

PROTOCOL AGREEMENT

Between

NISHNAWBE-ASKI LEGAL SERVICES CORPORATION

and

CHILD and FAMILY SERVICES of TIMMINS and DISTRICT

TALKING TOGETHER PROJECT

November 26, 2004

TALKING TOGETHER PROTOCOL

PREAMBLE

Native history teaches that prior to contact the Native people practiced a unique culture. Through the process of colonization, people have undergone great loss, resulting in the deterioration of the family unit today.

Child and Family Services of Timmins and District and Nishnawbe-Aski Legal Services are committed to providing services to families that will ensure the safety of the child, the well-being of the family, and as a result, strengthen the community.

It is recognized that success in the provision of these services will be enhanced if carried out in a manner that takes care of our own and is in keeping with the values and beliefs of Native people.

In keeping with these beliefs, the Talking Together process is an innovative kind of dispute resolution practiced as an alternative to the present family law court system.

CHILD AND FAMILY SERVICES OF TIMMINS DISTRICT

Child and Family Services of Timmins and District is a non-profit charitable, mainstream Integrated Children's Services Agency in north-eastern Ontario servicing the District of South Cochrane in the central portion of Nishnawbe-Aski Nation including the communities of Timmins, Iroquois Falls, Montith, Matheson, and Wahgoshig First Nation.

Child and Family Services of Timmins and District is mandated as a Child Protection & Children's Mental Health Services Agency.

Child and Family Services of Timmins and District provide services including:

- Assessment/Investigation/Placement
- Child & Family Supportive Service
- Children's Mental Health
- Residential Care
- Residential Treatment
- Young Offenders Facility
- Ontario Early Years Program
- District wide Partnered Programming i.e. Integrated Services for northern children,
- Supervised Access & Autism, Community Support Team (Young Offenders)

A volunteer Board of Directors representative of the communities within its geographic catchment area governs CFSTD. Timmins is the central migratory community for Mushkegowuk First Nations people from the James Bay coastal and other northern rural and remote communities. CFSTD serves a population of near 60,000 of which approximately 20% are Aboriginal.

NISHNAWBE-ASKI LEGAL SERVICES

Nishnawbe-Aski Legal Services is a unique and innovative organization belonging to Nishnawbe-Aski Nation and is managed by a board of directors who are members of First Nations within NAN. The organization delivers a wide range of services to the members of Nishnawbe-Aski Nation including legal, public legal education, and law reform services. Services are delivered in the languages of the communities wherever possible. Restorative Justice is a priority of Nishnawbe-Aski Legal Services.

SERVICE PROVIDERS

Service Providers participate in the Talking Together process circles as resource and support to clients involved in Child Welfare matters. Wahgoshig First Nation Band Council, Timmins Native Friendship Centre, Misiway Milopemahtesewin Community Health Centre, TAMPA Children's Centre – OMAA, and Ojibway Cree Cultural Centre agree to provide support, services and programming that adhere to the values and beliefs of the Aboriginal community.

Wahgoshig First Nation Band Council

Wahgoshig First Nation is located 43 kilometres east of Matheson, Ontario and has a population of approximately 150-200 people residing in the community and receives Federal funding to govern and administer programs and services that meet the needs of the membership assuring a community control at the grassroots level.

As the governing body of Wahgoshig and the membership the Chief and Council have developed and passed a Band Council Resolution in support the Talking Together Process.

Support services/resources available within the community are as follows:

Native Alcohol & Drug Counsellor

- provides prevention & promotion workshops, counselling and referral services to clients affected by the use and/or misuse of substances.

Community Health Nurse

- visits two times a week to provide immunization clinics, client assessments, and prevention & promotion workshops.

Community Health Representative

- assists clients in securing medical appointments/attention and provides medical transportation.

Community Health Care Worker/Homemaker

- provides in-home care to the chronically ill, disable and Elder population.

Outreach Worker

- provides counselling to people who have been impacted by sexual abuse.

Family Support Worker

- provides counselling, prevention/intervention programming and referral to children and their families that are dealing with child protection/safety issues.

Ontario Works

- provides social assistance benefits to community members in need.

Community Employment Counsellor

- assists the employable in seeking/applying for jobs.

Education Counsellor

- in filling funding applications for Secondary & Post Secondary education and advocates on behalf of children/parents who are in need of Alternative/Special Education Planning.

Housing Counsellor

- provides assistance/direction to meet the housing requirement needs of members.

Aboriginal Healing & Wellness Program

- provides opportunities for spiritual and traditional healing and workshops.

Early Years Program

- provides information, training and support to parents of children 0-6 years in an early learning setting that promotes healthy child development and assists the

children in meeting their full potential intellectually, spiritually, physically, mentally and emotionally.

