



A human rights based approach to the COVID-19 pandemic

Principles and
Actions

Introduction

The Manitoba Human Rights Commission (“MHRC”) is an independent agency of the Government of Manitoba responsible for administering *The Human Rights Code* (“*The Code*”).

We are governed by a Board of Commissioners who are appointed by the Government to represent the geographic, cultural, social and economic profile of Manitoba. We report annually to the Minister of Justice.

We are responsible for promoting human rights principles and educating the public about the rights and responsibilities in The Code

We provide human rights education and regularly present to groups and at conferences about human rights principles. We consult with the public about emerging human rights issues and use the information we gather to develop education tools to assist the public and to raise awareness about issues with the public, organizations and Government. We reach out to all Manitobans in various ways to share that “we are all equal in dignity and rights.”

We are also responsible for administering a complaint process.

We take complaints of discrimination, investigate them and determine if there is sufficient evidence that *The Code* has been contravened to warrant a public hearing of the complaint. At the adjudication of a complaint, we represent the public’s interest in eliminating discrimination and ensuring that employers, landlords and service providers comply with *The Code*.

We also offer mediation at various stages in the complaint process to give parties an opportunity to try and resolve their complaint without the need for a hearing.

Acknowledgement: The Manitoba Human Rights Commission acknowledges the Ontario Human Rights Commission, whose Policy on a human rights-based approach to the COVID-19 pandemic has informed this document.

Broad Principles

As the COVID-19 pandemic sweeps across the globe, it has touched all Manitobans in some way and led to innovative and unprecedented responses from governments. Extensive public health campaigns, restrictions on social interaction and freedom of movement, and economic stimulus are just a few of the steps governments have taken in response to the virus. However, protecting public health can have implications for human rights, including the right to non-discrimination, education, employment and freedom of movement and assembly.

The most vulnerable populations in Canadian society are disproportionately negatively affected by the COVID-19 pandemic, including:

- Indigenous peoples and First Nations communities;
- Racialized peoples
- Unemployed people or people employed in low paying, hourly-wage, benefit-free and otherwise precarious jobs
- People experiencing poverty, living in shelters, street-involved or at risk of homelessness
- Incarcerated individuals
- Women and children fleeing domestic violence
- People with disabilities, mental health needs and substance dependence
- Older people living alone or in healthcare facilities

The human rights impacts on vulnerable groups of COVID-19 might include:

- Hateful acts, racism, discrimination and/or harassment
- Disruption of education
- Loss of employment
- Loss of income and increased poverty
- Loss of housing
- Family violence and threats to safety and well-being
- Separation from caregivers
- Potential or increased involvement of child welfare agencies
- Negative effects on pre-existing disabilities, mental health needs and substance dependency and restricted access to current support services
- Higher risk of contracting COVID-19 due to social conditions
- Increased policing and discriminatory enforcement of emergency measures
- Social exclusion

Without a deliberate human rights-based approach and independent oversight, COVID-19 will further exacerbate existing inequalities for vulnerable communities. Consistent with the Final Report of the Truth and Reconciliation Commission, MHRC acknowledges that Indigenous communities are among the most vulnerable largely due to the ongoing negative impacts of colonialism and racism.

It is essential that responses to COVID-19 be aligned with Canada's international and domestic human rights laws, including but not limited to:

- *The Human Rights Code* (Manitoba) (1987)
- Canadian Charter of Rights and Freedoms (1982)
- Universal Declaration of Human Rights (1948)
- International Convention on the Elimination of All Forms of Racial Discrimination (1969)
- Convention on the Elimination of All Forms of Discrimination against Women (1979)
- Convention on the Rights of the Child (1989)
- Convention on the Rights of Persons with Disabilities (2006)
- UN Declaration on the Rights of Indigenous Peoples (2007)

The importance of human rights principles in emergency and disaster management is reflected in the UN's Sendai Framework for Disaster Risk Reduction 2015-2030, to which Canada is a signatory.

The pandemic also offers an opportunity to more effectively realize rights protected under the International Covenant on Economic, Social and Cultural Rights. Many of the vulnerable groups identified are at heightened risk precisely because their human rights—particularly economic, social and cultural rights, and Indigenous rights—have not been effectively protected or realized over many decades.

Implementing programs and policies that align with the following principles will help protect public health and human rights during the COVID-19 pandemic. Entrenching government's unprecedented response in a human rights-based approach offers a unique opportunity to lift everyone, including vulnerable communities, out of this pandemic.

The following broad principles are fundamental to a rights-based approach to the management of the COVID-19 pandemic. The principles and corresponding calls to action provide guidance to decision-makers across a range of potential policy, legal, regulatory and enforcement-related responses.

