

Table of Contents

Table of Contents	i
Honouring	1
A. Honouring Statement: the voices of Indigenous youth	1
B. Honouring Statement from the National Children’s Chiefs Commission.....	1
C. Honouring Statement from Francis Verrault-Paul Regional Chief of the AFNQL and AFN Executive Portfolio Holder - Child and Family Services	2
D. Honouring Statement from An lilxhl Majagalee, Dr. Cindy Blackstock, Executive Director of the First Nations Child and Family Caring Society of Canada.....	3
1. A teaching from the Hon. Murray Sinclair	6
2. Introduction.....	8
3. Purpose, Principles and Definitions.....	10
A. Purpose	10
Measure: Outlining Purpose, Scope and Interpretation	10
B. Principles.....	11
Effective & Durable Remedies	13
Positive Outcomes for First Nations Children, Youth, Young Adults and Families.....	15
Reconciliation and Human Rights	22
Accountability & Transparency.....	26
C. Definitions	27
4. Governance.....	38
A. Measure: Key Organizations and Actors Overseeing the Reformed FNCFS.....	40
B. Measure: Oversight of the Design, Management and Control of FNCFS	46
C. Measure: Moratorium on, and Redress of Existing and Planned Operational Bulletins and related mechanisms designed and implemented without consultation.....	47
5. Enforcement and Durability	48
A. Measure: Effect of the Reforms on Canada’s Human Rights Obligations.....	49
B. Measure: Scope of the Continued Jurisdiction of the Tribunal	49
Guidance from the Tribunal following a Dispute/Complaint	51

C. Measure: Child and Youth Impact Assessment Tool	52
D. Measure: Complaint and Dispute Resolution Mechanisms	52
E. Measure: Funding for Judicial Reviews	55
6. Funding Commitments and Arrangements.....	57
A. Measure: Limiting the Restricting Influence of Other Canadian Legislation	58
B. Measure: Protecting FNCFS Funding.....	60
Special Purpose Allotment Approach	60
Statutory Approach	61
C. Measure: Reformed FNCFS Funding	61
Overview: Capacity-Based Funding Approach.....	61
Baseline Budget.....	64
Functional Funding Adjustment Factors	65
Population.....	68
Insurance and Liability Coverage.....	71
Emergency Plan Funding	72
Funding at Actuals or with Actuals as a Backstop	73
D. Measure: Funding for Regional Organizations, Agencies and Technical Secretariats	75
Regional Organizations.....	76
Capacity Development for New Service Providers (Agencies and First Nations)	77
First Nations Child & Family Wellbeing Research Fund	78
E. Measure: Transition from Funding at Actuals	79
Post-Majority Supports.....	81
Capital Funding	82
First Nations Representative Services.....	83
7. Accountability	84
A. Measure: ISC's Discretion to be Constrained by the Principles in this Plan.....	85
B. Measure: Review of Material Changes to Funding Arrangements	86
C. Measure: Funding Arrangements with Provincial/Territorial Governments Providing Services to Unaffiliated First Nations	86

D. Measure: Public Reporting	87
E. Measure: Data Collection	88
8. Regional Variations	89
A. Measure: Negotiation of Regional Variations	90
B. Measure: Canada’s Obligation to Develop Regional Plans	92
C. Measure: Review of Existing Provincial / Territorial Agreements	93
9. Reform Indigenous Services Canada	94
A. Measure: Comprehensive Reform of ISC	96
10. Research and Outcome Data	99
A. Measure: Periodic Reviews to Adjust Funding Based on Needs	100
B. Measure: Oversight of the Public Funding Review Process	102
E. C. Measure: Dispute Resolution in the Funding Review Process	103

Honouring

A. Honouring Statement: the voices of Indigenous youth

“The irony is that discriminating against Indigenous children and youth is an unnecessary expense for Canadians. Underfunding basic needs of Indigenous children and families actually costs governments more money in the long term than investing in the solutions. Canada has ignored the red flags for far too long by ignoring Indigenous voices and in some cases, directly invested in the discrimination against Indigenous children and youth. It is painful for survivors to imagine how their lives could have been if their well-being was honoured and respected but Canadians now have an opportunity to correct the inequalities and invest in bright and beautiful futures of all First Nations children and youth. It is not too late and hope is still alive that First Nations children and youth can not only survive but they can thrive.”¹

B. Honouring Statement from the National Children’s Chiefs Commission

In every child lies the promise of a better tomorrow: it is our collective responsibility to breathe life into that promise. This Plan begins with children because the work of ending Canada’s discrimination in First Nations Child and Family Services must be guided by the sacred place children hold in First Nations law, knowledge systems, languages, cultures—and in our hearts.

In this moment, we must remember how and why we came to be in this place. First Nations families have endured centuries of deliberate colonial policies designed to eradicate our cultures, languages, and worldviews. In targeting our children, these policies struck at the very heart of our Nations. Children were removed, harmed, and disconnected, while First Nations laws and systems of care were disregarded and displaced. This harm did not end in the past; it continues through ongoing discriminatory colonial child welfare policies that separate children from their families and communities

In First Nations knowledge systems, children are understood to arrive with inherent powers: gifts from the spirit world that bring a purity of vision and knowledge to teach those willing to listen from their souls. The failure to protect these inherent gifts, and the betrayal of trust that follows, is among the deepest traumas a family can endure. When children are

¹ Fayant, Gabrielle, and Ashley Bach, [A Follow-up Report of First Nations Youth of First Nations Youth in Care Advisors in Care Advisors](#), December 2021.

harmed, displaced, or disconnected, it is not only the child who suffers; the strength of families, clans, and Nations is diminished.

Our vision for the future is clear and enduring: that First Nations control our own lives and living conditions, live with dignity, and raise our children within our own laws, languages, and knowledge systems. Healing the wounds inflicted upon families is essential to realizing this vision. We must look to our resilient past and glean guidance from our stories of old, our myths, legends, and our ancestral teachings to forge a beautiful tomorrow. First Nations kinship systems are grounded in sacred responsibilities to teach, to care for one another, and to maintain balance for children and for those not yet born. They have always provided the pathway to well-being.

The spirit of this Plan comes from the children themselves. They have taught us about justice, fairness, forgiveness, and unconditional love. We honour First Nations children by affirming their right, in community with their Nations, to live their cultures, speak their languages, and be raised within their own systems of law, care, and belonging. In doing so, we affirm that protecting children's inherent gifts renews families, strengthens Nations, and upholds the collective responsibilities that carry the promise of generations yet to come.

C. Honouring Statement from Francis Verrault-Paul Regional Chief of the AFNQL and AFN Executive Portfolio Holder - Child and Family Services

This work is about our children and the sacred responsibility we carry as Nations. For generations, decisions were made about our children without us, and those decisions tore apart families, communities, and the threads of our cultures. Today, we stand at a turning point. These reforms are not just technical changes—they are a promise to our children that we will never allow discrimination to define their lives again.

As an Innu child, as an athlete and today as a leader, I have seen the strength and resilience of our families. I have also seen the harm caused when systems fail to recognize our rights, our dignity and humanity. The Canadian Human Rights Tribunal told the truth: Canada's discrimination was not an accident—it was systemic, and it lasted for decades. That truth must guide every step forward. We cannot settle for partial measures or temporary fixes. Our children deserve more than justice—they deserve loving justice, rooted in their languages, cultures, and communities.

Honouring this commitment means listening to the voices of those who have lived through these failures—youth who aged out of care without support, parents who fought to keep

their families together, and Elders who remind us that every child carries the spirit of their Nation. It means building systems that reflect who we are, not who others think we should be. It means funding that is fair, predictable, and based on need—not politics. It means an accountability process that is real, transparent, and enforced.

We must also remember that reconciliation is not a word on paper; it is action—real, positive action—rooted in the lessons of our past, and reaching forward to shape a better future. It is the courage to challenge old mindsets and dismantle structures that perpetuate harm. It is the humility to admit mistakes and the determination to turn forward with purpose to build what must endure. These reforms will only succeed if they are guided by our laws, our knowledge, and our vision for the future—a future where every child grows up safe, loved, and proud of who they are.

To the children: you are the heart of this work. You are not statistics or case files—you are sacred beings with dreams and gifts. We honour you by ensuring that the systems around you reflect your worth and protect your rights. We honour you by demanding that Canada does better—not someday, but now. And we honour you by standing together, as Nations, to make sure that this promise is kept for generations to come.

D. Honouring Statement from An lilxhl Majagalee, Dr. Cindy Blackstock, Executive Director of the First Nations Child and Family Caring Society of Canada

Elder Elmer Courchene said, “children deserve more than justice – they deserve loving justice.” Loving Justice is the full bloom of humility, spirit, love, wisdom, courage, respect, honesty and truth for every First Nations child and youth.

As Panel Chair Marchildon, Member Lustig and the late Member Belanger said in 2016 CHRT 2, “this decision concerns children.” It concerns the children, youth and families who came before and passed on the strength of our ancestors' teachings despite experiencing heartbreaking harms, including death, at the hands of a country that consistently describes itself as a global leader and defender of human rights. When Prime Minister Harper apologized to residential school survivors on behalf of Canada, he said “the burden of this experience has been on your shoulders for far too long, the burden is properly ours as a government and as a country. There is no place for the attitudes that gave rise to residential schools to ever prevail again.”

As Canada fought to continue its discrimination at the beginning of the hearings in 2013 and, despite brief glimmers of progress, continues to fight today, I have always believed that if the forces for Loving Justice prevail and the children win the case—the government wins too. Because, as the diversity of children, youth and caring adults who attended the hearings—along with Spirit Bear—have always known, when First Nations children receive loving justice, the country does too.

Loving Justice has inspired the many, many individuals and groups like the National Children's Chiefs Commission and the Assembly of First Nations who have supported the Caring Society in bringing this complaint to devote thousands of hours in pursuit of the transformational justice that First Nations children have received—and will continue to receive—through this process. Their families have generously supported these efforts by sharing their time and commitment with our children, youth, and families, for which we remain deeply grateful.

Today and every day, caring people work directly with First Nations children, youth and families to love and support them through the perils of colonial trauma. They include cultural workers, social workers, child and youth workers, alternative care providers, prevention workers, band representatives, mental wellness and addictions professionals. We honour and thank you all.

Reconciliation embraces the challenge of learning from the past but finds its full meaning in what we do next. The ancestors have done their work, the children have done their work, and we have done ours. The incredible Elder and National Film Board documentary film maker, Alanis Obomsawin, has seen it all unfold from behind her camera and now longs to tell the end of the story so, what will Canada do next?

In the words of Maaxw Gibuu (Mary Teegee-Gray):

“Tender is the heart of a child. Their heart doesn't understand politics, policies or prejudices. Their heart isn't aware of decisions made on their behalf, except when it breaks.

Chief Dan George once said, “A child does not question the wrongs of grown ups, he suffers them”.

The sacred work of caring for our children is a gift bestowed upon us by our Creator. We honour those who have chosen to use their Creator given talents, tools and gifts to make this world a better place – one tender heart at a time.

We must never forget that we are the ancestors those not yet born will speak of, and for all those who have contributed to this great and important sacred work, they will speak your name in reverence and with love.”

1. A teaching from the Hon. Murray Sinclair²

Our children are the ongoing prize in the cultural war that Canada declared against us over 150 years ago. Canada may believe that the war is over, but until the automatic weapons it created as part of that war, have been taken from their hands or altered in fundamental ways, or disabled totally, the war continues of its own momentum.

The Child Welfare System, the Youth Justice System and the Educational System all function from the inherent, fundamental, belief, that we as parents in our own communities do not have the right to birth, raise, educate, discipline and protect our children from Canada's inherent racism.

Canada believes fervently in the benevolence of its policies and fails to accept its own failings, because we are the faces of those failings. They treat us poorly because we are not like them, and they ignore our wounds and the deaths that result from their actions – past and present – because we are not like them.

We are asked to help Canada do better – to be better – and we willingly accept that challenge because Canada must change. But the struggle to create the change that Canada must undergo will be resisted and it will be a constant repetition of “two steps forward, one step back”, or sometimes three. It will not be easy.

What our leaders must realize is that we too must change. We must stop playing the victim's role of looking to our abuser for the help we need. We must accept the challenge of standing up and walking on our own two feet. And we must walk to the beat of our own drum.

We must demand that our leaders show the leadership necessary to strengthen our communities.

We must demand that our leaders show the leadership necessary to strengthen our families.

We must demand that our leaders show the leadership necessary to strengthen our children.

We need leaders to fight that ongoing battle with the enemies on the outside of our walls, and we need leaders who will fight the enemies who are inside the walls. Our traditions have taught us that.

² Published on Senator Sinclair's website on [28 December 2017](#). Also published in Macleans Magazine on [11 January 2018](#).

Our children do not set out in life to fail. They want to be someone. We have to be the someones they want to be.

We have to tell them about those of us who have come from the same ground they stand upon, who have the same kinds of community, parents and history that they have, and who look just like them, who are someone.

We have to make them believe in us and we have to train them how to become someone and we have to let them try.

...then we have to create the blankets with which we can wrap them when they stumble and fall, and we have to love them enough to help them get up and walk again.

No one escapes this world unhurt and unharmed. We will all be bruised at some point. But our traditions have sustained the warrior spirit inside us for thousands of years and they hold the key to our future. We will not survive by being better at the whiteman's game than the white man. We will survive by being the best Anishinaabe we can be. Tell them I said this.

2. Introduction

The Loving Justice Plan is organized according to the engagement themes outlined in the National Engagement Guide, namely: 1) purpose, principles and definitions, 2) governance, 3) enforcement and durability, 4) funding commitments and arrangements, 5) accountability, 6) regional variations, 7) reform of Indigenous Services Canada, 8) research and outcome data, and 9) transitions and readiness. These themes were identified based on the direction of First Nations Rights Holders, Tribunal orders, and the best available evidence dating back nearly 30 years.

The content of each theme is informed by the wisdom of First Nations Elders and Knowledge Keepers, youth, and First Nations child and family service experts who participated in the 105 engagement sessions held across Canada pursuant to 2025 CHRT 80. Sixty-four of the submissions were for groups – of up to 91 participants. The National Children’s Chiefs Commission and the First Nations Child and Family Caring Society engaged with First Nations leaders and Rights Holders, Elders, youth and First Nations Child and Family Service (FNCFS) experts to gather their perspectives on the components of this Plan. The “What We Heard” sections that follow provide summaries and illustrative quotations of the feedback shared during those engagements.

Their collective wisdom is critical to enabling regional variations to meet local needs, while building upon a national approach to long-term reform that sets fundamental minimum human rights standards and accountability mechanisms to permanently stop Canada’s discrimination in First Nations child and family services.

These reforms, in tandem with regional variations to reflect distinct cultures, languages and realities, will apply to First Nations child and family services excepting First Nations consenting to the application of the Ontario Final Settlement Agreement or its successors. Many First Nations that have affirmed, or are seeking to affirm, their own jurisdiction in child and family services in whole or in part are entitled to the benefits of these reforms as a minimum standard which ought to be upwardly adjusted to reflect the requirements of the respective First Nations law(s).

While recognizing the scope of the complaint, we urge Canada to take measures over and 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 Northwest Territories.

Throughout its process, the Loving Justice Plan demonstrates the love that First Nations have for their children, youth and families. There was no funding for this process, yet First

Nations governments and their experts joined with the National Children's Chiefs Commission and the Co-Complainants (the Caring Society and the Assembly of First Nations) to ensure the voices of Rights Holders are respected and the rights of their children, youth and families are upheld.

3. Purpose, Principles and Definitions

A. Purpose

Measure: Outlining Purpose, Scope and Interpretation

The Loving Justice Plan presents reforms intended to provide enduring protection for generations of First Nations children, youth, and families against Canada’s systemic discrimination in First Nations Child and Family Services (FNCFS)— discrimination that was substantiated in the 2016 CHRT 2 decision and subsequent rulings. These reforms are grounded in a decade’s worth of evidence collected since 2016 CHRT 2, as well as numerous earlier studies and recommendations, including the Royal Commission on Aboriginal Peoples, the Joint National Policy Review and the Wen:De reports, all of which were cited by the Tribunal in that landmark ruling. While Jordan’s Principle will be managed through a separate process, it will be considered wherever its provisions intersect with child and family services.

In accordance with the principles of intergenerational equity and substantive equality, Canada (Indigenous Services Canada and any successor department) is obligated to ensure that its actions result in effective, needs-based, and culturally appropriate outcomes that prioritize the best interests of First Nations children, youth and families. This includes upholding human rights as minimum standards, complying with relevant legislation and regulations, and supporting the distinct rights of First Nations and their children.

Where a measure in this plan has more than one interpretation, the interpretation most consistent with the spirit of the Tribunal’s orders including substantive equality and best interests of the child will prevail.

Rationale:

- CHRT Decisions/Jurisprudence
 - [2016 CHRT 2](#) at paras [463–465](#)
 - [2018 CHRT 4](#) at paras [236\(2\)](#) and [413\(2\)](#)
 - [2021 CHRT 41](#) at paras [348](#) and [545\(2\)](#)
 - *Ontario v Association of Ontario Midwives*, [2020 ONSC 2839](#) at para [189](#)
- First Nations-in-Assembly Resolutions
 - 60/2024: *Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan’s Principle*, clause 3

- 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clauses 1(a) and (c)
- 87/2024: *Ensuring Fair and Equitable Inclusion of the Northwest Territories in the Child Welfare Compensation and Long-Term Reform Final Settlement Agreement*
- National Children's Chiefs Commission Terms of Reference, s. 4(B) (approved in 03/2025: *Approving Terms of Reference for FNCFS and Jordan's Principle Tables*)

B. Principles

What We Heard:

Engagement participants provided broad support for long-term reform principles that include: intergenerational equity, cultural continuity, culturally-based safety and well-being of children. Participants noted that principles should be clearly defined to ensure they are interpreted as intended. Several participants described the holistic and interconnected nature of wellness. This view of physical, emotional, spiritual and cognitive wellness invokes mind, body, spirit and heart, along with connections to community, family, cultural teachings, First Nations languages, and, especially, the land. Long-term reform, and its underlying principles, should reflect this concept of wellness.

"A holistic concept rooted in the child's identity, culture, language, and community connections, not limited to safety or welfare in isolation."

"Recognizing the interconnection of physical, emotional, cognitive, and spiritual wellness in the life of a child, family, and community."

Participants called for clear, plain language definitions of key terms and the principles. Definitions should be developed in consultation with First Nations and should reflect unique First Nations perspectives. Key terms like "safety" "well-being" "family" and "best interests of the child" should not be imposed by Canada and, instead, must be based on the realities, knowledge systems and priorities articulated by First Nations themselves.

"They need to be built and written by each Nation, and what the Nation's understanding of these terms may be. Not Canada's understanding."

"Participants stressed that key terms should appear directly within any long-term reform Final Agreement, plan, or order, rather than only being referenced"

elsewhere. Without definitions, participants cautioned, core ideas risk being interpreted inconsistently or diluted in implementation.”

How funding is tied to definitions—especially colonial definitions—is a key concern among engagement participants. This plays out most prominently with terms like “on-reserve/off-reserve” or “ordinarily resident on reserve.” The on/off-reserve distinction is widely seen as itself rooted in racism and the *Indian Act*, inconsistent with Canada’s constitutional obligations towards First Nations, First Nations self-determination and self-governance, and generating additional discrimination wherever it is allowed to stand. Several participants noted that many people would live on-reserve if they could, but lack of housing, services and opportunities has forced them off-reserve. Losing access to substantively equal child and family services as a result of living off-reserve is experienced as deeply unfair.

First Nations children and youth identify with Aboriginal and Treaty Nations. They do not identify with Indian Act definitions about status Indians, or who lives on-reserve and who does not. They assert that their constitutional and statutory rights are not restricted to a reserve, traditional or treaty homeland, but remain with them no matter where they choose to live. This identity goes with them wherever they go or live. They want their nationhood, their clans, their families to come together to reclaim and restore their nation-to-nation relationships. First Nations governance and institutions in the field of family and children’s services are the way of the future.

“Families have left reserve for housing, education, and health. These families should still be the responsibility of the Nations in which they are members.”

“I would like to see ‘normally resident on reserve’ include ‘eligible to reside on reserve.’ We know that there are housing shortages in most, if not all, First Nations communities. Restricting services to children and families who would reside on reserve if housing was available is unfair.”

“Because of second generation cut offs, even though they live on reserve they may not have membership with the band. We are still responsible for them.”

