

# **Vulnerable Children and Youth Need a Voice**

Nova Scotian's need a Legislated Child and Youth Rights Based Organization





# NSCSW

NOVA SCOTIA  
COLLEGE OF  
SOCIAL WORKERS

## *Who We Are*

The Nova Scotia College of Social Workers (NSCSW) exists to serve and protect Nova Scotians by effectively regulating the profession of social work. We work in solidarity with Nova Scotians to advocate for policies that improve social conditions, challenge injustice and value diversity.

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## *Nova Scotia's Children and Youth Need a Voice*

Child and Youth Advocate Office's (CYAO's) have played a crucial role in the protection and provision of services to vulnerable children and youth. Canada has yet to establish a federal body to protect and promote child and youth rights. Without a federal body, provincial CYAO's have been established in 8 provinces across Canada to protect children and youth rights (MacLean and Howe, 2009).

Nova Scotia is one of a few provinces that has not created this crucial organization. This leaves vulnerable Nova Scotia children and youth without an organization protecting their rights.

The province has recently introduced legislation to establish an Office for Children and Youth. Although the proposed legislation does not provide extensive details regarding the functions and scope of the office, its introduction is a welcome, long-overdue, and hopeful development for children, youth, and their families.

We must ensure that children and youth in Nova Scotia are not left vulnerable to the failings and abuses of state power but instead establish a legislated child and youth rights-based organization whose primary focus is to advocate, report and make recommendations to address these failings and abuses. These include not only a stated commitment to protecting human rights, but a mandate focused on functions which enforce these rights such as investigation, reporting and compliance.

For example, the Child and Youth Advocate Office in Prince Edward Island was given an array of functions to address the needs of the province's most vulnerable children, which include restorative approaches like mediation, conciliation, and involvement in family group conferencing, to more accountability functions such as appointing legal counsel, investigations, reporting and compliance monitoring.

Providing a legislated authority to the Office for Children and Youth with access to both restorative and advocacy functions and allowing them to use these to address the needs of children will ensure a foundation of trust and respect necessary to undertake the long-term goals of collaboration between Government, children and families going forward.

We know that Government has yet to set out the legal authorities of this office, including its investigative powers, oversight and reporting. We encourage the Government to give Nova Scotia's children the same access to human rights protections afforded to other children and youth in Atlantic Canada (grounded in international principles of rights protecting organizations)

in particular, authority given to provincial advocates in Prince Edward Island and New Brunswick.

The NSCSW proposes that the province commit an annual operating budget of \$10 million to build an Office of Children and Youth.

### *What is a Child and Youth Advocate Office?*

In Canada most legislated child and youth organizations are formed into Child and Youth Advocate Offices. The **Canadian Council of Child and Youth Advocates (CCCYA)** states that the mandate of a CYAO's is to ensure that child and youth rights are respected, valued, and that their interest and voices regarding services delivered by the provincial governments are heard.

In addition, CYAO's are involved in right-based public education, conflict resolution, conducting independent reviews and informing and advising government department and agencies on programs and services that should be delivered to children and youth.

MacLean and Howe (2009) categorize the work of the child and advocacy offices into three themes of **individual case advocacy, systemic advocacy and policy advocacy.**

**Individual case advocacy** allows a CYAO to respond to a complaint or concern of an individual child or person representing the child. **Systemic advocacy** allows a CYAO to make recommendations to improve systems or procedures or programs affecting children and youth. **Policy advocacy** occurs when a CYAO advocates to change legislation or government policy affecting children and youth (MacLean and Howe, 2009, pg. 3).

### *Why does Nova Scotia need a legislated Child and Youth Advocate Office?*

**Nova Scotia's policies and programs that directly serve children and youth have continuously lacked their voices.** As a result, programs and services have fallen short of their intended outcomes, and many are violating child and youth rights. The changes to the Children and Family Services Act, poverty elimination, program changes to mental health and addiction services and reforms to inclusive education all lacked meaningful and robust input of children and youth. This has negatively impacted the well-being of Nova Scotia's most vulnerable population.