Timmins Native Friendship Centre

Timmins Native Friendship Centre was realized in 1974 and is governed by a volunteer Board of Directors that receives its core funding from Heritage Canada's Friendship Centre program.

The Friendship Centre's mission is to promote the physical, mental, emotional, and spiritual well-being of all people, by providing a safe healthy environment to assist both resident and migrating people adjust to city life with emphasis on promoting and preserving Aboriginal culture and tradition.

Timmins Native Friendship Centre will provide programming services including:

Aboriginal Healing & Wellness Program

- focuses on reducing family violence, promoting healthy lifestyles and healing.

Native Courtworker Program

- provides assistance to all Native people who are in conflict with the legal system.

Aboriginal Child Development/Early Years Program

- promotes early childhood development so that children are prepared and ready to learning in order to reach their full potential and assists children with exceptionalities by supporting their families in a strong caring environment.

Aboriginal Family Support Program

- offers programming and services to children 0-6 years and their families.

Aboriginal Prenatal Nutrition Program

- provides services that meets the needs of women of childbearing years, pregnant women, mothers with children under 6 months and their families.

Misiway Milopemahtesewin Community Health Centre

Misiway Milopemahtesewin CHC is funded by the Ministry of Health, governed by a volunteer Board of Directors guided by the vision of meeting the priority health needs of the Aboriginal Community of Timmins and surrounding area.

Misiway offers a range of coordinated primary health care and related services with an emphasis on health education and promoting healthy lifestyle choices. The services are provided in a multi-disciplinary manner with emphasis on promoting a holistic approach to health care for the Aboriginal population.

Mental Health

- advocacy, counselling, and parent education services are offered by a fulltime Social Worker/Therapist.

Community Outreach

- provides education, information and prevention services regarding Fetal Alcohol Spectrum Disorders with the assistants of a Child Nutrition Worker.

Health Promoter

- develops and delivers programs ranging from personal development to proper nutrition and including cultural teachings. All services incorporate and respect Aboriginal beliefs.

TAMPA – Ontario Metis Aboriginal Association

The T.A.M.P.A. Children's Center program is a component of the Brighter Futures off reserve Community Action Program for Children. T.A.M.P.A. is sponsored by the Ontario Metis Aboriginal Association and aims to strengthen families and communities while supporting community development and healing.

T.A.M.P.A. Children's Centre's aims to improve the physical, mental, emotional, and spiritual well being of Metis, First Nation and Inuit children aged 0-6 years.

Services Provided by TAMPA

- Cultural Retention
- Parenting Programs
- Crafts
- Community Kitchen
- Nutrition Information
- Family Visitation /Access
- Women's Circle
- Child Development
- Clothing Bank
- Various Workshops
- Referrals
- Individual Support
- Crisis Support
- Pre-Natal Education
- Post-Natal Education

Ojibway Cree Cultural Centre

Ojibway Cree Cultural Centre is mandated to assist Nishnawbe-Aski Nation (Treaty #9) communities in nurturing a sense of pride in their native culture, establishing

independence and self-determination towards their growth and development. As a result, OCCC promotes self-reliance and enhances the unique cultures, traditions and languages of its members.

Translation Services

- a duo path process to assist participants in communicating effectively further enhancing and benefiting the process of Talking Together.

MISSION STATEMENT

Child and Family Services of Timmins and District and Nishnawbe-Aski Legal Services agree that working jointly to develop and deliver an Alternative Dispute Resolution process is a positive step in addressing the needs of the children, families and communities.

DEFINITION AND PURPOSE

Child and Family Services of Timmins and District (hereinafter referred to as CFSTD) holds a mandate to provide services to strengthen our children, our families and our communities, as well as promote the best interests, protection and well-being of our children, families and communities. Nishnawbe-Aski Legal Services (hereinafter referred to as NAN Legal Services) holds a unique and innovative mandate to deliver legal services including the administration of Legal Aid Ontario in the Treaty # No. 9 area and to deliver a Restorative Justice Program in 15 of the 48 NAN communities.

In keeping with these mandates, CFSTD and NAN Legal Services recognize the importance of continuing to develop appropriate programs in order to meet the diverse needs of the Native people, in as comprehensive and coordinated a manner as possible.

The Talking Together Protocol is an innovative kind of dispute resolution practised as an alternative to the Family Court system, and is based on traditional circles held in the communities. It is conducted in the form of a circle, where the child, family members, service providers, community members and Talking Together Facilitator meet. The rules of the traditional circle apply. Everyone is equal. Everyone is given a chance to speak, and be listened to respectfully. Comments are framed in a non-judgmental way. The aim of the circle is to arrive by consensus, at an effective plan to bring about resolution of outstanding child welfare concerns. The term Talking Together is used to describe a process that starts with a referral, moves to a circle, develops planning and involves monitoring and evaluation.