Participants identified a number of terms and principles requiring careful definitions: “best interests of the child”; “child”; “family”; “kKin”; “cultural continuity”; “culturally based safety”; “intergeneration equity”; “substantive equality”; “well-being”; “structural drivers”.

Effective & Durable Remedies

1. All First Nations children, youth and families have the right, individually and collectively, to be free of all forms of discrimination and have access to effective remedies.

Rationale:

- Constitutional provisions
 - [Constitution Act, 1982](#), Article [35](#), being Schedule B to the *Canada Act 1982* (UK), 1982, c 11
 - [Constitution Act, 1867 \(UK\)](#), 30 & 31 Vict, c 3, Article [132](#), reprinted in RSC 1985, Appendix II, No 5.
- Legislation
 - [Canadian Human Rights Act](#), RSC 1985, c H-6, [s. 2](#)
 - [Indigenous Languages Act](#), SC 2019, c 23, [Preamble](#) and [s. 6](#)
 - [An Act respecting First Nations, Inuit and Métis children, youth and families](#), SC 2019, c 24, [ss 9\(3\)\(b\)–\(d\)](#)
 - [United Nations Declaration on the Rights of Indigenous Peoples Act](#), SC 2021, c 14, [Preamble](#), [Annex: Preamble](#), Articles [2](#) and [22\(2\)](#)
 - [United Nations Convention on the Rights of the Child](#), Articles [2](#), [3](#), [12](#) and [19](#)
 - [Interpretation Act](#), RSC 1985, c I-21, s. [8.3](#)
- CHRT Decisions
 - [2016 CHRT 10](#) at paras [15–16](#)
 - [2017 CHRT 14](#) at para [29](#)
 - [2018 CHRT 4](#) at para [387](#)
 - [2021 CHRT 41](#) at para [18](#)
 - [2022 CHRT 41](#) at para [227](#)
- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clause 1(g)
 - National Children’s Chiefs Commission Terms of Reference, s. 4(L) (approved in 03/2025: *Approving Terms of Reference for FNCFS and Jordan’s Principle Tables*)
- Research and Evidence
 - Canadian Bar Association, “[Rights of the Child on Children’s Access to Justice and Effective Remedies](#)” (26 August 2024)
 - UNICEF, “[In Focus: Access to justice for children](#)” (October 2024)

- [Maastricht Principles on the Human Rights of Future Generations](#), s. 30 (3 February 2023)
2. The order in 2016 CHRT 2 at para 481 that Canada “cease its discriminatory practices and reform the FNCFS Program [...] to reflect the findings in this decision” is a permanent injunction against Canada to cease its discriminatory conduct in First Nations child and family services. The permanent nature of this order upholds intra-generational equity and intergenerational equity and protects First Nations children and families for generations to come.

Rationale:

- Legislation
 - [Department of Indigenous Services Act](#), SC 2019, c. 29, s 336 at [Preamble](#), [ss. 6\(2\)\(a\)](#), [7\(a\)](#), [10\(2\)](#), [13](#)
- CHRT Decisions
 - [2016 CHRT 2](#) at para [481](#)
 - [2018 CHRT 4](#) at paras [34–43](#)
 - [2019 CHRT 7](#) at paras [45–55](#)
 - [2021 CHRT 41](#) at para [37](#)
 - [2022 CHRT 8](#) at para [34](#)
 - [2025 CHRT 80](#) at paras [59–64](#)
- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clauses 1(a) and (c)
- Research and Evidence
 - Indigenous Services Canada, “[Jordan’s Principle guidance on the best interest of a child](#)” (23 December 2024)
 - Highlights the “intergenerational impacts of colonization, such as the impacts of the Indian Residential Schools system and 60’s scoop”
 - Prime Minister Harper, “[Statement of apology to former students of Indian Residential Schools](#)” (11 June 2008)
 - CHRC Book of Documents, Vol. 3, Tab 10: the apology recognized that “in separating children from their families, we undermined the ability of many to adequately parent their own children and sowed the seeds for generations to follow” and “[n]ot only did you suffer these abuses as children, but as you became parents, you were powerless to protect your own children from suffering the same experience”.

- Truth and Reconciliation Commission of Canada, “[Calls to Action](#)” (2015), numbers 1(v) and 3
- The Rome Declaration on [Safeguarding Seven Generations in times of Food, Social, and Ecological Crises \(2023\)](#), made at the UN Global Indigenous Youth Forum, hosted by the Food and Agriculture Organization of the United Nations in October 2023, at pp 2–3
 - “We demand justice, reparation and restoration for historical and intergenerational damages, recognizing the value of our knowledge and wisdom, custom and languages, including our food systems and the territories where life flourishes.”
- [Maastricht Principles on the Human Rights of Future Generations](#), s. 2, 5–7, 9, 13, (3 February 2023)
- Expert Advisory Committee, FSA Recommendations” (15 December 2025), p 1
- United Nations Committee on the Rights of the Child, “*General comment No. 26 (2023) on children’s rights and the environment, with a special focus on climate change*”, 93rd Sess., U.N. Doc. CRC/C/GC/26 (2023) at paras. 63–67. While in the environmental context, the UN Committee on the Rights of the Child stated: “While the rights of children who are present on Earth require immediate urgent attention, the children constantly arriving are also entitled to the realization of their human rights to the maximum extent.”
- [United Nations Convention on the Rights of the Child](#), Article 2
- Government of Canada definitions of Intra- and Intergenerational Equity
 - In the [environmental context](#): **Intergenerational equity**: includes the importance of meeting the needs of the present generation without compromising the ability of future generations to meet their own needs.
 - In the context of [Labour Markets, Social Institutions, and the Future of Canada's Children](#)
 - In the context of the [Department of Justice](#)’s priorities regarding the Implementation of UNDRIP (prevention and mitigation of generational harms caused by the forcible removal of Indigenous children).

Positive Outcomes for First Nations Children, Youth, Young Adults and Families

The Reformed FNCFS will be structured and implemented to achieve the following outcomes for First Nations children.

3. Holistic and culturally based safety and physical, emotional, spiritual and cognitive well-being for First Nations children, youth, young adults, and families, including preserving the child's cultural identity and connections to the language and territory of the First Nations group to which the child belongs;

Rationale:

- CHRT Decisions/Jurisprudence
 - [2016 CHRT 2](#) at para [106](#)
 - *Varley v Canada (Attorney General)*, [2025 FC 753](#) at paras [130–134](#)
 - *Fisher River Cree Nation v Canada (Attorney General)*, [2025 FC 561](#) at para [75](#)
 - *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#) at para [113](#)
 - *Reference to the Court of Appeal of Quebec in relation to An Act respecting First Nations, Inuit and Métis children, youth and families*, [2022 QCCA 185](#) at paras [476-485](#)
 - *Brown v Canada (Attorney General)*, [2017 ONSC 251](#) at paras [7](#), [52–53](#)
 - *Kina Gbezhgomi Child and Family Services v M.A.*, [2020 ONCJ 414](#) at paras [42-43](#)
 - First Nations-in-Assembly Resolutions
 - 40/2022: *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan's Principle*, clause 1
 - National Children's Chiefs Commission Terms of Reference, ss. 4(A), (F) and (G) (approved in 03/2025: *Approving Terms of Reference for FNCFS and Jordan's Principle Tables*)
 - Research and Evidence
 - Institute of Fiscal Studies and Democracy, "[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)" (2025)
 - Pp 168 & 169 "Both indicators [of the existing FNCFS program] are focused on the safety of children with no consideration of their overall well-being."
 - Truth and Reconciliation Commission of Canada, "[Calls to Action](#)", number#5
 - Assembly of Seven Generations, "Recommendations for the Long-Term Reform of FNCFS: Literature Scan", Recommendations 4, 5, 6,7.
4. Substantive equality, striving for equality in outcomes rather than providing formally equal treatment, in keeping with the following:

- i. The rights and distinct needs of a First Nations child impacted by historic and contemporary disadvantage are to be considered to promote the child's ability to live the life they wish to have;
- ii. The rights and distinct needs of a First Nations child with a disability are to be considered to promote the child's participation, to the same extent as other children, in the activities of their family or the First Nations group, community, or people to which they belong;
- iii. A First Nations child must be able to exercise their rights and benefits, including those conferred under the Reformed FNCFS, including the right to have their views and preferences considered in decisions that affect them, and they must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;
- iv. A First Nations child's family member must be able to exercise their rights and benefits, including those conferred under the Reformed FNCFS, including the right to have their views and preferences considered in decisions that affect them, and they must be able to do so without discrimination, including discrimination based on sex or gender identity or expression;
- v. The First Nation must be able to exercise without discrimination its rights, including those conferred under the Reformed FNCFS, including the right to have the views and preferences of the First Nation considered in decisions that affect that First Nation.

Rationale:

- Legislation
 - [*An Act respecting First Nations, Inuit and Métis children, youth and families*](#), S.C. 2019, c. 24, [ss. 9\(3\)\(a\)–\(c\)](#)
- CHRT Decisions/Jurisprudence
 - [2016 CHRT 2](#) at paras [404](#), [455](#), [459](#), [465](#)
- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clause 3
- Research and Evidence
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 5.

- Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A performance budget approach to well-being](#)”, (2020)
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025)
 - First Nations Child and Family Caring Society of Canada, “[Wen:de – We are Coming to the Light of Day Reports](#)”, (2005)
5. The Best Interests of the First Nation Child are safeguarded, including the following factors to determine the best interests of the child:
- i. Primary consideration shall be given to ensuring the funding structure (including Canada’s design, management and control of FNCFS and all elements of Canada’s decision-making regarding FNCFS funding) protects the child’s right to holistic and culturally based safety and well-being.
 - ii. The child’s right to live up to their full potential, in line with their right to grow up with a sense of belonging, a sense of attachment, and access to basic necessities tied to personal dignity, including housing, health, education, and food security;
 - iii. The child’s cultural, linguistic, religious, spiritual knowing and being, and their inherent right be connected to traditional territory and to the land, generally;

Rationale:

- Legislation
 - [An Act respecting First Nations, Inuit and Métis children, youth and families](#), S.C. 2019, c. 24, ss. [9\(2\)\(c\)](#), [9\(2\)\(d\)](#), [10\(3\)\(a\)](#), [11\(a\)](#)
 - *Convention on the Rights of the Child*, arts. 6, 27, and 30
 - [General Comment 11: United Nations Committee on the Rights of the Child](#), sections 30–33: “When State authorities including legislative bodies seek to assess the best interests of an indigenous child, they should consider the cultural rights of the indigenous child and his or her need to exercise such rights collectively with members of their group”
- Research and Evidence
 - Truth and Reconciliation Commission of Canada, “[Calls to Action](#)”, number 1(ii)

- Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 4,5,6.
 - The Rome Declaration on [Safeguarding Seven Generations in times of Food, Social, and Ecological Crises \(2023\)](#), made at the UN Global Indigenous Youth Forum, hosted by the Food and Agriculture Organization of the United Nations in October 2023, at pp 2–3
6. The actual and changing FNCFS-delivery needs of First Nations children, youth, young adults, families, and communities, as First Nations and their child, youth and family service experts define their own needs, are met.

Rationale:

- Legislation
 - [An Act respecting First Nations, Inuit and Métis children, youth and families](#), S.C. 2019, c. 24, [s. 10\(3\)\(b\)](#)
 - [Indigenous Languages Act](#), [S.C. 2019, c. 23](#), Preamble, [s. 6](#)
 - CHRT Decisions
 - [2016 CHRT 2](#) at paras [315](#), [347–348](#), [389](#), [422](#), [425–426](#), [448](#), [451–455](#), [458](#), [462–465](#), [482](#)
 - [2016 CHRT 16](#) at paras [18](#), [33–34](#), [38–41](#), [47](#), [60](#)
 - [2018 CHRT 4](#) at paras [63–67](#), [121](#), [143](#), [154](#), [163](#), [201](#), [206](#), [208](#), [222](#), [240](#), [252](#), [258](#), [264](#), [411](#), [416–418](#), [421](#), [436–437](#), [449](#)
 - [2022 CHRT 8](#) at para [34](#), [76](#), [109](#), [145](#), [149](#)
 - First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clauses 1(h), (j)(ii) and (k)
 - 40/2022: *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan’s Principle*, clause 1
 - National Children’s Chiefs Commission Terms of Reference, ss. 4(B) and (F) (approved in 03/2025: *Approving Terms of Reference for FNCFS and Jordan’s Principle Tables*)
7. The actual and evolving FNCFS delivery needs of First Nations children, youth, and families are defined by First Nations and their child, youth, and family service experts in a manner that is sustainable to ensure long-term positive outcomes for First Nations children. These needs take into account the distinct circumstances of First Nations communities, historical and ongoing disadvantage, and the structural drivers of child maltreatment and family crisis—many of which Canada is responsible for—including poverty, substance abuse, inadequate housing, and the loss of language and culture.

Rationale:

- CHRT Decisions
 - [2016 CHRT 2](#) at paras [344](#), [388](#), [455](#), [462–465](#)
 - [2016 CHRT 16](#) at paras [18](#), [33](#), [38](#), [160\(A\)\(2\)](#)
 - [2018 CHRT 4](#) at paras [163](#), [237](#), [264–265](#)
- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clause 1(k)
- Research and Evidence
 - Truth and Reconciliation Commission of Canada, “[Calls to Action](#)”, numbers 1(i)-(v), 2 and 5
 - [Prime Minister Harper’s apology on behalf of Canadians for the Indian Residential Schools system](#) (11 June 2008)
 - “The government now recognizes that the consequences of the Indian Residential Schools policy were profoundly negative and that this policy has had a lasting and damaging impact on Aboriginal culture, heritage and language.”
 - “The burden of this experience has been on your shoulders for far too long. The burden is properly ours as a Government, and as a country. There is no place in Canada for the attitudes that inspired the Indian Residential Schools system to ever prevail again. You have been working on recovering from this experience for a long time and in a very real sense, we are now joining you on this journey.”

8. The child’s participation, views and preferences inform FNCFS-delivery, giving due weight to the child’s age and maturity, unless they cannot be ascertained.

Rationale:

- Legislation
 - [An Act respecting First Nations, Inuit and Métis children, youth and families](#), S.C. 2019, c. 24, [ss.9\(3\)\(b\)](#) and [10\(3\)\(e\)](#)
 - [United Nations Convention on the Rights of the Child](#), Article 12
- Research and Evidence
 - Department of Justice Canada: “[Article 12 of the Convention on the Rights of the Child and Children’s Participatory Rights in Canada](#)”
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation, p 2, Recommendations 2, 3, 9, 10.

9. 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, including the following:
- i. The restoration and transmission of the languages, cultures, spirituality, practices, customs, traditions, ceremonies, and knowledges of First Nations peoples is integral to cultural continuity;
 - ii. A child's best interests are often promoted when the child resides with members of his or her family, the culture of the First Nations group, community, or people to which he or she belongs is respected, and the child is connected to their traditional territory;
 - iii. Child and family services provided in relation to a First Nations child are to be provided in a manner that does not contribute to the assimilation of the First Nations group, community or people to which the child belongs or to the destruction of the culture of that Indigenous group, community or people;
 - iv. Where a child is in alternative care, supports must be provided to ensure the child's needs are met including connection to culture and language and;
 - v. The characteristics and challenges of the region in which a First Nations child, a First Nations family or a First Nations group, community or people is located are to be considered.

Rationale:

- Legislation
 - [*An Act respecting First Nations, Inuit and Métis children, youth and families*](#), S.C. 2019, c. 24, [s 9\(2\)](#)
 - *United Nations Declaration on the Rights of the Indigenous Peoples Act*, [S.C. 2021, c. 14](#),
 - [Preamble](#)
 - Annex, Articles [8\(1\)](#), [8\(2\)](#), [12](#), [13](#), [14\(3\)](#), [22](#)
- CHRT Decisions
 - [2016 CHRT 2](#) at paras [457–465](#)
 - [2018 CHRT 4](#) at para [21](#)
- Research and Evidence
 - Truth and Reconciliation Commission of Canada, “Calls to Action”, numbers 1(ii) and 5

- Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation, Recommendations 4, 6, 8.

Reconciliation and Human Rights

Canada’s conduct in the design, management and control, implementation and evaluation of the Reformed FNCFS will recognize a positive obligation and be aligned with the following:

10. 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.

Rationale:

- Legislation
 - [An Act respecting First Nations, Inuit and Métis children, youth and families](#), S.C. 2019, c. 24, [Preamble](#)
- CHRT Decisions/Jurisprudence
 - [2018 CHRT 4](#) at paras [61](#), [77](#)
 - *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#) at paras [21](#) and [44](#)
- First Nations-in-Assembly Resolutions
 - National Children’s Chiefs Commission Terms of Reference, s. 4(H) (approved in 03/2025: *Approving Terms of Reference for FNCFS and Jordan’s Principle Tables*)
- Research and Evidence
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation, Recommendations 5, 9, p 8
 - United Nations Committee on Economic, Social and Cultural Rights concluding observations on the sixth periodic report of Canada (23 March 2016) [E/C 12/CAN/CO/6](#), paras 35–36

11. The *United Nations Declaration on the Rights of Indigenous Peoples Act* affirms the Declaration as a universal international human rights instrument with application in Canadian law and provides a framework for the Government of Canada’s implementation of the Declaration;

Rationale:

- Legislation
 - [*United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2021, c. 14, s. 4](#)
- Jurisprudence
 - *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#) at paras [4-5](#)
 - *Gitxaala v British Columbia (Chief Gold Commissioner)*, [2025 BCCA 430](#) at paras [78, 126-129](#)
- First Nations-in-Assembly Resolutions
 - 89/2024: *Renewing Negotiations Toward Long-Term Reform of First Nations Child and Family Services and Jordan’s Principle*, clause 3
 - National Children’s Chiefs Commission Terms of Reference, s. 5 (approved in 03/2025: *Approving Terms of Reference for FNCFS and Jordan’s Principle Tables*)
- Research and Evidence
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 2, 7, 8.

12. Canada recognizes that the honour of the Crown guides the conduct of the Crown, and is the measure against which that conduct is assessed, in all its dealings with First Nations peoples, including FNCFS reform, giving rise to the duty to consult and the duty of purposive and diligent implementation.

Rationale:

- CHRT Decisions/Jurisprudence
 - [2016 CHRT 2](#) at paras [104–110](#)
 - [2017 CHRT 14](#) at paras [116–120](#)
 - *Haida Nation v British Columbia*, [2004 SCC 73](#) at para [16](#)
 - *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*, [2005 SCC 69](#) at para [33](#)
 - *Mikisew Cree First Nation v. Canada (Governor General in Council)*, [2018 SCC 40](#) at paras [26, 44-45](#)
 - *Ontario (Attorney General) v Restoule*, [2024 SCC 27](#) at paras [254–263](#)
 - *Quebec (Attorney General) v Pekuakamiulnuatsh Takuhikan*, [2024 SCC 39](#) at paras [185–192](#)
 - *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#) at paras [63–65](#)

- *St. Theresa Point First Nation v Canada*, [2025 FC 1926](#) at paras [125–127](#)
- First Nations-in-Assembly Resolutions
 - 90/2024: *Safeguarding First Nations Children and Holding Canada Accountable for its Canadian Human Rights Tribunal Legal Obligations*, clause 4
 - 88/2024: *Implementing the Chiefs’ Direction to End Canada’s Discrimination in First Nations Child and Family Services*, clause 3
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clause 5

13. Canada recognizes that all relations with First Nations peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.

Rationale:

- Constitutional Provisions
 - [Constitution Act, 1982](#), s [35](#), being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.
- Legislation
 - [An Act respecting First Nations, Inuit and Métis children, youth and families](#), S.C. 2019, c. 24, ss. [8\(a\)](#), [18\(1\)](#)
 - *United Nations Declaration on the Rights of Indigenous Peoples Act*, [S.C. 2021 c. 14](#), Annex, Preamble, articles 3 and 9
 - The right of Indigenous peoples to self-determination under article 3, has a direct impact on many areas that are directly addressed in the Convention of the Rights of the Child (“CRC”). This includes legislation concerning child and family services (Article 20 of the CRC). Indigenous self-determination facilitates the development of child welfare legislation that ensures Indigenous children are not separated from their families and communities except as a last resort (Declaration, Article 22(2)). While the CRC does not explicitly reference self-determination, implementing CRC rights for Indigenous children *requires* respect for Indigenous self-government as outlined in UNDRIP.
- Jurisprudence
 - *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#) at paras [4–6](#), [56–66](#)

- *Kebaowek First Nation v Canadian Nuclear Laboratories*, [2025 FC 319](#) at para [130](#)
- *Gitxaala v British Columbia (Chief Gold Commissioner)*, [2025 BCCA 430](#) at para [78](#), [126–129](#)
- *R v Desautel*, [2021 SCC 17](#) at para [86](#)
- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clause 5
 - 60/2024: *Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan’s Principle*, clause 3
 - 87/2024: *Ensuring Fair and Equitable Inclusion of the Northwest Territories in the Child Welfare Compensation and Long-Term Reform Final Settlement Agreement*
 - 40/2022: *To Ensure Quality of Life to the First Nations Child and Family Services Program and Jordan’s Principle*, clause 2

14. Consistent with the standard of free, prior and informed consent, Canada recognizes that First Nations are in the best position to determine the legal mechanisms, instruments, information, resources and processes to affirm jurisdiction, in whole or in part, over matters relating to their children, youth and families, and require complete and accurate information in order to do so. Canada must recognize and take positive measures to support and affirm the self-determined legal mechanism(s) that First Nations choose to exercise their jurisdiction in relation to child and family services.

