



Maw-lukutijik **Saqmaq**
Assembly of Nova Scotia
Mi'kmaq Chiefs



A GUIDE TO RESPONDING TO COVID-19 IN MI'KMAW COMMUNITIES IN NOVA SCOTIA

**SCENARIO-BASED GUIDANCE FOR CHIEF AND COUNCILS TO PROTECT
THEIR COMMUNITIES AGAINST THE SPREAD OF COVID-19**

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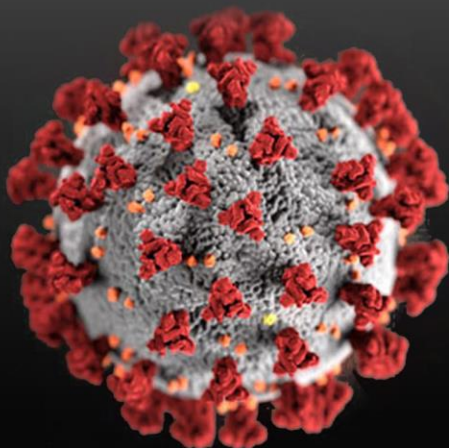


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Introduction to the Guide

This guide has been developed by a team of legal, policy, health, and emergency experts to support band councils in considering emergency measures for the protection of their communities during the COVID-19 pandemic.

This guide is intended to support decision making by identifying potential scenarios throughout the pandemic for which community leadership may wish to respond to. This includes several options for emergency measures which may be implemented, as well as a checklist of considerations to be taken before implementing that measure, to ensure the community has the capacity to implement the measure fully and safely. The guide also includes communications advice specific to each measure and an appendix of supporting documents which include briefing notes, template band council resolutions, and other resources.

The measures outlined in this guide are intended to **go above and beyond** or be enacted **in addition to** provincial regulations. Communities in Nova Scotia must follow any regulations and restrictions set out in the public health order. The measures and considerations outlined in this guide are intended to provide further support and protection to communities in addition to those restrictions and measures implemented by the province.

When considering any measure which could impact the constitutional, mobility, or human rights of community members, community legal counsel should always be engaged.

The KMKNO, CMM, and UNSM teams, as well as the MHWA have co-developed this guide and are committed to continuing to support communities through the pandemic. If you require any support in implementing this guide in your communities, please do not hesitate to reach out to your contacts in those organizations.

In order to enact any of the emergency measures outlined below, when not mandated by the province under the health protection act restrictions and regulations (when going beyond the province's measures), community leadership should pass the attached template BCR "Template Resolution to Implement COVID-19 Emergency Measures). This will provide the legal basis for Chief and Council to implement measures necessary at the community level.

Scenario 1 – Another Wave of COVID-19

Cases of COVID-19 begin to arise in the province, with daily new cases identified. Epidemiologists and Chief Medical Officers indicate another wave of COVID-19 has hit the province and begins to monitor epidemiology of cases and consider re-implementing public health measures to contain and limit the spread of the virus. As more cases arise, the province renews the State of Emergency and reimplements isolation orders and closes businesses and services. Leadership is concerned for the potential of viral spread within the community.

Policy Statement: Independent or cohesive response measures may be implemented as required to protect the health and safety of community members, should further waves of COVID-19 arise within Nova Scotia.

Process: Community leadership should assess the current situation and risks for transmission regularly throughout each wave or outbreak of COVID-19, and implement measures as they see appropriate and necessary. Leadership may wish to contact their Tribal Council Emergency Coordinator for support in assessing risk, identifying potential measures, and assisting with implementation or access to information, supports, or supplies. In all cases, leadership is encouraged to contact their emergency planning officer to inform them of the measures being considered to ensure they are able to best assist the community where requested and coordinate responses across communities as necessary.

UNSM Emergency Planning Officer: Jennifer Jesty (jjesty@unsm.org)

CMM Emergency Planning Officer: Kasey McDermott (kmcdermott@cmmns.com)

CMM Emergency Management Manager: Amber MacLean Hawes

(AHawes@mikmawconservation.ca)

Ministry of Health Point of Contact: Dr. Ryan Sommers (902-893-5820)

Communications

A central location for updated information should be identified and community members should be informed of where to find this information during an emergency. This may be a “news” section of your community website, a community Facebook group, or a community Twitter account. All changes to emergency response and new measures should be communicated using this forum, however in some cases, you may wish to use additional communications tools as well to ensure community members are informed of changing decisions. For each emergency measure, a brief list of potential helpful communications tools is included (though is not exhaustive).

GRADUATED RESPONSE OPTIONS

Note: Response options presented are not mutually exclusive, and more than one may be applied simultaneously, in concert, or as a progressive implementation of measures. Options provided are not exhaustive and may not each be appropriate for specific circumstances. As challenges arise, you are encouraged to reach out to your tribal council's emergency coordinator for assistance in determining other potential courses of action or adaptations to the options presented specific to meeting the active circumstances within your community. These options and their considerations are posed as a starting point and a tool to aid in decision making amongst leadership.

Option 1: Offer and Provide Support for Elders and Vulnerable Community Members Who are Not Currently COVID-19 Positive

Potential Use: Leadership is concerned for the health and safety of Elders and vulnerable community members, and fears without support, they may be motivated to travel through the community to access essential services and products (i.e. grocery shopping), or may enter social situations which may endanger their health and safety. To ensure these individuals can isolate comfortably with access to necessary items, leadership may wish to offer varying forms of support to these individuals, such as grocery deliveries, prescription pick-up, safe transportation to medical appointments, providing telecommunications devices to better facilitate socialization, or otherwise as requested by the individual. Your community health nurse should be involved in any discussions of how to provide supports.

Communications Tools: Newsletters delivered to Elders and vulnerable community members; Signs indicating how to request supports at Health Center and community businesses; Door-to-door or phone canvassing; community/local radio stations.

Considerations:

- ☐ Are there Elders or vulnerable community members you are aware of that may not have the support necessary within their families or social circles to allow them to social distance?
- ☐ Do you have the capacity and resources to provide support to those who need it?
- ☐ What supports do you hope to provide?
- ☐ What supports do you believe will be needed most?
- ☐ Will there be a new or added cost associated with providing these supports?

Option 2: Move All Possible Services to Digital and Remote Operations

Potential Use: Leadership is concerned for the health and wellbeing of community members working in businesses and providing services within the community due to the amount of face-to-face interaction or close quarters of employees necessary to operate within the existing business or service location. Some of these businesses and services can operate in an adapted capacity digitally and remotely, such as working from home or offering online shopping and delivery options. This will allow businesses and services to continue operating safely, while helping to maintain employment. **Note:** Some service providers may be under the mandate of provincial or federal governments, or other organizations. These service providers may be subject to the decision making of their higher-level structures rather than the community's leadership.

Communications Tools: Meeting with business owners and Band employees; emails to business members and Band employees; emails to community members; posting on community social media pages; community/local radio stations.

Considerations:

- ☐ What businesses or services in your community could potentially continue to operate digitally or remotely?
- ☐ If a business or service is unable to provide all services remotely, but can provide others, is there a mixed model of delivery that could be implemented?
- ☐ What businesses or services may require financial support to adapt to remote or digital work?
- ☐ Are there any provincially or federally supported financial programs to assist businesses and services in adapting to remote or digital work?
- ☐ Do you have the financial capacity to support these businesses and services in adapting to remote or digital work?
- ☐ Are there any low-cost alternatives to supporting business in this type of adaptation?
- ☐ If businesses and services were to continue operating normally, how might this impact the spread of COVID-19 in the community?
- ☐ Which businesses are considered essential to the mental, physical, spiritual, and emotional wellbeing of community members?
- ☐ Which businesses are considered essential in this regard, but may operate remotely or digitally regardless?

- ☐ Which businesses are considered essential in this regard and must remain open and operating with public interaction?
- ☐ Which businesses are considered non-essential to the mental, physical, emotional, and spiritual wellbeing of community members, but remain important for unity, economic development, or other community priorities?
- ☐ If you were to keep these businesses and services open, is there a risk that non-residents may enter into the community to access those businesses or services and spread COVID-19 to community members?
- ☐ If you are maintaining in-person services, have you considered how a change in hours or staffing may negatively impact the potential spread of cases (i.e. fewer staff with reduced hours may lead to more people gathering in a short time span, rather than spreading out clients throughout the week with different staff members).

Option 3: Close Non-Essential Businesses, Services, and Gathering Sites

Potential Use: Some businesses and services cannot be provided remotely or digitally, or require close and large gatherings of community members, and also are not essential to maintaining the health and wellbeing of community members. Leadership is concerned that allowing these business, services, and sites to remain open may pose a risk to community health and safety. The province may or may not have already issued a similar directive ordering these types of businesses, services, and sites to close.

It may be prudent to employ a harm reduction approach to closing businesses, as individuals may continue to access services, businesses, and gathering sites. Consideration may be given to redeploying non-essential staff to new duties to both avoid layoffs and ensure businesses, services, and gathering places are monitored and sanitized as necessary (i.e. reassigning Band staff to monitor and clean playground equipment).

Communications Tools: Meeting with business owners and Band employees; emails to business members and Band employees; emails to community members; posting on community social media pages, notices on doors of closing businesses, services and sites; community/local radio stations.

Considerations:

- ☐ How might closing each business, service, and gathering site impact the mental, physical, emotional, and spiritual wellbeing of community members?
- ☐ Are there any possible alternatives to closing each business, service, or gathering site while maintaining safety and security of community members?
- ☐ How will closing these businesses, services, and gathering sites impact the economic wellbeing of the community?
- ☐ Are there any provincial or federal programs available to support these businesses, services, and gathering sites?
- ☐ Has the province required similar businesses to close due to COVID-19?
- ☐ If you were to keep these businesses, services, and gathering sites open, is there a risk that non-residents may enter into the community to access those businesses, services, or sites and risk the transmission of COVID-19 to community members?
- ☐ Can Leadership avoid layoffs by redeploying some non-essential staff to provide monitoring and sanitation support at high-risk gathering sites, services, and buildings (i.e. providing security at the grocery store or health center to limit gathering/monitor number of individuals in a space; providing sanitation of play equipment).

Option 4: Install Plexiglass Barriers and Directional Signs in Businesses Remaining Operational

Potential Use: Some businesses in the community are able to continue operating with certain precautionary measures in place to protect customers/clients and staff, while maintaining economic opportunities. Adaptations such as floor markers, limiting the number of customers allowed inside based on space, plexiglass barriers, offering take-out or scheduled shopping. **Note:** Please refer to the most up-to-date provincial guidance on the most appropriate types of physical interventions to implement, as advice may evolve over time.

Communications Tool: Meeting with business owners and Band employees; emails to business members and Band employees.

Considerations:

- ☐ Have you engaged with local business owners to determine their ability to safely operate under the current regulations?
- ☐ Do you have funding to support businesses in the community in adapting to meeting safety regulations or change their service structure? Is funding available to business owners through federal or provincial funding programs?
- ☐ Will allowing these businesses to remain open increase the risk of virus transmission within the community?
- ☐ Will allowing these businesses to remain open increase the risk of non-residents entering the community to access that service, and therefore place the community at risk for transmission?
- ☐ Is this business or services essential to maintaining the health, wellbeing, or basic needs of community members?
- ☐ Has the province required similar businesses to close or cease operations outside of your community? Has the province imposed measures under the Public Health Act that will impact business continuity within the community?
- ☐ Does the community have access to the materials necessary to support adaptations (i.e. a supply of acrylic or plexiglass barriers, PPE, hand sanitizer and surface cleaner, floor markings, educational materials).
- ☐ How will businesses continuing to operate be monitored and use of protections or implementation of restrictions be enforced.

Option 5: Cancel, Postpone or Limit Events, Gatherings, or Ceremonies

Potential Use: Events, gatherings and ceremonies are planned within the community that require groups of people to gather in close proximity. Leadership is concerned for the potential of transmission of the virus in these circumstances, risking the health and safety of community members. Some adaptations may be able to be implemented to ensure some gatherings and ceremonies essential to mental, physical, and spiritual wellbeing can continue.

Communications Tool: Community social media; community newsletters; event pages online; community/local radio stations

Considerations:

- ☐ What events, gatherings, or ceremonies are essential to the mental, spiritual, and emotional wellbeing of community members?
- ☐ Which of these events, gatherings, or ceremonies may be provided digitally, remotely, or could be postponed?
- ☐ Are there any populations who would be more at risk by attending these events, gatherings, or ceremonies?
- ☐ Is there any way to limit or exhaust the risk of transmission while allowing these events, gatherings, or ceremonies to continue?
- ☐ Is the time or location of this event, gathering, or ceremony essential to its purpose?
- ☐ Is there a risk that by cancelling or postponing this event, ceremony, or gathering will deter individuals from engaging in this event, ceremony, or gathering regardless?
- ☐ Has the province or federal government adapted, cancelled, or postponed similar events, gatherings, or ceremonies?
- ☐ Is there a concern for viral spread at this event, ceremony, or gathering? Have you consulted with a health expert regarding the potential risks associated with hosting the ceremony, event, or gathering?

Option 6: Monitor Travel into and Out of Community

Potential Use: As case numbers begin to grow outside of the community, leadership may wish to monitor who is entering and leaving the community to assist with contact tracing and prevention of community spread. Leadership does not yet see a significant threat of spread due to travel into and out of the community and do not yet feel the need to restrict travel. Leadership may choose to implement a checkpoint at the borders of the community to ensure community members and visitors have access to information about the spread of COVID-19 and how to protect themselves. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter.

Considerations:

- ☐ Is this the least invasive measure possible to protect the health and wellbeing of community members at this time?
- ☐ What information do you wish to collect from individuals traveling into and out of the community? Does the information being collected impact privacy rights in any way?
- ☐ What information do you wish to share with individuals traveling into and out of the community?
- ☐ Are there any specific time periods or days of which you are more concerned for travel into and out of the community? (i.e. special events occurring outside of the community)
- ☐ Do you have the capacity to monitor travel at all times? If not, what hours of the day, or days of the week do you wish to monitor travel?
- ☐ How many access points are there to enter and leave the community? Will each access point be monitored?
- ☐ Is this monitoring going to impact the right to the freedom of mobility for community members or other individuals?
- ☐ Is this monitoring going to cause significant delays to travel between communities?
- ☐ Does your community provide a single-access point or thoroughway between two or more communities?

- ☐ Are there other restrictions in place within your community to prevent the transmission of the virus to community members from visitors?
- ☐ How will monitoring be enforced? By whom?
- ☐ Have community members been trained to provide security at the checkpoint? If not, who will be employed to assist with enforcement and security?
- ☐ Will individuals monitoring and enforcing the checkpoint have access to appropriate PPE to safely complete their assigned tasks?

Option 7: Restrict travel into the community

Potential Use: There is an outbreak or growing potential of an outbreak outside of the community and leadership is seeking a mechanism to limit the potential for spread into the community.

Potential Use: Businesses outside of the community are beginning to close or become restricted to lessen the potential for spread of COVID19, however some similar services continue to be offered in-community. There is a potential for non-community members to seek out services within the community and therefore, potential for COVID19 to be spread to the community through these individuals. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Governance Tool: BCR Declaration of a State of Local Emergency

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter.

Considerations:

- ☐ Has a state of emergency been declared by community leadership?
- ☐ Is this restriction the least invasive measure possible to ensure community safety and wellbeing under the current circumstances?
- ☐ Will restricting non-community member access to the community limit economic opportunities in a manner that is irreparable for the period of enforcement?
- ☐ Will restricting non-community member access to the community limit an individual's ability to travel between external communities (i.e. is this road providing exclusive transitory access between one community and another destination)?
- ☐ Will restricting non-community member access to the community limit the provision of essential services or the transport of essential goods and materials? If so, what services are in place to mitigate the harm associated with this action?
- ☐ Will restricting non-community member access to the community unjustifiably limit the basic rights of community and non-community members? Is this a reasonable limitation of rights given the circumstances? Have you sought legal advice in this regard?

- ☐ Will restricting non-community member access to the community limit the administration of justice? (i.e. policing, access to courts, child custody arrangement, etc.)
- ☐ Will restricting non-community member access to the community limit the administration of health care? Will this restrict access and inventory of medical supplies? Do you have a succession plan for staffing, business continuity plan, and resource planning in place?
- ☐ Do you have supports in place to ensure community members have access to the products and services necessary for their wellbeing?
- ☐ Have community members been trained to provide security at the checkpoint? If not, who will be employed to assist with enforcement and security?
- ☐ Will individuals monitoring and enforcing the checkpoint have access to appropriate PPE to safely complete their assigned tasks?

Option 8: Restrict travel into and out of the community

Potential Use: There is an outbreak in nearby communities that poses an imminent threat to community wellbeing due to the potential of community-based spread of COVID19. Leadership is seeking a mechanism to limit the potential for community spread.

Potential Use: There is an outbreak within the community. Leadership and local governmental counterparts (i.e. neighbouring townships) are fearful of the spread of COVID19 from the community to neighbouring communities and are seeking a mechanism to limit the potential for community spread from the community outward. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Communications Tool: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter; tribal council emergency alert system.

Considerations:

- ☐ Has a state of emergency been declared by community leadership?
- ☐ Is this restriction the least invasive measure possible to ensure community safety and wellbeing under the current circumstances?
- ☐ Will restricting non-community member access to the community limit economic opportunities in a manner that is irreparable for the period of enforcement?
- ☐ Will restricting community members from leaving the community limit economic opportunities for individuals resulting in job loss or otherwise negatively impacting the individual's financial security?
- ☐ Will restricting non-community member access to the community limit an individual's ability to travel between external communities (i.e. is this road providing exclusive transitory access between one community and another destination)?
- ☐ Will restricting non-community member access to the community limit the provision of essential services or the transport of essential goods and materials? If so, what services are in place to mitigate the harm associated with this action?
- ☐ Will restricting non-community member access to the community unjustifiably limit the basic rights of community and non-community members? Is this a reasonable limitation of rights given the circumstances? Have you sought legal advice in this regard?

