

**Council of the Federation – Position Note – Aboriginal Children in Care  
Department of Municipal and Intergovernmental Affairs**

**Issue:** Premier McLeod (NT) will provide an update on the work of Provincial and Territorial ministers on improving outcomes for aboriginal children in care. A progress report will be prepared for review at the July 2015 COF meeting.

Potential Speaking Points

- The Province is committed to working with NL's Aboriginal groups and organizations in order to reduce the number of Aboriginal children in care and improve the delivery of child welfare services to children, youth and families.
- The Province's Minister of Child Youth and Family Services (CYFS), the Hon. Sandy Collins, supported by the Minister of Labrador and Aboriginal Affairs, the Hon. Keith Russell, have been directed to lead the Province's participation in the PT Aboriginal Children in Care initiative.

**Background and Current Status:**

- At the August 2014 COF meeting, Premier McLeod was tasked with working with appropriate PT Ministers to share information on potential solutions to mitigate child protection concerns resulting in a reduction in the number of Aboriginal children in child welfare systems across Canada and improve outcomes for Aboriginal children in care. Premier Clark (BC) has also assisted in guiding this work.
- Premiers identified Ministers, some within the social services forum and some within the Aboriginal Affairs forum, to work with Premier McLeod. At their initial meeting on December 12, 2014, these Ministers reviewed the direction provided by Premiers and discussed the scope of the work to be undertaken. Ministers agreed that:
  - A Progress Report for Premiers will be provided prior to the July 2015 meeting of COF and will focus on three priority areas:
    - **Early Intervention and Prevention** (ON lead, BC, MB, NT, QC, SK, YK): early intervention and prevention initiatives and strategies that improve the supports provided to Aboriginal, Métis and Inuit families;
    - **Supporting the Child Welfare System** (AB lead, MB, NS, NL, NT, PE): Modernizing tools, training and standards to better support the child welfare workforce in reducing the number of Aboriginal children in care and improving the outcomes for Aboriginal children; and
    - **Root Causes** (NB lead, MB, NT, NU): Strategies and solutions that address the social and economic issues that disproportionately affect Aboriginal families and communities and are the root causes of abuse and neglect.
  - The July 2015 Progress Report will provide PTs with options they can choose to model, adopt or implement, as they deem appropriate, based on the needs of their child welfare systems and in consideration of their local and regional features.
  - The PTs will work together with Aboriginal communities and organizations to reduce vulnerabilities experienced by Aboriginal children, youth and families within their jurisdictions, recognizing federal and PT roles and responsibilities.

- National Aboriginal Organization (NAO) leaders will be engaged through the Aboriginal Affairs Working Group (AAWG) of PT Ministers responsible for Aboriginal Affairs and NAO Leaders, after Ministers review a common document on the work for Premiers.
- As directed by Premiers, the co-Chairs (MB and NT) will also write to the federal government inviting their participation.
- Officials from CYFS and LAAO represent NL on a working group related to the second priority areas of focus, Supporting the Child Welfare System.
- Minister Collins and Minister Russell plan to send correspondence to Aboriginal leaders in NL to inform them of the work of the Aboriginal Child Welfare Working Group and to invite their input into the process.

#### Aboriginal Children in Care in NL

- CYFS is responsible for the provision of child protection services to all children, youth and families in NL, including those in Aboriginal communities. The *Children and Youth Care and Protection Act*, SNL 2010, (*the Act*) provides legislative authority for the delivery of child protection services in NL. The purpose of *the Act* is to promote the safety and well-being of children and youth for whom there is a risk of maltreatment (physical, sexual, emotional) either through harm caused by the parent or through the parent's failure to protect the child from harm.
- Nationally there is a significant over representation of Aboriginal children in care. As of September 2014, there were 312 Aboriginal children and youth in care in NL, which represents 34% of the total number of children and youth in care; 180 are Innu, 113 are Inuit, 3 are Mi'kmaq and 16 are from other Aboriginal groups.
- The Government of NL retains ultimate responsibility for child protection in all communities in NL, including on Reserve. In accordance with section 88 of the Indian Act, Provincial law continues to apply on Reserve even when it touches the core of exclusive federal jurisdiction for "Indians and lands reserved for Indians". This means Reserves are not federal enclaves immunized entirely from provincial law, and the province's responsibility for child protection continues even for Indians on Reserve. Even when provinces are not directly involved in child, youth and family services on Reserve in Canada, the provincial Minister is ultimately responsible for child protection under provincial legislation.
- Aboriginal Affairs and Northern Development Canada (AANDC) "contracts out" the provision of child and family services on Reserves in NL. They provide funding to NL for administration and costs associated with children in care, but not prevention programming, for child and family services in the two Innu communities, and they directly fund the Miawpukek First Nation (MFN) for its own delivery of child and family services (MFN then purchases any required services from NL under a long-standing agreement).
- NL has negotiated child, youth and family services Self-Government jurisdiction with the Nunatsiavut Government (NG), but the NG has not sought to assume control of these services, and therefore this responsibility remains with the Province.

- In 2012, the Minister of CYFS, on behalf of NL signed Memoranda of Understanding (MOUs) with the Mushuau Innu First Nation (MIFN), Sheshatshiu Innu First Nation (SIFN), and the NG to improve planning around the safety and well-being of children and youth, as well as enhance service coordination and delivery in Aboriginal communities. This work is being completed through Planning Circles comprised of representatives from Aboriginal communities and CYFS.
- In Fall 2014 the MIFN and SIFN submitted a revised MOU to CYFS after having expressed dissatisfaction with the Planning Circle process established by the 2012 MOUs. Negotiations regarding this revised version are ongoing.
- NL First Nations have sought to enter into a partnership with Canada and NL to access federal funding under an Enhanced Prevention Focused Approach (EPFA) to child and family services. This funding has been accessed by other First Nations across Canada. NL fully supports the Miawpukek First Nation (MFN) and Innu's pursuit of this federal funding, and worked with AANDC and the Innu and MFN in 2013 to prepare a Tripartite Accountability Framework; however the federal Treasury Board did not approve funding for Fiscal Year 2014-15. It is unclear whether this funding could be approved for the following Fiscal Year.

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In consultation with CYFS/LAAO

**Ministerial Approval:**

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