

To update you on the Assistance to Shelter Act, the Agenda and Priority Committee decided to put the legislation forward as an 'exposure bill', which means it will be tabled in the Legislature and then used to get comments from police, shelter providers and other stakeholders. We are now working with a drafter at the AG toward a Sept. 10 deadline to have a completed draft bill. We met with her yesterday and there are a lot of policy issues we need to resolve before she can start drafting parts of the bill.

I have a list of questions I need to talk to you about. Can we schedule an hour for a phone call ASAP to talk about them once you've looked at them? I have a meeting between 1:30 and 3:00 this afternoon but otherwise I'm free today and tomorrow.

1. We're using the declaration of an extreme weather alert as a trigger for a police officer to be able to take someone to a shelter. We need to work out what the wording would be, so I need to get some details about how it works in various parts of the province, such as, do we refer to an individual who is responsible for declaring the alert, is it sometimes an organization or a committee?
2. We need a second trigger for cases when the weather conditions exist for declaring an alert but there are sufficient shelter spaces available, so an alert is not declared. In this case the legislation would require the person to declare that the extreme weather conditions exist and inform the police. I know this creates a new duty not related to the opening of shelter beds, so I need to talk to you about what implications this would have and how it could work.
3. We need to create a default definition for areas without extreme weather response plans. My thoughts about doing this were to look at as many existing plans as possible and work with you to develop something that might work across the province. I don't know if we'll need the default definition by Sept. 10; I'll check and let you know.
4. Regarding the liability of shelter providers (item 10 in the 3-column document attached), the question arose about how shelters deal with liabilities now and it was questioned whether they would need special immunity for this act. Also a question of how to refer to shelter providers in the act – are they all non-profit societies?

<<APP C- 3 Column 09 08 18.doc>>

5. Privacy/information sharing issues (item 8 in the document) – The legislation will have to specify what personal information items about the person being taken to the shelter may be shared, the purpose for sharing

Michael, we're working with our legislative drafter for the assistance to shelter legislation. We need your help with some questions that have arisen to move the draft legislation and supporting documentation forward:

1. When we discussed the difference between an extreme weather alert to open new shelter beds and one to activate the shelter legislation, you suggested using the term 'alert' for the legislation and 'response' for opening new beds. Could you get approval for the term for the act as soon as possible so our drafter can put it in the legislation?

2. We have been advised we need to add a clause stating what happens if the person designated to activate extreme weather alerts under the Extreme Weather Response Plan is absent or incapacitated. Is there already a system in place to ensure that there's always someone there to activate a response?

3. The drafter is suggesting the term 'program participant' to refer to the entities that file Extreme Weather Response Plans. Does that work? The draft definition is below and we still need a term or list of terms that we can replace the square brackets with – committees, etc.?

"program participant" means [a community] that participates in BC Housing's emergency shelter program and has filed a current Extreme Weather Response Plan with BC Housing

4. For the Privacy Impact Assessment, we're saying that the personal information that the shelters will be collecting on people subject to the act will be the same as that collected from clients now. Can you tell me what information the shelters are collecting now?

Some other points that we don't need immediate action on but want to make sure you're going to be OK with:

5. The legislation will refer to the geographical area covered by an EWR plan. In order to make this operational, the EWRs will have to specifically refer to the municipalities that they cover.

6. The legislation will require the person responsible for declaring an extreme weather alert to advise police forces in the area covered by the EWR plan and an administrative official (yet to be determined) who will be empowered to issue an order to an individual to go to a shelter. The person will also have to inform these parties when the alert is ended.

ATTACHMENT 2
PROPOSED ASSISTING TO SHELTER ACT
MAJOR ISSUES

1. Requiring people to go to a shelter against their will may make the legislation vulnerable to a Charter challenge. A legal opinion on this issue is pending.
2. The police officer would have to be satisfied that the person is at risk of harm by staying outside. Criteria to guide this assessment need to be determined and included in the legislation or regulations.
3. There is a need to establish a point at which the duty of the police officer ends. If an officer 'apprehends' a person and it turns out that (1) no shelter space is available, (2) a shelter refuses to accept a person, or (3) a person refuses to stay in the shelter, the officer remains responsible for that person. The officer would be liable for anything that happened to them if they left them outside; putting them in a cell against their will would violate their Charter rights; and the officer cannot continue to keep the person with him/her while attending to other duties.
4. The appropriate use of force options will have to be determined.
5. The legislation cannot be applied equally across the province, but only in communities that have emergency shelters. This may have constitutional implications.
6. The method of determining the weather conditions under which an officer can apprehend an individual and the responsibility for declaring when those conditions are in effect in a community need to be worked out within the context of the existing extreme weather protocols.
7. The legislation will have to clearly articulate that the legislation does not substitute for existing protocols for persons who may be subject to the Mental Health Act or who are committing an offence.
8. There is a duty to consult with local governments if there is an extra cost of enforcement imposed by the legislation.
9. Parties involved in the intervention with the individual (police forces, shelter providers, outreach workers, etc.) may need to share personal information about a person in order to meet their organizations' needs and provide the right kind of services to the person. A legal opinion has been requested on how this can be done within the provisions of the *Freedom of Information and Protection of Privacy Act*.

Proposed process to assist persons to shelter

1. A declaration is made that extreme weather conditions exist in a local area, as specified in Extreme Weather Response Plans for that area that have been developed in accordance with BC Housing protocol (or in accordance with regulation if there is no plan in place for that area). Police forces and administrative officials are notified.
2. Outreach workers provide a written notice to people who are apparently without shelter indicating that an extreme weather declaration has been made, provide information on shelter availability and encourage them to go to a shelter or other accommodation they may have access to. The worker will also advise that police officers have the authority to take them to a shelter.
3. A police officer engages with a person who has received a notice, or gives them a notice if they have not already received one. The officer encourages them to voluntarily find shelter and advises them that the officer can request an administrative order that would give them the authority to transport the individual to a shelter involuntarily. The person either seeks shelter or refuses.
4. If the person refuses, the police officer contacts an official (to be determined) by telephone who issues an administrative order which the officer would then enforce. The administrative order would name the person and order that they accompany the officer to an emergency shelter. This process enables the police officer to use force.
5. The officer takes the person to a shelter. If the person is not accommodated at the shelter, alternate accommodation may be found. As a last resort, and in order for the police officer to discharge their legal responsibility, the individual may be taken to police cells, either voluntarily or involuntarily, where they will be held until the extreme weather declaration is no longer in effect.