



January 8, 2025

*Sent via e-mail*

**Paul Vickery**  
Justice Canada  
50 O'Connor Street, Suite 500  
Ottawa, ON K1A 0H8

Dear Mr. Vickery:

**Re: Long-Term Reform of the First Nations Child and Family Services Program**

We acknowledge receipt of your January 7, 2025, letter, in which you advise that Canada will negotiate an agreement on long-term reform of the FNCFS Program with the Chiefs of Ontario and Nishnawbe Aski Nation and that Canada does not currently have a mandate to negotiate a long term reform agreement on a national basis.

Canada's position to announce a resumption of negotiations to remedy discrimination against First Nations children and families in only one region to the exclusion of the rest of the country is contrary to the Tribunal's 2016 Order that Canada "cease its discriminatory practices and reform the FNCFS Program and 1965 Agreement to reflect the findings in this decision" (2016 CHRT 2 at para 481). As has been clear from the Panel's multiple rulings over the last nine years, long-term reform is a key component of achieving this order.

Such an approach is also in breach of the Tribunal's 2018 Consultation Order requiring Canada to consult with the co-complainants regarding the Merits Decision and its other rulings in a manner consistent with the Honour of the Crown (2018 CHRT 4 at para. 400). The 2018 Consultation Order gave rise to March 2, 2018, Consultation Protocol, which requires all parties to work jointly to develop strategies to address and implement long-term reforms to the FNCFS Program (paragraph 21). The Consultation Protocol remains in place, as recently pointed out by the Panel in its December 18, 2024 directions.

Importantly, Canada's decision to restrict its negotiations to the one region where a majority, but not all First Nations, supported the draft Final Settlement Agreement ("**FSA**") on First Nations Child and Family Services raises serious concerns related to the Honour of the Crown and is inconsistent with the direction of First Nations Rights Holders set out in First Nations in Assembly Resolution 90/2024, calling on Canada to obtain a new and adequate negotiation mandate within thirty days of the resolution passing. Overall, Canada's conduct to date raises significant concerns about retaliatory conduct pursuant to the *Canadian Human Rights Act*.

A refusal to make progress on reform of the FNCFS Program for the tens of thousands of First Nations children living outside of Ontario is beyond disappointing and stands in stark contrast to the good faith efforts exemplified by First Nations Rights Holders in their repeated efforts to

remedy the shortcomings of the previous draft FSA, exemplified by their amendments set out in Resolutions 60/2024 and 61/2024 as well as the resolutions in December of 2024.

We also note the significant good faith efforts by the Caring Society to join the negotiations in a manner consistent with Resolution 40/2022 and the Caring Society's proposed amendments to the draft FSA shared with Canada in the summer and fall of 2024.

In the wake of the Tribunal's uncontested decision that Canada has discriminated against First Nations children and families across the country, Canada cannot, as the wrongdoer, determine which aspects of the discrimination it will redress, or which First Nations children will be included in long term reform.

The Caring Society is calling on Canada to immediately obtain a new mandate and return to the negotiation table, in keeping with the Resolutions 60/2024, 61/2024, 88/2024 and 90/2024. In the event that Canada does not provide written confirmation of a negotiation mandate on long-term reform of First Nations Child and Family Services and Jordan's Principle consistent with the direction of First Nations in the Assembly by 4 p.m. Eastern Time on January 10, 2024, the Caring Society will seek direction from the Tribunal.

Consistent with its commitment to transparency and accountability, the Caring Society does not assert any confidentiality or settlement privilege over this letter and does not agree that your January 7, 2025 letter is either confidential or settlement privileged, as that letter contains no offers and there have been no negotiations ongoing between Canada and the Caring Society for quite some time. As such, we reserve the right to rely on this exchange of correspondence should proceedings before the Tribunal be necessary.

Please provide a response to this letter by Friday, January 10, 2025.

Yours truly,



Sarah Clarke

cc. David Taylor – Counsel for the First Nations Child and Family Caring Society