

The chart below is an attempt to provide a side by side comparison of major features of the Loving Justice plan and Canada’s plan. It is NOT an exhaustive inventory of all of the implications of each plan, but an introduction for Leadership and Technicians to see the “lay of the land”. Readers are encouraged to use this document to gain a solid overview of the two plans, to prepare them for a deeper analysis by reading through each plan.

LOVING JUSTICE PLAN TO END DISCRIMINATION IN FNCFS	CANADA’S PLAN
General / Principles: Preliminary Analysis	
<p>Recognises the need for (and CHRT intent of) permanent, intergenerational injunction against discrimination, using Canada’s own definition of intergenerational equity as evidence that Canada knows what this means. The Loving Justice Plan is grounded in binding findings of the Canadian Human Rights Tribunal that Canada has engaged in systemic and ongoing discrimination against First Nations children and families through its conduct in First Nations child and family services and Jordan’s Principle, and in orders intended to function as a permanent injunction to prevent recurrence</p> <p>Based on evidence collected since the original confirmation of discrimination by the CHRT, the Royal Commission on Aboriginal Peoples, the Joint National Policy Review & Wen:De reports (which were ignored, which led to the original complaint). And grounded in the CHRT orders over the last decade.</p> <p><i>Loving Justice defines substantive equality as equality of outcomes based on actual need</i></p> <p>PRINCIPLES:</p> <ol style="list-style-type: none"> 1. All First Nations children, youth and families have the right, individually and collectively, to be free of all forms of discrimination & have access to effective remedies. 2. The CHRT’s injunction against discrimination is permanent <p>Funding must:</p> <ol style="list-style-type: none"> 3. Protect a child’s right to: Holistic and culturally-based safety, spiritual & cognitive well-being for families preservation of cultural identity/connection, including to language and land, their sense of belonging/attachment, and housing, health, education and food security 4. Ensure substantive equality (equality of outcomes not resources) considering: <ul style="list-style-type: none"> • Historic/contemporary disadvantage • Disability • The child’s views/preferences, weighted by maturity 	<p>Canada’s plan was submitted “with prejudice” to the outcomes of their request for judicial review of 2025 CHRT 80, which demanded these plans. Their request asks the order be struck and the Tribunal members be replaced.</p> <p>Would replace the CHRT orders over the last decade and end the CHRT’s ability to oversee the implementation.</p> <p><i>Canada’s Plan describes funding approaches based on population counts and fixed national envelopes over a defined term</i></p> <p>PRINCIPLES:</p> <ol style="list-style-type: none"> 1. The cultural safety and well-being of First Nations children, youth, young adults, and families; 2. Substantive equality; NOTE: Canada does not have a definition for this term even outside of its plan, despite losing a recent court case over its application 3. Addressing the needs of First Nations children, youth, young adults, and families; 4. The best interests of children; 5. prioritizing keeping children in the home; 6. holistic and culturally-informed programming, having regard for the current realities of distinct First Nations, including historical and

<ul style="list-style-type: none"> • The Nation’s views/preferences <p>5. Meet the actual and changing service delivery needs of children, youth, young adults, families and communities are met, as defined by Nations and their service experts. Actual needs are defined in a way that is sustainable for long term positive outcomes, considering:</p> <ul style="list-style-type: none"> • Distinct community circumstances • Historical and on-going disadvantage • Structural drivers of maltreatment (things outside the individual’s control such as intergenerational traumas)* • Structural drivers of crisis (lack of homes/repair \$) <i>Canada is responsible for many.</i> <p>4. Meet the characteristics/challenges of the regional setting</p> <p>5. No assimilation policies or cultural damage: Cultural and linguistic continuity are established as essential to the holistic and culturally based safety and well-being of First Nations children, youth, families and communities</p> <p>6. Canada’s commitments to reconciliation require fundamental changes to FNCFS consistent with the Truth and Reconciliation Commission Final Report and Calls to Action and the National Inquiry into Missing and Murdered Indigenous Women and Girls’ Calls for Justice related to the child and family services.</p> <p>RECONCILIATION/ HUMAN RIGHTS:</p> <ol style="list-style-type: none"> 1. Recognition that the changes required for reconciliation have been repeatedly published *by Canada* 2. UNDRIP not only applies but offers Canada a framework 3. All conduct should be measured against the Honour of the Crown. Meaningful consultation and diligent implementation are required. 4. Self-determination and the right to self-government are to be respected 5. Free, Prior, and Informed Consent to be respected. First Nations are best suited to determine HOW and HOW MUCH they assert their jurisdiction. 6. Complete and actual information is required. <p>INCLUSION:</p> <p>While recognizing the scope of the complaint, we urge Canada to take measures over and</p>	<p>contemporary disadvantage and contextual differences, including remoteness;</p> <ol style="list-style-type: none"> 7. recognition of Indigenous legal traditions and principles, if applicable; 8. addressing the structural drivers that place First Nations children, youth, and families at higher risk of involvement with the child welfare system; 9. respect for the inherent right of self-government, which is recognized and affirmed by section 35 of the <i>Constitution Act, 1982</i>, and which includes jurisdiction, in relation to child and family services; 10. respect for the right to self-determination of Indigenous peoples, which is a right recognized and affirmed in the <i>United Nations Declaration on the Rights of Indigenous Peoples</i> (the “<i>Declaration</i>”); that the <i>United Nations Declaration on the Rights of Indigenous Peoples Act</i> affirms the <i>Declaration</i> as a universal international human rights instrument with application in Canadian law and also provides a framework for the Government of Canada’s implementation of the <i>Declaration</i>; 11. the rights in the Declaration, including the rights of children and youth, and the <i>United Nations Convention on the Rights of the Child</i>, including the right to be free from discrimination; 12. accountability of FNCFS service providers and provincial and Yukon governments to the First Nation governments they serve; and 13. guidance from First Nations-led and/or endorsed evidence.
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above those contemplated by this plan to extend these reforms and support substantively equitable and culturally appropriate First Nations Child & Family Services to all First Nations children wherever they reside, including off-reserve and in the NWT

IMPORTANT BITS IN THE DEFINITIONS (please see p.27 in Loving Justice plan for the rest)

In the Loving Justice plan, it is First Nations and the CHRT who will be responsible for interpreting the Principles and definitions below.

