

Victoria-Shuter Non-Profit Housing Corporation

POLICY NAME	DISPUTE RESOLUTION POLICY
POLICY NUMBER	2018-005 (<i>replaces 2012-004</i>)
DATE	November 2018
REFERENCES	<i>Residential Tenancies Act, 2006</i> <i>Human Rights Code, 1990</i> <i>Personal Information Protection and Electronic Documents Act, 2000</i> <i>Employment Standards Act, 2000</i> <i>Incident Report Summary</i> <i>Sample Behavioural Contract</i> <i>Sample Complainant Interview</i> <i>Sample Respondent Interview</i> <i>Sample Witness Interview</i> <i>Template for Investigation Report</i> <i>Tenant Complaint Record</i> <i>Tenant Contact Sheet</i>
SEE ALSO	<i>Human Rights Code Policy</i> <i>Accommodation Policy</i> <i>Accessible Customer Service Policy</i> <i>Workplace Safety and Harassment Policy</i>

POLICY STATEMENT

The Victoria-Shuter Non-Profit recognizes that individuals may require assistance to resolve inter-personal conflicts with others. Where possible, staff will work with tenants and staff to assist them to resolve disputes in an informal manner, ensuring that the process supports and recognizes each individual needs. Where informal conflict resolution is not possible or appropriate, a formal investigation and dispute resolution process will be pursued.

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PURPOSE AND SCOPE

PURPOSE:

The purpose of this policy is to outline the process the non-profit will follow to respond to complaints or interpersonal conflicts between tenants, guests and/or visitors, staff (other than Property Management staff), volunteers and members of the board of directors.

SCOPE:

This policy applies to all tenants, their visitors and guests, staff (other than Property Management staff), volunteers, and the board of directors. It will be used by Management when an individual(s) bring(s) forward complaints, concerns, or disputes regarding the conduct of others under the non-profit's control.

When this policy is used to address the alleged conduct of tenants, occupants, visitors and guests, The Property Manager will also consider the impacts of the *Residential Tenancies Act, 2006*, *Human Rights Code, 1990*, *Employment Standards Act, 2000* and other appropriate legislation and the non-profit's policies.

When this policy is used to address the alleged conduct of staff, volunteers and board members, The Property Manager will consider the non-profit's Human Resources and Personnel Policies, as well as the impacts of the *Occupational Health and Safety Act, 1990*, *Human Rights Code, 1990*, *Employment Standards Act, 2000* and other appropriate or intersecting legislation.

NOTE: This policy does not apply to complaints made against Property Management staff. Complaints against Property Management staff should be in writing and directed to the Property Management Company: Community First Developments Inc., 2171 Avenue Road, Suite 303, Toronto, Ontario M5M 4B4. Alternatively, complaints may be directed to: Housing Consultant, Housing Stability Services, Metro Hall 6th floor, 55 John St., Toronto ON M5V 3C6

DEFINITIONS AND CLARIFICATION

TERMS:

Bias-Related Complaint

An unsubstantiated complaint, made by the complainant, found to be rooted in prejudicial and/or discriminatory beliefs about the Respondent.

Complainant

The individual or group filing the complaint.

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Designated Senior Staff

The staff person(s), more senior in role than the designated staff, or board member(s) designated to complete a particular action or requirement.

Designated Staff

The staff person(s) or department designated to complete a particular action or requirement.

Guest

A person who has not provided proof of an alternative address and who is staying with a tenant for a limited time. Their income is not included in the calculation of the tenant's rent-gear-to-income subsidy, if applicable.

Respondent

The individual or group about whom the complaint has been filed.

Tenant

A person who has signed a lease and who enjoys all of the rights and responsibilities of tenancy.

The Non-Profit

Refers to the organization whose board of directors has approved this policy.

Visitor

A person who visits the tenant, but whose principal address is outside of the non-profit.

PROCEDURE

1. RECEIPT OF COMPLAINT

- a. Victoria-Shuter Non-Profit will only receive complaints that are written and signed by the complainant (see *Tenant Complaint Record*). Staff may also report incidents using the *Incident Report Summary*. Complainants who wish to submit a verbal complaint will be re-directed to provide a written complaint.
- b. If, however, the complainant identifies that they require support to submit a complaint, Victoria-Shuter Non-Profit staff will accommodate the needs of the complainant, if possible. If they are unable to appropriately accommodate the needs of the complainant, Victoria-Shuter Non-Profit staff will assist the complainant to identify appropriate community-based supports.

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- c. Once a written complaint has been received, the Property Manager will review the complaint within five (5) business days. The Property Manager will contact the complainant to identify him/herself as the investigator and to arrange an in-person or telephone meeting within five (5) days.

