equity) or any other related internal or external experts.
433. That the City provide a status update on the implementation of all these recommendations by June 1, 2025, and quarterly thereafter.



The City Manager's Response and our Reply

434. As a matter of procedural fairness, I provided several opportunities for the City Manager and relevant City staff to share feedback on the draft report. I considered their responses and incorporated the information that was relevant and in scope.
435. On November 26, 2024, the City Manager wrote that he would receive the report on behalf of the organization, but that he did not agree with the report's findings and, subject to Council's decision on the report, would not take any further action in response to the recommendations.
436. I responded directly to the City Manager and have included his letter and my response as Appendix C and D to this report. What follows is a brief summary of both letters.
437. In his letter, the City Manager set out:
- The context around the funding challenges facing the City's shelter system, and steps the federal government began taking to support refugee claimants towards the end of 2023.
 - Why he disagreed with our assessment of the City's Housing Charter and Access T.O. policy.
 - His belief that the report shows a lack of understanding about divisional roles and responsibilities in the City's shelter response, in particular with respect to the TNO.
 - His belief that the tone of the report is accusatory in many places and reflects a lack of understanding of the context the City was in at the time as well as roles and responsibilities of other orders of government.
438. The City Manager previously raised very similar concerns with me, and I had considered and addressed that feedback in the final draft report.
439. In my response letter, I noted that my report describes the extremely difficult context in which the City was operating, and that the focus of my report was on the City's actions, since we do not have jurisdiction over other orders of government.
440. It appears that we have a different view on the implications of the nature and applicability of the Housing Charter. The City takes the position that the "right to adequate housing" set out in the Housing Charter is an "aspirational statement



that the City works towards.” I disagree. The Council-approved Housing Charter is not merely an aspirational statement. It is part of the HousingTO 2020-2030 Action Plan, and contains 13 implementation steps. The City’s policy is “to move deliberately to further the progressive realization of the right to adequate housing recognized in the International Covenant on Economic, Social and Cultural Rights.” As a result, the City has an obligation to uphold and progressively implement the right to adequate housing.

441. And while the City believes that staff were following the steps required in the policy, my report identifies serious gaps in its response, including a failure to adequately consult with its own experts and affected people, and a lack of equal treatment without discrimination of refugee claimants who were seeking shelter beds.
442. We also disagree on the application of the Access T.O. policy. The City takes the position that it has never used immigration status to deny clients access to shelter services, and that “staff use a client’s refugee status to connect them to the most appropriate programs and services to meet their specific needs.” The report shows that the direction given to City staff was that if a refugee claimant disclosed their immigration status to shelter intake workers, that individual had to be offered a bed only in a refugee-designated program and nowhere else. My investigation found that because of this direction, at least some refugee claimants were not given a base shelter bed when one was available.
443. On the roles and responsibilities of City divisions in administering the City’s shelter response, my report is clear that TSSS is responsible for the shelter system, and that they should have consulted the TNO when making the shelter eligibility decision about refugee claimants, since that unit is responsible for the stewardship of the Access T.O. policy.
444. I noted my disappointment that the City Manager said he will not accept the report or act on its recommendations unless instructed by Council. This is the first time in the history of the Ombudsman’s office that the Toronto Public Service has rejected my findings and recommendations in their entirety. In doing so, the City is missing an opportunity to improve its services and advance its commitment to the right to adequate housing.
445. I am asking Council to direct staff to implement my recommendations. If Council chooses to do so, I will, as always, work collaboratively with staff on the implementation of these recommendations as we advance our shared interest of building a fairer City.

Appendices



Appendix A: Housing Rights Framework

In our past work, we have talked about the City’s duty of fairness and have held the City to account in how it serves the public. In this document, we talk about the City’s obligations to progressively realize the right to adequate housing, in line with Canada’s *National Housing Strategy Act* and international law, and how we will hold the City to those obligations.

Recognizing how important the right to adequate housing is, the City adopted a Housing Charter and set up a system for residents to realize this right, including our Housing Unit, the Housing Rights Advisory Committee, and efforts by the Housing Secretariat to action the right to adequate housing internally within the City administration.