1. Approach the prevention and treatment of COVID-19 as a human rights obligation

- a. COVID-19 engages the right to health under international and to life under the Canadian Charter of Rights and Freedoms.
- b. All levels of government have a legal obligation to take preventive steps to stop the spread of COVID-19 and treat people who have the virus, without discrimination. This includes providing all healthcare services related to COVID-19, including testing, treatment, access to medical equipment and a possible vaccine, without stigma and discrimination of any kind based on the grounds of Indigenous ancestry, race, ethnic origin, nationality, disability, sexual orientation, gender identity, social disadvantage, etc. This may require governments to take additional steps necessary to prevent and treat COVID-19 among vulnerable groups.

- c. This obligation includes mitigating potential impacts on rights that are interdependent with the rights to health and life, including the rights to food, housing, work, education, equality, privacy, access to information, freedom from cruel, inhuman or degrading treatment or punishment, and the freedoms of association, expression, assembly and movement.

2. Respect Indigenous rights

- a. Respect First Nations' inherent right to self-government and do not prevent them from continuing to govern themselves during the COVID-19 pandemic.
- b. Work in partnership with affected Indigenous governments, communities, organizations and knowledge keepers, consistent with their unique nation-to-nation relationship.
- c. Recognize that COVID-19 will exacerbate the ongoing negative impacts of colonialism on Indigenous communities.
- d. Provide services that are essential to addressing COVID-19 and take extra steps and provide funding to protect Indigenous peoples' health and human rights, including:
 - Adequate housing
 - Culturally safe health care
 - Safe water and sanitation
- e. Where there is potential for competing jurisdiction, federal and provincial governments should provide necessary funding and services consistent with Jordan's principle.
- f. Consistent with the UN Declaration on the Rights for Indigenous Peoples, obtain the "free, prior and informed consent" before adopting and implementing legislative, administrative, policy, budgetary or regulatory measures in response to COVID-19 that may impact Indigenous peoples.
- g. Consistent with the UN Declaration on the Rights of Indigenous Peoples, and in consultation and cooperation with Indigenous peoples, take effective measures to ensure that Indigenous peoples, in particular those divided by international borders, are able to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

3. Set reasonable limits on measures that infringe rights.

- a. International and domestic human rights laws recognize that it may be legitimate and reasonable to suspend non-essential activities during an emergency like the COVID-19 pandemic.

- b. Any restrictive measures to prevent the spread of COVID-19 that deprive persons of their liberty should be carried out in accordance with the law, and respect the fundamental rights of individuals including incarcerated people and other people living in government-run or regulated institutions (long-term care homes, mental health facilities, youth justice facilities, child welfare agencies etc.).
- c. Restrictive measures must not discriminate and must be subject to reasonable limits that can be demonstrably justified as necessary, legitimate and proportionate.
- d. Restrictive measures taken to prevent the spread of COVID-19 should be time-bound, and subject to ongoing review.

4. Protect vulnerable communities

- a. Anticipate, assess and address the disproportionate impact of COVID-19 and related restrictions on vulnerable communities that already disproportionately experience human rights violations.
- b. Make sure vulnerable communities have equitable access to health care and other measures to address COVID-19, including financial and other forms of assistance.

5. Respond to racism, ableism and xenophobia

- a. Canada's human rights laws prohibit discrimination, including harassment, against any persons or communities because of an association with the COVID-19, perceived or otherwise.
- b. Steps taken in response to the COVID-19 pandemic should be based on evidence rather than stereotypes.
- c. Responses to COVID-19 should take into account the potential for certain communities to experience increased racism, ableism or xenophobia, and should monitor and report on any incidents or trends.

6. Strengthen human rights accountability and oversight

- a. When making decisions, taking actions and allocating resources, consult with human rights institutions and experts as well as persons and communities affected by COVID-19.
- b. Take a deliberate and comprehensive approach to human rights accountability and oversight, coordinated across jurisdictions, that ensures violations are anticipated, prevented and mitigated from the outset.

- c. Collect health and other human rights data, disaggregated by the grounds of Indigenous ancestry, race, ethnic origin, nationality including citizenship status, disability, sexual orientation, gender identity, social disadvantage, etc., regarding responses to COVID-19.
- d. Monitor and report on human rights impacts, outcomes and inequalities as a result of COVID-19.

