

Guidance Note for the Developmental Services Sector
Reopening Day Services
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Purpose of this Guidance Note

This document has been developed by the Sector Pandemic Planning Initiative (SPPI) and Developmental Services (DS) sector stakeholder agencies to support DS agencies in planning and assessing the reopening of day services against legislative requirements, recommended best practices and anticipated risks and challenges.

This document also recognizes that there may be opportunities for agencies to review models of day services that better align with the Ministry of Children, Community and Social Services *Journey to Belonging: Choice and Inclusion* long-term vision of inclusion and is therefore not intended as an endorsement for reopening based on any models of support.

This guidance note recognizes that outbreaks of COVID-19 will continue to be a reality that organizations must face. And, over time, other directives and guidance documents may be forthcoming that will evolve the opening strategies for services in the DS sector.

Acknowledgments

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Considerations

The health and safety of people receiving services is a top concern amid the global COVID-19 pandemic. Under the Occupational Health and Safety Act (OHSA), employers have the responsibility to protect their employees. Planning for reopening must be undertaken jointly with an organization's Joint Occupational Health and Safety Committee and, if applicable, unions.

The COVID-19 threat will remain in the environment and represent a significant health threat until effective treatments for both COVID-19 and variants of concern are broadly and readily available or the population at large acquires protective immunity. Legal requirements for Vaccination Policies imposed on Long Term Care Homes speak to best practices for DS sector agencies. Now that vaccines are widely available and given the prevalence of new and more dangerous variants in the community, agencies should be documenting in policy in what circumstances vaccination will be a condition of participation in programming (whether as a person supported or as a staff) and what types of alternative measures will be implemented for unvaccinated people.

Reopening will also be dependent on the participants all being COVID-19 negative. Families will need to be prepared for potential repeated closures of programs pending a positive case of COVID-19. Families should be encouraged to have alternative plans should an emergency shut down be required. Service agreements may need to be re-written to include language regarding potential service disruptions related to COVID-19. Over this time, DS agencies are putting an increased focus on health and safety in order to protect the health and safety of people supported and to keep facilities operational and safe.

The Public Services Health and Safety Association has previously released [Guidance for the operation of group homes during the pandemic](#). While this guidance does not specifically address day services, the matters covered in this document nonetheless include key considerations for day services and is instructive. These guidelines highlight staffing, programming, and space planning, needed before the reopening of community and social services. Adjustment to operations will be needed by agencies to ensure that alignment to the Ontario Public Health guidelines are achieved to protect the health and safety of participants.

The province is permitting Ontario's businesses and organizations to reopen in stages. There is a risk of increased transmission or outbreaks as restrictions are eased and more people re-enter public space, impacting DS agency participants, staff, and space.

All measures taken to prevent the spread of COVID-19 should be done in compliance with requirements under the OHSA and its regulations and the applicable public health directives issued by the Chief Medical Officer of Health and the Ministry of Health.

In addition to the province's recommended considerations prior to reopening, additional considerations may be relevant, such as having a well-established relationship with Public Health.

Suggested Process for Reopening Day Services

Consistent with the government's response to reopening the province (<https://www.ontario.ca/page/COVID-19-action-plan-protecting-vulnerable-ontarians>), it is recommended that service agencies proceed slowly and in phases. In reopening, health and safety will be ensured by adherence to Public Health guidelines.

The developmental services sector supports one of the most vulnerable populations of people. As such, it is prudent to exercise caution and look to other sectors, such as daycares and schools and other congregated care settings where social distancing is not always possible, when considering levels of risk due to exposure to COVID-19 and ability of people supported to understand and adhere to safety measures.

Before reopening, agencies may also want to look at insurer considerations and potential risk.

Re Opening in Phases

A. PLANNING AND PREPARATION PHASE

Initial Planning

Initially, the operator of the day program must consider when they can legally reopen based on government orders and restrictions. Once this is determined, agencies will need to consider how to do so safely in environments where COVID-19 is an ongoing reality.

From there, a hazard assessment for COVID-19 transmission in the day program space should be undertaken. Agencies should keep in mind they may have a duty to consult with joint health and safety committees and/or health and safety representatives and seek input from employees on where potential transmission may occur and how they think COVID-19 transmission can be controlled. When identifying hazards and developing measures to control exposure, it is recommended that agencies conduct a walk-through of the day program space to identify specific conditions or tasks that may increase the risk of exposure to COVID-19.

