

Community Services  
PO Box 2703, Whitehorse, Yukon Y1A 2C6

March 8, 2021

Liz Hanson  
Chair  
Special Committee on Civil Emergency Legislation

Dear Liz Hanson,

**Re: Community Services Responses to questions regarding the Civil Emergency Measures Act from the Special Committee**

---

In a letter dated January 18, 2021, the Special Committee posed five questions regarding the *Civil Emergency Measures Act*. Community Services' responses by division are as follows.

**1. How was the Department of Community Services hindered or helped by Yukon's *Civil Emergency Measures Act* when attempting to maintain the safety and wellness of Yukoners during an emergency?**

- CEMA, together with Yukon government's Pandemic Response Plan and incident command structures, helped Community Services to take action to maintain the safety and wellness of Yukoners.
- CEMA was drafted to deal with sudden, time-sensitive emergencies, such as time-limited crises (like floods and fires) where people may require evacuation, etc. CEMA's broad authority and scope of responsibility was used in the pandemic; however, it is not intended for extended timelines.
- Given the nature of this pandemic and the extended time frame, it is challenging for the department to carry out its regular core business and mandate commitments.
- Examples of how Community Services was hindered and helped follow.

**Corporate Policy and Consumer Affairs**

- Extension of filing timelines under societies and business legislation and allowing telephone and electronic meetings provided flexibility to communities and clients, allowing them to continue to receive funding and maintain operations.
- Delays and challenges to professional licensing would disrupt service to Yukoners. Community Services made an order under CEMA to support Health and Social Services by creating a temporary provisional licence category for physicians and allowing the Yukon Medical Council

discretion in determining the requirements for provisional licensure. This was in response to the Royal College of Physicians and Surgeons and College of Family Physicians delaying the required entry to practice qualifying examinations for 2020 candidates and an anticipated (but unrealized in Yukon) demand for physicians to treat patients with COVID-19.

- A Ministerial Order under CEMA allowed the expansion of pharmacists' scope of practice to provide flexibility for pharmacists to dispense controlled substances as enabled by Health Canada; and to provide medication to patients without requiring they first go to doctors to minimize contact with, and demand on, medical practitioners.
- The *Residential Landlord and Tenant (COVID-19) Regulation* (OIC 2020/60) expired on June 25, 2020. This CEMA Ministerial Order established timelines for tenants to repay rent arrears accrued during the affective period of the regulations, and to maintain longer-term eviction protections for tenants subject to a health protection measure.
- To alleviate economic strain on Yukon property owners, a CEMA Ministerial Order provided a 60-day extension for property tax payment deadlines.
- Regulatory timelines became difficult or impossible to meet, due to limits on gathering sizes. A CEMA Ministerial Order allowed Deputy Ministers to extend regulatory timelines, such as filing requirements for incorporated businesses, cooperative associations, partnerships and societies. These extended timelines ensured that organizations would not be out of compliance with applicable legislation, due to circumstances outside their control.
- Organizations were unable to hold legislatively required meetings, due to limitations on gathering sizes. A Ministerial Order ensured that meetings could be held by telephone, online or in other electronic formats, regardless of whether such meeting formats were specifically enabled or prohibited by applicable legislation.
- CEMA, as the only legislative authority to enact the necessary orders to give effect to the public health measures, has placed additional responsibility on the department and the Minister of Community Services. This has placed pressure on the policy team at Community Services, which has been challenged to support all departments seeking policy review and Ministerial Orders under CEMA; to liaise with the office of the Chief Medical Officer of Health and Health and Social Services to inform recommendations on orders and the State of Emergency; and to conduct monthly reviews of all orders up to December 2020 (now done by ECO).
- The focus on the pandemic response has shifted departmental staff and resources from regular business and the potential to make progress on mandate items. Staff have focused on the pandemic response while delivering on departmental strategic objectives, at the cost of long hours, weekend work, inability to take breaks and burnout. The department has been flexible to support and meet needs of its dedicated team, but is hindered in ability to add more supports without incurring further costs.

### **Community Development**

- The pandemic has added complexity to how we work, such as infrastructure development in communities. For example:

- travel restrictions and self-isolation requirements delayed infrastructure and land development work that required outside expertise. The impacts are on budget and timelines for community projects.
- the uncertainty of being able to work in the communities at the beginning of the pandemic caused us to focus on more capital efforts in Whitehorse.
- travel restrictions, self-isolation requirements and Health Protection Orders affected sport and recreation programs. For example, delays to repairs to and staffing of swimming pools.
- The inter-branch and inter-departmental coordination around COVID-19 and CEMA implementation helped us understand the work of other departments in the communities. There were many benefits of work done by Community Affairs and Aboriginal Relations to establish regular feedback loops and opportunities for Yukon government, communities, First Nations, and municipalities to be informed, collaborate and ask questions.

