

Supportive Housing and the Residential Tenancy Act (RTA)

HOUSING PROVIDER FAQ

Dated: March 20, 2024

BC Housing worked with the Ministry of Housing to respond to the following questions raised by supportive housing providers.

For more information on the supportive housing regulatory changes, please check out the following resources:

- [Order in Council – Jan 18, 2024](#)
- RTB [Policy Guideline 46: Transitional Housing, Supportive Housing, Health Facilities \(gov.bc.ca\)](#)
- [BC Housing’s Operational Standards for Guest Management & Wellness Check Policies](#)
- [Changes to Residential Tenancy Regulation for Supportive Housing | Let's Talk Housing BC \(letstalkhousingbc.ca\)](#)
- [Supportive Housing & the Residential Tenancy Act fact sheet.](#)

1. What are the changes to the RTA and Residential Tenancy Regulation?

As of February 28, 2024, the Residential Tenancy Regulation has been amended to clearly define supportive housing and include provisions which exempt supportive housing rental units from sections of the RTA that prohibit restrictive guest policies and wellness checks, specifically sections 28, 29, and 30(1)(b).

A “supportive housing rental unit” is a rental unit that:

- is located in residential property that is operated by a supportive housing operator,
- is occupied by a tenant who is assessed as 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 supports provided on-site by the operator accessible to them,
- is not provided on a temporary basis.

A “supportive housing operator” must be one of the following:

- BC Housing, (including those contracted by BCH for services)
- The Canada Mortgage and Housing Corporation (CMHC),
- A municipality or regional district, or a housing corporation established by a municipality or regional district,
- A Treaty First Nation,
- A regional health authority,
- A non-profit society or corporation, or

- A registered charity.

A “housing stability support” must be made available in the supportive housing facility, must be provided by a support worker, must be funded by a supportive housing operator or the Government of BC or Canada, and must be one of the following types:

- Social and recreational activities,
- Skills training,
- Collaborative planning, or
- Referrals to community services.

Further details on the specifics of the regulation and the new definition of supportive housing are available here:

https://www.bclaws.gov.bc.ca/civix/document/id/oic/oic_cur/0017_2024

2. Why are the changes being made?

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.

Supportive housing providers 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.

In order to balance tenant rights and ethical practices related to guests and wellness checks, BC Housing has developed operational standards. These standards will outline best practices to guide the sector in conducting good faith wellness checks and implementing reasonable guest policies.

In its 2018 report, the Province’s Rental Housing Task Force recommended that the specific needs of non-profit housing and supportive housing providers should be addressed in the Residential Tenancy Act, such as Recommendation 22:

- “Supportive housing providers asked for the (RTA) to be modernized to reflect the growing complexity of providing supportive housing: for example, the need to do wellness checks in housing for people dealing with substance-use challenges.”

Guest management measures mitigate harmful and disruptive guest behaviour and provide a level of security. Health and wellness checks give staff a chance to establish a line of communication with a tenant and confirm their health and wellbeing.

Wellness checks also ensure that supportive housing tenants have access to timely health and safety supports in emergency situations. This is especially important in situations where a tenant’s life may be at risk at a time when the province is seeing drug overdose and deaths due to the toxic drug supply.

3. How do we determine whether our building/units are supportive housing and under the RTA?

While BC Housing is not able to respond to specific cases, the following general information may be of some assistance to housing providers in determining if the regulatory changes apply to them.

Supportive housing meets the definition under the RTA when...

- It provides residential rental units for people experiencing or at risk of homelessness AND who need support to maintain their housing.
- It is operated by supportive housing provider who meets the criteria in the supportive housing definition in the Residential Tenancy Regulation (*See Question 1 response for the criteria*).
- Housing stability supports are made available to tenants (*See Question 1 response for the criteria*).
- Housing is NOT provided on a temporary basis.

Key Considerations:

- Supportive housing is defined at the unit level allowing for exemptions to only apply to supportive housing units in mixed use buildings.
- The regulation applies to all operational Complex Care Housing (CCH) services that are not exempt from the RTA under section 4 and meet the new definition of a “supportive housing rental unit” under the RTR. This includes CCH services located at supportive housing buildings and those provided at alternative sites.