As a part of planning, organizations may want to consider adopting specific benchmarks to help them determine when reopening is feasible. For example, benchmarks may include things like groups of 25 or less people being allowed to congregate, and relaxation of visitor restrictions. With regard to daycare/schools, it is suggested that developmental services refer to guidance which has been issued for daycares to inform their decision making <https://www.ontario.ca/page/covid-19-reopening-child-care-centres>.

Each day service should consider identifying a lead person to be responsible for infection prevention and control (IPAC) practices within the setting. This individual should take the lead in educating other staff, day program participants and families about IPAC practices, developing or reviewing policies and procedures, and should be involved in any outbreak management activities.

The province released [COVID-19 Resources for Congregate Living Settings](#) which recommends that social community services and group homes staffing, programming and space planning be conducted to accommodate:

- Increased numbers of duties for staff (e.g., cleaning, supervision for symptoms, etc.).
- Limitations on space use (e.g., limit the number of staff and people supported per room, shifting of seating needed to ensure social distancing, limit access to kitchen spaces, create a devoted as-needed self-isolation space, etc.).
- Avoiding paper-touching or paper-focused activities.
- Increased resources/equipment (e.g., access to masks for use at all times, access to individual phones for staff who previously would have shared use of a phone, etc.).
- Creation of new policies, procedures, and trainings for staff.

Beyond the province's guidelines, other planning may include:

- Updating service agreements to include language regarding the potential impact of COVID-19 on program operations.
- Allowing only a minimum number of staff and people supported to return in Step 1.
- Developing sign-in and sign-out procedures that can be used for contact tracing as needed.
- Assigning staff to dedicated work areas and one work location as much as possible.
- Providing day activity staff with proper training on donning and doffing all Personal Protective Equipment before any participants return to service. This training must be monitored once put into practice.
- De-cluttering service areas so that there are fewer surfaces requiring cleaning and sanitization.
- Determining the hours of operations. For example, will a day program start with operating 4 hours/day and increase to 6-8 hours/day?

Determining how to:

- Stagger arrivals and departures of people who are participating in the program.
- Limit entrance and exit points. Consider whether emergency evacuation plans need to be updated to address changes to access points.
- Rearrange workspaces and floor plans, including increased separation between desks, workstations, and furniture or fixtures in common spaces such as lunchrooms, meeting rooms, waiting areas, and washrooms.
 - Examples include limiting number of staff and people supported in the washroom at any given time and removing chairs in common spaces to ensure adequate physical distance.
- Address unvaccinated staff and people supported who wish to participate in the program. This will involve a review of service agreements for people supported, as well as collective agreements, contracts, and policies for staff.

- Control access to elevators and areas within the day program space, including updating key cards to limit access and limiting the number of people who may ride the elevator at any one time. Post signage (e.g., only 2 people in elevator at one time).
- Adjust scheduling, such as start/end times and breaks to reduce the number of staff and people supported using common spaces (such as break rooms and/or lunchrooms, washrooms, etc.) and elevators at the same time.
- Implement signage to ensure distance is maintained, for example using taped arrows to indicate “one way” traffic in hallways, taping off waiting areas to prevent bottlenecks in small spaces like washrooms, taping off areas around workstations, appliances, machines, photocopiers etc. to indicate appropriate 2-meter spacing.
- Discourage or cancel non-essential activities, social events and in-person meetings.
- Stagger appointments and meetings with families or other meeting attendees.
- Install physical barriers between workers or between workers and third parties (e.g., at point of screening).
- Remove all communal items that cannot be easily cleaned (such as newspapers, magazines, candy bowls).
- Reduce or eliminate the sharing of tools and equipment (such as computers, pens, office supplies), or, if sharing is required, providing solutions for staff to disinfect tools and equipment between uses.
- Put hand hygiene stations/hand sanitizer dispensers in prominent places around the workplace, ensuring these dispensers are regularly refilled, and placing informational posters/signage throughout workplace (e.g., regarding hand washing, physical distancing, etc.).