Rationale:

- Constitutional Provisions
 - [Constitution Act, 1982](#) s [35](#), being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.
- Legislation
 - [An Act respecting First Nations, Inuit and Métis children, youth and families](#), S.C. 2019, c. 24, [Preamble](#), ss. [8\(a\)](#) and [18\(1\)](#)
 - *Department of Indigenous Services Act*, [S.C. 2019, c. 29](#), s. 336, s 7
- CHRT Decisions/Jurisprudence
 - [2021 CHRT 41](#) at para [237](#)
 - *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#) at paras [23](#), [50](#), citing Hon. Seamus O’Regan, P.C.,

M.P., Minister of Indigenous Services in House of Commons debate on third reading of Bill C-92

- *Kebaowek First Nation v Canadian Nuclear Laboratories*, [2025 FC 319](#) at paras [92–134](#)
- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clause 1(b)
 - National Children’s Chiefs Commission Terms of Reference, s. 4(B)(i) (approved in 03/2025: *Approving Terms of Reference for FNCFS and Jordan’s Principle Tables*)
- Research and Evidence
 - Expert Advisory Committee, “FSA Recommendations” (15 December 2025), Recommendation #2, p 2
 - Truth and Reconciliation Commission, “[Calls to Action](#)”, numbers 1(iv)

Accountability & Transparency

15. The starting premise for long-term reform must be accountability, openness and transparency. All negotiations and information relating to implementation of these reforms should be, to the maximum extent possible, transparent. Transparency ensures accountability. Transparency and accountability, together, help end discrimination and prevent its reoccurrence.

Rationale:

- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clause 1(a) and (d)
 - 60/2024: *Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan’s Principle*, clauses 3, 9
- Research and Evidence
 - OHRC, “[Chapter 9 – Accountability and monitoring mechanisms: gaps in data management, performance review, and public transparency](#)”
 - For anti-discrimination policies and procedures to make real change, there must be strong accountability mechanisms in place that are used with transparency, which in turn promotes public confidence (in the context of anti-black racism within Ontario’s police force).
 - Global Affairs Canada, “[Advancing Human Rights](#)” (24 January 2024)

- Importance placed on transparency and accountability in advancing human rights, as evidenced by GAC’s tool for evaluating funding applications for Canadian funding on international development initiatives.
- OHRC, “[Anti-Racism and Organizational Change: A Guide for Employers](#)” (23 October 2023)
 - For “maintaining changes and improvements long-term, a culture of framework and accountability is needed” (in the context of preventing systemic discrimination and racism in the workplace).
- Assembly of Seven Generations, “Accountability in our Lifetime: A Call to Honour the Rights of Indigenous Children and Youth” (2021).
 - “Accountability mechanisms must lay the groundwork for harm prevention, from domestic abuse to systemic violence, in order to address the structural interventions that are required to move towards the holistic well-being of Indigenous youth.”
- Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 2, 5, 10, p 8
- Expert Advisory Committee, “FSA Recommendations” (15 December 2025), Recommendation #3, p 2–3

C. Definitions

- a. **“Access to Justice”** means positive, public and effective measures to disclose all effective judicial remedies to redress any recurrence of discrimination and access to sufficient quality resources, including funding for legal fees, to give effect to such remedies.
- b. **“AFN”** means the Assembly of First Nations.
- c. **“Alternative Care”** means a person(s) or entity who has primary responsibility for providing the day-to-day care of an Indigenous child, other than the child’s parent, including in accordance with the customs or traditions of the Indigenous group, community or people to which the child belongs.
- d. **“Block funding”** means funds provided for child and family service purposes under a contribution agreement or statute to be used by service providers with flexibility to meet needs in communities. Carry forwards are allowed and unexpended funds can be retained. Associated terms and conditions should align to the spirit and intent of the Reformed Funding Approach and uphold

the Orders.

- e. **“Canada”** means His Majesty the King in Right of Canada and his successors including as represented by Indigenous Services Canada (ISC) and its successors.
- f. **“Capacity”** means the adequate supports, financial and human resources, time, and infrastructure required to ensure a First Nation(s), First Nations child and family service agency or other First Nations authorized FNCFS provider to design and operate FNCFS and related services, interventions and is consistent with the Act and provincial or First Nations child and family services legislation and corollary legislation.
- g. **“Capital”** means the long-term investments related to infrastructure that supports the delivery of FNCFS. This includes: construction, maintenance and operation of buildings, acquisition of vehicles and recapitalization (i.e., provision to replace an existing structure at the end of its natural life).
- h. **“Caring Society”** means the First Nations Child and Family Caring Society of Canada.
- i. **“Child maltreatment”** means all types of physical and/or emotional maltreatment, sexual abuse, neglect, negligence, and commercial and other exploitation, which results in actual or potential harm to the child’s safety, including culturally based safety, and well-being, best interests, development, and/or dignity in the context of a relationship of responsibility, trust or power.
- j. **“Child Participation”** means (a) a child’s rights under *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24, including the right to have their views and preferences considered in decisions that affect the child, without discrimination, including discrimination based on sex or gender identity or expression; and (b) consideration of the rights and distinct needs of a child with a disability in order to promote the child’s participation, to the same extent as other children, in the activities of the child’s family or the Indigenous group, community or people to which the child’s belongs.
- k. **“Child removal”** means the placement of a child in alternative care pursuant to applicable child and family services legislation including but not limited to children placed in care by court order or through agreements with the child’s guardian(s) and the child and family service authority designated

under provincial/territorial or First Nations law.

- l. **“Complainants”** means the Caring Society and the AFN.
- m. **“Culturally Appropriate”** means reflective and responsive to the distinct First Nation(s) culture, including language, of the child and their family.
- n. **“Effective Remedies”** 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 and (c) access to relevant information concerning violations and reparation mechanisms.
- o. **“Emergencies”** means a serious event that raises the level of risk to the physical, emotional and psychological safety and well-being of First Nations children, youth and families requiring immediate and effective responses.
- p. **“Expert Advisory Committee (EAC)”** means an independent and public committee of multi-disciplinary experts formed by 2022 CHRT 4 and funded by Canada to assess and publicly comment on the causes and conditions of Canada’s discriminatory conduct and associated remedies.
- q. **“Family”** includes a person whom a child considers to be a close relative or whom the First Nations group, community, or people to which the child belongs considers, in accordance with the customs, traditions or customary adoption practices of that Indigenous group, community or people, to be a close relative of the child.
- r. **“First Nations”** means a government authorized by First Nations citizens but excludes First Nations who are subject to the Ontario Final Agreement.
- s. **“First Nations Child and Family Services (FNCFS)”** means services to protect First Nations children and youth from maltreatment and to support families to safely care for their children, including primary, secondary and tertiary prevention services, early intervention services, least disruptive measures, child protection, guardianship services, kinship and customary care, alternative care, respite care, post-majority care, reunification, adoption, custom adoption, and dispute resolution that ensure the full enjoyment of the national standards in an *Act Respecting First Nations, Métis, and Inuit children, youth and families*. It also includes services and products required to enable child and family services such as,

but not limited to: (1) development of Indigenous child and family services laws, (2) governance, (3) legal, (4) research (including data collection and analysis), (5) human resources, (6) capital resources (i.e.: buildings, vehicles, information technology), (7) communication technology, office equipment/supplies, (8) standards, and (9) design and evaluation to deliver such services and (10) supports for kinship and customary and alternative care providers.

- t. **“First Nations Child and Youth Rights Impact Assessment”** An evaluation carried out by the National FNCFS Technical Table that will review and publicly report on the child and youth rights impacts of all federal proposed legislation, budgets, policy, agreements and conduct related to First Nations child and family services prior to it coming into force except where prohibited by law.
- u. **“First Nation not affiliated with a FNCFSA”** means a First Nation that receives statutory child and family services from a province/territory and/or non-Indigenous child and family service provider and is not affiliated with a FNCFSA.
- v. **“First Nations child”** means a First Nations person or persons who, under applicable provincial or territorial law, is under the age of which an individual ceases to be a child, and includes the following:
 - i. The child is registered or eligible to be registered under the *Indian Act*, as amended from time to time;
 - ii. The child has one parent/guardian who is registered or eligible to be registered under the *Indian Act*;
 - iii. The child is recognized by their First Nation; or
 - iv. The child is ordinarily resident on-reserve.
- w. **First Nations Child and Family Service Experts (FNCFS Experts)** means persons, groups or organizations recognized by First Nations as having expertise in child and family service practice and/or policy and/or evaluation and other related areas.
- x. **“First Nations Child and Family Service Agency” (FNCFSA)** means an agency authorized by and affiliated with one or more First Nations and delegated or authorized, in whole or in part, pursuant to provincial or other authorities to provide legislated child and family services, and also includes

any service provider, other than a First Nation, that was funded to deliver child and family services (including non-delegated prevention services) by Canada under FNCFS in any of fiscal years 2022-2023, 2023-2024, 2024-2025, or 2025-2026.

- y. **“First Nations providing child and family services pursuant to their own laws”** means First Nations providing child and family services, in whole or in part, in accordance with their own laws and the regime implemented under *An Act Respecting First Nations, Métis and Inuit children, youth and families* and/or other mechanisms recognizing their inherent, Aboriginal, Treaty, and/or self-government rights.
- z. **“First Nations Representative”** means a person or group that is authorized by a First Nation to make representations on behalf of the First Nation in child and family service matters.
- aa. **“First Nations Representative Services”** means the research and development of an inventory of a range of services provided across regions to support First Nations children and families in contact with the child and family services sector, including by providing guidance and advocacy and making representations in civil proceedings in respect of the provision of child and family services to a First Nations child.
- bb. **“First Nations young person”** means a person who is between the age of majority as set out in the relevant, First Nations, provincial, or territorial law and 25 years of age (or such older age as may be set out in the applicable First Nations, provincial or territorial law) and includes:
 - i. The youth reside on or off reserve or in the Yukon and is registered or eligible to be registered under the Indian Act, R.S.C., 1985, c. I-5, as amended from time to time;
 - ii. the youth have one parent or guardian who is registered or eligible to be registered under the Indian Act, R.S.C., 1985, c. I-5;
 - iii. the youth reside on or off reserve or in the Yukon and is recognized by their First Nation; or
 - iv. the youth is ordinarily resident on-reserve.
- cc. **“Fully Reformed Funding Approach”** means a funding approach that adopts the Reformed Funding Approach as a funding base, adjusted

annually for inflation and population, for FNCFSAs, First Nations not affiliated with a FNCFSA, and other service providers, which will also have the capacity to track Measuring to Thrive indicators and adjust funding upwards to address increases in need. The Fully Reformed Funding Approach will adjust to the actual needs and distinct circumstances of First Nations children over time and address any recurrence of discrimination. Implementation of this approach is not currently possible given the lack of child-specific data collection and analysis supports but will be possible if the Reformed Funding Approach is fully implemented and baseline child-specific data is collected, analyzed and published.

- dd. **“Funding at Actuals”** means funding that is based on the actual cost of the product, asset or service (also referred to as “actuals”).
- ee. **“Funding Commitment”** means any resources, including financial resources payable or provided by Canada or its agents to fulfill the Purpose of these reforms.
- ff. **“Funding Mechanism”** means any arrangement including associated policies and conduct intended to transfer funding from the Government of Canada or its agents to another entity for the purposes of FNCFS.
- gg. **“Inflation”** means a minimum annual adjustment of 2% adjusted upwards to the Consumer Price Index (CPI) where it exceeds 2%.
- hh. **“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.
- ii. **“Least Disruptive Measures”** means statutory secondary and tertiary prevention services required by the Act and/or provincial or First Nations child and family service legislation to address child maltreatment risk factors, including **Structural drivers**, for child(ren) who experience, or are likely to experience, a high risk of child maltreatment and services to children and families to support a child in alternative care’s safe

reunification with their family, including extended family.

- jj. **“Measuring to Thrive”** means a set of indicators developed by FNCFS experts with the IFSD to define and monitor child and family service outcomes for the well-being of First Nations children, youth, families, and communities.
- kk. **“Minimum Base Funding”** means the minimum funding required to deliver First Nations child and family services.
- ll. **“National Oversight Council”** means a First Nations-led body, constituted and mandated by rights holders, established to provide ongoing oversight and strategic direction for the implementation, operationalization and governance of the Reformed FNCFS. It will consist of representatives appointed by First Nations from each region through their own self-determined processes, including Elders/knowledge-keepers and youth representatives. A core mandate will be to oversee and guide the design, management, and control of the reformed FNCFS ensuring that the implementation of reform is aligned with the principles and attains long-term positive outcomes for First Nations children.
- mm. **“National Secretariat”** means non-political technical secretariat functions to collect regional and national data on First Nations children, youth, and families relevant to First Nations Child and Family Services, conduct and disseminate research, best practices, and professional and public education.
- nn. **“National Technical Advisory Committee”** means one or more Technical Expert Advisory Committee(s) on First Nations Child and Family Services approved by the National Oversight Council to provide advice on the design, implementation and evaluation of First Nations child and family services.
- oo. **“Non-reallocation”** means pursuant to 2018 CHRT 4 at para. 422 Canada must not reallocate funds from other social programs, especially housing, to fund its obligations pursuant to the Orders and related agreements.
- pp. **“Orders”** means decisions and orders made by the Tribunal or Courts respecting First Nations Child and Family Caring Society et al. v. Attorney General of Canada T1340/7008.
- qq. **“Ordinarily Resident on-Reserve”** means that 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.
- rr. **“Population served”** includes all residents on-reserve (regardless of status) and in the Yukon and persons off-reserve who meet the substantive equality-informed definition of being Ordinarily Resident On-Reserve.
- ss. **“Post Majority Services”** means services, supports and products provided to a First Nations Young Person who was in care as of the day they reached the age of majority and are eligible for post majority services.
- tt. **“Public Funding Review”** a review to be completed every five years by an independent, non-political expert who is qualified in public finance and has experience working on matters relating to First Nations and First Nations child and family services in order to ensure that the Reformed Funding Approach, and ISC’s related conduct, are meeting the needs of First Nations children and is adequate for First Nations service providers to meet statutory child and family services requirements.
- uu. **“Reformed Funding Approach”** means evidence-informed, First Nations-led, transparent, multi-year, performance-informed funding structure(s) that shall support and promote the substantive equality and best interest rights of First Nations children, youth, and families receiving, or eligible to receive, child and family services. Funding levels shall be calibrated to achieve substantive equality and shall be determined based on the actual needs of First Nations children, youth, and families, based on the following considerations:
 - i. Funding shall be culturally appropriate and enable holistic services targeting the structural drivers, focused on prevention and based on the actual needs of First Nations children, youth, and families, taking full account of the unique circumstances of the respective First Nation(s), including their historical, cultural, and geographical needs and circumstances.
 - ii. Funding shall address, through culturally based child and

family services, the structural drivers and root causes of the over-representation of First Nations children and youth encountering the child and family service system.

- iii. Funding shall not be subject to downward adjustments or other adverse conduct by Canada and will be determined pursuant to an evidence-based approach linking a multi-year, performance informed, flexible funding structure (block approach that permits the service-provider to reinforce successes in prevention by re-investing protection savings arising from reduction of the rate of children in care into still greater prevention activities) that permits needs-based and bottom-up budgeting to support well-being, as informed by the Measuring to Thrive framework, which was developed through community-driven evidence-informed research.
- iv. Funding shall ensure that outcome data on First Nations children, youth, and families can be collected and analyzed to monitor for the recurrence of discrimination, inform child and family services interventions, and calibrate resources to any increased need.
- v. Funding Mechanisms and related policies, practices and mechanisms shall be measured against the Purpose and Principles of the Loving Justice Plan, and Canada's legal obligations.
- vv. **"Regional Variations"** mean variations that meet or exceed the Reformed Funding Approach and address variations due to region-specific considerations that require accommodation to address ongoing discrimination
- ww. **"Remoteness"** means a variable factor measured on a continuum and describes the lived circumstances of First Nations communities for whom issues of access (by road network, by ice road only, by air only, or otherwise), geography, and context exacerbate challenges faced by all First Nations, including increasing the costs associated with child and family services. Remoteness is generally associated with geographic distance from, and access to, service centres (often defined based on population size and density), which affects the costs of shipping goods as well as costs

related to personnel, including travel, and living costs.

- xx. **“Reunification”** means any process to reunite children and youth in alternative care or formerly in alternative care with their family, extended family or First Nation.
- yy. **“Retaliation”** Any conduct by Canada or its agents, including economic retaliation and other conduct inconsistent with the *United Nations Declaration on the Right and Responsibility of Individuals, groups, and Organs of Society that seek to protect Universally Protected Human Rights and Fundamental Freedoms* that seeks to frustrate the efforts of peaceful human rights defenders to uphold the human rights of First Nations children, youth, young adults and families set out in these reforms and/or related to First Nations Child and Family Caring Society of Canada et al. v Attorney General of Canada T1340/7008.
- zz. **“Special Purpose Allotment”** (SPA) means a specific authority in the Treasury Board Transfer Policy designed to protect funds from departmental internal vote transfers as with authority to carry over funding across fiscal years.
- aaa. **“Structural drivers”** mean factors that are largely out of a caregiver or caregivers’ control, including factors linked to Canada’s conduct, which reinforce, perpetuate or exacerbate disadvantage for First Nations children, youth, and their families and/or which contribute to the overrepresentation of First Nations children and youth in the child and family service system, including:
 - i. poverty;
 - ii. poor housing;
 - iii. exclusion factors like racism, systemic racism, and colonialism; and
 - iv. multi-generational trauma, manifested as substance misuse and intimate partner violence.
- bbb. **“Transition Period”** means the period during which an FNCFS Agency or First Nation undergoes the process of changing from the current state to a desired future state.
- ccc. **“Tribunal”** means the Canadian Human Rights Tribunal.

ddd. **“Young Adult”** means a First Nations person aged between the age of majority in the jurisdiction of their residency up to and including age 25 eligible for post-majority services.

4. Governance

What We Heard:

Engagement participants stated very clearly that First Nations Rights Holders are central to decision-making regarding children, youth and families. Rights Holders are responsible for the safety and well-being of children and families and must actively participate in governance processes to ensure that reform reflects First Nation ways. Among Rights Holders, the voices of Elders and youth with lived experience in care deserve particular consideration. Both are seen as providing important perspectives grounded in personal experience and wisdom and should play an advisory role in governance.

“A future governance model should be grounded in decision-making authority that flows from Rights Holders.”

“First Nations Rights Holders must be at the centre of the ongoing governance of long-term reform and the implementation of any final orders from the Tribunal. They play a foundational role.”

“Create mechanisms that enable rights holders to participate meaningfully in governance processes. Recognize their role as community experts and ensure they have significant influence in the reform decision-making process”

“Elders should guide reform as knowledge keepers and moral authorities, grounding system changes in Indigenous law, tradition, and relational accountability.”

“Youth who have experienced the system firsthand must be meaningful contributors to the governance of reform, not token representatives. Their lived experience provides the most authentic insight into where systems fail and what supports create stability.”

Participants provided clear guidance on the essential role their Chiefs play in governance. As elected and traditional leaders, Chiefs are expected to represent community views and to implement the decision-making authority of Rights Holders in governance processes (e.g., approving mandates and governance structures, establishing strategic priorities).