Ordinarily on-reserve: The individual or their caregiver:

- i. maintains a primary residence on-reserve;
- ii. usually lives on-reserve but is temporarily residing off-reserve for purposes related to health, education, poor housing, or to access other services that are not available on-reserve; or
- iii. wishes to live on-reserve and is on a waiting list to secure housing on-reserve.

Capacity: adequate supports, funding, staff, time, infrastructure to design & operate FNCFS AND related services or interventions.

Child Maltreatment: includes threats to cultural safety and dignity

Effective Measures: means process and outcomes to stop Canada’s discrimination, prevent its recurrence and restore the dignity of those affected including, but not limited to,
(a) equal and effective access to justice
(b) adequate, effective and prompt reparation for harm related to the discrimination
(c) access to relevant information concerning violations and reparation mechanisms.

Family: includes customary adoption

First Nation Child & Family Services: means services to protect children from maltreatment and support families to safely care for their children including in kinship & customary care

First Nations Child: is registered or eligible to be under the Indian Act OR has one parent or guardian who is registered or eligible to be registered OR is recognized by their First Nation OR is ordinarily resident on reserve.

Funding Commitment: means any resources, including financial resources payable or provided by Canada or its agents to fulfill the Purpose of these reforms.

None of the Principles above are defined in the plan. In Canada’s plan it is Canada and its administrative bodies that are ultimately responsible for interpreting the Principles.

Intergenerational Equity: means positive duty on Canada to give due regard to the best interests and rights of future generations of First Nations children and the long term implications of its conduct including the rights of future generations to fully enjoy their to grow up as members of their Nation, the enjoyment of their culture and language(s), their rights to land and the minimum standards afforded to them in the United Nations Convention on the Rights of the Child, the United Nations Declaration on the Rights of Indigenous Peoples, the Canadian Human Rights Act and other legal human rights standards and instruments.

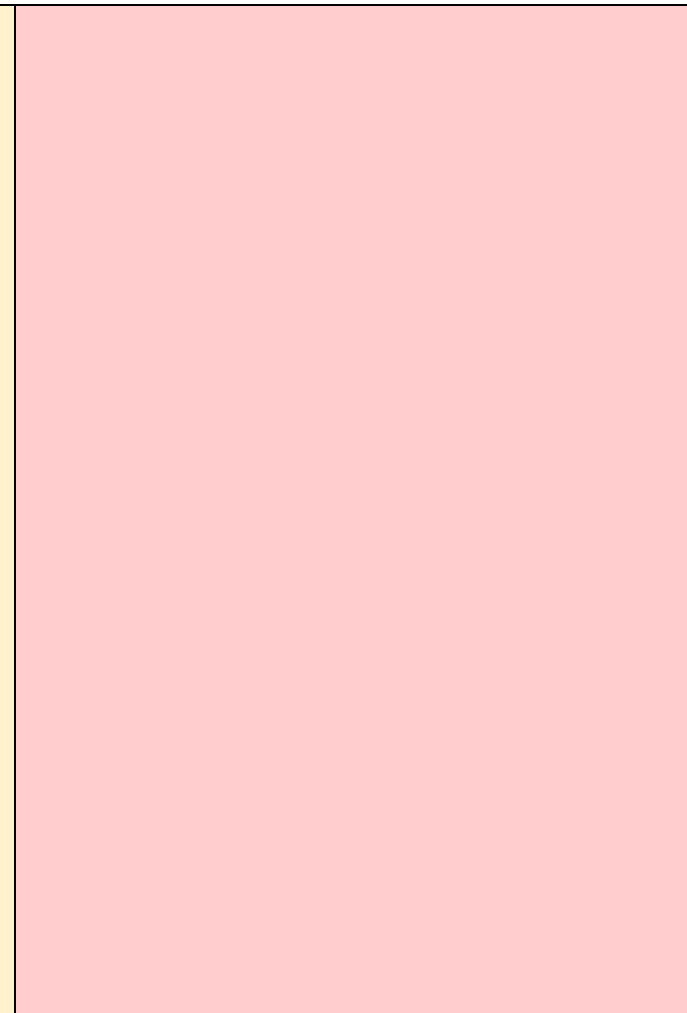
Reformed Funding Approach: Evidence-informed, First Nations led, transparent, multi-year, performance (outcome)-informed, with funding set at a level that will achieve substantive equality as determined by actual need. Must be culturally appropriate and target structural drivers of children being taken into care by supporting holistic services that target the root causes of disproportional numbers of First Nations children being in care. Outcomes must be monitored, data collected & analysed, and any of Canada's policies/practices must be measured against the Purpose & Principles in the Loving Justice Plan.

Regional Variations: region-specific discrimination solutions above the national baseline

Structural Drivers: poverty, poor housing, exclusion factors (racism, systemic racism, colonialism) and multi-generational trauma, manifested as substance misuse and intimate partner violence.