- ☐ Will restricting non-community member access to the community limit the administration of justice? (i.e. policing, access to courts, child custody arrangement, etc.)
- ☐ Will restricting non-community member access to the community limit the administration of health care? Will this restrict access and inventory of medical supplies? Do you have a succession plan for staffing, business continuity plan, and resource planning in place?
- ☐ Do you have supports in place to ensure community members have access to the products and services necessary for their wellbeing?
- ☐ Will restricting community members from leaving the community negatively impact their ability to procure essential goods and services?
- ☐ What exceptions will you have in place to ensure limitations of mobility rights are minimized?

Will this measure restrict access to health care provided in-community to non-community members, or community members who live outside of the community?

Option 9: Restrict travel into, out of, and within the community

Potential Use: There is an outbreak or imminent threat of outbreak within the community. Leadership is seeking a mechanism to limit the size and impact of the outbreak within the community.

Potential Use: There is an outbreak within the community. Leadership and local governmental counterparts (i.e. neighbouring townships) are fearful of the spread of COVID19 from the community to neighbouring communities and are seeking a mechanism to limit the potential for community spread from the community outward. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Governance Tool: BCR Declaration of a State of Local Emergency

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter; tribal council emergency alert system; Youtube or Facebook Live Q&A/Video.

Considerations:

- ☐ Is this restriction the least invasive measure possible to ensure community safety and wellbeing under the current circumstances?
- ☐ Will restricting non-community member access to the community limit economic opportunities in a manner that is irreparable for the period of enforcement?
- ☐ Will restricting community members from leaving the community limit economic opportunities for individuals resulting in job loss or otherwise negatively impacting the individual's financial security?
- ☐ Will restricting non-community member access to the community limit an individual's ability to travel between external communities (i.e. is this road providing exclusive transitory access between one community and another destination)?
- ☐ Will restricting non-community member access to the community limit the provision of essential services or the transport of essential goods and materials? If so, what services are in place to mitigate the harm associated with this action?
- ☐ Will restricting non-community member access to the community unjustifiably limit the basic rights of community and non-community members? Is this a reasonable

limitation of rights given the circumstances? Have you sought legal advice in this regard?

- ☐ Will restricting non-community member access to the community limit the administration of justice? (i.e. policing, access to courts, child custody arrangement, etc.)
- ☐ Will restricting non-community member access to the community limit the administration of health care? Will this restrict access and inventory of medical supplies? Do you have a succession plan for staffing, business continuity plan, and resource planning in place?
- ☐ Do you have supports in place to ensure community members have access to the products and services necessary for their wellbeing?
- ☐ Will restricting community members from leaving the community negatively impact their ability to procure essential goods and services?
- ☐ What exceptions will you have in place to ensure limitations of mobility rights are minimized?
- ☐ How will this measure protect the most vulnerable community members? Will the measure negatively impact the health and wellbeing of vulnerable community members in other ways?
- ☐ Do you have a plan in place to mitigate the effects of this emergency measure on the mental health of community members?
- ☐ Do you have a plan in place to mitigate the effects of this emergency measure on the potential for a rise in domestic violence? What can be done to assist women and children who may experience domestic violence during this time?
- ☐ Have you discussed potential harm reduction approaches for mental health and addictions interventions with your community health nurse?
- ☐ Have you identified methods to ensure prescription medications can be distributed to or accessed by community members?

Option 10: Establish an In-Community Testing Site

Potential Use: Significant concern has arisen that the virus could or has begun to spread within the community. In-community testing would decrease the need to travel outside of the community and risk further viral transmission. In-community testing may make community members more comfortable accessing testing, as it would be conducted by an established community health practitioner. Community-based testing would also increase the general accessibility of testing, making it easier for more community members to get tested if experiencing symptoms.

Communications Tools: Community Social Media; Community Newsletters; Posters/Signs at Health Center/Local Businesses; Youtube or Facebook Live Q&A/Video

Considerations:

- ☐ Are your community health nurses trained in COVID-19 testing? Are your nurses familiar with the testing protocols that have been developed by Public Health?
- ☐ Has your community been identified by Public Health as a viable testing site? If not, are you able to access mobile testing units or request a temporary testing site through Public Health?
- ☐ Do you have access to the necessary PPE to protect health nurses?
- ☐ Do you have access to testing kits?
- ☐ Do you have a method of transportation or a process in place to transfer completed tests to the Lab for analysis?
- ☐ Do you have a communications process in place with the lab to inform the community, nurses, or tested individuals of their results?
- ☐ Do you have the appropriate infrastructure to safely provide testing?
- ☐ How will community members be triaged to your community testing site? Will you use the 811 service?
- ☐ Has the province, including 811, been informed of the establishment of your community testing site?
- ☐ Are there any alternatives to establishing a community testing site, such as a mobile testing unit provided by the province?
- ☐ Is there evidence of spread or a threat of spread within the community that may overwhelm existing testing facilities or make accessing testing difficult outside of the community?

- ☐ Do you have a significant number of community members who will not be able to access testing outside of the community? (i.e. unable to drive or no vehicle)
- ☐ Does the distance between the community and the nearest testing site considered a barrier to community members accessing testing?
- ☐ Do you have the staffing capacity to continue to provide essential community health services while also implementing a community testing site?
- ☐ How will the safety of health staff be ensured?
- ☐ Will there be measures in place to ensure testing staff are healthy when entering the workplace each day? (i.e. temperature checks)
- ☐ Will health staff be permitted to opt-out of participating with the testing site if they or their immediate household are considered vulnerable?
- ☐ Are any additional pay requirements or pay enhancements being provided for health staff by the provincial or federal governments? (i.e. hero pay)

Option 11: Establish Alternative Isolation Housing (Not Quarantine for Positive Cases)

Potential Use: Overcrowding or multi-family units are a concern for leadership, given the potential for more individuals in close quarters to be impacted by COVID-19. Leadership has identified opportunities for temporary relocation of some individuals to lessen the strain on space in shared homes and allow community members to be more comfortable and prevent further spread of COVID-19. An isolation centre, hoteling, or other alternative housing could be considered to ease the strain on households and ensure the health and wellbeing of community members.

Please note, an isolation housing center cannot be used as a treatment centre, rather, can be used to isolate vulnerable individuals or essential workers from family members, in cases where they are unable to isolate safely at home. Any individuals with symptoms of COVID-19 or with positive test results for COVID-19 will be treated at a provincially operated health facility. Isolation centers should not be established to treat or house individuals with active cases.

If you wish to establish alternative isolation housing, you are encouraged to contact your Tribal Council Emergency Response Coordinator. Emergency Response Coordinators have centralized access to important information and training which can aid you in identifying potential route of response.

Communications Tools: Community Social Media; Community Newsletters; Hand-Delivered Letters/Newsletters; Door-to-door canvassing; Community Information Boards/Bulletin Boards; Posters/Signs at Health Center/Local Businesses; Youtube or Facebook Live Q&A/Video

Considerations:

- ☐ Is there a significant risk of, or ongoing spread of the virus within the community?
- ☐ What populations do you wish to re-house? (i.e. essential workers living with vulnerable people, community members returning from travel). **Please note those requiring quarantine due to confirmed exposure or positive test result require a different level of isolation and quarantine support. These types of alternative quarantine housing should be developed with your health director and community health practitioners.**
- ☐ Do you have hotel or other alternate accommodations available within the community that are band-owned? If so, does the hotel chain have any restrictions to housing COVID-19 positive cases or those requiring isolation due to travel or exposure?

- ☐ Do you have hotel or other alternate accommodations available within the community that have agreed to provide alternative housing for a fee? Can the community afford this cost over time or access funding to support this cost?
- ☐ Will you be establishing new temporary accommodations, such as a quarantine facility or medical tent as the alternative isolation housing? If so:
 - ☐ Will this facility be established within an existing community building such as a community center or gym?
 - ☐ Is the facility in question accessible?
 - ☐ Does the facility contain a kitchen, accessible washrooms, appropriate heating and cooling, accessible entry and exit, and privacy measures?
 - ☐ Will this facility be established using military equipment, such as medical tents, cots, or other military support?
 - ☐ Do you require the support of the federal or provincial government to establish this site?
 - ☐ Have you worked with the province or federal government to assess the need for this site or acquire advice, materials, supplies, and personnel necessary to support this site?
 - ☐ How will individuals be supported at this site?
 - ☐ Who will provide services at this site, such as intake, health care, cooking, cleaning, etc?
 - ☐ Does the community have access to the necessary medical staff?
 - ☐ Does the community have access to the necessary PPE, sanitation supplies, food supplies, and otherwise to protect the safety of community members and staff?
 - ☐ What policies and procedures will be put in place to protect the health and safety of community members and staff at the site?
- ☐ Have you assessed how many households and individuals may need to be re-housed to protect them or their families from COVID-19?
- ☐ Are those being re-housed the primary caregiver, wage earner, or essential service provider (i.e. individual in the home taking others to medical appointments, grocery shopping)?
- ☐ How will you meet the needs of family members remaining in the home?
- ☐ How will you meet the needs of those being re-housed?

- ☐ Will those being re-housed be required to isolate for the duration of their accommodation?
- ☐ Will those remaining in their households be required to isolate?
- ☐ Are those being re-housed required to quarantine under provincial or community pandemic response measures? (i.e. are you re-housing those who are vulnerable but unable to fully isolate in their own homes, are you re-housing nurses working within the community that do not want to risk returning home while working and potentially risking spread to their family members)
- ☐ Will community members requiring alternative housing be housed within or outside of the community?

Option 12: Supported Voluntary Isolation

Potential Use: There is significant concern for or occurring spread within the community. Leadership has the means to provide support for families who choose to isolate and wishes to encourage community members to stay home as much as possible.

Communications Tools: Community Social Media; Community Newsletters; Hand-Delivered Letters/Newsletters; Door-to-door canvassing; Community Information Boards/Bulletin Boards

Considerations:

- ☐ How will the community encourage community members to isolate?
- ☐ What supports will you offer to support individuals in isolating at home?
- ☐ Who will provide those supports?
- ☐ Do community members have access to communications devices to support isolation?
- ☐ How will information be shared with community members who chose to isolate?
- ☐ How will you ensure the needs of isolating community members are met? (i.e. wellness checks, opening a call-in line for families to identify needs)
- ☐ Will you identify households choosing to isolate or provide families with materials to identify themselves as isolating (i.e. signs for doors warning visitors of an isolated household)? Please note, as this is a form of disclosure of medical information, this action would be voluntary on the part of the community member or household.
- ☐ Do you have the capacity to provide essential products and services to isolating community members (i.e. food delivery)?
- ☐ How will money be transferred between the household and the service provider (i.e. e-transfer for groceries)?
- ☐ Will voluntary isolation be enforced or monitored? If so, how?
- ☐ Will voluntary isolation impede an individual's access to money (i.e. if they receive cheques for pay rather than direct deposit)? If so, how can financial security be ensured?
- ☐ Will some individuals be unable to opt-in to voluntary isolation? If so, who? (i.e. essential workers).
- ☐ Are there any populations you wish to encourage further to isolate? (i.e. vulnerable Elders). If yes, how do you plan to do so?

Scenario 2- Travel Restrictions

Suspected or known cases of COVID-19 have arisen within the province from both travel and community spread actions. Nova Scotia is under provincial State of Emergency with restrictions on travel, gatherings and business openings. All borders are restricted to essential travel only and anyone entering province is directed to self-isolate for 14 days. Travel restrictions, closure of some business and increased demand are causing some supplies to be limited or unavailable. Personal Protective Equipment is rationed by the Department of Health and difficult to purchase through other sources. The Department of Health is monitoring cases and releasing information to Band Health Care Centers and the public on prevention and treatment guidelines. No vaccine is available and limited treatment options are available. However, there are currently no known COVID-19 cases within the Community on reservation lands.

Policy Statement: The restriction of travel into, out of, or within the community should not limit the basic human rights of community members without due reason, nor should such restriction limit community members' access to essential products and services. Such restrictions should be used solely to protect the common wellbeing of the community at large.

Process: To restrict travel into the community, leadership may wish to enact a community by-law or band council resolution, outlining the travel restriction, timelines and enforcement mechanisms. RCMP require a formal band by-law to assist with enforcement. Once received, RCMP will review the request for assistance and inform community leadership of their ability or inability to assist. If leadership chooses to enact a BCR or by-law restricting non-essential or non-community-member access into the community, you may wish to implement checkpoints at community entrances to verify who is entering the community and for what purposes. Legal Counsel should always be included in the consideration of measures limiting community members' rights to mobility.

In all cases, leadership is encouraged to contact their emergency planning officer to inform them of the measures being considered to ensure they are able to best assist the community where requested and coordinate responses across communities as necessary.

UNSM Emergency Planning Officer: Jennifer Jesty (jjesty@unsm.org)

CMM Emergency Planning Officer: Kasey McDermott (kmcdermott@cmmns.com)

CMM Emergency Management Manager: Amber MacLean Hawes

(AHawes@mikmawconservation.ca)

Ministry of Health Point of Contact: Dr. Ryan Sommers (902-893-5820)

Communications

A central location for updated information should be identified and community members should be informed of where to find this information during an emergency. This may be a “news” section of your community website, a community Facebook group, or a community Twitter account. All changes to emergency response and new measures should be communicated using this forum, however in some cases, you may wish to use additional communications tools as well to ensure community members are informed of changing decisions. For each emergency measure, a brief list of potential helpful communications tools is included (though is not exhaustive).

GRADUATED RESPONSE OPTIONS

Option 1: Restrict travel into the community

Potential Use: There is an outbreak or growing potential of an outbreak outside of the community and leadership is seeking a mechanism to limit the potential for spread into the community.

Potential Use: Businesses outside of the community are beginning to close or become restricted to lessen the potential for spread of COVID19, however some similar services continue to be offered in-community. There is a potential for non-community members to seek out services within the community and therefore, potential for COVID19 to be spread to the community through these individuals. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter.

Considerations:

- ☐ Has a state of emergency been declared by community leadership?
- ☐ Is this restriction the least invasive measure possible to ensure community safety and wellbeing under the current circumstances?
- ☐ Will restricting non-community member access to the community limit economic opportunities in a manner that is irreparable for the period of enforcement?
- ☐ Will restricting non-community member access to the community limit an individual's ability to travel between external communities (i.e. is this road providing exclusive transitory access between one community and another destination)?
- ☐ Will restricting non-community member access to the community limit the provision of essential services or the transport of essential goods and materials? If so, what services are in place to mitigate the harm associated with this action?
- ☐ Will restricting non-community member access to the community unjustifiably limit the basic rights of community and non-community members? Is this a reasonable limitation of rights given the circumstances? Have you sought legal advice in this regard?

- ☐ Will restricting non-community member access to the community limit the administration of justice? (i.e. policing, access to courts, child custody arrangement, etc.)
- ☐ Will restricting non-community member access to the community limit the administration of health care? Will this restrict access and inventory of medical supplies? Do you have a succession plan for staffing, business continuity plan, and resource planning in place?
- ☐ Do you have supports in place to ensure community members have access to the products and services necessary for their wellbeing?
- ☐ Have community members been trained to provide security at the checkpoint? If not, who will be employed to assist with enforcement and security?
- ☐ Will individuals monitoring and enforcing the checkpoint have access to appropriate PPE to safely complete their assigned tasks?

Option 2: Restrict travel into and out of the community

Potential Use: There is an outbreak in nearby communities that poses an imminent threat to community wellbeing due to the potential of community-based spread of COVID19. Leadership is seeking a mechanism to limit the potential for community spread.

Potential Use: There is an outbreak within the community. Leadership and local governmental counterparts (i.e. neighbouring townships) are fearful of the spread of COVID19 from the community to neighbouring communities and are seeking a mechanism to limit the potential for community spread from the community outward. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Governance Tool: BCR Declaration of a State of Local Emergency

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter; tribal council emergency alert system.

Considerations:

- ☐ Has a state of emergency been declared by community leadership?
- ☐ Is this restriction the least invasive measure possible to ensure community safety and wellbeing under the current circumstances?
- ☐ Will restricting non-community member access to the community limit economic opportunities in a manner that is irreparable for the period of enforcement?
- ☐ Will restricting community members from leaving the community limit economic opportunities for individuals resulting in job loss or otherwise negatively impacting the individual's financial security?
- ☐ Will restricting non-community member access to the community limit an individual's ability to travel between external communities (i.e. is this road providing exclusive transitory access between one community and another destination)?
- ☐ Will restricting non-community member access to the community limit the provision of essential services or the transport of essential goods and materials? If so, what services are in place to mitigate the harm associated with this action?
- ☐ Will restricting non-community member access to the community unjustifiably limit the basic rights of community and non-community members? Is this a reasonable

limitation of rights given the circumstances? Have you sought legal advice in this regard?

- ☐ Will restricting non-community member access to the community limit the administration of justice? (i.e. policing, access to courts, child custody arrangement, etc.)
- ☐ Will restricting non-community member access to the community limit the administration of health care? Will this restrict access and inventory of medical supplies? Do you have a succession plan for staffing, business continuity plan, and resource planning in place?
- ☐ Do you have supports in place to ensure community members have access to the products and services necessary for their wellbeing?
- ☐ Will restricting community members from leaving the community negatively impact their ability to procure essential goods and services?
- ☐ What exceptions will you have in place to ensure limitations of mobility rights are minimized?

Will this measure restrict access to health care provided in-community to non-community members, or community members who live outside of the community?