2. INITIAL ASSESSMENT

- a. The Property Manager will conduct an initial assessment interview with the complainant in person or over the telephone, clarifying their written complaint and requesting additional information if necessary.
- b. It will be the practice of the non-profit to share the complaint with the respondent prior to meeting with them. As a result, the Property Manager will tell the complainant that a copy of their complaint will be shared with the respondent during the investigation process. The Property Manager will ask the complainant if they wish to proceed with the complaint process and to identify any safety-related concerns that they may have which may warrant anonymity. Only in cases where the Property Manager feels that a safety concern is substantiated, or that conditions warrant it, will an anonymous complaint be pursued with the Respondent.
- c. The Property Manager will, in their interview and other notes, distinguish between their thoughts and opinions and those of the complainant. During the assessment, the Property Manager will note any adverse effects that the events in question have had on the complainant's or their household's demeanour/affect, quality of life, or on their professional life at the non-profit.
- d. Once the Property Manager has conducted their initial assessment, a determination will be made as to whether or not the complaint has merit. The merit of the complaint will be assessed in relation to the Non-Profit's *Human Rights Code Policy* and other policies.
- e. If, after a thorough review and in consideration of all the evidence, the Property Manager considers it appropriate to dismiss the complaint the Property Manager will notify the complainant in writing, including the reasons for the decision, within 10 business days of the last interview or contact. The Property Manager will also identify the complainant's right to appeal the decision and explain the appeal process, including identifying the appropriate contact person, timelines, and other requirements as appropriate.
- f. If the Property Manager identify that an inappropriate, bias-related complaint was filed, Non-profit staff may be directed to co-ordinate, deliver, or distribute educational resources, programs, or services to address any Code-related concerns.
- g. If a complaint is believed to have merit, the Property Manager will proceed to interview the respondent.

3. ASSESSMENT OF RESPONDENT

- a. The Property Manager will send the respondent a package, including a cover letter which explains that a complaint has been received, directs the respondent to review the complaint, and informs the respondent that staff will be in contact with them within seven (7) business days. The Property Manager will then contact the respondent for an interview (see *Sample Respondent Interview*) within seven (7) business days.

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- b. If the respondent requires support or assistance to understand the nature or repercussions of the complaint, non-profit staff will accommodate the needs of the respondent, if possible. If they are unable to appropriately accommodate the needs of the respondent, the non-profit staff will assist the respondent to identify appropriate community-based supports.
- c. During the interview, the Property Manager will use neutral questions and will not challenge the respondent's version of the event(s) by using information gathered from the complainant. The respondent will also be invited to provide a written version of the events in question to the Property Manager.
- d. If the respondent acknowledges that the incident(s) took place, then the Property Manager will work with the respondent to address their conduct or the conduct of others for whom they are responsible. The details of this interaction with the respondent and all agreed to, or suggested, solutions will be kept in the respondent's tenancy or personnel file.
- e. If the respondent acknowledges the events and commits to working with staff and the complainant to resolve the problem (e.g. through mediation or discussion) and it may be possible to resolve the complaint at this point proceed to Step Five. However, if, the nature of the complaint is such that future legal action may be required, it is recommended that the Property Manager proceed to Step Four.

4. INTERVIEWING WITNESSES

- a. If necessary, the Property Manager will complete interviews with witnesses. If no witnesses are identified by either the complainant or respondent, staff will approach neighbours or others who may have witnessed the disputed event(s). It is crucial that the privacy rights of both the complainant and respondent are respected during the interviews.

4.1 Witnesses

- a. Like the interviews with the complainant and respondent, interviews (see *Sample Witness Interview*) with witnesses must be thoroughly documented, and include the name of the witness and date and time of the interview. The Property Manager will use neutral non-leading language in their questioning and avoid conveying bias toward or against either the respondent or complainant's version of events.

4.2 Neighbours or Others

- a. If neither the complainant nor respondent identify witnesses or if the Property Manager has reservations about the information provided by either party, The Property Manager may contact neighbours or others regarding the alleged events.
- b. When speaking with neighbours who were not identified as witnesses by either the respondent or complainant, The Property Manager will avoid sharing details of the complaint, which must remain confidential. Interviewees will only be told that an incident has been reported and is being investigated.

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5. INFORMAL RESOLUTION

- a. If possible and appropriate, The Property Manager will attempt to resolve disputes between individuals through informal facilitated discussion. The Property Manager will ensure that communication between the individuals remains respectful and constructive and that a solution or resolution is identified. If necessary, these discussions will be held in a neutral location, where both parties are comfortable and/or where it may be facilitated by a neutral third party.
- b. If the respondent or complainant is unwilling to meet to discuss the complaint, the Property Manager may meet with each party separately to try to resolve the problem.
- c. If either party is unwilling to participate in the informal resolution process in good faith, the Property Manager will implement a formal resolution process.
- d. If a solution is identified through an informal resolution process, the Property Manager will distribute copies of the final agreement (see *Sample Behavioural Contract*) reached between the complainant and respondent and will ask both parties to sign the agreement. The Property Manager will file copies of the agreements in their respective tenant or personnel files.