Additionally:

- Developing procedures for regularly scheduled enhanced cleaning and disinfecting of the day program space, particularly for high-contact items such as doors, handles, faucet handles, keyboards, and shared equipment.
- Cleaning and disinfecting washrooms after every use. Please refer to the Public Health guidelines for cleaning.
- Evaluating the day program environment to determine whether ventilation and filtration is provided by heating, ventilating and air conditioning systems.
- Developing policies and procedures to prevent staff, people supported or visitors from attending the day program if they are symptomatic or suspect they have come into contact with someone diagnosed with COVID-19, or for such other reasons as may be a basis for exclusion based on guidance from Public Health.
- Developing other policies and procedures related to:
 - Limiting non-essential travel to other work locations or sites.
 - Ensuring all employees are trained on all COVID-19 policies and procedures, including up-to-date education and training on COVID-19 risk factors and protective behaviours.

- Retaining the names and contact details for stakeholders attending the worksite to assist Public Health authorities to trace people who may have been exposed to COVID-19 in the workplace.
- Essential visitors who may attend the day program site.
- Notification to parents/guardians and other service providers if a person begins to show symptoms of COVID-19 while at the day program, including the immediate need for isolation and pick up.
- Checking with vendors, suppliers, and landlords, as needed, on measures they have implemented to manage COVID-19 related risks.
- Updating program plans to incorporate more individual activities – or activities that encourage more space between people.
- Opening outdoor spaces, if optional, to allow for a greater number of people to attend.
- Ensuring the day program space is equipped with an appropriate, designated space (separate room) for a person who may need to self-isolate or isolate away from others and at least have enough room in congregate spaces to create physical distancing with good air flow. Identify a dedicated bathroom for the unwell person to use, if possible.
- Updating/Increasing cleaning tools to ensure disinfectants that have a Drug Identification Number (DIN) are in place.
- Checking to ensure each space/area within the day program is set up properly.
 - For example, determining the location where PPE will be donned and doffed by staff. Ensure appropriate signage with instructions is visible. Determine location of uncovered (if feasible/safe) garbage disposal.

Other Programming Considerations

- Organizations may want to consider the number of people who may be served in a program space and be supported to physically distance (for example, will the program need to operate at 50-60% less capacity given requirements of physical distancing and their space capacity?).
- What impact will implementing full Infection Prevention and Control measures have on employee time? (For example, how much time will staff need to clean? Will this occupy 30%-50% of their time? What impact does this have on the quality and type of programming being offered?).

Prioritizing participants for returning to day services.

Some considerations may include:

- People who reside with family. In this case, each family will be requested to declare their home has been COVID-19 free for the past 14 days as part of the daily screening process. Consideration must be given to families based on individual circumstances. Individualized approaches may need to be adopted.
- People who reside with other agencies. Participants from other service agencies may be encouraged to remain with their current residential service provider until the pandemic is declared to be over.

- Transportation methods for each participant. If traveling to day activities by paid transportation (Wheel Trans, taxi, private driver), the safety and cleaning protocols must be adequate and known so day support staff can be confident the participants are safe. If possible, minimize the use of transportation providers accessing the service.
- The vaccination status of people and their family members with whom they reside.

Additional considerations may include determining which individuals present the least to greatest risk for transmission of COVID-19:

Lower Risk: Might include people who can follow PPE protocols, can socially distance, are fully mobile, do not have behavioural challenges, are fully vaccinated.

Higher Risk: Might include people who will not tolerate a mask, have difficulty/cannot socially distance, have mobility or behavioural challenges that may require physical intervention from staff, are unvaccinated and unwilling or unable to vaccinate.

Please refer to “*Ethics of Limiting Access to Day Programs*” at the end of this document for more information on prioritizing participants for returning to day services.

Establish Screening Procedures:

These may include:

1. Limiting contact and entry of non-essential visitors.
2. Pick-ups and drop offs to occur outside of the day service setting unless there is a need for the accompanying person to enter the setting. Upon successful screening, the staff and/or participant should receive a mask to wear while at the day program.
3. If possible, virtual screening practices are preferred.
4. Posting up-to-date signage at entry points, such as any symptom or screening guidelines.
5. Screening, upon arrival, for all individuals, including parents/guardians and other service providers. Primary screening should ideally be behind a Plexiglas or similar type barrier, or if not available:
 - a. while a 2-meter (6 feet) distance is maintained
 - i. or if not possible, using droplet/contact precautions (eye protection, mask, gloves, and gown)
6. Alternative daily screening procedures may need to be developed dependent on the manner of transportation and residential situation of the person supported. Telephone screening prior to arrival may also be a feasible option. Deny entry to any person who does not meet the screening criteria. Non-essential visitors will not require entry.