Option 3: Restrict travel into, out of, and within the community

Potential Use: There is an outbreak or imminent threat of outbreak within the community. Leadership is seeking a mechanism to limit the size and impact of the outbreak within the community.

Potential Use: There is an outbreak within the community. Leadership and local governmental counterparts (i.e. neighbouring townships) are fearful of the spread of COVID19 from the community to neighbouring communities and are seeking a mechanism to limit the potential for community spread from the community outward. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Governance Tool: BCR Declaration of a State of Local Emergency

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter; tribal council emergency alert system; Youtube or Facebook Live Q&A/Video.

Considerations:

- ☐ Is this restriction the least invasive measure possible to ensure community safety and wellbeing under the current circumstances?
- ☐ Will restricting non-community member access to the community limit economic opportunities in a manner that is irreparable for the period of enforcement?
- ☐ Will restricting community members from leaving the community limit economic opportunities for individuals resulting in job loss or otherwise negatively impacting the individual's financial security?
- ☐ Will restricting non-community member access to the community limit an individual's ability to travel between external communities (i.e. is this road providing exclusive transitory access between one community and another destination)?
- ☐ Will restricting non-community member access to the community limit the provision of essential services or the transport of essential goods and materials? If so, what services are in place to mitigate the harm associated with this action?
- ☐ Will restricting non-community member access to the community unjustifiably limit the basic rights of community and non-community members? Is this a reasonable

limitation of rights given the circumstances? Have you sought legal advice in this regard?

- ☐ Will restricting non-community member access to the community limit the administration of justice? (i.e. policing, access to courts, child custody arrangement, etc.)
- ☐ Will restricting non-community member access to the community limit the administration of health care? Will this restrict access and inventory of medical supplies? Do you have a succession plan for staffing, business continuity plan, and resource planning in place?
- ☐ Do you have supports in place to ensure community members have access to the products and services necessary for their wellbeing?
- ☐ Will restricting community members from leaving the community negatively impact their ability to procure essential goods and services?
- ☐ What exceptions will you have in place to ensure limitations of mobility rights are minimized?
- ☐ How will this measure protect the most vulnerable community members? Will the measure negatively impact the health and wellbeing of vulnerable community members in other ways?
- ☐ Do you have a plan in place to mitigate the effects of this emergency measure on the mental health of community members?
- ☐ Do you have a plan in place to mitigate the effects of this emergency measure on the potential for a rise in domestic violence? What can be done to assist women and children who may experience domestic violence during this time?
- ☐ Have you discussed potential harm reduction approaches for mental health and addictions interventions with your community health nurse?
- ☐ Have you identified methods to ensure prescription medications can be distributed to or accessed by community members?

Scenario 3 – Case In-Community

Known or suspected cases within Community **OR** Local health authorities requesting coordination or assistance from Health Care Center for response to community cases. This may include assistance with information dissemination, quarantine/isolation restrictions, immunization or treatment facilities. Supplies continue to be limited or difficult to acquire.

Policy Statement: The health and wellbeing of individual community members and the community at large is of key importance. Containment of the virus to limit community spread and protect Elders, youth, and community members at large must be central to the response to a case in-community.

Process: Community leadership should assess the current risk of COVID19 spread within the community and work with the individuals who have tested positive to minimize spread and risk of spread. Leadership should consider options in a progressive manner from least invasive to most, as necessary to protect the health and wellbeing of the community.

In all cases, leadership is encouraged to contact their emergency planning officer to inform them of the measures being considered to ensure they are able to best assist the community where requested and coordinate responses across communities as necessary.

UNSM Emergency Planning Officer: Jennifer Jesty (jjesty@unsm.org)

CMM Emergency Planning Officer: Kasey McDermott (kmcdermott@cmmns.com)

CMM Emergency Management Manager: Amber MacLean Hawes

(AHawes@mikmawconservation.ca)

Ministry of Health Point of Contact: Dr. Ryan Sommers (902-893-5820)

Communications

A central location for updated information should be identified and community members should be informed of where to find this information during an emergency. This may be a “news” section of your community website, a community Facebook group, or a community Twitter account. All changes to emergency response and new measures should be communicated using this forum, however in some cases, you may wish to use additional communications tools as well to ensure community members are informed of changing decisions. For each emergency measure, a brief list of potential helpful communications tools is included (though is not exhaustive).

GRADUATED RESPONSE OPTIONS

Option 1: Offer and Provide Support for Elders and Vulnerable Community Members Who are Not Currently COVID-19 Positive

Potential Use: Leadership is concerned for the health and safety of Elders and vulnerable community members, and fears without support, they may be motivated to travel through the community to access essential services and products (i.e. grocery shopping), or may enter social situations which may endanger their health and safety. To ensure these individuals can isolate comfortably with access to necessary items, leadership may wish to offer varying forms of support to these individuals, such as grocery deliveries, prescription pick-up, safe transportation to medical appointments, providing telecommunications devices to better facilitate socialization, or otherwise as requested by the individual. Your community health nurse should be involved in any discussions of how to provide supports.

Communications Tools: Newsletters delivered to Elders and vulnerable community members; Signs indicating how to request supports at Health Center and community businesses; Door-to-door or phone canvassing; community/local radio stations.

Considerations:

- ☐ Are there Elders or vulnerable community members you are aware of that may not have the support necessary within their families or social circles to allow them to social distance?
- ☐ Do you have the capacity and resources to provide support to those who need it?
- ☐ What supports do you hope to provide?
- ☐ What supports do you believe will be needed most?
- ☐ Will there be a new or added cost associated with providing these supports?

Option 2: Supported Voluntary Isolation

Potential Use: There is significant concern for or occurring spread within the community. Leadership has the means to provide support for families who choose to isolate and wishes to encourage community members to stay home as much as possible.

Communications Tools: Community Social Media; Community Newsletters; Hand-Delivered Letters/Newsletters; Door-to-door canvassing; Community Information Boards/Bulletin Boards

Considerations:

- ☐ How will the community encourage community members to isolate?
- ☐ What supports will you offer to support individuals in isolating at home?
- ☐ Who will provide those supports?
- ☐ Do community members have access to communications devices to support isolation?
- ☐ How will information be shared with community members who chose to isolate?
- ☐ How will you ensure the needs of isolating community members are met? (i.e. wellness checks, opening a call-in line for families to identify needs)
- ☐ Will you identify households choosing to isolate or provide families with materials to identify themselves as isolating (i.e. signs for doors warning visitors of an isolated household)? Please note, as this is a form of disclosure of medical information, this action would be voluntary on the part of the community member or household.
- ☐ Do you have the capacity to provide essential products and services to isolating community members (i.e. food delivery)?
- ☐ How will money be transferred between the household and the service provider (i.e. etransfer for groceries)?
- ☐ Will voluntary isolation be enforced or monitored? If so, how?
- ☐ Will voluntary isolation impede an individual's access to money (i.e. if they receive cheques for pay rather than direct deposit)? If so, how can financial security be ensured?
- ☐ Will some individuals be unable to opt-in to voluntary isolation? If so, who? (i.e. essential workers).
- ☐ Are there any populations you wish to encourage further to isolate? (i.e. vulnerable Elders). If yes, how do you plan to do so?

Option 3: Move All Possible Services to Digital and Remote Operations

Potential Use: Leadership is concerned for the health and wellbeing of community members working in businesses and providing services within the community due to the amount of face-to-face interaction or close quarters of employees necessary to operate within the existing business or service location. Some of these businesses and services can operate in an adapted capacity digitally and remotely, such as working from home or offering online shopping and delivery options. This will allow businesses and services to continue operating safely, while helping to maintain employment. **Note:** Some service providers may be under the mandate of provincial or federal governments, or other organizations. These service providers may be subject to the decision making of their higher-level structures rather than the community's leadership.

Communications Tools: Meeting with business owners and Band employees; emails to business members and Band employees; emails to community members; posting on community social media pages; community/local radio stations.

Considerations:

- ☐ What businesses or services in your community could potentially continue to operate digitally or remotely?
- ☐ If a business or service is unable to provide all services remotely, but can provide others, is there a mixed model of delivery that could be implemented?
- ☐ What businesses or services may require financial support to adapt to remote or digital work?
- ☐ Are there any provincially or federally supported financial programs to assist businesses and services in adapting to remote or digital work?
- ☐ Do you have the financial capacity to support these businesses and services in adapting to remote or digital work?
- ☐ Are there any low-cost alternatives to supporting business in this type of adaptation?
- ☐ If businesses and services were to continue operating normally, how might this impact the spread of COVID-19 in the community?
- ☐ Which businesses are considered essential to the mental, physical, spiritual, and emotional wellbeing of community members?
- ☐ Which businesses are considered essential in this regard, but may operate remotely or digitally regardless?

- ☐ Which businesses are considered essential in this regard and must remain open and operating with public interaction?
- ☐ Which businesses are considered non-essential to the mental, physical, emotional, and spiritual wellbeing of community members, but remain important for unity, economic development, or other community priorities?
- ☐ If you were to keep these businesses and services open, is there a risk that non-residents may enter into the community to access those businesses or services and spread COVID-19 to community members?
- ☐ If you are maintaining in-person services, have you considered how a change in hours or staffing may negatively impact the potential spread of cases (i.e. fewer staff with reduced hours may lead to more people gathering in a short time span, rather than spreading out clients throughout the week with different staff members).

Option 4: Close Non-Essential Businesses, Services, and Gathering Sites

Potential Use: Some businesses and services cannot be provided remotely or digitally, or require close and large gatherings of community members, and also are not essential to maintaining the health and wellbeing of community members. Leadership is concerned that allowing these business, services, and sites to remain open may pose a risk to community health and safety. The province may or may not have already issued a similar directive ordering these types of businesses, services, and sites to close.

It may be prudent to employ a harm reduction approach to closing businesses, as individuals may continue to access services, businesses, and gathering sites. Consideration may be given to redeploying non-essential staff to new duties to both avoid layoffs and ensure businesses, services, and gathering places are monitored and sanitized as necessary (i.e. reassigning Band staff to monitor and clean playground equipment).

Communications Tools: Meeting with business owners and Band employees; emails to business members and Band employees; emails to community members; posting on community social media pages, notices on doors of closing businesses, services and sites; community/local radio stations.

Considerations:

- ☐ How might closing each business, service, and gathering site impact the mental, physical, emotional, and spiritual wellbeing of community members?
- ☐ Are there any possible alternatives to closing each business, service, or gathering site while maintaining safety and security of community members?
- ☐ How will closing these businesses, services, and gathering sites impact the economic wellbeing of the community?
- ☐ Are there any provincial or federal programs available to support these businesses, services, and gathering sites?
- ☐ Has the province required similar businesses to close due to COVID-19?
- ☐ If you were to keep these businesses, services, and gathering sites open, is there a risk that non-residents may enter into the community to access those businesses, services, or sites and risk the transmission of COVID-19 to community members?
- ☐ Can Leadership avoid layoffs by redeploying some non-essential staff to provide monitoring and sanitation support at high-risk gathering sites, services, and buildings (i.e. providing security at the grocery store or health center to limit gathering/monitor number of individuals in a space; providing sanitation of play equipment).

Option 5: Install Plexiglass Barriers and Directional Signs in Businesses Remaining Operational

Potential Use: Some businesses in the community are able to continue operating with certain precautionary measures in place to protect customers/clients and staff, while maintaining economic opportunities. Adaptations such as floor markers, limiting the number of customers allowed inside based on space, plexiglass barriers, offering take-out or scheduled shopping. **Note:** Please refer to the most up-to-date provincial guidance on the most appropriate types of physical interventions to implement, as advice may evolve over time.

Communications Tool: Meeting with business owners and Band employees; emails to business members and Band employees.

Considerations:

- ☐ Have you engaged with local business owners to determine their ability to safely operate under the current regulations?
- ☐ Do you have funding to support businesses in the community in adapting to meeting safety regulations or change their service structure? Is funding available to business owners through federal or provincial funding programs?
- ☐ Will allowing these businesses to remain open increase the risk of virus transmission within the community?
- ☐ Will allowing these businesses to remain open increase the risk of non-residents entering the community to access that service, and therefore place the community at risk for transmission?
- ☐ Is this business or services essential to maintaining the health, wellbeing, or basic needs of community members?
- ☐ Has the province required similar businesses to close or cease operations outside of your community? Has the province imposed measures under the Public Health Act that will impact business continuity within the community?
- ☐ Does the community have access to the materials necessary to support adaptations (i.e. a supply of acrylic or plexiglass barriers, PPE, hand sanitizer and surface cleaner, floor markings, educational materials).
- ☐ How will businesses continuing to operate be monitored and use of protections or implementation of restrictions be enforced.

Option 6: Cancel, Postpone or Limit Events, Gatherings, or Ceremonies

Potential Use: Events, gatherings and ceremonies are planned within the community that require groups of people to gather in close proximity. Leadership is concerned for the potential of transmission of the virus in these circumstances, risking the health and safety of community members. Some adaptations may be able to be implemented to ensure some gatherings and ceremonies essential to mental, physical, and spiritual wellbeing can continue.

Communications Tool: Community social media; community newsletters; event pages online; community/local radio stations

Considerations:

- ☐ What events, gatherings, or ceremonies are essential to the mental, spiritual, and emotional wellbeing of community members?
- ☐ Which of these events, gatherings, or ceremonies may be provided digitally, remotely, or could be postponed?
- ☐ Are there any populations who would be more at risk by attending these events, gatherings, or ceremonies?
- ☐ Is there any way to limit or exhaust the risk of transmission while allowing these events, gatherings, or ceremonies to continue?
- ☐ Is the time or location of this event, gathering, or ceremony essential to its purpose?
- ☐ Is there a risk that by cancelling or postponing this event, ceremony, or gathering will deter individuals from engaging in this event, ceremony, or gathering regardless?
- ☐ Has the province or federal government adapted, cancelled, or postponed similar events, gatherings, or ceremonies?
- ☐ Is there a concern for viral spread at this event, ceremony, or gathering? Have you consulted with a health expert regarding the potential risks associated with hosting the ceremony, event, or gathering?

Option 7: Monitor Travel Into and Out of Community

Potential Use: As case numbers begin to grow outside of the community, leadership may wish to monitor who is entering and leaving the community to assist with contact tracing and prevention of community spread. Leadership does not yet see a significant threat of spread due to travel into and out of the community and do not yet feel the need to restrict travel. Leadership may choose to implement a checkpoint at the borders of the community to ensure community members and visitors have access to information about the spread of COVID-19 and how to protect themselves. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter.

Considerations:

- ☐ Is this the least invasive measure possible to protect the health and wellbeing of community members at this time?
- ☐ What information do you wish to collect from individuals traveling into and out of the community? Does the information being collected impact privacy rights in any way?
- ☐ What information do you wish to share with individuals traveling into and out of the community?
- ☐ Are there any specific time periods or days of which you are more concerned for travel into and out of the community? (i.e. special events occurring outside of the community)
- ☐ Do you have the capacity to monitor travel at all times? If not, what hours of the day, or days of the week do you wish to monitor travel?
- ☐ How many access points are there to enter and leave the community? Will each access point be monitored?
- ☐ Is this monitoring going to impact the right to the freedom of mobility for community members or other individuals?
- ☐ Is this monitoring going to cause significant delays to travel between communities?
- ☐ Does your community provide a single-access point or thoroughway between two or more communities?

- ☐ Are there other restrictions in place within your community to prevent the transmission of the virus to community members from visitors?
- ☐ How will monitoring be enforced? By whom?
- ☐ Have community members been trained to provide security at the checkpoint? If not, who will be employed to assist with enforcement and security?
- ☐ Will individuals monitoring and enforcing the checkpoint have access to appropriate PPE to safely complete their assigned tasks?

Option 8: Restrict Travel Into The Community

Potential Use: There is an outbreak or growing potential of an outbreak outside of the community and leadership is seeking a mechanism to limit the potential for spread into the community.

Potential Use: Businesses outside of the community are beginning to close or become restricted to lessen the potential for spread of COVID19, however some similar services continue to be offered in-community. There is a potential for non-community members to seek out services within the community and therefore, potential for COVID19 to be spread to the community through these individuals. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Governance Tool: BCR Declaration of a State of Local Emergency

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter.

Considerations:

- ☐ Has a state of emergency been declared by community leadership?
- ☐ Is this restriction the least invasive measure possible to ensure community safety and wellbeing under the current circumstances?
- ☐ Will restricting non-community member access to the community limit economic opportunities in a manner that is irreparable for the period of enforcement?
- ☐ Will restricting non-community member access to the community limit an individual's ability to travel between external communities (i.e. is this road providing exclusive transitory access between one community and another destination)?
- ☐ Will restricting non-community member access to the community limit the provision of essential services or the transport of essential goods and materials? If so, what services are in place to mitigate the harm associated with this action?
- ☐ Will restricting non-community member access to the community unjustifiably limit the basic rights of community and non-community members? Is this a reasonable limitation of rights given the circumstances? Have you sought legal advice in this regard?

- ☐ Will restricting non-community member access to the community limit the administration of justice? (i.e. policing, access to courts, child custody arrangement, etc.)
- ☐ Will restricting non-community member access to the community limit the administration of health care? Will this restrict access and inventory of medical supplies? Do you have a succession plan for staffing, business continuity plan, and resource planning in place?
- ☐ Do you have supports in place to ensure community members have access to the products and services necessary for their wellbeing?
- ☐ Have community members been trained to provide security at the checkpoint? If not, who will be employed to assist with enforcement and security?
- ☐ Will individuals monitoring and enforcing the checkpoint have access to appropriate PPE to safely complete their assigned tasks?

Option 9: Restrict Travel In And Out Of The Community

Potential Use: There is an outbreak in nearby communities that poses an imminent threat to community wellbeing due to the potential of community-based spread of COVID19. Leadership is seeking a mechanism to limit the potential for community spread.