Examples of housing types that are not subject to the RTA:

- Transitional housing (i.e., temporary housing with supports, or transitional housing for women fleeing violence)
- Community care facilities registered under the *Community Care and Assisted Living Act*, like group homes
- Emergency Shelters

We encourage housing providers to check out the following resources to help them determine if the regulations apply:

- Definition of supportive housing in the Residential Tenancy Regulation to see if they meet the criteria (*see Question 1 above*)
- Revised RTB [Policy Guideline 46: Transitional Housing, Supportive Housing, Health Facilities \(gov.bc.ca\)](#).

If further information is needed, please seek legal advice.

4. Does the whole building need to be supportive housing to be exempt from the Sections of the RTA that prohibit guest policies, wellness checks and quiet enjoyment? (What about co-located complex care housing, women’s transition + supportive, or mixed-use buildings, etc.)

Supportive housing exemptions are applicable at the unit level. Therefore, providers can enforce guest policy restrictions and perform wellness checks for only certain units designated as supportive housing, if needed.

For mixed use buildings that include shelters and transitional housing, or other housing that is exempt from the RTA, then providers would have the option to apply guest policies and wellness checks policies to the entire building if needed, since none of the provisions of the RTA would apply to the transitional housing or shelters.

For mixed use buildings including complex care housing, providers would need to determine if the complex care housing meets the definition of supportive housing in the Residential Tenancy Regulation. If so, then the providers would be able to apply the exemptions to all units, if needed.

For mixed use buildings that involve supportive housing co-located with other housing that does not meet the definition of supportive housing in the regulation and which is not otherwise exempt from the RTA, then the exemptions would only apply to those units deemed supportive housing.

5. My organization has a previous RTB or court ruling stating that the housing we provide does not fall under the RTA. Do the new exemptions around wellness checks, guest policies, and quiet enjoyment apply?

No, if the housing you offer is already exempt from the RTA (e.g., it is transitional housing, a housing-based health facility, etc.), these changes do not have any impact on your housing.

6. What if I my organization has a previous RTB or court ruling that states that the supportive housing we provide falls under the RTA? Do the new exemptions around wellness checks, guest policies, and quiet enjoyment apply?

Supportive housing still falls under the *Residential Tenancy Act*, but is now exempt from the sections pertaining to wellness checks, guest policies, and quiet enjoyment.

If a supportive housing operator has a previous RTB or court ruling that states that they are covered under the RTA, the new exemptions would apply to the affected units.

7. What is the definition of transitional housing and is transitional housing exempt from the RTA?

“Transitional housing” is exempt from the RTA. “Transitional housing” is defined under the Residential Tenancy Regulation as living accommodation that is provided:

- on a temporary basis,
- by a person or organization that receives funding from a local government or the government of British Columbia or of Canada for the purpose of providing that accommodation, and
- together with programs intended to assist tenants to become better able to live independently.

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.

Please note that requiring tenants to sign a “transitional housing agreement” does not determine whether housing is exempt from the RTA. ([Policy Guideline 46](#)). Whether housing is transitional or permanent is determined on a case-by-case basis.

8. What determines whether a building qualifies as ‘transitional housing’ exemptions for the RTA? Is temporary supportive housing considered transitional housing?

If a “temporary supportive housing” building meets this definition of “transitional housing” above, then it is already exempt from the RTA. Whether housing is transitional or permanent must be determined on a case-by-case basis.

If the living accommodation meets the definition of “transitional housing” and is exempt from the RTA, the terms of the accommodation would be covered by the agreement between the housing provider and tenant.

RTB arbitrators can consider several factors, like the length of the stay, whether or not there is a plan to transition the tenant to other accommodation, the programming made available, and the intention of the program when considering whether living accommodation is “transitional housing.”

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 housing without supports 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.

9. What options are available to either transfer or evict tenants who are posing life or safety risks to either tenants or staff?

Transferring a tenant to another unit

A housing provider may wish to transfer a tenant to a more suitable site or rental unit. Under the RTA, a housing provider and tenant can mutually agree to end a tenancy and enter into a new tenancy agreement at a different rental unit or site.

In some circumstances, a housing provider may also wish to enter into a new tenancy agreement with a tenant who has been evicted. In this scenario, a housing provider would end tenancy following the options noted below and offer to enter into a new tenancy agreement at a different rental unit or site.

