

Building a Funding Model to Support First Nations Jurisdiction over Child and Family Services in BC

Discussion Paper



Purpose

BC is committed to reducing the number of First Nations, Inuit, and Métis children in BC's child welfare system and supporting First Nations in resuming their inherent jurisdiction¹ over child and family services.

Under the Declaration Act Action Plan², BC has committed to co-develop a funding model³ in partnership with Indigenous Peoples to support and move forward with jurisdiction over child and family services.

BC understands that BC First Nations are in different places in resuming jurisdiction. The funding model will support a range of agreements relating to both resuming First Nations jurisdiction and to consulting and cooperating with Indigenous communities more broadly in child and family service delivery where BC retains jurisdiction.

To further these commitments, BC will:

- Collaborate with rights holders⁵, Indigenous partners, and Canada to co-develop a funding model.
- Use an engagement and co-development approach that:
 - acknowledges the specific rights, interests, priorities, and concerns of rights holders and Indigenous partners;
 - respects distinct and unique cultures, histories, rights, laws, and governments; and

Section 18(1) of the federal *Act Respecting First Nations, Inuit, and Métis children, youth, and families* (federal Act), which came into effect in January 2020, states that the inherent right of self-government, recognized and affirmed under Section 35 of the Constitution Act, 1982, includes jurisdiction in relation to child and family services, which includes legislative authority in relation to those services and authority to administer and enforce laws in relation to those services.

¹ In this paper, "jurisdiction" refers to legislative authority in relation to child and family services and authority to administer and enforce laws in relation to those services

² Item 4.16 of the Declaration on the Rights of Indigenous Peoples Act Action Plan is as follows: "Co-develop a B.C.-specific fiscal framework, in partnership with First Nations, Métis and Inuit, and in consultation with key Indigenous organizations, to support and move forward with jurisdiction over child and family services."

³ The use of "funding model" in this paper refers to a fiscal model to support Indigenous child and family services jurisdiction. Even though Item 4.16 of the Declaration on the Rights of Indigenous Peoples Act Action Plan uses the phrase "fiscal framework," MCFD is using the phrase "funding model" to avoid conflating this work with BC's broader work on a New Fiscal Framework with Indigenous Peoples (explained further on page 3).

⁴ The use of "Indigenous" in this paper has the meaning assigned by the definition of aboriginal peoples of Canada in subsection 35(2) of the Constitution Act, 1982: includes the Indian, Inuit and Métis peoples of Canada.

⁵ The use of "rights holders" in this paper refers to Indigenous people who hold aboriginal and treaty rights, recognized and affirmed by s. 35 of the Constitution Act, 1982.

- includes different approaches or actions that are responsive to distinct interests and perspectives.
- Ensure that First Nations have the resources to effectively resume jurisdiction.
- Develop a funding model that is transparent, equitable, and is responsive to the needs of Indigenous communities.

On November 24, 2022, the Tripartite Working Group (TWG) released the discussion paper, “Developing a New Funding Model and Approach for BC First Nations Children & Families”. The discussion paper was the result of preliminary work on one of the goals of the TWG, to jointly develop a funding model applicable to First Nations child and family well-being in BC. The paper outlined possible approaches for the funding model and outlines guiding principles.

Building on the work of the TWG (Ministry of Children and Family Development (MCFD), Indigenous Services Canada and First Nations Leadership Council), this new discussion paper is being released as a **first step** in the co-development of BC’s funding model. This document is meant to outline BC’s understanding of the current state of funding for Indigenous child and family services, BC’s proposed approach to co-development, and BC’s initial thoughts on possible funding models to support both the effective resumption of First Nations jurisdiction and agreements to consult and cooperate with Indigenous Peoples in delivering child and family services where BC retains jurisdiction. Much like BC’s engagement to develop Bill 38 (*Indigenous Self-Government in Child and Family Services Amendment Act*), co-development is an iterative process that will evolve through our engagement. It is BC’s hope that co-development will generate different ideas and options through ongoing, transparent, and respectful dialogue.

As noted on p. 3 of the *Declaration Act Action Plan*:

The Province is committed to a distinctions-based approach. This requires that the Province’s dealings with First Nations, Métis and Inuit Peoples be conducted in a manner that acknowledges the specific rights, interests, priorities and concerns of each, while respecting and acknowledging these distinct Peoples with unique cultures, histories, rights, laws, and governments. Section 35 of the Constitution Act, 1982, recognizes and affirms the rights of Aboriginal Peoples of Canada, while all Indigenous Peoples have human rights that are expressed in the UN Declaration. However, not all rights are uniform or the same among or between all Indigenous Peoples. In many cases, a distinctions-based approach may require that the Province’s relationship and engagement with First Nations, Métis and Inuit Peoples include different approaches or actions and result in different outcomes.

