

Briefing Note
Department of Labrador and Aboriginal Affairs

Issue: The Cabinet Sub-Committee on the Turner Review and Investigation will be meeting in Goose Bay with the "Innu and Inuit Communities Working Group on Child and Family Services" and would like an update on devolution of this program to the Labrador Innu and Labrador Inuit.

Background

Role of the federal government

- The Province is prepared to devolve provincial programs and services to an Aboriginal group to enable that group to provide the service in a culturally appropriate manner that will better meet the needs of its members. The Province's responsibility to provide CYFS services to an Aboriginal group varies to the extent that the federal government has assumed responsibility for those services.
- In the case of the Innu, the federal government has entered into agreements with the Province to provide CYFS services to the reserves at Natuashish and Sheshatshiu. These are intended to be an interim arrangement until the Innu have the capacity to deliver CYFS services, at which time the federal government will terminate the agreements with the Province and fund the Innu directly for CYFS services provided for its members.
- The federal government does not cover the full costs of the CYFS services provided by the Province. Until recently, the federal government would only cover the costs of children who were taken into care. This meant that any services provided to families or children intended to ameliorate problems and avoid having the Director in Region take custody of the child, were not funded by the federal government. Recent changes to federal policy suggest that some prevention activities might be funded but only from savings achieved from federal funding provided for protective care.
- While the federal government has accepted responsibility for funding certain CYFS services on reserves, it has not accepted jurisdiction for the care of First Nations children and has not accepted responsibility for the provision of CYFS services to Inuit.
- In the event CYFS services are devolved to the Innu, the Minister of HCS will continue to have responsibility for the care and protection of Innu children in need, as for all other children in the Province. In the case of the Inuit, should the NG decide to exercise jurisdiction over Inuit children, under the self-government agreement included in the Labrador Inuit Land Claims Agreement (LILCA), the Minister will continue to be responsible for Inuit children if the NG refuses to act when an Inuit child is in need.

Labrador Innu

- The Labrador Innu are registered as Indians under the Indian Act. The Mushuau Innu First Nation and the Sheshatshiu Innu First Nation members are primarily resident on two reserves in Labrador, at Natuashish and Sheshatshiu.
 - Land claims and self-government negotiations with the Labrador Innu are ongoing, but no final agreement has been reached. *In November 2008, Innu Nation negotiators informed the province and federal government that they were not prepared, at this time, to include self-government provisions in the Final Agreement to settle the Innu Nation land claims.*
 - Currently, Child Youth and Family Services (CYFS) are delivered by the province to these communities pursuant to provincial legislation. The CYFS programs are delivered by the Labrador Grenfell Regional Health Authority (LGRHA). Children who are removed from their families and placed in foster care are in the care and/or custody of the provincial
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Regional Director of CYFS for the Innu communities. The province is funded for the delivery of these services through agreements with the federal government. The federal funding covers operational costs and custodial care for the Innu children but does not cover the full range of preventive and supportive care envisioned under the CYFS legislation and provincial policies. These costs are borne by the Province.