Block Funding: flexibility to meet needs, surplus to be kept, The Terms & Conditions must reflect the spirit and intent of the Loving Justice framework.

(Other definitions are available in the plan)



Accountability & Transparency:

[Because accountability depends on what data is collected, how it is defined, and who controls it, differences in data governance materially affect the ability to assess whether discrimination has ended or recurred]

Removing discrimination, and ensuring it does not happen again:

1. To the extent that Canada retains discretionary powers under the Loving Justice Plan, **Canada must exercise its discretion in a manner consistent with the purpose and principles outlined in the Loving Justice Plan**, as well as the minimum standards in the Tribunal’s orders and its related legal obligations to First Nations and First Nations children.
2. **Within 6 months**, Canada will take measures to substantively implement the design, management & control of the FNCFS program after meaningful consultation with the Complainants
3. **If Canada chooses to not implement recommendations from the NOC**, within 15 business days it must provide credible evidence that its current or proposed conduct is fully aligned with the Purpose and Principles of the Loving Justice Framework. CHRT or an alternative dispute resolution mechanism with equal authority to ensure this is done.
4. **Canada must immediately withdraw operational bulletins** or policies related to FNCFS that were implemented without consultation with First Nations until such time as the NCCC/NOC is able to review them, unless exempted in writing by the NCCC (interim) or the NOC
5. **Canada must** publish an annual report on its compliance with the terms of these reforms and publicly and prominently post the report and any response to the annual report that the National Oversight Council wishes to make.

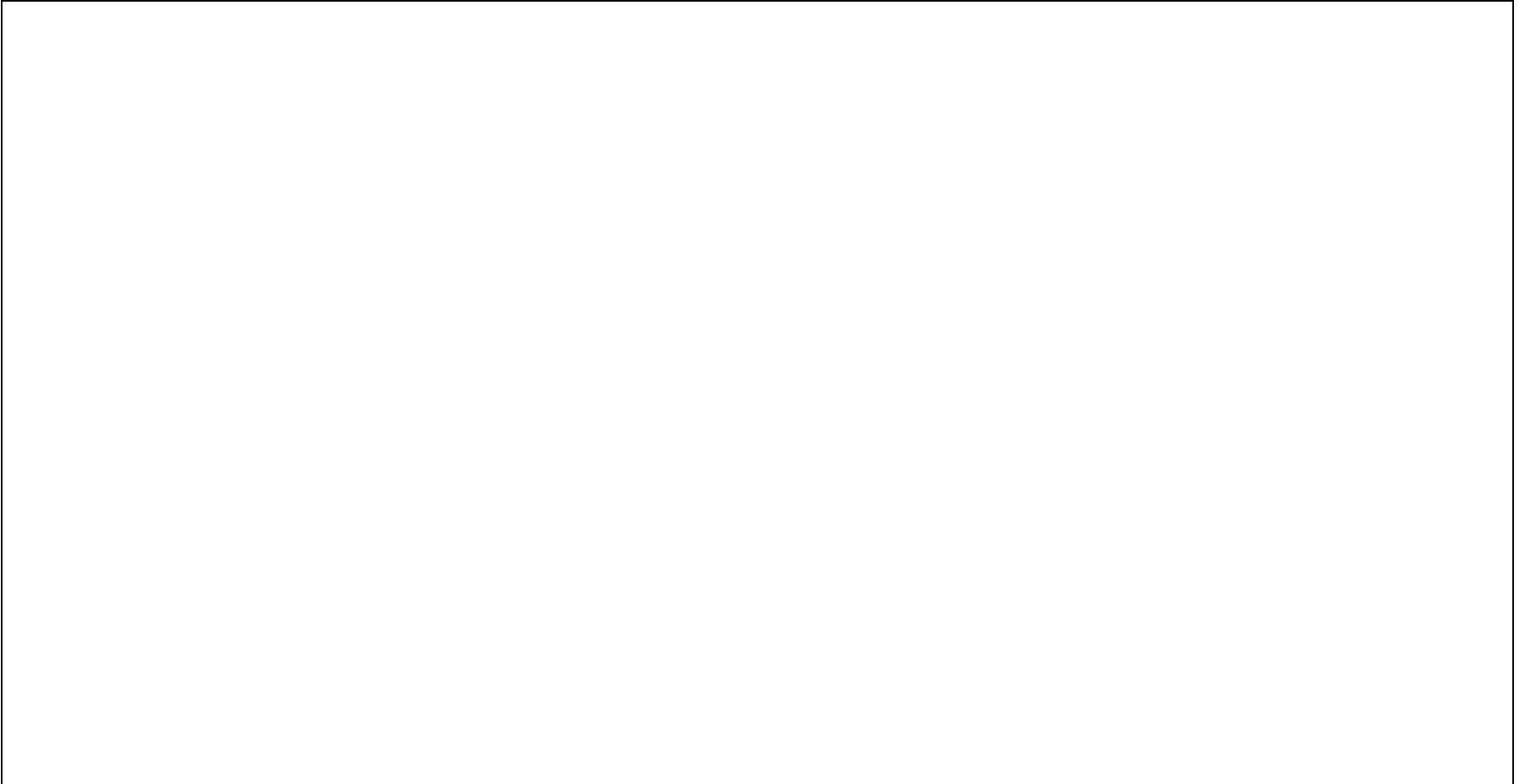
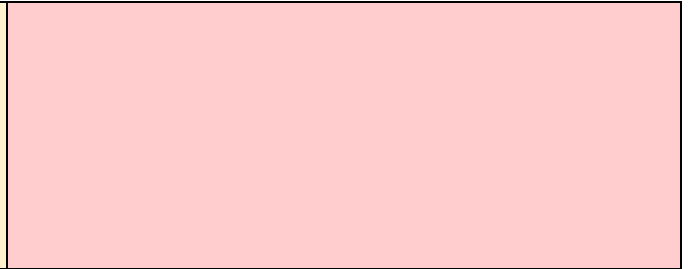
Accountability related to Data:

Canada must:

- Provide the National and Regional Secretariats with all data collected regarding First Nations child and family services, nationally (to the National Secretariat) and in each region (to the Regional Secretariats),
- Data provided must be calibrated to the Measuring to Thrive framework to ensure that funding is needs-based.
- **Data must be collected in keeping with the principles of Ownership Control, Access, and Possession (OCAP).**

1. **All regions to report on same results.** The performance measurement framework and logic model implemented in 2025-26 would be used.
2. **Any additional results the regions wanted their Nations or Agencies to report on**, a framework would be developed during regional negotiations, identifying what (and how) Nations or Agencies would report to regional oversight bodies (ie: a regional data secretariat).
3. **Accountability of Agencies to Nations** is identified as a "central tenet" of FNCFS reform. Canada to discuss what accountability of Agencies to Nations looks like in regional negotiations.

Given the inter-relationship between protection and prevention services, unaffiliated First Nations and partially delegated FNCFS Agencies and their affiliated First Nations require detailed and accurate information regarding the protection services being provided by provincial and territorial service providers, the terms and funding on which those services are being provided, and the outcomes to which the federal and provincial/territorial governments have agreed.



Governance:

1. Technical experts should play an advisory role but not be in decision-making roles – those are for the Rights Holders.
2. Within 6 months, a national governance structure working at the regional and national levels will be established to support, guide, and oversee the implementation and ongoing functions of long-term reform, including:
3. **National Oversight Council (NOC)**
 - Hold Canada accountable for ending discrimination by reviewing monitoring data and issuing recommendations for change – Canada must implement recommendations or demonstrate how their actions meet the Purpose & Principles of the Loving Justice framework
 - Oversee the design, management and control of FNCFS
 - Consult with and report to Nations
 - Promote Canada’s observances of UNDRIP and the UN Convention on the Child
 - Support legal efforts to hold Canada accountable if required
 - Composed of representatives from each region appointed by regional processes, Youth, Elders/Knowledge Keepers, and Caring Society/AFN representatives
4. **National Technical Table (N-Tech)**
 - Coordinate with regional tables to ensure the *NOC* has the information it needs to hold Canada accountable.
 - Develop the Child & Youth Impact Assessment Toolkit
 - Use the Toolkit to review Canada’s legislation or policies
 - Review data & research collected & produced by the *National Secretariat*
 - Support capacity building in Youth participation, regional table development and First Nations pursuing their own jurisdiction (on their request)
 - Develop models for *National Secretariat* and mechanisms to support coordination between the regional tables
 - Composed of representatives from the Caring Society and technicians appointed by the regions.
5. **National Secretariat (N-Sec)**
 - Collect & analyse anonymized data

1. The funding commitment in all regions would be proportional to the region’s estimated share of the total funding of the National Framework, based on the region’s population, degree of remoteness, past expenditures at actual costs and other factors. The total amount of funding allocated to the region is not negotiable.
2. **All regional agreements would have the same end date.**
3. **Canada to discuss with Nations a regional approach to oversight** of the implementation (who would be on the "Governance Body"). These regional governance bodies would ensure the regional agreements were followed and provide any recommendations to Canada of future changes to consider.
4. **Potential roles of regional secretariats** discussed with Canada during regional negotiations.
5. **Chiefs' decision making limited** to discussions during regional negotiations around who would be the regional governance representatives for advising ISC on program implementation in that region, and how the amount of funding available at the National level is to be shared between Nations and Agencies at the regional level.
6. **If no regional agreement is in place**, ISC will select an expert to review the program's progress towards eliminating the discrimination found by the tribunal.
7. **The timing and scope of the reviews would be negotiated during regional agreement negotiations.**

- Be a knowledge hub for best practices
- Support the *NOC* (administrative functions)
- Support capacity building at regional tables
- Support the inclusion of youth
- Composed of one or more apolitical and independent First Nation-led non-profit organizations, recommended by *NOC* and authorized by Rights Holders

6. Regional Technical Tables (R-Tech)

- Review legislation & policies from a regional perspective and provide recommendations to *N-Tech*
- Review data & research from the *Regional Secretariat*
- Meet with Regional ISC representatives
- Report to Regional Nations
- Support the participation of Youth
- Composed of existing FN-led technical tables where possible
- Creation of new tables at the regional level where required

7. Regional Secretariat (R-Sec)

- Support needs assessments, design and delivery of prevention & protection services by acting as a resource hub and facilitator of collaboration in the region.
- Support the evaluation of policies at the national level through regional data analysis
- Support coordination of inter-jurisdictional service delivery
- Composed of one or more apolitical and independent non-profits as authorized by the Nations in that region.

8. Canada to consult with NOC to establish statutory provisions (draft legislation) recognizing the oversight authority of the governance structure, and provide adequate and sustainable funding

9. Canada is encouraged to fund an Indigenous youth organization & foundation

Enforcement & Durability:

[Reminder: *Discrimination found by the CHRT includes service denials, adverse effects, and systemic discrimination, including underfunding and structural arrangements that reproduce discrimination, regardless of intent.*

Under Canada’s Plan, disputes about whether Canada implements oversight recommendations are excluded, and eligible disputes are limited to administrative and funding distribution matters.