Actions

Set out below are various actions that governments could take which are broadly consistent with a human rights-based approach to managing the COVID-19 pandemic. These actions are not comprehensive or exhaustive but rather a compilation of possible responses that are consistent with Canada and Manitoba's human rights obligations:

1. Privacy and access to information

- a. Ensure that rights-based legal safeguards govern the appropriate use and handling of personal health information including:
 - Limiting any tracking or surveillance to anonymized tracking for epidemiological purposes only, and making it as transparent and time-limited as possible.
 - Putting steps in place to govern who receives information, for what purposes, with what oversight, and remedies for breach.
 - Making sure that patient confidentiality is protected even as authorities take steps to identify people who may have been exposed to the virus.
 - Encouraging organizations to develop statements on COVID-19, human rights and privacy specific to their environments.
 - Working with Indigenous communities to develop protocols for the handing, use and ownership of their personal health information.
- b. Make sure all communities, including vulnerable populations, have timely access to vital public health and other important information related to COVID-19 in various languages and accessible formats. This may require or include:
 - Ensuring access to reliable and affordable Internet services, especially vulnerable populations, Indigenous peoples, and remote communities.
 - Undertaking social media campaigns to promote legitimate health protection information, inform the public that everyone has the right to access health care without discrimination, and dispel myths and stereotypes about vulnerable populations.

2. Public Health

- a. Provide all healthcare services related to COVID-19, including testing and treatment and a possible vaccine, without stigma and discrimination of any kind based on the grounds of Indigenous ancestry, race, ethnic origin, place of origin, citizenship status, disability, sexual orientation, gender identity, social condition, etc.
- b. Make sure healthcare systems have the resources, personnel and equipment necessary to provide equitable non-discriminatory treatment across communities and vulnerable populations, focusing attention on communities whose healthcare needs have been impoverished and neglected in the past, especially and including Indigenous peoples and people with disabilities.
- c. Ensure that public health measures consider the accessibility and other needs of people with disabilities who face heightened susceptibility to contracting COVID-19 and may face extra challenges to obtaining services and supplies, and accessing food and other basic needs because of restrictive measures. This includes ensuring that medical providers make an exception to any blanket prohibition of visitors when a person with a disability requires assistance with vital services like communication, caregiving, or supported decision-making.
- d. Increase available community health and mental health resources, with priority focus on Indigenous, rural and remote communities, to counter the stress of COVID-19 and the impact of physical distancing, isolation, quarantine and other restrictive measures.
- e. Ensure that undocumented migrants and vulnerable populations do not risk reprisal or deportation if they seek lifesaving care, especially testing or treatment for COVID-19.
- f. Make sure that any enforcement of public health directives does not have a disparate negative impact on vulnerable populations, including people with precarious housing or people who cannot self-isolate.
- g. Safeguard and address the needs of persons with substance dependence who may be more vulnerable to serious health consequences if infected with COVID-19, including taking a public health and stigma free approach to substance dependence. This includes ensuring that individuals with substance dependence have access to health care and safe supply throughout the pandemic to help mitigate risks to their health.
- h. Consider those who provide disability supports and/or work in fields like wheelchair maintenance or software engineering for communication devices to be engaged in essential services so that they remain accessible to individuals with disabilities.

3. Prisons and other government-run or regulated residential institutions

- a. Adopt a public health and human rights approach to managing incarcerated people and people in government-run or regulated residential institutions including:
 - Creating or adapting emergency plans to take a clear public health and human rights-focused approach to addressing evidence-based risks associated with COVID-19 in these facilities. Ensure these plans are reviewed and approved by public health officials.
 - Widely distributing emergency plans and other relevant and up-to-date public health information and facility protocols to incarcerated people, staff and visitors, in a language they understand.
- b. House people in custody or care with suspected and confirmed cases of COVID-19 in isolated units, and proactively house vulnerable people at heightened risk of COVID-19 related consequences in separate units.
- c. Have comprehensive and transparent decision-making and policy restrictions on face-to face or contact visits that are necessary, legitimate and proportionate to prevent or respond to COVID-19 outbreaks. Compensate for restrictions on contact visits by increased access to alternative means of communication such as email, voice or video calls
- d. Put steps in place to ensure the right to maintain adequate personal hygiene (including access to hot water and soap) and the right to daily access to the open air (of at least one hour).
- e. Make all reasonable efforts to reduce overcrowding within custody or other facilities, without discrimination, by:
 - Creatively using all existing legal or policy provisions regarding discretionary releases including work release, temporary absences, compassionate releases, medical releases.
 - Releasing or managing in the community individuals who do not pose a risk to the public, including people who are in pre-trial detention for or have been convicted of non-violent offences.
 - Releasing or managing in the community individuals with limited time left in their sentences.
 - Issuing compassionate releases for vulnerable prisoners, including elderly people, pregnant women, people with compromised immune systems, people with mental health disabilities, etc.
 - Releasing immigrant detainees who do not pose a risk to the public.
 - Expanding probation resources in the community, including redeploying correctional officers (by telephone).
- f. Provide persons leaving custody with transportation to return home if they require it, especially to remote or First Nations communities.