Potential Use: There is an outbreak within the community. Leadership and local governmental counterparts (i.e. neighbouring townships) are fearful of the spread of COVID19 from the community to neighbouring communities and are seeking a mechanism to limit the potential for community spread from the community outward. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Governance Tool: BCR Declaration of a State of Local Emergency

Communications Tool: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter; tribal council emergency alert system.

Considerations:

- ☐ Has a state of emergency been declared by community leadership?
- ☐ Is this restriction the least invasive measure possible to ensure community safety and wellbeing under the current circumstances?
- ☐ Will restricting non-community member access to the community limit economic opportunities in a manner that is irreparable for the period of enforcement?
- ☐ Will restricting community members from leaving the community limit economic opportunities for individuals resulting in job loss or otherwise negatively impacting the individual's financial security?
- ☐ Will restricting non-community member access to the community limit an individual's ability to travel between external communities (i.e. is this road providing exclusive transitory access between one community and another destination)?
- ☐ Will restricting non-community member access to the community limit the provision of essential services or the transport of essential goods and materials? If so, what services are in place to mitigate the harm associated with this action?
- ☐ Will restricting non-community member access to the community unjustifiably limit the basic rights of community and non-community members? Is this a reasonable

limitation of rights given the circumstances? Have you sought legal advice in this regard?

- ☐ Will restricting non-community member access to the community limit the administration of justice? (i.e. policing, access to courts, child custody arrangement, etc.)
- ☐ Will restricting non-community member access to the community limit the administration of health care? Will this restrict access and inventory of medical supplies? Do you have a succession plan for staffing, business continuity plan, and resource planning in place?
- ☐ Do you have supports in place to ensure community members have access to the products and services necessary for their wellbeing?
- ☐ Will restricting community members from leaving the community negatively impact their ability to procure essential goods and services?
- ☐ What exceptions will you have in place to ensure limitations of mobility rights are minimized?

Will this measure restrict access to health care provided in-community to non-community members, or community members who live outside of the community?

Scenario 4 – Community Outbreak

Wide-spread COVID-19 throughout Community with hospitalized members and fatalities. Key staff members with symptoms or exposure and unable to work. Supportive care required for members in isolation. Increasingly difficult to acquire supplies into Community. All business/revenue streams closed.

Policy Statement: Every appropriate measure to protect the health and wellbeing of community members and prevent the loss of life should be implemented efficiently and effectively. If further assistance is required, it should be sought and provided in a timely manner. The protection of community members is essential and integral.

Process: You have implemented all relevant measures in Scenario 2 as appropriate and necessary and require further measures to protect the health and safety of community members.

In all cases, leadership is encouraged to contact their emergency planning officer to inform them of the measures being considered to ensure they are able to best assist the community where requested and coordinate responses across communities as necessary.

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Ministry of Health Point of Contact: Dr. Ryan Sommers (902-893-5820)

Communications

A central location for updated information should be identified and community members should be informed of where to find this information during an emergency. This may be a “news” section of your community website, a community Facebook group, or a community Twitter account. All changes to emergency response and new measures should be communicated using this forum, however in some cases, you may wish to use additional communications tools as well to ensure community members are informed of changing decisions. For each emergency measure, a brief list of potential helpful communications tools is included (though is not exhaustive).

GRADUATED RESPONSE OPTIONS

Note: Options proposed herein are meant to follow those implemented in scenario 2 as appropriate. These are additional options for measures which may further protect the health and safety of the community. Before advancing to these options, it is recommended options presented in scenario 2 are considered and implemented and their impacts assessed. If further measures are required, the community may wish to consider the implementation of the options presented herein.

Option 1: Declare a State of Emergency

Potential Use: An outbreak has occurred in the community and is difficult to contain. The community's resources are stressed and/or diminishing quickly. The community requires support from other levels of government to protect the health and safety of community members and more severe and strict containment measures and enforcement measures need to be implemented to protect against loss of life.

Governance Tool: Band Council Resolution: Declaration of State of Emergency

Communications Tools: Emergency Alert System; YouTube or Facebook Live Q&A/Video; phone canvassing; Community/Local Radio or Television Channels

Considerations:

- ☐ Have all other avenues of mitigation been explored and implemented as appropriate?
- ☐ Does further response require assistance from other levels of government?
- ☐ Have you conducted an assessment of resources and materials needed to continue to protect against the loss of life?
- ☐ Has the strain on the community health care system, Band staff, and leadership become unmanageable? Is resource capacity relief required?
- ☐ Have you discussed your concerns with your Tribal Council Emergency Coordinator and representatives from the provincial and federal governments?

Option 2: Restrict travel into, out of, and within the community

Potential Use: There is an outbreak or imminent threat of outbreak within the community. Leadership is seeking a mechanism to limit the size and impact of the outbreak within the community.

Potential Use: There is an outbreak within the community. Leadership and local governmental counterparts (i.e. neighbouring townships) are fearful of the spread of COVID19 from the community to neighbouring communities and are seeking a mechanism to limit the potential for community spread from the community outward. Consideration should be given to the regional location of cases or outbreak and the risk that geographical proximity of cases poses to the community. **Note:** You may wish to encourage community members to download the COVID Alert App (available on the google play store or apple app store, or [here](#)).

Governance Tool: BCR Declaration of a State of Local Emergency

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter; tribal council emergency alert system; YouTube or Facebook Live Q&A/Video.

Considerations:

- ☐ Is this restriction the least invasive measure possible to ensure community safety and wellbeing under the current circumstances?
- ☐ Will restricting non-community member access to the community limit economic opportunities in a manner that is irreparable for the period of enforcement?
- ☐ Will restricting community members from leaving the community limit economic opportunities for individuals resulting in job loss or otherwise negatively impacting the individual's financial security?
- ☐ Will restricting non-community member access to the community limit an individual's ability to travel between external communities (i.e. is this road providing exclusive transitory access between one community and another destination)?
- ☐ Will restricting non-community member access to the community limit the provision of essential services or the transport of essential goods and materials? If so, what services are in place to mitigate the harm associated with this action?
- ☐ Will restricting non-community member access to the community unjustifiably limit the basic rights of community and non-community members? Is this a reasonable

limitation of rights given the circumstances? Have you sought legal advice in this regard?

- ☐ Will restricting non-community member access to the community limit the administration of justice? (i.e. policing, access to courts, child custody arrangement, etc.)
- ☐ Will restricting non-community member access to the community limit the administration of health care? Will this restrict access and inventory of medical supplies? Do you have a succession plan for staffing, business continuity plan, and resource planning in place?
- ☐ Do you have supports in place to ensure community members have access to the products and services necessary for their wellbeing?
- ☐ Will restricting community members from leaving the community negatively impact their ability to procure essential goods and services?
- ☐ What exceptions will you have in place to ensure limitations of mobility rights are minimized?
- ☐ How will this measure protect the most vulnerable community members? Will the measure negatively impact the health and wellbeing of vulnerable community members in other ways?
- ☐ Do you have a plan in place to mitigate the effects of this emergency measure on the mental health of community members?
- ☐ Do you have a plan in place to mitigate the effects of this emergency measure on the potential for a rise in domestic violence? What can be done to assist women and children who may experience domestic violence during this time?
- ☐ Have you discussed potential harm reduction approaches for mental health and addictions interventions with your community health nurse?
- ☐ Have you identified methods to ensure prescription medications can be distributed to or accessed by community members?

Option 3: Establish an In-Community Testing Site

Potential Use: Significant concern has arisen that the virus could or has begun to spread within the community. In-community testing would decrease the need to travel outside of the community and risk further viral transmission. In-community testing may make community members more comfortable accessing testing, as it would be conducted by an established community health practitioner. Community-based testing would also increase the general accessibility of testing, making it easier for more community members to get tested if experiencing symptoms.

Communications Tools: Community Social Media; Community Newsletters; Posters/Signs at Health Center/Local Businesses; Youtube or Facebook Live Q&A/Video

Considerations:

- ☐ Are your community health nurses trained in COVID-19 testing? Are your nurses familiar with the testing protocols that have been developed by Public Health?
- ☐ Has your community been identified by Public Health as a viable testing site? If not, are you able to access mobile testing units or request a temporary testing site through Public Health?
- ☐ Do you have access to the necessary PPE to protect health nurses?
- ☐ Do you have access to testing kits?
- ☐ Do you have a method of transportation or a process in place to transfer completed tests to the Lab for analysis?
- ☐ Do you have a communications process in place with the lab to inform the community, nurses, or tested individuals of their results?
- ☐ Do you have the appropriate infrastructure to safely provide testing?
- ☐ How will community members be triaged to your community testing site? Will you use the 811 service?
- ☐ Has the province, including 811, been informed of the establishment of your community testing site?
- ☐ Are there any alternatives to establishing a community testing site, such as a mobile testing unit provided by the province?
- ☐ Is there evidence of spread or a threat of spread within the community that may overwhelm existing testing facilities or make accessing testing difficult outside of the community?

- ☐ Do you have a significant number of community members who will not be able to access testing outside of the community? (i.e. unable to drive or no vehicle)
- ☐ Does the distance between the community and the nearest testing site considered a barrier to community members accessing testing?
- ☐ Do you have the staffing capacity to continue to provide essential community health services while also implementing a community testing site?
- ☐ How will the safety of health staff be ensured?
- ☐ Will there be measures in place to ensure testing staff are healthy when entering the workplace each day? (i.e. temperature checks)
- ☐ Will health staff be permitted to opt-out of participating with the testing site if they or their immediate household are considered vulnerable?
- ☐ Are any additional pay requirements or pay enhancements being provided for health staff by the provincial or federal governments? (i.e. hero pay)

Option 4: Establish Alternative Isolation Housing (Not Quarantine for Positive Cases)

Potential Use: Overcrowding or multi-family units are a concern for leadership, given the potential for more individuals in close quarters to be impacted by COVID-19. Leadership has identified opportunities for temporary relocation of some individuals to lessen the strain on space in shared homes and allow community members to be more comfortable and prevent further spread of COVID-19. An isolation centre, hoteling, or other alternative housing could be considered to ease the strain on households and ensure the health and wellbeing of community members.

Please note, an isolation housing center cannot be used as a treatment centre, rather, can be used to isolate vulnerable individuals or essential workers from family members, in cases where they are unable to isolate safely at home. Any individuals with symptoms of COVID-19 or with positive test results for COVID-19 will be treated at a provincially operated health facility. Isolation centers should not be established to treat or house individuals with active cases.

If you wish to establish alternative isolation housing, you are encouraged to contact your Tribal Council Emergency Response Coordinator. Emergency Response Coordinators have centralized access to important information and training which can aid you in identifying potential route of response.

Communications Tools: Community Social Media; Community Newsletters; Hand-Delivered Letters/Newsletters; Door-to-door canvassing; Community Information Boards/Bulletin Boards; Posters/Signs at Health Center/Local Businesses; Youtube or Facebook Live Q&A/Video

Considerations:

- ☐ Is there a significant risk of, or ongoing spread of the virus within the community?
- ☐ What populations do you wish to re-house? (i.e. essential workers living with vulnerable people, community members returning from travel). **Please note those requiring quarantine due to confirmed exposure or positive test result require a different level of isolation and quarantine support. These types of alternative quarantine housing should be developed with your health director and community health practitioners.**
- ☐ Do you have hotel or other alternate accommodations available within the community that are band-owned? If so, does the hotel chain have any restrictions to housing COVID-19 positive cases or those requiring isolation due to travel or exposure?

- ☐ Do you have hotel or other alternate accommodations available within the community that have agreed to provide alternative housing for a fee? Can the community afford this cost over time or access funding to support this cost?
- ☐ Will you be establishing new temporary accommodations, such as a quarantine facility or medical tent as the alternative isolation housing? If so:
 - ☐ Will this facility be established within an existing community building such as a community center or gym?
 - ☐ Is the facility in question accessible?
 - ☐ Does the facility contain a kitchen, accessible washrooms, appropriate heating and cooling, accessible entry and exit, and privacy measures?
 - ☐ Will this facility be established using military equipment, such as medical tents, cots, or other military support?
 - ☐ Do you require the support of the federal or provincial government to establish this site?
 - ☐ Have you worked with the province or federal government to assess the need for this site or acquire advice, materials, supplies, and personnel necessary to support this site?
 - ☐ How will individuals be supported at this site?
 - ☐ Who will provide services at this site, such as intake, health care, cooking, cleaning, etc?
 - ☐ Does the community have access to the necessary medical staff?
 - ☐ Does the community have access to the necessary PPE, sanitation supplies, food supplies, and otherwise to protect the safety of community members and staff?
 - ☐ What policies and procedures will be put in place to protect the health and safety of community members and staff at the site?
- ☐ Have you assessed how many households and individuals may need to be re-housed to protect them or their families from COVID-19?
- ☐ Are those being re-housed the primary caregiver, wage earner, or essential service provider (i.e. individual in the home taking others to medical appointments, grocery shopping)?
- ☐ How will you meet the needs of family members remaining in the home?
- ☐ How will you meet the needs of those being re-housed?

- ☐ Will those being re-housed be required to isolate for the duration of their accommodation?
- ☐ Will those remaining in their households be required to isolate?
- ☐ Are those being re-housed required to quarantine under provincial or community pandemic response measures? (i.e. are you re-housing those who are vulnerable but unable to fully isolate in their own homes, are you re-housing nurses working within the community that do not want to risk returning home while working and potentially risking spread to their family members)
- ☐ Will community members requiring alternative housing be housed within or outside of the community?

Scenario 5 – Other Governments Lifting Restrictions

Restrictions being lifted by Nova Scotia Government agencies due to decrease in COVID-19 cases. Some businesses, daycares, health centers able to open if operational plans ensure adherence to physical distance guidelines and staff protection. Travel restrictions lifted to allow movement within province, between Atlantic Provinces and with some national and international opportunities.

Policy Statement: Mi'kmaw communities in Nova Scotia are self-governing and have the right to implement emergency measures necessary to protect the health and wellbeing of community members based on an assessment of risk, regardless of the measures implemented by the Province outside of the community.

Process: Consider and weigh options for how to best protect the community against the spread of COVID-19, taking into account the impacts on vulnerable individuals, mental health, physical health, spiritual health, and the economy. Several measures may be implemented simultaneously to best protect the community. Variants may be applied to response options based on the needs of the community, at the discretion of leadership.

In all cases, leadership is encouraged to contact their emergency planning officer to inform them of the measures being considered to ensure they are able to best assist the community where requested and coordinate responses across communities as necessary.

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Communications

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GRADUATED RESPONSE OPTIONS

Option 1: Maintain existing response measures

Potential Use: While cases are decreasing across Nova Scotia, the community remains concerned for the potential of viral spread within the community, or the community continues to have active cases of COVID-19 within the community. Leadership remains concerned that reopening business, services, and public locations may significantly increase the risk of spread.

Communications Tool: Community Social Media; Community Newsletters; Hand-Delivered Letters/Newsletters; Door-to-door or phone canvassing; Community Information Boards/Bulletin Boards; Youtube or Facebook Live Q&A/Video

Considerations:

- ☐ Is there reason to believe that lifting existing measures in the community poses a significant risk to increasing case numbers?
- ☐ Are there any other emergency measures that could be implemented within the community, while allowing some existing measures to be lifted?
- ☐ Is a vaccine available or is there reason to believe there is herd immunity built within the community?
- ☐ Will existing measures prevent non-residents from accessing businesses, services, or public spaces within the community, and thereby prevent potential opportunities for spread within the community?
- ☐ Will maintaining existing measures while the province eases measures cause unrest within the community that could negatively impact Leadership or emergency response?
- ☐ Will maintaining existing measures while the province eases measures encourage community members to leave the community to access businesses, services, and public spaces and thereby increase possibility of spread within the community? Is there restlessness or mental distress within the community under the existing measures? How can harm reduction be incorporated into the current measures?

Option 2: Implement Travel Restriction(s)

Potential Use: While cases are decreasing across Nova Scotia, the community remains concerned for the potential of viral spread to the community from non-residents. With the province reopening businesses, services, and/or public locations, non-residents may feel inclined to visit the community, or community members may feel inclined to access services outside of the community. Leadership remains concerned that this type of travel may increase risk of viral spread within the community, placing vulnerable community members at risk.

Governance Tool: BCR Declaration of a State of Local Emergency

Communications Tools: Community/local radio stations; articles/bulletins in local newspapers; signage before entering/leaving community; social media; community newsletter.

Considerations:

- ☐ Is this the least invasive measure possible to ensure the wellbeing and safety of community members?
- ☐ Will this travel restriction impose undue hardship on community members?
- ☐ Will this travel restriction limit non-residents' ability to travel between other communities?
- ☐ Is this travel restriction a legally reasonable obstruction to the right to freedom of mobility?
- ☐ Will this travel restriction limit community members' access to essential services? If so, what mitigations are in place to ensure members can continue to access essential services?
- ☐ Will this travel restriction impact the community's economic or financial success?
- ☐ Will this travel restriction be imposed alongside additional emergency management measures to prevent the spread of COVID-19 within the community?
- ☐ Is there a potential for non-Nova Scotia residents to be travelling through or into your community?
- ☐ Will travel restrictions limit family unity or negatively impact mental and spiritual wellbeing of community members?

Once a travel restriction has been chosen, also work through considerations of that restriction type before implementing.

Option 3: Lift Restrictions on Non-Essential Businesses in the Community

Potential Use: Cases are decreasing across Nova Scotia; the community remains concerned for the potential of viral spread to the community from non-residents. With the province reopening businesses, services, and/or public locations, Leadership decides it is safe to open some non-essential businesses within the community, with strict regulations in place consistent with the Provincial Public Health Measures.