Establish Procedures for the Management of Persons with Possible COVID-19:

These may include:

1. Monitoring participants for signs of illness upon arrival to the day program and at the end of the day, prior to leaving.
2. Not permitting people who are ill to enter/attend the day program.
3. If a person begins to experience symptoms of COVID-19 and/or if the person's behaviour changes unexpectedly, especially if they develop fever, cough or shortness of breath while attending the day program, it is recommended that:
 - Symptomatic individuals are immediately separated from others in a supervised area until they can return home. The individual is encouraged to wear a mask. Anyone who is providing care to the individual must be in full PPE or maintain a distance of 2 meters. Hygiene and respiratory etiquette, such as sneezing into a tissue or elbow, must be practiced while the person is waiting to be picked up. Tissues should be provided for the person for proper respiratory etiquette, with proper disposal of the tissues and proper hand hygiene.
 - Environmental cleaning of the space the person was isolated in once the person has been picked up.
 - Contact the local Public Health unit to notify them of a potential case and seek input regarding the information that should be shared with other individuals, families, and service providers.
 - Individuals who have been exposed to a confirmed case of COVID-19 or symptomatic person(s) should be excluded from the day supports for 14 days.
 - Arrange for the person who is ill to be picked up.
 - Support the person to be tested for COVID-19.
4. Instruct staff who have symptoms or think they had unprotected exposure to COVID-19 to notify their supervisor immediately and self-isolate. Support the staff to get tested for COVID-19.
5. Place posters or other signage in high traffic areas:
 - Asking people or essential visitors to stay home if they have symptoms.
 - Encouraging good respiratory hygiene, hand hygiene and other healthy practices at the entrance to the day program and all other areas. Provide hand sanitizer stations at these locations.

Update Procedures re: Occupational Health and Safety:

These may include:

1. Written measures and procedures for day services on worker safety for infection prevention and control.
2. Immunization policy.
3. Instructing staff to stay home if they are sick.

4. Consult with the local Public Health unit and/or health care professional to determine when the staff can return to work.
5. If the staff's illness is determined to be work related:
 - in accordance with the Occupational Health and Safety Act and its regulations, an employer must provide a written notice within four days of being advised that a worker has an occupational illness, including an occupationally-acquired infection, or if a claim has been made to the Workplace Safety and Insurance Board (WSIB) by or on behalf of the worker with respect to an occupational illness, including an occupational infection, to the:
 - a) Ministry of Labour
 - b) Joint health and safety committee (or health and safety representative); and
 - c) the Union, if any.
6. Reporting any instances of occupationally acquired infection to WSIB within 72 hours of receiving notification of said illness.

Learning from this stage will inform when Step 1 of reopening can begin and the number of participants possible.

B. REOPENING OF DAY SERVICES STEP 1

Note: The new reopening model has moved away from Phases towards a 3-STEP model that is closely linked with vaccination rates.

<https://www.ontario.ca/page/reopening-ontario#section-5>

DS Day Services do not clearly fit within any of the classifications of programming that are expressly dealt with.

The Step-based reopening plan speaks to “in-person teaching and instruction”, which may be a fit for some programs. Community centres and multi-purpose facilities are also addressed, and it is indicated that these centres are permitted to be open in Step 1 for social services with restrictions. Gatherings, performing arts, fitness, recreation etc. are also addressed. Social services are currently permitted to be open – whether a day program falls into that category or more properly falls under another classification will depend on the nature of the program. Each Agency should consider the nature of their programs and consider the rules that apply based on “Social Services” status, or other analogous categories.

The considerations below for each “phase” will likely require some adjustment based on the new “Step”-based approach. At each Step, Agencies should be considering recommendations and rules applicable based on the program type. All planning and reopening will occur in coordination with the local Public Health unit and the Ministry of Children, Community and Social Services.

Before reopening measures are implemented, organizations may want to consider if Day Services can be brought to people in their group homes, rather than people going out to access the services. Day programming from a residential location may present less risk than day programming at a communal site. Risk needs to be considered when exploring whether or not to bring people from multiple locations to one communal location.