Canada’s plan and its requirement that the CHRT orders go away suggests that discrimination has ended and can shift from human rights monitoring /enforcement to program administration whereas Loving Justice presumes discrimination is ongoing and requires binding human rights remedies.]

Enforcement will generally be triggered by Canada continuing behavior or starting behaviors in the future that do not meet the Purpose and Principles of the Loving Justice Plan.

1. **These reforms do not constitute a limitation or waiver** of Canada’s human rights obligations including through 2016 CHRT 2
2. **The CHRT will retain jurisdiction for a minimum of 5 years.**
3. **For CHRT jurisdiction to stop, Canada must:**
 - Demonstrate to the Tribunal that the discrimination has stopped.
 - Such demonstration will be required to be submitted to the Tribunal by the Complainants after consultation with the *Expert Advisory Committee* (EAC) and the NOC
 - Amend their agreements with the provinces/territory to align with the Purpose & Principles in the Loving Justice Plan
 - Implement & maintain controls ensuring discrimination will not re-occur
 - Implement & maintain an alternative Dispute Resolution Mechanism (DRM) that is as effective as or better than the Tribunal (with enforcement powers)
4. **If an alternative DRM can be agreed upon** with Canada, the CHRT will only be used as a last resort.
5. **If a DRM cannot be agreed upon,** Canada must establish a litigation fund accessible to First Nations and their First Nations led service providers. The amounts available must mirror the amounts equal under existing human rights legal aide. Currently:
 - Trial: \$200,000
 - Appeal: \$85,000
 - Intervenor: \$50,000

1. **CHRT jurisdiction ends, and CHRT orders are no longer in force.** *[This shifts accountability from ongoing Tribunal oversight to mechanisms controlled by Canada]*
2. **Canada would establish a national dispute resolution tribunal,** to hear all disputes outside of Ontario. Tribunal would address disputes between Nations, agencies, and any signatories to regional reform agreements.
3. **Disputes do not include** Canada's decision on whether or not to implement recommendations from the Regional Governance Bodies.
4. **Only disputes related to how the funds are administered or distributed within the region,** and about the implementation of the regional agreement (if there is one) are eligible for dispute resolution with the exception of funding adjustment denials by Canada.
5. **Dispute resolution process to be based on process in 2024 "Final Agreement".** No mechanism to resolve disputes about whether or not Canada decides to implement recommendations made by the Regional

<ol style="list-style-type: none">6. Any DRM must be independent, accessible (non-complex), effective, credible, and grounded in First- Nation law, applying First Nations perspectives and values of respect, restitution, reconciliation, responsibility, and interconnectedness.7. Only a First Nation individual could request confidentiality of any proceedings, only when it is in the best interests of the child. Transparency, except if prohibited under the Privacy Act or similar confidentiality provisions for the protection of children8. After 5 years, the Complainants and Canada will report to the CHRT on the progress made and ask for the Tribunal's guidance regarding its continued jurisdiction9. A Child and Youth Impact Assessment Tool will be developed by (N-Tech, in consultation with Youth, Elders, Knowledge Keepers, R-Tech, NOC, Complainants) within 8 months to evaluate the impacts of any proposed changes (legislation, regulation, policy etc.) Canada wants to implement.10. All changes that Canada wants to implement that fall outside of the Loving Justice Plan will be assessed with this Tool.11. Generally, the National Oversight Committee will collaborate with the Complainants to ensure the discrimination stops or legal enforcement is brought.	<p>Governance bodies.</p> <p>PHASE 1: Canada to appoint a President by Ministerial Order, who would select and manage a list of adjudicators. The process would come into effect when the President said it was ready. Existing FNCFS appeals processes would apply until then.</p> <p>PHASE 2: Canada would make "best efforts" to establish the dispute resolution tribunal through legislation. Legislation would include supports for claimants (cultural officers and navigators). No mention of when such legislation might be brought to parliament.</p>

Funding Commitments & Arrangements:

OVERVIEW: Core funding based on IFSD reports, with room to negotiate variances in each region.

1. **Needs based (actual costs) in many areas**, if only until better information is available. No total can be given at this time.
2. **Canada can’t use the Financial Administration Act** (or any other Canadian legislation) as a reason funding commitments aren’t being met.
3. **Funding is not time-limited, or dependent on political whims.** Canada must design, administer, and evaluate the impacts of the funding mechanisms and amounts they put in place as non-discretionary. **Statutory funding (entrenched in legislation) is preferred – if this is the route taken it should be co-developed with First Nations.** An alternative could be a Special Allotment Fund, which would prevent any unspent funding each year from being reallocated to other programs.
4. **Funding must not be re-allocated from other First Nation programs.**
5. **Funding will have a capacity-based approach, with actuals as a backstop.**
6. No policy, conduct or other mechanism, including funding mechanisms, may be adopted in respect of Funding Commitments for FNCFS which could reasonably result in a lower level of funding or adverse funding structures than contemplated by these reforms.

CURRENT PROCESS:

- there are **multiple different sources of funding** for FNCFS – unpredictable/unstable.
- **Accurate needs-based cost information is not available** because of ISC reimbursement & cash-flow policies – the Nations and agencies don’t have the money when they need it.
- Non-delegated Nations got CWJI funds, but some Nations spent those funds on creating their own laws hoping to address the issues themselves instead of establishing expense patterns/data.
- **Provincial service providers are not transparent with their expenditures.**

REFORMED PROCESS:

- **Non-delegated Nations** will be funded at actuals, given time to develop capacity

OVERVIEW: Informed by the 2021 Agreement in Principle, which Canada refuses to let be publicly released. Based partially on the IFSD reports.

