

National Occupancy Standards: Use and Misuse

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Transition Houses

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Part 1 – Problem Formation and Identification

National Occupancy Standards (NOS) are used by the Canadian Mortgage and Housing Corporation (CMHC) to measure housing suitability (Canada Mortgage and Housing Corporation, 2013), which is ultimately a measure of crowding. NOS stipulate that family size and composition should determine the number of bedrooms required by the household. Housing is deemed suitable if it meets the following requirements (“Housing Suitability,” 2017):

1. No more than two people share a bedroom
2. Lone-parents have a separate bedroom
3. Household members age 18 + have a separate bedroom, except those living as a married or common-law couple
4. Household members under 18 years of age, of the same sex may share a bedroom
5. Household members under 5 years of age, of different sex may share a bedroom

The NOS is useful as a measure of suitability that CMHC can draw on to assess whether housing stock meets the needs of Canadian households. However, one of the unintended uses of NOS is that they have been adopted as policy by housing providers, and in many cases are a barrier to housing for those in desperate need of affordable housing options. British Columbia (BC) is in the midst of a housing affordability crisis. In 2018, 14.6 percent of households in BC experienced core housing needs¹; which was the highest rate among Canadian provinces. Women and their children, who are impacted by gender-based violence, are especially at risk of experiencing core housing needs. BCSTH is a non-profit society that represents organizations in BC working to house women who have experienced gender-based violence.

In 2018 BCSTH completed a survey of their members. 52% of BCSTH's 114 members responded to the survey and **87% of respondents identified NOS as a barrier to housing for the women they worked with.** Based on these findings and four focus groups held by BCSTH it became clear that there was an urgent need to assess NOS and its alternatives.

1. Core housing needs are defined by the CMHC in relationship to affordability, suitability and adequacy (Canada Mortgage and Housing Corporation, 2013). Housing is deemed affordable when no more than 30% of income goes to housing costs, suitable if it meets NOS, and adequate if it is not in need of any major repairs.

Part 2 – Historical Perspective

As Elizabeth McCandless (2020) documents, NOS were not used by CMHC until 1991, when they became part of the Census and National Housing Survey data collected to measure core housing needs. As a measure of suitability, it is often assumed that occupancy standards are based on the link between overcrowding and poor health. However, there is limited research to support this relationship (Gray, 2001). Rather, NOS more accurately reflect societal norms that dictate what a “family” should look like, as well as how they should occupy space (Lauster and Tester, 2010). NOS arrived after a decade of divestment from social housing by CMHC, and concerns that social housing clients were over housed (McCandless, 2020, p. 56). In other words, CMHC was concerned that recipients of social housing were living in units that had more rooms than were needed, given the family size and composition. Yet, over the last three decades there has been raising alarm over the punitive use of NOS to limit access to housing (Miraftab, 2000).

The negative impacts of NOS have been especially felt by women with dependents (Hiebert et al., 2005) and new immigrants (Sherrell, 2011b). Refugee families struggles to find adequate housing, and their experiences of overcrowding have been well documented (Carter et al., 2008; Hiebert et al., 2005; Miraftab, 2000; Sherrell, 2011b). This research has demonstrated that refugees often struggle to find suitable housing, due in part to family size and composition. The affordability crisis in BC paired with a lack of 3 and 4-bedroom units has contributed to long waitlists for social housing, forcing many families to live in smaller units where overcrowding is a concern. Women who have experienced gender-based violence face similar waitlists when looking for suitable housing. BCSTH focus group participants felt a lack of suitable housing often contributed to women returning to the violent situations they had fled (Knowles et al., 2019).

Within BC the pressure to secure suitable housing has been compounded by an affordability crisis. According to 2016 data published by CMHC, 14.9% of households in BC experienced core housing needs (CMHC/SCHL, 2020). Among households that rent, core housing needs are even higher, at 29.9%. Female led lone-parent families have the highest rate of core housing needs in BC. 51.3% of female led lone-parent families experience core housing needs. Historically there has been very little change to these numbers over the last two decades.

Part 3 – Assessment of Values and Ethics

Policy analysis through the lens of feminist ethics of care seeks to explore the extent to which government policies fulfill their responsibility to care for the welfare of its citizens (Sevenhuijsen et al., 2003). Feminist approaches recognize the need to incorporate contextual factors into the analysis of a particular problem. Specifically, feminist approaches recognize that gender, sexuality, ability and socioeconomic status, among other things, contribute to different levels of access to power and resources. An ethics of care is further shaped by an understanding of morality that places human relationships and the negotiations between people over responsibility for things in need of care at its center (Walker, 2007). Four elements of an ethic of care are identified by Tronto and Fischer (Tronto, 1994) and drawn on to assess the values and ethics of NOS: attentiveness, responsibility, competence and responsiveness.



Attentiveness

Care requires the recognition of a need. Through BCSTH's work with women who have experienced gender-based violence, and the organizations that serve them, attention was brought to the way that NOS was being used to limit women's housing options.



Responsibility

To take care of something, requires responsibility. While CMHC uses NOS to measure housing suitability, they are not responsible for enforcing NOS. Rather, provincial housing providers, including BC Housing, have incorporated NOS into their policy framework.



Competence

Tronto (1994) writes that "intending to provide care, even accepting responsibility for it, but then failing to provide good care, means that in the end the need for care is not met." Women who have experienced gender-based violence continue to be disproportionately impacted by a lack of affordable housing, compounded by NOS that limit their access to subsidized housing.



