

September 22, 2025

Judy Dubois
Registry Operations
Canadian Human Rights Tribunal
240 Sparks Street, 6th Floor West
Ottawa, ON K1A 1J4

Dear Ms. Dubois:

**RE: FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA ET AL V ATTORNEY
GENERAL OF CANADA – T#1340/7008**

Further to 2025 CHRT 80, the First Nations Child and Family Caring Society (the “**Caring Society**”) provides this update in consultation with the Assembly of First Nations (the “**AFN**”).

In 2025 CHRT 80, the Panel directed the AFN and the Caring Society to consult with “the National Children’s Chiefs Commission (the “**NCCC**”), First Nations Chiefs, and other experts, including First Nations and First Nations organizations outside Ontario, as well as those that have filed interested party motions, to develop an evidence-based, comprehensive National FNCFS long-term reform plan and requested remedies outside Ontario” (para. 120). Extensive work is being done to ensure that the timelines as ordered by the Tribunal are met and that consultation proceeds in a fulsome and transparent manner.

Response to Canada’s August 29, 2025 Correspondence re: NCCC

On August 29, 2025, Canada wrote to the Panel regarding the 2025 CHRT 80 ruling and advised that it had met with the NCCC. The NCCC has written to the AFN and the Caring Society raising concerns regarding the characterization of those meetings and the information shared in Canada’s August 29, 2025 correspondence. The NCCC’s letter, dated September 22, 2025, is attached hereto as **Schedule “A”**.

Information Sharing with First Nations Leadership, First Nations Experts and Organizations re: 2025 CHRT 80

The AFN hosted its Annual General Meeting on September 3-5, 2025 in Treaty One (Winnipeg, MB) (the “**AGM**”). The Caring Society, along with members of the NCCC attended. On September 5, 2025, AFN Regional Chief Joanna Bernard, NCCC Chair, Chief Pauline Frost, NCCC Commissioner Chief David Monias (MB) and Cindy Blackstock

provided a plenary information session on the requirements of 2025 CHRT 80 including forthcoming consultations on a national plan and remedies regarding child and family services. Attendees included First Nations Leadership, First Nations child and family service experts and the public.

Also during the AGM, by resolution, the Chiefs-in-Assembly approved the Terms of Reference for the NCCC and called on the AFN to provide funding to ensure that the NCCC can engage in the work contemplated under 2025 CHRT 80. The Chiefs-in-Assembly also passed a resolution calling on Canada to immediately and effectively address its non-compliance and the Jordan's Principle backlog in particular. Once those resolutions are formally released, we will provide them to the Tribunal.

Further information sharing took place at the Loving Justice Conference in Treaty Six (Saskatoon, Saskatchewan) on September 9 & 10, 2025. On September 9, 2025, NCCC Chair Chief Pauline Frost and NCCC Co-Chair Deborah Foxcroft provided an update on the NCCC including their assistance with the national consultations to inform the plan and remedies required in 2025 CHRT 80. There were over 600 delegates at this national conference, focused on jurisdiction in First Nations child and family services including First Nations Leadership, First Nations child and family service experts and legal professionals from across Canada. On September 10, 2025, Cindy Blackstock, presented at the conference and included information on 2025 CHRT 80 and the next steps in the development of the national plan and remedies required in 2025 CHRT 80 and met with Elders who were formerly in care.

Development of the Consultation Workplan

In relation to the consultation workplan, the AFN and the Caring Society are working together with the NCCC to leverage their respective expertise and platforms to complete the workplan in accordance with 2025 CHRT 80. The current focus is to finalize the consultation materials, including the development of consultation themes and an information package, setting out the scope of the CHRT complaint, the existing orders as well as the goals and constraints of this process. Our interim timeline is as follows:

- a. October 1, 2025: Finalizing consultation materials in French and English
- b. October 1, 2025- November 15, 2025: Consultations with First Nations leadership and regional experts as well as prospective interested parties.
- c. November 15, 2025: Begin roll up of results of national consultation and provide further information sessions on how the materials will inform the plan and remedies
- d. December 20, 2025: AFN and Caring Society file the plan with remedies with the CHRT

We have also reached out directly to all of the proposed intervenors who sought leave to this proceeding, with the goal of meeting with them and their counsel in October 2025.