This discussion paper builds on the work of the TWG (Ministry of Children and Family Development/Indigenous Services Canada/First Nations Leadership Council) discussion paper shared in November 2022, “**Developing a New Funding Model and Approach for BC First Nations Children & Families.**”

The following draft guiding principles are from the November 2022 paper:

Safety and Well-being: The safety and well-being of First Nations children, youth, and families is paramount.

The Best Interest of the Child: The ‘best interest of the child’ determinations are generally made by considering a number of factors related to the child's circumstances and the parent or caregiver's circumstances and capacity to parent, with the child's ultimate safety and well-being the paramount concern.

Indigenous Human Rights: Resourcing, systems, and processes must be developed specifically to enable the expression of Indigenous human rights, such as to exercise jurisdiction, support the dignity and well-being of children and families, and to receive services without discrimination.

Cultural Continuity: First Nations children's cultural identities, connections to their communities, kinship ties and attachments to their families must be supported and preserved.

Substantive Equality: The provision of essential child and family services shall be substantively equal and meet the distinct needs and circumstances of First Nations children, youth, and families – including their needs relating to historical disadvantage, structural racism, and geographical needs and circumstances.

First Nations Led: Support First Nations to exercise jurisdiction with regard to child and family well-being.

Canada to End Discrimination: The onus rests solely with Canada to end the discriminatory funding, funding structures, policies, procedures, and agreements identified by the CHRT impacting First Nations children, youth, and families and to prevent the recurrence of discrimination.

Collective Responsibility: We have a collective responsibility, based on our respective authorities and mandates, to work to provide the best supports and services possible. We will work in the spirit of reciprocal accountability.

Recognition of Distinct Rights: The distinct cultures, languages, and historical and current realities of distinct First Nations shall be recognized.

Rights are Held by Individual First Nations: A tripartite arrangement must affirm and be entirely without prejudice to the title and rights of First Nations, including enabling (and not predetermining the outcome of) their individual government-to-government negotiations.

What is the Legislative Context?

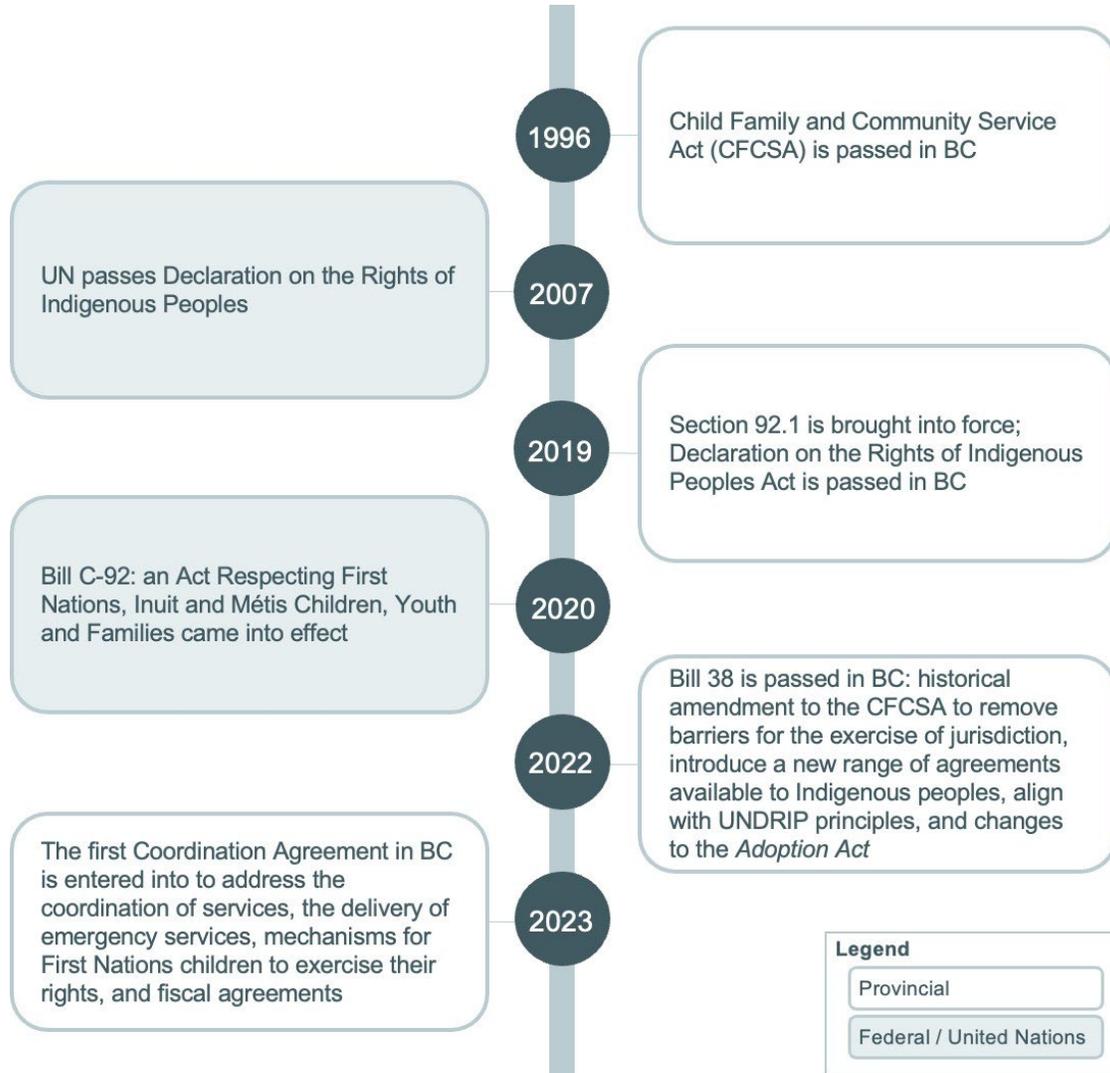
Cheryl Casimer, First Nations Summit Political Executive –

