

CANADIAN HUMAN RIGHTS TRIBUNAL

B E T W E E N:

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and
ASSEMBLY OF FIRST NATIONS**

Complainants

– and –

CANADIAN HUMAN RIGHTS COMMISSION

Commission

– and –

**ATTORNEY GENERAL OF CANADA
(Representing the Minister of Indigenous and Northern Affairs Canada)**

Respondent

– and –

**CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA, and
NISHNAWBE ASKI NATION**

Interested Parties

– and –

**INDIGENOUS CHILD & FAMILY SERVICES DIRECTORS OUR CHILDREN OUR
WAY SOCIETY**

Proposed Interested Party

NOTICE OF MOTION

TAKE NOTICE THAT the Indigenous Child & Family Services Directors Our Children Our Way Society (“**Our Children Our Way**”) will make this motion to the Canadian Human Rights Tribunal (the “**Tribunal**”) located at 240 Sparks Street, 6th Floor West, Ottawa, Ontario on a date set by the Tribunal.

THE MOTION IS FOR:

1. An order under Rule 8 of the *Canadian Human Rights Tribunal Rules of Procedure* (03-05-04), granting Our Children Our Way leave to intervene in the remedies stage of this proceeding as an interested party on the following terms:

- a) Our Children Our Way shall be permitted to participate in all hearings, appearances, motions, case conferences, mediations, negotiations or other dispute resolution or administrative processes in respect of this proceeding, bearing Tribunal File No.: T1340/7008 (the “**Proceeding**”), including but not limited to the Joint Motion (defined below);
- b) Our Children Our Way’s participation in the Proceeding shall be limited to issues bearing on the delivery of child and family services in British Columbia;
- c) Our Children Our Way shall be permitted to adduce evidence through up to three witnesses, and conduct examinations in chief and cross-examinations;
- d) Our Children Our Way shall be permitted to file written submissions and to make oral submissions before the Tribunal;
- e) Our Children Our Way shall undertake not to re-open matters that have already been decided by the Tribunal in the Proceeding, and not to duplicate the evidence or submissions of the other parties; and

- f) Our Children Our Way shall undertake to not delay the Proceeding and shall not request postponements or changes to any timetable, schedule, or hearing dates established by the Tribunal in the Proceeding and accepted by the other parties.
2. Such further relief as counsel may advise and this Tribunal may permit.

THE GROUNDS FOR THE MOTION ARE:

3. Our Children Our Way is a British Columbia society incorporated under the *Societies Act*, S.B.C. 2015, c. 18, whose membership consists of 24 Indigenous Child & Family Service Agencies (“**ICFSAs**”) in that province. These ICFSAs provide child and family services to 120 First Nations in British Columbia. Of the 24 ICFSAs that Our Children Our Way represents, 19 ICFSAs are First Nations agencies that receive federal funding under the First Nations Child and Family Services Program (“**FNCFS Program**”) and other related provincial/territorial agreements.
4. Our Children Our Way seeks leave to intervene as an interested party in the Proceeding, including in the joint motion by the Nishnawbe Aski Nation (“**NAN**”) and the Chiefs of Ontario (“**COO**”), which the Attorney General of Canada consents to (the “**Joint Motion**”).
5. NAN, COO, and Canada seek unconditional approval of the Final Agreement on Long-Term Reform of the First Nations and Family Services Program in Ontario (the “**Ontario Agreement**”).
6. Canada’s position is that, if endorsed by this Tribunal, the Ontario Agreement will inform Canada’s subsequent approach to long-term reform of the FNCFS Program in other provinces, including British Columbia.

7. The relief sought by NAN, COO, and Canada in the Joint Motion therefore directly impact on the ICFSAs in British Columbia that Our Children Our Way represents.

8. Our Children Our way has specific expertise in the challenges of providing child and family services to First Nation children, families and communities in British Columbia.

9. The ICFSAs that Our Children Our Way represents have on-the-ground experience with the impact of the vast barriers imposed by past and existing discriminatory practices. Our Children Our Way's member ICFSAs have delivered child and family services in British Columbia since 1996, when the provincial government delegated authority to them for those services. However, unlike other provinces, the Government of British Columbia has delegated different levels authority to the various ICFSAs, with some being authorized to provide guardianship services, resource and voluntary services *and* child protection services, while others are only authorized to provide guardianship services or resource and voluntary services.