Communications Tools: Meeting with business owners and Band employees; emails to business members and Band employees; emails to community members; posting on community social media pages, notices on doors of closing businesses, services and sites; community/local radio stations.

Considerations:

- ☐ Are businesses in the community willing to reopen?
- ☐ What are the economic costs to the community in failing to reopen?
- ☐ What are the socioeconomic costs to the community in failing to reopen?
- ☐ Are there any businesses in the community that will not be able to open due to space restrictions or otherwise?
- ☐ Have you employed the use of the business continuity assessment tool provided by ISC? Using this tool, are there any businesses that are more of a priority to open first?
- ☐ Do the community and business owners have access to necessary PPE and sanitizers necessary to facilitate reopening safely?
- ☐ Do community members have access to the information necessary to protect themselves and others when accessing businesses that have reopened?
- ☐ Are there any unions or professional associations/collages associated with the businesses being permitted to reopen? If so, do these unions, associations, or collages have any restrictions or opposition to these businesses reopening?
- ☐ Can the businesses in question operate remotely or online, rather than in-person?
- ☐ What limitations need to be placed on business operations to ensure safety?
- ☐ Will your reopening plan align with the provincial, sector-based reopening plan?
- ☐ What mechanisms do you have in place to enforce any restrictions or requirements on reopening businesses?

- ☐ Do the businesses reopening pose a reasonably perceived risk to vulnerable populations, customers, or clients?
- ☐ Are there any Provincial or Federal regulations limiting the ability of community businesses to operate? If so, what are those restrictions?

Scenario 6 – Emergency Event during COVID-19

Any previous scenario **PLUS** additional Emergency Situation such as Wildfire, Drought, Hurricane, Telecommunications Failure, Extended Power Outage, Political Unrest, or Acts of Violence.

Policy Statement: Natural disasters, critical infrastructure failures, and social emergencies which arise within or surrounding the community can impact the quality of life of community members and have lasting impacts on the community’s mental, physical, emotional, and spiritual health. Emergencies should be managed quickly and effectively to minimize the impact of emergencies on human life and wellbeing.

Process: If an emergency arises while responding to COVID-19, additional measures may need to be considered to protect against the loss of human life and protect the quality of life and wellbeing for community members. These responses may vary from previous responses to emergencies, given the additional complexities of COVID-19. Community leadership should assess the risks and needs within the community when discussing emergency response, and reach out to their tribal council emergency coordinator, neighbouring communities, the province or federal governments when necessary. Communities should also seek to support neighbouring communities when possible.

In all cases, leadership is encouraged to contact their emergency planning officer to inform them of the measures being considered to ensure they are able to best assist the community where requested and coordinate responses across communities as necessary.

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Communications

A central location for updated information should be identified and community members should be informed of where to find this information during an emergency. This may be a “news” section of your community website, a community Facebook group, or a community Twitter account. All changes to emergency response and new measures should be communicated using this forum, however in some cases, you may wish to use additional communications tools as well to ensure community members are informed of changing decisions. For each emergency measure, a brief list of potential helpful communications tools is included (though is not exhaustive).

GRADUATED RESPONSE OPTIONS

Option 1: Declare a State of Emergency

Potential Use: An emergency event requiring intervention has arisen in the community. The community may be able to respond to the emergency alone, with material supports, or with more significant supports from other communities or governments. Leadership needs to formally assert control over the situation to effectively respond to the emergency at hand, which may include the need to implement measures such as restricting movement within the community, closing businesses, or finding alternate housing for vulnerable community members, among other possibilities.

Governance Tool: BCR Declaration of a State of Emergency

Communications Tools: Emergency Alert System; Youtube or Facebook Live Q&A/Video; phone canvassing; Community/Local Radio or Television Channels

Considerations:

- ☐ Have you consulted you Emergency Management Team and Reviewed your Emergency Response Plan?
- ☐ Have you contacted your Tribal Council Emergency Planning Officer?
- ☐ Have all other avenues of mitigation been explored and implemented as appropriate?
- ☐ Can leadership manage this emergency alone or do you require additional support?
- ☐ Do you have the resources needed to effectively respond to this emergency readily available in your community?
- ☐ Have neighbouring communities also been impacted by this emergency?
- ☐ Have you discussed your concerns with your Tribal Council Emergency Coordinator and representatives from the provincial and federal governments?
- ☐ Is this emergency expected to require short, medium, or long-term response?
- ☐ How will the restrictions of COVID-19 impact your community's ability to respond to this emergency?
- ☐ How will the restrictions of COVID-19 impact how your community responds to this emergency?
- ☐ What restrictions or measures do you need to put in place to effectively manage this emergency.

Option 2: Request Assistance from Other Communities or Governments

Potential Use: An emergency event requiring intervention has arisen in the community and the community requires support from other levels of government to protect the health and safety of community members. The community cannot reasonably respond to the emergency alone and requires the assistance of other communities or other levels of government. The community has conducted an assessment of their needs and is ready to communicate these needs to other communities or governments.

Communications Tool: Email or phone neighbouring communities; Contact KMKNO and your tribal council emergency coordinator to reach out to other communities.

Considerations:

- ☐ Have all other avenues of mitigation been explored and implemented as appropriate?
- ☐ Have you declared a state of emergency and conducted an assessment of the considerations in Option 1?
- ☐ Does further response require assistance from other levels of government?
- ☐ Have you conducted an assessment of resources and materials needed to continue to protect against the loss of life?
- ☐ Is there strain on the community health care or emergency response system, Band staff, and leadership which requires resources in addition to regularly available fire, medical, or policing services available in the community? Is resource capacity relief required?
- ☐ Have you discussed your concerns with your Tribal Council Emergency Coordinator and/or representatives from the provincial and federal governments?

Scenario 7 – Emergency Evacuation During COVID19

A critical infrastructure failure or natural disaster is threatening the ability of community members to remain in the community, and community members must be evacuated to protect their health and safety. Typical methods and structures for evacuation can proceed, however will be significantly impacted and made challenging by the restrictions of COVID-19 (i.e. how to maintain 6ft distance in boats or helicopters used for evacuation, how to maintain community by-laws while being housed in another community).

Policy Statement: Emergency evacuation should only be implemented when absolutely necessary to protect human life and wellbeing in circumstances including critical infrastructure failures and natural disasters.

Process: Once an emergency event has occurred, a state of emergency has been declared, and Leadership has conducted an assessment of the situation and determined an evacuation is necessary to protect life and wellbeing, Leadership may wish to proceed with an emergency evacuation. Tribal Councils, Provincial Office of Emergency Management, and Indigenous Services Canada should be contacted and informed of the decision to evacuate and request assistance with this evacuation. Leadership should give consideration to the graduated response options and their considerations and actions listed below.

In all cases, leadership is encouraged to contact their emergency planning officer to inform them of the measures being considered to ensure they are able to best assist the community where requested and coordinate responses across communities as necessary.

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Communications

A central location for updated information should be identified and community members should be informed of where to find this information during an emergency. This may be a “news” section of your community website, a community Facebook group, or a community Twitter account. All changes to emergency response and new measures should be communicated using this forum, however in some cases, you may wish to use additional communications tools as well to ensure community members are informed of changing decisions. For each emergency measure, a brief list of potential helpful communications tools is included (though is not exhaustive).

GRADUATED RESPONSE OPTIONS

Option 1: Declare a State of Emergency

Potential Use: An emergency event requiring intervention has arisen in the community. The community may be able to respond to the emergency alone, with material supports, or with more significant supports from other communities or governments. Leadership needs to formally assert control over the situation to effectively respond to the emergency at hand, which may include the need to implement measures such as restricting movement within the community, closing businesses, or finding alternate housing for vulnerable community members, among other possibilities.

Governance Tool: Band Council Resolution: Declaration of a State of Emergency

Communications Tools: Emergency Alert System; Youtube or Facebook Live Q&A/Video; phone canvassing; Community/Local Radio or Television Channels

Considerations:

- ☐ Have all other avenues of mitigation been explored and implemented as appropriate?
- ☐ Can leadership manage this emergency alone or do you require additional support?
- ☐ Do you have the resources needed to effectively respond to this emergency readily available in your community?
- ☐ Have neighbouring communities also been impacted by this emergency?
- ☐ Have you discussed your concerns with your Tribal Council Emergency Coordinator and representatives from the provincial and federal governments?
- ☐ Is this emergency expected to require short, medium, or long-term response?
- ☐ How will the restrictions of COVID-19 impact your community's ability to respond to this emergency?
- ☐ How will the restrictions of COVID-19 impact how your community responds to this emergency?
- ☐ What restrictions or measures do you need to put in place to effectively manage this emergency?

Option 2: Request Assistance from Other Communities or Governments

Potential Use: An emergency event requiring intervention has arisen in the community and the community requires support from other levels of government to protect the health and safety of community members. The community cannot reasonably respond to the emergency alone and requires the assistance of other communities or other levels of government. The community has conducted an assessment of their needs and is ready to communicate these needs to other communities or governments.

Communications Tool: Email or phone neighbouring communities; Contact KMKNO and your tribal council emergency coordinator to reach out to other communities.

Considerations:

- ☐ Have all other avenues of mitigation been explored and implemented as appropriate?
- ☐ Have you declared a state of emergency and conducted an assessment of the considerations in Option 1?
- ☐ Does further response require assistance from other levels of government?
- ☐ Have you conducted an assessment of resources and materials needed to continue to protect against the loss of life?
- ☐ Has the strain on the community health care system, Band staff, and leadership become unmanageable? Is resource capacity relief required?
- ☐ Have you discussed your concerns with your Tribal Council Emergency Coordinator and representatives from the provincial and federal governments?

Option 3: Request Evacuation Assistance from Surrounding Communities, or Provincial or Federal Government

Potential Use: The community requires evacuation and is ready to prepare for evacuation. The community requires assistance in acquiring transportation, accommodations, and other logistical support in facilitating a safe and effective evacuation.

Governance Tool: BCR Declaration of a State of Local Emergency

Communications Tool: Email or phone neighbouring communities; Contact KMKNO to reach out to other communities; email or phone tribal council for assistance in coordinating; contact federal and provincial government contacts; Emergency Alert System; Door-to-door or phone canvassing; Community Social Media; Community/Local Radio or Television Channels; Youtube or Facebook Live Q&A/Video; News articles

Considerations:

- ☐ How many vulnerable community members do you have that need to be evacuated first?
- ☐ How many able-bodied and willing adults are able to remain in the community to assist with infrastructure protection?
- ☐ How many youth can be evacuated independently from their families?
- ☐ How many families, and of what size, must travel together?
- ☐ Does the community have access to necessary PPE for individuals assisting with evacuation?
- ☐ Is PPE necessary for community members while in transit?
- ☐ Are there existing emergency measures to respond to COVID19 in the community that need to apply in host community?
- ☐ Are there existing emergency measures in the host community which community members will be required to adhere to?
- ☐ Do you have a location where a helicopter could land?
- ☐ Do you have a location where a boat or ship could dock and community members safely load?
- ☐ Is evacuation necessary to protect human life and/or wellbeing?
- ☐ How can health care be supported in the host community?

- ☐ Can you evacuate community members safely, ensuring physical distancing and proper PPE?
- ☐ Has a host community (or communities) been identified?
- ☐ Is the host community prepared to accept evacuees?
- ☐ Has emergency housing been established for all necessary community members in a neighbouring community?
- ☐ Have community members been informed of what items they need to pack (i.e. identification)?
- ☐ Are necessary intake, management/coordination, and supportive services staff available at the host site?
- ☐ Has consideration been given to what supportive services and/or recreation activities will be organized and provided in the host community?
- ☐ Are there any safety measures in the host community that community members need to be made aware of?

Once evacuation assistance has been requested and evacuation planning is underway, **issue an evacuation alert** to all community members using multiple communication tools, with a primary focus on your tribal council's emergency alert system (if in place). **Your tribal council will assist you in:**

- Notifying community members through various channels of the potential need to evacuate.
- Providing information to community members about the nature of the hazard and suggested proactive actions.
- Providing community members and leadership with situation updates.

Once you are ready to begin evacuations, you will need to **issue an evacuation order** (or have your tribal council issue an evacuation order). This order can be voluntary (community members choose if they want to evacuate) or mandatory (all community members must evacuate). Your tribal councils can assist you in determining which evacuation order to issue, and can assist in executing the order.

Option 4: Provide Supportive Services in Host Community

Potential Use: Community members have been evacuated to a host community and require additional supportive services or recreation activities to ensure they are safe, healthy, and comfortable in their host community. In emergency evacuation events, the provincial and federal governments typically assist the host and evacuee community in identifying and providing the services and items needed to ensure the health, safety, and wellbeing of community members while evacuated.

Communications Tool: Community Social Media; Bulletin board in hotel lobby/central area of evacuation host site with information on services; Canvas door-to-door; Emergency Alert System; Youtube or Facebook Live Videos.

Considerations:

- ☐ What supportive services are needed to ensure community members are safe, healthy, and comfortable in their host community?
 - ☐ Mental Health
 - ☐ Grief Counselling
 - ☐ Social Assistance, Child Tax Benefit or Pension Cheque Distribution
 - ☐ Elder Supports
 - ☐ Cultural Supports
 - ☐ Spiritual Supports
 - ☐ COVID-19 Testing
 - ☐ COVID-19 Isolation
 - ☐ Food Delivery
 - ☐ Access to Organized Transportation
 - ☐ Recreation Activities for Youth and/or Adults
- ☐ Are there any resources or materials community members may need to be safe, healthy, and comfortable in their host community?
 - ☐ Computer or laptop access to facilitate ongoing remote work or education
 - ☐ List of shops, services, and transportation options in the host community
 - ☐ Masks or other PPE

- ☐ Personal Hygiene Supplies
- ☐ Baby Supplies (diapers, formula, bottles, etc)
- ☐ Is there a central location community members can go to in order to access information or services (i.e. hotel ballroom)?
- ☐ Have community members been informed of the services available and how to access these services?
- ☐ Have community members been informed of how information about services and activities will be communicated?
- ☐ Do you have a process in place for community members to request services, supports, or items they may need while in the host community?
- ☐ Do you have a system in place to check in with vulnerable community members to ensure their needs are being met?
- ☐ Have you established a line of communication with the host community and any government you are working with wherein you can regularly provide updates on the needs of the community and request additional materials or support capacity as needed?

Option 5: Provide Resource Protection Within Community

Potential Use: In some emergency situations, especially natural disasters, if left unattended community resources and capital require protection to minimize damage and after-event impact. The community may wish to assign certain individuals to remain within the community to provide critical infrastructure protection, feed and care for animals left behind, or conduct other necessary tasks to protect human life and wellbeing, animal life and wellbeing, and critical infrastructure.

Communications Tool: Community Social Media.

Considerations:

- ☐ Does the emergency event require critical infrastructure protection?
- ☐ Do you have a volunteer base of able community members who are able to remain within the community during the emergency event to protect critical infrastructure and care for animals who may be left behind?
- ☐ Do you require further assistance from the military, red cross, or other volunteer organizations to protect critical infrastructure in the community?
- ☐ Do you have a prioritized list of infrastructure or areas requiring protection?
- ☐ Do you have a list of homes require check-ins or animal care?
- ☐ Is there a member of leadership able to remain in the community to oversee, lead, and assist with infrastructure protection and situational assessment?

RECOVERY MECHANISMS

Resolution 1: Community Capital Infrastructure Repair and Restoration of Living Conditions

Potential Use: The emergency situation within the community has subsided, but some work needs to be done to restore the community to a livable state before community members return to their homes.

Communications Tool: Community Social Media.

Considerations:

- ☐ Are roads accessible, passable, and safe to drive on?
- ☐ Can essential services, such as grocery stores and health services reopen safely?
- ☐ Are critical services operational, such as water supply, sewer, power, and internet?
- ☐ Are homes safe, secure, and free of environmental impacts that may impact the quality of life of residents?
- ☐ Has the threat of reoccurrence of the emergency situation subsided (i.e. is it possible a second flash flood will occur imminently?)

Resolution 2: Recognizance

Potential Use: The emergency situation within the community has subsided and the environment has returned to a livable state. The community is ready to return members to their homes.

Communications Tool: Community Social Media; Bulletin board in hotel lobby/central area of evacuation host site with information on services; Canvas door-to-door; Emergency Alert System; YouTube or Facebook Live Videos.

Considerations:

- ☐ Are roads accessible, passable, and safe to drive on?
- ☐ Can essential services, such as grocery stores and health services reopen safely?
- ☐ Are critical services operational, such as water supply, sewer, power, and internet?
- ☐ Are homes safe, secure, and free of environmental impacts that may impact the quality of life of residents?
- ☐ Has the threat of reoccurrence of the emergency situation subsided (i.e. is it possible a second flash flood will occur imminently?)
- ☐ Is it safe to transport individuals back to the community under current weather conditions (i.e. are any storms occurring or impending which might impact flight, boat or driving ability when returning community members to their homes?)
- ☐ Is the community prepared to provide the necessary supports to community members upon returning to the community to assist with personal recovery from the emergency event? (i.e. grief counselling)
- ☐ Does the community have the transportation resources necessary to return community members? If not, has leadership been in contact with other communities or the provincial or federal government to acquire the necessary transportation resources?
- ☐ Do you have a recognizance plan that includes a charter of individuals to return to the community with consideration of vulnerable individuals? Are there any individuals who cannot safely return to the community at this time?
- ☐ Do you have a plan for distributing or providing access to food or other essential services and items as families return to the community?