“First Nations children are strong and resilient. They deserve this impactful legislation that affirms their rights, their parents’ and grandparents’ commitment to them, and First Nations’ duty to ensure there is an opportunity for them to be raised with their traditional values, language, culture, and identity. This legislation paves a new path towards a brighter future for Child and Family Services in British Columbia, one that puts a focus on successful outcomes for our children.” - October 22, 2022

- BC passed the Declaration Act in November 2019, which establishes the *United Nations Declaration of the Rights of Indigenous Peoples* (UN Declaration) as BC’s framework for reconciliation. In March 2022, BC released the Declaration Act Action Plan, which included an action to co-develop a BC-specific funding model in partnership with First Nations (including Modern Treaty Nations), Métis, Inuit, and urban Indigenous Peoples and in consultation with key Indigenous organizations, to support and move forward with jurisdiction over child and family services.
- Section 18(1) of the federal Act states that the inherent right of self-government recognized and affirmed under section 35 of the *Constitution Act, 1982*, includes jurisdiction in relation to child and family services, which includes legislative authority in relation to those services and authority to administer and enforce laws made under that legislative authority.
- The federal Act recognizes jurisdiction that is member-based rather than land-based. This membership-based recognition in federal legislation differs from how funding currently is provided under the federal First Nations Child and Family Services Program, where funding parameters are defined by residency and not membership.
- In 2022, in collaboration with Indigenous partners, BC enacted Bill 38 (*Indigenous Self-Government in Child and Family Services Amendment Act*).
- Bill 38 amended the *Adoption Act* and the *CFCSA* to align with the *United Nations Declaration on the Rights of Indigenous Peoples*, to align with the federal Act, and to recognize, uphold, and reduce barriers to resuming jurisdiction.

What is the Timeline for this Legislative Context?

Image 2: Timeline of Acts and Agreements to Support Jurisdiction



What is a Funding Model?

A funding model refers to a set of rules, principles, and arrangements that govern the financial aspects of agreements involving one or more parties. The new funding model discussed in this paper will outline the financial bounds, responsibilities, and guidelines for financial decision-making within:

- A **tripartite** agreement between Canada, BC, and an Indigenous governing body (IGB)⁶; and
- A **bi-lateral** agreement between BC and a First Nation, the Nisga'a Nation, a Treaty First Nation or a legal entity representing another Indigenous community.

The funding model will guide financial decision-making and is a strategic way to fairly and transparently decide how funding is allocated and distributed to both support First Nations jurisdiction and MCFD consultation and cooperation with Indigenous Peoples more broadly in child and family service delivery. The fundamental principles of the funding model are linked to the constitutional division of powers between the federal and provincial governments. See p. 11 ***Agreements that Support Indigenous Jurisdiction*** for all available agreements.

How will the Funding Model Be Co-Developed?

The model will be built on the foundations of cultural responsiveness and respect for the distinctive cultures, histories, and priorities of Indigenous Peoples.