6. MEDIATION

- a. If necessary, the Property Manager will facilitate the selection of a mediator to assist the parties.
- b. If the parties cannot agree, a mediator will not be used and the matter will proceed to investigation.
- c. If mediation is successful, an agreement should be put in writing and should be signed by the parties. The agreement will provide a clear record of the terms each party has agreed to. Each party will be given a signed copy of the agreement that is to be treated as confidential between the parties involved.
- d. All discussions during the mediation process are to remain strictly confidential. Settlement discussions are “without prejudice.” This means that if a settlement is not reached, each party can take a different position in the any future investigations.

8. FORMAL RESOLUTION

- a. Once the Property Manager has interviewed all stakeholders and reviewed any documentary evidence, an investigation report will be generated (see *Template for Investigation Report*) outlining the following:
 - I. allegations of the complainant,
 - II. response from respondent,
 - III. main points at issue,
 - IV. evidence (witness, documents etc.),
 - V. other information, and
 - VI. conclusion with recommendation about action to be taken.

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- b. When the investigator determines that the complaint is serious enough to constitute grounds for eviction, discipline or intervention, or that mediation by the Property Manager will not help resolve the problem, the Property Manager will ensure the following:
 - I. The respondent is notified in writing about the findings of the investigation, the evidence collected to support the complaint, the non-profit's policies which may have been contravened, and the non-profit's intended actions.
 - II. The complainant receives notice that the investigation has been completed and the findings of the investigation. The Property Manager will ensure privacy legislation and/or internal privacy policies are respected.
 - III. Any resources available to assist in resolving the problem are included in the letter. This may include referrals to community-based supports/programs, identifying a willingness for staff to work with the respondent who is a tenant and their supports to prevent eviction (if appropriate to the situation), identifying a willingness for senior staff to work with a respondent who is a staff member to prevent termination of employment (if appropriate to the situation) etc.
- c. If necessary, the Property Manager will report the findings of the investigation to the board of directors. This report will outline the general nature of the complaint(s) received, the steps taken toward resolution, and will identify any next steps.
- d. If necessary, the non-profit's legal counsel will be consulted before a recommendation to begin eviction procedures or disciplinary measures is made.

9. REMEDIES

- a. The decision to take eviction or disciplinary action must be independent of the investigation process and must be made by someone senior to the Property Manager involved in the investigation. This may be a senior staff member or a member of the board. This decision will be based on the recommendations of the Property Manager and in consultation with all appropriate stakeholders.

10. REVIEWING DECISIONS

- a. Complainants or respondents who have reason to believe an investigation has not been conducted properly and according to these procedures will have the opportunity to have the decision(s) reviewed by the Senior Property Manager or the non-profit's board of directors who are independent of the investigation process.

10.1 Receipt of Request for Review

- a. The non-profit will accept only written requests for a review of a decision(s) made under this policy.

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- b. If the Complainant or Respondent identifies that they require support to submit a request for a review, non-profit staff will endeavour to accommodate their needs. If they are unable to accommodate the needs of the Complainant or Respondent, the non-profit staff will assist them to identify appropriate community-based supports.
- c. Once a written request for a review has been received, the Senior Property Manager will review the request within three (3) business days. The Senior Property Manager will then contact the Complainant or Respondent to identify him/herself as the individual conducting the review and to arrange an in-person or telephone meeting within five (5) days of receipt.

10.2 Review Process

- a. The Senior Property Manager will conduct a review of the decision within fourteen (14) business days of having met with the Complainant or Respondent. However, if exceptional circumstances delay the investigation, the Senior Property Manager will notify the Complainant or Respondent in writing of the cause of the delay and provide an alternate date. The notification of the delay will be kept on file.
- b. The Senior Property Manager will review the decision(s) in question and may, at their discretion, interview the Senior Property Manager, the Respondent or Complainant, and any witnesses.
- c. Within five (5) days of completing their review, the Senior Property Manager will send a letter to the party requesting the review outlining their findings and whether or not they are upholding the decision(s) made by the Property Manager and the reasons for doing so.

11. SAFETY OF THE PROPERTY MANAGER

- a. If, at any time during the resolution of a complaint, the Property Manager believes that their personal safety is at risk, the Senior Property Manager will work with the Property Manager to identify actions and/or strategies to help ensure the Property Manager's safety.

Policy 2018-005 of Victoria-Shuter Non-Profit Housing Corporation passed by the Board of Directors at a duly constituted meeting held on February 12, 2019.

REVISIONS	DATE	DESCRIPTION OF REVISION