1. **Provide Information Packages** to people supported and family members. These information packages could include information on Infection Prevention and Control measures, including hand hygiene, wearing masks and physical distancing. This information could be provided in written format and include a discussion before a person resumes their service with the day program.
2. **Effectively communicate the reopening** of Day Services based on the completion of a Planning and Preparation phase to all stakeholder groups.
3. **Confirm interest of individual participants** to return to programming. If they self-select out and wish to wait, it will be good to plan accordingly.
4. Determine the **number of staff** to be on-site and consider if there is a maximum number of staff per area, per room etc.
5. **Notify staff** determined for Step 1 of the return to work/reopening date.
6. **Notify the participants** determined for Step 1 of the reopening date.
7. In advance of the reopening date, **educate and train** participants and their families on any new policies or procedures determined in the Planning and Preparation phase for all participants, e.g., having their own cutlery, access to PPE, etc. Information should also be included that outlines what may occur (e.g., program shut down) if there is a probable or confirmed case of COVID-19.
8. Offer **continued protections** for vulnerable persons and continued practice of physical distancing, hand washing and respiratory hygiene, and significant mitigation plans (see below – Infection Prevention and Control Measures) to limit health risk.

Infection Prevention and Control Measures at Reopening:

- a. Day Services will be required to ensure all current infection prevention and control practices are adhered to, including, but not limited to:
 - Ensuring all sensory tools/objects are made of materials that can be cleaned and disinfected (e.g., no plush items).
 - Increasing the frequency of cleaning and disinfecting of all objects and frequently touched surfaces, including doorknobs, light switches, toilet handles, elevator buttons, electronics, and tabletops a minimum of 2X daily.
 - Undertaking hand hygiene when interacting with high-touch areas.
 - No touching of face with gloved hands. Take care when removing gloves. Ensure you wash your hands after removing them.
 - Only using disinfectants that have a Drug Identification Number (DIN).

- Performing proper hand hygiene, including assisting people receiving services with proper hand hygiene.
 - Incorporating additional hand hygiene opportunities into the daily schedule.
 - Screening participants and staff 2 times per day for signs and symptoms of COVID-19.
- b.** Maintaining physical distancing of at least 2 meters (6 feet) or more between people. Further, an Agency may require staff to wear a mask when in the program. Compliance is difficult to monitor and slips are more frequent when masking is not required at all times when in the program site and/or supporting people.
- Spreading people out into different areas, taking into consideration the space that is available (e.g., rooms, outside).
 - Staggering, or alternating, lunchtime and outdoor activities.
 - Incorporating more individual activities or activities that encourage more space between people.
 - Using, if possible, physical partitions, visual cues, change in activity schedules and signage to limit close contact.
- c.** Promoting good hygiene such as:
- Washing hands often with soap and water when hands are visibly soiled, when using bathroom, before and after any breaks, at the beginning and end of shifts, and before preparing food and after meals.
 - Use alcohol-based sanitizer (with greater than 60% alcohol content) if hand washing is not possible.
 - Using paper towels to dry hands.
 - Sneezing and coughing into a tissue or into sleeve/elbow.
 - Discarding used tissues immediately and washing hands afterward.
 - Avoiding touching eyes, nose, or mouth.
 - Avoiding high touch areas, where possible, or clean hands after. For example, not using community playgrounds.
- d.** Eliminating any unnecessary clutter where multiple surfaces may be present for spread of infection.
- e.** Following prescribed procedures for cleaning, care, and laundry of unwell persons.
- f.** Prohibiting people sharing utensils, cups, dishes, cutlery etc. Label items to discourage accidental sharing. Dishes should be washed using normal practices. If a household dishwasher is used, dishes should be washed on the highest possible temperature setting (e.g. avoid using cold water or energy saving cycles).

- g. Limit the use of any kitchen spaces to one person at a time or ensure social distancing. Ensure to properly disinfect shared spaces after every use, creating a schedule for use of common spaces in a way to maintain physical distancing.
- h. Ensuring each person has their own individual meal and/or snack.
- i. Sharing of personal food is not permitted.
- j. Sharing of magazines/newspapers is not permitted.
- k. Sharing of blankets/pillows, where required, is not permitted.
- l. Removing shared blankets, pillows, seat cushions.
- m. Using uncovered garbage disposals (if feasible/safe). If uncovered garbage disposals are not possible, use a receptacle with a foot pedal for no-contact opening.
- n. Limiting the exchange of papers (e.g., documents). If documents must be exchanged, leave them on a clean surface while maintaining a two-meter distance. Avoid sharing pens and office equipment. Disinfect after each use.
- o. Implementing a system for virtual and/or telephone consultations when/where possible.
- p. Cleaning washrooms after every use.
- q. Ensuring any personal items are labeled with the person's name.
- r. Ensuring each participant brings their own sun protection. Sharing is not permitted.
- s. Singing activities unless physical distancing can be maintained are not permitted.
- t. Planning activities with exposure to animals that involved frequent touching by different participants are not permitted.
- u. Drinking from a fountain is not permitted.