10. Our Children Our Way's membership brings a unique perspective regarding the impact of discriminatory funding on service delivery for First Nations children and families in British Columbia and what is needed to remedy that discrimination. This unique perspective flows from:

- a) the number and diversity of First Nations in British Columbia—there are over 200 First Nations in the province with 34 distinct languages, distinct cultural identities, distinct geographies, and different population sizes—and Our Children Our Way's member ICFSAs expertise and experience in delivering child and family services to those hugely varying communities;

- b) Our Children Our Way’s experience with the challenges that its member ICFSAs face in transitioning to new funding approaches mandated by the Tribunal, particularly for prevention services, which were never funded in British Columbia before the implementation of this Tribunal’s decision in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2018 CHRT 4, putting the province’s ICFSAs behind First Nations child and family service providers in other jurisdictions with respect to those services;
- c) Our Children Our Way’s experience and expertise in helping to develop with its members a made-in-British Columbia “business plan” approach to implementing the Tribunal’s decision in *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada (for the Minister of Indian and Northern Affairs Canada)*, 2018 CHRT 4, under which ICFSAs are funded based on their assessments (developed in collaboration with the communities they serve) of their future needs and the operational and direct service resources needed to meet those needs, rather than based on a retrospective review of past expenditures; and
- d) Our Children Our Way’s expertise and experience with the impact of the toxic drug crisis in British Columbia on child and family service delivery to First Nations communities living on reserve, and the resources needed to address that crisis and its root causes.

11. Our Children Our Way’s expertise also comes from the work it undertakes in the course of advancing its mandate, which includes the following:

- a) Our Children Our Way hosts “Partnership Forums” on a quarterly basis that bring together the members of Our Children Our Way along with their federal partners from Indigenous Services Canada and their provincial partners from the British Columbia Ministry of Children and Family Development;
- b) Our Children Our Way regularly participates in working groups/steering committee meetings (e.g., Post-Majority Supports working group, Training Advisory Committee, Murdered & Missing Indigenous Women & Girls steering committee, Insurance working group, and the Jurisdiction & Regulations steering committee) hosted by federal and/or provincial partners—simply put, when federal and provincial partners want to engage with ICFSAs in British Columbia, they do so through Our Children Our Way;
- c) Our Children Our Way advocates for, and directly contributes to, changes to policy and funding to support high quality, culturally-based services, whether delivered by ICFSAs or by First Nations. Some key outcomes of that work are initiatives and programs, such as the Aboriginal Operational and Practice Standards and Indicators, and the Indigenous Child & Youth Mental Wellness Framework;
- d) Our Children Our Way also works closely with other key partners, including British Columbia’s Representative for Children & Youth, the Public Guardian & Trustee of British Columbia, the First Nations Leadership Council, and the National Children’s

Chiefs Commission, which was established through AFN Resolutions 60/2024 and 61/2024; and

e) Our Children Our Way has also been involved in other key initiatives respecting the delivery of child and family services to First Nation children, including:

- (i) the development and ongoing review of the Aboriginal Social Worker Training curriculum;
- (ii) “Bringing Justice Home: Recommendations to Honour Our Lost & Missing Loved Ones,” which outlines best practices, challenges, and barriers to addressing the 15 Calls to Justice in the Final Report of the National Inquiry into Missing and Murdered Indigenous Women & Girls, and is directed to social workers and those in child welfare; and
- (iii) the Indigenous Child and Youth Mental Wellness Framework, which was developed in response to the mental health crisis facing Indigenous children, families and communities.

12. Our Children Our Way’s experience makes it uniquely placed to provide this Tribunal with assistance in determining what is needed to remedy systemic discrimination at issue in this Proceeding in British Columbia, including by speaking to the broader implications of the Tribunal’s decision regarding the Ontario Agreement for First Nation children, families and communities in British Columbia.

13. Our Children Our Way’s assistance to this Tribunal will be useful. Our Children Our Way seeks interested party status to provide expertise and information on the front-line delivery of First

Nations child and family services in British Columbia to the Tribunal. This information will be invaluable to the Tribunal throughout the remedies stage of the Proceeding, as the delivery of First Nations child and family services in British Columbia is distinct from how those services are delivered in other jurisdictions, including with respect to the size of the First Nations being served and the varying nature of the services each of the province's ICFSAs are authorized to provide.

14. If leave is granted, Our Children Our Way will not take a position on the adequacy of the Ontario Agreement for First Nation children, families and communities in Ontario. Instead, it will lead evidence and make submissions regarding how the Ontario Agreement is not a suitable template for remedying the continued discrimination against First Nation children, families and communities in British Columbia, and that any remedy crafted by the Tribunal must account for the unique challenges faced by the member ICFSAs that Our Children Our Way represents.

15. Our Children Our Way's submissions and evidence will be distinct from other parties. As the Proceeding currently stands, no other party represents First Nations child and family service providers in British Columbia, either with respect to the Joint Motion or more generally.

16. Our Children Our Way will ensure that the evidence it tenders and that the submissions it makes are not duplicative of other parties. It will work collaboratively with other parties and interested parties to avoid duplication and repetitiveness.

