

National Children's Chiefs Commission
Progress Report – August 1, 2025

Summary

In October of 2024, the First Nations-in-Assembly rejected a draft Final Agreement on long-term reform of the First Nations Child & Family Services program and called for a new approach to long-term reform negotiations, led by a National Children's Chiefs Commission.

Since December 2024, the Commission has been working to (1) bring Canada back to negotiations, (2) establish itself and (3) develop negotiation positions aligned with the direction provided by the First Nations-in-Assembly.

(1) Bringing Canada back to Negotiations

The Commission has made numerous attempts to resume negotiations, but Canada has steadfastly refused to engage with the Commission. The Commission's efforts include the following letters:

- January 22 letter to Justice Canada requesting a meeting to discuss the path to negotiating long-term reform;
- January 24 letter to PM Trudeau and Ministers of ISC and CIRNAC proposing a collaborative effort to develop a letter of commitment;
- February 21 letter to PM Trudeau and Ministers of ISC and CIRNAC providing additional details about what is needed to finalize a long-term reform agreement;
- March 19 letter to PM Carney inviting him to take immediate action to remedy Canada's discrimination before calling the next federal election;
- June 4 letter to the new Minister of ISC inviting her to meet as soon as possible;
- July 4 letter to the Minister of ISC inviting her to meet with the Commission in person in Ottawa;
- July 28 joint letter with Dr. Cindy Blackstock and Regional Chief Joanna Bernard to PM Carney and Minister of ISC requesting a commitment to return to negotiations;
- July 29 letter to Minister and Deputy Minister of ISC following up on the CHRT's request for Canada to meet with the Commission.

Nearly all of the Commission's letters to Canada have gone without reply. However, on July 30, Minister Gull-Masty sent a reply to the Commission's letter of June 4. The reply did not address the Commission's multiple requests for a meeting. Instead, the Minister noted that Canada has signed an agreement with the Chiefs of Ontario and Nishnawbe Aski Nation, and is waiting for a decision from the Canadian Human Rights Tribunal regarding that agreement.

(2) Establishing the National Children's Chiefs Commission

While working to bring Canada back to the negotiating table, the Commission has also been taking steps to establish itself as a fully functioning commission. Resolutions 60/2024 and

61/2024 called on the AFN Executive Committee to establish the National Children's Chiefs Commission; however, the AFN Executive Committee chose not to establish the Commission. Instead, the regions appointed Commissioners through their own processes.

In December 2024, the Commission began meeting on weekly basis. In January, the Commission appointed a Chair (Chief Pauline Frost) and Co-Chair (Deb Foxcroft) and approved in principle Terms of Reference for the Commission and for its Negotiating Team. The Commission also appointed legal counsel (Scott Smith from BC and Liam Smith from NS), who both agreed to work for free until the Commission can secure funding. The Commission also appointed the Our Children Our Way Society to provide secretariat support—also for free until funding is in place. The Commission convened an in-person meeting in January 2025, hosted by the Squamish Nation.

The Commission has also: completed an Expressions of Interest process to select a negotiating team; and developed a workplan and budget to support the completion and approval of an agreement on long-term reform of FNCFS. This budget and workplan were submitted to Canada in early April with no response to date.

The Commission has been working to establish a relationship with the AFN Executive and Secretariat. This relationship has been complicated by the Executive's initial decision against establishing the Commission and by a subsequent letter to the CHRT that directly undermined the Commission's efforts to resume negotiations with Canada.

Nonetheless, several of the Regional Chiefs have supported the Commission's work. RC Bernard and the AFN Secretariat worked with the Commission to develop a protocol to guide their collaboration. There remains disagreement between the Commission and the AFN regarding the role of the Commission in the CHRT proceedings. The Commission is seeking to co-lead the prosecution of the CHRT proceedings to ensure the AFN's legal filings are aligned with the Commission's negotiating positions. However, the AFN has resisted this approach and will not agree to share responsibility for leading the CHRT proceedings.

(3) Developing negotiation positions aligned with direction from First Nations

In preparation for a potential letter of commitment with Canada, the Commission identified ten outstanding issues which must be addressed in a new agreement.

The Commission is currently working with the Caring Society to develop a draft framework for a national agreement, and intends to bring this draft framework to that AFN Assembly in September for review and feedback from the First Nations-in-Assembly.