- BC is co-developing the funding model with rights holders, Indigenous partners and Canada.
- BC will build on the work of the TWG (MCFD/ISC/FNLC) and will continue to engage with this group to develop a funding model for agreements that support First Nations jurisdiction and agreements to consult and cooperate with Indigenous Peoples in MCFD service delivery.
- Co-development will focus on establishing and strengthening relationships, identifying priorities, understanding and supporting community capacity building, and continuous improvement.
- Co-development of a funding model to support jurisdiction over child and family services will need to consider and align with broader work underway in relation to the New Fiscal Framework being co-developed with Indigenous Peoples; alignment will be sought with that work including the principles for a New Fiscal Framework which is currently being co-developed.
- BC does not have a predetermined vision or outcome for a new funding model. This discussion paper is offered as a starting point to build from together.
- We are not starting from scratch. Many years of advocacy, legal action, and negotiation have informed this discussion paper.
- We must engage regularly throughout the process, including providing rights holders, Indigenous partners, and Canada with information needed to make informed decisions and participate in substantive policy discussions.

⁶ An Indigenous governing body is defined in the federal *Act respecting First Nations, Inuit, and Métis children, youth and families* as meaning a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the Constitution Act, 1982.

How is Funding Provided Today?

At a high-level, there are five main ways that child and family services are provided today:

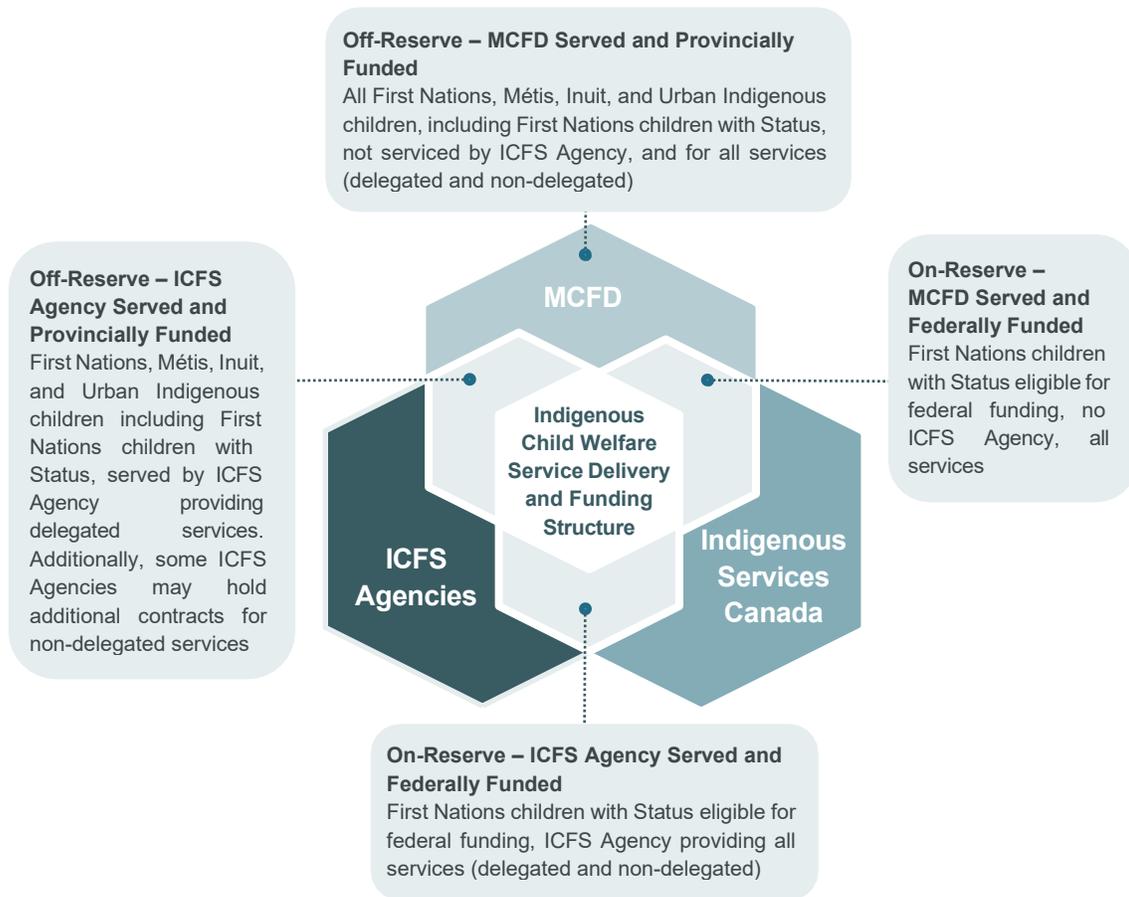
- The Ministry of Children and Family Development (MCFD) provides services under BC's child welfare legislation, the *Child, Family and Community Service Act* (CFCSA);
- 24 Indigenous Child and Family Services Agencies (ICFSAs) provide services under the CFCSA to Indigenous children and families, and other child and family services;
- Community service providers (including Indigenous organizations) provide a range of contracted services (for example, family preservation services and supervised access);
- First Nations communities and Treaty First Nations provide voluntary child and family services; and
- Splatsin and Sts'ailes provide voluntary and involuntary child and family services under their Indigenous laws.