“Chiefs are the recognized political voice of their individual communities and must remain central to governance.”

“[Chiefs’] inclusion is essential, as they offer important perspectives on the needs of First Nation children, families and communities.”

Participants expressed widespread support for the National Children's Chiefs Commission to play a key role in governance. Some participants cautioned against allowing the NCCC to replace the decision-making authority of Rights Holders. Indeed, the structure of the NCCC (i.e., regionally representative, accountable to communities, focused on child and family well-being) leaves it well-positioned to stand as the main oversight body and to serve as the link between national reform and regional and community realities.³

"The NCCC should serve as the core accountability, oversight, and reform body responsible for ensuring that Canada meets its legal obligations under CHRT 80 and implements the principle of substantive equality."

"The NCCC is dedicated to the best interests of the child and should remain a central partner."

"NCCC should lead the role in governance long-term, reporting to the FN rights holders."

"The National Children's Chiefs Commission has an important role but it must be understood carefully and respectfully within the broader landscape of self-determination. Their role should not replace or overshadow the authority of individual First Nations Rights Holders. Instead, their responsibility should be to support, amplify, and protect the direction that Nations set for themselves."

Participants noted that the valuable roles of FNCFS experts and expert tables include gathering, generating and sharing information, as well as in coordination, analysis and interpretation. There is widespread agreement that experts should play an advisory role in governance, without straying into the decision-making roles. The work of the Caring Society, in particular, is valued and respected: the Caring Society is seen as a strong advocate and an excellent source of evidence-based information. There was support for a range of technical tables, including regional technical tables and secretariats and an emphasis on including frontline experts to ensure reform decisions are informed by real operational experience.

"Technical tables play a supporting, advisory, and facilitative role in long-term reform, but they must never replace or override the authority of First Nations Rights Holders or Nations themselves."

"All existing tables should be able to speak into the process. If they are doing work on behalf of our children we need to hear from them"

³ To note: The NCCC does not have an ongoing mandate to participate in governance; however, the NCCC can seek that mandate or serve as a transitional body and as a model for a newly-constituted national oversight body.

“The Caring Society should remain the human rights conscience and research partner of the reform process.”

A. Measure: Key Organizations and Actors Overseeing the Reformed FNCFS

Implementation Timeline: Within six months of plan approval

A First Nations-led governance structure will support, guide and oversee the implementation and ongoing functions of long-term reform of FNCFS. The governance structure described in this Chapter 4 will include regional and national bodies working in a fully coordinated manner with a mandate to ensure all First Nations children have access to culturally based and substantively equal child and family services.

National governance bodies will include:

1. The **National Oversight Council** will be created, mandated and guided by First Nations Rights Holders. Subject to the sovereign will of Rights Holders, the National Oversight Council will be comprised as follows:
 - a. Representatives appointed by each region through their own self-determined processes;
 - b. Elder/knowledge holder and Youth representatives; and
 - c. Representatives of the Complainants

Subject to the sovereign will of Rights Holders, the National Oversight Council’s role will notably include:

- d. Ensure Canada’s accountability including its obligation to permanently cease all discriminatory conduct in FNCFS;
- e. Oversight of all aspects of the design, management and control of FNCFS or the Reformed Funding Approach (and any successor); and
- f. Consultation with, and reporting to, First Nations through national and regional processes; and
- g. Foster and promote Canada’s observance of international and domestic human rights law, instruments and norms including, in particular, the United Nations Declaration on the Rights of Indigenous Peoples, the United Nations

Convention on the Rights of the Child and the Organization of American States, American Declaration on the Rights of Indigenous Peoples.

Canada shall fund the National Oversight Council and upon request of the National Oversight Council, take positive and effective measures to ensure the National Oversight Council can discharge its mandate.

Where there are ongoing legal proceedings related to the Tribunal's orders, the National Oversight Council will collaborate with the Complainants to ensure Canada permanently ceases its discriminatory conduct.

Rationale:

- First Nations-in-Assembly Resolutions
 - 60/2024: *Addressing Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle*, clause 3
 - Research and Evidence
 - Assembly of Seven Generations, "Recommendations for the Long-Term Reform of FNCFS: Literature Scan", Recommendation, Recommendation 10.
2. The **National FNCFS Technical Table** will be comprised of the First Nations Child and Family Caring Society of Canada and FNCFS experts appointed by each region, and will:
- a. Coordinate with regional technical tables to provide advice to the National Oversight Council;
 - b. Review existing and proposed legislation, budgets, regulations, operational bulletins, policy, agreements and conduct related to FNCFS and provide recommendations to the National Oversight Council;
 - c. Develop, implement, disseminate and evaluate the Child and Youth Impact Assessment Tool described in Chapter 5, Measure C
 - d. Review data and research from the National Secretariat to inform recommendations to the National Oversight Council;
 - e. Support the participation of youth and young adults, including youth and young adults with lived experience in alternative care;
 - f. Contract additional expertise as necessary;
 - g. Support capacity-building of Regional Technical Tables;

- h. Support First Nations pursuing jurisdiction in child and family services upon request; and
- i. Other duties required to discharge the purpose and principles.

Canada shall fund, upon request of the National FNCFS Technical Table, positive and effective measures to ensure the National FNCFS Technical Table, can discharge its mandate. The National FNCFS Technical Table will develop models for the National FNCFS Secretariat and mechanisms for coordinating with Regional Secretariats and provide recommendations to the National Oversight Council.

3. The **National FNCFS Secretariat** functions will be fulfilled by one or more apolitical and independent First Nations-led non-profit organization(s) recommended by the National Oversight Council and authorized by Rights Holders outside the Ontario FSA. The National Secretariat will:

- a. Collect, analyze and disseminate non-identifying First Nations child and family services outcome data consistent with Measuring to Thrive;
- b. Be a national convening and knowledge mobilization centre for holistic policy, practice and evaluation of First Nations child and family services, capital, custom adoption, post-majority services and First Nations representative services honouring First Nations languages and publishing in English and French;
- c. Provide secretariat support to the National Oversight Council and the National FNCFS Technical Table;
- d. Support capacity-building of Regional Secretariats;
- e. Support the participation of youth and young adults, including youth and young adults with lived experience in alternative care;
- f. Support Public Funding Review;
- g. Working with the National Oversight Council, foster and promote Canada's observance of international and domestic human rights law, instruments and norms including, in particular, the United Nations Declaration on the Rights of Indigenous Peoples, the United Nations Convention on the Rights of the Child and the Organization of American States, American Declaration on the Rights of Indigenous Peoples;
- h. Support dispute resolution and accountability processes; and
- i. Other duties required to discharge the purpose and principles.

Canada shall fund the National Secretariat, and, upon request of the National Secretariat take positive and effective measures to ensure the National Secretariat can discharge its mandate. Canada shall not, otherwise, interfere in the National Secretariat's governance, operations or decision-making or works, nor use funding or administrative measures to influence or fetter or retaliate against the National Secretariat's governance, operations, work or findings unless otherwise required by law.

Rationale:

- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025)
 - An expert roundtable of First Nations child and family services (FNCFS) leaders, practitioners, and academics (First Nation, Indigenous, and non-Indigenous) worked with IFSD to prepare recommendations on a First Nations-led Secretariat in FNCFS. The IFSD report includes:
 - Pages 369–456 provides a paper describing the rationale, mandate, structure and cost of the secretariat.
 - Rationale for measuring to thrive indicators found at pp 350–353
 - Case Studies of use of Measuring to Thrive framework from a pilot project (Figures 47, 49, 50) (pp 139, 142, 144)
 - NAC First Nations Caucus: Draft Phase 3 Recommendation Discussion Guide (March 2024), at p 9
 - The Secretariat should be apolitical.
 - No endorsement of a National Secretariat only, instead endorsement of regional and National Secretariat approach.
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 1, 2, 3, 4, 5 and pp 7–8.

Regional governance bodies will include:

1. **Regional Technical Tables** will be comprised of FNCFS experts within each region. Wherever possible, existing regional technical tables will fulfill the regional technical functions—with funding from Canada for additional capacity building as needed. Regional Technical Tables will:

- a. Review existing and proposed legislation, budgets, regulations, policy, agreements and conduct related to FNCFS and provide region-specific recommendations to the National FNCFS Technical Table;
- b. Review data and research from the applicable Regional Secretariat to inform recommendations;
- c. Support the participation of youth and young adults, including youth and young adults with lived experience in alternative care
- d. Contract additional expertise as needed;
- e. Report to regional First Nations;
- f. Meet with regional ISC representatives; and
- g. Other duties required to discharge the purpose and principles.

Canada shall fund the Regional Technical Tables and, upon request of the Regional Technical Tables, take positive and effective measures ensure the Regional Technical Table can discharge its mandate. Canada shall not, otherwise, interfere in the Regional Technical Table's governance, operations or decision-making or works, nor use funding or administrative measures to influence or fetter or retaliate against the Regional Technical Table's governance, operations, work or findings unless otherwise required by law.

2. **Regional Secretariats** will be comprised of one or more apolitical and independent First Nations-led non-profit organization(s) authorized by First Nations within each region. Wherever possible, existing regional secretariats (or similar organizations) will fulfill the regional secretariat functions—with funding from Canada for additional capacity and service delivery as needed. Regional Secretariats will:

- a. Support needs assessments related to First Nations child and family services;
- b. Support FNCFS Agencies and First Nations in the design, delivery and evaluation of prevention services to build capacity to deliver service-outcome data consistent with Measuring to Thrive;
- c. Support FNCFS Agencies and, as applicable, First Nations in the design delivery and evaluation of child protection services, including coordination with prevention, to deliver service-outcome data consistent with Measuring to Thrive;

- d. Support FNCFS Agencies and, as applicable, First Nations in the design, delivery and evaluation of alternative care placements and arrangements, custom adoption, post majority and band representative services;
- e. Support the participation of youth and young adults, including youth and young adults with lived experience in alternative care;
- f. Support and coordinate interjurisdictional FNCFS service delivery;
- g. Share regional data with the National Secretariat;
- h. Be a regional convening and knowledge mobilization centre for holistic policy and practice;
- i. Provide secretariat support to the Regional Technical Table; and
- j. Other duties required to discharge the purpose and principles.

Canada shall fund the Regional Secretariats and, upon request of the Regional Secretariats, take positive and effective measures ensure the Regional Secretariats can discharge their mandate. Canada shall not, otherwise, interfere in the Regional Secretariats' governance, operations or decision-making or works, nor use funding or administrative measures to influence or fetter or retaliate against the Regional Secretariats' governance, operations, work or findings unless otherwise required by law.

Rationale:

- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clauses 1(l)
- Research and Evidence
 - Assembly of Seven Generations, "Recommendations for the Long-Term Reform of FNCFS: Literature Scan", Recommendations 1, 2, 3, 4, 5 and pp 7–8.

Canada will recognize and fully cooperate with the governance structure described in this Chapter 4 and will provide adequate and sustained funding to realize and maintain this structure. Canada will support, including by participating and providing information as appropriate, but it shall not interfere in the National and/or Regional Secretariat's operations or decision-making, nor use funding or administrative measures to influence or penalize the Secretariats' work or findings. Canada will consult with the National Oversight Council to establish statutory provisions recognizing the oversight authority of the governance structure.

Youth Engagement: Truth and Reconciliation Commission Call to Action 66

The governance mechanisms noted above will make provision for youth involvement in long-term reform of FNCFS. The public good would, however, be served by providing a means for youth to be directly involved in this work, as recognized by Truth and Reconciliation Commission Call to Action 66. Recognizing the scope of this complaint, Canada is strongly encouraged, above and beyond the measures proposed in this plan, to work with Indigenous youth, including youth in and from alternative care, to fund an Indigenous youth organization and foundation.

- Research and Evidence
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 1, 2 and 9.

B. Measure: Oversight of the Design, Management and Control of FNCFS

Implementation Timeline: Within six months of establishment of governance mechanisms

Canada will meaningfully consult with the Complainants and take positive and effective measures to substantively implement the recommendations of the National Oversight Council regarding all aspects of the design, management and control of FNCFS.

This will include all new measures required to reform FNCFS and all existing and proposed legislation, budgets, regulations, policy, operational bulletins, agreements and conduct related to FNCFS. If the National Oversight Council determines that any current measures associated with First Nations Child and Family Services (FNCFS) and Jordan’s Principle do not align with the established Principles, and until a formal Jordan’s Principle governance structure is in place, Canada is committed to promptly withdrawing those measures. Furthermore, Canada will collaborate with the National Oversight Council to develop new measures that uphold the Principles and reflect meaningful consultation.

Canada must implement recommendations from the National Oversight Council to permanently cease its discriminatory conduct or, in the alternative, within 15 business days provide credible evidence that its current or proposed conduct is fully aligned with the Purpose and Principles. Where Canada’s evidence that it is aligned with the Purpose and Principles is in dispute, and/or implementation of recommendations is unduly delayed or recommendations are partially implemented or not implemented, recourse will be had to the Enforcement and Durability measures described in Chapter 5.

C. Measure: Moratorium on, and Redress of Existing and Planned Operational Bulletins and related mechanisms designed and implemented without consultation

Implementation Timeline: Upon plan approval (review with complainants pending implementation of governance mechanisms)

Canada shall cease the design or implementation of policies and conduct including through operational bulletins and funding mechanisms without consultation with the Complainants and National Oversight Council and/or NCCC. Unless otherwise agreed to in writing by the NCCC and Complainants, Canada must withdraw operational bulletins and other policy or conduct related to FNCFS that were developed and/or implemented without consultation with First Nations, pending review by the National Oversight Council and the National FNCFS Technical Table.

Rationale:

- Legislation
 - [United Nations Declaration on the Rights of Indigenous Peoples Act](#), SC 2021, c 14, [Annex](#), Articles [15\(2\)](#) and [19](#)
- CHRT Decisions/Jurisprudence
 - [2018 CHRT 4](#) at paras [233](#) and [251](#)
 - *Gitxaala v British Columbia (Chief Gold Commissioner)*, [2025 BCCA 430](#) at paras [78](#), [126–129](#), [160–163](#)
- Research and Evidence
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 7.

5. Enforcement and Durability

What We Heard:

Engagement participants expressed significant mistrust that Canada will voluntarily end its discrimination or abide by the Tribunal's orders: participants consistently cited Canada's history of non-compliance and emphasized the need for enforceable oversight until discrimination is demonstrably ended.

“Any long-term reform plan must include tools to enable the comprehensive oversight of reform implementation. Canada’s history of non-compliance with the Tribunal’s orders, such as the ongoing failure to address the significant backlog of Jordan’s Principle requests, demonstrates the need for strong oversight and accountability mechanisms in relation to reform implementation.”

When asked about enforcement mechanisms, participants expressed support for both continued Tribunal oversight (with clear criteria for ending the Tribunal's jurisdiction) and an alternative dispute resolution mechanism. Participants identified several parameters to ensure the efficacy of any alternative dispute mechanism including: independence and the capacity to make enforceable orders regarding both systemic and specific failures in FNCFS and Jordan's Principle. The alternative dispute resolution mechanism should be grounded in First Nations law and legal traditions and be built on an expert-informed, rights-based design with a built-in non-discrimination assessments and protections from retaliation. Timeliness is important: the alternative dispute resolution mechanism should offer immediate relief in cases of urgent child-specific harms and timely responses in all other cases. The ADR should be responsive to unique circumstances, transparent and accountable, and subject to mandatory period reviews.

“The CHRT must play an active and ongoing role in overseeing the implementation of the reform until an independent dispute resolution mechanism is in place. The Tribunal’s neutrality is essential to prevent Canada from reinstating discriminatory practices once the Tribunal is no longer involved.”

“Canada must comply with CHRT Orders as legally required. This is a Canadian process set up by Canada. If Canada can not comply how does it expect others to respect it.”

“If ongoing Tribunal oversight is not possible, accountability should be ensured through Nation-led dispute resolution processes. These processes would be co-

designed by First Nations, grounded in their laws, languages, and cultural practices, and structured to monitor compliance, limit external discretion, and prevent discrimination. By placing authority and accountability in the hands of the Nations themselves, children, families, and communities are protected, and reforms are implemented in ways that are culturally safe, enforceable, and self-determined.”

A. Measure: Effect of the Reforms on Canada’s Human Rights Obligations

These reforms do not constitute a limitation or waiver of Canada’s human rights obligations including through 2016 CHRT 2.

Rationale:

- CHRT Decisions
 - [2022 CHRT 41](#) at paras [178–179](#)
 - [2025 CHRT 80](#) at paras [68–70](#)

B. Measure: Scope of the Continued Jurisdiction of the Tribunal

The Tribunal has authority to retain its jurisdiction until such time as the Reformed FNCFS has been fully complied with, so as to consider and decide any dispute arising from its implementation. In the event that the Tribunal retains jurisdiction, the National Oversight Counsel will collaborate with the Complainants to ensure Canada’s discrimination regarding FNCFS permanently ceases and does not recur including through Canada’s conduct respecting Jordan’s Principle.

In order for the Reformed FNCFS to be fully complied with and the Tribunal to consequently cease its jurisdiction over First Nations Child and Family Services, Canada must:

- i. demonstrate to the satisfaction of the Tribunal, based on submissions from the Complainants that are informed by the views of the Expert Advisory Committee and the National Oversight Council, that the discriminatory conduct has stopped;
- ii. demonstrate to the satisfaction of the Tribunal, based on submissions from the Complainants that are informed by the views of the Expert Advisory Committee and the National Oversight Council, that the discrimination will not recur;
- iii. fully implement the Reformed Funding Approach;

- iv. amend provincial/territorial agreements in alignment with the Orders in a manner that ensures full consultation with respective First Nations and/or First Nations service providers;
- v. implement and maintain effective quality control measures to detect and effectively remedy the recurrence of discrimination;
- vi. implement and maintain effective and accessible complaints and dispute resolution mechanisms that are as effective as or improve upon the Tribunal, has the capacity and authority to address systemic cases and order and enforce effective remedies including those required to prevent and effectively respond to all forms of retaliation.

Rationale:

- CHRT Decisions
 - [2017 CHRT 14](#) at paras [27–34](#)
 - [2018 CHRT 4](#) at paras [48–52](#)
- Jurisprudence
 - *McKinnon v Ontario (Ministry of Correctional Services)* (No. 3), [1998 CanLII 29849](#) (ON HRT) at para [354](#)
 - *Ontario v McKinnon*, [2002 CanLII 46519](#) at para [313](#):
 - I shall remain seized of these matters until such time as this entire series of orders has been implemented and the complainant’s remedial right to full compliance with the *Code in respect of future practices* has been satisfied in substantial conformity with the orders as read in the context of the findings, conclusions and reasons found in this decision and in the April 1998 decision of this Board. If the complainants and Canada are unable to agree with respect to any of the matters regarding which their common approval is required, or if there are any other matters relating to the implementation of these orders that are in dispute or appear to require clarification, I am to be contacted without delay so that I may hear and decide such matters [emphasis added].
 - *Ontario v McKinnon*, [2004 CanLII 47147](#) (ONCA) at para [2](#)
 - *McKinnon v Ontario (Correctional Services)*, [2007 HRTO 4](#) at para [551](#)
 - *Walden v Canada (Treasury Board and Human Resources and Skills Development Canada)*, [2016 CHRT 19](#), [2018 CHRT 20](#), [2023 CHRT 13](#) (matters heard by Member Garfield, in the decade following a 2012 Memorandum of Agreement, which itself followed liability ([2007 CHRT 56](#)))

and remedy ([2009 CHRT 16](#)) decisions by Member Jensen (as she then was), who retained jurisdiction over the complaint).

- As noted by the Commission on its November 9, 2020 submissions in this matter regarding the Compensation Process (at para 16), in the consent order resolving the *Walden* matter, “the Tribunal retained jurisdiction to deal with any “... dispute or controversy surrounding the meaning or interpretation of the Agreement, or its implementation or fulfillment...” – whether brought by a party, or by a non-complainant individual claiming eligibility.” (citing *Walden et al v Attorney General of Canada*, Consent Order dated July 31, 2012 at para 4 (CHRT File Nos. T1111/9205, T1112/9305, T1113/9405).
- Research and Evidence
 - Naomi Metallic et. al, “[Doing Better for Indigenous Children and Families: Jordan’s Principle Accountability Mechanisms Report](#)” (31 March 2022), p 40: Discussion of the Tribunal’s eventual relinquishing of jurisdiction

Guidance from the Tribunal following a Dispute/Complaint

The Tribunal shall retain jurisdiction over the complaint in relation to FNCFS for a minimum of five (5) years from the date of its FNCFS long-term reform order and thereafter until Canada has demonstrated sustained compliance (that is independently verified) with the National FNCFS Reforms and the risk of recurrence of discrimination has been eliminated. In the event that the complainants and Canada are able to agree to an effective dispute resolution mechanism as part of the FNCFS reforms, the complainants and Canada shall only return to the Tribunal for assistance following the full adjudication of a dispute using that mechanism.