Canada’s plan indicates the amount recommended by IFSD for IT services, for example, will be split between agencies and the Nations.

1. **Represents the rejected agreement amounts minus Ontario’s share**, adjusted for the missing years. \$27 B over 7 years; actual costs end March 31, 2027 (beginning of agreement term)
2. **Subject to annual appropriations** and other approval processes required by Canada
3. **Funding after 7 years to be determined after review in 2034.** If no regional governance bodies are in place, Canada will appoint an external reviewer.
4. **Relies on IRS population-based funding** (generally) and on-reserve membership / citizen population count for self-governing or modern treaty Nations that receive funding under the FNCFS program. Potential to discuss alternate population count methods at the program reviews
5. **Flexible funding claimed, the mechanism is not identified.** Canada's Plan mentions transfers between prevention and representative services, transfers between a Nation and their Agency, and surplus funding to be kept based on a plan co-created by ISC.
8. **Requests for unexpected event (surge) funding and funding changes to meet provincial legislation**

and a culturally informed workforce.

- **Agencies to operate with block funding**, with actuals as a backstop for 5 years. A funding review will be held at 3 years. Any requests for payment under the “actuals as backstop” system that are outstanding for more than 30 days will be referred to the NOC.
- **Actuals will be maintained** for cases where children with complex needs require additional funding.
- **Clear definitions of services** to be provided within different service delivery models
- **New agencies will be funded at actual costs** for their first 5 years to allow them to build capacity
- **Regional and National Secretariats will be funded at actuals**
- **Planning funds** (for those impacted by directive 20-1 or who did not receive funding in 2016)

Core Categories of Funding:

1. **Baseline funding:** will be needs-based as defined by First Nations, in line with the services required under any provincial, territorial or First Nation legislation to ensure agencies aren’t responsible for activities they cannot fund.
2. **Prevention funding:** \$2500/per resident ordinarily on-reserve: **Please see definition of “ordinarily on-reserve”, as the Loving Justice plan has brought this definition in line with the principles of substantive equality.**
3. **Representative Services:** actual costs funded until enough evidence is gathered to inform a framework

will be considered. ISC would meet with the requester within 15 days and give a decision within 45 days. Disputes would go to the national dispute process (see Dispute Resolution below).

9. Does not apply to First Nation children and families off reserve. **On-reserve not defined – assumed definition from Indian Act.**

Core categories of funding (April 1, 2027):

1. **Baseline funding** would be provided to FNCFS agencies based on 2022-23 funding for operations and maintenance, including approved claims for intake and investigations, legal fees, building repairs, and child service purchase. Adjusted annually for inflation/population growth and will not be reduced. Actuals until March 2027.
2. **Prevention funding** \$2,500 per registered First Nations person resident on-reserve or in the Yukon, adjusted annually for inflation. Minimum \$75,000 per Nation **NOTE: A study by EngageFirst Management Consultants indicated \$1.2 million as the smallest possible operating budget. See: [Small Population Study](#)**
3. **Representative Services** to be funded "at a level comparable to the Ontario Agreement". This means the largest of the last 5 years of funding in

<p>4. Post Majority: actual cost until enough evidence is gathered to inform a framework</p> <p>5. Capital: initial build or purchase, maintenance, and replacement to be funded at actuals until such time as an effective capital funding mechanism, which includes planning, building, operations, and recapitalization is <u>developed based on evidence from First Nations and First Nations-authorized service providers</u>, is reviewed by First Nations capital and service delivery experts, and is approved by the National Oversight Council and by the Tribunal. Need shall be presumed valid. Onus is on Canada to prove otherwise.</p> <p>6. Functional Funding Adjustment Factors (referred to as “top ups” in the IFSD reports) these funds are tied to the specific purpose of child and family services and are not intended to remedy community-wide needs in these areas:</p> <ul style="list-style-type: none"> i. Information technology: 5.5% of the baseline (determined by need) budget ii. Results and Data Collection 5% of the baseline (determined by need) budget iii. Poverty fund (household supports): 5% of the difference between regionally relevant MBM and total after-tax median household income 	<p>2026-2027, then that amount adjusted for inflation for the rest of the "initial funding period" (until 2034). This is an increase of \$406 million from the rejected 2024 Draft Agreement</p> <p>4. Post Majority 75% of the amount of those who would be eligible for services would be funded plus staff services. Nations would be responsible to negotiate distribution of the funds between themselves and their agencies during the regional agreement negotiations process.</p> <p>5. Capital: Actuals would continue until 2027 under CHRT 41 and then the capital funding for each region would be equivalent to that region’s estimated share of the National Framework’s total funding for capital. Starting April 1, 2027, funding would be allocated to First Nations and FNCFS service providers through an annual proposal-based intake process. This process would align with well-established Capital Facilities and Maintenance Program processes through which capital project proposals are assessed, ranked, and prioritized based on needs NOTE: same as before CHRT 41 was in place</p> <p>6. Top-ups:</p> <ul style="list-style-type: none"> i. Information technology: 6% of baseline (determined by population) budget ii. Results and Data Collection 5% of the baseline (determined by population) budget iii. Poverty fund (household supports) Under the National Framework, each region’s total funding for household supports would be calculated using the middle of the range recommended by IFSD’s Phase 2 report, which recommended a national range of \$14 million
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- iv. **Emergency fund:** Canada to fund the development and execution (if required) of emergency plans to keep kids safe. 10 examples given of "emergencies" (p72).
- v. **Geography/remoteness:** 15% scaled average of Cost Adjustment Factor