Canada provides Canada Health Transfer and Canada Social Transfer payments per capita (Indigenous and non-Indigenous) to all Provinces and Territories in support of health care, post-secondary education, social assistance, and social services. At a high level, Canada's specific financial contributions to the provision of child and family services are generally limited to Indigenous children (registered or entitled to be registered under the *Indian Act*), that ordinarily reside on reserve. BC funds a range of child and family services that are available to Indigenous people throughout BC, including those who ordinarily reside on reserves.

In 2016, the Canadian Human Rights Tribunal (CHRT) found that the federal government's funding program for child and family services to First Nations families on reserve was inequitable and discriminatory. Canada has since taken steps to address the 2016 CHRT decision.

Image 1 illustrates the current state of Indigenous Child Welfare Service Delivery and Funding Structure.

Image 1: Indigenous Child Welfare Service Delivery and Funding Structure Source: At A Crossroads, Representative for Children and Youth (RCY) March 2022.⁷



BC’s Assumptions

The funding options outlined in this paper are designed by MCFD and built upon the November 2022 discussion paper to support resuming First Nations jurisdiction and are based on the following assumptions:

BC’s Fiscal Assumptions include that:

1. BC has no role in determining service priorities and service costs of First Nations.
2. First Nations will **design, control and set the standards and policies for the services under their jurisdiction that support and facilitate the well-being of Indigenous children and families.**
3. First Nations will exercise jurisdiction over their own child and family services through **systems and practices they determine for themselves**, with family preservation prioritized and children and youth kept within their families and communities.
4. Funding of First Nations jurisdiction through an agreement anywhere in BC is a shared fiscal responsibility of Canada and BC.⁸

⁷ Reference in Image 1 to “delegated services” refers to services provided pursuant to the CFCSA under a delegation agreement with a service provider. Reference to “non-delegated services” means child and family services that are not provided under the CFCSA under delegation agreements.

⁸ Based on the recognition by both Canada and BC that the inherent right of self-government, recognized and affirmed by s. 35 of the *Constitution Act, 1982* includes jurisdiction in relation to child and family services. See s. 18 of the federal Act and s. 4.1 of the CFCSA. Discussion Paper: Funding Model Framework, September 2023

5. There are no cost savings for BC in a multi-jurisdictional child and family services model. BC will continue to be the default service provider for all geographic areas/scopes of services not included in IGB's exercise of jurisdiction.
6. BC will not fund First Nations jurisdiction through existing BC-Canada Service Agreement dollars as these funds support current service delivery operations. Net new funding will be sought to support First Nations jurisdiction.
7. BC recognizes that there are increased costs for First Nations exercising jurisdiction across the province and will likely require net new federal and provincial investment.
8. In alignment with the federal *Act respecting First Nations, Inuit, and Métis children, youth and families* (federal Act) recognition of s. 35 rights, Canada must provide financial support for First Nations jurisdiction and the provision of child and family services to Indigenous Peoples without geographic restrictions.
9. Canada and BC will collaborate to ensure that Indigenous child and family services are adequately funded.
10. BC requires additional funding from Canada to effectively maintain its current service delivery, including to comply with national standards established by the federal Act and to effectively coordinate with multiple jurisdictions.
11. BC supports a seamless service system where no child or family will be denied service due to jurisdictional disputes and capacity or will fall through the cracks due to insufficient coordination.
12. Canada and BC will collaborate to resolve any disputes regarding shared fiscal responsibility to ensure that provision of funding to Indigenous communities will not be impacted.

BC's Assumptions of Canada's Responsibilities Include that:

1. The current state of underfunding by Canada presents an opportunity for Canada to further strengthen its commitment as a fiduciary to Indigenous Peoples in BC.
2. Canada will work in collaboration with rights holders, Indigenous partners, and BC to develop a funding model that is membership-based and not tied to reserves.
3. Canada will ensure that prevention-focused funding will meet the interests of Indigenous Peoples while creating certainty for funding that is not tied to the number of children in care. Canada will collaborate with BC to address underfunding of prevention-focused services.