### **For example:**

Nova Scotia's child welfare system is at a crossroads, confronting deep-seated issues that compromise the safety, well-being, and rights of children and youth, particularly those from Black, Indigenous, and racialized communities. The NSCSW commissioned a consultation process with Nova Scotians throughout 2022 and 2023 and found that ritual themes that underscore the urgent need for the establishment of an Office for Children and Youth. They included:



1. **Systemic Racism:** The child welfare system disproportionately places Black and Indigenous families into care, a consequence of discriminatory practices and policies. This systemic racism deprives children of their right to grow up in racism free environment, necessitating immediate corrective actions.
2. **Legislative Impacts:** Amendments to the Children and Family Services Act in 2017, though aimed at protecting vulnerable families, have instead deepened inequalities for marginalized communities. Practices such as invasive investigations and excessive surveillance have only perpetuated inequality driving inequity.
3. **Service Delivery Failures:** The Department of Community Services (DCS) has attempted to improve service delivery efficiency but has not achieved the expected positive outcomes for children, youth, families, and caregivers. This indicates a fundamental flaw in the current approach to transforming service delivery.
4. **Need for System Reform:** Bureaucracy, complexity, and a lack of accountability undermine the child welfare system, resulting in poor outcomes for children and youth. A thorough reform is urgently needed to provide better support and assistance.
5. **Data Monitoring Gaps:** A lack of effective data collection and technology limits the ability to monitor and evaluate outcomes for clients, creating a significant obstacle to achieving success.
6. **Punitive Approaches:** The current child welfare policies, procedures, and service models prioritize standardization, protection, and surveillance over support and empowerment, which is counterproductive.
7. **Model Inefficiency:** Despite various attempts, the child welfare system lacks a cohesive and effective framework to guide social work practice. This highlights the need for innovative and collaborative efforts to create a supportive environment that addresses the rights and needs of children.
8. **Resource Shortages:** Funding for family and child well-being is insufficient, particularly for historically disadvantaged communities, leaving them without essential support and services.
9. **Outdated Systems and Values:** The social service system is hindered by outdated values and structures, necessitating a comprehensive overhaul to adopt a more client-centered approach.
10. **Root Causes of Welfare Issues:** Poverty and housing insecurity are foundational issues affecting the child welfare system. Addressing these root causes through structural changes is crucial for improving interventions, reunification processes, safety, and overall well-being.



11. **Value of Social Work:** The role of social workers has been undervalued, with a shift towards treating them as case managers rather than professionals with valuable expertise. Recognizing social work as an essential service and valuing their role, especially in leadership positions, is more important than ever.
12. **Workforce Challenges:** Recruiting and retaining social workers is a significant challenge, exacerbated by poor working conditions and societal expectations for women to also manage home care. A comprehensive review and a strategic approach to workforce planning, considering gender dynamics, are necessary.
13. **Collaboration Gaps:** Bureaucratic obstacles, restrictive policies, and staff burnout have hindered collaboration among social services, health systems, and justice institutions, preventing vulnerable populations from receiving adequate support. Initiatives to enhance communication and cooperation are essential.

The establishment of the Office for Children and Youth is paramount to address these systemic issues head-on, advocating for reforms that prioritize the rights, safety, and well-being of all children and youth in Nova Scotia. This office would serve as a catalyst for change, ensuring that every child has the opportunity to thrive in a supportive and equitable environment.

### *Mandate of the Office for Children and Youth*

The Office for Children and Youth would be an independent office that reports directly to the Legislative Assembly of Nova Scotia. This Office for Children and Youth would play a crucial role in the protection and provision of services to vulnerable children and youth. Established in legislation, the Child and Youth Advocate Office would represent the rights, interests and voices of children and youth throughout Nova Scotia.

In general, we believe that a legislated child and youth rights organization must:

- Be grounded in international and national best practices so that children and youth in Nova Scotia also get to enjoy the full breadth of similar entities provided to young people in other parts of Canada and around the world. These best practices are clearly outlined in the United Nations Principles *relating to the status of national instructions for the promotion and protection of human rights* ('the Paris Principles'), General Comment No.2 of the United Nations Committee on the Rights of the Child. These documents provide critical guidance on the mandate, recommended activities, resources needed, and accessibility to children and youth required to establish an effective independent human rights institution for children.
- Have a legal mandate to safeguard and promote the rights and best interest of *all children and youth in Nova Scotia*. This means a mandate that is explicitly rights based, informed by the United Nations Convention on the Rights of the Child ('UNCRC'), the United Nations Declaration on the Rights of Indigenous Persons and the United Nations Convention on Rights of Persons with Disabilities, and in service of all children and



youth and not just those interacting with systems of care.