- vi. **Population:** Funding must not rely solely on the per capita formulas, especially those tied to the IRS. With the guidance of the National Oversight Council and the National FNCFS Reform Technical Table, the complainants and Canada must work towards a population framework within the first three years of the FNCFS Reforms, such as a First Nations-led census, to estimate the actual population served.
- vii. **Capacity development fund: actuals for at least 5 years.** Capacity funding is required to enable unaffiliated First Nations and new agencies to develop or expand capacity to consult with their communities and experts to design and implement the range of prevention services they self-determine as necessary to meet their needs.
- viii. **Insurance and liability coverage**
- ix. **Cultural continuity**
- x. (Child) **maintenance allocation:** 3% of baseline (determined by need) budget
- xi. **Inflation** with a 2% base adjusted annually upwards to the Consumer Price Index

to \$34 million. This funding would be adjusted annually for inflation. Canada would discuss in each region the manner in which household supports funding would be allocated among the region's First Nations.

- iv. **Emergency funding** set at 2% of baseline funding. Intended to support children with complex needs.
- v. **Remoteness** A First Nation's funding would be adjusted where its 2021 Index of Remoteness score was 0.40 or greater. Each First Nation's adjustment would depend on the First Nation's 2021 Index of Remoteness score and whether the First Nation was connected by road to the main road network.
- vi. **Population** would be determined using the IRS system.

Regional Variations:

Defined as: variations that meet or exceed the Reformed Funding Approach and address variations due to region-specific considerations that require accommodation to address ongoing discrimination

Goals of Regional Negotiations:

1. Within 6 months, Canada is required to negotiate, in good faith and in line with the honour of the Crown, regional variations with First Nations and Agencies to identify modifications that meet or exceed the Reformed Funding Approach and to address variations that require accommodation to address ongoing discrimination (p.90)
2. **Canada must report, on a monthly basis, to the National Oversight Council** on the progress of regional agreement negotiations over the first six months of the Tribunal’s FNCFS long-term reform order to ensure that negotiations are conducted in good faith (p. 91)
3. **If Canada does not submit an agreement with a region within 6 months** that region may submit a plan detailing the regional variations required, to be raised by the complainants with the Tribunal as part of the Tribunal’s continuing supervision of the first five years of the implementation of this plan (p.91)
4. **Regional agreements to be public and transparent.**

(continued next page)

Defined as: Regional Governance of the National Framework

Goals of Regional Negotiations:

1. **Canada “retains federal control and discretion,” and Canada keeps decision authority over funding levels, formulas, timelines, and minimum standards.**
2. **Nations will decide how the implementation of the National Framework will happen at the regional level** (i.e. how will that region's share of the available funding be split between Nations and agencies? How will Post-Majority funds be distributed between Nations? What kind of planning is required for surplus funds?)
3. **Nations will decide which data on top of the data required from all regions will be collected**, who receives that data, and who takes that data and creates recommendations from that region to Canada.
4. **Regional variations in culture, context, and priorities to be taken into consideration only when developing the accountability tools** such as requiring an Agency to discuss the use of surplus funding with the Nations they serve.
5. **No mechanism to ensure the regional agreements will be transparent.**

Summary of Regional Governance Bodies Proposed (details in Governance section)

Canada *shall* establish an annual fund to be allocated to **Regional Technical Tables** and **Regional Secretariats** (see Governance section above), to review existing and proposed legislation, budgets, regulations, operational bulletins, policy, agreements and conduct related to FNCFS to provide recommendations to the National Oversight Council, comprised of regional representation decided by the governance processes of that region to ensure children in all regions have access to substantively equal supports.

Roles:

1. Build capacity, collect and analyze regional child and family services data and support best practices to deliver child and family services in whole or in part, including by providing training and enhanced communication between Nations and agencies.
2. Support First Nations pursuing jurisdiction in child and family services upon request.

Reform of provincial/territorial funding agreements:

Consistent with UNDRIP, Canada is required to meaningfully support affected First Nations for consultation in the development of federal/provincial agreements and related mechanisms (p.92). Regional secretariats would manage this capacity funding.

Canada must disclose and publish current Provincial/Territorial Agreements on its website within 30 days of implementation of the Reformed FNCFS Approach and publish any amendments or new Provincial/Territorial Agreements within 14 days of being entered into.

Canada shall ensure that all Provincial/Territorial Agreements include a provision requiring the provinces/territories to collect and share data with First Nations service providers and the Secretariats on First Nations children, youth, and families calibrated to the Measuring to Thrive framework to ensure that funding is needs-based. Such data shall be collected in an accountable and ethical manner, in keeping with the principles of Ownership Control, Access, and Possession (OCAP).

Regional Governance Bodies Proposed

Regional Secretariats *could* serve an important function in supporting First Nations and FNCFS service providers with the collection and analysis of data, the development and dissemination of best practices, or communication with the regional governance body. As part of regional agreement discussions, First Nations would discuss with Canada the development of a regional secretariat with a structure and function that meets their needs.

Regional Governance Bodies

Canada would discuss with regional First Nations entities a regional approach to governance of the reformed FNCFS Program to address regional needs, including how the implementation of regional FNCFS Program reform agreements would be overseen and monitored by regional governance bodies. Governance structures would consider the reviews and processes established by the regional agreement to inform recommendations to Canada with respect to changes to the Program.

