



Title:

Housing Services Internal Policy-Department of Social Services-Duty to Accommodate

Policy No.:

SL 028

Revisions:

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Effective Date:

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Applies to:

The policy and procedures contained in this document apply to the:

* Housing Services

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Background

The duty to accommodate recognizes that people have different needs and require different solutions to gain equal access to services, housing, and employment. Accommodation is the word used to describe the duties of an employer or a Landlord to give equal access to people protected by Ontario's *Human Rights Code (Code)*. This policy focuses on the duty to accommodate as it relates to housing.

Policy Statement

The Housing Services are committed to providing accommodations for needs related to grounds of the *Code*, unless to do so would cause undue hardship. Accommodations will be provided in accordance with the principles of dignity, individualization, and inclusion and will respond to a Tenant's identified need for accommodation, not to the Tenant's want. The Housing Services will work cooperatively, and in a spirit of respect, with all the partners in the accommodation process.

Purpose of the policy

This policy is to ensure that all members of the Housing Services Staff, as well as those who are directly or indirectly linked to the Housing Services, are aware of their responsibilities under the *Code* with respect to accommodation and to establish the Housing Services' procedures for accommodation and the responsibilities of each of the parties in the accommodation process.

Definitions

Disability:

means any degree of physical disability, mental impairment, or addiction and should be interpreted in broad terms. Protection for persons with disabilities specifically includes mental illness, developmental disabilities, and learning disabilities, or a mental disorder. For a complete definition of "disability", see Section 10 (1) in the *Code*.

Discrimination:

means any form of unequal treatment based on a *Code* ground, whether intentional or unintentional, that imposes extra burdens or denies benefits to certain groups of people.

Harassment:

means any comments or actions that are known or ought reasonably to be known to be unwelcome. It can involve words or actions that are known or should be known to be offensive, embarrassing, humiliating, demeaning, or unwelcome, based on a ground of discrimination identified in this policy.

Discrimination or harassment is prohibited on the following grounds and any

combination of these grounds: age, creed (religion), sex, sexual orientation, gender identity, gender expression, family status, marital status, disability (including mental, physical, developmental, or learning disabilities), race, ancestry, place of origin, ethnic origin, citizenship, colour, record of offences, association or relationship with a person identified by one of the above grounds, and a perception that one of the above grounds applies.

Undue hardship:

Only three considerations are prescribed in the *Code* to assess if an accommodation caused undue hardship. These are:

- cost;
- outside sources of funding, if any;
- health and safety requirements, if any.

Undue hardship due to cost must be quantifiable, related to the accommodation, and so substantial that it would significantly affect the viability of the organization or alter the essential nature of the enterprise.

Outside sources of funding may alleviate accommodation costs, and organizations must explore outside resources before claiming undue hardship. Tenants must look into alternate sources of funding as well.

Landlords have an obligation to protect the health and safety of **all** Tenants and therefore must consider whether an accommodation will create a significant risk to the person seeking accommodation, or to other Tenants. In evaluating the significance of risk, consider the nature of the risk (What could happen that would be harmful?), the severity of the risk (How serious would the harm be if it occurred?), the probability of the risk (How likely it is that the potential harm will actually occur?), is it a real risk, or merely hypothetical or speculative (Could it occur often?), and the scope of the risk (Who will be affected if it occurs?).

Criteria

1. Three core principles of the duty to accommodate include the following:
 - i. Respect for dignity
Accommodation must be provided in a way that most respects the dignity of the person. Privacy, confidentiality, comfort, individuality, and the person's self-esteem are all important factors. Respect for dignity includes considering the person requesting the accommodation as a whole person, and not only in relation to the person's disability.
 - ii. Individualized accommodation

There is no fixed formula for accommodating individuals. Each person's needs are unique and solutions must be explored to make sure they meet the needs of the individual.

iii. Integration and full participation

Accommodations should be developed with a view to maximizing a person's integration and full participation. Achieving this requires barrier-free and inclusive design and removing existing barriers.