17. Our Children Our Way will abide by the timelines imposed by the Tribunal.

18. Our Children Our Way's participation in the Proceeding is required given the immeasurable impact that national long-term reform will have on service delivery to First Nation children, families, and communities in British Columbia. The unique circumstances surrounding

the delivery of child and family services to First Nations on-reserve in British Columbia must be reflected in any remedy or set of remedies that are ultimately ordered.

19. Sections 48.3(10) and 50 of the *Canadian Human Rights Act*, RSC, 1985, c H-6.

20. Rules 3 and 8 of the *Canadian Human Rights Tribunal Rules of Procedure* (03-05-04), or alternatively Rules 5, 6(1), 27, and 33(2) of the *Canadian Human Rights Tribunal Rules of Procedure*, 2021, SOR/2021-137.

21. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

22. Such materials as counsel may advise and this Tribunal may permit.

April 15, 2025

STOCKWOODS LLP
TD North Tower
77 King Street W, Suite 4130
P.O. Box 140
Toronto, Canada M5K 1H1

Daniel Goudge
Tel: 416-593-2497
Email: dang@stockwoods.ca

Alexandra Heine
Tel: 416-593-1669
Email: alexandrah@stockwoods.ca

Lawyers for Indigenous Child & Family Services
Directors Our Children Our Way Society

TO: CANADIAN HUMAN RIGHTS TRIBUNAL
240 Sparks Street, 6th Floor West
Ottawa, ON K1A 1J4

c/o Judy Dubois, Registry Officer

Email: Registry.Office@chrt-tcdp.gc.ca / judy.dubois@tribunal.gc.ca

AND TO: CONWAY BAXTER WILSON LLP/S.R.L

Suite 400 – 411 Roosevelt Avenue
Ottawa, Ontario K2A 3X9

David P. Taylor

Tel: 613-691-0368

Email: dtaylor@conway.pro / dtaylor@conwaylitigation.ca

CLARKE CHILD & FAMILY LAW

Suite 950 – 36 Toronto Street
Toronto, Ontario M5C 2C5

Sarah Clarke

Tel: 416-260-3030

Email: sarah@childandfamilylaw.ca

Counsel for the Complainant, First Nations Child and Family Caring Society of
Canada

AND TO: ASSEMBLY OF FIRST NATIONS

55 Metcalfe Street, Suite 1600
Ottawa, Ontario K1P 6L5

Tel: 613-241-6789

Stuart Wuttke

Email: swuttke@afn.ca

Adam Williamson

Email: awilliamson@afn.ca

Lacey Kassis

Email: lkassis@afn.ca

Counsel for the Complainant, Assembly of First Nations

AND TO: CANADIAN HUMAN RIGHTS COMMISSION

344 Slater Street, 8th Floor
Ottawa, ON K1A 1E1

Brian Smith

Tel: 613-298-0832

Email: brian.smith@chrc-ccdp.gc.ca

Counsel for the Canadian Human Rights Commission

AND TO: ATTORNEY GENERAL OF CANADA

Paul Vickery, Dayna Anderson, Sarah-Dawn Norris and Meg Jones

Department of Justice Canada

50 O'Connor Street

Ottawa, ON K1A 0H8

Paul Vickery

Email: paul.vickery@justice.gc.ca

Dayna Anderson

Tel: 204-294-5563

Email: dayna.anderson@justice.gc.ca

Sarah-Dawn Norris

Email: sarah-dawn.norris@justice.gc.ca

Meg Jones

Email: meg.jones@justice.gc.ca

Counsel for the Respondent, Attorney General of Canada

AND TO: OLTHUIS KLEER TOWNSHEND LLP

250 University Avenue, 8th Floor

Toronto, ON M5H 3E5

Maggie E. Wente

Tel: 416-981-9340

Email: mwente@oktlaw.com

Jessie Stirling

Tel: 416-981-9409

Email: jstirling@oktlaw.com

Ashley Ash

Tel: 416-204-4767

Email: aash@oktlaw.com

Katelyn Johnstone
Tel: 647-872-1624
Email: kjohnstone@oktlaw.com

Counsel for the Interested Party, Chiefs of Ontario

AND TO: STOCKWOODS LLP
TD North Tower
77 King Street West, Suite 4130
Toronto, ON M5K 1H1

Justin Safayeni
Tel: 416-593-3494
Email: justins@stockwoods.ca

Stephen Aylward
Tel: 416-593-2496
Email: stephena@stockwoods.ca

Counsel for the Interested Party, Amnesty International Canada

AND TO: FALCONERS LLP
10 Alcorn Avenue, Suite 204
Toronto, ON M4V 3A9

Tel: 416-964-0495

Julian N. Falconer
Email: julianf@falconers.ca

Asha James
Email: ashaj@falconers.ca

Shelby Percival
Email: shelbyp@falconers.ca

Meaghan Daniel
Email: meaghand@falconers.ca

Counsel for the Interested Party, Nishnawbe Aski Nation