BC's Assumptions of Canada and BC's Shared Responsibilities Include that:

1. Canada and BC will support and uphold each First Nation's unique vision for jurisdiction over child and family services.
2. Canada and BC will work in collaboration with rights holders and Indigenous partners to develop a prevention-focused funding model that aligns with the vision of Indigenous Peoples and to provide prevention support services that increase the number of children remaining with families.
3. Canada and BC will work to improve communication, transparency, and implementation of federal and provincial fiscal responsibilities to ensure federal and provincial funding is complementary and does not create duplication or gaps.

BC's Responsibilities & Policy Positions

1. Implementing the federal Act and moving towards the fiscal principles established in that Act necessitates transitioning away from a land-based funding framework and toward funding levels that are the same for all members, regardless of residence.
2. Funding should focus on not incentivizing children to come into care and ensuring families and communities are well supported to care for children, driven by IGB models of prevention focused services.
3. Service categories should be broad and flexible to prevent gaps, support holistic approaches, and ensure inclusion of different out of care options.
4. Certainty is needed regarding who pays for what, and how much.
5. Federal and provincial responsibilities should be collaboratively discussed and agreed upon by Indigenous Services Canada and MCFD. Financial arrangements supporting the various jurisdiction and other agreements should be clear to all parties.

In alignment with the above positions, BC will:

1. Co-develop a funding model with rights holders, Indigenous partners, and Canada that is transparent, equitable, sustainable, predictable and consistent with the principle of substantive equality as per Section 20(2)(c) of the federal Act.
2. Work closely with Canada to outline all the pathways to jurisdiction or consultation and cooperation between MCFD and Indigenous Peoples in child and family service delivery that are available in BC.
3. Work with Canada to effectively fund each vision for First Nations jurisdiction or consultation and cooperation between MCFD and Indigenous Peoples in child and family service delivery by BC.

BC's Funding Model Scope

- BC will fund First Nations jurisdiction through agreements, including agreements under the *Declaration on the Rights of Indigenous Peoples Act* (Declaration Act), Modern Treaty Nation agreements, and coordination agreements.
- BC will fund Indigenous Peoples to participate in consultation and cooperation in child and family service delivery where BC retains jurisdiction. BC will fund this increased involvement of Indigenous Peoples in service delivery through agreements under s. 92.1 of the CFCSA.
- BC's position is that BC will fund First Nations jurisdiction and increased involvement of Indigenous Peoples in MCFD child and family service delivery through net new federal and provincial investment.
- BC investment will align with the scope of First Nations jurisdiction or involvement sought by Indigenous Peoples (e.g., voluntary services vs. involuntary services, limited geographic scope vs. province-wide). For Indigenous Peoples not entering into any agreement with BC or for areas where First Nations exercising jurisdiction are not providing programs and services substantially similar to what BC provides, BC will continue to support these communities' children and families. This support will be through status quo approaches such as the provision of CFCSA services by MCFD and ICFSAs, contracted child and family services, and other provincial government programs such as supports and services for children with special needs, substance use and mental health challenges, and early intervention.

Agreements that Support Jurisdiction

Coordination Agreements

- The federal Act outlined a path for how an IGB can be financially supported in exercising jurisdiction through a Coordination Agreement with the federal and provincial governments.
- A **Coordination Agreement** is a tripartite agreement between Canada, a Province, and an IGB. It outlines the coordination measures, including fiscal arrangements, to support an IGB's effective exercise of legislative authority.
- The federal Act also acknowledges that an IGB may choose to exercise their legislative authority over child and family services without a coordination agreement in place.

Treaties and Fiscal Finance Agreements

- Under Modern Treaties, Modern Treaty Nations have law-making authority for child and family services on Treaty Settlement Land.
- For Modern Treaty Nations wanting to exercise Indigenous jurisdiction beyond treaty settlement lands, tripartite work is underway to consider what treaty amendments may be required to ensure alignment with the member-based jurisdiction affirmed by the federal Act.
- For Nations who are in the final stages of treaty negotiations, tripartite work is also underway to implement membership-based Indigenous jurisdiction as affirmed by the federal Act and recognized in s. 4.1 of the CFCSA.

Additional Jurisdiction Agreements

There are additional pathways for First Nations to resume jurisdiction, even in circumstances where a First Nation does not have Indigenous laws in place. These pathways include:

- **Declaration Act Agreements** between an IGB and BC enable joint and consent-based decision-making in relation to statutory powers or statutory power of decisions in the CFCSA. These agreements outline the processes for decision-making while clarifying the roles and responsibilities of a CFCSA director and the IGB.
- **Agreements with Modern Treaty Nations under Division 3 of the CFCSA** set out processes to enable Modern Treaty Nations to exercise law-making authority in British Columbia in relation to child and family services outside of Treaty Lands through amending agreements and enabling agreements.