Subject to Canada’s compliance with the FNCFS Reforms, following the five (5) year supervision role of the Tribunal, the complainants and Canada shall report to the Tribunal regarding the Initial Five-Year term and seek guidance and direction regarding the Tribunal’s ongoing jurisdiction in relation to the FNCFS Reforms. For clarity, the Tribunal’s reasons and findings made in all existing orders shall continue and the FNCFS Reforms have no impact on any of the Tribunal’s orders in relation to Jordan’s Principle.

Rationale:

- Research and Evidence
 - Naomi Metallic et. al, “[Doing Better for Indigenous Children and Families: Jordan’s Principle Accountability Mechanisms Report](#)” (31 March 2022), at p 40: Discussion of the Tribunal’s eventual relinquishing of jurisdiction

C. Measure: Child and Youth Impact Assessment Tool

Implementation Timeline: Within 18 months of plan approval

Before Canada makes any decisions to change the Reformed FNCFS, unless otherwise directed in the Loving Justice Plan, the National FNCFS Technical Table will review and publicly report, via the National Oversight Council, on the child and youth rights impacts of all federal proposed legislation, budgets, policy, agreements and conduct related to First Nations child and family services prior to it coming into force, except where prohibited by law. Canada will have a positive obligation to bring any such decision-making to the National FNCFS Technical Table's attention prior to implementation.

The National FNCFS Technical Table will develop, implement and evaluate the Child and Youth Impact Assessment Tool in collaboration with youth and young adults with lived experience in child and family services and Elders/Knowledge keepers, as well as the Regional Technical Tables, the Complainants and the National Oversight Council.

Rationale:

- Research and Evidence
 - Modified version of existing government tool: [Child Impact Assessment](#)
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 3, 10
 - [United Nations Convention on the Rights of the Child](#), Article 3
 - UNICEF, “[What is a Child Rights Impact Assessment?](#)”, Canada criteria for child rights impact assessments

D. Measure: Complaint and Dispute Resolution Mechanisms

Implementation Timeline: Within three months of plan approval (subject to agreement by Canada)

To the extent that Canada fails to abide by the reforms, the complainants, the National Oversight Council and funding recipients must have direct and responsive recourse to a process grounded in Indigenous law, First Nations processes and loving justice, that ensures compliance in a manner that accounts for children's safety, physical, emotional, spiritual and cognitive well-being, and best interests and cultural continuity, and is informed by the human-centered aspects of dispute resolution, including love and compassion. At a minimum, this must include an independent, non-complex and effective,

credible, national complaints mechanism.

Consistent with the Tribunal's recognition that it may be acceptable for a decision-maker to encourage parties to engage third party arbitration as part of an attempt to reach agreement on an issue, even where the decision-maker does not have the jurisdiction to order binding arbitration (2021 CHRT 6 at para 130), this plan proposes a Dispute Resolution Mechanism ("DR Mechanism") that reflects the minimum standards of the Tribunal orders and incorporates access to justice, and loving justice principles, for both systemic complaints (brought by the complainants) and individual complaints (brought by funding recipients), including those of an urgent nature. It is recognized that while an effective alternative dispute measure would reduce the need for the complainants and Canada to call on the Tribunal's jurisdiction "in order to resolve a dispute that negotiation fails to resolve" (2021 CHRT 6 at para 130).

However, Canada's cooperation would be required in order to implement such a measure. As a result, this plan provides high-level principles that would be applicable for such a DR Mechanism. The details of any DR Mechanism to support this plan would be developed after Canada's cooperation has been confirmed.

This mechanism must be principled, public, accessible, rooted in First Nations legal traditions and laws, and include the following features:

- i. **Enforceable:** The DR process must be transparent, accessible, and enforceable in court with clear, specific and actionable orders.
- ii. **Based on the paramountcy of human rights:** The DR must offer First Nations parties and claimants at least the same level of protection as Canadian and International human rights regimes, so as not to treat them as second-class rights bearers as they have been in the past. Canada must not be allowed to "contract out" of human rights in the reforms.
 1. **Primary principles:** Human right norms, the best interests of the First Nations child and the terms of the Fully Reformed Funding Approach, as endorsed by orders of the Tribunal, must prevail in any disputes.
 2. **Protection against retaliation:** Robust protections against retaliation must be available to anyone engaged in the DR process. This includes provisions for injunctive relief, compensation and effective measures to stop retaliation and prevent its recurrence.

- iii. **Honourable character and demonstrated impartiality and independence requirement:** Adjudicators, staff, and agents will be selected by the Complainants and Canada based on recommendations from the National Oversight Council and must be honourable with demonstrated experience in adjudicating matters respecting Indigenous children, youth, young adults and families. They have an obligation to carry out their duties with the highest level of independence and integrity.
- iv. **Conflict of Interest:** Adjudicators, staff, and agents must not have served in a federal, provincial/territorial, or municipal political capacity in the prior five years and are required to disclose any perceived or actual conflicts of interest to the Complainants and Canada.
- v. **Available effective remedies:** The DR mechanism must have the capacity to order Canada to make procedural and substantive decisions, order Canada to take any reasonable effective action (including interim), provide funding or other remedies.
- vi. **Limitations:** The DR mechanism would not have the capacity to amend Tribunal orders related to FNCFS reforms, reduce existing funding or funding entitlement of service providers, reduce the overall funding commitment in the FNCFS Reforms, nor implement changes to the funding structure of the FNCFS Reforms.
- vii. **Reflect First Nations Perspectives:** The procedure adopted in the DR mechanism would adopt and embody the principles and values of respect, restitution, reconciliation, responsibility and interconnectedness.
- viii. **Reflect Youth Perspectives:** The procedure adopted in the DR mechanism would support and welcome the participation, views and expertise of youth, including youth with lived experience of placement in alternative care.

Except for requirements under the *Privacy Act* or the confidentiality provisions of provincial, federal or First Nations child and family services legislation, only a First Nations litigant may request the confidentiality of procedures, hearings, documents or decisions when it is in the best interest of the child.

The decision-maker in the DR Mechanism would be selected by agreement between the complainants and Canada following discussions in collaboration and consultation with the National Oversight Council.

Rationale:

- CHRT Orders
 - [2025 CHRT 6](#) at paras [515–551](#)
- Research and Evidence
 - Naomi Metallic et. al, “[Doing Better for Indigenous Children and Families: Jordan’s Principle Accountability Mechanisms Report](#)” (31 March 2022), pp 77–78: Recommendation for a National Indigenous Child and Family Tribunal as a dispute resolution mechanism.
 - Truth and Reconciliation Commission, “[Calls to Action](#)” number 50
 - National Inquiry into Missing and Murdered Indigenous Women and Girls, [Call for Justice 1.7 Final Report](#)
 - Expert Advisory Committee, “FSA Recommendations” (15 December 2025), Recommendation #11, at p 6-7
 - N. Sikka et al “[Indigenous Centered Conflict Resolution Processes in Canada](#)” (March 2021), posted as a resource document on the National Aboriginal Land Managers’ Association website
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 3, 10

E. Measure: Funding for Judicial Reviews

Implementation Timeline: By the commencement of the Reformed FNCFS Approach

In the event that there is no DR Mechanism, the reformed FNCFS would require Canada to establish an adequate litigation fund to ensure access to justice, under the supervision of the National Oversight Council, to enable FNCFS Agencies and First Nations to review federal decisions made pursuant to these reforms before a court or Tribunal of competent jurisdiction. The amount of funding provided per challenge would be subject to budgetary approval by the National Oversight Council, with the maximum amount of funding available, per challenge, being consistent with the amount available, per challenge, for human rights litigation under the Court Challenges Program as of April 1, 2026.

Rationale:

- Research and Evidence

- Naiomi Metallic et. al, “[*Doing Better for Indigenous Children and Families: Jordan’s Principle Accountability Mechanisms Report*](#)” (31 March 2022), at p 78: Recommendation for funding of legal services for Indigenous Children and Families.
- Court Challenges Program, [Funding Guidelines](#) (1 October 2024)
- Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 10 and pp 7 and 9

6. Funding Commitments and Arrangements

What We Heard:

Engagement participants described numerous funding challenges—both in the funding amount and how the funding flows—that often have a direct impact on services and ultimately on children and their families. Bureaucratic and constantly shifting funding processes and requirements result in service gaps and operational challenges. Some of the key challenges include: significant delays in funding approvals and disbursements; failure to approve work plans or confirmation of funding amounts, and unexpended funds in a timely way or provide clear reasons for not approving workplans in whole or in part. Changes in Canada’s policy without notice, that often applies retroactively and burdensome reporting requirements.

“Problems with flows and rules: unpredictable approvals, unilateral bulletins and eligibility shifts, thin and confusing templates, uncertainty about surpluses, missing capital envelopes, and limited mechanisms for kinship providers. Fixes: time-bound approvals with clear criteria, stable terms and carry-forward rules, explicit capital with replacement cycles, flexible kinship supports at actuals, and transparent notice whenever terms change.”

“Delays in ISC payments were described as chronic, leaving agencies to carry costs for extended periods while waiting for reimbursement. Individual First Nations are often forced to front costs for child and family services, which was described as unsustainable. Such funding delays and/or shortfalls repeatedly occur even though an agency has consistently demonstrated the funding need, year after year.”

“Provide long-term funding guarantees to allow agencies to plan, hire, and deliver services without fear of retroactive denials or program instability.”

“Some participants described the approval process as opaque and unpredictable — regional ISC staff frequently lack authority to approve expenditures, and requests are escalated to ISC Headquarters with no clear timeline or feedback.”

“The consequences of these shortfalls are not abstract; they directly affect the well-being and safety of the children and youth we serve.”

Participants described chronic shortfalls in capital funding, with extensive delays and ISC-imposed funding caps leaving First Nations and their agencies without the facilities they need

for programming and service delivery. Lack of housing is a persistent and widespread problem driving families into contact with child protection services.

“We have some small renovations that we have the capacity to do quickly, but the eligibility requirements for prevention funds coupled with the lengthy application requirements for capital funds are interfering with our ability to move forward.”

“Lack of housing is bringing children into care when they have appropriate caregivers in the family they just don't have somewhere to live.”

Prevention funding is well established as a core component of FNCFS but remains inadequate in many cases. The splitting of prevention funding across First Nations and FNCFS Agencies has disrupted the work of many agencies and failed to provide time or resources to build capacity among First Nations. Many First Nations that do have the capacity to deliver prevention services are constrained by a lack of operational funding. The population-based formula for prevention funding can be insufficient in cases such as supporting children with complex needs to remain in the care of their families; or providing addictions treatment to parents to support families staying safely together or reunifying.

“The Nation cannot cover staffing & operations with the current prevention funding. Typically, one staff person delivers all prevention service: need to add staffing costs to the per capita allotment of prevention funds.”

“Addictions is a big expense when it comes to programming, if preventative treatment is needed to ensure family reunification, there should be additional funding available (our smaller First Nations should not be put in a position to have to choose who is attending treatment service).”

A. Measure: Limiting the Restricting Influence of Other Canadian Legislation

Canada shall not rely on the *Financial Administration Act* or any other federal act as a basis for failure to expend any Funding Commitment or to fail to fully implement the nature, scope, and purpose of the Reformed Funding Approach, ensuring that the Reformed Funding Approach is interpreted and implemented in a manner that reflects the quasi-constitutional nature of the *Canadian Human Rights Act*, and the remedies made thereunder.

Consistent with the Tribunal’s orders to safeguard multiple generations of First Nations children from Canada’s discrimination and recognizing the rights of First Nations children and the inherent right of self-determination, including self-government, over children and families, the Reformed Funding Approach will not be time limited and will not be dependent on government political decision makers. To uphold the honour of the Crown and permanently cease its discriminatory conduct, Canada must systematically design, administer and evaluate this funding, including funding mechanisms, as a non-discretionary obligation constrained by the inherent rights of First Nations and the constitutional and human rights of First Nations children, youth and families.

First Nations prefer a statutory funding mechanism that is co-developed between First Nations and Canada to achieve the durability and protection required by these reforms to safeguard children and families from Canada’s discriminatory conduct in First Nations Child and Family Services.

The Reformed Funding Approach will be the minimum standard for Canada’s funding of child and family services and provide the flexibility to improve upon its key components pursuant to the needs identified by First Nations and FNCFS service providers.

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.

Rationale:

- CHRT Decisions
 - [2018 CHRT 4](#) at paras [40–48](#)
 - [2021 CHRT 41](#) at paras [373–377](#)
 - [2025 CHRT 6](#) at paras [463–468](#)
- Research and Evidence
 - Expert Advisory Committee, “FSA Recommendations” (15 December 2025), Recommendation #1, at pp 1–2
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 3, 4, 5, 6, 7

B. Measure: Protecting FNCFS Funding

Implementation Date: Immediately upon plan approval.

Canada shall not reallocate funding from other First Nations programs (e.g., housing or education), services, claims or initiatives to achieve the Purpose.

Consistent with the Tribunals' non-reallocation order (2018 CHRT 4), Canada must not engage or require First Nations not affiliated to a FNCFS Agency and/or FNCFS Agencies or any other entity to engage in the practice of reallocation. Canada shall not repeat its practice of reallocating funding from other First Nations to address shortfalls in FNCFS.

Child and family services are essential services for First Nations. As recognized by the Court of Appeal of Quebec, responsibility for funding is a crucial issue related to First Nations child and family services, which has not been addressed by the *Act respecting First Nations, Inuit and Métis children, youth and families*. The Reformed Funding Approach requires safeguarded and guaranteed funding allocations through statutory measures. However, it is recognized that the Tribunal does not have the jurisdiction to order Parliament to enact legislation. In the absence of such legislation; however, Canada should be required to place funds related to the implementation of this plan in a Special Purpose Allotment with authority to carry over to future fiscal years to avoid the money being used for other government priorities.

Rationale:

- Jurisprudence
 - [2022 QCCA 185](#) at paras [165](#) and [271–279](#)
- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “[First Nations not affiliated to a First Nations child and family \(FNCFS\) services agency: Defining a baseline](#)” (4 April 2024)

Special Purpose Allotment Approach

In the absence of a statutory funding mechanism, Canada shall restrict any and all funding commitments to achieve the Purpose in a Special Purpose Allotment.

Rationale:

- CHRT Decisions
 - [2018 CHRT 4](#) at para [391](#)

- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025)
 - In a fee-for-service model (i.e., ISC pays bill for activity), power rests with ISC: ISC reallocates resources within the department and different priorities because funding is not infinite, nor is it protected (through a SPA) for FNCFS (p 24)

Statutory Approach

- The Reformed Funding Approach calls for, and should be supported by, legislation co-developed by First Nations, and Canada, in consultation with the National Oversight Council, that enshrines effective statutory funding to embed the funding purpose, principles, structures, and levels as minimum standards to be adjusted annually on the basis of population and inflation, as well as funding review mechanisms.

Rationale:

- Research and Evidence
 - NAC First Nations Caucus: Draft Phase 3 Recommendation Discussion Guide (March 2024), p 20: Support for the idea of statutory funding to ensure that discrimination does not recur.
 - Expert Advisory Committee, FSA Recommendations (15 December 2025), Recommendation #1, pp 1-2

C. Measure: Reformed FNCFS Funding

Implementation Timeline: Next fiscal year after plan approval (so long as at least six months’ lead-time)

Overview: Capacity-Based Funding Approach

Present State:

FNCFS Agencies have been funded through a variety of funding sources at the federal level since the Decision on the Merits, including Budget 2016 and Budget 2018 funding, actuals-based funding through 2018 CHRT 4, and additional per capita and top-up based funding released in FY 2022-2023 and 2023-2024 (much of which has been shared with First Nations).

There have been no adjustments to the baseline funding model that was implemented in

Budgets 2016 and 2018 to account for the actual cost of providing services based on the actuals claims from 2018/19 through 2024/25.

This funding approach as implemented by ISC is not stable or predictable and is highly dependent on ISC's discretion. While claims on actuals have provided important information regarding the real needs of FNCFS Agencies, a "claims-based" funding mechanism does not fully capture the needs of First Nations and FNCFS Agencies due to ISC operational, reimbursement and cash-flow policies and conduct, which prevent full implementation of needs-based programs and services (i.e., First Nations and FNCFS Agencies do not have the funds they need, when they need them).

Most unaffiliated First Nations have received Community Wellbeing Jurisdiction Initiative funding since Budget 2018, followed by per capita prevention funding following 2021 CHRT 12, as well as percentage-based top-up related funding from FY 2023/24 forward. However, it is unclear how many unaffiliated First Nations were funded under CWJI to do jurisdictional initiatives versus prevention. Moreover, Unaffiliated First Nations do not have access to a First Nations-based protection service provider, and receive protection services via the applicable provincial or territorial government through funding mechanisms with Canada.

All First Nations have received some or all of the per capita prevention funding amount introduced in FY 2022/23 and some or all of the percentage-based top-ups introduced in FY 2023/24.

Funding for First Nations has generally not been accompanied by clarity regarding the range and scope of service delivery, governance or financial responsibilities associated with the funding or time and capacity to develop the services and associated infrastructure and coordinate with the province/territory in the provision of FNCFS services. Such guidelines must be developed in consultation with affected First Nations, in partnership with the National Oversight Council and the Caring Society.

"Future State":

First Nations not served by a delegated FNCFS service provider are required to be funded in accordance with community need and informed by evidence. Such funding must ensure First Nations have adequate time to build capacity, including a culturally informed skilled workforce, to meet the needs of their children, youth, and families.

FNCFS Agencies to operate with block funding pursuant to the IFSD Phase III recommendations adjusted to FY 2024/25 levels, with access to funding at actuals as a backstop for a period of five years, with a funding review in Year 3 to make required adjustments. The actuals backstop recognizes that, across Canada, service providers

have operated on a wide variety of funding mechanisms and, in many cases, have not had access to capacity building funding. It also recognizes that the split in prevention funding levels between two service providers has led to uncertainty regarding the effectiveness of integrated service delivery (see IFSD Phase 3, Figure 13).

Under the “backstop actuals” system, the National Oversight Council must be notified of any requests that are outstanding for more than 30 calendar days. Requests outstanding for more than 30 calendar days will also be eligible for interim funding pending ISC’s decision-making. Denials must include ISC’s evidence and rationale confirming that denial respects the Purpose and Principles of the FNCFS Reforms.

Some level of actuals-based funding will be required to continue for maintenance in the case of First Nations children coming into care with complex needs that exceed the ordinary cost of maintenance placements (e.g.: Fetal Alcohol Spectrum Disorder, severe mental health needs) as such placements involve per-child costs that are orders of magnitude greater than those for non-complex placements.

Consistent with the honour of the Crown and the developmental process for FNCFS Agencies in Directive 20-1, First Nations to be provided with capacity building funding and time to design and build capacity to enable their prevention delivery model and other services. This will include a clear definition of the prevention services and other services, if applicable, to be provided within that service delivery model, and an understanding of how Least Disruptive Measures (secondary and tertiary prevention) will be funded within the protection service provider’s budget and coordinated with the First Nation’s service model. Applicable FNCFS services needs will be provided by a First Nations authorized service provider until First Nations capacity is established.

For First Nations that have an existing prevention delivery model and capacity to deliver that model, or once the First Nation’s capacity building and evaluation process is complete, per capita prevention funding will follow the service provider, according to the service delivery model adopted by the First Nation, with a clear definition of coverage of Least Disruptive Measures (secondary and tertiary prevention) within the protection service provider’s budget.

Rationale:

- Jurisprudence
 - *St. Theresa Point First Nation v Canada*, [2025 FC 1926](#) at para 171
 - An example of Canada’s provisioning of on-reserve housing, with a high degree of federal discretion, and in a manner similar to the “Present State” above.

- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025), Figure 13 and Appendix H: Maintenance
 - Ontario Association of Children’s Aid Societies, “[2025 Pre-Budget Submission](#)”(24 January 2025) at pp 8–9 (Access to Highly Specialized, Intensive Out-of-Home Care & Live-in Treatment)
 - EngageFirst Management Consultants, “[Study of Budget Needs and Funding in the Amended Draft Agreement for Long Term Reform of FNCFS Program: Final Report](#)” (May 2025), at p 50

Baseline Budget

Baseline budget: The budget considered sufficient for the delivery of needs-based child and family services, as defined by the relevant First Nation, in keeping with mandated legislation, including provincial/territorial legislation, the national standards contained in the *Act respecting First Nations, Inuit and Métis children, youth and families* and in any applicable First Nations legislation. Baseline funding will cover the actual costs of core operations related to the child and family service provider in question (prevention, protection, or both). For FNCFS Agencies providing protection services, baseline funding will also provide for protection service costs (e.g., intake, maintenance payments, etc.). This amount will be increased annually to adjust for population growth and inflation.

As noted in the description of the “future state” above, for the first five years of the Reformed Funding Approach FNCFS Agency and First Nation baseline budgeted will be backstopped by a funding at actuals process to provide for sufficient funding to meet community needs in special circumstances (e.g., circumstances, whether anticipated or unanticipated, that cause the cost of required services to exceed the amount of funding provided via the Baseline Budget).

Rationale:

- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025)
 - Figures - Five-year national projections estimate the total system cost to be \$17.5B with IFSD’s recommended scenario (p 41)
 - Baseline budget - Total federal expenditures for the delivery of CFS as reported by FNCFS agencies
 - See Table 9 and Figure 12 (p 36); Table 10 pp 38–39.

- See pp 98 and 104.

Functional Funding Adjustment Factors

Functional Funding Adjustment Factors (referred to as “top ups” in the IFSD reports) are tied to the specific purpose of child and family services and are not intended to remedy community-wide needs in these areas:

- i. information technology
- ii. results and data collection
- iii. poverty fund
- iv. capacity development fund
- v. emergency fund
- vi. maintenance allocation
- vii. prevention
- viii. geography/remoteness
- ix. inflation with a 2% base adjusted annually upwards to the Consumer Price Index
- x. population
- xi. insurance and liability coverage
- xii. cultural continuity

Rationale:

- Legislation
 - [*Act respecting First Nations, Inuit and Métis children, youth and families*](#), S.C. 2019, c. 24, [s 9\(2\)](#)
- CHRT Decisions
 - [2016 CHRT 2](#) at paras [106](#), [151](#)
- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “Funding First Nations child and family services (FNCFS): A blueprint for program reform” (2025)
 - Prevention - \$2,500 per person resident on-reserve, adjusted for population and inflation since fiscal year 2022/23 (p 34)
 - Resources to deliver activities and services to stop or reduce the risk of child maltreatment.
 - Three levels of prevention that are mutually reinforcing:
 - Primary: Public health measures to prevent child maltreatment and public education on how to report child maltreatment

- Secondary: A child and/or family are at high risk of child maltreatment
 - Tertiary: A child is at risk of child maltreatment or alternatively is in care and efforts to reunify the child with their families are underway (it is expected that at least secondary and tertiary services are being delivered by FNCFS agencies)
- See commentary in the overview regarding the capacity-based approach to service delivery
- Information technology (IT) - 5.5% of the baseline budget
 - Allocation for hardware and software, based on not-for-profit industry standards (p 34).
 - NAC First Nations Caucus: Draft Phase 3 Recommendation Discussion Guide (March 2024), p 25: Agreement for 6% of the baseline otherwise.
- Results and data collection – 5% of the baseline budget
 - Allocation to support data collection and analysis. Data is essential for control and improved decision-making, in particular to allow for early warnings or signs of challenges and to highlight successes (p 35).
 - NAC First Nations Caucus: Draft Phase 3 Recommendation Discussion Guide (March 2024), p 27: Consensus is for 5%
- Poverty Fund – 5% of the difference between regionally relevant MBM and total after-tax median household income (p 35)
 - Provides resources to mitigate the impacts of deprivation as a driver of contact with protection.
 - Figure 41, pp 112–113.
 - NAC First Nations Caucus: Draft Phase 3 Recommendation Discussion Guide (March 2024), p 27: Eliminate 3% as a possibility and reconsider 5 and 7%
- Maintenance allocation – 3% of baseline budget (pp 35, 106 and 110)
 - Contingency amount to mitigate changing costs of child maintenance (over and above inflation) within the regular course of business
 - Variability in maintenance expenditures to otherwise be managed by the protection service provider within their block funding, subject to maintenance expenses arising from special

circumstances, which are beyond the usual cost of doing business (e.g.: complex needs, specialized homes, sudden increase in the number of children coming into care), which are to be reimbursed at actuals

- See analysis in Appendix H “Maintenance” (pp 337-338)
- Geography/remoteness – 15% scaled average of CAF applied to all FNCFS agencies (p 34)
 - 15% scaled average of Cost Adjusted Factor (CAF).
Remoteness can impact FNCFS agency operations and budgets. The remoteness/ geography component should be recognition of the differentiated costs of delivering and acquiring needed services in different geographic contexts (beyond year-round road access alone), acknowledging that some of these costs will already be factored into a service provider’s Baseline Budget due to interim funding at actuals in prior fiscal years.
 - Page 256 (Figure 3 – Geographic Zone distribution – i.e. accessibility)
- Inflation with a 2% base adjusted annually upwards to the Consumer Price Index (p 35)
 - Adjustment to correct for changes in purchasing power, based on Consumer Price Index (CPI) inflation in order to reflect changes in the costs of goods and services.
 - NAC First Nations Caucus: Draft Phase 3 Recommendation Discussion Guide (March 2024), p 33: 2% as the floor with CPI as the adjustor for real time costs.
- EngageFirst Management Consultants, [“Study of Budget Needs and Funding in the Amended Draft Agreement for Long Term Reform of FNCFS Program: Final Report”](#) (May 2025), at p 35–36
- Measuring to Thrive Framework (Appendix J to Institute of Fiscal Studies and Democracy, [“Funding First Nations child and family services \(FNCFS\): A performance budget approach to well-being”](#) (2020), at pp 387–390)
 - Connection to culture and language are essential indicators of well-being for children and families
- Cultural continuity:
 - Determined the impacts Canada’s discriminatory practices on First Nations languages and cultures as well as cultural continuity

being a protective factor in the physical, emotional, cognitive and spiritual well-being and best interests of First Nations children. Cultural continuity, and specifically First Nations language knowledge, are associated with dramatic reductions in youth suicide and adverse outcomes.

- Depending on community readiness, this may be funded as a primary prevention item pending development of a cultural-continuity specific funding adjustment factor developed in the first five years of the Reformed Funding Approach.
- Chandler, M. J., & Lalonde, C., “Cultural continuity as a hedge against suicide in Canada's First Nations” (1998). *Transcultural psychiatry*, 35(2), at pp 191–219
 - Cultural continuity is a protective factor against mental health issues. Language is foundational to culture.
- Douglas Hallett, Michael J. Chandler & Colette E. Lalonde, “Aboriginal Language Knowledge and Youth Suicide” (2007) *22 Cognitive Development* 392
- Michel J Chandler & Christopher Lalonde, “Cultural Continuity as a Protective Factor Against Suicide in First Nations Youth” (2008) 10:1 *Horizons (Special Issue: Aboriginal Youth, Hope or Heartbreak: Aboriginal Youth and Canada’s Future)* 6 First Peoples’ Cultural Council, [“Costing Models for Language Maintenance, Revitalization and Reclamation in Canada”](#), (May 2018)
- Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 3, 4,5, 6,10

Population

Following the enactment of *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24, the federal and provincial Crown are bound to act on the basis that First Nations’ inherent right to self-government has constitutional status and that, from a jurisdictional standpoint, this right includes the jurisdiction of First Nations in relation to child and family services. There is no geographic limitation to Parliament’s statutory affirmation of this right, such that, subject to the terms and adequacy of funding, First Nations and Agencies may provide child and family services to their members wherever they reside (as per minimum standards set out in *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24).

In correspondence on September 12, 2025 and October 3, 2025, the Panel addressed the

scope of the complaint regarding First Nations children residing off-reserve being limited to Jordan's Principle and not to First Nations children receiving child and family services more generally. This plan has been prepared in keeping with that direction. However, nothing in this plan is intended to support or permit conduct on Canada's part in implementing Jordan's Principle off-reserve in a way that increases, in any way, the likelihood of First Nations children either coming into contact with the child and family services sector or being brought into care, or that fetters their reunification with their homes, families and communities.

It bears noting that consistent and strong feedback during the regional engagement process following the Tribunal's ruling in 2025 CHRT 80, however, noted that many First Nations individuals do not live off-reserve by choice, but rather face limited ability to remain on-reserve for systemic reasons, including lack of housing and other services (including education, health, mental health, and specialized services for children with complex needs). Indeed, many of the same structural forces that drive contact with the child and family services system drive families away from reserves.

This plan's approach to population served seeks to respect the Panel's October 3, 2025 direction on scope by focusing on a substantive equality-based definition to the population that is "Ordinarily Resident On-Reserve". As the Panel noted in its 2016 Decision on the Merits, FNCFS have always applied to First Nations children and families ordinarily resident on-reserve. In the 2005 National Program Manual, the definition of "ordinarily resident on-reserve" acknowledges that individuals may continue to be ordinarily resident on-reserve where they maintain a primary residence on-reserve "may be absent for a period of time for purposes related to education, health, or other services that are unavailable in the reserve community where the child lives".

This plan proposes a substantive-equality-based definition of "ordinarily resident on-reserve" to include those who wish to live on-reserve and are on a waiting list to secure housing on-reserve. This recognizes the breadth of service gaps that lead First Nations individuals to leave their Nations' territory.

In addition to the above-noted considerations, ISC's Indian Registration System ("IRS") does not capture the entire population served, in particular given members moving on- or off-reserve in ways that are not reflected in the IRS, nor does it reflect anticipated addition of members due to legislative changes related to eligibility for *Indian Act* status. In particular, any approach to population adopted must be responsive to the potential elimination of the second generation cut-off rule in s. 6(2) of the *Indian Act*, which is currently under consideration by Parliament given the repeal of subsections 6(2) and (2.1) of the *Indian Act* by clause 4(5) of Bill S-2: *An Act to amend the Indian Act (new registration*

entitlements), which received Third Reading in the Senate on December 4, 2025 (63 Senators voting in favour, no Senators voting against, and eight Senators abstaining) and received First Reading in the House of Commons on December 10, 2025. If Bill S-2 passes in its current form, as has been called for by the Chiefs in Assembly, many minor children who reside on-reserve and are subject to the second-generation cut-off would be eligible to be added to the IRS.

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.

Rationale:

- Constitutional Provisions
 - [Constitution Act, 1982](#), ss [35](#), [52\(1\)](#), being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.
 - [Constitution Act, 1867 \(UK\)](#), 30 & 31 Vict, c 3, s [91\(24\)](#), reprinted in RSC 1985, Appendix II, No 5
- Legislation
 - [Act respecting First Nations, Inuit and Métis children, youth and families](#), S.C. 2019, c. 24
 - [United Nations Declaration on the Rights of Indigenous Peoples Act](#), SC 2021, c 14, [Annex](#), [Article 32](#)
- CHRT Decisions/Jurisprudence
 - [2016 CHRT 2](#) at paras [52–58](#)
 - *Dickson v Vuntut Gwitchin First Nation*, [2024 SCC 10](#) at paras [363](#) and [368](#) (per Martin and O’Bonsawin JJ)
 - *Corbiere v Canada (Minister of Indian and Northern Affairs)*, [\[1999\] 2 SCR 203](#) at para [19](#)
 - *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#), at paras [60](#), [63](#), [65](#), [66](#), [107](#)
- Research and Evidence
 - October 3, 2025 direction from the Panel regarding the scope of the complaint
 - Indian and Northern Affairs Canada, “First Nations Child and Family Services National Program Manual” (May 2005), at p 51

- Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025)
 - Population - IRS population by Band (p 35)
 - Changes in population size impact service delivery. Population and projections should use the Indian Registry Service (IRS) by Band. See Table 35 (p 116) for projected population growth
- NAC First Nations Caucus: Draft Phase 3 Recommendation Discussion Guide (March 2024), at pp 18–19
 - Non-status children must be included in the population count because they are considered part of the community vis a vis the family living on-reserve (e.g. some family members are eligible for status, and some aren’t). First Nations will serve the children in the community regardless of status.
 - Service population extends beyond those who live in community at the moment, e.g. those who have moved away for various reasons but still remain part of the community. This is needed to promote connections.
 - IRS based population creates conditions for discrimination.
- EngageFirst Management Consultants, “[Study of Budget Needs and Funding in the Amended Draft Agreement for Long Term Reform of FNCFS Program: Final Report](#)” (May 2025), at pp 27, 35–37

Insurance and Liability Coverage

Canada shall provide sufficient funding to ensure FNCFS service providers including FNCFS Agencies are able to purchase adequate liability insurance.

Canada will be the insurer of last resort for all First Nations Child and Family Services, their employees, agents, and advisors (including Elders, Knowledge Keepers, and youth) when the First Nations Child and Family Services provider is unable to access insurance or access adequate levels of insurance to safeguard against tort actions or other claims arising from good-faith actions or decision making.

Rationale:

- Research and Evidence
 - Alexander Holburn Beaudin & Lang LLP, “Legal Opinion to IFSD” (31 August 2018), at p 6
 - “Notwithstanding a mandatory insurance coverage provision in a

provincial delegation agreement, each of the provinces is subject to the non-delegable duty doctrine, which provides that a party upon whom the law has imposed a strict statutory duty to do a positive act cannot escape liability simply by delegating the work”

- Similar logic applies at the National level

Emergency Plan Funding

Canada shall fund First Nations child and family service providers to develop and execute emergency response plans specific to children, youth, young adults and families in coordination with affected First Nations. These plans will contain measures to prevent emergencies and mitigate harm related to unforeseeable events beyond the service providers control such as:

- a. actions of military, naval, or civil authority, the King's or a public enemy, war, revolution, political disturbance, and terrorism;
- b. civil disturbance;
- c. expropriation, acts of restraints of a governmental body or authority, and failure to obtain a requisite permit or authorization from a governmental authority by reason of any statute, law, or Order-In-Council, or any regulation or order passed or made pursuant thereto or by reason of the order or direction of any administrator, controller, or board, or any governmental department or officer or other authority, or by reason of not being able to obtain any permission or authority required thereby;
- d. unusual delay by common carriers;
- e. sabotage, rebellion, vandalism, riot, blockade, insurrection, strike, lockout, and explosion;
- f. power failure and non-availability of labour, materials service, equipment, goods, or utility
- g. epidemic and quarantine including substance misuse;
- h. fire;
- i. pandemics; and
- j. significant class action payments to vulnerable people as a result of Canada's conduct.

Canada shall provide sufficient and additional resources, including funding, to prevent and respond to unforeseeable events.

Rationale:

- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025)
 - Emergency Fund – 2% of the baseline budget (p 35)
 - Recommendations summarized on p 335
 - Report of the Auditor General of Canada, “[Emergency Management in First Nations Communities, Report 8, \(2022\)](#)” at paras 8.13, 8.44, 8.47, 8.67, 8.68.
 - Inter-Agency Standing Committee, “[With Us and For Us: Working With and For Young People in Humanitarian and Protracted Crises](#)”, UNICEF and the Norwegian Refugee Council for the Compact for Young People in Humanitarian Action, (2020) online, at pp 34–39, 100–103

Funding at Actuals or with Actuals as a Backstop

Additional funding will be required in the following areas:

- i. capital, maintenance, and capital replacement (actuals)
- ii. First Nations representative services (actuals)
- iii. post-majority services (including reunification services), supports, and products (actuals, to provide the range of services identified by the National FNCFS Technical Table and Regional Technical Tables, and not the narrower range of services presently approved under ISC Operational Bulletins)
- iv. development of new FNCFS Agencies (actuals)
- v. regional and national technical secretariats (actuals)
- vi. planning funds (to achieve substantive equality for those affected by Directive 20-1 until 2016 or were not receiving FNCFS funding pursuant as of 2016 or later) (actuals as a backstop)
- vii. funds for special circumstances (e.g., costs for very high needs of children in care) (actuals as a backstop with limited ISC discretion, as constrained by the purpose and principles of the Loving Justice Plan and CHRT orders)

IFSD’s recommended budget framework does not include a funding methodology for post-majority services or First Nations representative services, both of which will be funded at actual costs. The list above similarly includes other expenditures that, due to a lack of reliable data, will be funded at actuals, or for which actuals will be used as a backstop. Any amounts exceeding the percentage of the baseline budget allocated for planning funds

(5% for results and data) and special circumstances (3% for maintenance allocation) will be funded at actuals to account for the uncertainty inherent in governance and predicting the costs required to care for children with complex needs. In addition, the development of new FNCFS agencies will be funded at actuals for a minimum of five years, as explained above, to allow new agencies the time required to build sufficient capacity. The at-actuals funding model will be maintained until the first public review of the reformed FNCFS, to facilitate necessary adjustments.

Rationale:

- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025)
 - Capital, maintenance and capital replacement
 - Table 42 (pp 121–122) provides the assumptions of the bottom-up capital calculations; Table 43 discusses asset types (p 122)
 - Full analysis regarding capital funding (pp 233–242)
 - First Nations representative services
 - Appendix B3 (pp 215–220) provides a breakdown of costs for First Nations Representative Services
 - Post-majority services, supports and products
 - Estimations of costs of post-majority supports (pp 225–227)
 - Development of new FNCFS Agencies
 - Directive 20-1 recognized that service providers would require time to be able to take on services (see Directive 20-1, section 6.4: “The expansion of First Nations Child and Family Services (FNCFS) will be gradual as funds become available and First Nations are prepared to negotiate the establishment of new services or the takeover of existing services”). Directive 20-1 contemplated multiple ramp-up phases for a new service provider: pre-planning, planning, and start-up (see Directive 20-1, section 7).
 - Regional and national technical secretariats
 - An expert roundtable of First Nations child and family services (FNCFS) leaders, practitioners, and academics (First Nation, Indigenous, and non-Indigenous) worked with IFSD to prepare recommendations on a First Nations-led Secretariat in FNCFS.

The call for the body has been documented by IFSD in its work since 2018 with FNCFS providers (p 43)

- Pages 366–456 provides a paper describing the rationale, mandate, structure and cost of the secretariat.
- Planning Funds
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025):
 - Results and data collection – 5% of the baseline budget
 - Allocation to support data collection and analysis. Data is essential for control and improved decision-making, in particular to allow for early warnings or signs of challenges and to highlight successes (p 35).
 - NAC First Nations Caucus: Draft Phase 3 Recommendation Discussion Guide (March 2024), at p 27: Consensus is for 5%
- Special Circumstances
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025)
 - Maintenance allocation – 3% of baseline budget (pp 35, 106 and 110)
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 3,4,5,8.

D. Measure: Funding for Regional Organizations, Agencies and Technical Secretariats

Implementation Timeline: Upon plan approval

Canada shall negotiate honourably and in good faith with First Nations outside the Ontario FSA and with First Nations national and regional organizations (including, but not limited to, the **National Oversight Council**, the National FNCFS Technical Table, the National FNCFS Secretariat, Regional Technical Tables, and Regional Secretariats) to adequately, and on an ongoing basis, fund regional technical secretariats and a national apolitical technical secretariat to support the delivery of First Nations child and family services to a

standard that enables First Nations, First Nations child and family service providers to discharge their mandates in keeping with the Principles.

Rationale:

- CHRT Decisions
 - [2018 CHRT 4](#) at para [265](#)
 - [2025 CHRT 80](#) at para [110](#)
- First Nations-in-Assembly Resolutions
 - 42/2018: *Data Sovereignty and the Ownership, Control, Access and Possession (OCAP)*
- Research and Evidence
 - Funding National Secretariat
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025)
 - An expert roundtable of First Nations child and family services (FNCFS) leaders, practitioners, and academics (First Nation, Indigenous, and non-Indigenous) worked with IFSD to prepare recommendations on a First Nations-led Secretariat in FNCFS. The call for the body has been documented by IFSD in its work since 2018 with FNCFS providers (p 43)
 - Pages 369–456 provides a paper describing the rationale, mandate, structure and cost of the secretariat.