If a tenant's behaviour is putting staff and resident safety at risk, and housing providers make the decision to evict, housing providers have two options to evict tenants in a timely manner.

Option 1: One Month Notice to End Tenancy

A housing provider can serve the tenant a one month notice to end tenancy for cause if the tenant or a person permitted on the property by a tenant has:

- Significantly interfered with or unreasonably disturbed another occupant or the housing provider of the residential property,
- Seriously jeopardized the health or safety or a lawful right or interest of the housing provider or another occupant,
- Put the housing provider's property at significant risk, or
- Has engaged in illegal activity that has adversely affected or is likely to adversely affect the security safety or physical well-being of another occupant of the residential property.

If a tenant does not vacate the unit before the effective date of the *Notice to End Tenancy* or dispute the Notice within 10 days of receiving it, the housing provider can apply for an *Order of Possession* by applying for dispute resolution with the RTB. More information on evictions is available on the [RTB website](#).

Option 2: Early End to Tenancy

In certain circumstances, a housing provider can apply to the RTB to end a tenancy early if it would be unreasonable or unfair to the housing provider or other occupants of the property to wait for a *One Month Notice* to take effect. These circumstances are situations where the tenant or a tenant's guest has done any of the following:

- Significantly interfered with or unreasonably disturbed another occupant or the housing provider of the residential property,
- Seriously jeopardized the health or safety of the housing provider or another occupant,
- Put the housing provider's property at significant risk,
- Caused extraordinary damage to the property, or
- Engaged in an illegal activity that

- Has caused or is likely to cause damage to the housing provider’s property,
- Has adversely affected or is likely to adversely affect the security, safety or physical well-being of another occupant of the residential property, or
- Has jeopardized or is likely to jeopardize a lawful right or interest of the housing provider or another occupant.

This is an expedited process for serious situations only. More information on applying to end a tenancy early is available in [RTB Policy Guideline 51](#).

10. What if we don’t have a guest policy? Does this mean we need to create one?

Guest management policies are now mandatory in BC Housing-funded supportive housing. Please refer to [BC Housing’s Operational Standards for Guest Management & Wellness Check Policies](#) to aid in the development of these new policies.

Not all guest management policies need to be restrictive in nature. The intent might be to place structure and specifications on guest access to the building. This may include hours that guests are permitted, guest entrance processes, policies for overnight guests, and considerations around visitors under the age of 19.

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. This is important because supportive housing staff and operators carry a significant responsibility for all tenants, staff and neighborhood safety.

11. My organization uses program agreements. Can we continue to do that and does the RTA apply if we use program agreements?

The RTA applies to supportive housing regardless of whether the housing program uses program agreements or tenancy agreements. Supportive housing providers can use either program agreement or a tenancy agreement so long as it is compliant with the *Residential Tenancy Act*.

Program agreements can be helpful to outline program expectations and service availability.

Program agreements do not override or exclude a housing program from the application of the RTA. If your organization meets the definition of supportive housing, your tenancy or program agreement should not state that the RTA does not apply.

12. Do our tenants need to sign new agreements now? Do we need to change our existing agreements?

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. While the changes to the Regulation were effective as of February 28, 2024, BC Housing understands that revising tenancy and/or program agreements will take time. Program agreements that make reference to the RTA not applying or that have terms which are not RTA compliant will need to be updated. If necessary, obtain legal advice.
- Review your program or organizational complaint policy and appeals process, 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 appeals process 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.

13. What are the timelines for the implementation of the regulation?

The most immediate impact on providers and tenants will be for complaints resolution in supportive housing. As of February 28, the Residential Tenancy Branch no longer hears disputes relating to wellness checks and guest policies in supportive housing. Complaints will first be redirected to the provider.

Providers should review and update their complaint resolution policy to consider how best to escalate tenant complaints. The ability for tenants to appeal decisions made in the complaint resolution process is foundational to administrative fairness.

BC Housing is reaching out to the sector to validate the [draft Operational Standards for Guest Management & Wellness Check Policies](#). Deadline for feedback is April 15th with the intention to have the final standards posted by end of April 2024.