The successful implementation of this framework is the shared responsibility of all employees of CFSTD and NAN Legal Services. The Board of Directors of CFSTD and NAN Legal Services sanction this framework; each representing their involved First Nation constituents.

Through the application of this protocol, all employees of CFSTD and NAN Legal Services responsible for the referral, planning and coordination and implementation of Talking Circle service to clients shall conduct their activities in a manner that is client focused and that is professionally, and ethically congruent to this protocol.

RELATIONSHIPS

CFSTD and NAN Legal Services shall maintain an open, cooperative relationship and regular contact regarding the Talking Together service in order to facilitate the process, and work toward success of this initiative.

Family participants shall be advised of this sharing of information at the referral stage, and the agreement of the family participants shall be obtained through the signing of Release of Information forms.

CFSTD and NAN Legal Services shall undertake to inform the involved communities of this service.

STATEMENT OF PRINCIPLES

This protocol adheres to and is guided by a clear set of principles. These constitute the foundation on which all service delivery shall be based. These principles are:

Community Orientation:

In serving individuals within a community, the strengths and needs of the community must be simultaneously considered. This principle also refers to the helping resources being community-based or otherwise easily accessible.

Service in the Native Way:

The provision of all services will incorporate, encourage and support Native values and traditions. This embodies the principles of community and client self-direction. A focus of services provided will be on meeting child and family needs in a culturally appropriate/sensitive manner.

Confidentiality:

Talking Together information and records are confidential, and as such, information shared within the Talking Together process will not be released to unauthorized persons. All involved persons shall maintain the highest standards in safeguarding all confidential matters and information pertaining to children and families involved in this service.

Code of Conduct:

CFSTD and NAN Legal Services are dedicated to the delivery of service that encompass the teachings of our Native people:

Together there will be **TRUTH**
Together there will be **RESPECT**
Together there will be **LOVE**
Together there will be **HUMILITY**
Together there will be **HONESTY**
Together we will be **BRAVE**
Together we will gain **WISDOM**

At all times, participants shall conduct themselves in a professional manner, encompassing these teachings.

CFSTD and NAN Legal Services also agree to participate fully in a proactive problem solving. Decision-making, and conflict resolution that is required to ensure appropriate service provision to protect the identified, child and address the outstanding child welfare concerns.

ROLES AND RESPONSIBILITIES

Coordinator / NALSC Employee:

- To oversee and supervise the activities of the facilitators;
- To facilitate the Talking Together process where required including drafting of final agreements arising from the circles;
- To assist in developing and delivering of training programs to the facilitators and agencies;
- To report to the joint management committee (board of directors) overseeing the project;
- To develop the necessary filing system, forms, reports and evaluations needed for the pilot project;
- To pursue funding for the furtherance of the project once the pilot projects are completed.

Facilitator / NALSC Employee:

- To receive and confirm the referral;
- To meet with child welfare to identify potential family participation;
- Make referrals to the Coordinator;
- Obtain all release of information documentation;
- To organize the Talking Together including briefing of all participants about the circle process and what will be expected of them;

- Facilitation of the Talking Together process including drafting of final agreements arising from the circles;
- Follow up of adherence to the agreements;
- To liaise with the community members
- To liaise with the Coordinator on an ongoing basis and the partnering agencies as required;
- Monitor two-path system;
- Maintain file system;
- Community coordination;
- Community education/awareness;
- Agency education/awareness;
- Participate in evaluation process;
- Participate in/statistical/report writing.

Parent(s)/Caregivers:

- To care for and protect their child;
- To raise a healthy child;
- To contribute to their community;
- To work cooperatively within the Talking Together model to assist in addressing the child welfare concerns.

Community:

- To ensure a safe community for children;
- To sanction and support the Talking Together project;
- To work cooperatively within the Talking Together model to assist in addressing the child welfare concerns.

Service Providers / Community Organizations:

- To ensure a safe community for families;
- To sanction and support the Talking Together project;
- Provide client access to Talking Together service option;
- To provide culturally appropriate support services and programming that adhere to the Plan of Care;
- To work cooperatively within the Talking Together model to assist in addressing the child welfare concerns;
- To educate community.

Child Protection Worker / CFSTD Employee:

- To ensure the safety of the child;
- To work cooperatively within the Talking Together model to assist in addressing the child welfare concerns.

CFSTD:

- Duty to protect children;
- Provide client access to Talking Together service option;
- Monitor and evaluate the service;
- Education of involved community.

NALSC:

- Sponsor the project;
- Provide training of staff & agencies;
- Provide Talking Together Coordinator;
- Provide Talking Together Facilitator;
- Education of community;
- Justice personnel education;
- Monitor and evaluate the service.

CASE IDENTIFICATION CRITERIA

Cases appropriate for the Talking Together service shall be selected using a consultation process between the worker and supervisor and Talking Together Facilitator. This process shall begin at the intake level of involvement.