The Caring Society and the Assembly of First Nations filed a Canadian Human Rights complaint in 2007 describing Canada's discrimination against First Nations children, youth and families in the First Nations Child and Family Services program and Jordan's Principle. The Canadian Human

Rights Tribunal substantiated the human rights complaint in 2016 and ordered Canada to cease its discriminatory practices, reform the FNCFS program and immediately implement the full scope of Jordan's Principle.

The onus is solely on Canada to cease harming children and families by eliminating its systemic discrimination in FNCFS and Jordan's Principle and ensuring it never happens again.

In July of 2024, Canada and the AFN, along with the Chiefs of Ontario and the Nishnawbe Aski Nation, released a Draft Agreement on long-term reform of the FNCFS program. First Nations leaders reviewed the draft agreement and ultimately decided that the agreement would not fully and finally address Canada's discrimination.

Following the release of the Draft Agreement, the Assembly of First Nations convened a Special Chiefs Assembly (SCA) in Calgary in October 2024. The SCA focused on discussions and decision-making regarding the Draft Agreement. Chiefs and Proxies voted against the Draft Agreement and called for a new approach to long-term reform negotiations, led by a National Children's Chiefs Commission (the Commission).

Chiefs and Proxies passed two resolutions guiding the new approach. Resolution 60/2024 directed the AFN Executive Committee to establish a National Children's Chiefs Commission to provide strategic direction and oversight of long-term reform negotiations, working openly and transparently. The resolution provided further detail regarding governance, accountability, inclusion and representation, communication and feedback, voting on draft agreements, and resourcing to ensure First Nations can make fully informed decisions before voting on draft agreements. Resolution 61/2024 provided further directions to guide the National Children's Chiefs Commission in negotiating draft agreements.

Since December 2024, the Commission has been working to (1) bring Canada back to negotiations, (2) establish itself and (3) develop negotiation positions aligned with the direction provided by the First Nations-in-Assembly.

(1) Bringing Canada Back to Negotiations

Before the Commission was fully established, the first task was to engage with Canada and establish a pathway to renewed negotiations. However, since October of 2024, Canada has refused to engage at the national level.

Canada wrote to the AFN on January 6, 2025 to explain that Canada would not "at this time" engage in further negotiations toward long-term reform on a national level. Nonetheless, the

Commission has written several letters to Canada seeking to establish a pathway to renewed negotiations.

On January 22, 2025, the Commission's legal counsel wrote to Justice Canada requesting a meeting to discuss the path to negotiating new long-term reform agreements. In response, Justice Canada wrote to the AFN's legal counsel seeking clarity on the role of the Commission's legal counsel. The AFN's legal counsel replied that he remains counsel of record for the AFN and that he is awaiting instructions from his client regarding further negotiations. Justice Canada wrote to the Commission's legal counsel February 14, 2025 and explained that: "it is our understanding that Mr. Adam Williamson remains counsel of record for the AFN. In light of this, we are unable to meet with your client as requested in your letter."

On January 24, 2025, the Commission wrote to the Prime Minister, the Minister of ISC and the Minister of CIRNAC seeking to work collaboratively on a letter of commitment in relation to a national agreement on long-term reform of First Nations child and family services and a process to address Jordan's Principle. On February 21, 2025, the Commission wrote again to the Prime Minister and Ministers of ISC and CIRNAC to provide additional details about what is needed, from the Commission's perspective, to finalize a long-term reform agreement. This letter included a table outlining: (i) the ten high-level, outstanding issues; (ii) Canada's position on each outstanding issue, as set out in the Draft Agreement; (iii) the Commission's proposal on how to resolve each outstanding issue; and (iv) the Commission's view on whether each outstanding issue can be readily resolved.

The Prime Minister's office replied on February 27, 2025 and explained that the PM would not meet with the Commission but had forwarded the correspondence to the Minister of ISC. The Minister of ISC replied on February 25, 2025 expressing confusion about the role of the Commission and encouraging the Commission to work with the AFN to clarify the situation. On March 4, 2025, the AFN National Chief wrote to the Minister of ISC calling on "*Canada to duly consider the NCCC's recent correspondence and take the necessary measures to facilitate the NCCC's critical role in long-term reform, as directed by the Chiefs.*"

On March 19, 2025, the Commission wrote to the newly appointed Prime Minister Carney, inviting him to take immediate action to remedy Canada's discrimination against First Nations children before calling the next federal election. On June 4, the Commission wrote to the newly appointed Minister Mandy Gull-Masty, reiterating the Commission's readiness to negotiate and inviting her to meet at her earliest convenience. The Commission wrote to Minister Gull-Masty again on July 4, inviting her to meet with the Commission in Ottawa the week of July 14, 2025.

