

**PROCEDURE FOR  
WOODSWORTH HOUSING CO-OP ACCOMMODATION POLICY  
FOR RESIDENTS WITH DISABILITIES**

**CONTENTS:**

**1. Background**

- A. Purpose**
- B. Scope and Definitions**
- C. Training**
- D. Confidentiality**

**2. Procedure**

- A. Request for Accommodation**
- B. Creation of Accommodation File**
- C. Provision of Information**
- D. Preliminary Meeting Between Co-op Manager and Accommodation Seeker**
- E. Assessment**
  - i. Initial Assessment of Accommodation Request**
  - ii. Assessment of Undue Hardship (if necessary)**
- F. Follow Up Meeting Between Co-op Manager and Accommodation Seeker**
- G. Monitoring Accommodation(s)**

## 1. BACKGROUND

### A. Purpose

The purpose of this procedure is to provide detailed steps to ensure the *Woodsworth Housing Co-op Accommodation Policy for Residents with Disabilities* is appropriately implemented.

### B. Scope and Definitions

This procedure applies to members, long-term guests or applicants for membership who have a disability or disabilities as defined by the Ontario *Human Rights Code* (“Code”).

Disability is defined in Section 10 of the *Code* as:

- Any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
- A condition of mental disability or a developmental disability;
- A learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- A mental disorder; or
- An injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act*, 1997.

It is important to remember that a disability may not be apparent or visible.

### C. Training

All Co-op employees and board members who assist with accommodation matters need to be appropriately trained in the *Code* and addressing the needs of individuals with disabilities. This training can be accomplished through the use of an external consultant with relevant expertise, or through having employees complete the Ontario Human Rights Commission’s eLearning module on the Duty to Accommodate, available online at: <http://www.ohrc.on.ca/en/learning/elearning>.

## D. Confidentiality

Requests for accommodation are confidential and must be treated as such, in accordance with the Co-op's Confidentiality Policy. Information related to the accommodation request will only be disclosed as necessary to fulfil the request, always with the consent of the accommodation seeker.

## 2. PROCEDURE

### A. Request for Accommodation

A member, long-term guest or applicant for membership with a disability who has specific needs related to their disability will make an accommodation request to the manager of the co-op, preferably in writing and utilizing the co-op's *Accommodation Request Form*. Applications may be made on behalf of persons other than the member (e.g. for a child). Members may designate an advocate to act on their behalf, with the provision of a witnessed letter of authority.

The request should include the reason why the accommodation is needed and detail the individual's specific needs. It is strongly recommended that the accommodation seeker also provide supporting medical documentation from a licensed healthcare professional, such as a physician, social worker, occupational therapist, psychologist, psychiatrist, etc.

The document(s) should specify:

- that the person has a disability and, where appropriate, the nature of the disability (e.g. mobility disability)
- restrictions resulting from the disability (e.g. the member cannot climb stairs)
- the expected duration of the restrictions (e.g. permanent)
- the basis for the medical conclusions (e.g. any tests or assessments conducted by the healthcare practitioner)

It is expected that supporting medical documentation from a licensed healthcare professional will be required for the majority of accommodation requests. However, the accommodation seeker only needs to provide such information that is necessary to assess their needs in relation to the requested accommodation *and does not have to provide a diagnosis*.

The accommodation seeker should be informed that failure to provide supporting medical documentation may delay the accommodation process.

## **B. Creation of Accommodation File**

The co-op will create an Accommodation File for the accommodation seeker which will contain all information related to the accommodation request. This file will be kept in a secure location, separate from membership files, and will be shared only as necessary to fulfil the accommodation request.

## **C. Provision of Information**

The co-op manager may request additional information from the accommodation seeker where it is necessary to determine an appropriate accommodation, or where there is an objective, demonstrable reason to question the legitimacy of the member's request.

Any information requested will be limited to information detailed in Section 2a. The co-op manager will provide the request for information in writing to the accommodation seeker as soon as possible after receiving the original accommodation request. The co-op will cover the costs associated with any additional required medical documentation. In order to receive reimbursement, the member will have to provide the co-op with appropriate receipts.

Where an accommodation request is particularly complex, the co-op manager may consult with the Board of Directors before requesting additional information. The identity of the accommodation seeker should remain confidential, with name and unit number withheld. The Board may in turn consult with a lawyer as needed.

The co-op manager will follow-up with the accommodation seeker as soon as reasonably possible, taking into consideration the Board's schedule, the possibility that the Board will need to seek legal advice, etc.

Accommodation seekers are expected to participate in the accommodation process, and failure to provide requested information may lead to delays. The co-op will start its assessment of the accommodation seeker's request from the understanding that the individual requesting accommodation is in the best position to understand their needs. It is not the co-op's role to determine what is the best accommodation for the accommodation seeker. That being said, the co-op will also use the supporting medical documentation to assist in determining whether accommodation is necessary and, if so, what the appropriate accommodation would be.

## **D. Preliminary Meeting Between Co-op Manager and Accommodation Seeker**

The co-op will schedule a meeting between the accommodation seeker<sup>1</sup> and the manager (or an appropriate designate) as soon as reasonably possible after receipt of the accommodation request and any requested supplementary medical documentation. The purpose of the meeting will be to discuss the accommodation needs and possible options. The manager/designate will provide the accommodation seeker with a written summary of the discussion within five business days of the meeting. Throughout the process of assessment the accommodation seeker may need accommodations at meetings and in other communications.

