



# Nova Scotia's child welfare system<sup>1</sup>

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## An overview of child welfare in Nova Scotia

The main responsibility for the well-being of children in Canada rests with parents. It is recognized, however, that there are times when others must intervene. Child maltreatment is one such circumstance.

The *Constitution Act*<sup>2</sup> grants provinces and territories the authority to operate child welfare systems to intervene, when necessary, and to set legislation to govern those systems. The purpose of provincial and territorial child welfare systems is to protect the safety and well-being of children.

In Nova Scotia, the Department of Community Services is responsible for the quality and delivery of child welfare services, which are provided by a network of independent not-for-profit children's aid societies and family and children's services agencies, and government-run district offices. The Department of Community Services develops policies and programs, ensures that services are delivered in compliance with legislation, and provides funding to the independent agencies. It also provides services for international adoption and adoption disclosure, licenses residential care facilities, and administers the provincial Child Abuse Register and a secure care facility.

Twenty child welfare agencies make up the province's service delivery system. Six are provincial government district offices and 14 are independent agencies, including the Mi'kmaq Family and Children's Services Agency, which provides services to Aboriginal families in Nova Scotia.

Child welfare activity in Nova Scotia has remained relatively stable since the year 2000, with approximately 8,200 new child protection cases each year. There are approximately 2,050 children in care, of whom about 1,160 are permanent wards of the province.<sup>3</sup>

## Nova Scotia's *Children and Family Services Act*

The *Children and Family Services Act*<sup>4</sup> is the primary piece of legislation in Nova Scotia that promotes the protection, best interest and well being of children. This legislation has several central themes:

- All individuals, and especially professionals who work with children, have a mandatory duty to immediately report suspected child abuse or neglect to a child welfare agency or to the police. This duty cannot be delegated to anyone. For example, a teacher must report directly and not through the principal of the school.
- Families should be preserved if possible. The *Act* states that "the family exists as the basic unit of society, and its well-being is inseparable from the common well-being."
- Children should be provided with continuity of care.
- The views of the child should be considered when decisions about the child are being made.
- The child's cultural, racial and linguistic heritage must be respected when making decisions for the well-being of the child, especially for Aboriginal children, who have a unique status.<sup>5</sup>

In Nova Scotia, child protection covers children and youth up to the age of 16, although if a child has been taken into care before the age of 16, he or she may remain in care until the 19<sup>th</sup> birthday is reached. The court may extend care to the age of 21 if the youth is pursuing an educational program or has a disability.

## What is the definition of child maltreatment?

"Child maltreatment" refers to the violence, harm, mistreatment or neglect a child or

youth may have experienced, be experiencing, or could be at substantial risk of experiencing while in the care of someone the child trusts or on whom the child depends, such as a parent, caregiver, teacher or coach.

In Nova Scotia, protection from harm is considered necessary when:

- the child has suffered, or is at substantial risk of suffering, physical harm, inflicted by a parent or guardian of the child or caused by a lack of parental supervision,
- the child requires medical treatment to cure, prevent or alleviate physical harm, and the parent or guardian of the child fails, refuses, or is unable to consent to the treatment,
- the child suffers from a mental, emotional or developmental condition that could impair development if left untreated, and the child's parent or guardian does not take steps to get treatment,
- the child "has been sexually abused by a parent or guardian of the child" or by another person where a parent or guardian of the child "knows or should know of the possibility" of such harm and fails to protect the child, or where there is substantial risk that the child will suffer sexual harm,<sup>6</sup>
- the child has suffered, or is at risk of suffering, physical harm caused by chronic and serious neglect by a parent or guardian of the child, and the parent does not take steps to remedy or alleviate the harm,
- the child demonstrates severe anxiety, depression, withdrawal, self-destructive or aggressive behaviour, and the child's parent or guardian does not act to remedy or alleviate the harm, or if there is a substantial risk that the child will suffer harm of this sort and the parent or guardian does not act to remedy or alleviate the harm,
- the child has been exposed to repeated domestic violence,
- the child has been abandoned and there is no one able to assume responsibility for the child's care and custody,
- the child is under 12 years of age and has killed or seriously injured another person or caused serious damage to another person's property, and the parent or guardian fails to provide the necessary services, or
- the child is under 12 years of age and has on more than one occasion injured another person or damaged another person's property, either with

the encouragement of the parent or because of the parent or guardian's failure to supervise the child adequately.