9. **Monitoring and evaluating** the success of Step 1, in order to determine when Step 2 should begin.

The province suggests the following metrics:

- Were the proper hygiene facilities (hand washing equipment) made available and used?
- Were physical distancing measures implemented and maintained?
- Was the (PPE) required to protect staff while doing their job available? Were they appropriately using the PPE?
- Was training on the proper use of PPE provided?
- Did staff know what to do if they had symptoms? Did they follow the recommended protocols?
- Is there awareness of emergency risks in the region and is there knowledge how to prepare for different situations?

Other metrics could include:

- Are guidelines being followed or sufficient for ad-hoc shared use spaces, e.g., washrooms, head office, etc.

- Which program rooms and staff have capacity for more participants?
- Are further guidelines or training needed to enhance safety and success?

It is recommended that all items be successfully achieved before moving on to the next phase of integration.

C. REOPENING OF DAY SERVICES STEP 2

Continue to ensure that all planning and reopening occurs, including updates, in coordination with the local Public Health unit and the Ministry of Children, Community and Social Services.

1. **Monitoring and evaluating** the success of Step 1, in order to determine when Step 2 should begin. The province suggests the following metrics:
 - Were the proper hygiene facilities (hand washing equipment) made available and used?
 - Were physical distancing measures implemented and maintained?
 - Was the (PPE) required to protect staff while doing their job available? Wear they appropriately using the PPE?
 - Was training on the proper use of PPE provided?
 - Did staff know what to do if they had symptoms? Did they follow the recommended protocols?
 - Is there awareness of emergency risks in the region and is there knowledge how to prepare for different situations?
 Other metrics could include:
 - Are guidelines being followed or sufficient for ad-hoc shared use spaces, e.g., washrooms, head office, etc.
 - Which program rooms and staff have capacity for more participants?
 - Are further guidelines or training needed to enhance safety and success?
2. **Opening more spaces**, based on evaluation of effectiveness in Step 1. Effectively communicate with all stakeholders.
3. Allow for some **larger public gatherings** within recommendations from Public Health/Ministry of Health for Developmental Services Sector.
4. Offer **continued protections** for vulnerable persons and continued practice of physical distancing, hand washing and respiratory hygiene, and significant mitigation plans (see Infection Prevention and Control measures above) to limit health risks.

It is recommended that all items be successfully achieved before moving on to the next phase of integration.

D. REOPENING OF DAY SERVICES STEP 3

Continue to ensure that all planning and reopening occurs, including updates, in coordination with the local Public Health unit and the Ministry of Children, Community and Social Services.

1. **Opening all service areas**, based on evaluation of effectiveness in Step 2, if feasible. Effectively communicate with all stakeholders. It should be noted that it may not be feasible for services to resume as they were pre-pandemic, and that service delivery may look very different, based on requirements under COVID-19 (e.g., operating at 50-60% capacity compared to pre-pandemic levels based on space availability). These new realities need to be taken into account when determining what the final program will look like.
2. Allow for **participation in all areas** of services.
3. Offer **continued protections** for vulnerable persons and continued practice of physical distancing, hand washing and respiratory hygiene, and significant mitigation plans (see previous section on Infection Prevention and Control) to limit health risks.
4. **Community re-integration plans** to be developed for each program, including staff and person supported PPE requirements for community participation.

The reopening plans should have flexibility to move backwards and forwards through the phases of integration as the environmental factors necessitate.

Ethics of Limiting Access to Day Programs

The Step 1 reopening of day programs involves a number of protocols and procedures to minimize exposure to, and transmission of, COVID-19. It is, however, possible that the number of prospective participants in day programs exceeds the capacity as determined by the protocols and procedures permitting the reopening of services.