In our housing work we will use the word “obligation” to describe what we expect of the City when we investigate its policies, procedures, programs, and all other housing-related action it takes. We are not giving the City legal advice about legal obligations. We are holding it to account for the promises it has made to advance the right to adequate housing.

The Human Right to Adequate Housing

International law recognizes adequate housing as a fundamental human right that is central to people’s dignity and well-being. This is established in the International Covenant on Economic, Social and Cultural Rights and the Toronto Housing Charter is based on these principles.

Other international legal agreements, such as the United Nations Declaration on the Rights of Indigenous Peoples, the Convention on the Rights of Persons with Disabilities, and the 1951 Convention Relating to the Status of Refugees, address the specific housing-related rights of certain groups. Ombudsman Toronto will use these international legal agreements to help assess whether the City is living up to its obligation to progressively realize the right to adequate housing.

“Progressive realization” means that, while the City cannot solve the housing crisis right away, it must use all available resources and tools to constantly move forward



and help people realize their right to adequate housing.⁴⁶ As part of this work, the City must measure its progress and do so in a transparent way. We will help to hold the City's Public Service to account on this work.

Canadian laws, including the *Canadian Charter of Rights and Freedoms*, the *National Housing Strategy Act*, Ontario's *Human Rights Code*, the *Residential Tenancies Act*, the *Building Code Act*, and the City's HousingTO 2020-2030 Action Plan also inform the Housing Unit's work. The 2020-2023 Action Plan sets out the blueprint for the City to fulfill its commitments under the Toronto Housing Charter.

A Human Rights-Based Approach to Housing Investigations and Reviews

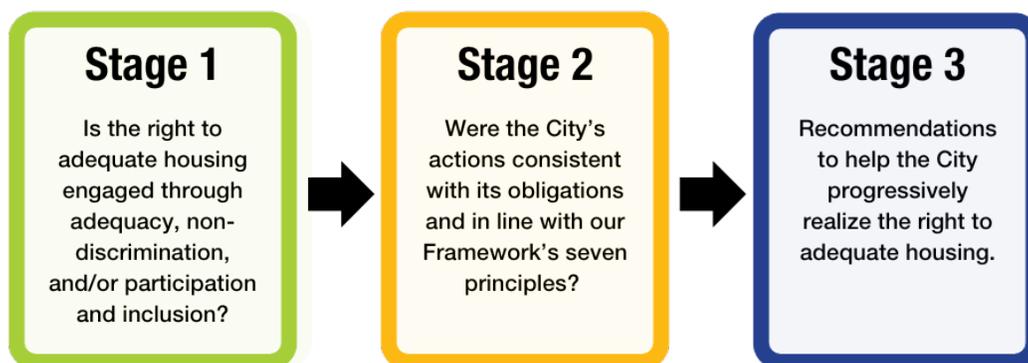
The starting point for evaluating the City's decisions, actions, and inactions regarding housing is the lived experience of different social groups and communities.

The first question we ask is whether the City's actions have negatively affected people in any of the three components of the right to adequate housing. These three components are: adequacy, non-discrimination, and participatory rights. We call this "Stage 1" of our analysis.

If we find the City has negatively affected people in one or more of these three components, we will then consider whether the City's actions are consistent with the obligation to progressively realize the right to adequate housing (the City is obligated to work towards the realization of the right to adequate housing for all residents). We call this "Stage 2" of our analysis. In some cases, we may find that while people have been negatively affected, the City has still met its policy objectives. In other cases, we may find that the City has more work to do.

If we find that the City has more work to do, we will make recommendations to help the City meet its obligations under the right to adequate housing. This is "Stage 3" of our analysis.

⁴⁶ "Progressive realization" refers to Article 2(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR), which requires a government "to take steps...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures."



Stage 1: Components of the Human Right to Adequate Housing

1) Adequacy

To be considered “adequate,” housing must meet specific criteria including security of tenure, habitability, affordability, availability of services, appropriate location, cultural adequacy, and accessibility. Housing must support residents’ dignity and well-being, considering their specific needs.

2) Non-Discrimination

The Housing Charter promotes equal treatment and protection from discrimination based on grounds protected under Ontario’s *Human Rights Code* (e.g., race, sex, disability). The Housing Charter also protects residents from discrimination based on homelessness or housing status. Ombudsman Toronto will identify systemic inequalities that create barriers to the right to adequate housing by groups who are marginalized.

