

6 key principles to guide the Victorian Government's response to COVID-19

The Victorian Government has a responsibility to uphold human rights and apply the Charter of Human Rights and Responsibilities even during the COVID 19 pandemic. In fact, human rights have never been as important as they are now, when the government must act rapidly to protect our right to life and health.

To protect these rights, COVID-19 emergency laws and decisions may need to restrict other individual rights such as our right to freedom of movement, freedom of association and right to privacy. Government decision-makers have a responsibility to make sure that any limitation of a human right is necessary, proportionate, and time-bound. Limiting rights under these extraordinary circumstances carries particular responsibilities – the government should ensure additional safeguards are in place for transparency and accountability, and provide support for impacted people.

Here are six principles that should guide the government's response.

1 Necessary and proportionate

- Limiting people's rights is only permitted if there is an important and legitimate purpose, such as protecting people during the COVID-19 pandemic. Only government actions that are necessary and proportionate to achieve that purpose will be justified under the Charter.
- Government decision-makers must have evidence to justify any action that limits a person's human rights under the Charter.

2 Time-bound

- Any measures that restrict human rights should only remain in place for as long as they are necessary. Actions that limit rights should be regularly reviewed to ensure they remain justified and should be removed once the need has passed.
- Emergency laws for COVID-19 must provide clear time frames for when changes are no longer needed, and decision-makers should continue to assess whether a restrictive practice continues to be justified, necessary and proportionate.

3 Lawful

- During this period, human rights under the Charter have not been suspended by the Victorian Parliament. This means all rights in the Charter continue to apply to decisions and actions of all public authorities in Victoria. Importantly, there is no extra allowance for discrimination during the pandemic, and all restrictions must uphold the Charter right to non-discrimination and the Equal Opportunity Act.

4 Transparent

- The government should provide accessible, timely, clear and comprehensive information about any measures that limit human rights in a way that the public can understand, including people with disability and people from linguistically diverse backgrounds.
- The information should include the medical evidence or public health modelling underpinning the decision and the justification given.
- The reasons and justification should be recorded and publicly available.

5 Scrutinised

- Supervision and scrutiny of the government's response to COVID-19, including legislative measures and the exercise of new powers, is key to upholding democracy and the rule of law during this public health crisis.
- The Charter requires the Scrutiny of Acts and Regulations Committee (SARC) to prepare a report on any Bill introduced into parliament, which must consider whether the Bill is compatible with human rights. SARC should scrutinise any COVID-19 emergency legislation and regulations.
- Individuals should have information about their rights, how to report concerns or issues they have with any restrictions and how to access any appeal or review pathways.

6 Building in additional safeguards and supports

- Wherever possible, preventative safeguards must be built into any action that limits people's rights to minimise the limitation on human rights, prevent abuse of any new powers and protect vulnerable people.
- In particular, people who are detained will require additional psychological support and meaningful human contact while they are in protective isolation.