2. Requests for accommodation should be made in writing and explain why the accommodation is required, whenever possible. Information that confirms the need for accommodation and is directly related to the person's needs, restrictions, or limitations should be included. If the need for accommodation is obvious, special documentation is not required (e.g., a person confined to a wheelchair). However, some people may be unable to communicate or disclose accommodation needs due to the nature of their disability. For example, persons with mental disabilities may be unaware of their accommodation needs or reluctant to disclose for fear of stigma and stereotypes. Assistance and accommodation must be offered to persons who are clearly unwell and in need of assistance, or who are perceived to have a disability, even if no accommodation request is made. A Landlord has a "duty to inquire" into a possible relationship between a disability and a person's ability to fulfill their responsibilities as a Tenant before making a decision that would negatively affect the Tenant (e.g. eviction proceedings or withdrawal of subsidy). A Landlord may not be willfully blind to a Tenant's issues.
3. Requests for accommodation must be accepted in good faith. Understand that individuals may not use the word "accommodation" in their request. Information requests should be limited to those reasonably related to the nature of the limitation or "disability" to assess the individual's needs and make the accommodation. Consent that gives permission for general medical information to be disclosed is not appropriate. The type of information that accommodation seekers may generally be expected to provide to support an accommodation includes:
 - that the person has a disability or a medical condition;
 - the limitations or needs associated with the disability;
 - whether the person can meet the essential requirements of being a Tenant, with or without accommodation;
 - the type of accommodation that may be needed to allow the person to fulfill the obligations of being a Tenant.

4. Various methods and techniques will be used to respond to the unique needs of individuals with a disability. Accommodations may include but are not limited to the following:
- transferring a Tenant to a unit that meets their needs; if such a unit does not exist, then physical changes to buildings and units (e.g. wheelchair ramps, grab bars, etc.) may be required.
 - structural modifications to units (e.g. soundproofing).
 - different methods of communication (e.g. verbal vs. written communiques for individuals with literacy issues, large print, electronic text or voice recording for visually impaired persons, speaking slowly and directly to hearing-impaired persons (many are able to lip read), or using an interpreter).
 - use multiple ways to contact (e.g. by telephone, in person and by regular or electronic mail).
 - extending timelines for rules around non-compliance if non-compliance can be linked to a disability.
 - considering a person's disability as a factor when addressing behaviour that would otherwise result in a negative outcome for the Tenant.
 - assisting a person to fill out any documentation required.
 - with the Tenant's permission, establish a list of contacts of individuals, agencies, and professionals that can support the Tenant when necessary.

Duties and responsibilities

The accommodation process is a shared responsibility, and everyone involved should participate cooperatively, share information, and consider potential solutions. The person requesting the accommodation is required to:

- make his/her accommodation needs known to the best of their ability, preferably in writing.
- discuss his/her disability only with persons who need to know.
- answer questions and provide information relevant to the disability, including information from health care professionals as appropriate and as needed.
- participate in discussions about possible accommodation solutions.
- co-operate with any professionals assisting with the accommodation process.
- meet the standards and requirements agreed upon once accommodation is provided.
- work with the accommodation provider on an ongoing basis to manage the accommodation process.

The accommodation provider is required to:

- be alert to the possibility that a person may need accommodation even if the individual has not specifically requested it.
- create a climate of understanding and mutual respect for the dignity and worth of each person.
- accept the person’s request for accommodation in good faith.
- limit requests for information to those reasonably related to the nature of the disability in order to respond to the accommodation request.
- actively investigate alternative solutions for accommodation.
- document all action(s) taken in the accommodation request.
- maintain confidentiality.
- implement accommodations in a timely way, to the point of undue hardship.
- recognize that there is no “one size fits all” solution for accommodation—each person has unique needs, and the person requesting the accommodation must be consulted in the accommodation process.

Legislation

- *The Ontario Human Rights Code*

Questions

If you have questions about this document, please contact your Housing Services Manager at the United Counties of Prescott and Russell.

APPROVED BY: _____

DATE: _____