### **What is the role of child welfare agencies and district offices in Nova Scotia?**

The role of child welfare agencies and district offices is to act in the best interests of children by:

- protecting children from harm,
- investigating allegations or evidence that children may be in need of protection,
- providing care for children for whom it is not safe to live at home,
- supervising children assigned to agency supervision under the *Children and Family Services Act*,
- providing comprehensive planning for children in permanent care,
- providing families with supports and services to promote their health and integrity, being mindful of the importance of preserving the cultural, racial, religious and linguistic heritage of children and their families,
- working with community social services to prevent or alleviate the personal, social or economic conditions that might place children and families in situations in which they are risk of abuse or neglect, and
- providing adoption services and placing children for adoption.

### **What happens after a report of child abuse is made to a child welfare agency?**

Reports can be made confidentially to a child welfare agency at any time. After a report has been received, a determination is made as to whether it fits within the mandate of the *Children and Family Services Act*, and if it does, a child protection social worker responds to it within a specified time period, depending on the nature of the allegation. The social worker investigates and assesses the situation to ensure that the child lives in a safe environment while any child protection issue is being solved. If a child welfare worker determines that a child is in need of protection, the agency first tries to provide services to the family on voluntary basis. In some cases, the agency must take other steps to ensure the child's safety, which may include working with the family on a non-voluntary basis by involving the court and obtaining a court order of supervision, or by taking the child into care on a temporary or permanent basis.

## How does the Nova Scotia child welfare system work for Aboriginal children?

Aboriginal children have a unique position under Canadian legislation. The *Constitution Act*, the *Indian Act* and the *Canadian Charter of Rights and Freedoms* recognize the special legal status and rights of Canada's Aboriginal peoples. Nova Scotia's *Children and Family Services Act* makes specific reference to Aboriginal child welfare, stating that one of its aims is to "recognize that Indian and native people should be entitled to provide, wherever possible, their own child and family services, and that all services to Indian and native children and families should be provided in a manner that recognizes their culture, heritage and traditions and the concept of the extended family" [Section 1(2,5)].

The Mi'kmaw Family and Children's Services of Nova Scotia provides services to First Nations people on reserves throughout the province and is able to continue services for a three month period if a family moves to an off-reserve location. After that time, the case is transferred to the local jurisdiction if a longer intervention is required. The Mi'kmaw agency also provides culturally appropriate service to approximately 60 Status and Non-Status Indian, Métis and Inuit children who have been transferred into its care and custody from other agencies.<sup>7</sup> Before commencing child welfare or adoption proceedings with an Aboriginal child, notification must be given to this agency.

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- 1 This information sheet was reviewed by experts in the field of child welfare.
- 2 *Constitution Act*, 1982, being Schedule B of the Canada Act, 1982 (U.K.), 1982.
- 3 Personal communication with V. Black, Nova Scotia Department of Community Services, July 7, 2006.
- 4 *Children and Family Services Act*, 1990, c.5, s. 1. Retrieved September 26, 2005 from <http://www.gov.ns.ca/legislature/legc/statutes/childfam.htm>
- 5 Sinclair, M., Bala, N., Lilles, H. and Blackstock, C. (2004). *Aboriginal child welfare*. In Bala, N., Zapf, M., Williams, R., Vogl, R. & Hornick, J. (eds), *Canadian Child Welfare Law: Children, Families and the State*. Toronto: Thompson Educational Publishing.
- 6 *Children and Family Services Act*, 1990, c.5, s. 1. Section 22. Retrieved September 26, 2005 from <http://www.gov.ns.ca/legislature/legc/statutes/childfam.htm>
- 7 Personal communication with Joan Glode, Mi'kmaw Family and Children's Services of Nova Scotia, June 21, 2006.



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