

VACFSS / Tsleil-Waututh Nation Protocol

Between:

Vancouver Aboriginal Child and Family Services Society
(Hereafter referred to as VACFSS)

And: **Tsleil-Waututh Nation**

1 - Introduction

VACFSS has delegated responsibility for guardianship care for Aboriginal children in continuing care (CCOs) and for the development and support of contracted residential resources. VACFSS also delivers Aboriginal Family Preservation Services to children, youth, and their families and caregivers across the City of Vancouver. Currently VACFSS is in the planning phase for assuming child protection services scheduled for transfer from the Ministry for Children and Family Development (MCFD) in 2008.

The Tsleil-Waututh Nation has a right and a responsibility to be involved in the planning for member children and families wherever they reside. The Tsleil-Waututh Nation will participate and provide information for their member children's plans of care, including the annual reviews and permanency planning.

It is the intent of VACFSS and the Tsleil-Waututh Nation to ensure Tsleil-Waututh Nation children's rights to familial and cultural continuity are incorporated throughout this protocol. VACFSS will make every effort to achieve this goal through their partnership with Tsleil-Waututh Nation.

This protocol provides a framework for ensuring that the Tsleil-Waututh Nation is involved in service planning for their member children whose guardianship care is with VACFSS.

2 - Objectives

VACFSS will ensure that the rights of the Aboriginal community under the Child and Family Community Services Act (CFCSA) in reference to Aboriginal children, families and communities are met through development of protocols.

The objective of this protocol is to promote the continuity of integrated services to Aboriginal children and families; to establish communication guidelines; and to enhance collaboration between the two parties. The roles and responsibilities of

all parties will be clearly outlined and the mechanisms for information sharing and dispute resolution will be understood.

This protocol promotes best practices to ensure all decisions promote the safety and well-being of Aboriginal children and families. It is also based on the principle that the safety and best interests of children are primary considerations in all decisions relating to services.

3 - Definitions

Aboriginal - shall have the same meaning as in Section 35 of the Constitution Act, 1982, which recognizes and affirms the Aboriginal rights of the Aboriginal people of Canada who are the Indian, Inuit and Métis people.

Aboriginal child - means a child

- (a) who is registered under the Indian Act (Canada),
- (b) who has a biological parent who is registered under the Indian Act (Canada),
- (c) who is under 12 years of age and has a biological parent who
 - (i) is of Aboriginal ancestry, and
 - (ii) considers himself or herself to be Aboriginal, or
- (d) who is 12 years of age or over, of Aboriginal ancestry and considers himself or herself to be Aboriginal.

Aboriginal Family Preservation Services – means services provided directly to clients by a Family Preservation Counsellor and are delivered primarily in the home and can also include specialized therapeutic interventions by a clinician working directly with the Family Preservation Counsellor. All referrals to the service will be made by Ministry delegated social workers and will have Ministry involvement.

Aboriginal Operational and Practice Standards and Indicators (AOPSI) – are operational and practice standards used by Aboriginal Child and Family Service Agencies to guide their practice (standards either meet or exceed those standards established by the Ministry for Children & Family Development).

Band - means a band as defined in the *Indian Act* (Canada) and includes a band council.

CCO - means a child in the care of a delegated child and family services agency under Continuing Care Section 50 of the *Child, Family and Community Services Act* (CFCSA).

Child - means a person under 19 years of age and includes a youth.

Child, Family, and Community Services Act (2002) CFCSA - is the provincial legislation that provides authority for the provision of child and family services.

Child in care - means a child who is in custody, care or guardianship of the Director under the Child, Family and Community Service Act.

Delegated Aboriginal Agency - means an Aboriginal agency whose employees have been delegated authority under the *Child, Family and Community Services Act (CFCSA)* by the designated director.

Delegated director or director - means a person delegated by the Director designated by the Minister under the CFCSA.

Delegated services - means those services provided pursuant to the CFCSA.

Designated representative - when used in relation to an Indian Band or Aboriginal community, means a representative designated in accordance with the CFCSA regulations.

Non-delegated services - includes, but are not limited to: preventative and support services; family support services; and cultural support services.

Parties - means parties to this protocol.

Region - means a region as established by MCFD for the delivery of services in the Lower Mainland.

Tsleil-Waututh Nation - A First Nation Band who is identified in the Regulations as the contact agency for their member children for the purposes of planning and consultations on matters pertaining to the CFCSA.