### **Communications**

- CEMA enables quick response and nimbleness. Processes and routing to respond to requests and stakeholder needs are shorter and faster, enabling us to communicate quickly and effectively.
- Communications staff were deployed to assist the Emergency Coordination Centre and worked closely with the Health Response team and corporately to support all aspects of the response. This is similar to the process for any emergency to provide good, timely and accessible information to the public and targeted audiences such as media, the business community, tenants, and societies.

### **Protective Services**

- The Emergency Coordination Centre is staffed by Emergency Measures Organization and individuals from across government with incident command training. This approach provides resources to the Emergency Coordination Centre; however, it is challenging to maintain core business in other parts of the department and government while key staff are assigned to the incident command roles. Emergency Measures Organization's ability to ensure preparedness to respond to a concurrent emergency, such as a flood or fire, further challenges this small branch tasked with ensuring whole-of-government coordination. Progress on proactive emergency planning is hindered by a shift in priorities necessitated by the pandemic.
- Emergency Medical Services (EMS) responded quickly with its pandemic plan and protocols, including additional personal protective equipment (PPE) and equipment. CEMA did not have a direct impact on EMS operations; however, additional precautions are necessary to ensure and maintain public health and safety, which has an impact on budget and staffing.
  - New expenses include an additional fogger to sterilize ambulances, medevac planes and the EMS stations for \$100,000; and an additional truck to respond to calls while the first truck is out of service for COVID cleaning.
  - EMS volunteered staffing resources at the drive-through COVID-19 testing station, which added to their duties.

- The Fire Marshal's Office adjusted training requirements in communities so that they could occur by Zoom and virtual sessions.
- Progress is delayed on community-based wildfire protection plans due to following the recommendation to limit travel to communities and because many Wildland Fire Management staff are redeployed to Emergency Coordination Centre operations, the vaccine roll out and border operations.
- The Building Safety and Standards office changed how to conduct inspections in order to limit contact.

### **Finance and Human Resources**

- CEMA is not clear on the re-assignment of employees from substantive roles to emergency response support. This caused labour relations concerns and challenges under the Collective Agreement when hours of work differed from "accustomed" employment. It is a challenge to find employees for long-term response-related assignments, for reasons including long hours, the home branch requirements, and time away from regular duties.
- The Human Resource Management Team, with representatives from all departments, responded to the resource needs by finding qualified people to fill key emergency response roles.
- CEMA does not override the *Financial Administration Act*. Regular decision-making processes are required for response. This has not been a hindrance, but there is a risk of departments going over budget, given unforeseen costs.
- Time and resources were impacted and shifted in finance, systems and records to respond to the increase in access-to-information requests, privacy and information collection methods, storage/destruction and sharing agreements between levels of government under CEMA.

---

## **2. Have ministerial orders relating to the Department of Community Services been used under Yukon's *Civil Emergency Measures Act*, and if so, how?**

Yes, CS used the following CEMA Ministerial Orders:

- Amendment of Government Contract Provisions (Repealed September 9, 2020)
- Border Control Measures (repealed June 30, 2020)
- Declaration of State of Emergency
- Enforcement (COVID19) Order
- Exemption to Self-Isolation Requirements (repealed November 20, 2020)
- Health Protection Order
- Leases, Approvals and Regulatory Timelines
- Leave (COVID-19) Regulation
- Masks in Indoor Public Spaces
- Medical Practitioners Provisional Licencing
- Pharmacists Authorization

- Property Tax Relief (Repealed September 9, 2020)
- Rent Deferral (*Residential Landlord and Tenant Act*)
- Telephone and Electronic Meetings
- Virtual Commissioning, Signing and Witnessing (Repealed September 9, 2020)

The following Ministerial Authorizations were made pursuant to the *Civil Emergency Measures Health Protection (COVID-19) Order* sections (s. 9.1(1)) and (s. 9.1(2)(a)) to enable businesses to open and gatherings to occur while following public health guidelines and in consultation with the Chief Medical Officer of Health:

- Restaurants to offer dine-in service
- Personal services establishments permitted to operate
- Urgent dental care and orthodontic treatment permitted
- Resume Non-Emergency Dental Practice
- Outdoor gatherings of up to 50 people permitted
- Re-opening of bars
- Permit gatherings up to 100 people outdoors and 50 indoors with organized seating

The following Ministerial Directives were made pursuant to the *Civil Emergency Measures Health Protection (COVID-19) Order* sections (s. 4.1(1)(b)) and in consultation with the Chief Medical Officer of Health:

- to enable a travel bubble with British Columbia, the Northwest Territories, and Nunavut
- to revoke the travel bubble with British Columbia, the Northwest Territories, and Nunavut

Pursuant to *Civil Emergency Measures Leases, Approvals and Regulatory Timelines (COVID-19)* Ministerial Order 2020/24, the following Deputy Minister Directions were made:

- *Business Corporations Act* extension of statutory timelines
- *Cooperative Associations Act* extension of statutory timelines
- *Partnership and Business Names Act* extension of statutory timelines
- *Societies Act* change of statutory timelines

For further detail, please see attached a summary of Ministerial Orders.

---

**3. Are there any aspects of the current legislation that may have prevented the Department of Community Services from reacting as it would have liked during an emergency?**

- Nothing has been identified at this point. The department has not had time to conduct a review given we are in midst of the response.

---

**4. From the Department of Community Services' perspective, are there gaps in the legislation?**

- Consideration might be given to whether the entire statute should be assigned to one department (i.e., Community Services), or shared between ministries/corporately.
- The enforcement of orders under CEMA is not addressed, nor is how Yukon government can operationalize enforcement. The fine structure for CEMA offences is inadequate as a deterrent for some situations.

- Community Services' staff is not trained or equipped for an enforcement role. The issue of who should enforce emergency legislation should be part of any review.

- Public Health and Safety Act

At the beginning of the pandemic, it became apparent that there are limitations on how Yukon's *Public Health and Safety Act* could be used to respond.

Yukon's *Public Health and Safety Act* is intended to deal with public health emergencies, specifically communicable diseases, including pandemics. Under the Act, the Chief Medical Officer of Health has a broad mandate to:

- prevent disease;
- promote health;
- prevent transmission of a communicable disease;
- undertake public health surveillance; and
- perform other such duties and functions as are assigned by the Minister of Health and Social Services.

While the Chief Medical Officer of Health is empowered to respond to public health emergencies, given this mandate, he has a specific and limited list of powers, none of which are sufficient to enable the needed public health measures on a territorial – versus individual – scale. This is evident in Yukon's reliance on the *Civil Emergency Measures Act* authority to respond to the pandemic.

As written, the *Public Health and Safety Act* does not enable the Chief Medical Officer of Health to make orders or to enact a territory-wide response to a pandemic. The *Public Health and Safety Act* also has no paramountcy provisions.

Once the pandemic is resolved as much as possible, a review of all relevant statutes should take place, in order that an overall response framework maximizing available resources can be constructed. This should ensure that there is clarity regarding which statutes prevail in case of conflict between them.

- First Nations

CEMA does not contemplate First Nations self-governments, or involvement of non-self-governing First Nation in emergency prevention, planning or response.

- Long-Term Emergencies

CEMA does not contemplate managing long-term emergencies.

- Other Jurisdictions

It is likely that all jurisdictions will be reviewing their emergency legislation after the pandemic reaches some sort of conclusion. Yukon should work in harmony with other jurisdictions so all can benefit from various reviews.

- CEMA does not address “disaster financial assistance” in legislation nor policy. The Yukon government relies on federal programs, which can cause uncertainty as to who will pay. Further work is required to determine whether or not this is a gap in legislation or could be addressed through policy.
- Recommend focus updated legislation on the emergency management principles of:
  - prevention/mitigation;
  - preparedness;
  - response; and

- recovery.
- Greater investment in prevention/mitigation can help prevent disasters or reduce the social, economic, cultural heritage and environmental costs when events do occur.
- The legislation does not address the tension between privacy and the requirement to track people's whereabouts during the pandemic.

**5. Does the Department of Community Services have any suggestions for improvements to Yukon's *Civil Emergency Measures Act*? Please provide details and examples.**

- A later, comprehensive evaluation of Yukon government's pandemic response will identify issues with CEMA and other legislation, as well as issues where the solution is not legislative. At this time, only the gaps identified above are recommended for consideration in the review, and it is understood that other gaps and issues will emerge from the post-pandemic review.
- A review of legislation, best practices, lessons learned, stakeholder engagement and policy work to create an improved legislative framework will require a number of years to complete.
- Care should be taken to ensure that any changes to legislation allow for the proper response to "conventional" emergencies –i.e., quick response to threat.