- Be independent of government in a way that allows this new body to direct its own agenda and establish priorities and activities that best serve children and young people (within the bounds of legislation). This independence means the new body should be adequately and funded and given sufficient infrastructure to carry out its duties.

## **Responsibilities and Powers:**

We believe that an effective and responsive Office for Children and Youth would be given a range of legal powers that includes restorative approaches, such as those contained in the legislation in Prince Edward Island, for example. We list these below:

### *1. Individual Advocacy*

The Office of Children and Youth must have the authority to receive, review or investigate a complaint by a child or youth, guardian or person who represents a child.

The Office for Children and Youth must have the power to undertake specific investigations and inquiries into issues where the rights of children and youth may be adversely affected or violated. This includes the power to broadly access information through government departments and agencies, including the power to subpoena to carry out its duties. The Office for Children and Youth must have the power to require a response from government on the recommendations or advice made, within a specified period.

The Office for Children and Youth must also have the power to produce reports, recommendations, and proposals to the legislature and to the public directly and to monitor implementation of and compliance with recommendations included in reports made under this Act.

Importantly individual advocacy supports, assists, and advises children and youth about programs and services provided or funded by the government.

### *2. Systems Advocacy*

The Office for Children and Youth must have the power to promote and provide public education and advocacy respecting the rights, interests and well-being of children and youth, the United Nations Convention on the Rights of the Child and the United Nations Declaration on the Rights of Indigenous Peoples and the United Nation Declaration of the Decade of People from African Descent as it affects children and youth.

The Office for Children and Youth must have the power to collect data, engage in research, and review and monitor the adequacy and effectiveness of services for young people and the laws and policies that relate to their rights and best interests. In carrying

out this duty, the Office for Children and Youth should have the ability to undertake or facilitate Child Rights Impact Assessments.

The Office for Children and Youth must have the power to inform, give advice, and make recommendations to government, public bodies or other authorities on any matter that relates to the rights, interests or well-being of children and youth. The Office of Children and Youth must also have the power to report and to monitor implementation of and compliance with recommendations included in reports made under this Act.

The Office for Children and Youth must have the power to review, investigate and report on the serious injury or death of a child or youth.

**3. *Promoting Access to Justice***

The Office for Children and Youth must have the ability to promote access to justice for children and youth by assisting them in appealing or reviewing decisions related to Government services or appoint or cause to be appointed legal counsel for the child.

**4. *Promoting Systems Change through a Restorative Approach***

Restorative approaches may be utilized when it has been demonstrated that government action or inaction has violated the rights of children and youth. A restorative approach may include the ability to work with children, youth, families, communities, public bodies and community organizations to support and create opportunities for the well-being of children and youth.

An Office for Children and Youth would use, where appropriate, a restorative approach to undertake or collaborate in research related to improving program and services and to work collaboratively with Government and non-government organizations in implementing improvements.

**5. *Promoting Individual Children's Rights through Restorative Means***

Not only should the Office for Children and Youth be able to undertake systems change, but it should be able to promote the individual rights of children by resolving disputes between children, their families and Government using negotiation, conciliation, mediation, and other restorative approaches, including involving non-Governmental bodies such as community organizations and families.

The Office for Children and Youth should be able to assist children and youth to initiate and participate in case conferences, service reviews, mediations or other processes in which decisions are made.

**The Office for Children and Youth would operate by:**

- Conducting independent investigations on complaints or concerns by an individual child, youth or person representing the child or youth to recommendations to government on programs and services delivered to children and youth.
- Providing specialized units with a clear mandate to address specific and unique needs of Indigenous and Black children and youth as well as to address the large structural inequities and legacies of residential schools and enslavement that impact Indigenous and Black children.
- Providing individual advocacy & public education to support, assist and advise children and youth of their rights and the programs and services that exist and /or should be available to them.
- Providing policy advocacy to change legislation or government policy affecting children and youth.
- Conducting system advocacy through analyzing and producing public reports on the compliance of public systems and providers serving children and youth and through recommendations to government on ways to improve the quality and effectiveness of systems, programs, and services affecting children and youth.
- Conducting Research on issues affecting children and youth in Nova Scotia, advise government on issues and areas of concern, and identify the latest best effective models that inform the development and delivery of program and services.
- Focusing on access to justice and providing individual, policy and systemic advocacy to ensure that justice is accessible, efficient, and proportionate to the needs and resources of the citizens it is designed to serve.
- Conducting critical injury and death reviews- reviewing and investigating publicly funded services following critical injuries or deaths of any child or youth in receipt of government funded services and make recommendations that inform government on improvements to programs and services or broader public policy.