Vancouver Aboriginal Child and Family Services Society (VACFSS) - a delegated urban agency providing integrated Family Preservation Services, Guardianship Care of children in continuing care and the development and support of contracted Residential Resources.

4 - Legislation Guiding Protocol

- Child Family and Community Services Act (CFCSA)
- Family Relations Act
- Infants Act
- Criminal Code of Canada
- Freedom of Information and Rights to Privacy Act
- Indian Act
- Societies Act

- Youth Criminal Justice Act
- Tsleil-Waututh Nation Band Council resolutions *when applicable

5 - Guiding Principles

- First Nation, Urban Aboriginal and Métis communities and/or their representative agencies have a right and a responsibility to be involved in the planning for their member children and families wherever they reside.
- All decisions about transferring and/or sharing services including time frames, responsibilities and costs are based on consideration of an Aboriginal child's safety and well-being, and on the best interests of an Aboriginal child.
- Aboriginal children and families are to be consulted throughout the planning process, including transfer of guardianship services and informed when services are transferred.
- In the transfer of services, the Aboriginal child or family, the identified Aboriginal community and/or Delegated Aboriginal Agency (if applicable) are involved.

6 - Roles and Responsibilities

VACFSS has a duty and an obligation to carry out their responsibility and authority according to the CFCSA and will adhere to the standards outlined in the Aboriginal Operational Practice Standards and Indicators (AOPSI). In keeping with the general principles of the CFCSA and AOPSI Guardianship Practice Standard 1: Preserving the Identity of the Child in Care and providing Cultural Appropriate Services, "The social worker will preserve and promote the cultural identity of the child in care and provide services sensitive to the child's views, cultural heritage and spiritual beliefs." (Appendix A)

VACFSS and Tsleil-Waututh Nation believe, adhere and commit to the following:

- kinship ties and a child's attachment to the extended family be preserved
- the cultural identity of Aboriginal children be preserved
- Aboriginal people be involved in the planning and delivery of services to Aboriginal families and their children
- services be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving the services.

7 - Guardianship

Where children are under the guardianship care of VACFSS, the parties will work cooperatively at all stages of planning for the child in care whether it be in the process of developing comprehensive plans of care or at significant junctures in the child's life.

The Band:

- Will assist VACFSS guardianship worker in identifying the child's genealogical background when requested and in locating and fostering relationships between the child and the extended family;
- Actively encourage the repatriation of a child to her/his immediate family and extended family where a suitable long term placement has been identified for the child;
- Will assist the guardianship worker in providing exposure to and inclusion of children in cultural events consistent with their heritage and seek information that provides the child with their history as a Nation and as a community;
- Will assist VACFSS in identifying resource people from the Tseil-Waututh Nation that could facilitate learning about their culture.

VACFSS:

- Will consult with children as per the rights of children as outlined in Section 70(1) of the CFCSA which states children have a right to be consulted and to express their views, according to their abilities, about significant decisions affecting them;
- Will consult with the Tseil-Waututh Nation in identifying the child's genealogical background and in locating and fostering relationships between the child and the extended family;
- Actively support the repatriation of a child to her/his immediate family and extended family where a suitable long term placement has been identified for the child;
- Will support/encourage caregivers in providing exposure to and inclusion of children in events consistent with their heritage and seek information that provides the child with their history as a Nation and as a community;
- Will maintain a list of resource people from the Tseil-Waututh Nation that could facilitate learning about their culture.

In their planning for children VACFSS will consider Section 71 of the CFCSA:

(1) When deciding where to place a child, a director must consider the child's best interests.

(2) The director must give priority to placing the child with a relative or, if that is not consistent with the child's best interests, placing the child as follows:

(a) in a location where the child can maintain contact with relatives and friends;

(b) in the same family unit as the child's brothers and sisters;

(c) in a location that will allow the child to continue in the same school.

(3) If the child is an Aboriginal child, the director must give priority to placing the child as follows:

(a) with the child's extended family or within the child's Aboriginal cultural community;

b) with another Aboriginal family, if the child cannot be safely placed under paragraph (a);

(c) in accordance with subsection (2), if the child cannot be safely placed under paragraph (a) or (b) of this subsection.

In addition to the consideration of Section 71 of the CFCSA, VACFSS will adhere to AOPSI Guardianship Practice Standard 6: *Deciding Where to Place the Child. (Appendix B)*

VACFSS will consult with the Tsleil-Waututh Nation when identifying the following permanency options for their children:

- Section 54.1 of the CFCSA, which allows for the transfer of a child from the Director to a person other than a parent
- adoption plan for a child that has been identified in order to formalize a process to be followed
- the transfer of guardianship of a CCO to another delegated agency where a long term placement has been identified based on the permanency requirements of a child as per Section 71 and where the required financial resources for residential care can be secured on behalf of the child.