Ideally, the statute should be in line with the national response to national emergencies. Emergency response planning is taking place at a national level on an ongoing basis.

- Since 2007, federal, provincial and territorial collaboration in emergency management has been guided by an Emergency Management Framework for Canada (EM Framework), last updated in 2017. The EM Framework articulates core concepts that guide the work of emergency management to save lives, protect property and the economy, and preserve the environment. This work is through the four interdependent components of emergency management: prevention/mitigation, preparedness, response and recovery. These components may be undertaken sequentially or concurrently, but they are not independent of each other.
- In 2015, in response to the challenges faced by jurisdictions around the world, the United Nations (UN) developed the Sendai Framework for Disaster Risk Reduction 2015-2030, an internationally acknowledged approach to emergency management disaster risk reduction that creates direct links to UN climate change and sustainable development efforts.

The Sendai Framework has been adopted by 187 countries, including Canada. In October 2018, British Columbia became the first province to adopt it, and is working to incorporate it into the planned update of the *Emergency Programs Act*.

The Sendai Framework marks a shift from focusing on emergency preparedness and response to recognizing that risk identification and mitigation are key to managing hazards and reducing the impact of events. It aims for substantial reduction of disaster risk and losses in lives, livelihoods and health and in the economic, physical, social, cultural and environmental assets of persons, businesses, communities and countries and calls for all of society to share responsibility for reducing disaster risk.

The priorities for action under the Sendai Framework are:

1. Understanding disaster risk;

2. Strengthening disaster risk governance to manage disaster risk;
  3. Investing in disaster risk reduction for resilience; and
  4. Enhancing disaster preparedness for effective response, and to “build back better” in recovery, rehabilitation and reconstruction.
- The Emergency Management Strategy for Canada (EM Strategy) was endorsed by the federal, provincial and territorial ministers responsible for emergency management, including Yukon’s, in 2019. It builds on the foundational principles articulated in the Emergency Management Framework of Canada and the Sendai Framework. The EM Strategy established a collaborative, whole-of-society roadmap to strengthen Canada’s ability to assess risks, prevent/mitigate, prepare for, respond to, and recover from disasters, to strengthen the resilience of Canadian society by 2030.

The priority areas of activity agreed under the EM Strategy are:

1. Enhance whole-of-society collaboration and governance to strengthen resilience;
2. Improve understanding of disaster risks in all sectors of society;
3. Increase focus on whole-of-society disaster prevention and mitigation activities;
4. Enhance disaster response capacity and coordination and foster the development of new capabilities; and
5. Strengthen recovery efforts by “building back better” to minimize the impacts of future disasters.

As do all jurisdictions, Yukon remains vulnerable to many hazards: natural, human-induced and technological. The impacts of these hazards are likely to increase into the foreseeable future as a result of climate change, critical infrastructure interdependence and shifting demographics.

- Climate change is particularly important in northern Canada, where warming is estimated to occur at three times the rate of the global average. This is reflected in the intensity of recent wildfire seasons, increased permafrost degradation and extensive damage from invasive species, such as the spruce beetle.
- More recently, the COVID-19 pandemic has had dramatic effects on Yukon communities, individual health and well-being, the economy, and the natural environment.
- Traditionally, emergency management has been primarily concerned with preparedness and response activities, an emphasis that is reflected in the *Civil Emergency Measures Act*. The current risk environment requires a shift in focus to prevention/mitigation efforts and forward-looking recovery measures.
- Several factors drive the need to modernize our approach to emergency management:
  - Yukon’s geography, geology and climate present diverse and complex hazards such as wildfires, flooding, earthquakes and severe weather events (e.g., ice, snow and windstorms).
  - Driven by climate change, natural disasters are increasing in frequency and severity, making it imperative for governments, businesses, non-profit organizations, citizens and visitors to be prepared and ready.