On July 28, 2025, the Commission sent a joint letter, along with Dr. Cindy Blackstock and Regional Chief Joanna Bernard (Child & Family Services portfolio holder for the AFN), to Prime Minister Carney and Minister Gull-Masty requesting a commitment from Canada to return to the negotiating table in good faith. On July 29, the Commission wrote to the Minister and Deputy Minister of ISC to follow up on the Canadian Human Rights Tribunal's July 25, 2025 request that Canada meet at least once to hear directly from the Commission.

Nearly all of the Commission's letters to Canada have gone without reply. However, on July 30, 2025, Minister Gull-Masty sent a reply to the Commission's letter of June 4. The reply did not address the Commission's multiple requests for a meeting. Instead, the Minister noted that Canada has signed an agreement with the Chiefs of Ontario and Nishnawbe Aski Nation, and is waiting for a decision from the Canadian Human Rights Tribunal regarding that agreement.

(2) Establishing the National Children's Chiefs Commission

While working to bring Canada back to the negotiating table, the Commission has also been taking steps to establish itself as a fully functioning commission.

Resolutions 60/2024 and 61/2024 called on the AFN Executive Committee to establish the National Children's Chiefs Commission. The AFN Executive Committee did not establish the Commission. Instead, they sought a legal review of Resolutions 60/2024 and 61/2024 by Peter Mantas at Fasken Law Firm. The Fasken opinion concluded that the resolutions: do not comply with the law; would require significant amendments to the AFN Charter which exceed the AFN's own mandate; are void and cannot be implemented under the current legal framework.

Based on this legal opinion, the AFN Executive Committee chose not to implement Resolutions 60 and 61/2024. However, other legal opinions point to errors and misinterpretations in the Fasken opinion, which fails to appreciate the inherent authority of the First Nations-in-Assembly in the AFN Charter and legal framework. The Fasken opinion ignored the source, ideals, and principles of the AFN Charter and, instead, focused on the Executive Committee as a board of directors under Canada's not-for-profit corporate act. The Fasken opinion also failed to distinguish between the AFN as an unincorporated association of First Nations and the AFN Secretariat, which is a corporate not-for-profit governed under Canadian corporate law.

Most importantly, the Fasken opinion ignored the Charter sections that require the AFN Secretariat and the Executive Committee to implement resolutions passed by the First Nations-in-Assembly. To the extent the resolutions may be inconsistent with AFN governance, their implementation should include constructive solutions to maintain AFN's governance while still

establishing the Commission and undertaking the new approach to negotiation, as directed by the First Nations-in-Assembly.

In the absence of support from the AFN Secretariat and Executive Committee, the regions took steps to implement resolutions 60/2024 and 61/2024. Through their own processes, the regions appointed Commissioners, Alternates and technical advisors. By late November, seven regions had appointed Commissioners and Alternates. These Commissioners convened initial meetings to review draft terms of reference to provide to First Nations-in-Assembly at the December Special Chiefs Assembly.

During the December SCA, the First Nations-in-Assembly provided additional support for and direction to the Commission. New resolutions called on Canada and the AFN to fully and publicly commit to respecting Resolutions 60/2024 & 61/2024; approved in-principle draft Terms of Reference for the Commission and its Negotiating Team; and directed the Commission to immediately commence working on Long-Term Reform agreements. Following the December SCA, the Commission began meeting on a weekly basis, initially with a rotating Chair and secretariat support.

In mid-January, the Commission reached out to the regional offices in Ontario, Nova Scotia, Prince Edward Island (PEI) and Newfoundland to share the Commission's provisional terms of reference, provide information about scheduled meetings, and inquire about appointments to the Commission. The Regional Chiefs from Nova Scotia, PEI and Newfoundland responded by appointing Commissioners and Alternates. Ontario Regional Chief (ORC) Benedict sent a letter questioning the independence of the National Children's Chiefs Commission and alleging that its legal counsel was in a conflict of interest.