We recognize that updating policies related to wellness checks and guest policies as well as reviewing agreements will take time. Housing providers should aim to have their policies updated by as soon as possible.

14. Won't these exemptions for wellness checks and guest restriction infringe on tenant rights?

The supportive housing exemptions only apply to the sections in the RTA relating to wellness checks, guest policies and quiet enjoyment. This means supportive housing tenants can continue to access the Residential Tenancy Branch dispute resolution process for any other complaints related to contraventions of the RTA.

Health and wellness checks are used to make sure tenants are safe and secure in their home; are an opportunity for a staff member to establish a line of communication with a tenant; can confirm a healthy state of being; and are used to ensure access to timely health and safety supports in emergency situations.

Health and wellness checks have also become a lifesaving tool that operators can use. This is especially important in situations where a tenant's life may be at risk at a time when the province is seeing drug overdose and deaths due to the toxic drug supply. To support implementation, BC Housing has developed operational standards for on how to conduct good-faith wellness checks and implement reasonable guest policies.

Supportive housing tenants who have concerns regarding these policies can raise their concerns with the building operator and can also continue to access the Residential Tenancy Branch dispute resolution process for any complaints related to contraventions of the RTA that continue to apply to supportive housing.

15. How will complaints be handled? When does BCH get involved?

Landlords and tenants in supportive housing still have rights and responsibilities under the *Residential Tenancy Act*, except for those set out in section 28, 29, and 30(1)(b). If a housing provider or tenant contravenes a section of the RTA that supportive housing is not exempt from, the other party can apply for dispute resolution with the Residential Tenancy Branch.

Complaints from supportive housing tenants relating to wellness checks, guest policies or quiet enjoyment will be managed by the supportive housing provider. It will be important to consider how best to escalate tenant complaints if they are not resolved.

Housing providers 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.

16. What resources are available to support us in reviewing our complaints resolution policy?

Housing providers 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.

BC Housing is developing guidance to help housing providers interpret these best practices for their context. Complaint resolution policies must:

- Be transparent and accessible to all tenants
- Clearly describe escalation options available

The Office of the BC Ombudsperson provides the following resources that might be helpful:

- [Complaint Handling Guide](#)
- [Fairness in Practice](#)

17. How is BC Housing supporting this implementation?

BC Housing is working to support housing providers in the implementation of the new supportive housing RTA regulatory changes by:

- Working with Ministry of Housing to provide clarity and ongoing support to providers.
- Working in collaboration with the sector associations to share information and respond to questions.
- Developing Operational Standards for Guest Management & Wellness Checks Policies for supportive housing operators.
- Ongoing Operations oversight to support providers and this could include agreement updates where appropriate, operational review check-ins, etc.
- Sharing templates and resources to support operators with developing their own guest management and wellness check policies.
- Supported the 'Ask a Lawyer' webinar to aid providers in understanding the legal implications from the regulatory changes.
- Providing guidance to support complaints resolution process.
- Creating materials to support tenant communications.

As always, if any urgent expenses or support needs arise, please reach out to discuss with your Non-Profit Portfolio Manager/ Supportive Housing Advisor.

18. How will you ensure the exemptions meet WorkSafeBC policies for staff?

The Ministry of Housing and BC Housing will be reaching out to WorkSafeBC to inform them of the changes to the Residential Tenancy Regulation, discuss any implications for workplace safety in supportive housing, and understand any further policy work that may be needed related to workplace health and safety in supportive housing.

Contacting the Residential Tenancy Branch	Contacting BC Housing	Contacting the Ministry of Housing
<ul style="list-style-type: none"> • Website: http://www.gov.bc.ca/landlordtenant • Email: HSRTO@gov.bc.ca • Phone: 604-660-1020 (Lower Mainland) 250-387-1602 (Victoria) 1-800-665-8779 (Everywhere Else) 	<ul style="list-style-type: none"> • Website: https://letstalkhousingbc.ca/supportive-housing-updates • Email: communityrelations@bchousing.org / feedback@bchousing.org 	<ul style="list-style-type: none"> • Supportive housing, homelessness OfficeofHomelessnessCoordination@gov.bc.ca • MMHA Treatment & Recovery TAR.MMHA@gov.bc.ca