Regional Organizations

Canada shall establish an annual fund to be allocated to Regional Technical Tables and Regional Secretariats (see Chapter 4, above) in a manner directed by the National Oversight Council to build capacity, establish new organizations where no existing entity can assume the Regional Secretariat role, 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.

Rationale:

- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “Funding First Nations child and family services (FNCFS): A blueprint for program reform” (2025), Appendix K: First Nation-led Secretariat Analysis

Capacity Development for New Service Providers (Agencies and First Nations)

Canada shall fund the development of First Nations and First Nations Agencies. This funding includes but is not limited to the provision of child and family services by First Nations pursuant to their own laws, the establishment of new First Nations Agencies, and expansion of service provision at existing First Nations and First Nations Agencies to include, among other things, the delegation to provide protection services. This funding is intended to enable and provide the necessary capacity to discharge their responsibilities, including pursuant to the applicable child and family services and related legislation and regulations.

Canada shall fund the development of First Nations and First Nations Agencies in a manner that attains long-term positive outcomes for First Nations children and their families and supports First Nations providing services under their own laws to exercise their legislative authority effectively, consistent with the honour of the Crown and with the Crown's fiduciary relationship with First Nations children.

Canada provided prevention funding to unaffiliated First Nations without providing sufficient funding and time to develop and implement those services. This means that there is wide variation in the capacity of unaffiliated First Nations to deliver or expand prevention services to meet the changing needs of their children, youth and families in a manner consistent with the rights of First Nations children, the honour of the Crown, and *An Act Respecting First Nations, Métis and Inuit children, youth and families* and the Tribunal's orders. 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. Such capacity funding shall be based on actuals for at least five years.

Rationale:

- Jurisprudence
 - *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#), at para [63](#)
- Legislation
 - [Act respecting First Nations, Inuit and Métis children, youth and families](#), S.C. 2019, [s 20\(2\)\(c\)](#)
- Research and Evidence
 - Directive 20-1 recognized that service providers would require time to be able to take on services (see Directive 20-1, section 6.4: "The expansion of

First Nations Child and Family Services (FNCFS) will be gradual as funds become available and First Nations are prepared to negotiate the establishment of new services or the takeover of existing services”).

Directive 20-1 contemplated multiple ramp-up phases for a new service provider: pre-planning, planning, and start-up (see Directive 20-1, section 7).

- [IFSD First Nations not affiliated to a First Nations child and family \(FNCFS\) services agency](#): Defining a baseline (4 April 2024)
- EngageFirst Management Consultants, “[Study of Budget Needs and Funding in the Amended Draft Agreement for Long Term Reform of FNCFS Program: Final Report](#)” (May 2025), at pp 4, 19, 26, 47 and 50
- Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 4,5,6,7,8.

First Nations Child & Family Wellbeing Research Fund

Canada shall establish a First Nations-led national research fund focused on First Nations child and family wellbeing. The fund will support research capacity to: identify and address the structural drivers of contact with child protection services among First Nations families; distinguish preventable service failures from protection concerns; assess whether long-term reforms address structural drivers; and demonstrate sustained compliance with Tribunal orders.

The research fund will support First Nations-led efforts to ensure policies are supported by adequate evidence and prevent the persistence of discriminatory outcomes. The fund will support First Nations-led efforts to:

1. identify and prioritize research focuses related to child and family well-being;
2. develop First Nations-specific solutions, integrating Indigenous Knowledge and leading research;
3. explore emerging and under-examined areas of inquiry that address First Nations-specific challenges through creative, culturally grounded approaches that centre Indigenous worldviews and responsibly leverage new technologies;
4. develop a First Nation approach to collect data and information about child and family wellbeing; and
5. develop a robust evaluation and accountability framework to ensure discrimination is eliminated and does not re-emerge through policy design, implementation, or system practices.

Rationale:

- CHRT Orders
 - [2016 CHRT 16](#) at paras [150–152](#)
 - [2018 CHRT 4](#) at paras [259, 264](#)
 - [2022 CHRT 8](#) at paras [74–86](#)
- Legislation
 - [Act respecting First Nations, Inuit and Métis children, youth and families](#), S.C. 2019, [s 20\(2\)\(c\)](#)
- Research and Evidence
 - Canada Foundation for Innovation, “[Research in Canada, for Canada: A Value Proposition](#)” (September 2023)

E. Measure: Transition from Funding at Actuals

Funding at actuals as articulated in Chapter 6, Measure C, will continue for a minimum of three years or until such time as the Public Funding Review recommendations are implemented.

ISC shall reimburse claims for FNCFS Agencies’ actual costs for intake and investigations, legal fees, building repairs, child service purchase, and small agency costs incurred in the last fiscal year of funding at actuals that are submitted on or before September 20 of the following fiscal year. Where funding requests are received after September 20, ISC will consider any exceptional circumstances relating to the late submission.

For the Initial Five Years, First Nations, except for First Nations in Ontario, shall have access to reimbursement for their actual costs for First Nation Representative Services equivalent to the actual costs available pursuant to 2018 CHRT 4, including but not limited to:

- a. salaries, benefits, workplace safety and costs to support the delivery of child and family services;
- b. human resources recruitment, training or professional development;
- c. paraprofessional and professional fees;
- d. general delivery costs such as non-medical travel costs, accommodations, transportation or meals for First Nations Representatives to support the

delivery of services;

- e. delivery costs and family support services including prevention services and services for those involved with the child and family services system; and
- f. overhead, administrative costs (office rent, computer, information technology, utilities, insurance to help support FNRS services).

FNCFS service providers must be provided with a model budget of their funding allocation under the Reformed Funding Approach for their assessment and approval and will determine the timing of their transition to the Reformed FNCFS, in consultation with their First Nations, when they are ready. A minimum of 12 months must be provided to ensure adequate time to transition.

Data from the First Nations Canadian Incidence Study on Reported Child Abuse and Neglect (2019) indicate the significant and interdisciplinary needs of First Nations children, youth and families coming to the attention of child and family services. Funding at actuals will ensure these needs are met while creating a costing track record to inform future funding approaches.

The transition to the Reformed Funding FNCFS will take several years and additional resources, requiring Canada to fund and implement transition measures as recommended in IFSD reports on First Nations Child and Family Service Agencies and First Nations not affiliated with a First Nations agency. Transition will take approximately 3–5 years for FNCFS Agencies and 5–10 years for First Nations without existing capacity and new agencies to deliver services.

Rationale:

- CHRT Decisions
 - [2018 CHRT 4](#) at para [421](#)
- Research and Evidence
 - Institute of Fiscal Studies and Democracy, [“Funding First Nations child and family services \(FNCFS\): A blueprint for program reform”](#) (2025)
 - Based on collaborator feedback, existing service providers will be better positioned to implement changes in 2 to 5 years, whereas those without existing services can take 10 to 15 years for operational stability. Service providers are shaped by their contexts and are distinguishable through several characteristics, e.g., remoteness, operational sophistication, size of the population served, etc. (p 56)
 - Challenges to transition described in p 62, Figure 19.

- Figure 15, gives a chart on the transition readiness of several actors (p 55)
- NAC First Nations Caucus: Draft Phase 3 Recommendation Discussion Guide (March 2024), at pp 1, 5
 - First Nations in consultation with the Agencies decides if/when they will move to the reformed approach.
 - Consider First Nations and Agencies being provided with budgets with both scenarios to inform decision making.
- Barbara Fallon, Rachael Lefebvre et al, “[First Nations Canadian Incidence Study on Reported Child Abuse and Neglect](#)”, (2019)
- Directive 20-1
 - The Directive recognized that service providers would require time to be able to take on services (see Directive 20-1, section 6.4: “The expansion of First Nations Child and Family Services (FNCFS) will be gradual as funds become available and First Nations are prepared to negotiate the establishment of new services or the takeover of existing services”). Directive 20-1 contemplated multiple ramp-up phases for a new service provider: pre-planning, planning, and start-up (see s. 7).

Post-Majority Supports

Post-majority support services shall continue at their actual cost pursuant to 2022 CHRT 8 until such time that effective evidence informed funding mechanism, based on services needed to ensure substantive equality, is provided by a body appointed by the National Oversight Council and approved by the Tribunal consistent with the Purpose and Principles.

Canada must continue to fund post-majority supports for First Nations young persons from care (including those aging out of care and those reaching the age of majority while subject to youth agreements) from the age of majority up to and including age 25 at actual cost, consistent with 2022 CHRT 8 and Assembly of First Nations Resolution 84/2023.

Post-majority support funding following the Initial Five-Year term shall be determined in accordance with the Public Funding Review but shall not be less than the highest amount received in any given fiscal year. That approach shall align with the principles of needs-based funding, be culturally appropriate and shall recognize the distinct realities of First Nations.

Rationale:

- CHRT Decisions
 - [2022 CHRT 8](#) at paras [41–60](#)
- Research and Evidence
 - Institute of Fiscal Studies and Democracy, [“Funding First Nations child and family services \(FNCFS\): A blueprint for program reform”](#) (2025), at pp 225–227
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 5, 8.

Capital Funding

Capital funding and all related requests shall continue at actual cost for a minimum of five years, pursuant to 2021 CHRT 41, until such time as an effective capital funding mechanism, which includes planning, building, operations, and recapitalization is developed based on evidence from First Nations and First Nations-authorized service providers, is reviewed by First Nations capital and service delivery experts, and is approved by the National Oversight Council and by the Tribunal.

Any new capital funding mechanism must be evidence based and consistent with the purpose and principles of this plan, the honour of the Crown, cultural appropriateness, and substantive equality, taking into full account the distinct circumstances of the child’s First Nation and community.

The capital funding mechanism cannot create delays, gaps or denials that perpetuate the discrimination that Canada was ordered to stop.

Canada must undertake positive efforts to ensure the prompt completion of projects and shall not unreasonably delay capital projects due to administrative procedures, particularly in rural and remote regions where building supply routes are restricted.

A First Nation or FNCFS Agency’s determination of their need shall be presumed valid.

Canada has the burden of proof to demonstrate, with evidence, that the proposed capital project is not needed, or only partially needed, for the delivery of child and family services.

If Canada’s position is that it will not fund the full cost of a capital project that a First Nation or FNCFS Agency determined that it needs to deliver child and family services, or if it requires more than thirty business days from the receipt of a request to make a determination, Canada must inform the First Nation or FNCFS Agency in writing why the project is being delayed, deferred, or denied in whole or in part. A request that outstanding

for more than thirty business days will be deemed denied and referred to the National FNCFS Technical Table and the National Oversight Council.

In the event that a DR Mechanism is established as contemplated in Chapter 5, Measure D, any denial of capital funding, in whole or in part, may be referred to the proposed DR Mechanism.

In the event of a dispute regarding capital costs, Canada shall release interim funding to the First Nation and the FNCFS Agency sufficient to ensure that the delivery of child and family services is not interrupted or adversely affected while the dispute is resolved.

Rationale:

- CHRT Decisions
 - [2021 CHRT 41](#) at paras [142](#), [174](#), [184](#), [213](#), [294](#), [475](#)
 - [2025 CHRT 80](#) at paras [107](#) and [114](#)
- Research and Evidence
 - Institute of Fiscal Studies and Democracy, [“Funding First Nations child and family services \(FNCFS\): A blueprint for program reform”](#) (2025)
 - Table 42 provides the assumptions of the bottom-up capital calculations (pp 121–122); Table 43 discusses asset types (p 122)
 - Full work up (pp 233–242)
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 4, 5

First Nations Representative Services

Canada shall fund First Nations Representative Services at actual cost until at least 180 days from the time that an effective evidence-based funding mechanism is approved by the body appointed by the National Oversight Council and approved by the Tribunal consistent with the Principles.

Rationale:

- Research and Evidence
 - Institute of Fiscal Studies and Democracy, [“Funding First Nations child and family services \(FNCFS\): A blueprint for program reform”](#) (2025) at pp 215–220: breakdown of costs for First Nations Representatives
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 3, 10

7. Accountability

What We Heard:

Feedback regarding accountability addressed both Canada's accountability for ending its systemic discrimination in FNCFS, and accountability of First Nations and their FNCFS agencies for prudent management of FNCFS funding. Participants called for an end to Canada's unilateral decision-making—this was a clear and consistent theme. Instead, decisions related to policy and funding (and any aspect of FNCFS) must be made transparently and in consultation with First Nations. All decisions must be clearly communicated to anyone impacted by the decision. After decades of willful and reckless systemic discrimination, there is little trust that Canada will remain accountable. Instead, the view is that Canada will require continuing independent oversight with statutory authority. Suggestions for fulfilling that role included: dispute resolution mechanisms and ombudspersons. Participants also made numerous comments about inter- and intragovernmental accountability and the need for clear mechanisms to prevent jurisdictional and funding gaps.

"Staff also noted that accountability requires ISC to communicate clearly and engage First Nations and service providers before developing or implementing policy changes. They emphasized that unilateral decision-making reduces transparency and undermines accountability, and that meaningful engagement must form part of any responsible and accountable funding system."

"ISC's history of unilateral decision-making and policy changes without notice has damaged trust and created instability in service delivery. Accountability, they emphasized, cannot rely solely on policy commitments—it must be legally enforceable and transparent."

"Participants supported establishing a First Nations-led ombudsperson or commissioner with legal authority to monitor compliance, investigate breaches, and hold Canada accountable."

"Accountability must include clear mechanisms that prevent jurisdictional and funding gaps between federal and provincial systems from continuing to harm First Nations families."

With respect to the accountability of FNCFS funding recipients, participants noted that current reporting requirements are paternalistic, overly burdensome, repetitive, and punitive. The

burden of reporting can divert resources from service-delivery to administrative tasks with little perceived value. This should be replaced with outcomes-based reporting focused on metrics that are useful and relevant to First Nations and their service providers. Some participants suggested narrative reporting supported by independent financial audits. Others focused on reciprocal accountability where funding recipients report on their use of funds and Canada, in turn, must demonstrate that funding flows appropriately and is sufficient to meet the needs of First Nations children and families. Finally, participants emphasized that strong relationships between First Nations leadership and their child and family services agencies are essential for accountability to children and families.

“ISC must be held accountable for ensuring that funding for First Nations child and family services is sufficient, timely, and responsive to agency and community needs. They stated that accountability mechanisms should require ISC to operate within an outcomes-based model, in which ISC must demonstrate that funding is flowing appropriately and that the needs of agencies—and therefore the needs of children and families—are being met.”

“Identify a high level outcomes framework agreed-upon between ISC and First Nations in the region. From this, Nations can adapt individual indicators to suit their priorities, services, and culture.”

“Reports should highlight progress, challenges, and outcomes, and include the voices of First Nations children, youth, and families.”

A. Measure: ISC’s Discretion to be Constrained by the Principles in this Plan

As the primary funder of FNCFS activities outlined within this plan, Canada’s capacity to realize the projected outcomes will depend on its exercise of discretionary decision-making authority as described herein (for example, in responding to actuals-based requests, funding capital costs, and providing “special circumstances” funding). The Plan also grants Canada the discretion to implement proposed measures including appointing an Ombudsperson, establishing a dispute resolution mechanism, and allocating implementation funding into a Special Purpose Allotment.

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.

Rationale:

- Jurisprudence
 - *Cully v Canada (Attorney General)*, [2025 FC 1132](#) at paras [5](#), [35](#), [55](#), [84](#)
 - *Powless v Canada (Attorney General)*, [2025 FC 1227](#) at para [45](#) (aff'd in [2025 FCA 226](#) at para [9](#))
- Research and Evidence
 - Assembly of Seven Generations, "Recommendations for the Long-Term Reform of FNCFS: Literature Scan", Recommendations 3, 10

B. Measure: Review of Material Changes to Funding Arrangements

Any material changes in respect of fiscal arrangements respecting the funding of provision of child and family services must, in collaboration with affected First Nations, be reviewed for adequacy of the quantum and method of funding no fewer than once every three years.

The Minister will in consultation with the National Oversight Council 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.

Rationale:

- See transparency principles in Chapter 3.

C. Measure: Funding Arrangements with Provincial/Territorial Governments Providing Services to Unaffiliated First Nations

There are approximately 172 unaffiliated First Nations located largely, but not exclusively, in British Columbia and the Yukon. These First Nations are united in their love and dedication to their children and very diverse in terms of context, needs and existing capacity to deliver child and family services. Unaffiliated First Nations shall be supported to choose the child and family service delivery model that best suits their needs and context.

There are also partially delegated First Nations child and family service agencies that rely on the provinces for the delivery of certain aspects of child and family services.

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.

Canada must, in consultation with affected First Nations, ensure its agreements with provinces/territories and others to provide child and family services achieve the Purpose and Principles of these reforms. First Nations will be provided resources sufficient to participate in such consultations and will have access to Regional Tables and Regional Secretariats for assistance in performing this work.

Rationale:

- CHRT Decisions
 - [2021 CHRT 12](#) at para [35](#)
- Research and Evidence
 - IFSD First Nations not affiliated to a First Nations child and family (FNCFS) services agency: Defining a baseline (4 April 2024) at pp 5–7, 22 and 90–91
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendations 3, 10

D. Measure: Public Reporting

Implementation Timeline: Within 30 days of plan approval

To ensure access to information relevant to the violation of rights and remedies, Canada shall publish on a prominent and accessible platform the causes and conditions resulting in Canada’s discrimination substantiated in 2016 CHRT 2 and related orders, any remedies Canada has implemented to address the causes and conditions and associated outcomes.

Rationale:

- CHRT Decisions
 - [2017 CHRT 14](#) at paras [111–112](#)
 - [2018 CHRT 4](#) at paras [391–394](#)

E. Measure: Data Collection

Canada shall ensure that it provides the National Secretariat 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), 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).

Rationale:

- CHRT Decisions
 - [2018 CHRT 4](#) at para [265](#)
- First Nations-in-Assembly Resolutions
 - 42/2018: *Data Sovereignty and the Ownership, Control, Access and Possession (OCAP)*
- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025) at pp 350–353: Rationale for measuring to thrive indicators
 - Case Studies of use of Measuring to Thrive framework from a pilot project (Figures 47, 49, 50) (pp 139, 142, 144)
 - EAC FSA Recommendations (15 December 2025), Recommendation #8, p 5
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 3, 10

8. Regional Variations

What We Heard:

Engagement participants strongly supported the need for regional variations: long-term reforms must address local and regional realities, including: geography, population size, specific needs, transportation barriers, service availability, and existing capacity and infrastructure—or lack thereof.

The engagement reemphasized the criticality that funding and reform must reflect specific cultural and linguistic needs, and respect diverse First Nations governance and service delivery models.

“The unique needs in our region cannot be addressed through standardized funding or reporting templates. Reform must be flexible, Nation-driven, and reflective of the realities of remote communities, ensuring that every child and family no matter where they live has access to culturally safe, consistent, and life-saving supports.”

“The realities of remoteness and poverty profoundly shape service delivery and the well-being of children and families. These factors increase operational costs, limit access to resources, and constrain the agency’s ability to deliver prevention-focused and family-centred services.”

“Long-term reform must ensure that funding and regional support are scaled for equity, not size, so that every child, regardless of their community's population, receives consistent and culturally grounded care.”

There was also strong support for establishing FNCFS technical hubs that support community accountability, connection-building and coordination. Some participants described existing hubs in their regions. Others remarked on the absence of such organizations in their regions, but they did see value in the potential role to support their capacity and strengthen coordination.

“The absence of such a hub means that much of this work is done “off the side of the desk,” creating inconsistent capacity and limiting our ability to respond collectively to regional challenges or engage effectively in national reform processes. A First Nations–mandated technical hub would significantly strengthen implementation, accountability, and sovereignty-based decision-making across the region.”

Participants highlighted training; recruitment and retention/workforce development; and increased opportunities for knowledge, information and culturally relevant resource sharing as key areas where regional support would be beneficial.

“We need to focus on workforce development by recruiting and retaining a more diverse workforce that reflects the children and families we serve. This includes training and support for professionals who are already in the field, ensuring they have the cultural awareness to understand and address the specific needs of these populations”

To support negotiation and implementation of federal/provincial/territorial funding arrangements, the engagement identified a number of capacity building and regional support needs. This included specific capacity building funding, technical, legal and negotiation support—with recommendations for regional support for accessing shared services, coordination and consultation assistance.

Furthermore, for successful negotiations for regional variations, the participants highlighted the importance of establishing a federal-provincial coordination mechanism; having a willing, transparent partner at the table; and the need to prevent interruption to service delivery.