*How an Office of Children and Youth will positively impact Nova Scotians*

### **Elevate Children and Youth Voices**

An Office of Children and Youth will **elevate the views and perspectives of Nova Scotia's children and youth** to ensure that programs, services, and policies reflect their lived experiences. In our cultural context, young people are viewed as neither competent nor capable of making policy and program decisions (Bray, et al. 2014). Their voices and views have untapped potential to help develop remedies to better their own lives (Bendo & Mitchell, 2017).





## **Create Partnerships**

The Office for Children and Youth will establish creative partnerships with children and youth as equals, and with colleagues working in various child service delivery systems. The Office for Children and Youth can create meaningful work that includes children and youth, through legitimate and ongoing engagement leading to better service and program outcomes (Bendo & Mitchell, 2017).

## **Education and Action through Rights-Based Approach**

The Office for Children and Youth will work to **ensure the rights of children and youth are respected** by educating professionals, service providers, parents and decision makers on **Rights-Based Approaches** (Bendo & Mitchell, 2017).

## **Systemic Changes**

The Office of Children and Youth would engage children and youth in systemic and societal change. By treating children and youth as equals, Nova Scotia can re-conceptualize the way children and youth are perceived by program administrators and political decision-makers shifting policy and programs to better meet the needs this vulnerable population (Bendo & Mitchell, 2017).

## **Core Outcomes of Office of Children and Youth**

MacLean and Howe (2009) acknowledged that all provincial offices undertake individual case advocacy as their major purpose. However, some provinces have actively promoted and ensured systemic changes through system and policy advocacy. Saskatchewan, Manitoba, Ontario, Newfoundland and Labrador, British Columbia and Alberta have pushed for and influenced major policy and program changes in their provinces.

### **Alberta**

- The Alberta CYAO produced a special report on Aboriginal Child Welfare in Alberta leading to an all-party committee of the legislature which produced new legislation and procedures. The outcome was more funding for kinship providers, a better process for assessing potential caregivers, and a four-year strategy to improve Alberta's child intervention system.

### **Saskatchewan**

- The Saskatchewan CYAO created what it describes as the eight Child and Youth First Principles based on the United Nations Convention on the Rights of the Child (UNCRC). The Saskatchewan government adopted the principles in 2009 in the framework for new child-related legislation and policy. The Saskatchewan office also pushed to reform the Education Act to ban corporal punishment in school. They pushed for changes in the



Youth Drug Detoxification and Stabilization Act to provide a treatment plan for detained youth.

- The Saskatchewan CYAO secured increased access by youth to health information and have changed the policy on the prevention of bullying in schools by integrating UNCRC principles. They also successfully advocated for the provincial governments to improve permanency planning and to increase the accessibility of foster care homes.

## Manitoba

- The Manitoba CYAO successfully advocated to advance the procedures for providing emergency placement for children in care, placement worker training and increased space in shelters. This resulted in a decrease in dependence on hotels for placement.

## Ontario

- The Ontario CYAO successfully changed the operations of residential facilities for youths in conflict with the law.

### *Establishing the Need for a Child and Youth Advocate Office Nova Scotia*

The NSCSW strongly contends that we must create a legislated child and youth rights-based organization, independent from government's authority or control to ensure that children and youth in Nova Scotia are not left vulnerable to the failings and abuses of the State. This independent office primary focus must be to represent the rights, interests and viewpoints of children and youth in Nova Scotia through a legislated mandate that includes not only restorative approaches but also key functions such as review and investigation, reporting, monitoring and compliance, as well as individual and system advocacy. This organization will require functions that focus on improving how children and youth are being supported by government and its programs and services and holding government accountable for the same.

We urge the government to follow the lead of the Child and Youth Advocate legislation in Prince Edward Island which was given an array of function with which to address the needs of the province's most vulnerable children, which include restorative approaches like mediation, conciliation, and involvement in family group conferencing, to more adversarial tools like appointing legal counsel, investigations, reporting and compliance monitoring.

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