8 - Family Preservation Program

VACFSS delivers non-residential Aboriginal family preservation services to children, youth and their families across the City of Vancouver. Family preservation provides goal-oriented home-based service with multiple components to prevent out-of-home placement and reduce risk of maltreatment. Services focus on families with children twelve years of age and younger, however, will include families with both children and youth. VACFSS will offer their family preservation services to Tsleil-Waututh Nation families living in

Vancouver. All referrals to the service will be made by Ministry delegated social workers and will have Ministry involvement.

It is the intent of VACFSS and Tsleil-Waututh Nation to ensure that Tsleil-Waututh children and families in Vancouver receive services that include individual supports, provided by a Family Preservation Counsellor, supplemented by a range of associated services designed to support and maintain progress achieved. All family preservation services will be culture-based and incorporate Aboriginal values, traditions, resources and practices.

9 - Information Sharing

Delegates of the Director must always attempt to obtain a person's consent to disclosure where desirable and appropriate. Section 79 of the CFCSA permits the Director to disclose information, whether recorded or not, without the consent of anyone for specified purposes. If such disclosure must be made without consent, the Director provides only as much information as is required for a specific purpose and to those who need to know because they are:

- involved in the child's care and protection;
- engaged in providing services to the child or the child's family; and
- recognized in the community as organizations with community wide responsibilities for the safety and well being of children.

In cases where the services received by the family are voluntary in nature, the parties will endeavour to obtain the consent for release of information.

10 - Reports of Suspected Child Abuse and Neglect

Staff from both parties, who have reason to believe that a child has been or is likely to be physically harmed, sexually abused or sexually exploited, or needs protection due to the specific circumstances outlined in Sec. 13 of the CFCSA are legally responsible to report the matter to a MCFD child protection social worker. The CFCS Sec. 14 *Duty to Report* applies to everyone, including service providers, family members and the general public.

11 - Financial and Budget Issues

Parties will discuss and determine financial arrangements required for facilitating the service plan for the child, in accordance to VACFSS and Tsleil-Waututh Nation established procedures.

12 - Collaborative Dispute Resolution

In matters of dispute around the manner of service planning for a member child, the safety and well being of the child will take precedence over the course of resolving disputes.

Disputes should be resolved at the level in which they occur following a process that clearly identifies the basis of the dispute. When a dispute arises, verbal communication will be the first course of action between the individuals for whom the dispute has arisen. If required, a letter clarifying the issue and the rationale of the individual raising the concern must be completed. If the matter cannot be resolved at the line worker level or the level at which the dispute occurred the supervisors/managers of those involved will endeavour to resolve it.

Only after the above process has been exhausted should the matter be referred to the CEO/Executive Director/Band Representative of the parties involved.

Issues that remain unresolved can be referred to a mediator agreed upon by all parties and the cost associated with this will be funded jointly by both parties.

13 - Commitment to and Implementation of Protocol

Each party agrees to work co-operatively with each other to facilitate continuity and minimize disruption in the delivery of services under this protocol to the extent permitted by legislation and policy.

Both parties are responsible for ensuring that the staff of their organizations are trained in and implement the protocol.

Either party to this agreement may request in writing a meeting to clarify a specific section of this protocol. Any revisions agreed to must be stated in writing and attached as an appendix and then incorporated into the body of the protocol at the 12 month review.

The parties agree to meet every 12 months or at other intervals agreed upon to review all matters with respect to interpretation, implementation; updating of information, local resources and contact information.

As VACFSS expands its level of delegation, this protocol may be amended to outline emerging and ongoing interface processes agreeable to the parties in this agreement.

14 - Contacts for Each Party

Contact for the Tseil-Waututh Nation is:

Director of Social Development
Phone Number: 604-929-3454

Contact for VACFSS in regard to guardianship issues is:

Guardianship Manager
Phone Number: 604-872-6723

Contact for VACFSS in regard to family preservation issues is:

Integrated Services Manager
Phone Number: 604-872-6723

15 - Term of the Agreement

This protocol will take affect on the date of signing for a term of three years.

16 - Signatories

Council Representative on behalf
of Tseil-Waututh Nation

Chief Executive Officer on
behalf of VACFSS

Witness

Witness

Date: _____

Date: _____