- g. Provide adequate health care, and ensure continuity of care-giving support relied on by older people and people with disabilities and others living in residential institutions or in their community.

4. Housing and houselessness

- a. Take steps to prevent discriminatory treatment of residents who have, are perceived to have, or are associated with persons who have COVID-19, where such treatment is not reasonable and justified to safeguard public health.
- b. Put in place measures to protect against houselessness, including providing greater protection for renters' and owners' security and maintain these protections for a reasonable time after the pandemic.
- c. Provide further protection for and set a moratorium on evictions, particularly for low-income families, elderly people and individuals with disabilities. Protect persons living in rooming houses who are not covered by eviction protections or suspensions.
- d. Make available vacant short- and long-term units for persons who are houseless or at risk of becoming houseless.
- e. Purchase or reallocate distressed assets and other buildings to be used as public housing to address immediate short and longer term – including post pandemic – needs of people who are houseless or at risk of becoming houseless.
- f. Take steps to limit transmission of COVID-19 in emergency shelters, ensure frequent hand washing with soap and implement physical distancing or isolation.
- g. Provide supports and do not criminalize vulnerable people who cannot self-isolate (e.g. people experiencing houselessness, women and youth experiencing domestic violence).

5. Income security and employment

- a. Take steps to ensure the right to adequate social security by providing financial assistance, prioritizing the most vulnerable communities, low-income households and caregivers.
- b. Provide people and businesses with financial assistance to mitigate business reductions and closures and other economic impacts due to the COVID-19 pandemic, with a focus on impoverished communities and people in precarious employment.

- c. Given ongoing gender-based discrimination, lower average earnings and disproportionate burden of family care, take steps to support women who may be forced out of the labour force to fulfill caregiving responsibilities.
- d. Make sure that measures designed to assist workers affected by the pandemic also assist workers in informal work and service industries, who are predominantly women.
- e. Provide advances on all disability related income support payments in order to allow for people with disabilities and their families to acquire the necessary food and medical supplies, make changes to disability supports and relevant assistive technologies, and continue to pay routine bills. During this time, governments should also consider supporting individuals with disabilities by preventing the retraction of any unclaimed funding administered for services such as personal assistance or therapy when they are cancelled by either party due to COVID-19 (illness or illness prevention). Potential solutions may include: rolling these funds forward, and/or relaxing reporting obligations so that people with disabilities and their families may use their discretion in re-allocating these funds during a time of crisis.
- f. Adopt special measures to locate and help migrant workers to prevent abusive labour conditions and provide assistance relating to managing COVID-19.

6. Food, water, sanitation and transit

- a. Ensure the availability and affordability of food and other critical household goods such as soap and sanitary products, especially for vulnerable populations.
- b. Make sure Indigenous and other remote communities also have immediate access to clean water.
- c. Make sure public transportation services offer sufficient service and measures to reduce overcrowding, allowing for safe physical distances between people.

7. Education

- a. Provide all students who are required to stay home during the COVID-19 pandemic with equitable and flexible distance learning options through the internet or other means, in a way that supports and does not aggravate the educational inequalities that exist for vulnerable populations, including low income families, Indigenous students and students with disabilities. This may require governments and educational providers to make available internet access or other tools in communities and households with limited access to these resources.
- b. Adopt strategies to support all students during school closures, with a focus on at risk students and students with disabilities.

- c. Make sure that online learning tools incorporate appropriate safeguards to protect children's rights and privacy.

8. Non-discrimination

- a. Take swift action to protect from physical or verbal assaults individuals and communities who may be targeted as bearing responsibility for COVID-19. Thoroughly investigate all reported incidents and hold perpetrators accountable.
- b. Take collaborative system-wide action to counter misinformation in communities and on social media based on prejudice, fear and discrimination against East Asian communities, refugees, immigrants and migrants, people experiencing poverty, and other vulnerable populations.
- c. Combat stigma and discrimination by training health workers and the public on COVID-19, using mass media and school networks to expand public awareness of human rights.
- d. Ensure that any law enforcement of physical distancing measures does not disproportionately target or criminalize Indigenous peoples and racialized communities, and people with mental health disabilities and substance dependences.
- e. Take steps to mitigate gendered impacts and ensure that responses to COVID-19 do not perpetuate gender inequity.
- f. Recognize that self-isolation, quarantine, and the impact of stress and economic uncertainty may increase the risk of intimate partner and family violence within the home, disproportionately experienced by women and children by:
 - Undertaking public awareness campaigns to address how victims of domestic violence can access services during the pandemic.
 - Making sure that services are available to all victims of domestic violence, including people living in areas under movement restrictions or under quarantine due to COVID-19.



Need more information?

For further information on this guideline or
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Le présent guide est également disponible en français.