3) Participation and Inclusion

Residents must be involved in decisions affecting their housing rights. This includes informed participation, meaningful engagement, and understanding the decisions made. Effective participation is necessary for the City to identify the diverse needs of vulnerable and/or marginalized groups and to develop solutions, in a way that respects residents’ dignity and autonomy.



Stage 2: Guiding Principles for City Decisions and Actions

Seven principles guide the City as it moves towards the realization of the human right to adequate housing. We will assess the City's actions against these principles to determine whether the City has taken every reasonable step to satisfy its obligations under the Housing Charter and the law.

Human rights impacts are the primary consideration: Any action the City takes which has housing implications must be centred around the human right to adequate housing for people affected by the City's action.

Using all appropriate means: The City must use all of the tools and powers available to improve housing outcomes, including policy changes, service provision changes, and improved enforcement practices.

Using maximum available resources: The City must dedicate and prioritize resources, including money, infrastructure, and personnel, towards realizing the right to adequate housing over other demands that do not concern fundamental human rights.

Prioritizing those in greatest need: The City must apply an intersectional⁴⁷ equity lens to address systemic housing disadvantages and prioritize the interests of groups and communities furthest away from exercising the right to adequate housing.

Meaningful engagement: The City has an obligation to ensure residents, especially marginalized groups, are adequately involved in housing decisions.

Collaboration with other governments: The City must work with provincial and federal authorities to advance housing rights through securing greater resources, collaborating in program and service development, and identifying the need for changes to laws to realize the right to adequate housing.

Environmental sustainability and resilience: The City must work to improve the sustainability of both new and old housing and ensure that housing is resilient to climate-related risks, such as increasing severe heatwaves and extreme climate-related events.

⁴⁷ The concept of "intersectionality" has been defined as "intersectional oppression [that] arises out of the combination of various oppressions which, together, produce something unique and distinct from any one form of discrimination standing alone...." Ontario Human Rights Commission, "An intersectional approach of discrimination: Addressing multiple grounds in human rights claims," <https://www.ohrc.on.ca/en/intersectional-approach-discrimination-addressing-multiple-grounds-human-rights-claims/introduction-intersectional-approach#fn6>. Accessed August 23, 2024.



Stage 3: Recommendations

The recommendations from our investigations will help the City better meet its obligations to progressively realize the right to adequate housing. We make recommendations that are both ambitious and achievable, put people first, and are in line with this framework and the Housing Charter. After we make recommendations, we follow up with the City until they have been successfully implemented.



Appendix B: Access T.O. and Toronto Shelter Standards

Access to City Services for Undocumented Torontonians (Access T.O.) Policy

In February 2013, City Council reaffirmed its commitment to ensuring that Torontonians, regardless of immigration status, have access to City services without fear of being asked for proof of status.⁴⁸ This led to the creation of the City’s Access T.O. policy.⁴⁹

Under the stewardship of the Toronto Newcomer Office, Access T.O. ensures that all residents of Toronto have full and equal rights to access City services. Immigration status (defined as “a non-citizen’s position in a country—for example, permanent resident or visitor”) has no bearing on eligibility to receive municipal services, including shelter services.

This policy has limits: the City delivers certain services on behalf of the provincial government, and the province sets eligibility for these programs, some of which are based on immigration status, like Ontario Works and childcare fee subsidies.

Access T.O. also guides when staff can collect immigration information:

The City of Toronto does not collect personal information, including related to immigration status, unless there is a legislative or operational requirement to do so. As a general principle, personal immigration and citizenship information should only be collected when it is part of eligibility criteria to receive a service. However, information related to the profile of service users, including their

⁴⁸ City of Toronto, City Council Decision of February 20, 2013, “CD18.5 - Undocumented Workers in Toronto.” <https://secure.toronto.ca/council/agenda-item.do?item=2013.CD18.5>. Accessed August 23, 2024.

⁴⁹ General information about Access T.O. and its initiatives can be found here: <https://www.toronto.ca/city-government/accountability-operations-customer-service/long-term-vision-plans-and-strategies/access-to-city-services-for-undocumented-torontonians/>. Accessed October 7, 2024.



immigration status is necessary in order to plan and provide adequate service supports.