Resolution 3: Debriefing and Continued Support Services

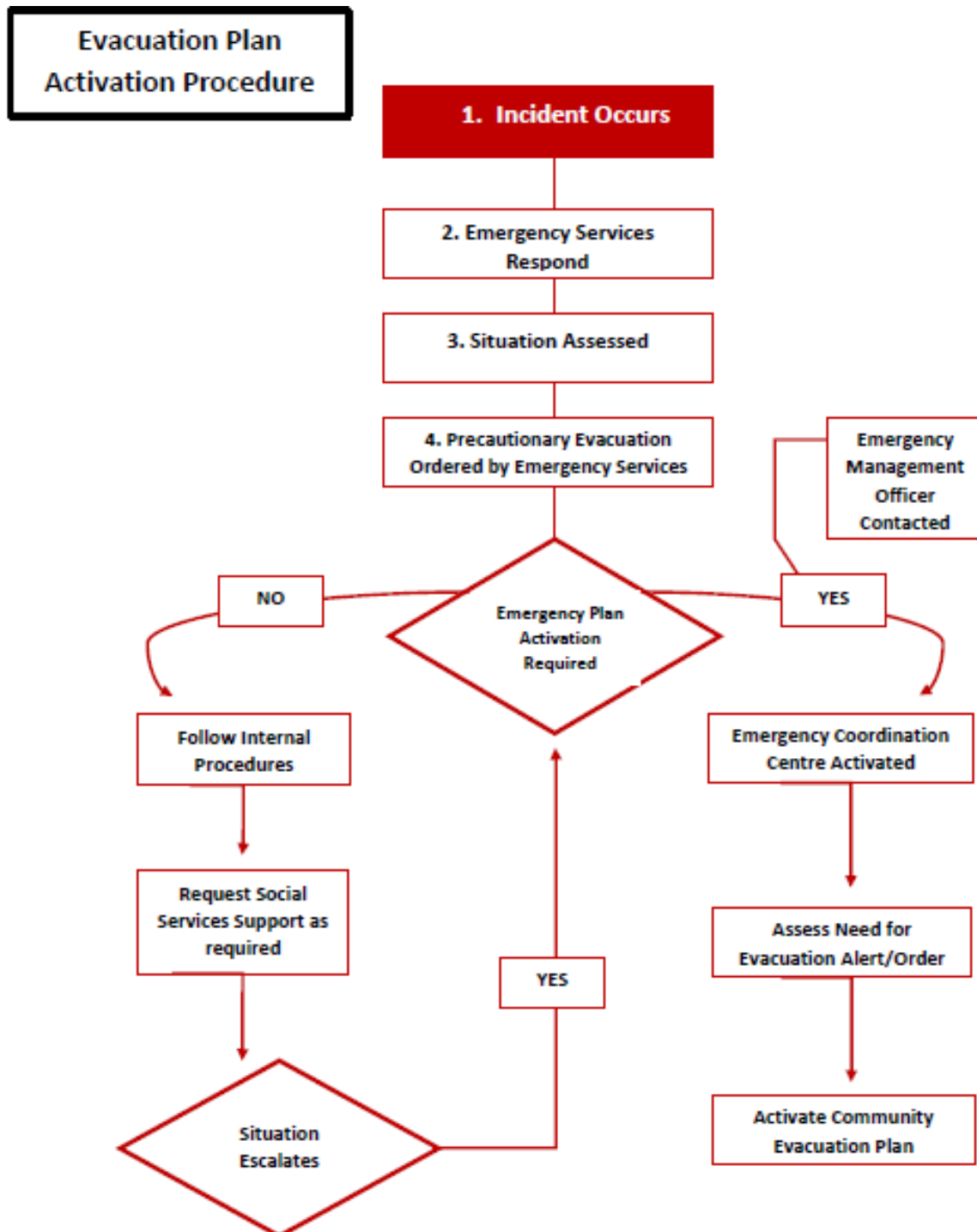
Potential Use: The emergency situation within the community has subsided and community members have returned home. To support the ongoing wellbeing of community members and understand how the emergency response was received and implemented and identify strengths and challenges for future potential emergency events, debriefing and provision of continued support services is necessary.

Communications Tool: Community Newsletters.

Considerations:

- ☐ Has leadership and essential staff had time to decompress and rest following the emergency response?
- ☐ Does leadership require outside assistance in conducting debriefing and analyzing emergency response efforts?
- ☐ Is there a need for specific support services for community members, such as mental health counselling, following this emergency event? If so, does leadership require assistance from outside resources to provide continued enhanced supportive services within the community?

Evacuation Appendix: CMM Evacuation Action Flow Chart



Courtesy of CMM Emergency Response Protocol

Documents and Forms to Support Decision Making and Implementation

Template Band Council Resolution to Implement COVID-19 Measures

Band Council Resolution

FIRST NATION GOVERNMENT:

DATE: XX, XX, 2021

**Re: RESOLUTION RESPECTING THE IMPLEMENTATION OF EMERGENCY MEASURES
IN RESPONSE TO COVID-19 (COVID-19 EMERGENCY MEASURES)**

QUORUM OF COUNCIL:

WHEREAS: A quorum of the First Nation Council (the “Council”) met on the ____day of ____ 2021;

AND WHEREAS the Mi’kmaq Chiefs of Nova Scotia are entrusted with protecting their communities from the COVID-19 virus and limiting community spread,

AND WHEREAS pursuant to the *Indian Act*, the Council is empowered to act on behalf of the _____ First Nation (the “First Nation”), including in accordance with paragraph 81(1)(a);

NOW THEREFORE BE IT RESOLVED THAT:

1. The _____ First Nation adopts participation under the COVID-19 Emergency Measures and proclaims them in force on its community.
2. The COVID-19 Emergency Measures will be enforceable as necessary to limit the spread of the coronavirus in Nova Scotia First Nations communities, keeping in mind some measures may be applied preemptively for the health and safety of community members.
3. The COVID-19 Emergency Measures will be enforceable, and violations of the measures will be punishable under the powers afforded by paragraph 81(1)(r) of the *Indian Act* on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty (30) days.

Duly passed on _____ , _____, 2021.

Chief

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

How to Declare a State of Emergency

Background

- The Assembly **has not** signed a First Nations Emergency Management Agreement with the Province and Indigenous Services Canada.
 - In 2014, an MOU was signed by the three parties agreeing to develop a tripartite emergency management plan by March 31, 2015, however this was not completed.
 - In 2016, the Roles and Responsibilities for each of the three parties in responding to an emergency were drafted, however were not signed.
- First Nations Communities and Tribal Councils in British Columbia, Alberta, and Ontario have existing emergency management agreements with their respective provinces and Indigenous Services Canada.
 - In each of these agreements, communities declare states of emergencies directly to their provincial office of emergency management, and Indigenous Services Canada is called to assist by the province when necessary.
 - This is consistent with the process proposed in the [Mi'kmaq of Nova Scotia's draft Roles and Responsibilities for Responding to Emergencies](#) and [Indigenous Services Canada's guidance on emergency roles and responsibilities](#).
- As the Assembly does not have a signed Emergency Management Agreement with the Province or Indigenous Services Canada, there is no formal process in place for Mi'kmaq communities in Nova Scotia to declare a state of emergency.

Process

- Given precedent exists for First Nations communities in other provinces to declare directly to their provincial emergency management office, and further given this is the process outlined in the draft roles of responsibilities for emergency management in Mi'kmaq communities in Nova Scotia (though not signed):
 - It is recommended for the purposes of declaring an emergency related to the COVID-19 pandemic or any compounding emergencies during the pandemic, to submit a signed Band Council Resolution declaring a State of Emergency to the Nova Scotia Emergency Management Office and the UNSM or CMM Emergency Coordinator.
- Mi'kmaq communities in Nova Scotia can submit a formal Declaration of a State of Local Emergency by:
 - Passing and signing a Band Council Resolution (BCR) declaring a State of Emergency.

- Submitting their signed BCR to the Nova Scotia Emergency Management Office by email, mail, or fax.

Email: emo@novascotia.ca

Fax: 902-424- 5376

Mailing Address: PO Box 2581
Halifax, NS
B3J 3N5
URGENT

- Submitting their signed BCR to their tribal council (UNSM or CMM) emergency coordinator.

Template Band Council Resolution to Declare a State of Emergency

Band Council Resolution

FIRST NATION GOVERNMENT:

DATE: XX, XX, 2021

Re: RESOLUTION RESPECTING THE DECLARATION OF A STATE OF EMERGENCY

QUORUM OF COUNCIL:

WHEREAS: A quorum of the First Nation Council (the “Council”) met on the ___day of ___ 2021;

AND WHEREAS the Mi’kmaq Chiefs of Nova Scotia are entrusted with protecting their communities from the COVID-19 virus and limiting community spread and protecting their communities from threats to their safety and wellbeing;

AND WHEREAS pursuant to the *Indian Act*, the Council is empowered to act on behalf of the _____ First Nation (the “First Nation”), including in accordance with paragraph 81(1) to protect the health and safety of community members, and protect community infrastructure;

NOW THEREFORE BE IT RESOLVED THAT:

4. The _____ First Nation formally declares a State of Emergency.
5. The _____ First Nation will seek emergency support services from provincial and federal governments, and may, as required, seek assistance from other Mi’kmaw communities and

organizations to address the primary emergency and any compounding emergencies which may arise.

6. In declaring this State of Emergency, the _____ First Nation may implement emergency measures to protect the health, safety and wellbeing of community members in response to the primary emergency and any compounding emergencies. These emergency measures may be implemented in accordance with Section 81(1) of the *Indian Act (1985)* and in line with the powers of municipalities of Nova Scotia and include the power to:
 - a. Cause an emergency management plan or any part thereof to be implemented;
 - b. Acquire or utilize or cause the acquisition or utilization of personal property by confiscation or any means considered necessary;
 - c. Authorize or require a qualified person to render aid such type as that person may be qualified to provide;
 - d. Control or prohibit travel to or from an area or on a road, street, or highway;
 - e. Provide for the maintenance and restoration of essential facilities, the distribution of essential supplies and maintenance and co-ordination of emergency medical, social or other essential services;
 - f. Cause or order the evacuation of persons and the removal of livestock and personal property threatened by an emergency and make arrangements for the adequate care and protection thereof;
 - g. Authorize the entry by a person into any building or upon land without warrant;
 - h. Cause or order the demolition or removal of any thing where the demolition or removal is necessary or advisable for the purpose of reaching the scene of an emergency, of attempting to forestall its occurrence or of combating its progress;
 - i. Order the assistance of persons needed to carry out the provisions mentioned in this Section;
 - j. Regulate the distribution and availability of essential goods, services and resources
 - k. Authorize and make emergency payments;
 - l. Assess damage to any works, property, or undertaking and the costs to repair, replace or restore the same; and
 - m. Assess damage to the environment and the costs and methods to eliminate or alleviate the damage.
7. The emergency measures enacted by the Band Council will be enforceable as necessary to protect the health and safety of community members living in Nova Scotia First Nations communities, keeping in mind some measures may be applied preemptively for the health and safety of community members.
8. The emergency measures will be enforceable, and violations of the measures will be punishable under the powers afforded by paragraph 81(1)(r) of the *Indian Act* on summary conviction of a fine not exceeding one thousand dollars or imprisonment for a term not exceeding thirty (30) days.

Duly passed on _____ , _____, 2021.

<hr/>	
Chief	
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Councillor	Councillor
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Briefing Note: COVID-19 Responses, UNDRIP, and Human and Constitutional Rights

The Working Group under the direction of Chief Prosper, established to examine developing an Economic Reopening Framework, came away from their first meeting with a number of questions which were communicated to the SRO by the Governance Manager.

The second set of related questions focus on human rights, constitutional rights and UNDRIP. The questions will be addressed in the order forwarded to the SRO by the Governance Manager.

Caveat

This memorandum contains an examination of statutes, the Canadian Constitution and other matters. As the author is not a practicing member of the Nova Scotia Bar, this memorandum does not constitute legal advice and may not be relied upon as such. Any legal advice relating to the matters discussed herein must be taken from a practicing member of the Nova Scotia Bar.

United Nations Declaration on the Rights of Indigenous Peoples

Canada postponed tabling legislation on implementing UNDRIP as a result of the rail blockades of February. With the onset of Covid-19, the proposed legislation remains in limbo. Nova Scotia espouses its support for UNDRIP but has never committed to introducing legislation to implement UNDRIP.

As Mi'kmaq expect (and demand) that the Crowns accord Mi'kmaq the rights affirmed in UNDRIP, it follows naturally that Mi'kmaw governments, both local and national, must ensure that they too are cognizant of the rights set out in UNDRIP and that their actions conform to UNDRIP.

In the context of responding to a pandemic, a natural disaster, or any other emergency, Mi'kmaw leaders will need to be aware of the following UNDRIP Articles:

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty of and security of person.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

If emergency planning, pandemic responses and other measures which may be necessary to protect Mi'kmaq and Mi'kmaq communities are developed with through the lens of the above UNDRIP articles, where the Mi'kmaq governments are 'the state', then any emergency response measures will go some way to ensuring that, in so far as is possible in exigent circumstances, the rights of individual Mi'kmaq and Mi'kmaq communities will be respected.

When can a Band's need for information (communal collective right) override an individual's right to privacy?

Public Health and Safety

In the definition section of the *Privacy Act*, RSC 1985, c.P-21, (s.3) as am., "personal information" is defined as "information about an identifiable individual that is recorded in any form". In the context of a Band or another Mi'kmaq organization combating an emergency situation or coordinating a response to an emergency, the key 'personal information' to which the Band or other group may require access includes:

- (b) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,
- (c) any identifying number, symbol or other particular assigned to the individual,
- (d) the address, fingerprints or blood type of the individual,
- (f) correspondence sent to a government institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to such correspondence that would reveal the contents of the original correspondence.

The *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5 as am. (PIPEDA) protects an individual's personal information carried or stored in electronic form.

The *Freedom of Information and Protection of Privacy Act*, SNS 1993, c.5 (FOIPOP), provides that personal information has, in essence, the same meaning as in the federal legislation:

3(1) (i) "personal information" means recorded information about an identifiable individual, including

(i) the individual's name, address or telephone number,

...

(iv) an identifying number, symbol or other particular assigned to the individual,

(v) the individual's fingerprints, blood type or inheritable characteristics,

- (vi) information about the individual's health-care history, including a physical or mental disability,
- (vii) information about the individual's educational, financial, criminal or employment history ...
- (viii) anyone else's opinions about the individual, and
- (ix) the individual's personal views or opinions, except if they are about someone else.

For the purposes of this Briefing Note Mi'kmaw Band Councils and the Assembly will be viewed as both 'the government' or public body holding private information about individuals and as a party entitled to receive private and confidential information about individuals in certain circumstances. It may be that a Mi'kmaw government which must disclose personal information to protect Mi'kmaw health and safety for the Mi'kmaw communities. In that case, if the Mi'kmaw governments approach any requests to divulge someone's personal information by following federal and provincial guidelines, the Mi'kmaw governments have a certain measure of comfort that they are disclosing no more – and perhaps less – than the federal or provincial government may disseminate by law.

In other instances, it may be a Band, a Mi'kmaw emergency response or public health agency or the Assembly which requires personal information from the federal or provincial government to ensure its most efficient and safe response to an emergency or a natural disaster. The following discussion of exemptions to privacy protection provide guidance about what information a Mi'kmaw government or agency may request and why.

In March of 2020, the Office of the Privacy Commissioner of Canada issued a bulletin explaining what information can be shared during a public health crisis.¹ The Commissioner's bulletin affirms that in certain circumstances, organizations may collect, use, or share private information without the consent of the individual. As a preliminary Briefing Note, no details on the specific sections of the *PIPEDA* and *Privacy Act* is not detailed at this time. As the work on this file progresses, the actual sections and subsections quoted can be provided as required.

Under *PIPEDA*, those exemptions to privacy include:

- If the collection is clearly in the interests of the individual and consent cannot be obtained in a timely way (paragraph 7(1)(a)), such as if an individual is critically ill or in a particularly dangerous situation, and needs help. [For example, checking the wallet or phone of an unconscious individual to

¹ Office of the Privacy Commissioner, "Privacy and the COVID-19 outbreak," 2020-03, https://www.priv.gc.ca/en/privacy-topics/health-genetic-and-other-body-information/health-emergencies/gd_covid_202003/.

information to assist health providers.]

- If the collection and use is for the purpose of making a disclosure required by law (paragraphs 7(1)(e), 7(2)(d) and 7(3)(i)). For instance, this would include where a public health authority has the legislative authority to require the disclosure.
- If the disclosure is requested by a government institution under a lawful authority to obtain the information and the disclosure is for the purpose of enforcing or administering any law of Canada or a province (subparagraphs 7(3)(c.1)(ii)-(iii)). Again, this would include instances where a public health authority has the legislative authority to require the disclosure. [We will take this as extending to Mi'kmaw laws and Mi'kmaw public health authorities.]
- If the disclosure is made on the initiative of the organization to a government institution, which has reasonable grounds to believe that the information relates to a contravention of the laws of Canada, a province or a foreign jurisdiction that has been, is being or is about to be committed (paragraph 7(3)(d)(i)). This would include if an organization believes an individual is in contravention of an invoked quarantine order. [This could be a Mi'kmaw government applying to Canada or, a Mi'kmaw public health entity applying to a Mi'kmaw government.]
- If the use or disclosure is for the purpose of acting in respect of an emergency that threatens the life, health or security of an individual (paragraphs 7(2)(b) and 7(3)(e)), such as if an individual requires urgent medical attention, and they are unable to communicate directly with medical professionals.

