

## **TERMS OF REFERENCE FOR THE CHILD WELFARE LEGISLATIVE WORKING GROUP**

### **1. AUTHORITY**

AFN Resolution 11/2018 authorizes the establishment of the Child Welfare Legislative Working Group (CWLWG) and directs its work shall incorporate the inherent right of self-determination, the International Convention of the Rights of the Child, and Free Prior and informed Consent.

### **2. MANDATE**

The mandate of the CWLWG is to assess and recommend options for legislative, regulatory and/or other instruments on First Nations child welfare to the First Nations-in-Assembly consistent with the Orders by the Canadian Human Rights Tribunal (CHRT). This work shall take a principled approach to the review of laws and policies to ensure the Crown is meeting its constitutional obligations with respect to the welfare of First Nations children and to fully implement all orders of the CHRT.

The CWLWG will provide support to Chiefs in Assembly through direction, advice and recommendations on child welfare reforms to legislation and policies, specifically in relation to Indigenous Services Canada's (ISC) First Nations Child and Family Services Program (the "FNCFS Program").

Sub-committees may be established as deemed necessary by the CWLWG and would be subject to financial considerations and review and approval of subcommittee terms of reference and selection of members.

### **3. OBJECTIVES**

The objectives of the CWLWG are as follows:

- To study viable legislative options for First Nations to consider in order to meet the distinct needs and circumstances of First Nations children, families and communities on reserves, in the Yukon, or within their jurisdictions and territories – including among other things their cultural, spiritual, historical, and geographical needs and circumstances – in order to ensure substantive equality in the provision of child and family services to them, to give greater access to this system for First Nations and to ensure the best interests of First Nations child through a First Nations lens is the paramount consideration;
- To assess possible regulations and policy options to support the legislative framework;

- To provide advice on modernizing a legislative framework that supports full jurisdiction and authority for First Nations decision-making, service delivery and accountability;
- Examining ways to empower First Nation governance, jurisdiction and authority over child welfare while enhancing accountability and transparency;
- Examining and clarifying the roles and responsibilities of First Nations and the federal and provincial governments;
- To provide the Chiefs in Assembly with regular updates on work of the working group and legislative options being considered on child welfare, and potential measures to facilitate these reforms through legislative and policy changes;
- To engage with political representatives on strategies and legislative amendments to support the full implementation of all orders of the CHRT orders, the Truth and Reconciliation Commission (TRC) Calls to Action, and the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration); and
- To provide research and analysis on First Nation child welfare legislative and regulatory reforms to assist the AFN Social Development Sector in eradicating systemic discrimination in the provision of child welfare and family services, and to prevent its reoccurrence.
- Fiscal approaches and stability in funding for child and family jurisdiction and services, including addressing the need to resolve ongoing discrimination in levels of funding, service and provide support for the development and operation of First Nations programs, services and operations.

#### 4. **COMPOSITION**

The CWLWG shall be composed of a member from each AFN region determined via normal AFN protocol through regionally established processes. The CWLWG will also receive appointments from the National Advisory Committee on Child Welfare Reform.

The CWLWG shall be chaired by Regional Chief Kevin Hart, child welfare portfolio holder.

The CWLWG shall develop its own procedures to govern its meetings and affairs.

## **5. DECISION MAKING**

The CWLWG will operate by consensus.

Where the CWLWG members are unable to reach agreement on any matter, the CWLWG may consider engaging a mediator to assist in resolving the matter, agreed to by the CCCW.

## **6. DURATION**

The CWLWG will commence its work on August 16, 2018 and will remain in place until March 31, 2019.

## **7. MEETINGS**

CWLWG meetings will take place twice per month or as determined by the CWLWG members. Meetings will take place in person or via teleconference, as needed. Members shall endeavor to agree upon the time and place of meetings no later than the end of the preceding meeting.

A quorum of the CWLWG shall be six (6) CWLWG members at a scheduled meeting.

Travel, hotel and meals will be reimbursed for CWLWG members or appointed alternates by the AFN.

Every effort will be made to book travel in as much advance as possible to ensure cost-efficiency and to ensure that advances for expenses can be prepared prior to meetings.

## **8. ROLES AND RESPONSIBILITIES OF THE COMMITTEE MEMBERS**

To carry out the mandate and objectives of the CWLWG as outlined in sections 2 and 3 of these terms of reference, members will:

- Review draft agendas of CWLWG meetings that will be sent out prior to meetings and make every effort to ensure that items that are to be raised are submitted in as much advance as possible;
- Review draft minutes of CCCW meetings that will be sent out following each meeting and make every effort to provide comments;
- Ensure that any decisions and recommendations reflect a national perspective and respects and takes into consideration regional variations and processes;

- Develop and/or establish effective communication mechanisms;
- Develop and recommend to the ISC amendments to child welfare policies and regulations, including: policies, procedures, practices or rules requiring reform that relate to the management and operations of First Nation child welfare agencies;
- Ensure that regular reports are prepared for the AFN National Chief, Executive and Chiefs in Assembly;
- To develop and provide guidance on possible legislative amendments and policy reforms to support the work of the AFN Social Development Sector relating to the management and operations of the First Nation child welfare agencies; and
- To attend meetings, make presentations to the First Nations-in-Assembly, as required.

## **9. CONFIDENTIALITY**

Some information brought to the CWLWG may be confidential. CWLWG members will seek to retain the confidentiality of documents and/or discussions where confidentiality is identified as an issue.

Documents provided to CWLWG or draft documents developed by the CWLWG under discussion should not be released for public distribution without the advance consent of the AFN.