The policy lists the following three considerations for collecting immigration information:

- Unless it is a service requirement or prerequisite, information about immigration status should be collected separately from personal information, and kept in an aggregate form. In such circumstances, no proof of immigration status is required, and self-identification is sufficient.
- The reason for collecting immigration information should always be explained, as well as circumstances in which information can be shared with outside agencies. A common script should be provided to all City staff to follow, when providing this explanation.
- City staff should exercise caution when asking for immigration information, making sure that their tone and approach do not discourage the client from proceeding with their service request.

Toronto Shelter Standards

The Toronto Shelter Standards⁵⁰ are a set of requirements and guidelines for shelter services in the City. All emergency and transitional shelters that are funded or operated by the City must follow the standards. These standards help ensure that City and shelter staff deliver services consistently across the system.

The standards state that “[a]ll persons have the right to seek shelter services.”⁵¹

Shelter providers are prohibited from using immigration status to deny access to shelter services during intake and admission processes.⁵²

⁵⁰ City of Toronto Shelter, Support & Housing Administration, Toronto Shelter Standards, Version 5, 2023. <https://www.toronto.ca/wp-content/uploads/2023/03/9828-Toronto-Shelter-Standards230328AODA.pdf>. Accessed August 22, 2024.

⁵¹ Section 5.4 (Access to Shelter Services). Toronto Shelter Standards, above.

⁵² Section 5.4, Section 8.1(f) (Intake/Assessment), 8.3(k) (Admission), 12.6.2(b) (Collection of Client Information). Toronto Shelter Standards, above.



The standards state that “refugee status” will be collected to “facilitate suitable shelter placement and supports”⁵³ – that is, to place people who intend to make a claim or have made a claim into a refugee-specific shelter, such as Birkdale Residence, COSTI, or a similar provider.

⁵³ Section 8.1(f), 8.3(k), 12.6.2(b). Toronto Shelter Standards, above.



Appendix C: City Manager's Response



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November 26, 2024

Kwame Addo
Ombudsman
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Kwame.addo@toronto.ca

Dear Mr. Addo,

RE: City of Toronto Response to Ombudsman Toronto's "An Investigation into the City's Decision to Stop Allowing Refugee Claimants into Base Shelter System Beds"

Thank you for the opportunity to provide a response to the recommendations included in your report. In the meetings we have had with you and your team to review earlier drafts of the report, we submitted detailed feedback regarding the findings. Having reviewed the report thoroughly, while some of our feedback has been incorporated, most has not. I will receive the report on behalf of the organization, however, I do not agree with the findings and, subject to Council's decision on your report, I will not take any further action in response to the recommendations beyond work the City already has underway.

The City implemented several operational adjustments to the shelter system within the time period considered in your report. It is critical that these adjustments are appropriately contextualized, specifically with respect to intergovernmental funding shortfalls and mounting pressure on our system. The Interim Housing Assistance Program (IHAP) for refugee and asylum seekers ended on March 31, 2023, with no further funds committed. While the City commits budget to fund 500 spaces in the system, by May 2023 this number was approaching 2,700. This resulted in serious operational pressures to find space for refugee and asylum seekers in our system. This pressure continued to increase as more and more refugees and asylum seekers entered the base shelter system, a system that is not designed or equipped to meet their unique needs. At the same time, City staff were expressing concern that the base shelter system could not welcome non-refugee individuals seeking shelter due to the lack of space. There was a need to balance a shelter system that ultimately never has enough space as it was, and remains, full.

After this period, outside the time considered in your report, and through the ongoing leadership of City officials, some federal funding was achieved. The federal government





restarted IHAP and committed \$200 million to the City of Toronto for 2023 and a further commitment of funds in early 2024. Further, the federal government began to implement its own operational changes, which included moving individuals from Toronto shelters to IRCC-funded hotels in surrounding communities and entered into discussion with Peel Region for a reception centre – with the intention that this become the single point of entry for asylum seekers in the future (due to be in operation late 2024). However, these elements occurred after the time period considered in your report.