“First Nations in our region need dedicated negotiation capacity, including legal, financial, and policy expertise that is mandated by and accountable to our Nations—not federal systems.”

A. Measure: Negotiation of Regional Variations

Implementation Timeline: Within six months of plan approval

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.

This plan is mindful of the experience of ISC’s “jurisdiction-by-jurisdiction” approach with the EPFA, pursued with “ready and willing First Nations and provincial/territorial partners” (2016 CHRT 2 at para 443), which incorporated many of the failings of Directive 20-1 and did not contain measures or mechanisms to address changing circumstances after the EPFA had been implemented. Instead, this plan takes the same approach as

past Tribunal orders in this matter, setting a strong core approach to FNCFS reforms that can be varied to meet distinct regional needs and circumstances.

As a result, these regional variations will be supported by the Purpose and Principles outlined in these reforms, consider inequities due to the prior funding model, be sufficiently responsive to emergencies and ensure measures that are culturally appropriate and respond to the distinct community circumstances of the region.

Unless it has been advised that the relevant First Nation or region wishes to negotiate a new approach Canada must also continue to implement existing regional approaches that are:

- (a) Effective;
- (b) Supported by the relevant First Nations; and
- (c) Consistent with the long-term reform measures in this plan and/or the CHRT orders.

To ensure that negotiations are conducted in good faith, 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.

In any region for which regional plans are not submitted by Canada to the National Oversight Council by six months following the Tribunal's FNCFS long-term reform order, 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.

Rationale:

- CHRT Decisions
 - [2016 CHRT 2](#) at paras [278–293](#), [311](#), [330–331](#), [386–387](#), [425](#), [443](#), [458](#), [461](#), [463](#)
 - [2018 CHRT 4](#) at paras [236](#) and [413](#)
 - [2021 CHRT 41](#) at para [545](#)
 - [2025 CHRT 80](#) at paras [18](#), [26](#), [110](#), [113](#)
- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clauses 1(h) and 1(k)

- Research and Evidence
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 3,4,5, 6,8,10 and p 7

B. Measure: Canada’s Obligation to Develop Regional Plans

Consistent with UNDRIP, Canada is required to meaningfully support affected First Nations for consultation in the development of federal/provincial agreements and related mechanisms including funding agreements and amendments thereto that affect them and their citizens (see Chapter 7, Measure B). Further, Canada must ensure said agreements ensure that children, youth and families in those nations receive the full enjoyment of *An Act Respecting First Nations, Métis and Inuit children, youth and families* and the Tribunal’s orders.

Consistent with Chapter 7, Measure B (Funding Arrangements with Provincial/Territorial Governments Providing Services to Unaffiliated First Nations), Regional Secretariats shall manage pools of capacity funding to support the development of regional approaches and region-specific capacity building. Regional Technical Tables may assist in developing a capacity building work-plan, while FNCFS Agencies in a region may contribute to the regional pools where sufficient funding is available at the Agency level, and may also become eligible for capacity funding as well depending on regional priorities.

Rationale:

- Legislation
 - [United Nations Declaration on the Rights of Indigenous Peoples Act](#), S.C 2021, c. 14, [Annex](#)
 - “Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child”.
- Jurisprudence
 - *Reference re An Act respecting First Nations, Inuit and Métis children, youth and families*, [2024 SCC 5](#) at paras [4–5](#)
 - *Gitxaala v British Columbia (Chief Gold Commissioner)*, [2025 BCCA 430](#) at paras [78, 126–129](#)
- Research and Evidence

- Chart of NCCC Proposals for Resolving Outstanding Issues with the 2024 Draft Final Agreement on FNCFS Long-Term Reform (21 February 2025), Proposal #5

C. Measure: Review of Existing Provincial / Territorial Agreements

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 further ensure that, within 30 days of the Order, affected First Nations are contacted and provided the necessary resources to fully participate in the revisioning of existing Federal-Provincial and Federal-Territorial Agreements, in alignment with the Orders. Where the province will not meet with affected First Nations and Canada to revise existing agreements, Canada shall enter into an agreement with the First Nation to fund services to a standard provided for in the Order.

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).

Such revised agreements must be filed with the Tribunal for its approval and posted publicly.

Rationale:

- First Nations-in-Assembly Resolutions
 - 61/2024: *Meaningful Consultation on Long-Term Reform of First Nations Child and Family Services*, clauses 1(n)
- Research and Evidence
 - Institute of Fiscal Studies and Democracy, “[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)” (2025): Rationale for measuring to thrive indicators found at pp 350–353
 - Case Studies of use of Measuring to Thrive framework from a pilot project (Figures 47, 49, 50) (pp 139, 142, 144)

9. Reform Indigenous Services Canada

What We Heard:

The feedback from regional engagements indicates that the so-called “old mindset” that created and sustained systemic discrimination remains intact with Indigenous Services Canada.

Participants describe the persistence of top-down, paternalistic approaches that disregard First Nations’ expertise and needs. A lack of respect for First Nations cultures, knowledge and ways of being remains prevalent, and ISC makes unilateral decisions, notably around funding and policies, without consideration or accountability of the impact to First Nations.

“There is a lack of cultural understanding within ISC that contributes to ineffective interventions, as policies are often applied without considering the unique cultural and community contexts of First Nations”

“The rigidity of ISC’s policies often prevents communities from developing community-driven solutions. Indigenous peoples have long advocated for child welfare systems that are rooted in cultural practices and community-led care, but ISC frequently bypasses or undermines this approach”

Participants noted the lack of accountability measures as a key area of concern. Despite ISC having high expectations for agencies and communities, including extensive administrative and reporting requirements, ISC do not maintain the same level of accountability for itself. Agencies and Nations experience lengthy wait times on applications and responses to correspondence; challenges with ISC staffing and regional structures; miscommunication; and jurisdictional barriers.

“Our community has faced persistent challenges working with ISC, rooted in long-standing patterns of inconsistent decision-making, bureaucratic barriers, and a failure to uphold its own stated principles. ISC routinely imposes strict accountability and documentation requirements on First Nations while not holding itself to the same standards”

“ISC also engages in jurisdictional buck-passing, refusing services by claiming another program should fund them, even when no such program is accessible to families in remote communities”

Instead of reforming the department, some participants argued that ISC should be fully dismantled. Other recommendations focused on the need for oversight. Permanent, independent and legally binding mechanisms were identified as needed to sustain reforms, measure outcomes, and uphold the rights of First Nations children and families.

“Real change requires structural reform and enforceable accountability.”

“A permanent, independent oversight mechanism is essential to sustain accountability, measure outcomes, and uphold the principles of substantive equality and self-determination in child and family services.”

Participants shared potential indicators of meaningful departmental reform, including: consistent behavioural shifts grounded in respect, transparency, accountability, rights-based and relational approaches. This would require a significant departure from current ways in which ISC engages with First Nations. Participants also indicated that ISC would need to acknowledge their past and ongoing discriminatory practices, including public recognition of the harm caused by systemic racism embedded within policies and operations.

“Shift its relationship from compliance oversight to trust-based partnership and shared accountability”

“A shift from resistance to receptivity by encouraging openness to change, active listening, and genuine engagement with First Nations perspectives and solutions”

Systems-level indications around accountability were also of high importance to participants. Transparent and inclusive decision-making; and meaningful action by ISC to implement recommendations, orders and commitments with public reporting was emphasized as needed. In tandem with this, was the reiteration that funding commitments and structures must be predictable, timely, and based on need; along with the removal of systemic barriers, including challenges with coordination across governments, and the decolonization of policies and procedures.

“A reformed ISC would no longer impose top-down decisions from bureaucrats in Ottawa but would instead operate from a model where decisions, priorities, and resource allocations come directly from First Nations communities.”

“ISC will only be seen as having corrected its old mindset when its actions—not its statements—demonstrate a fundamental shift away from colonial, paternalistic

decision-making toward true partnership, accountability, and respect for First Nations sovereignty.”

Well-being outcomes for children, youth, family and communities were also largely underscored as the foundation to knowing when reform has been successful and discrimination has ended.

“Success will be defined not by compliance or bureaucratic efficiency, but by the well-being of Indigenous children and the strength of their families and Nations.”

“Safety being seen through the speaking of languages, the dancing, the singing. The ability for youth to feel passionate and inspired... to live out their dreams and their goals...they need to feel inspired to move forward and get the good work done.”

There was also strong support for establishing a child well-being commissioner or ombudsperson role guided by First Nations cultures, laws and teaching and focused on child rights. Participants emphasized the importance of the ombudsperson as an independent body, separate from ISC.

A. Measure: Comprehensive Reform of ISC

Implementation Timeline: Within three months of plan approval

Reform of ISC is required to address systemic discrimination and the “old mindset” identified by the Tribunal in order to prevent the recurrence of discrimination in the provision of FNCFS, as found by the Tribunal.

Pursuant to 2022 CHRT 8, an Expert Advisory Committee (the EAC) has been formed to oversee the implementation of an evidence-informed work plan to prevent the recurrence of discrimination, and that Canada shall undertake reasonable measures to begin implementing the workplan.

Canada shall provide sufficient and sustainable funding for the EAC to discharge its mandate as approved by First Nations.

The EAC shall operate in an independent, public and transparent manner to respond to the reasons and guidance of the Tribunal in 2022 CHRT 8 and previous rulings including 2016 CHRT 2. The EAC shall develop its own Terms of Reference, which shall be public.

The EAC shall be independent and provide reports directly to Chiefs in Assembly and to the Tribunal on its work and views of Canada’s risk of recidivism and the sufficiency of

safeguards to detect and address discrimination.

The work of the EAC in reforming ISC and developing accountability measures within ISC must itself be transparent and independent.

Canada shall implement the EAC's recommendations made in its Summary Report for Spring 2022 to Spring 2024 relevant to FNCFS, being to:

- (1) 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;
- (2) shift language from "cultural competency" to "cultural humility" for ISC's employee training;
- (3) develop a critical incident reporting and monitoring system for Jordan's Principle;
- (4) support the creation of an external Ombudsperson to provide accountability and oversight;
- (5) support and endow Indigenous Youth Organizations;
- (6) Include Assembly of Seven Generations in the Third-Party Evaluation; and
- (7) Implement the EAC's recommendations on the "Honouring our Journey" survey and on ISC's development and implementation of its own Human Resources division.

Canada shall also implement the EAC's recommendations made in its December 2025 Report entitled "FSA Recommendations", being to:

- (1) replace annual parliamentary appropriation requirements with guaranteed multi-year statutory funding;
- (2) Establish a binding Indigenous-led joint governance body with decision-making authority;
- (3) Implement mandatory transparency requirements for all ISC funding decisions;
- (4) Remove proposal-based and competitive funding mechanisms;
- (5) Resolve structural deficiencies created by layering the 1965 Canada-Ontario Agreement;
- (6) Reform prevention funding to align with First Nations-Defined needs and conditions;
- (7) Strengthen the Program Assessment Process to close discretionary loopholes;
- (8) Embed Indigenous data sovereignty and Indigenous-defined accountability

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

Rationale:

- CHRT Decisions
 - [2022 CHRT 8](#) at para [172](#) (Order #6)
- Research and Evidence
 - OHRC, “[Chapter 9 – Accountability and monitoring mechanisms: gaps in data management, performance review, and public transparency](#)”
 - The lack of an independent monitoring/evaluation system for assessing discriminatory behavior indicated “a lack of accountability” (here, in the context of anti-black racism amongst police officers).
 - Global Affairs Canada, “[Advancing Human Rights](#)” (24 January 2024)
 - Importance placed on transparency and accountability in advancing human rights, as evidenced by GAC’s tool for evaluating funding applications for Canadian funding on international development initiatives.
 - Expert Advisory Committee for the Reform of Indigenous Services Canada, “Summary Report of Activities, Observations and Advice” (Spring 2022 to Spring 2024)
 - Expert Advisory Committee FSA Recommendations (15 December 2025)
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 3, 10

10. Research and Outcome Data

What We Heard:

Participants provided widespread support for data collection and program evaluation to guide system improvement and to ensure that the needs of children, youth, families and communities are met. There is also clear support that this work should be focused on outcomes—particularly on outcomes that matter to First Nations.

While research was identified to be of significant value, participants shared that there is a lack of capacity, tools and funding to collect meaningful outcome data, to effectively evaluate the impact of child and family services, and ultimately to inform policy and funding decisions. Participants described the high cost of data systems, overstretched service-delivery staff and access to information (including at the provincial level) as additional key challenges.

“Our region currently has very limited capacity to collect or report non-identifying child outcome data. We do not have a culturally appropriate evaluation framework, dedicated staff time, or the technical systems needed to gather consistent information—especially in remote communities with unreliable internet access.”

“We currently have very limited capacity to analyze data at the community or service-provider level. Staff are focused on frontline work, and there is no dedicated analyst, regional data hub, or culturally grounded framework to guide interpretation of information. Because our datasets are inconsistent and often incomplete, we are not able to transform raw information into meaningful insights that could inform policy, practice, or long-term planning.”

To build research and data collection capacity, participants called for dedicated data and evaluation staff, training and mentorship in data literacy, shared regional data systems and First Nations-led structures that align with community priorities and cultural frameworks. The importance of dedicated, sustainable funding for this work—without drawing on funding for service delivery—was also emphasized.

“Enhanced collaboration and capacity-building in this area would ensure that evaluation is not seen as a compliance exercise but as a shared learning process that guides service improvement and promotes community-driven accountability.”

“Communities would benefit from practical, user-friendly tools and technical support to help measure needs and outcomes in ways that reflect local realities and First Nations worldviews”.

Participants expressed support for First Nations-led, independent secretariats, to support data collection and analysis— particularly at the regional level. This would include support for accessing resources, training and tools; and assistance with coordination— an area that many shared challenges with.

Participants also shared that it is critical for data collection and analysis processes to be transparent, accountable and First Nations-led, highlighting the need for culturally grounded indicators and frameworks. The importance of respecting data sovereignty and the principles of ownership, control, access, and possession (OCAP) was also raised as a key need which regional and national secretariats could support.

“A regional secretariat, led by First Nations, would help gather consistent non-identifying data, identify best practices, and keep governments accountable”

“A regional technical body could assist with developing common indicators, aligning data standards, and strengthening community capacity, while respecting OCAP® principles and community control.”

Limited capacity for (non-identifying) data collection and analysis were also identified as challenges—participants noted the need for specific funding for resources and dedicated positions to support this work; and raised issues around barriers to data collection and the need for inter-jurisdictional coordination. The importance of OCAP-aligned, community owned data system(s) and upholding data sovereignty was also underscored.

A. Measure: Periodic Reviews to Adjust Funding Based on Needs

Implementation Timeline: Within three years of Reformed FNCFS Approach

The Reformed Funding Approach will include a review mechanism that allows FNCFS service providers to adjust their funding, once transitioned, calibrated to need, as defined by First Nations. The review mechanism will allow for adjustments needed in emergency and urgent situations as well as longer term adjustments based on community health and well-being. It will also address any recurrence of discrimination.

Public Funding Reviews are to be completed every five years by an independent, non-political expert who is qualified in public finance and has experience working on matters relating to First Nations and First Nations child and family services, recommended by the

National FNCFS Technical Table and selected by the National Oversight Council. The Public Funding Review will ensure the Reformed Funding Approach, and ISC's related conduct, are meeting the needs of First Nations children and is adequate for First Nations service providers to meet statutory child and family services requirements. ISC will be required to provide aggregate data to the qualified expert for the purposes of conducting this review within 10 days of any data request and will fully cooperate with the review. First Nations and First Nations service providers, including FNCFS and non-affiliated FNs, will be consulted in the funding review. Data collected through Measuring to Thrive and other evidence will be considered in the Public Funding Review.

The draft report resulting from the Public Funding Review will be provided to First Nations and FNCFS experts, including the National FNCFS Technical Table and Regional Technical Tables, for expert review and comment before being presented to the First Nations in Assembly and First Nations not represented by the AFN in both official languages for approval. Canada will table the report resulting from the Public Funding Review in Parliament and will publicly and specifically respond to any recommendations within 60 days of the final funding report being approved by First Nations in Assembly. Canada will undertake positive measures to implement the recommendations and is obligated to implement recommendations to remediate the recurrence of discrimination.

Rationale:

- Research and Evidence
 - Institute of Fiscal Studies and Democracy, "[Funding First Nations child and family services \(FNCFS\): A blueprint for program reform](#)" (2025)
 - Suggests the Measuring to Thrive Framework to conduct a similar review
 - Best practices suggest the following steps: It starts with a conceptual model of child development and the factors that influence healthy development: the child, the child's family, the child's community, and the investments made to support healthy development. The *Measuring to Thrive* framework provides the groundwork for the measurement model and the accountability framework (p 126)
 - Case Studies of use of Measuring to Thrive framework from a pilot project (Figures 47, 49, 50) (pp 139, 142, 144)
 - NAC First Nations Caucus, "Draft Phase 3 Recommendation Discussion Guide" (March 2024), at p 12
 - Non-identifying aggregate data available on a national level endorsed.

- A baseline on data collection is required – needs to be available at all levels (e.g. community upwards)
- Community-specific well-being indicators.
- Decouple data consistency with the census and bring more in line with other First Nations data projects (indices, language, identifiers).
- Start 5-year review process at year 3 – data is key to supporting true need's based funding.

B. Measure: Oversight of the Public Funding Review Process

Implementation Timeline: Within four months of Public Funding Review Recommendations

The National FNCFS Technical Table shall oversee and recommend an organization to the National Oversight Council to conduct the Public Funding Review. The National Oversight Council shall consider and review the National Technical Advisory Committee's recommendation and seek input from affected First Nations and their experts regarding the selection process for the organization to conduct the Public Funding Review.

The National Technical Advisory Committee shall oversee the organization conducting the Public Funding Review and, on the advice of the National Oversight Council, may provide guidance on matters including, but not restricted to:

- a. the design and methods of the Public Funding Review;
- b. relevant information, research, reports, and experts; and
- c. the participation of First Nations service providers, knowledge holders, and experts in the Public Funding Review process.
- d. Indigenous research ethics and data Ownership, Control, Access and Possession (OCAP)

The Public Funding Review will be transparent, inclusive, and accountable including publicly posting the study methods, sample sizes and criteria, findings and recommendations. The organization conducting the Public Funding Review shall seek information from Provincial and Territorial governments providing child and family services for Non-Agency First Nation and First Nations with partially delegated protection service providers and will solicit and consider input from the following groups:

- a. First Nations
- b. FNCFS Service Agencies and other FNCFS Service Providers;

- c. The National FNCFS Technical Table; and
- d. Other individuals or groups identified by the National Oversight Council.

Rationale:

- Research and Evidence
 - NAC First Nations Caucus, “Draft Phase 3 Recommendation Discussion Guide” (March 2024), at p 12
 - Non-identifying aggregate data available on a national level endorsed.
 - A baseline on data collection is required – needs to be available at all levels (e.g. community upwards)
 - Community-specific well-being indicators.
 - Decouple data consistency with the census and bring more in line with other First Nations data projects (indices, language, identifiers).
 - Global Affairs Canada, “[Advancing Human Rights](#)” (24 January 2024)
 - Demonstrates the Government of Canada’s importance placed on transparency and accountability in advancing human rights, as evidenced by GAC’s tool for evaluating funding applications for Canadian funding on international development initiatives.
 - Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 3, 10

E. C. Measure: Dispute Resolution in the Funding Review Process

If there is a dispute regarding whether or how any recommendations resulting from the Public Funding Review are to be implemented, that dispute will return to the Tribunal pursuant to its retained jurisdiction unless a DR Mechanism is established as contemplated in Chapter 5, Measure D.

Rationale:

- CHRT Orders
 - [2018 CHRT 4](#) at para [53](#)
 - [2020 CHRT 20](#) at para [119](#)
 - [2023 CHRT 44](#) at paras [6](#), [215](#), [225](#)
 - [2025 CHRT 6](#) at paras [237](#), [602](#)
 - [2025 CHRT 80](#) at paras [14](#), [61](#), [75–76](#), [113–114](#)
- Research and Evidence
 - Naomi Metallic et. al, [Doing Better for Indigenous Children and Families: Jordan’s Principle Accountability Mechanisms Report](#) (31 March 2022), at pp

77–78: Recommendation for a National Indigenous Child and Family Tribunal as a dispute resolution mechanism.

- Assembly of Seven Generations, “Recommendations for the Long-Term Reform of FNCFS: Literature Scan”, Recommendation 3, 10

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