Our engagement will include consulting with the Assembly of Seven Generations, which is an Indigenous youth-led grass-roots organization focused on the needs of Indigenous youth, including those formally in care. It will be essential for our work to be informed by the experiences of youth in care and youth formally in care.

Further Disclosure Required to Complete the National Plan

In order to ensure that the AFN and the Caring Society can engage in fulsome consultation and build a national remedial plan to end Canada's discrimination and prevent its recurrence, ongoing disclosure is required. On September 22, 2025, in advance of sending this letter, the Caring Society wrote to Canada requesting the following:

- *Federal-Provincial and Federal-Yukon Agreements for the purposes of providing child and family services, including reformed federal-provincial and Federal-Yukon agreements in place between 2016 and 2025; and*
- *Documents related to the discussions and negotiations with respect to the reform of federal-provincial and Federal-Yukon agreements, including but not limited to audits, annual reports, funding reviews, performance data collection, analysis, reporting, and funding amounts provided under Federal-Provincial and Federal-Yukon agreements including the services and activities for which funding is provided.*

The Caring Society has asked Canada to advise in advance of the case management conference scheduled for September 26, 2025, whether it has any objection to providing this disclosure.

Judicial Review of 2025 CHRT 80

On Friday September 19, 2025, the AFN and the Caring Society were served with an application for judicial review of 2025 CHRT 80. We believe the work directed pursuant to 2025 CHRT 80 should continue, irrespective of Canada's application. The AFN and the Caring Society look forward to providing the Panel with a comprehensive update in October 2025.

Clarification Regarding the Panel's Letter of September 12, 2025 Re: 2025 CHRT 6

In its letter dated September 12, 2025, the Panel noted as follows:

The Tribunal appreciates the clarification. It had not understood that 9 of the 11 topics were resolved. Given that the consultation orders for the complaints mechanisms were postponed until after the other orders, and considering the confidentiality of the mediation process, the Tribunal does not know which items were discussed and which remain outstanding. The number 9 arose from the July 21, 2025, CMCC discussions. The Tribunal had understood that the discussions had ended and that the outcome was unclear. Canada's confirmation reinforces the concerns expressed by the Tribunal in 2025 CHRT 80. If six months of discussions between the parties did not result in agreement on any of the 11 items, Canada's desire to coordinate discussions on the two outstanding issues does not, in itself, address the Tribunal's concerns. The Tribunal is considering next steps on this point.

The AFN and the Caring Society wish to clarify that 9 of the 11 topics are not resolved. To date there is no agreement on any of the items. The AFN and the Caring Society hope to discuss next steps at the case management conference on September 26, 2025.

Yours Truly,



Sarah Clarke

cc. *Peter Mantas, Gabrielle Cyr and Tina Sun,
Counsel for the Co-Complainant, Assembly of First Nations*

*Dayna Anderson, Paul Vickery, Sarah Bird, Kevin Staska and Alicia Dueck-Read,
Counsel for the Attorney General of Canada*

*Anshumala Juyal and Khizer Pervez,
Counsel for the Canadian Human Rights Commission*

*Maggie Wente, Benjamin Brookwell, Sinéad Dearman, Jessie Stirling-Voss, Katelyn
Johnstone, Ashley Ash, Jenna Rogers
Counsel for the Interested Party, Chiefs of Ontario*

*Julian Falconer, Meaghan Daniels, and Jordan Tully
Counsel for the Interested Party, Nishnawbe Aski Nation*

*Justin Safayeni, Stephen Aylward and Taskeen Nawab,
Counsel for the Interested Party, Amnesty International*

Schedule “A”

September 18, 2025

To: Caring Society
Assembly of First Nations

Re: *First Nations Child and Family Caring Society of Canada et al. v. the Attorney General of Canada et al. Tribunal File: T1340/7008, Canadian Human Rights Tribunal's September 12, 2025 letter*

Dear colleagues,

The National Children's Chiefs Commission (the "Commission") writes in relation to the Canadian Human Rights Tribunal's (the "Tribunal") September 12, 2025, letter, which provides clarification in response to questions Canada submitted to the Tribunal in its August 29, 2025, letter.

