

Supportive Housing and the Residential Tenancy Act (RTA)

Provider Updates, January 2024



The Province is updating the Residential Tenancy Regulation (RTR) to clearly define supportive housing and include provisions exempting supportive housing units from the sections of the Residential Tenancy Act (RTA) that prohibit restrictive guest policies and wellness checks.

There has long been some confusion in the housing sector around whether or not supportive housing is exempt from the RTA. Supportive housing is covered under the RTA. These amendments will define supportive housing and ensure supportive housing providers can support tenant and staff safety by conducting wellness checks and managing guests, while still ensuring other RTA protections for tenants.

Supportive housing offers multiple health and social supports, often supporting people with very complex needs. Some housing operators use practices, such as guest management policies and wellness checks, to ensure housing is safe for tenants and staff. These practices are currently not allowed under RTA.

The Province has heard from the sector that work is needed to better align the RTA with the realities of supportive housing, and to clarify how the RTA applies to supportive housing. Operators rely on guest management policies and conducting wellness checks to protect both tenants and staff and support an inclusive and safe environment for all tenants, staff, and guests. Wellness checks are used to make sure tenants are safe and secure in their home, and in practice are a lifesaving tool that many operators employ as populations in supportive housing may be more vulnerable.

Engagement with the supportive housing sector has shown that violence and disruptions in supportive housing is closely linked to guests in supportive housing. Guest policies are a way for supportive housing providers and their staff to manage access and activities. These amendments will define supportive housing and ensure supportive housing providers can support tenant and staff safety by conducting wellness checks and managing guests, while still ensuring other RTA protections for tenants.

On January 18, 2024, the Province announced that it would be amending the RTR, and these changes will come into effect on February 28, 2024.



UPDATES:

- Supportive housing is exempt from the sections of the RTA that prohibit wellness checks, guest policies and quiet enjoyment (sections 28, 29, and 30(1)(b)). Providers can now conduct wellness checks and establish guest management policies. These policies must be created in consultation with BC Housing's Operational Standards for Guest Management & Wellness Check Policies document
- The RTR now defines what a "supportive housing rental unit" is, which should improve clarity around whether the RTA applies to supportive housing



OVERVIEW OF SUPPORTIVE HOUSING DEFINITION:

The new RTR defines ‘supportive housing’ as a rental unit that:

- is located in residential property that is operated by a supportive housing operator;
- is occupied by a tenant has been assessed by the operator as someone who is experiencing or at risk of homelessness AND would benefit from housing stability support;
- has at least one tenant in the unit who has housing stability support accessible to them; and,
- is not provided on a temporary basis.



Who is impacted?

- Supportive housing sites that meet the definition above.
- Tenants living in these sites.



How should providers prepare for these changes?

First step is to confirm whether your organization meets the definition of supportive housing as defined in the Residential Tenancy Regulation. If you are not certain, you may wish to seek legal advice.

If you are a supportive housing operator under the definition, we encourage you take the following steps:

- Review your existing policies to ensure they are compliant with the RTA legislation as well as BC Housing’s Operational Standards for Guest Management & Wellness Check Policies.
- Review tenancy and/or program agreements to determine if they are compliant with the RTA. Program agreements that make reference to the RTA not applying will need to be updated. If necessary, obtain legal advice.
- Review your program or organizational complaint policy and consider how complaints related to wellness checks and guest management may work within that. If necessary, update your complaint process.
- Ensure your complaint policy and other relevant information about this change are available to tenants and staff. If you operate a building that has supportive housing and other kinds of housing, consider how you will distribute relevant information to appropriate supportive housing units/tenants.



Temporary supportive housing

While supportive housing, which is a long-term or permanent living accommodation, falls under the RTA, transitional housing is not covered.

Transitional housing is often a next step toward independent living. An individual in transitional housing may be moving from homelessness, an emergency shelter, a health or correctional facility, or an unsafe housing situation.

Transitional housing is intended to include at least a general plan as to how the person residing in this type of housing will transition to more permanent accommodation in the future.

Individuals in transitional housing may transition to independent living or, if they have a moderate need for ongoing support services, they may transition to supportive housing.

Living accommodation must meet all of the criteria in the definition of “transitional housing” under section 1 of the Regulation to be excluded from the RTA. Requiring tenants to sign a “transitional housing agreement” does not determine whether housing is exempt from the RTA. ([Policy Guideline 46](#)).

Decisions on whether housing is transitional or permanent are made on a case-by-case basis, depending on the length of the tenure, the intent of the housing, and other factors.



Program agreements vs. tenancy agreements

The RTA applies to supportive housing regardless of whether the housing program uses program agreements or tenancy agreements.

Program agreements can be helpful to outline program expectations and service availability. However, program agreements do not override or exclude a housing program from the application of the RTA. This is true even if the program agreement states that the RTA does not apply.



Key principles for wellness checks and guest policies

BC Housing has developed standards to aid supportive housing providers in developing wellness check and guest policies that create an inclusive environment for the wellbeing of tenants and staff, including:

- Inclusive environment for the well-being of tenants and staff. This includes ensuring their policies and practices uphold the human rights of all tenants as prescribed under the United Nations Declaration on the Rights of Indigenous Peoples, the BC Human Rights Code and the Canadian Charter of Rights and Freedoms.
- Policies are informed through an equity, diversity, inclusion and belonging lens, including that cultural safety and trauma informed approaches should be woven into all guest management and wellness check policies.
- Tenants will be made aware of the implications of policies on their tenancy.
- Supportive housing operators will have a complaint resolution policy coupled by an escalation process for when a complaint is brought forward by a tenant.

For more information:

- Learn more about resources available for supportive housing operators at letstalkhousingbc.ca/supportive-housing-updates
- Supportive housing operators can also email inquiries to communityrelations@bchousing.org



Complaint resolution

Complaints from supportive housing tenants relating to wellness checks, guest policies or quiet enjoyment will first be managed by the supportive housing operator.

Supportive housing operators are encouraged to review their complaint resolution policy to determine how best to manage tenant complaints. It will be important to consider how best to escalate tenant complaints if they are not resolved.

Supportive housing operators are required to communicate their complaint resolution policies to tenants and to have those policies publicly available.

BC Housing may be able to support by providing resources or information to assist providers in handling a complaint or providing guidance on their complaint resolution policies. BC Housing staff can discuss complaints with the operator to identify opportunities for resolution and can assist in communicating decisions with tenants.

Supportive housing tenants can continue to access the [Residential Tenancy Branch](#) dispute resolution process for any other complaints related to contraventions of the RTA that continue to apply to supportive housing.



Other important information

- For all other residential tenancy matters, supportive housing is covered by the RTA. If any residential tenancy disputes arise in supportive housing that are not related to wellness checks, guest policies, and quiet enjoyment, landlords and tenants can apply for dispute resolution with the [Residential Tenancy Branch](#).
- These changes only apply to supportive housing sites that meet the definition set out in the RTR. All sections of the RTA will continue to apply to housing that does not meet the definition of supportive housing unless the housing is exempt from the RTA for another reason.
- Supportive housing providers should consider the specific needs of their tenants and, if necessary, work with BC Housing to create and implement new policies in accordance with best practices.

