

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.

Tikinagan Child and Family Services, Nishnawbe-Aski Legal Services and Kuuwanimano Child and Family 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.

TIKINAGAN CHILD AND FAMILY SERVICES

Tikinagan Child and Family Services is a non-profit. Native Child and Family Services organization serving 29 First Nations in the western portion of Nishnawbe-Aski Nation as well as the Communities of Allanwater, Balmertown, Cochenour, Fickle Lake and Savant Lake. Tikinagan Child and Family Services is mandated as a Children's Aid Society. Tikinagan Child and Family Services provides services including:

- Intake/Investigation
- Family Service
- Child Care
- Residential Care
- Two Group Homes
- Band Family Service Worker Program

Tikinagan is governed by a Board of Directors representative of the communities within its geographic catchment area. The communities range in size from 200-2000 people. Few communities can be reached by road with the majority regularly accessible only by air. Tikinagan serves a population of approximately 20,000.

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.

KUNUWANIMANO CHILD AND FAMILY SERVICES

Kunuwanimano Child and Family Services is a non-profit, Child and Family Services organization serving 11 First Nations in the eastern portion of Nishnawbe-Aski Nation.

Kunuwanimano Child and Family Services provides services including:

- Intake services
- Supportive Counseling/Referral Services
- Advocacy Services
- Customary/ Foster Care Services
- Family Support and Prevention Programs

MISSION STATEMENT

Tikinagan Child and Family Services, Nishnawbe-Aski Legal Services and Kunuwanimano Child and Family 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

Tikinagan Child and Family Services (hereinafter referred to as Tikinagan) and Kunuwanimano Child and Family Services (hereinafter referred to as Kunuwanimano) hold 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, based on Native principles and values. 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, Tikinagan, NAN Legal Services and Kunuwanimano 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 practiced 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 Tikinagan, NAN Legal Services and Kunuwanimano. This framework is sanctioned by the Board of Directors of Tikinagan, NAN Legal Services and Kunuwanimano; each representing their involved First Nations.

Through the application of this protocol, all employees of Tikinagan, NAN Legal Services and Kunuwanimano 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

Tikinagan, NAN Legal Services and Kunuwanimano 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. Tikinagan, NAN Legal Services and Kunuwanimano 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:

Tikinagan, NAN Legal Services, and Kunuwanimano 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.

Tikinagan, NAN Legal Services, and Kunuwanimano 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.

PILOT SITES

Tikinagan, NAN Legal Services, and Kunuwanimano have identified the following potential pilot sites:

- Mishkeegogamang First Nation (Osnaburgh)
- Eabametoong First Nation (Fort Hope)
- Wahgoshig First Nation

This joint selection process has been carefully undertaken, taking into account factors including:

- Urban setting
- Remote setting
- "Hot spot"
- "Cool spot"
- Availability of service providers
- Availability of family court
- Availability of services
- Community involvement
- Comparison Factors for evaluation

ROLES AND RESPONSIBILITIES

Coordinator:

- 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:

- To receive and confirm the referral;
- 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;
- Evaluation;
- To liaise with the community members
- To liaise with the Coordinator on an ongoing basis and the partnering agencies as required.

Liaison:

- To meet with child welfare to identify potential family participation;
- Meet with family members;
- Obtain all release of information documentation;
- Make referrals to the Coordinator;
- Monitor two-path system;
- Maintain file system;
- Community coordination;
- Community education/awareness;
- Seek community linkages/support;
- 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.

Child Protection Worker:

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

Tikinagan:

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

Kunuwanimano:

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

NAN Legal Services:

- 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, supervisor and Talking Together Liaison Coordinator. This process shall begin prior to the filing of a Protection Application (day 5) or as soon as possible after the filing of the Protection Application.

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 pilot 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 will begin the process of Talking Together.

TIME LINES

Tikinagan, NAN Legal Services and Kunuwanimano 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 initiated with the apprehension of a child, and prior to the filing of a Protection Application/Day 5, or as soon as possible after filing a Protection Application.

A referral meeting shall be initiated by the Child Protection Worker, incorporating the supervisor and the Talking Together Liaison person, 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 Liaison person 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, a Talking Together circle shall be arranged by the Coordinator inviting some/all of the following:

- 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.

An agreement shall be developed by the participants, assisted by the Facilitator that will address the outstanding child welfare concerns. 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

Governance shall be comprised of a steering committee of one representative of each from Tikinagan, NAN Legal Services and Kunuwanimano. 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. Tikinagan, NAN Legal Services and Kunuwanimano shall conduct an evaluation of the project, taking into account comments of participants.

SIGNATURES