A case may be appropriate for referral if a Protection Application has been filed with the court or a decision has been made that there are grounds to file a Protection Application.

Cases identified for protection using the Eligibility Spectrum of the Risk Assessment Model may be appropriate for this pilot.

Cases not appropriate for this process shall include sexual abuse cases.

In identifying appropriate referrals, the family shall clearly understand that involvement in the Talking Together process as an alternative dispute resolution process is voluntary, and refusal of this option is without prejudice to the family, and does not affect their rights within the court system.

Where a legal representative has been appointed or retained, cases referred to the Talking Together process must obtain the agreement of the child, the family, and the First Nation; each in consultation with legal representative.

If a Protection Application has not yet been filed, or legal representation has not been appointed, or obtained, cases referred to the Talking Together process must obtain the agreement of the child, the family. The First Nation must also be consulted and kept informed.

The referral process will be the beginning of a two-path process. The Child Protection Worker shall continue on with the Protection Application in order to ensure the protection of the child. The Coordinator and Facilitator will begin the process of Talking Together.

TIME LINES

CFSTD and NAN Legal Services recognize the importance of ensuring service provision occurs in a timely fashion. In order to support children and families and minimize delay, referrals to the Talking Together shall be explored and initiated once the investigation concludes that the child (ren) is/are in need of protection.

The Child Protection Worker shall initiate a referral meeting, involving the supervisor and the Talking Together Facilitator, to discuss the appropriateness of the referral.

Once the case has been identified for referral to the Talking Together process, the worker and the Talking Together Facilitator shall meet with the child (age appropriate) and/or the family to discuss the service. The engagement of the family in this process is critical for the success of the Talking Together model. The family must recognize this avenue as a positive step, and be open to this alternative.

Protection Application In Court:

The agreement from the family to access the Talking Together process, as a means of addressing outstanding child welfare concerns, and the coordination of a Talking Together process by the Talking Together Coordinator and/or Facilitator, with the commitment of all parties, shall take place before the Day 25 Temporary Care and Custody Hearing.

The Child Protection Worker shall proceed to follow the usual steps of court to the Temporary Care and Custody Hearing/Day 25. At the Temporary Care and Custody Hearing, the Child Protection Worker shall attempt to obtain an Interim Order, if the child is in care, or a customary care agreement. If the child is not in care, the Child Protection Worker will not seek an interim order. In either case, the Child Protection Worker shall request of the Ontario Court of Justice (Family) that the case be adjourned with judicial cooperation for a period of three (3) months while the Talking Together process is in place to address the child welfare concerns.

If appropriate, a protection finding may be made in court on consent, while allowing the Talking Together process to continue.

Non-Protection Application Referral

Upon agreement from the family to access Talking Together as a means of addressing outstanding child welfare concerns, the Talking Together Coordinator shall begin the process of coordinating a Talking Together circle.

The Child Protection Worker shall maintain an open protection file.

In either child protection or non-protection situation, following agreement to this process from the family, the Facilitator inviting some/all of the following shall arrange a Talking Together circle:

- Child
- Parent(s)
- Relevant support persons identified by family
- Family Support Worker
- Child Protection Worker
- Other involved service providers
- Involved extended family members
- Other appropriate community members, e.g. Elder
- Representatives of the Chief and Council
- Parties to the Child Welfare proceeding.

As a condition precedent to the Family attending Talking Together, they must agree that there are protection issues that need to be addressed. This Circle shall ensure that all applicable facts are discussed regarding the child welfare concerns.

The participants, assisted by the Facilitator that will address the outstanding child welfare concerns, shall develop an agreement. An Agreed Statement of Facts will be included.

Upon the completion of the development of the Agreement to address the child welfare concerns, the Child Protection Worker will present the plan to court at the Protection Hearing (Day 120) to obtain the agreement of the court. The Protection Hearing (Day 120) shall result in the granting of one of the following options:

- a) Withdraw from court based on the Agreement signed by all parties;
- b) Continued participation of the court system through the granting of a court order supporting the agreement;
- c) No agreement by parties, proceed to trial.

The Talking Together participants shall meet as required to monitor the planning and evaluate the outcomes of the implementation of the Agreement.

GOVERNANCE / ACCOUNTABILITY

The Talking Together project has a steering committee comprised of one representative of each from Tikinagan Child & Family Services, NAN Legal Services and affiliated First Nations, to which Child & Family Services of Timmins District shall appoint one member.

For purposes of accountability, this group shall jointly oversee this program.

EVALUATION

All participants in the Talking Together model shall be given the opportunity to provide feedback through an evaluation at the conclusion of the Talking Together relationship.

CFSTD and NAN Legal Services shall conduct an evaluation of the project, taking into account comments of participants.