## **E. Assessment**

### **i. Initial Assessment of the Accommodation Request**

After the first meeting, the co-op manager will determine whether two preliminary requirements have been met related to the accommodation request:

- a) the accommodation seeker has a condition covered by the *Code*; and
- b) the accommodation(s) requested is necessary to meet the accommodation seeker's disability-related needs.

In making this determination, the manager will consider the information gathered during the preliminary meeting and any supporting medical documentation provided. The co-op's obligations are limited to appropriately accommodating disability-related *needs*, not *preferences*.

If the co-op manager determines that either of the above requirements is not met, he/she will refer the matter to the Board of Directors for a final determination. The Board of Directors may ask for legal advice as needed.

If the Board of Director determines that either of the requirements is not met, it will deny the accommodation request and promptly communicate this decision in writing to the accommodation seeker. This notice will include an explanation of the reasons for the decision and will inform the accommodation seeker of their recourse under the *Code* through the filing of an application with the Human Rights Tribunal of Ontario.

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<sup>1</sup> In certain circumstances the accommodation seeker may wish to appoint an advocate to communicate with the office on their behalf. The accommodation seeker would need to provide a signed letter to this effect, witnessed and signed by a third party. However, the Accommodation Request form and final Accommodation Plan will need to be signed by the accommodation seeker.

## **ii. Assessment of Undue Hardship**

If it is determined that the accommodation(s) requested address a disability-related need, the co-op manager will assess whether the accommodation(s) would impose an undue hardship on the co-op in terms of costs or health and safety.

Before determining that the request will impose undue hardship with respect to cost, the co-op manager will:

- Obtain cost estimates for the accommodation option(s)
- Consider the entire co-op budget before determining that the request is too costly
- Look into accommodation options that minimize costs to the co-op while still meeting the member's needs in a dignified and appropriate manner
- Consider phasing in accommodations if necessary, and
- Recognize that undue hardship will only be found if costs are so substantial that they could threaten the viability of the co-op or change the co-op's nature (e.g. requiring the co-op to fund support workers for members).

Before determining that the request will impose undue hardship with respect to health and safety, the co-op manager will:

- Determine whether the safety risk that exist after accommodating the member outweigh the benefits of enhancing equality.
- Asses the nature, severity, probability and scope (i.e who is affected) of the risk, and
- Determine what precautions can be taken to minimize the risk.

The co-op manager will not make an assessment of health and safety risks based on assumptions and/or speculation.

If the co-op manager believes the requested accommodation(s) will impose an undue hardship on the co-op, the manager will refer the matter to the Board of Directors for a final determination. The Board of Directors may consult with the co-op's lawyers as necessary.

This undue hardship assessment will be completed as soon as reasonably possible after the preliminary meeting.

## **F. Follow-up Meeting Between the Co-op Manager and the Accommodation Seeker**

Within five business days of the completion of the assessment of the accommodation request, the co-op will schedule a follow-up meeting between the accommodation seeker and the co-op manager (or appropriate designate).

### *a) If the Request Imposes an Undue Hardship on the Co-op*

If the Board of Directors had previously determined the requested accommodation(s) would impose an undue hardship on the co-op, the co-op manager/designate will discuss alternate accommodation options with the accommodation seeker. If alternative accommodation(s) can be found that meet the needs of the accommodation-seeker, the co-op manager will conduct an undue hardship assessment of the option(s) in accordance with section 2e(ii) of the Accommodation Procedure.

If no appropriate alternate accommodation(s) can be determined to the satisfaction of the accommodation seeker, the co-op manager will promptly provide written notice to the accommodation seeker, explaining that the co-op will be unable to fulfil their request. The notice will include the reasons for the decision, including the objective evidence relied upon to determine undue hardship, and will inform the accommodation seeker of their recourse under the *Human Rights Code* through the filing of an application with the Human Rights Tribunal of Ontario.

### *b) If the Request does not Impose an Undue Hardship on the Co-op*

If the co-op manager or Board of Directors has determined that the accommodation request(s) will not impose an undue hardship on the co-op, the co-op manager/designate and accommodation seeker will develop a plan for implementing the accommodation(s). This Accommodation Plan may include the following:

- A statement of the accommodation seeker's relevant limitations and needs, including any necessary assessments and information from health practitioners, bearing in mind the need to maintain confidentiality;
- Arrangements for necessary assessments by healthcare practitioners;
- Identification of the most appropriate accommodation short of undue hardship;
- Clear timelines for the provision of identified accommodations; and

- Criteria for determining the success of the Accommodation Plan, together with a mechanism for review and re-assessment of the Accommodation Plan as necessary.

The Accommodation Plan, when agreed upon, will be put in writing and signed by the accommodation seeker and the manager of the co-op. The accommodation seeker will be given a copy of the plan and a second signed copy will be placed in the Accommodation File kept by the co-op.

#### **G. Monitoring Accommodation(s)**

Once the Accommodation Plan is in place, the co-op manager and accommodation seeker will monitor implementation of the plan. The co-op manager will promptly report to the accommodation seeker any necessary revisions to the Accommodation Plan. The accommodation seeker will in turn promptly report to the co-op manager any identified deficiencies with the accommodation(s).