In January, the Commission appointed a Chair (Chief Pauline Frost) and Co-Chair (Deb Foxcroft) and approved in principle (subject to final approval by the First Nations-in-Assembly) Terms of Reference for the Commission and for its Negotiating Team. The Commission also appointed legal counsel (Scott Smith from BC and Liam Smith from NS), who both agreed to work for free until the Commission can secure funding. The Commission also appointed the Our Children Our Way Society to provide secretariat support—also for free until funding is in place. The Commission convened an in-person meeting in January 2025, hosted by the Squamish Nation.

In February 2025, the Commission completed an Expressions of Interest process to identify and select a negotiating team. The Commission has appointed five negotiators from different Nations across Canada, with a broad and deep range of expertise. The negotiators have also agreed to work for free until the Commission can secure some funding.

In March 2025, the Commission developed a workplan and an \$8.8 million budget (of which \$5.5 million would go directly to the regions) to support the completion and approval of an agreement on Long Term Reform of First Nations Child & Family Services. This workplan includes multiple in-person and online opportunities for feedback from the Rights Holders. This budget and workplan were submitted to Canada in early April with no response to date.

The Commission has been working to establish a relationship with the AFN Executive and Secretariat. This relationship is critical as the Commission has a mandate to negotiate long-term reform, but the AFN—not the Commission—is a Party to the Canadian Human Rights complaint that is driving the negotiations. The strength of the Commission’s negotiating position rests entirely on Canadian Human Rights Tribunal orders. Any misalignment between the AFN’s positions before the Tribunal and the Commission’s negotiating positions undermines the strength of the Commission’s position.

On January 9, 2025, the Commission wrote to the AFN Executive to inform them that the Commission was establishing itself and to request a meeting as soon as possible to discuss collaboration and financial support. There was no immediate response, but three Regional Chiefs attended the Commission’s January 23-24 in-person meeting. AFN CEO Andrew Bisson subsequently reached out to the Commission’s Chair Pauline Frost to request a working level meeting to inform leadership of a potential path forward. Members of the Commission’s technical team met on January 31 with the AFN Secretariat to plan a February 6 meeting between the Commission and the AFN Executive.

On February 6, 2025 Commissioners and their technical advisors joined (remotely and in-person) an AFN Executive meeting held in Vancouver. They agreed to develop a protocol to guide their collaboration and articulate roles and responsibilities. On February 18, Chair Frost wrote to the AFN Executive Committee expressing appreciation for the opportunity to meet in Vancouver; proposing to develop an initial draft of a collaborative protocol and to build a work plan and budget for the Commission’s work; and suggesting a joint meeting in Ottawa the week of February 24.

On February 19, 2025 Chair Frost wrote urgently to National Chief Woodhouse Nepinak seeking to respond jointly to a CHRT request (with a Feb. 24, 2025 deadline, subsequently delayed until Mar. 24, 2025) for Parties to share their views on the process going forward to achieve long-term reform. The Commission’s legal counsel also reached out to AFN legal counsel. On February 28, Chair Frost again to National Chief Woodhouse Nepinak calling urgently for the AFN to: instruct its legal counsel to collaborate with the Commission’s legal counsel in the

ongoing CHRT proceedings and to send a joint letter to Canada to clarify the role of the Commission and reassert the directives of First Nations-in-Assembly. The Commission met with the AFN Executive Committee on March 3, and the AFN agreed to send a letter to Canada (though not jointly with the Commission).

The AFN did not agree to work collaboratively with the Commission's legal counsel. Instead, On March 24, the AFN wrote to the CHRT without seeking or allowing for any input from the Commission. The letter failed to uphold the directions provided by the First Nations-in-Assembly and undermined the Commission's efforts to implement those directions. In particular:

1. Contrary to consensus among First Nations-in-Assembly, the letter argued that the draft Settlement Agreement reached in July 2024 and rejected in October 2024 would have satisfied the Tribunals' orders.
2. The letter reiterated Canada's position that the resolutions passed by the First Nations-in-Assembly exceed the scope of the CHRT process.
3. The letter supported Canada's position that the Ontario agreement could provide a template for long-term reform at the national level.