Is it ethically permissible to invite only some individuals to participate in day programs and deny others?

The principle of justice dictates that equals be treated equally –that no one is to be discriminated against for arbitrary or malicious reasons. Justified discriminations are, therefore, based on principled criteria that are rights-respecting and context-relevant consistent with human rights obligations to accommodate service recipients to the point of undue hardship. In principle, it is not necessarily unethical to permit some persons the obtainment of some competitive goods while denying it others.

This is, however, contingent upon i) the security and promotion of basic rights and freedoms, and ii) the existence of equitable conditions granting equal access to competitive goods. It is then the ethically neutral differences of ability (and the extent to which disability related restrictions and limitations can be accommodated without undue hardship), circumstance, safety (of the person and others) and conventions of fiscal value that would determine differences in who obtains such goods. Competitive goods do not, however, include public goods like infrastructure, parks and recreation, healthcare, education, etc. Everyone, regardless of ability and circumstance ought to have nonexclusive access to, and enjoyment of, such public goods.

Given their form and function, day programs in Developmental Services are not competitive goods – access to them cannot be reserved for those who have the material means, but should, rather, be equally available to everyone who needs the services they provide. **Therefore, whoever qualifies for day program services has the presumptive right to gain access to these services and obtain the full benefits such services provide. Essentially, if someone has been identified as standing in need of the benefits conferred by day program services, denying them access to such services would constitute a harm.**

This is not, however, to say that all those who have been identified as standing in need of the benefits conferred by DS day programs, stand in the same need. Cases where increased self harm, violent or unhealthy behaviour, etc. could potentially stand out as being part of a class in dire need of returning to day program services. DS agencies could potentially determine those individuals who stand in the greatest need of day program participation, i.e., those who would be harmed the most were they not to receive such benefits. This determination could potentially be based on a criteria that seeks to be inclusive, transparent and impartial. Such a criteria would, however, be very difficult to create, evaluate, and administer. The reason is simple: outside of the class of persons in dire need, it would be incredibly difficult to impartially determine harms relative to failing to receive the benefits of day program services. Given the complexity of each particular case, it would be practically impossible to quantify the harms relative to benefits for each family and equally challenging to arrive at a fair selection process. If this is the case, DS agency could be open to charges of administering unfair procedures.

Another consideration is the question of vaccination, taking into account circumstances where refusal to vaccinate due to preference (no actual restriction on vaccinating) vs. need (religious or medical restriction).

Recommendation:

If it is not possible to serve all prospective day program participants in the same locations at the same times, and if creating and evaluating a criteria determining degrees of need would be unrealistic, and if everyone who has been identified as standing in need of day program services has the same presumptive right to their benefits, the most fair thing would be to offer a staggered schedule to everyone equally. As per the necessary COVID-19 protocols and procedures, identify: i) the daily carrying capacity of each day program location, and ii) the number of prospective participants in day programs for each location, then iii) equally divide the time amongst participants. If times cannot be equally divided, skew additional times to those identified as being in ‘dire need.’

At all times, in assessing who should be granted service when there is a scarcity of services available, an individualized approach based on human rights considerations of non-discrimination, accommodation, and undue hardship (principally related to cost and safety) should be front of mind.

References

1. [A Framework for Reopening our Province](#)
2. [Health System Organization and Providers Update on COVID-19 Preparations and Actions, April 2020](#)
3. [Health and Safety Guidance During COVID-19 For Social & Community Services \(Group Homes\) Employers](#)
4. [Ontario: COVID-19 Reopening Childcare Centres](#)
5. [Ministry of Health COVID-19 Guidance: Emergency Childcare Centres, May 2020](#)
6. [COVID-19 Action Plan for Vulnerable People](#)
7. [COVID-19 Action Plan for Protecting Long-Term Care Homes](#)
8. Catholic Family Services of Hamilton – Re-Integration Plan
9. [Osler: The Employer's COVID-19 Return to the Workplace Playbook](#)
10. [Ministry of Health COVID-19 Operational Requirements: Health Sector Restart](#)
11. [KPMG COVID-19: Return to the Workplace. A Guide for Employers](#)
12. [CTV News: Modelling shows what could happen if Ontario relaxes physical distancing too quickly](#)
13. [Public Health Ontario COVID-19 Resources for Congregate Living Settings](#)
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