Your report highlights two policies and aspirational charters: the Housing Charter and AccessTO. As previously articulated, the “right to adequate housing” has not been codified into Canadian law and does not impose a legal obligation on the City of Toronto. It also does not confer enforceable, individual rights. It is an aspirational statement that the City works towards – we are not able to guarantee all people who come to Toronto will have access to adequate housing and never have been able to do so, as reflected, for instance, in the over 90,000 people currently on the social housing waitlist. Prior to the increase in refugees and asylum seekers seeking shelter, and after the operational adjustments were made, the City still had to turn people away from accessing shelter due to a system that was, and continues to be, at capacity. The strong language used in your report about staff not following the policy is misleading because the progressive realization of the right to adequate housing is aspirational and staff were following the steps required in the policy. The City of Toronto mobilized the largest response to refugees and asylum seekers seeking shelter in Ontario which clearly indicates our desire to live up to the goal of the “right to adequate housing”.

The second policy is AccessTO. Your report relies heavily on the notion that by disclosing their status individuals were denied shelter space. Shelters have never used immigration status to deny clients access to shelter services. Staff use a client’s refugee status to connect them to the most appropriate programs and services to meet their specific needs.

There is also a lack of understanding in the report about Divisional roles and responsibilities in the City’s shelter response. The Toronto Newcomer Office has no role in the operations of the shelter system. The extent they were, and continue to be involved, is around additional supports and services to help individuals move into other programs and more fully integrate into the Toronto community. Toronto Shelter and Support Services (TSSS) is responsible for and has authority to make operational decisions relating to the shelter system. TSSS regularly briefed senior leadership, including the City Manager, Deputy City Manager, and Chief Financial Officer, on the operational challenges the system was facing.

Lastly, I’m disheartened that the tone of the report is accusatory in many places and reflects a lack of understanding of the context the City was in at the time as well as the roles and responsibilities of other orders of government. The City continues to learn and adjust complex operational programs across the City and in this case, for a system that is always pressured and full.

Sincerely,

Paul Johnson
City Manager





Appendix D: Our Reply to the City Manager's Response



Ombudsman
Toronto

Listening. Investigating. Improving City Services.

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December 10, 2024

Delivered by Email

Paul Johnson
City Manager, City of Toronto
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Dear Mr. Johnson,

RE: City of Toronto Response to Ombudsman Toronto's Investigation into the City's Decision to Stop Allowing Refugee Claimants into Base Shelter System Beds

I am writing to you about your response dated November 26, 2024, to my investigation report and proposed recommendations. You state that you do not agree with my investigation's findings and, subject to Council's decision on my report, will not take any further action in response to my recommendations. I am disappointed by your response. My recommendations are based on a careful consideration of the evidence. Not acting on these recommendations is a missed opportunity to improve City services.

When I present my report to City Council, I will ask Council to direct staff to implement my recommendations. I do not make these findings or recommendations lightly. The lessons learned through this investigation are important, especially in times when the City is under great financial strain. Implementing my recommendations will strengthen fairness and transparency in the administration of the City's shelter system and further the human right to adequate housing, ensuring all who are seeking temporary shelter in Toronto are treated with dignity and respect.

Beginning on August 28, 2024, I provided several opportunities for the City Manager's office, the City Solicitor, and Toronto Shelter & Support Services (TSSS) to share feedback on the draft report. Each time I considered the feedback and incorporated the information that was relevant and in scope. I stand by my findings that the City's actions were unfair and inconsistent with the City's own policies.

In your November 26 written response, you raised three main issues. I will respond to them here. To ensure transparency, I will include both your letter and my response as attachments to my report.

First, you state that it is critical to appropriately contextualize funding shortfalls and mounting pressure on the shelter system. You specifically point to the fact that the federal Interim Housing Assistance Program (IHAP) funding ended on March 31, 2023, and that this added more pressure

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on space in an already full shelter system. This information is in the report. The report emphasizes that this was an extremely challenging time for the City and the City had to make difficult decisions. As you know, because of the Ombudsman's jurisdiction, I am unable to examine or make findings about funding disputes between different orders of government. My authority is limited to municipal matters, focusing on reviewing decisions and actions made by the City.

Your response implies that the abrupt end to IHAP funding was the main reason TSSS decided to stop allowing refugees access to base shelter beds. In fact, the City stopped allowing refugee claimants access to base shelter beds approximately five months before the federal government announced the end to IHAP funding (the eligibility change went into effect November 7, 2022, while the end to IHAP funding occurred on March 31, 2023).