- The Labrador Innu Comprehensive Healing Strategy (LICHS) was developed by the federal government to address substance abuse and the underlying social and health crises in the Labrador Innu communities of Davis Inlet and Sheshatshiu. There is a Maintable committee of the LICHS comprised of the province, the Innu, and the federal government. The mandate of this Maintable is to coordinate programs, identify issues and challenges facing the Innu, support Innu capacity development and program devolution, and provide the Innu with input into funding and policy proposals from the provincial and federal governments which impact the Innu and their communities.
- A CYFS subcommittee to the Maintable was created in 2002 to discuss program delivery and devolution of CYFS to the Innu. That subcommittee consists of representatives of Indian and Northern Affairs (INAC) the Innu, Labrador Grenfell Regional Health Authority (LGRHA), HCS and Labrador and Aboriginal Affairs.
- In 2003, officials from HCS and Labrador and Aboriginal Affairs designed a model for a transitional joint Innu/Provincial Board for the delivery of Child, Youth and Family Services. In the absence of a self-government agreement, devolution of CYFS to the Innu would require that the Innu adhere to the provisions of the provincial Child, Youth and Family Services Act, and the joint Innu/Provincial board would be accountable for that Act and the standards set for delivery of this program by HCS.
- MC2003-0174 authorized LAA and HCS to negotiate with the Innu Nation the Joint Innu/provincial CYFS Board, under provincial legislation, to provide CYFS services in the Innu communities. There has been little progress towards the creation of this Board.
- As an interim measure, in 2004, Labrador Health, as it was then called, hired a Director of Innu CYFS. This person is a professional social worker and resident of Sheshatshiu. She has been able to act, in many respects, as an intermediary between the Board and Innu by providing the Innu's perspective to the Board and vice-versa.
- Discussions on devolution of CYFS stalled when the federal government could no longer fund Innu participation. At that time, the Innu expressed concern that with so many devolution discussions going on simultaneously, (education, CYFS and income support) and with limited resources available, it was difficult to manage. The Maintable agreed that devolution of Education would be the top priority.
- In July, 2008, the executive of the Innu Nation decided to proceed with the devolution of CYFS and on November 2, 2008 informed the Province and federal government of their intention to proceed with the devolution of CYFS services under the Joint Board model. The Innu tabled their proposal at a meeting of the Main Table, November 2008.
- The Division of Children and Youth Services has funds approved and is currently working to hire an Aboriginal Consultant for CYFS. This consultant will focus on the provision of children and youth services in aboriginal communities including delivery models. The consultant will also examine alternate delivery models that are permitted under the provincial legislation.
- The most recent meeting of the CYFS Subcommittee took place during a teleconference on December 2, 2008. The members agreed to review the joint Innu/Provincial Board proposal to determine whether that is still the appropriate model for devolution, and to prepare costing for the proposed structure. The Innu subsequently supplied their overview of the chronology of events in devolution of CYFS.
- Subcommittee members were to arrange a further meeting or teleconference to review this information once it had been compiled, and to try to arrange this in advance of the next Maintable meeting in February. To date, no Subcommittee meeting date has been set.

- There are three primary reasons for the delay: the Innu have not had the capacity to operate a Board; the Innu are not prepared to accept responsibility for providing services in their communities unless those services are fully funded by Canada; and, during community consultations conducted by the Innu, there is no consensus within the Innu communities that the Innu are prepared to accept responsibility for CYFS services.
- Jack Penashue and Lyla Andrew, members of the Innu and Inuit Communities Working Group on Child and Family Services, are also members of the CYFS subcommittee of the Maintable. Mr. Penashue is a former employee of LGRHB and worked with Ms. Andrew who is an employee of LGRHA and the Director in Region for CYFS provided by the Province to the Innu communities.

Nunatsiavut Government

In 2005 the province, federal government and the Inuit of Labrador (now the Nunatsiavut Government) entered into the Labrador Inuit Land Claims Agreement (LILCA). LILCA gives the Nunatsiavut Government (NG) authority to exercise law making authority in the areas including: health, education, child youth and family services, income support and matters related to language culture and their land and resources. The Province committed to negotiate the devolution to the NG of provincial programs and services delivered to all residents of the Inuit Communities. The Province will remain responsible for funding those services with a contribution from NG revenues (OSR).

- Nothing in the LILCA or the Fiscal Financing Agreement (FFA) associated with LILCA obliges the NG to take down any or all of those provincial programs and services. NG OSR will be used to reduce provincial program costs. OSR has no effect until a program or service is taken down then it will be deducted from the provincial transfer.
- The province has received informal indications from NG officials that it is not prepared to take down provincial programs and services because it does not want to use OSR to reduce the Province's costs and would like to use that revenue for other purposes. (It is important to note that NG OSR will be used to reduce the federal cost of programs it has already transferred to the NG.)
- Officials from the NG have also indicated that they are not prepared to take down this service until it is fully funded, staffed and provided in a culturally appropriate manner in their communities.
- The FFA agreement does not include a timetable for the NG to take down provincial programs and services. This was deliberate because the provincial and LIA negotiators agreed it was not in anyone's interests to oblige the NG to take down those programs before they were ready or had the capacity.
- The province continues to provide CYFS to the Inuit Communities of Nain, Rigolet, Hopedale, Postville and Makkovik. Representatives of the NG participate in the Innu and Inuit Communities Working Group on Child and Family Services

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