



MARCH 16, 2022

Dr. Bonnie Henry
Provincial Health Officer
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Via Email: Bonnie.Henry@gov.bc.ca

Dear Dr. Henry,

Thank you as always for your thoughtful leadership throughout the pandemic.

As part of my statutory responsibility to act as an impartial advocate for the promotion and protection of human rights in British Columbia, I have followed the evolution of the provincial mask mandate with interest. As you have noted repeatedly for the past two years, mask wearing is a simple and effective means for members of our society to protect one another from transmission of the virus. Those who have benefited most from this public health intervention have been those at greatest risk from the virus.

I am concerned, therefore, that the hasty end to the provincial mask mandate will have profoundly unequal effects across society. While many of us have the good fortune to simply move on with life, thousands of British Columbians will be left behind because of their age, disability, or other protected characteristic under B.C.'s *Human Rights Code*.

Throughout the pandemic, my Office has evaluated the government's response through a human rights lens and advocated for the protection of marginalized populations. Since the decision to end the mask mandate, my Office has received several requests for comment, and I intend to respond through this same lens. Before I make any public statements on the matter, I am writing to convey my concerns to you directly. As always, I am happy to discuss this matter further with you, should this be of interest.

Inequitable impacts of ending the mask mandate

Some of us are more vulnerable than others to the virus, and public health policy must consider these disproportionate impacts. In this case of the pandemic, marginalized groups include immuno-compromised people, older people, Indigenous and racialized peoples, people with disabilities, and low-income communities.¹

Without the assurance that those they encounter in public spaces will be masked, many seniors and people with disabilities will feel they must isolate themselves from society or risk their health.² Indigenous peoples and racialized people are overrepresented in high-transmission work environments and are at greater risk because of higher incidences of chronic conditions, such as hypertension, diabetes, and heart disease.³ Children under the age of five are not yet eligible for vaccination but will be attending schools without masks.

¹ While I do not have access to the data in B.C., I make these assertions based on the race-based data available in other jurisdictions, limited data based on postal codes, knowledge of the social determinants of health, and on public health information showing the disproportionate impact on medically vulnerable populations.

² Dixon, Courtney. "Seniors, People with Disabilities Feel 'Ignored', 'Neglected' as Approach to COVID-19 Shifts | CBC News." CBC News. CBC, January 28, 2022. <https://www.cbc.ca/news/canada/british-columbia/restrictions-covid-19-seniors-people-with-disabilities-left-behind-1.6327430>.

³ Smith, Charlie. "SFU Prof Says Scrapping Mask Mandates Is Discriminatory Because Racialized Residents Suffer Disproportionate Effects." The Georgia Straight, 13 Mar. 2022, <https://www.straight.com/covid-19-pandemic/living/sfu-prof-says-scrapping-mask-mandates-is-discriminatory-because-racialized-residents-suffer>.

Lifting the mask mandate will do disproportionate harm to those who are already marginalized, forcing many to withdraw from activities of daily life in an effort to protect their health, and reducing the capacity to enjoy their human rights to their full extent. Parents who are medically vulnerable face the difficult decision to send their children into schools with increased risk of transmission or to keep their children from their educations.⁴

Masking is a minimally invasive public health measure

It is understandable that after two years of the global pandemic, many people are tired of wearing masks. But the requirement to wear a mask in indoor public spaces is a comparatively minor infringement on an individual's autonomy and an inconvenience in exercising one's rights.

I also agree that we can never eliminate all risk and that we will need to learn to live with an endemic virus. But the mask mandate is not about eliminating risk; it is about sharing the risk burden across society rather than transferring it to a marginalized or medically vulnerable minority. I do not believe it is in accordance with our human rights commitments for the government to advise those at high risk to take extra caution while at the same time ending policies that allowed us to share this burden more equitably across society.

Balancing human rights

When rights conflict, human rights approaches seek a balance where the rights of one group are only curtailed as much as is required to protect the rights of others. As part of this analysis, we must consider the systems of inequality that make it easier to discount the rights of marginalized groups.

Given the benefits of the mask mandate for thousands of marginalized people and the minimal impact on those being asked to wear one, the balance at this time favours continuing the mask mandate. As an effective and minimally invasive intervention, the mask mandate is justified long after other more intrusive public health measures have been lifted. That people dislike wearing masks is not a compelling argument when weighed against the rights of others to life, security of the person, and equal participation in social and economic life.

At this late stage in the pandemic, we must not turn our backs on our mutual responsibility to keep each other safe. No one should have to be exposed to the virus or excluded from public spaces when there are alternative public health policies that could reduce the risk they face.

There will be a day where the mask mandate may be lifted, but that day is not yet here.

I want to acknowledge with gratitude your openness to considering human rights related concerns and the productive dialogue that has existed between our Offices throughout the pandemic.

Sincerely,



Kasari Govender

Human Rights Commissioner

CC: The Hon. Adrian Dix, Minister of Health (HLTH.Minister@gov.bc.ca)
Dr. Brian Emerson, Deputy Provincial Health Officer (Brian.Emerson@gov.bc.ca)
Dr. Daniele Behn Smith, Deputy Provincial Health Officer (Daniele.BehnSmith@gov.bc.ca)

⁴ Dixon, Courtney. "Seniors, People with Disabilities Feel 'Ignored', 'Neglected' as Approach to COVID-19 Shifts | CBC News." CBC News. CBC, January 28, 2022. <https://www.cbc.ca/news/canada/british-columbia/restrictions-covid-19-seniors-people-with-disabilities-left-behind-1.6327430>.