Reform of provincial/territorial funding agreements:

ISC would make best efforts to work collaboratively with First Nations not served by a delegated FNCFS agency and provincial and Yukon governments in seeking to co-develop governance and accountability provisions within the federal-provincial and federal-Yukon agreements. If no agreement can be reached, the regional governance body would discuss possible solutions (p.19)

Reform of ISC

The Expert Advisory Committee to be given the space to do their work on developing recommendations to Canada independently.

- 1. Within 3 months, Canada shall implement the EAC’s recommendations made in its Summary Report for Spring 2022 to Spring 2024 relevant to FNCS, being to: (p.97)**
 - draw on the EAC’s expertise on the design and implementation of an independent third-party evaluation, immediate and long-term reform measures for ISC, and “cultural competency” policies, education and training;
 - shift language from “cultural competency” to “cultural humility” for ISC’s employee training;
 - develop a critical incident reporting and monitoring system for Jordan’s Principle;
 - support the creation of an external Ombudsperson to provide accountability and oversight;
 - support and endow Indigenous Youth Organizations;
 - Include Assembly of Seven Generations in the Third-Party Evaluation; and
 - Implement the EAC’s recommendations on the “Honouring our Journey” survey and on ISC’s development and implementation of its own Human Resources division.
- 2. Canada shall also implement the EAC’s recommendations made in its December 2025 Report entitled “FSA Recommendations”, being to:**
 - replace annual parliamentary appropriation requirements with guaranteed multiyear, statutory funding;
 - Establish a binding Indigenous-led joint governance body with decision-making authority;
 - Implement mandatory transparency requirements for all ISC funding decisions;
 - Remove proposal-based and competitive funding mechanisms;
 - Resolve structural deficiencies created by layering the 1965 Canada-Ontario Agreement;
 - Reform prevention funding to align with First Nations-Defined needs and conditions;
 - Strengthen the Program Assessment Process to close discretionary loopholes;
 - Embed Indigenous data sovereignty and Indigenous-defined accountability throughout the FSA;

- 1. Progress has been stalled on the development of a workplan and 3rd party evaluation because the Expert Advisory Committee (as established by the CHRT) wants independence to do its work.** ISC plans to move ahead with the third-party evaluation of the department in collaboration with the EAC & its co-chairs as defined in an evaluation framework that was developed with advice from the EAC between 2022 and 2024 (p.20)
NOTE: The EAC does not consider this work complete
- 2. The evaluation will include, but will not be limited to, the following:**
 - Policy and decision-making structures and processes;
 - Cultural norms and attitudes, including response to external critique;
 - Human resource policies, procedures and agreements, including values and ethics, training (including regarding anti-racism, cultural competency and the impact of child and family services discrimination on First Nations families and communities), executive and staff performance commitments, and guidance documents;
 - Development of organizational competency and capacity to comprehend and respond to evidence-informed evaluations;
 - Internal accountability mechanisms; and
 - Consideration of proposals for external accountability measures.

- Remove all clauses allowing ISC to unilaterally revise governance, performance, or accountability appendices;
- Recognize and formally include the National Oversight Council in FSA governance;
- Strengthen dispute resolution mechanisms to align with accountability standards.

3. **ISC would continue to require mandatory cultural humility training** for all ISC employees of at least fifteen (15) hours annually. ISC would also require up to thirty (30) hours annually for those occupying management and executive level positions or those whose responsibilities require regular interactions with First Nations and their citizens (p.21)
4. ISC would develop and implement a trauma-informed and appropriate cultural humility training program for employees (p.22)

Research and Data Outcomes:

The review mechanism allows for:

- FNCFS service providers to adjust their funding, once transitioned, calibrated to need, as defined by First Nations.
- adjustments needed in emergency/urgent situations as well as longer term adjustments based on community health and well-being.
- Addressing any recurrence of discrimination.

Public funding reviews every 5 years:

- Independent, non-political expert qualified in public finance with experience in FNCFS
- Expert appointed by National Oversight Council, National Technical Table to recommend options, Nations to be consulted in appointment process.
- ISC required to provide any data requested by expert within 10 days of request
- Nations and First Nations CFS agencies will be consulted
- Draft report to be presented to Nations and Regional Technical Tables for review and comment
- Report to be approved by Nations (including non-AFN member Nations)
- Canada to table report in Parliament
- Canada to publicly respond within 60 days of the Nations approving the report
- Study methods to be posted publicly
- If there is a dispute about the study’s recommendations, the concern will return to the Tribunal unless an Alternative Dispute Mechanism is in place.

A new performance measurement framework and logic model for the FNCFS Program was developed and implemented nationally by ISC in 2025-26.

The national performance measurement approach would contribute to Canada’s reporting and accountability, including to First Nations, Parliament and all Canadians, on the outcomes of the reformed FNCFS Program. Measuring the performance and results consistently across regions will be key to tracking the efficacy of the reformed FNCFS Program under regional agreements.

As part of regional negotiations, **Canada would work with each region to co-develop a region-specific results framework, which would supplement the FNCFS Program’s national performance measurement framework.** In addition to the national indicators in that framework, Canada would discuss with regional First Nations entities region-specific indicators on which First Nations or FNCFS agencies might report to regional bodies (to, for example, a regional FNCFS data secretariat). The region-specific results framework would inform the regional agreement’s program assessments and would help to assess the extent to which Canada’s investments have advanced the outcomes of the FNCFS Program.