Responsiveness

BCSTH has documented that there continues to be a lack of responsiveness to the need for suitable housing for women who have experienced gender-based violence. This has resulted in many women and their families remaining 'stuck' in transition or second stage housing across the province.

While attention has been brought to the ways that NOS limit housing options for women who have experienced gender-based violence, there continues to be a lack of responsiveness, especially by provincial housing providers who enforce NOS.

Part 4 – Description of Various Elements

As has been described in this document thus far, NOS was first conceptualized by **CMHC** to assess the suitability of Canada's housing stock, given the size and composition of Canadian families. What has become clear through the work of **BCSTH** and other organizations working with marginalized Canadians (Sherrell, 2011a), is that NOS have become a barrier to housing for those most in need of care. Within a provincial affordability crisis, **BC Housing** is the province's primary provider of subsidized housing. **BC Housing** uses NOS to assess the suitability of housing for families on its waitlists ("Subsidized Housing," 2021).

BCSTH's partner organizations have also reported that when in doubt landlords often follow **BC Housing's** lead and defer to NOS even though occupancy standards are meant as guidelines for suitability, not as enforceable policy. This can have tragic consequences for women who have experienced gender-based violence and their families, and may result in women returning to the abusive situation they fled (Knowles et al., 2019).

Unfortunately, **BC's Residential Tenancy Act**, does little to protect lone-parent families from discrimination. The **BC Human Rights Code** recognizes family status and should technically protect families from being discriminated against based on their size and composition (The British Columbia Law Institute, 2012). A report that explored discrimination cases associated with family status in BC specifically identified *tenancy discrimination linked to young children* as a key theme in B.C. cases (The British Columbia Law Institute, 2021). While **Vancouver bi-laws** stipulate the minimum amount of space required per occupant (50 square/feet)(City of Vancouver, 2014), these rules apply primarily to single room accommodations and do little to help families secure suitable housing. The lack of protections for families, paired with BC's affordability crisis is at the crux of the problem of using NOS to determine housing suitability for women and their children. As McCandless (2020) writes:



*"If residential occupancy limits are in place to limit internal density for public health and safety (as in the case of governmental standards) or maintenance costs, wear and tear, etc. (for private housing providers), then **only the number of occupants should matter not the composition of the household.**"*

Part 5 – Assessment of Feasibility & Discussion of Alternatives

It is all too clear that NOS, when used by housing providers to assess suitability, is a barrier to housing for women who have experienced gender-based violence and their children. Logically, this should lead to the need for an alternative measures of housing suitability. One alternative to NOS that has already been identified is **placing limits to the number of occupants per room, rather than focusing on the composition (i.e., age and gender) of those occupants**. For example, occupancy limits of 2 people/room would allow a female led lone-parent family with three children to occupy a 2-bedroom unit. This situation is not without precedence. In 2003, the *Ontario Human Rights Tribunal* ruled in favour of a mother of three renting a two-bedroom apartment in the case, *Cunanan v. Boolean Developments* (McCandless, 2020). In the ruling it was noted that:

“The [Ontario Human Rights Code] does not permit landlords to impose their vision of a “normal” family to deny equal access to accommodations to single parents solely because of their family status.”

(McCandless, 2020, p. 116)

There is a larger issue at play that cannot be addressed by simply changing policies around occupancy. Creating more flexible occupancy standards will help open up more housing options for women who have experienced gender-based violence. However often the underlying issue limiting women’s housing options is poverty. According to census data from 2018, **1 out of every 5 B.C. children are living in poverty** (FirstCallBC, 2020). Thankfully, there are proven solutions to helping families living in poverty. In 1999, Tony Blair put in place policies that helped **half child poverty rates** in Britain over the next decade (Waldfogel, 2010). These included:



Introduce a National Minimum Wage



Child tax credits for low and middle-income families



Double the length of paid maternity leave and established minimum paid paternity

Part 6 – Evaluation

At the heart of this policy analysis is the question: what good is gained by the use of NOS? While crowding has often been identified as a public health and safety concern, there is little evidence to support restrictions to housing based on family composition. Within the context of BC’s affordability crisis, women who have experienced gender-based violence are disproportionately negatively impacted by NOS. There is substantive academic and legal evidence that NOS has acted as a barrier to housing. Federal, provincial and municipal governments should limit their use of NOS to measure housing suitability. As such, this policy analysis has identified four overall recommendations:



Recognize NOS as Guidelines

CMHC needs to clearly state that NOS are guidelines for housing suitability and are **not legally mandated**. This information needs to be clearly communicated to provincial housing agencies, including BC Housing.



Prioritize Safety

The safety and security of women who have experienced gender-based violence should be prioritized over family size or composition. Given the affordability crisis and long wait-times for larger subsidized housing units it may be necessary to find short-term solutions that include ensuring that families have secure housing.



Create Housing Policy for Families

There is a need to create guidelines for suitable housing that recognize the diversity found within Canadian families. Current guidelines penalize non-nuclear families and are often the grounds for discrimination, rather than acting as protection against it.



Reduce Family Poverty

The upstream cause of a limited supply of suitable housing is linked to a housing affordability crisis that has contributed to high levels of child poverty. Social assistance rates fall well below the average housing costs. BCSTH has documented that this is a problem across the province, not just in urban centres.

Given the current policy environment, the odds are against women who have experienced gender-based violence finding suitable housing. By working together to change NOS there is an opportunity to positively impact the lives of women and children across the province of BC and Canada.

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