Agreements to Consult and Co-operate on Delivering Child and Family Services

The CFCSA also provides for agreements to enable Indigenous Peoples to have more involvement in how child and family services are delivered where BC retains jurisdiction.

- **92.1 Agreements** between a CFCSA director and a First Nation, the Nisga'a Nation, a Treaty First Nation or a legal entity representing another Indigenous community outline how a director will consult and cooperate in planning and decision-making under the CFCSA. The director remains the decision maker but seeks to achieve consensus with the Indigenous community.

These agreements may be seen as another part of the pathway to resuming jurisdiction. BC is committed to co-developing a funding model to support the many different existing agreements and pathways to resuming jurisdiction.

Resuming Jurisdiction

The federal Act and the CFCSA broadly define child and family services as “services to support children and families, including prevention services, early intervention services, and protection services.” Prevention, early intervention, and protection services are not defined in the federal Act and are non-exhaustive illustrations of some of the services that support children and families.

We recognize that First Nations have different visions of service types under their jurisdiction. For example, what one Nation may consider prevention services another may consider protection services. Trying to classify services as prevention or protection may risk a pan-Indigenous approach and ignore inherent decision-making and self-governance principles. We also recognize that the provision of services within First Nations may not fit into strict categories similar to provincial or federal descriptions. Instead, BC and Canada should recognize that each First Nation’s self-determination and inherent decision-making processes shape services and ways in which their governance systems work.

First Nations will determine the scope of their jurisdiction. Jurisdiction may or may not include both voluntary and involuntary services, or may be province-wide or limited to a specific geographic region (e.g. their traditional territory). A First Nation may provide child and family services in a holistic manner that is not amenable to simple categorizations. A First Nation may also change the scope of its jurisdiction over time.

Image 3: Examples of Voluntary and Involuntary Services



BC currently defines some key terms as follows:

Voluntary Services are services that families can elect to participate in, for example, prevention services.

Involuntary Services are services a family does not have a choice to participate in, for example, child protection investigation or removal.

Membership-based jurisdiction is when the governance and decision-making authority are vested in the Indigenous members of a community or Nation.

A **geographically determined jurisdictional model** is when governance and decision-making authority are tied to the boundaries of the land.

Funding Model Considerations

BC has identified a set of draft **Funding Model Considerations**, which may be used to guide the development of the funding model for Indigenous jurisdiction. These proposed principles were created by MCFD with careful consideration of, and intent to build upon, the criteria laid out in **Section 20(2)(c) of the federal Act**, and the guiding principles developed by the Tripartite Working Group (MCFD/ISC/FNLC). The draft **proposed considerations** are:

Table 1: Five Proposed Considerations for First Nations Jurisdiction

	Description
<p>Transparent <i>Is the amount of available funding clear to funding recipients?</i></p>	When a First Nation resumes jurisdiction, the Nation will be able to predict the funding that will be available to them through a transparent funding formula based on the scope of exercise of authority, membership population, and other transparent factors.
<p>Equitable <i>Are funding decisions fair and impartial?</i></p>	The funding model should be equitable among all First Nations and apply a consistent formula to determining funding allocations. It should not favour those who have greater capacity. It must also be consistent with the principle of substantive equality. ⁹
<p>Flexible <i>Can funding recipients use the funds however they see fit?</i></p>	The funding model should focus on supporting a First Nation's autonomy and its membership base. Funding should not be based on the actual 'services' being delivered (e.g. respite, foster care, etc.), and should rather allow for full flexibility in service delivery.
<p>Scalable <i>Can the amount of funding grow and/or shrink over time?</i></p>	First Nations have full authority over the scope of jurisdiction they chose to reassert. The funding model should be sustainable, with the ability to be revisited over time to support increases or decreases in the scale of jurisdiction, as well as increases in inflation, population size, or geographic scope.
<p>Portable <i>Can funding follow members regardless of geographic location?</i></p>	Jurisdiction can be based on membership, not geography (i.e., jurisdiction can follow the person, regardless of location). As such, a funding model to support First Nations jurisdiction should be able to consider and reach a First Nation's people anywhere in BC.

⁹ The principle of substantive equality in Jordan's Principle means achieving equality in outcomes rather than just treating everyone the same. It recognizes that different measures or support may be needed to address individuals' or groups' diverse needs and circumstances, especially First Nations children. It aims to overcome systemic barriers and historical disadvantages by providing tailored and individualized solutions to ensure equitable access to services and support.

Funding Model Options

When creating a new funding model to support jurisdiction and consultation and cooperation with BC on service delivery, it is important to focus on three main questions:

1. How is funding allocated?
2. What are the criteria for determining the funding allocation?
3. Is the approach taken fair, transparent, and accountable?