Under the *Privacy Act*, again there are exemptions in the legislation where Canada may disclose personal information without the consent of the individual:

- For the purpose for which the information was obtained or compiled, or for a use consistent with that purpose (paragraph 8(2)(a)), including if employers wish to use their employee's phone number to provide updates about a pandemic.
- Where authorized by any other Act of Parliament or any regulation made thereunder that authorizes its disclosure (paragraph 8(2)(b)), such as where a public health authority has the legislative authority to require the disclosure.
- Under an information sharing agreement between federal government institutions and the government of a province, some First Nations councils, the government of a foreign state, and international government organizations, for the purpose of enforcing any law or carrying out a lawful investigation (paragraph 8(2)(f)). For example, the Government of Canada is represented in a multi-lateral information sharing agreement as part of the Pan-Canadian Public Health Network.
- Where, in the opinion of the head of the institution, the public interest in disclosure clearly outweighs any invasion of privacy that could result from the disclosure; or where the disclosure would clearly benefit the individual to whom the information

relates (paragraph 8(2)(m)). An example of this would be if the Deputy Minister of an institution deemed that a disclosure to another institution where an infected individual recently visited and may have spread the virus satisfied the balancing test. Although the *Privacy Act* specifies that the federal institution needs to notify the Privacy Commissioner in advance of a public interest disclosure, it also recognizes that in certain matters, time is of the essence. Where it is not reasonably practicable for the head of the government institution to inform the Commissioner in writing prior to the disclosure, notification to the Commissioner must be made as soon as possible after the fact (subsection 8(5)). If an institution suspects that the COVID-19 virus was spread or contracted in the workplace, it is recommended that the relevant public health authority be contacted to conduct any necessary contact tracing.

In Nova Scotia, *FOIPOP* permits disclosure of personal information in the following circumstances:

Disclosure in public interest

31 (1) Whether or not a request for access is made, the head of a public body may disclose to the public, to an affected group of people or to an applicant information

- (a) about a risk of significant harm to the environment or to the health or safety of the public or a group of people; or
- (b) the disclosure of which is, for any other reason, clearly in the public interest.

(2) Before disclosing information pursuant to subsection (1), the head of a public body shall, if practicable, notify any third party to whom the information relates.

(3) Where it is not practicable to comply with subsection (2), the head of the public body shall mail a notice of disclosure in the prescribed form to the last known address of the third party.

(4) This Section applies notwithstanding any other provision of this Act.

As with the federal legislation, if the Mi'kmaw Nation in Nova Scotia is deemed the 'public body' then it has the right to disclose personal or private information where there is significant risk of harm or for any other reason in the public interest.

If the Mi'kmaw Nation in Nova Scotia is the party *seeking* information, then provincial public bodies holding confidential information must disclose that information to the Nation's governments to avoid or manage significant harm or for any other purpose in the public interest.

The Canadian Charter of Rights and Freedoms

Does the *Charter* apply to Band Councils? To the Assembly? According to the federal Department of

Justice, as yet the SCC has not ruled on whether or not a Band Council is bound by s.32(1) of the *Charter*:

32. (1) This Charter applies

- (a) to the Parliament and government of Canada in respect of all matters within the authority of Parliament including all matters relating to the Yukon Territory and Northwest Territories; and
- (b) to the legislature and government of each province in respect of all matters within the authority of the legislature of each province.²

In 2015, the SCC in *Kahkewistahaw First Nation v. Taypotat*,³ apparently “made no comment on section 32(1), but did not question that the Charter applied.”⁴ The Department of Justice went on to state

Similarly, lower courts have found that Band Councils acting according to custom and those operating under the *Indian Act* both derive their authority from the *Indian Act* and therefore are subject to the Charter (*Clifton v. Hartley Bay Indian Band*, [2005] F.C.J. No. 1267 (F.C.T.D.)).⁵

Tactically and strategically it is in the best interests of the Mi’kmaq of Nova Scotia to have the *Charter* apply to the actions of its governments. The application of the *Charter* to Band Councils may come from their status as creatures of the *Indian Act*, but for the Assembly, the assertion of the Nation’s right of self-government and self-determination is buttressed if the *Charter* is declared to apply to the actions of its governments.

Mobility Rights

In the *Canadian Charter of Rights and Freedoms*⁶ all Canadians and permanent residents have mobility rights within Canada:

- 6. (1) Every citizen of Canada has the right to enter, remain in and leave Canada.
- (2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right
 - (a) to move to and take up residence in any province; and
 - (b) to pursue the gaining of a livelihood in any province.

² Canada. Department of Justice, “Section 32(1) – Application of the Charter”, modified 2019-06-17, <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccdl/check/art321.html>.

³ 2015 SCC 30 (CanLII), [2-15] 2 SCR 548.

⁴ Department of Justice, “Section 32(1)...”.

⁵ *Ibid*.

⁶ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c.11.

- (3) The rights specified in subsection (2) are subject to
- (a) any laws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and
 - (b) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services.
- (4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Canada.

Many Indigenous communities across Canada imposed community quarantines to attempt to stop the spread of Covid-19. At first glance, refusing someone entrance to a community or forbidding someone from leaving a community violates s.6(1). However, in the context of a pandemic, s.1, the saving clause, appears to trump s.6: “The *Canadian Charter of Rights and Freedoms* guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.” Taking that “demonstrably justified” standard one step further, I submit that if a Mi’kmaw government which may be contemplating community quarantines or other measures restricting travel of residents or non-residents, develops its restrictions following the standards of the *Sparrow*⁷ justification test, it will meet the “demonstrably justified” test of s.1 of the *Charter*.

A *Charter* challenge has been filed in Newfoundland and Labrador against travel restrictions imposed by that province, citing s.6 of the *Charter* which the lawyers from the Canadian Civil Liberties Association hope will be heard expeditiously.⁸ Also in Newfoundland and Labrador, two lawyers are preparing a class action suit (not yet certified) arguing the provincial border travel restrictions violate s.6 of the *Charter* and that interprovincial travel restrictions.⁹ If the matters proceeds that may give us more guidance on what may or may not be put in place to restrict travel

⁷ *R v. Sparrow*, [1990] 1 SCR 1075, 1990 CanLII 104, <http://canlii.ca/t/1fsvj>. The *Sparrow* test stipulates that when the Crown infringes Aboriginal title or rights or treaty rights, that infringement must have a valid public purpose and it must be as minimal as possible. See p.1119.

⁸ CBC, “Kim Taylor challenges government after first being denied a visit home for her mother's funeral,” updated 2020-05-21, <https://www.cbc.ca/news/canada/newfoundland-labrador/charter-case-bill-38-filed-1.5577349>

⁹ Patrick Butler, “New lawsuit aims to invalidate travel ban for seasonal residents,” updated 2020-06-03, <https://www.cbc.ca/news/canada/newfoundland-labrador/class-action-suit-border-closure-seasonal-residents-1.5596685>.

in response to a health crisis.

Other *Charter* Considerations and Rights

Other provisions of the *Charter* may come into play when planning a crisis response protocol or a crisis return-to-normal strategy. For example, s.2(c) and (d) provided that everyone has a fundamental freedom of peaceful assembly and freedom of assembly. Virtually every covid-19 plan across Canada banned groups in public areas and in personal residences.

According to the Department of Justice, some court decisions have found that measures “affecting freedom of assembly through the reasonable regulation of public space and associated public health and safety matters do not infringe section 2(c)...”¹⁰ Other jurisprudence has found that while s.2(c) was infringed, that infringement was justified under s.1 as a “reasonable limit ... demonstrably justified in a free and democratic society.” Thus, in the context of reopening Mi’kma’ki strategies, limitations on how and when on-reserve retail businesses or industrial shops could infringe s.2(c) but still be saved by s.1 if the infringement of the right is as minimal as possible but still protect human health and safety.

As for s.2(d), freedom of association, the right is generally interpreted to apply to the right to join with other people and form associations, the right to join with others to pursue other constitutional rights and the right to “join with others to meet on more equal terms the power and strength of other groups or entities [industrial and trade unions for example]”.¹¹

It is difficult to see how a Band Council or the Assembly could run afoul of s.2(d) in the context of either disaster planning or recovery planning unless it attempted to suspend collective bargaining or the operation of labour contract on reserve for the duration of an emergency or as part of the emergency recovery strategy. It is unlikely s.1 would save such a move unless there was absolutely clear and compelling evidence that the suspension was absolutely critical to immediately responding to the emergency or ensuring the emergency recovery will be successful.

Section 5 of the *Charter* requires that the Canadian Parliament and each provincial and territorial legislature meet at least once in every twelve months. This is unlikely to affect any Mi’kmaw Band Councils or the Assembly. However, in a period of prolonged crisis, Councils and the Assembly must be mindful that, if the Mi’kmaw governments are covered by the *Charter*, they must ensure that at least once in a twelve month period a formal meeting of the Councils or Assembly, with proper notice, agenda, and opportunity for public viewing, are convened.

¹⁰ Canada. Department of Justice, “Section 2(c) – Freedom of peaceful assembly,” modified 2019-06-17, <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd/check/art2c.html>.

¹¹ Canada. Department of Justice, “Section 2(d) – Freedom of association,” modified 2019-06-17, <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd/check/art2d.html>.

Section 7 of the *Charter* guarantees everyone in Canada has the “right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice”. Section 7 may be engaged if, for example, a Band Council’s disaster or emergency plan gives it the right to physically detain an individual who attempts to break or breaks a curfew or a travel restriction. Some of the covid-19 plans of First Nations across Canada invoked punitive measures for those violating the Band’s covid regulations. This will attract scrutiny to ensure compliance with the right to liberty.

Section 7 can also protect the right to refuse medical treatment.¹² In the context of covid-19, what if a vaccine is developed and available and someone in a Nova Scotia reserve community refuses immunization despite her or his close association with someone who is at risk? If the Band or the Assembly enforces mandatory vaccination, will this violate s.7 or will it be saved as a reasonable limit on the right to liberty? How can a by-law or Mi’kmaw law be written to ensure it will stand in the face of court scrutiny?

In terms of security of the person, Mi’kmaw law makers must be aware that security of the person encompasses state action occasioning severe psychological harm to an individual.¹³ Draconian measures which effectively impose solitary confinement on Mi’kmaq as a response to another pandemic, could be viewed as *ultra vires* as the solution to the crisis is not a reasonable limit as less stringent measures could have accomplished the same purpose with inflicting psychological harm – or as much psychological harm.

Sections 8 to 13 of the *Charter* are primarily directed at criminal matters – arbitrary detention, unreasonable search and seizure, right to counsel, etc. Little needs be said except that any disaster plan empowering a Council or the Assembly to exercise any such power must always ensure it will not offend the *Charter*.

Section 14 is the right to an interpreter for any party or witness who does not speak the language of the proceedings. Interpretation programmes are already in place in Nova Scotia and the services of the interpreters can be seconded to the Assembly or to the Bands to ensure that materials and messages are readily available in English, Mi’kmaw and sign language.

The equality provisions of s.15 of the *Charter* are unlikely to be a consideration in any emergency plan and protocols or any emergency recovery strategy. If a need arises to distinguish between Mi’kmaq based on for example, sex or age or mental or physical disability, the emergency response

¹² Canada. Department of Justice, “Section 7 – Live, liberty and security of the person,” modified 2019-06-17, <https://www.justice.gc.ca/eng/csj-sjc/rfc-dlc/ccrf-ccd/checked/art7.html>.

¹³ *Ibid.*

and recovery strategies must be clear on the reasons for favouring certain people or denying or placing other people in a lower priority for receipt of services. Are its policies and practices reasonable in the context of actions during or after a crisis in a free and democratic society?

Section 25 of the *Charter* makes it clear that the *Charter* rights do not derogate from the Aboriginal title, Aboriginal rights and treaty rights protected by s.35 of the *Canada Act, 1982*. Thus the *Charter* rights of Mi'kmaq are in addition to their s.35 rights.

Conclusion

Whether engaged in emergency or disaster response planning and policy and practices development or in preparing an emergency recovery strategy, Mi'kmaw governments must be aware that there may be constitutional restraints on what they may do or not do. If Mi'kmaw governments use the UNDRIP articles as a guide for their planning and implementation and keep in mind the applicable *Charter* rights when drawing up plans and policies, any plans or strategies or protocols should be challenge proof. If the Mi'kmaw law makers ensure that all measures to be implemented cause as little infringement of rights as possible, then again, those policies and measures should be challenge proof.

Briefing Note: Employment Law and COVID-19

This summary provides general guidance and is not legal advice. The answers to these questions will vary, depending on the circumstances of each case. Consult legal counsel for information and advice relevant to your individual circumstances.

Overview

With the COVID-19 outbreak creating uncertainty for businesses, this memo addresses the following employment related questions that may arise from federally and provincially regulated employees.

- **What are an employer's obligations re: keeping employees safe during this time?**
- **Case law on how the courts treat the legislated right to refuse unsafe work.**
- **What are the measures and requirements as businesses begin to operate during COVID-19?**

This briefing note provides an overview of some key principles. However, there are no definite answers in this area at this time. This COVID-19 pandemic is unprecedented, and it is impossible to know how the courts will deal with these issues. Moreover, answers to employment law queries are typically context specific.

Note, this BN does not deal with collective bargaining regimes.

What are an employer's obligations re: keeping employees safe during COVID-19?

Duty to ensure Health and Safety

The *Occupational Health and Safety Act*, SNS 1996, c. 7 ("*OHS*A"), requires that employers take every reasonable precaution in the circumstances to ensure the health and safety of persons at or near the workplace, and to ensure that employees are not exposed to health or safety hazards (*OHS*A, s 13(1)(a) and (e)). While the scope of this requirement as it pertains to COVID-19 is unclear, this could include things like notifying employees of how to stay safe in the workplace, ensuring employees have access to soap, hand sanitizer, and wipes, and measures to permit social distancing.

Employees also have a duty to take all reasonable steps to protect their own health and safety and the health and safety of other people in or around the workplace. They are also required to co-operate with their employer and other employees to ensure safety (*OHS*A, s 17, (1)(a) and (b)).

Right to refuse work

The COVID-19 pandemic raises significant workplace issues. One of them is whether there are circumstances in which an employee has a right to stay home during the outbreak, without risking the loss of employment.

An employee may be entitled to stay home from work for the following reasons:

1. Occupational health and safety concerns;
2. Emergency Leave; or
3. Human Rights Protections.

1) Occupational Health and Safety Concerns

Nova Scotia

The NS *OHS*A entitles employees to refuse work if they have “reasonable grounds for believing that the act is likely to endanger the employee’s health or safety or the health or safety of any other person” (*OHS*A, s 43).

Whether the employee has reasonable grounds for believing work is likely to endanger their health or the health of any other person will depend on their particular circumstances, including but not limited to:

- Whether there have been any suspected or confirmed cases of the virus at the workplace;
- Whether anyone in the workplace has travelled internationally within the previous 14 days;
- The employee’s age;
- Whether the employee has any underlying health conditions that make them more vulnerable;
- If the employee is pregnant or breastfeeding; and
- If the employer has provided equipment or imposed policies to protect the employee.

A general fear of contracting the virus within the workplace, *without further reasons*, will not likely constitute reasonable grounds for a refusal.

Additionally, the right to refuse cannot be exercised under certain circumstances, most notably (1) where the refusal places the life, health or safety of another person in danger or (2) where the danger is inherent to the employee’s work (*OHS*A, s 43(9)(a) & (b)).

S. 43(2) *OHS*A sets out a procedure whereby employees can exercise their right to refuse work. The process can be summarized as follows:

1. The employee must immediately notify their supervisor or employer the reason for their refusal.

2. If the matter is not resolved to the employee's satisfaction, the employee must then report it to their Joint Occupational Health and Safety Committee or their worker health and safety representative.
3. If the matter is not remedied to the employee's satisfaction, the employee must then report to the Occupational Health and Safety Division of the Department of Labour and Advanced Education.

If the Joint Occupational Health and Safety Committee has unanimously advised the employee to return to work, the employee must do so or risk not being paid, even if they appeal to the Occupational Health and Safety Division.

An employer may reassign an employee who has refused unsafe work to alternative duties during the period of their work refusal, subject to any relevant restrictions in the applicable employment contract.

Canada

Under the *Canada Labour Code*, RSC 1985, c. L-1 ("CLC"), employees have the right to refuse to do a job if there is reasonable cause to believe that the job presents a danger to themselves or another employee.

Similarly, to the NS *OHS Act*, employees under the *CLC* must report the dangerous situation to their employer.

Bill C-13: Leave Related to COVID-19

As of March 25, 2020 and until October 1, 2020, Bill C-13 creates a new section in the *CLC* (s. 239.01) that allows employees working in a federally regulated workplace to take up to 16 weeks of unpaid, job-protected leave if they are unable or unavailable to work due to COVID-19. For example, employees may take this leave if they are:

- Being quarantined or asked to self-isolate as a result of COVID-19,
- Being required to provide care to a family member as a result of COVID-19, or
- Otherwise unable to work for reasons related to COVID-19.

To take this leave, employees must provide their employer with a written notice, as soon as possible, of the reason for the leave and the length of leave they intend to take, and notify their employer in writing, as soon as possible, of any changes to the length of the leave (*CLC*, s 239.01(2) & (3)).

2) Emergency Leave

Section 60I of the Nova Scotia *Labour Standards Code*, RS c 246 (“LSC”), entitles employees to an unpaid leave where an emergency prevents the employee from performing their job duties.

The definition of “emergency” under that section likely includes the current health crisis. In the section “emergency” includes (*LCL*, s 60I(1)(b)(i), (ii) & (iii)):

- i) An emergency declared under the *Emergency Management Act* that prevents the employee from performing the employee’s work duties,
- ii) A direction or order of a medical officer under the *Health Protection Act* that prevents the employee from performing the employee’s work duties,
- iii) A public health emergency declared by the Minister under section 53 of the *Health Protection Act* that prevents the employee from performing the employee’s work duties.

On March 22, 2020, a public emergency was declared under the Nova Scotia *Emergency Management Act*.