You also mention that the federal government eventually reinstated IHAP, started moving people from shelters to hotel spaces funded by Immigration, Refugees and Citizenship Canada, and began planning for a refugee claimant reception centre in Peel Region. We included the first two facts in our report. The federal funding for the reception centre was announced outside the timeframe of my investigation. Again, as the federal government is beyond our jurisdiction, we did not investigate its actions.

Second, you stated that the report highlights "two policies and aspirational charters," the Toronto Housing Charter and Access T.O.

You said that the "right to adequate housing" set out in the Housing Charter is an "aspirational statement that the City works towards." I disagree. The Council-approved Housing Charter is not merely an aspirational statement. It is part of the HousingTO 2020-2030 Action Plan and contains 13 implementation steps. The City's policy is "to move deliberately to further the progressive realization of the right to adequate housing recognized in the International Covenant on Economic, Social and Cultural Rights." As a result, the City has an obligation to uphold and progressively implement the right to adequate housing. Council asked my office to play an important role in the broader effort to hold the City accountable for its promises to advance the right to adequate housing. This investigation was part of that undertaking.

And while you believe that staff were following the steps required in the policy, my report identifies serious gaps in its response. This includes staff failing to adequately consult with affected people, meaningfully consult the City's own experts, and consider the human rights impacts of its decision.

As for Access T.O, it, too, is City policy. You stated that shelters have never used immigration status to deny clients access to shelter services. The report shows that the direction given to City staff was that if a refugee claimant disclosed their immigration status to shelter intake workers, that individual had to be offered a bed only in a refugee-designated program and

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nowhere else. My investigation found that because of this direction, at least some refugee claimants were not given a base shelter bed when one was available.

My report notes that on July 19, 2023, City Council voted to “continue providing refugee-serving shelter spaces to meet the unique needs of refugees while also ensuring everyone regardless of status is able to access the City’s shelter system as spaces become available.” Unfortunately, it took another two months for staff to put this decision into effect and allow refugee claimants to once again access base shelter beds.

You state that information about immigration status was collected so that refugee claimants could be referred to “the most appropriate programs and services to meet their specific needs.” In this case, the City’s instructions to staff after the May 31, 2023, news conference were that they be referred to Service Canada whenever refugee-designated beds were full. My investigation found this to be unhelpful because Service Canada did not provide emergency shelter beds. My investigation confirmed that City management was aware of this fact and had received advice from staff against providing this referral.

Further, your response does not address another key Council-approved policy that the report explains was not followed: the Toronto Shelter Standards. Your response fails to address the City’s Human Rights and Anti-Harassment/Discrimination Policy, which incorporates the protections of the Ontario *Human Rights Code*, and was a source of concern raised by some City staff.

Third, you state that my report reflects a lack of understanding about divisional roles and responsibilities in the City’s shelter response. My report makes clear that the shelter system is the responsibility of TSSS. It is also clear that the Toronto Newcomer Office (TNO) provides leadership on issues related to newcomers and immigration at the City, and that the TNO is responsible for the stewardship of the Access T.O. policy. The TNO should have been meaningfully consulted about shelter eligibility issues affecting this population, as the report sets out. The report also points out that key TSSS staff knew the eligibility change had, at the very least, the potential to contravene Access T.O., and they recommended discussing this issue with the TNO – as is required of the policy. This discussion did not happen until many months after the eligibility change went into effect.

My investigation examined one important piece of the City’s response to refugee claimants in Toronto: its decision to stop allowing refugee claimants access to base shelter beds. As I explain in the report, my opinion is that this decision was unfair, inconsistent with the City’s commitment to the right to adequate housing and amounted to systemic discrimination, as many or most affected refugee claimants were from African countries or of African descent.



I wish to make clear that I have great respect for the work you do, and the work that TSSS staff do. I recognize your collective commitment to your roles, and the immense efforts staff make to serve an ever-growing number of people who need help in the midst of this housing crisis.

Although we disagree on this important file, I have no doubt that we will continue to collaborate to advance our shared interest in improving City services for all.

Sincerely,

Kwame Addo
Ombudsman