

Summary of Model for Including the Housing Advocate Within the Canadian Human Rights Commission

The [National Housing Strategy \(NHS\)](#) introduced on November 22, 2017, committed “to progressively implement the right of every Canadian to access adequate housing.” The NHS affirmed the International Covenant on Economic, Social and Cultural Rights, where that commitment is entrenched in international human rights law. It promised legislation based on a rights-based approach to housing, including a newly created Housing Advocate, a Housing Council and support for community initiatives.

An [open letter](#) sent to the Prime Minister in August has now been endorsed by over 1,000 organizations and individuals. It calls for a meaningful rights-based approach through a number of key components. These include:

- i) recognizing the right to housing as a fundamental human right and ensuring accountability to the commitment to progressively realize this right;
- ii) an adequately resourced and independent Housing Advocate to investigate and make remedial recommendations regarding systemic issues; and
- iii) provision for hearings into selective systemic housing rights issues before an adjudicative body.

An informal symposium was convened in August at which government representatives and human rights experts considered how the key components identified in the open letter could be incorporated into legislation, without giving rise to individual claims before courts. Draft legislation was developed to show how this can be done.

Recently, there has been some consideration of the idea of situating the Housing Advocate as an independent office within the Canadian Human Rights Commission. Civil society groups are supportive of this idea, as a way of implementing the key components of rights-based accountability without requiring the creation of new organizations within government.

We are proposing, in [revised draft legislation](#) (with relevant sections highlighted) some alterations to the previous draft legislation based on this new idea. These provide for the Housing Advocate to be appointed under the Canadian Human Rights Act as an independent Commissioner, similar to the newly created Pay Equity Commissioner and Accessibility Commissioner. Like these other two specialized independent members of Commission, the independent Housing Advocate’s mandate and authority would not be based on the right to non-discrimination in the *Canadian Human Rights Act*. Rather, the Housing Advocate’s independent role would be to advance the progressive realization of the right to housing as affirmed in the draft *Right to Housing Strategy Act*, through a number of functions described in the draft legislation (see ss 5 – 8 of the attached draft). The Housing Advocate would not report to the Chief Commissioner but would report directly to the Minister designated by the NHS legislation.

The Housing Advocate would receive and, where appropriate, investigate petitions raising concerns regarding systemic issues and recommend remedial action to the Minister where warranted. The Housing Advocate would also have authority to refer selective petitions on systemic issues for a hearing before a three-person panel of the Human Rights Tribunal. The panel would hold accessible, relatively informal hearings, with participation by members of affected communities and groups, assisted by the Housing Advocate. At the conclusion of its inquiry, the panel would issue a report stating its conclusions

about whether remedial action is required for compliance with the progressive realization of the right to housing and outlining its recommendations. (s. 9)

While the Housing Advocate would operate largely independently of the Human Rights Commission, we believe that attaching the Housing Advocate to the Commission as proposed would complement the Commission's other new roles, such as implementing the Convention on the Rights of Persons with Disabilities, the progressive realization of a barrier free Canada and redressing systemic gender-based discrimination in compensation practices.

We hope the [revised draft legislation](#), developed with the assistance of Professor John Mark Keyes at the University of Ottawa, drawing on his years of experience in drafting federal legislation, will be helpful in considering how best to ensure meaningful accountability to the progressive realization of the right to housing in the new legislation.