



Resources to assist First Nations in responding to the COVID-19 Pandemic

As the number of COVID-19 confirmed cases is rising across Canada, First Nations are responding to protect their community members and encourage actions to prevent the spread to their communities. We have prepared this blog in an effort to provide general assistance to First Nations seeking information about pandemic planning, funding considerations and some legal issues to keep on top of. We are not providing public health advice or information, and encourage First Nations to obtain such information from reliable sources such as the Public Health Agency of Canada. We also encourage First Nations to work with their own public health staff (some First Nations may have funding through the Communicable Disease Control Program of Indigenous Services Canada for their own public health nurses) to educate community members about taking preventive measures and responding to potential cases of people infected with the virus.

Pandemic Response Plans: Some First Nations may already have prepared Pandemic Response Plans. If not, the BC First Nations Health Authority has an online template (relevant to BC of course, but it is adaptable) for such a plan that provides useful information about key components of such a plan. The importance of clear lines of authority and clear communications to the community cannot be overemphasized. A copy of the template plan can be downloaded from this page: <https://www.fnha.ca/what-we-do/communicable-disease-control/coronavirus>.

Coordinating with federal and provincial government public health agencies: Because public health for First Nations is a shared provincial and territorial responsibility, First Nations will need to interact with both federal and provincial government agencies in addressing this pandemic. A useful link to the relevant public health authorities across Canada (updated to 2018) can be found here: <https://www.ncchpp.ca/en/structuralprofile.aspx>. Generally speaking, communications with Chief Public Health Officers and Chief Medical Officers of Health in the provinces are encouraged. Within Indigenous Services Canada (ISC), the Chief Medical Officer of Public Health is Dr. Tom Wong and there are other medical officers of health in the regions, working in the First Nations and Inuit Health Branch (FNIHB). Other ISC contacts are in the Regional ISC offices across Canada, where there are emergency management coordinators and communicable disease coordinators.

ISC announced on March 13 that the Regional offices are preparing Surge Capacity Response Plans, to be able to add additional human resources that could be deployed in communities based on the significance of COVID-19 in particular communities.

In addition to contacting federal and provincial public health officials and regional health authorities, some First Nations will want to contact the mayors/elected leaders of nearby municipalities in order to work cooperatively together to seek to limit the spread.

ISC also announced that with respect to special capacity supply and response needs (e.g. health supplies, staff needs), that these needs should be assessed by communities in collaboration with provinces and the Regional offices of ISC. Thus, opening and maintaining regular lines of communication with the Regional offices of INAC and the Provincial medical officers of health is important.

Work travel bans, office closures, etc. : Employers across the country are requiring employees to work remotely, sometimes with exceptions for certain staff, and/or are instructing their employees to not engage in any non-essential work-related travel. Requiring that employees who have returned from travel outside of Canada not come into the workplace, and urging that they self-isolate, are also tools that employers are using. Also, requiring that employees who are sick not come into the workplace (or be sent home if they do) is also an important tool to seek to prevent spreading, even if the person who is sick may not themselves be infected with COVID-19.

Community isolation? We have heard that some First Nations are considering trying to prevent non-members from coming into their communities as a means to limit the spread into their communities. We encourage First Nations to consult public health advisors and Indigenous Services Canada before making such a decision. [In British Columbia, First Nations who are considering this are of course able to consult their First Nations Health Authority.](#) If this is the choice that a community makes after careful consideration, ISC has indicated in a general way that they will still support communities in receiving health services. For more information, please consult <https://www.youtube.com/watch?v=71fFRFQn2VA&feature=youtu.be> (This is a recording of a technical briefing on prevention and preparedness for COVID-19 in First Nations communities.)

Track your spending for potential future recovery: Indigenous Services Canada's Deputy Sr. ADM for Health, Valerie Gideon, has suggested that First Nations track your spending on COVID-19 response measures. Canada has announced that there is funding for Indigenous Services Canada "to support First Nations and Inuit communities in sustaining health services and managing impacts of COVID-19," so First Nations may be able to recover some of their expenditures on response measures.

Tracking deadlines in agreements – check your contracts: Despite the obvious disruption created by COVID-19, it is important to not assume that parties that have signed contracts will not insist on performance. For example, many contracts contain deadlines by which a First Nation must provide documentation in order to obtain certain benefits or payments. In other contracts, First Nations will have required other parties to meet certain deadlines. Some of those may contain "force majeure" clauses that may be applicable in order to avoid meeting those deadlines, but that cannot be assumed. Each contract should be checked. If the party on the other side is prepared to waive compliance with a deadline, a signed waiver agreement that complies with the requirements of the agreement should be sought long before the deadline is upon you.

Court deadlines still apply: Although courts in some provinces are shutting down jury trials or not holding some types of court hearings, procedural timelines in the court rules and in court orders still apply. Your legal counsel will need to be in touch with you as necessary to ensure that applicable court deadlines are not missed.

OKT continues to operate through the COVID-19 emergency to ensure the legal needs of all of the communities that we work for continue to be met. If you have any questions about the foregoing, including the legal implications of implementing a certain course of action, please contact us and we will work to answer your questions as quickly as we can.