Canada's August 29, 2025, letter references two preliminary discussions between officials from Indigenous Services Canada and Commission Chair, Chief Pauline Frost. It is important to clarify two important matters in relation to those discussions.

First, the Commission was surprised that Canada referenced those introductory discussions in its formal submissions to the Tribunal. The Commission maintains that those discussions were *preliminary and introductory* in nature, intended only as an opportunity for Chief Frost and the newly appointed Minister as well as the Assistant Deputy Minister of Indigenous Services Canada (the "ADM"), respectively, to get acquainted. Contrary to Canada's submissions, the Minister and ADM did not meet with the Commission and the purpose of those brief discussions was not to address substantive issues related to the settlement of the complaint before the Tribunal. Rather, those ISC officials spoke solely with Chief Pauline Frost. To demonstrate the perfunctory nature of those discussions, Chief Frost was not accompanied in those meetings by any technicians or legal counsel. To the contrary and quite alarmingly, Canada intentionally excluded the Commission's technical advisors, and Chief Frost's own technicians, from the calls, while including their own technical advisors. In the circumstances, the discussions did not amount to any form of consultation, negotiation or substantive engagement in relation to this matter.

In fact, until the August 11, 2025, call with ADM Kovacevic, Canada had consistently refused or ignored requests to engage with the Commission and, in correspondence with the AFN, expressed "confusion" as to the role of the Commission. Therefore, from Chief Frost's perspective, the meeting was an opportunity to clarify Canada's confusion and to set the stage for future dialogue.

Second, Canada's letter inaccurately characterizes the Commission's position on what is required to settle this matter. **To be clear, the Commission is not seeking to expand the Tribunal's jurisdiction or the scope of the complaint in this matter**, which is limited to (i) the long-term reform of child and family services on-reserve and in the Yukon, and (ii) Jordan's principle. It is, however, worth noting that the First Nations-in-Assembly, who created the Commission and provided us with our mandate, are deeply concerned about the well-being of their children and families wherever they reside. Arbitrary jurisdictional boundaries established by Canada do not alter the responsibility that First Nations Chiefs and matriarchs carry for their children and families. In this regard, the First Nations-in-Assembly have directed the Commission to take this reality into account.

These jurisdictional boundaries remain one of several critical issues the Commission has attempted—without success—to raise with Canada through dialogue. At the same time, the Commission recognizes that the scope of the complaint before the Tribunal in this matter is restricted to children and families living on-reserve and in the Yukon and does not wish to delay the resolution of this matter in any way. Accordingly, the Commission has not, therefore, treated this issue as a precondition to establishing negotiations to resolve Canada's ongoing discrimination in the matter before the Tribunal.

Finally, Canada's letter suggested, without any evidence, that there may be a "the lack of consensus on a national long-term reform approach." On the contrary, the First Nations-in-Assembly have provided strong support for the national approach and have passed resolutions to that effect in October and December 2024 and most recently at the AFN's Annual General Assembly earlier this month. On September 4, 2025, the Chiefs voted *against* a resolution calling on the AFN to advocate for regional agreements, and adopted a resolution allocating \$1 million to the Commission to advance the national approach as directed by the Tribunal.

The Commission believes it is important to ensure that the Tribunal, and all parties, have an accurate understanding of the Commission's role, the context of its engagement with Canada, and the direction provided by First Nations leadership. As such, we encourage the Caring Society and/or AFN to share this letter with the Tribunal.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pauline Frost', with a stylized flourish at the end.

Chief Pauline Frost

On behalf of the National Children's Chiefs Commission