An emergency also includes circumstances that relate to the employee’s family care obligations. Subsection 60I(2) states:

- 2) Notwithstanding clause (b) of subsection (1), an emergency includes a circumstance under subclause (i), (ii), (iii), (iv) or (v) of clause (b) that applies to a family member of an employee if
 - a. The declaration, direction, order or other prescribed circumstance directly applies to a family member of the employee;
 - b. The declaration, direction, order or other prescribed circumstance results in a situation where the family member of the employee requires care or assistance;
 - c. The employee is the only person reasonably able under the circumstances to provide the family member with the required care or assistance; and
 - d. Providing the required care or assistance to the family member has the effect of preventing the employee from performing the employee’s work duties.

3. Human Rights Protection

In addition to the above, if an employer does not want to attend work because they have a disability that puts them at heightened risk, or because they have family caregiver obligations, the employer’s obligations under the NS *Human Rights Act*, RC c 214 (“HRA”) may be engaged. Employer policies that have a differential impact on individuals because of disability or family status may be discriminatory.

If an employer’s Human Rights obligations are engaged, the employer will have a duty to accommodate the employee to the point of “undue hardship”. Allowing an employee to stay home from work to avoid risk or take care of children while schools are closed is not likely to constitute undue hardship.

The duty to accommodate also requires the employee to be an active, cooperative participant. An employee who believes they need to stay home during the outbreak due to disability or family status should communicate their needs to the employer. The employer may find an alternative accommodation to having the employee take a leave.

Case law on how the courts treat the legislated right to refuse unsafe work.

Dionne v Commission scolaire des Patriotes, 2014 SCC 33.

Marilyne Dionne (“D”) was a pregnant supply teacher who learned from her doctor that she was vulnerable to contagious viruses which can harm the fetus. Because these viruses can be spread by children, a classroom posed a risk. The School Board offered her a one-day teaching position, which she accepted.

Due to the health risk in the workplace, the Commission de la santé et de la sécurité du travail told D that she was entitled to reassignment or Preventive Withdrawal. However, the School Board appealed to the Commission des lésions professionnelles (“CLP”), which concluded that she was ineligible for Preventive Withdrawal because of her inability to go into the classroom. D was therefore outside the scope of the protection provided by Quebec’s *Act*.

SCC ruled she was eligible. The SCC ruled that there was a contract formed and that a refusal to perform unsafe work is not a refusal to fulfill the employment contract, it is the exercise of a legislated right. Workers are thereby protected from having to choose between job security and their health and safety.

Boivin v Canada (Customs & Revenue Agency), 2003 PSSRB 94.

This case outlines the treatment of stress as it related to the *Canada Labour Code*.

Robert Boivin, an employee with Customs and Revenue Agency files a complaint against his employers stating that their refusal to grant him additional work caused him stress, which was his reason for him filing for leave under s. 128 (Refusal to work if danger).

The Canada Public Service Staff Relations Board at paragraph 146 writes,

I do not believe the scheme of the *Code* allows for considering stress as "an existing or potential hazard," as that term is understood in the *Code*. Nor do I believe that stress could be considered a "condition", as the term is understood in the *Code*. Finally, it is not, I believe, a "current or future activity that could reasonably be expected to cause injury or illness" as those terms are understood in the *Code*. As stated in *Kucher (supra)*: "The danger must be acute and immediate."

This seems to suggest that “stress” is not considered an existing or potential hazard that would allow an employee to refuse work. In the context of COVID, if employers have safety measures in place, an employee citing stress is not likely to be an acceptable hazard under the *Canada Labour Code*.

What are the measures and requirements as organizations begin to operate during COVID-19?

(This information is relevant as of June 30th, 2020. COVID-19 measures are updated regularly as the situation within the territory evolves.)

In order to ensure the safety and security of the general public and pursuant to s. 32 of the *Health Protection Act*, 2004, c 4 (“HPA”), the Chief Medical Officer of Health issued orders that apply to:

1. All persons residing in or present in the Province of Nova Scotia;
2. All not-for-profit and for-profit businesses and organizations operating or carrying on business in Nova Scotia;
3. All public schools under the jurisdiction of a regional centre for education or the Conseil Scolaire Acadien Provincial;
4. Day care facilities and family day care homes regulated under the *Day Care Act* and pre-primary programs established under the *Pre-primary Education Act*; and
5. Such other persons or entities as may be identified by the Chief Medical Officer of Health.

Relevant Orders:

Businesses:

- Subject to specific closures or limitations directed elsewhere in this Order, all not-for-profit and for-profit businesses must implement physical distancing of two metres or six feet within these workplaces (s. 7).
- All not-for-profit and for-profit businesses that cannot, due to its physical size, maintain the physical distancing requirement set out in Clause 7 must limit the number of customers or clients on its premises to no more than 10 persons at a time for indoor and outdoor premises (s. 8).

Day Care Facilities:

- Effective June 15, 2020, all day care facilities and family day care homes regulated under the *Day Care Act* centers (s. 13):
 - May open
 - Are exempt from the physical distancing requirements set out in Clause 7;

BUT

 - Must adhere to the COVID-19 Guidance for Child Care Settings, dated June 5, 2020.

Standard Workplace Practices during COVID-19

Type	Best Practice
Information Facilitation	<ul style="list-style-type: none">○ Stay informed of COVID-19 updates and guidance from the World Health Organization, Public Health Agency of Canada, and provincial and local public health agencies. An employer's response should be based on the current scientific understanding of COVID-19 and official guidance, which may change rapidly.○ Inform employees of, and encourage employees to follow, simple health protocols in the workplace such as proper handwashing techniques, proper cough and sneeze etiquette, and to refrain from shaking hands or coming into close contact with others. These protocols should be posted around the workplace, particularly in common areas such as washrooms and the lunchroom.
Workplace Sanitization	<ul style="list-style-type: none">○ Make hygienic products available, including alcohol-based hand sanitizers and disposable disinfectant wipes.○ Increase cleaning operations in the workplace, particularly in common areas and with respect to surfaces (counters, door handles, etc.).
Social Distancing Measures	<ul style="list-style-type: none">○ Allow and encourage employees to work from home if possible.○ Encourage employees to avoid close contact with one another. Consider increasing the distance between desks and workstations as well as employees and customers or implementing physical barriers.○ Refrain from allowing visitors into the workplace and organizing any internal or external meetings or gatherings, where possible.○ If an employer allows meetings to proceed, participants should be asked not to attend if they exhibit any of the <u>COVID-19 symptoms</u>, if they have recently travelled out of the country or if they are otherwise at risk (e.g. if they have been in close personal contact with someone who is exhibiting symptoms or recently travelled out of the country).○ Require employees to stay home if they feel sick or come down with any of the COVID-19 symptoms and to call their public health authority. Employees who have displayed symptoms should not be allowed to return to the workplace until they have been symptom-free for at least 14 days, or such other period recommended by public health authorities.

Workplace Policies	<ul style="list-style-type: none">○ Ensure that your sick leave policies are consistent with public health guidance and do not serve as a significant deterrent to employees calling-in sick.
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Recommendations from Construction Safety Nova Scotia – How to stop the spread of viruses on site:

- Emphasize hand hygiene etiquette by all employees as toolbox talks and orientations – lead by example, put up posters of proper hand washing techniques.
- Ensure that hand washing stations and alcohol base hand sanitizer are on site and available for all workers.
- All offices and non-porous tools are sanitized and cleaned regularly.
- Actively encourage sick employees to stay home.
- **Do not permit anyone to enter a worksite if:**
 - They or a member of their household have travelled outside the country within the past 14 days
 - They or a member of their household have exhibited symptoms of COVID-19 in the last 14 days.
- Symptoms include: fever, cough, difficulty breathing, sore throat, sneezing.
- Perform environmental routine cleanings.
- Plan to minimize exposure between employees and the public – follow social distancing procedures.
- Avoid touching your eyes, nose or mouth.
- Do not share cups, glasses, dishes or cutlery.
- Place informative posters telling people what to do if they get sick.

Reference: Jurisdictional Responsibilities for Health Related to COVID-19 Response

General Responsibility: The jurisdictional division of health services on-reserve has long been complex and difficult to navigate. Under the *Constitution Act (1867)*, the provincial governments are responsible for the establishment of maintenance of hospitals, property and civil rights and matters of a local nature in the province, which has been interpreted by courts to include jurisdiction over a number of health services, and must ensure all residents have equal access to provincially offered services. Also, under the *Constitution Act (1867)*, the federal government is responsible for “Indians and Lands Reserved for Indians”. This means, the federal government is responsible for filling any gaps in provincial services for Indigenous people and are financially responsible for health care on-reserve. Indigenous communities are responsible for the provision of services funded by the federal government under contribution or health transfer agreements, including community health centers or nursing stations and any other health-specific programming funded by the federal government. Communities are further responsible for health services they chose to administer and fund through Own Source Revenue. Community governments may make by-laws to provide for the health of residents on-reserve and prevent the spreading of contagious and infectious diseases (*Indian Act, s 81(1)(a)*). Under the *Canada Health Act (1984)*, in order to receive federal transfer payments, provinces must provide equal access to hospital and physician services for all residents of a province.

The chart below outlines some of the specific responsibilities and actions of each jurisdiction as it relates to the COVID-19 response. The chart is not intended to be used outside of the context of COVID-19 response, rather, it is provided as a simple guide as to who questions may be directed toward in each area, and how communities may be expected to assist in each area. This guide is intended to be a quick reference and is not a wholistic understanding of the complexities of the jurisdictional division of responsibility for health care generally.

COVID-19 Testing		
Federal Responsibility	Provincial Responsibility	Community Responsibility
<p>Indigenous Services Canada has access to a stockpile of testing kits that can be administered to Indigenous communities should provinces require communities establish testing sites. However, as lab processing facilities are provincially run, the distribution of test kits from ISC is unlikely.</p>	<p>The provincial health authority is responsible for the entire testing process, including triage, physical testing, lab processing, follow up, and contact tracing.</p> <p>If a community member is experiencing symptoms of COVID 19, they are asked to complete an online self-assessment here and follow instructions outlined by 811 for further action.</p> <p>If a community member is instructed to call 811, they will be directed on where and when to accessing testing.</p> <p>Once testing has been processed, the public health authority will contact the individual to inform them of the test result (positive or negative), provide further information, answer any questions, and will instruct the individual to quarantine and anyone in their household to self-isolate.</p>	<p>Communities may be asked to support the provincial health authority in contact tracing, should a community member test positive for COVID-19. This is at the discretion of the province.</p> <p>If community-wide testing is required (if there is an outbreak or growing number of cases in a single community), the provincial health authority will work with the community to establish a temporary testing site.</p> <p>If a community member or household is instructed to self-isolate, the community should support families in accessing essential needs, including though food and prescription deliveries to the home.</p>

Prevention		
Federal Responsibility	Provincial Responsibility	Community Responsibility
<p>All parties are responsible for prevention of the spread of COVID-19.</p> <p>The Federal government <i>can</i> issue directives for prevention and control if they declare a national state of emergency.</p> <p>The Center for Disease Control and Prevention and the Federal Department of Health will issue general advice for the prevention and control of COVID-19. ISC remains responsible for ensuring Indigenous communities are aware of and have access to these resources.</p> <p>Funding can be requested by communities, under the Emergency Management Assistance Program, for the set-up costs for preventative measures.</p>	<p>The Province is responsible for issue province-wide public health directives for prevention and control under the <i>Emergency Measures Act</i> and the <i>Health Protection Act</i>.</p> <p>Currently, this direction includes:</p> <ul style="list-style-type: none"> • All those who have traveled out of province or out of country must self-isolate for 14 days upon their return to Nova Scotia. • No non-residents of Nova Scotia are permitted in the provinces, with the exception of essential service providers. • Individuals should stay home as often as possible, only leaving for essential shopping (gas, groceries, pharmaceuticals), and exercise in their neighborhoods. • All individuals must maintain space of 6ft between other individuals outside of the home, except when providing essential care limiting this space. • Frequent hand-washing. • Sneezing and coughing into the elbow or a tissue. • Frequent sanitizing of high-touch surfaces. 	<p>All parties are responsible for prevention of the spread of COVID-19.</p> <p>Communities may choose to implement by-laws or BCRs in response to community COVID19 needs, including travel limitations, curfews, and other necessary restrictions to prevent the spread of COVID19.</p> <p>Regulations under the Provincial <i>Emergency Measures Act</i> and the <i>Health Protection Act</i> apply on-reserve.</p> <p>Community governments may make by-laws to provide for the health of residents on-reserve and prevent the spreading of contagious and infectious diseases (<i>Indian Act, s 81(1)(a)</i>). This includes restriction to travel into and out of the community and other mechanisms for protecting the health of community members and slowing the spread of the virus as necessary.</p> <p>Click here for a full legal opinion on the implementation of community restrictions.</p>

Funding		
Federal Responsibility	Provincial Responsibility	Community Responsibility
<p>The federal government is responsible for ensuring all First Nations communities have access to funding for emergency response and emergency health care, in addition to funding regularly-provided health care services available within the community. The federal government is responsible for providing supplies and financial support to fill the gaps in provincial services (i.e. if PPE is not available through the provincial supply, ISC is responsible for providing PPE to communities).</p> <p>The federal government is responsible for providing funding for surge health care capacity within the community (i.e. hiring additional health center nurses or paying overtime).</p> <p>Requests for such funding should be directed to the Regional Medical Officer appointed by the Public Health Agency for the Atlantic Region: Dr. Eilish Cleary, isc.covid-19atlantic.isc@canada.ca</p>	<p>The province does not have a financial responsibility for health care on-reserve, through they must ensure Mi'kmaq communities have equal access to provincially provided services including physician and hospital services.</p>	<p>The community is responsible for tracking and reporting emergency and health care expenses, and appropriating funding received according to the terms and conditions of federal funding agreements.</p> <p>Communities are also responsible for submitting any required proposals or requests for financial assistance to the Federal government.</p>

Hospitalization		
Federal Responsibility	Provincial Responsibility	Community Responsibility
<p>The federal government does not have a responsibility for hospitalization.</p> <p><i>If a Mi'kmaw community were to be asked to establish a field hospital, ISC – First Nations and Inuit Health Branch would be responsible for providing funding for this activity and supporting development and implementation. This is unlikely to be a concern.</i></p> <p>If hospitalization is necessary, the federal government is responsible for the costs of transportation, under NIHB.</p>	<p>The province is responsible for the hospital care of all COVID-19 patients when necessary.</p> <p>The province is responsible for establishing COVID-19 response units in regional hospitals, and ensuring the availability of beds, supplies, and staff for those units.</p>	<p>The province does not anticipate a need for Mi'kmaw communities to implement field hospitals.</p>

Repurposing Facilities		
Federal Responsibility	Provincial Responsibility	Community Responsibility
<p>The federal government would be responsible for funding any necessary changes to a facility to be repurposed as a quarantine site, including storage of existing furniture, providing beds/cots and linens, medical supplies and equipment, food costs, and additional needs, and for ensuring proper health care staffing at the facility.</p> <p>Such funding is to be requested under the Indigenous Community Support Fund.</p>	<p>The provincial government would be responsible for working directly with a community to inform the location, set up, and care of patients at a community quarantine facility, should such a facility be needed.</p>	<p>Should community quarantine sites be required, the community would be responsible for identifying a feasible location using standards provided by the provincial and/or federal governments, as well as setting up and running the quarantine site.</p> <p>If required, the Canadian Armed Forces or the Canadian Red Cross may be asked to assist the community in establishing and/or running the quarantine center.</p> <p>The community would further be responsible for tracking expenses of establishing and running the quarantine facility.</p> <p><i>Note: it is not expected this will be required in any Mi'kmaw community in Nova Scotia at this time.</i></p>

Mental Health		
Federal Responsibility	Provincial Responsibility	Community Responsibility
<p>The federal government currently provides support for limited emergency mental health counselling through NIHB.</p> <p>Should additional mental health staff be required in a community to assist with a growing concern for mental health due to COVID-19, the federal government may be responsible for funding these positions and would work with the province to identify and allocate additional staff.</p> <p>The Indigenous Community Support Fund identified mental health supports as an example of an eligible COVID-19 expense.</p>	<p>The province is responsible for the provision of emergency mental health services (i.e. at hospitals) and off-reserve mental health services, as well as the regulation of those services.</p> <p>The province is largely responsible for the provision of mental health services.</p> <p>Under the <i>Health Protection Act</i>, out-patient mental health care providers are encouraged to continue providing service through video or phone conferencing during COVID-19.</p> <p>The Nova Scotia Health Authority provides Mental Health Practitioners in some communities.</p>	<p>Communities are responsible for continuing to provide essential services, including mental health services, where feasible and safe for community members and employees.</p>

Long-Term and Continuing Care		
Federal Responsibility	Provincial Responsibility	Community Responsibility
<p>The federal government is responsible for funding any necessary health-care providers in-community, including VON services or other continuing-care supports. The federal government is further responsible for providing necessary home care equipment for individuals who require continuing care in the community (i.e. hospital beds, mobility devices).</p>	<p>The provincial government is responsible for setting standards, regulations, and directives for long-term care facilities within the province.</p> <p>The province has issued a directive under the <i>Health Protection Act</i> requiring long-term care staff to complete a self-assessment prior to their shift, and a check must be conducted on clients twice daily to ensure they do not have symptoms. If any one individual (staff or client) with reported symptoms of COVID-19, this must be reported to the provincial health authority.</p>	<p>The Community Health Nurse or Health Director may be asked to support continuing care during COVID-19 by acquiring supplies from a pharmacy (expenses are eligible for reimbursement from ISC) or assisting support workers otherwise.</p> <p>More clarity is required from the provincial and federal government regarding community responsibility for continuing care during the COVID-19 crisis.</p>