- Emergencies have devastating impacts – often long-lasting – on citizens, visitors, communities, businesses, and critical infrastructure.
- First Nations communities are disproportionately impacted by emergencies due to their relatively remote locations, lack of access to services, and reliance on natural ecosystems. There are currently no provisions in CEMA to address or empower First Nations emergency management.
- There is no reflection in CEMA of the four interdependent components of emergency management: prevention/mitigation, preparedness, response and recovery. Consequently, preparedness and response are overly emphasized, while there is no focus on prevention/mitigation and recovery.
- Greater investment of staff, funding and attention in prevention/mitigation can help prevent disasters or significantly reduce the social, economic, cultural heritage and environmental costs when events do occur.
- Responding to and recovering from emergency events takes a financial toll on governments, businesses and individuals. There are no provisions in CEMA to address response expenditures, recovery of costs, compensation for loss or disaster financial assistance.
- Forward looking recovery measures will allow the territory and communities to recover from disasters and “build back better” to reduce vulnerability to eventual hazards.

Updating the current legislation (and the *Public Health and Safety Act*) will ensure that Yukon is resilient in the face of disasters and has effective emergency management tools available.

## 6. Other Concerns

- All divisions of the department recognize that any amendments to CEMA must take into account First Nations governments, which should be consulted prior to any changes. There was no method contemplated to coordinate with a First Nation declaration of a state of emergency. There should be opportunities to partner with and give authority to First Nation governments.
- Legislative review should:
  - clearly identify issues;
  - include desired outcomes;
  - set emergency priorities;
  - set desired goals regarding education and sanctions;
  - set up clear chains of authority.
- It will not be possible to thoroughly review CEMA and recommend significant updates on a short timeline. A thorough review and updating can only occur after the pandemic is resolved and in the context of review of other, related legislation.

## 7. Responses to Committee questions from February 8, 2021

1. ***Confirm the membership of the original Executive Committee that was expanded to become the current Deputy Minister Executive Committee.***

The Executive Committee on Pandemic Preparedness comprises Deputy Ministers and, relative to the situational need, those Senior Executives appointed by the Deputy Ministers. The committee may invite other individuals, internal and external to the Yukon government, to participate as appropriate.

Primary membership is:

- 1) Deputy Minister of Community Services (Chair);
- 2) Deputy Minister of Education;
- 3) Deputy Minister of the Executive Council Office;
- 4) Deputy Minister of Health and Social Services;
- 5) Deputy Minister of Highways and Public Works;
- 6) Public Service Commissioner; and
- 7) President of the Yukon Workers' Compensation Health and Safety Board

**2. *DMs to reflect and suggest potential witnesses for public hearings***

- Diarmuid O'Donovan, Director, Emergency Measures Organization
- Damien Burns, past-Director, Wildland Fire Management (conventional emergency context)
- Mark Pindera, past-Director, Legal Services re: short comings of *Public Health and Safety Act* and *Civil Emergency Measures Act*
- Scott Thompson, Deputy Minister, Finance
- Stephen Mills, Deputy Minister, Executive Council Office
- DM Pandemic Sub Committee:
  - o Tiffany Boyd, Chair; Pam Muir, Human Resources Management Team
  - o Kendra Black, Health Emergency Response Team, COVID Response Unit
  - o Jeff Ford and Allan Koprowsky, Co-Chairs, Pandemic Coordination group

**3. *Committee requested additional information regarding communications that YG received expressing concerns about Ministerial Orders and the process for making them.***

CS does not have a record of communication expressing concern. Most feedback was received in the public context, via telephone or in meetings. One letter of concern was received regarding the length of the state of emergency and expressing the need to lift restrictions. In monitoring social media, there is an ongoing commentary both on the desire to keep all restrictions in place as well as those that want to see restrictions lifted. The Yukon government is responding to a statement of claim file in Yukon Supreme Court with respect to the constitutionality of the state of emergency.

Ministerial Orders and Authorizations went through the same Cabinet committee process as for all regulations, but at a faster pace. Ministerial Orders are regulations under CEMA. The minister signed orders on direction of Cabinet.

**4. *Confirm legislative instrument used to respond to floods in 2011?***

Community Services confirms that there was no state of emergency during the response to the 2011 floods. There are no records regarding which federal or territorial authorizations were sought or granted. An Incident Management Team was activated in Mayo, and the departments

of Community Services, Environment, Highways and Public Works, Energy, Mines and Resources, and Health and Social Services worked together to address the situation.

The Emergency Coordination Centre can be and is active with no state of emergency. The Emergency Measures Organization coordinated equipment and resources to prepare for winter flooding in Mayo. The Yukon government worked closely with Yukon Energy Corporation and the local governments to minimize impacts to the community.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matt King', with a long horizontal flourish extending to the right.

Matt King  
Deputy Minister of Community Services