



## INFORMATION REPORT

<b>TO:</b>	Chair and Members Emergency and Community Services Committee
<b>COMMITTEE DATE:</b>	February 4, 2021
<b>SUBJECT/REPORT NO:</b>	Analysis of United Nations Special Rapporteur's Report on a National Protocol for Homeless Encampments (HSC21000) (City Wide) <b>(Outstanding Business List Item)</b>
<b>WARD(S) AFFECTED:</b>	City Wide
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<b>SIGNATURE:</b>	

### COUNCIL DIRECTION

At its July 13, 2020 meeting, the Emergency and Community Services Committee approved the following:

- “(ii) Encampment Strategy
  - (b) The Encampment Strategy Report shall include an analysis of United Nations Special Rapporteur on Right to Adequate Housing National Protocol for Homeless Encampments in Canada: A Human Rights Approach.”

### INFORMATION

The COVID-19 pandemic continues to highlight and exacerbate ongoing systemic challenges and inequities across Canada as it relates to housing and homelessness. This is demonstrated by the rise in, and visibility of, unsheltered homelessness and encampments throughout many Canadian cities. New strategies and approaches, such

as the National Protocol for Homeless Encampments in Canada released in April 2020, have emerged in order to assist governments and stakeholders in their efforts to address urgent issues associated with supporting residents experiencing homelessness and living in encampments, while supporting long-term adequate housing solutions.

### **United Nations (UN) Special Rapporteur on the Right to Adequate Housing**

UN Special Rapporteurs are independent experts who have been appointed by the UN Human Rights Council to examine, monitor, advise and publicly report on human rights issues globally, including situations in specific countries. The mandate of the UN Special Rapporteur on the right to adequate housing is focused on monitoring the right to housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

The mandate of the UN Special Rapporteur on the right to adequate housing was created in order to:

- promote the full realization of adequate housing as a component of the right to an adequate standard of living;
- identify practical solutions, best practices, challenges, obstacles and protection gaps in relation to the right to adequate housing; and,
- identify gender-specific vulnerabilities in relation to the right to adequate housing and land.

As an independent expert, the UN Special Rapporteur acts as a bridge between rights-holders, governments, and international organizations and institutions, offering guidance on the interpretation of international law, while reporting on situations and conditions on the ground. While encouraging dialogue between stakeholders, the UN Special Rapporteur on the right to adequate housing formally communicates with governments and produces specific country reports, as well as broader thematic reports presented to the UN General Assembly in New York and to the Human Rights Council in Geneva.

### **A National Protocol for Homeless Encampments in Canada**

On April 30, 2020, “A National Protocol for Homeless Encampments in Canada” was released by Leilani Farha (UN Special Rapporteur on the right to adequate housing) and Kaitlin Schwan (Lead Researcher for UN Special Rapporteur on the right to adequate housing). The Protocol, which is based on international human rights law, was developed through consultation with a wide range of experts across Canada including those with lived expertise of homelessness. The Protocol outlines universal recommendations for how all levels of government in Canada should approach engagement with unhoused residents of encampments from a rights-based perspective to ensure dignity while negotiating the provision of adequate, affordable housing

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solutions that meet their needs. The recommendations of the report are non-binding and the City is not required to formally report on their implementation.

The Protocol includes eight principles:

- 1) Recognize residents of homeless encampments as rights holders
- 2) Meaningful engagement and effective participation of encampment residents
- 3) Prohibition of forced evictions of encampments
- 4) Explore all viable alternatives to eviction
- 5) Ensure that any relocation is human rights compliant
- 6) Ensure encampments meet basic needs of residents consistent with human rights
- 7) Ensure human rights-based goals and outcomes, and the preservation of dignity for encampment residents
- 8) Respect, protect, and fulfil the distinct rights of Indigenous Peoples in all engagements with encampments

### **Local Encampment Strategy and Approach – Analysis**

On September 9, 2020, the General Issues Committee received Report HSC20038 – Encampment Update. This Report provided an overview of the City’s approach to encampments, including an overview of the Encampment Response Team, the City’s ongoing work to address homelessness and the role of community partners in supporting housing-focused solutions.

Further analysis related to the Protocol, as well as areas of alignment between the City’s encampment strategy, including considerations for adaptations and further consultation are provided in the follow chart:

8 National Protocol Principles	Local Approach and Considerations
1) Recognize residents of homeless encampments as rights holders	This principle serves as a baseline commitment in a collective approach to engaging with unhoused individuals, including a move away from approaches that criminalize or penalize, to approaches rooted in rights-based participation and accountability that uphold dignity of residents. Under the current Bylaw Enforcement Protocol, the City has committed to engagement that treats every individual from a rights-based approach, ensuring dignity and confidentiality is maintained.
2) Meaningful engagement and effective	On an ongoing basis, the City and homeless serving agency staff work from a person-centred approach to engage with individuals in order to refer and make connections to support