In response to the March 24 letter, Commissioners reached out urgently to their Regional Chiefs calling for: an immediate retraction of the letter; the AFN Executive Committee to take immediate steps to ensure that all AFN submissions to the CHRT are fully aligned with the spirit and intent of the resolutions passed by the First Nations-in-Assembly. As a result, the National Chief appointed a new portfolio holder, Regional Chief Joanna Bernard, to the Child & Family Services file.

Regional Chief Bernard immediately met with the Commission and agreed to write to the CHRT to retract the March 24 letter. RC Bernard wrote to the Tribunal on March 31, 2025—signalling a new commitment to meaningful collaboration between the AFN and the Commission. The AFN's legal counsel immediately withdrew from the CHRT file and the AFN appointed Peter Mantas (author of the legal opinion opposing the creation of the Commission) in his place. Nonetheless, RC Bernard and the Commission agreed to establish a collaborative protocol to define roles and responsibilities for the AFN and the Commission in their collaborative efforts going forward.

RC Bernard and Chief Frost, along with legal and technical advisors, met in person in Ottawa on April 28, 2025 to negotiate a collaboration protocol. The Commission's legal counsel had developed a draft protocol and shared it beforehand. The negotiations appeared to be successful; however, a subsequent disagreement emerged over the role of the Commission in CHRT proceedings. The Commission is seeking to co-lead the prosecution of the CHRT proceedings to ensure the AFN's legal filings are aligned with the Commission's negotiating

positions. In light of the AFN's March 24, 2025 letter to the Tribunal, which directly undermined the Commission's position (and was subsequently retracted), the Commission needs a mechanism in place to ensure all future submissions to the CHRT are supportive of the Commission's mandate. However, the AFN has resisted this approach and will not agree to share responsibility for leading the CHRT proceedings. As of July 2025, this disagreement remains unresolved, and the collaboration protocol has not been approved.

The Commission held in-person meetings in Ottawa July 15-17, 2025, and invited the AFN Executive Committee to join the meetings. Regional Chiefs Bernard, Adamek, Teegee, Cameron, and LaBobe joined the Commissioners to discuss collaboration and efforts to bring Canada back to negotiations. Chief Frost, RC Bernard and Dr. Blackstock subsequently held a trilateral meeting to discuss collaboration among the Commission, the AFN and the Caring Society. As a result of that meeting, the three organizations sent a joint letter to Canada.

(3) Developing negotiation positions aligned with direction from First Nations

In preparation for a potential letter of commitment with Canada, the Commission reviewed the previous draft final settlement agreement, and identified ten outstanding issues which must be addressed in a new agreement. The Commission also developed proposals on how to resolve each outstanding issue:

1. Total funding amount: the \$47.8 billion commitment in the failed agreement is getting closer to the amount required, and the Commission is seeking funding commitments that address distinct First Nations needs.
2. CHRT jurisdiction: should remain in place until an effective dispute resolution process is established
3. Governance of a reformed system: should minimize administrative bodies and ensure they are First Nations led
4. The role of the Expert Advisory Committee (EAC) in reforming ISC: the EAC must function independently to guide the reform of the department
5. Accountability measures: these must recognize Canada as the discriminator and foster reciprocal accountability
6. Regional variations: these will be required to meet the distinct needs of First Nations
7. All agreements, including treaty, C-92, and self-government agreements must ensure that Canada's discrimination ends
8. Confidentiality must be replaced with openness & transparency in negotiations and implementation of long-term reform.
9. Expand the principles to include honour of the Crown
10. Replace the 10-year term with an evergreen agreement with a statutory basis

The Commission is currently reviewing: each section of the previous draft FSA in detail; research and expert advice; and input from First Nations communities, leaders and service providers in order to begin drafting proposals to address the outstanding issues in each section. The Commission will bring these proposals to the regions for review and input.

The Commission has signed an Information Sharing Agreement with the Caring Society to allow the Commission and the Society to share privileged information. The Commission and the Caring Society have also agreed to work together to develop a draft framework for a national agreement on long-term reform of First Nations child & family services and Jordan's Principle. The Commission and the Caring Society intend to bring this draft framework to the AFN's Annual General Assembly in September for review in feedback from the Chiefs in Assembly.