

1965 Indian Welfare Agreement Reform Advisory Committee

September, 2023

TERMS OF REFERENCE

Draft Pending Approval

PURPOSE

The IWA Advisory Committee (“The IWA Advisory Committee”) will provide advice and recommendations to the IWA COO Negotiation Team regarding the 1965 Indian Welfare Agreement negotiations with Chiefs of Ontario, Ontario and Canada. The goal in negotiations is to contribute to ending the discrimination and preventing the recurrence of discrimination in the programs covered under the agreement, and to make other updates to the agreement in line with First Nations’ objectives.

The current agreement provides a cost-sharing formula between Canada and Ontario and terms under which Ontario will fund and ensure the delivery of child and family services, social assistance, child care, and home makers. In the current agreement no First Nations are signatory, and this will likely remain the case with the caveat that Chiefs In Assembly will provide consent to the final reformed agreement. COO’s intention is to build substantive equality into the funding terms of the agreement, and to build in procedural protections for First Nations.

The Advisory Committee will respect diversity and is designed to strengthen partner relationships, share information, and generate knowledge that goes towards the creation of an updated agreement.

KNOWLEDGE TRANSFER

The Chiefs of Ontario Social Sector will ensure that Knowledge Keepers are essential in governing the work of the IWA Advisory Committee and the COO IWA Negotiation Team. Knowledge Keepers will exercise their collective wisdom and knowledge to reinforce the goal of ending discrimination and preventing the recurrence of discrimination in programs covered under the 1965 IWA. The Knowledge Keepers will utilize their experience, wisdom, and knowledge to address concerns regarding the Agreement and make recommendations to assist in decisions regarding Negotiations.

MANDATE

The IWA Advisory Committee members will:

1. Meet on a bi-weekly basis to receive Negotiation Team updates and upcoming IWA negotiation meeting agendas.
2. Based on bi-weekly updates from the IWA Negotiation Team, collect information from their respective leadership and community technicians on the upcoming discussion topics to advise the IWA Negotiation Team.
3. Review and discuss with the Negotiation Team the upcoming week's negotiation agenda and provide input.
4. Attend all IWA Advisory Committee meetings where feasible, and if unavailable, coordinate an alternate to attend and report back to the usual Committee member and the respective organization/community.
5. Report to respective leadership regarding the progress of the IWA Advisory Committee.

BACKGROUND

The 1965 Indian Welfare Agreement (IWA) is an agreement made by Ontario and Canada in 1965. It provides federal cost-sharing for the delivery of certain programs on reserve within Ontario. It is out of date, and has never included First Nations as partners. It was found to be discriminatory by the Canadian Human Rights Tribunal with respect to child and family services (see 2016 CHRT 2). It also funds certain services in child care, social assistance, and homemaking.

PRINCIPLES

The Advisory Committee shall adhere to these principles:

1. Advisory Committee members will uplift the principle of the inherent right of self-determination of First Nations in Ontario, meaning that First Nations in Ontario are entitled to make choices and pursue their own funding approaches through their own agreements, when feasible and if desired.
2. Advisory Committee members will acknowledge and support the principle of accountable relationships, including with respect to the policies, programs and services, and funding that may be established.
3. Advisory Committee members will consider best available evidence including qualitative, quantitative, and experiential information and or data in its recommendations to leadership.

AGREEMENTS, INITIATIVES AND FIRST NATION SOVEREIGNTY

1. Nothing in this Terms of Reference shall supersede any pre-existing agreements, understandings or working relationships that may currently exist between a First Nation or First Nations and the Province or federal government.

2. Nothing in this Terms of Reference shall limit the ability of an individual First Nation or service delivery agency from entering into agreements in any matter as that they should choose to pursue as to that First Nation's sovereignty.

MEMBERSHIP

The Advisory Committee is comprised of representatives from the following organizations:

- First Nations Representatives:
 - Chiefs of Ontario Social Services Portfolio Holder and or Alternate
 - Grand Council Treaty No. 3 (Interim Observer pending Oct 3-4, 2023 mandate)
 - Nishnawbe Aski Nation
 - Association of Iroquois and Allied Indians
 - Union of Ontario Indians/Anishinabek Nation
 - Independent First Nations
 - Six Nations of the Grand River
 - Mohawk Council of Akwesasne
 - Mushkegowuk Tribal Council
 - Ontario First Nation Young Peoples Council
 - Knowledge Keepers
 - Chiefs of Ontario Health
 - Chiefs of Ontario Education
- OLTHUIS KLEER TOWNSHEND LLP
 - Providing legal advice as needed. Lawyers involved typically include Maggie Wentz, Judith Rae, Sinead Dearman, and Jessie Stirling.

For the purpose of efficiency and reaching group consensus each party will select a representative and an alternate, and each party will maintain one voice/position at the Advisory Committee, regardless of the number of representatives that attend on behalf of each party.

RESOURCE EXPERTS

The Advisory Committee may call upon subject-matter experts and others as needed, such as:

- INDsight Consulting
- Brenda Spotton Visano
- Association of Native Child and Family Service Agencies of Ontario
- Joint Social Services Table
- Ontario Native Welfare Administrators' Association
- Tripartite Technical Table on Child and Family Services

REPORTING STRUCTURE

Members of the Advisory Committee are to report to their respective leadership and senior officials concerning the information shared, the status of current activities, and next steps and priorities within the conditions of any confidentiality agreement that may be signed.

The 1965 IWA Advisory Committee will provide reports on a monthly basis to the Chiefs Committee on Social.

Regular updates will be provided to the Leadership Council and to Chiefs in Assembly.

ROLES AND RESPONSIBILITIES

All members are responsible for:

- Reviewing materials, agendas, obtaining feedback from their respective leadership and communities;
- Participating in meetings and advising on items presented for discussion;
- Actively considering ideas and issues raised;
- Providing feedback and advising on materials drafted; and
- Maintaining the confidentiality of materials, discussions and recommendations, as agreed to by the table.

MEETINGS

Meetings will be held bi-weekly or more or less frequently as may be agreed.

ADMINISTRATIVE SUPPORT

Chiefs of Ontario will prepare and assist with the development and provision of the following:

- Agenda
- Facilitating discussions
- One-page summaries
- Briefing notes
- Meeting Organization

ATTACHMENTS

1965 Negotiation Organizational Chart and Decision Flow

CONFIDENTIALITY

The Advisory Committee may have access to information that is confidential, and Committee members may be asked to sign a confidentiality form as a condition to their

participation.. OKT will also provide clear direction on what is confidential material and whether or not content can be discussed or shared, and with who.

These terms of reference are agreed to on _____ (date).

Started on July 7, 2023 – updated July 17, 2023 – August 30, 2023

DRAFT