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participation of encampment residents	and appropriate resources. Increased engagement for the direct purpose of assessing effectiveness of approaches and appropriateness of available resources will continue to inform potential changes or adaptations to service and supports over time.
3) Prohibition of forced evictions of encampments	<p>The Encampment Response Team approaches each encampment individually and works with partners to engage residents toward personalized housing plans. Currently, the Bylaw Enforcement Protocol outlines the process in which encampment removal may occur.</p> <p>The National Protocol outlines that evictions (as opposed to “forced evictions”) may be justified in rare circumstances; however, they may only be carried out after exploring all viable alternatives with residents. Under this principle, the removal of residents’ private property without their knowledge and consent is also prohibited. Hamilton’s Bylaw Protocol outlines the process of contact, assessment and removal of encampments over a period of up to 14 days.</p>
4) Explore all viable alternatives to eviction	Key to this principle in the National Protocol is a focus on ensuring the meaningful and effective participation of residents in discussions regarding the future of the encampment. At the onset of local engagement with encampment residents, immediate work on a personalized housing plan begins and supports are provided to assist with matters that facilitate the movement to shelter and/or permanent housing. Membership of the City’s Encampment Response Team also includes a specific position reserved for a person with lived experience in order to further inform engagement strategies and decision-making processes.
5) Ensure that any relocation is human rights compliant	The National Protocol emphasizes the importance of meaningful, robust, and ongoing engagement with residents for any decisions regarding relocation. Currently, the Bylaw Enforcement Protocol outlines what this relocation process looks like, referring to supports that “Assist with matters that facilitate the movement to shelter/housing including but not limited to transportation, financial assistance and storage of possessions”.
6) Ensure encampments meet basic needs of	Street outreach to encampments in Hamilton currently involves individualized site assessment which assists in determining what resources are available on-site, what risks may be present for unhoused individuals and what additional

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<p>residents consistent with human rights</p>	<p>resources may be necessary to connect individuals to. While the City does not necessarily set up temporary resources on site (i.e. washrooms, running water), efforts are made to connect individuals to nearby resources such as expanded drop-in sites for sanitation, hygiene and food and drink. Efforts are also made to connect individuals to harm-reduction supports, social supports, and waste-management supports which all may be offered on an outreach basis.</p>
<p>7) Ensure human rights-based goals and outcomes, and the preservation of dignity for encampment residents</p>	<p>An obligation to bring about positive human rights outcomes in all activities and decisions concerning homeless encampments is central to the principles outlined in the National Protocol. Decisions should be based on meaningful engagement with residents and should be considered through the lens of furthering of the inhabitants’ human rights and dignity, while attempting to ensure that outcomes do not represent a backwards step in terms of their enjoyment of human rights. So, whereas a move from encampment to emergency shelter may occur, the City of Hamilton recognizes that this remains a temporary measure of accommodation until safe, secure and adequate housing is secured. The City continues to commit to permanent housing solutions by implementing increased prioritization of those in encampments for permanent housing and intensive case management support programs while continuing multi-sectoral discussions to enhance permanent housing with supports options.</p>
<p>8) Respect, protect, and fulfil the distinct rights of Indigenous Peoples in all engagements with encampments</p>	<p>The National Protocol outlines that through engagement with unhoused residents and those residing in encampments, there must be a clear and distinct focus on Indigenous rights, guided by the obligation to respect, protect and fulfil the distinct rights of Indigenous peoples. This recognition is connected to a consistent approach that acknowledges autonomy and self-determination as key pillars of engagement.</p> <p>Coming Together to End Homelessness: Hamilton’s Systems Planning Framework outlines our strategic local approach to preventing and ending homelessness, which must account for the systemic over-representation of Indigenous persons experiencing homelessness. The City is committed to ongoing coordination with Hamilton’s Urban Indigenous Community to ensure that approaches to service</p>

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	coordination and provision are culturally appropriate, safe and built on principles of relationship, trust and informed consent. This includes ongoing discussion to achieve equitable access to resources including federal COVID funding, housing affordability benefits, and health resources as they become available to support unsheltered individuals who identify as Indigenous. Through ongoing dialogue with the Indigenous community, the City aims to ensure appropriate referrals are consistently made from mainstream supports to Indigenous agencies, including at intake by City outreach staff.
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As the Housing Services Division looks to adapt and organize both short- and long-term considerations for encampment response, A National Protocol for Homeless Encampments in Canada may be used to inform our community-based response and actions. It also provides strategic guidance in key areas related to collaborative approaches for engagement and consultation processes that are utilized to develop a consistent framework for response in the development of housing-focused solutions with residents’ informed consent. Underpinning these actions remains the collective obligation to ensure that people experiencing homelessness, including encampment residents, have access to long-term, adequate housing that meets their needs.

Moving forward, further and ongoing consultation is required to better understand the gaps and barriers to accessing housing related supports and to ensure that the City is continuing to be responsive and adaptive to the changing needs of the local population.

### **Equity Considerations and Approach**

In the ongoing development and adaptation of systems-level responses, it remains essential that people with living/lived experience are empowered to inform services and hold the homelessness-serving system accountable for delivering on its promise of housing and supports. It is also important that Hamilton’s homeless-serving system continues to account for the systemic over-representation of Indigenous persons experiencing homelessness. Acknowledging our Indigenous partners’ autonomy and self-determination, we must continue to work together to develop connection to housing and supports that are culturally appropriate, rooted in the spirit and actions of reconciliation.

Housing and health protection responses to unsheltered homelessness and encampments in the context of COVID-19 and beyond must not be a one-size-fits-all approach and should be able to be effectively adapted to meet the specific needs of the people they serve. Policies and guidelines, as well as subsequent systems responses

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and quality assurance processes, should explicitly reference diversity and inclusion considerations and implications on program structure, implementation and operation as to consistently explore who may be impacted (i.e. considerations around gender, gender identity and expression, race, ability, sexual orientation, immigration status, socioeconomic status, etc.), how they are impacted and why.

**APPENDICES AND SCHEDULES ATTACHED**

None.