

Frequently Asked Questions Masking and Mandatory Vaccinations

October 18, 2021

What is the role of the PEI Human Rights Commission?

The PEI Human Rights Commission enforces the anti-discriminatory provisions of the PEI *Human Rights Act*.

Alleged violations of the *Canadian Charter of Rights and Freedoms* are addressed through the court system, not by the Human Rights Commission.

If someone alleges that their rights have been violated, the Commission can only take action to investigate a complaint if the allegations are related to one of the grounds set out under the PEI *Human Rights Act*.

In relation to COVID-19 restrictions, the potential grounds for a complaint relate to disability or religion; however, in both cases the potential for a complaint to proceed is quite limited.

Is there protection under the *Human Rights Act* for people who choose not to wear a mask or get a vaccination as a matter of personal preference?

No, there is not.

The *Act* **does not** provide protection to individuals who choose not to wear a mask or be vaccinated as a matter of personal preference.

If I have a disability, can I refuse to wear a mask or get a vaccination?

Not always. You must be able to establish, through independent medical evidence, that your disability prevents you from wearing a mask or getting a vaccine.

Vaccination: The Chief Public Health Office is issuing a Medical Letter of Exemption to those who qualify. This would be the best evidence of your inability to receive a vaccine.

Masking: Medical evidence supporting your inability to wear a mask as well as information about the basis on which the medical service provider arrived at their opinion regarding whether you need an exemption is required during the complaint process. This may mean that we will need to speak directly to the medical service provider.

If there is a religious reason for me not wearing a mask or getting a vaccine, how would I show that?

The Commission is unaware of any religious grounds that would prevent a person from wearing a mask.

Many religious leaders have indicated that there are no religious grounds for not getting a vaccination. If you are claiming an exemption on this ground, you would need to establish that your religion requires you not to get a vaccination.

If I am unable to wear a mask or get a vaccine due to a disability or religious belief, can I always insist on entering a public space without a mask or without being vaccinated?

No. The government has ordered certain provincial government institutions, businesses, and organizations to comply with certain rules regarding mask wearing, being vaccinated to enter, and providing proof of vaccination. Businesses and organizations that are directed to deny entry to individuals who do not show proof of vaccination will most likely be able to defend themselves against a complaint based on their obligation to follow the regulations they are required to comply with.

Businesses and organizations which are not required to deny entry, but who have decided to implement the policy, should ensure they have considered options for people who do have a valid exemption that is supported by evidence. In some cases that may mean allowing you entry but in other cases it may not. For example, if there is a realistic risk of putting other staff or customers at risk it may not be possible to allow you entry. In that case, the business or organization should explore what reasonable alternative can be arranged.

What might a reasonable alternative be?

This may need to be determined on a case-by-case basis; however, reasonable accommodations may include:

- Access to online or curbside shopping services.
- Setting up a certain time for shoppers who can not wear a mask so that additional cleaning protocols can be put in place.
- Providing an alternative to vaccinations such as frequent testing, mask wearing, or other precautions.

Is COVID-19 testing a reasonable alternative to vaccine requirements?

In most cases, **yes.** Organizations and businesses might put COVID-19 testing in place as an alternative to mandatory vaccinations or as an option for accommodating people who are unable to receive a vaccine because of a disability or religious belief. In these situations, organizations and businesses may need to cover the costs of COVID-19 testing as part of the duty to accommodate. Businesses and organizations are not required to accommodate people who choose not to be vaccinated based on personal choice. The obligation to accommodate only arises when the reason the person can't be vaccinated is based on a ground under the *Human Rights Act*.

If you have further questions about your situation, you may call to discuss your situation with Commission staff; however, please remember **that the role of the Commission is limited to the mandate set out in the PEI *Human Rights Act* and we do not have the authority to challenge government decisions unless those decisions are related to a ground covered by the *Act*.**

Additional information regarding the [areas and grounds](#) covered by the Human Rights Commission, as well as the [Duty to Accommodate to the Point of Undue Hardship](#) can be found on our [website](#).

Please treat each other and the staff at the Commission with respect.

Human Rights: Everyone's Responsibility

The Commission develops Fact Sheets to provide the public with a basic understanding of issues arising under the *Human Rights Act*. Each situation is unique. This is not legal advice. If you have any questions, feel free to contact the Commission.