To support the analysis of question #1, three options were identified:

1. **Block Funding**

Each First Nation exercising jurisdiction or Indigenous community seeking consultation and cooperation with MCFD receives a predetermined funding amount based on a transparent formula. The funding is provided in a lump sum at the beginning of the funding period, allowing First Nations and Indigenous communities to have prior knowledge of their allocated funds. Once funding is received, First Nations and Indigenous communities have full control over the use of funding. **Funding does not rely on any activities or outcomes of services.**

2. **Resource-Based Funding**

Funding decisions for jurisdiction are tied to specific activities or resource requirements in service delivery, where First Nations are reimbursed for direct service delivery costs. The amount of funding a First Nation receives **relies on the inputs** (or resources) used in service delivery.

3. **Outcome-Based Funding**

Funding decisions for jurisdiction are tied to achieving co-developed, pre-established social outcomes. The amount of funding a First Nation receives **relies on outputs** or reaching specific goals or milestones developed collaboratively by the First Nation, BC, and Canada.

Funding Model Framework Analysis

To analyze the three funding model options, each funding model option has been tested against BC’s five proposed considerations for First Nations jurisdiction over child and family services. The summary of the results of this analysis is shown in Table 2.

Table 2: Funding Options against the Funding Model Considerations

	Block Funding	Resource Based	Performance Based
Transparent	✓	–	–
Equitable	✓	✗	✗
Flexible	✓	✗	✓
Scalable	✓	✓	–
Portable	✓	✗	–

- Legend
- ✓ **Highly likely** the funding model consideration can be met with this funding approach.
 - **Feasible, but not likely**, the funding model consideration can be met with this funding approach.
 - ✗ **Not feasible** the funding model can be met with this funding consideration.

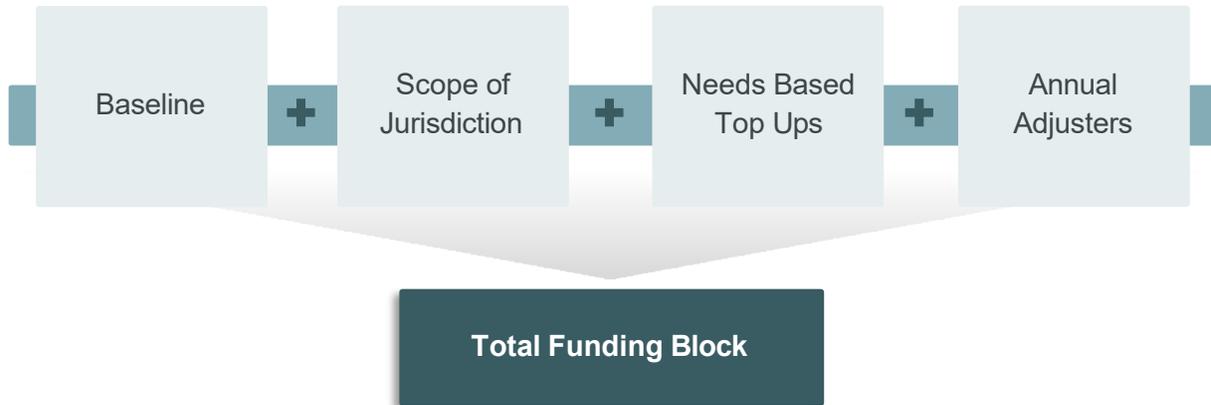
As illustrated, a **Block Funding Model** is the only approach that can fully satisfy all proposed funding model considerations. It can establish a transparent and equitable funding allocation process by using a consistent funding formula which should be co-developed with rights holders and Indigenous partners. The block funding approach maximizes flexibility in how funds are used by putting full control in the hands of First Nations and other Indigenous communities. The funding amount can be adjusted based on the extent of First Nations jurisdiction and/or consultation and cooperation between Indigenous Peoples and MCFD service delivery and modified as needed. It also supports the principle of portability as funding can readily ‘follow’ members regardless of where they reside in BC.

Understanding that block funding can satisfy all of the proposed considerations, a crucial component in successful implementation is to co-develop criteria to inform a funding formula that will determine the amount of funding or, in other words, the “size of the block.”

How to Determine the Amount of Block Funding

A fair and transparent formula is needed to establish a block funding model to determine the funding available to First Nations when they exercise jurisdiction or Indigenous Peoples when they sign an agreement for consultation and cooperation with MCFD. It is important that rights and title holders, Indigenous partners, BC, and Canada collaboratively develop the funding formula. **Many different concepts and approaches can be considered to create an appropriate formula. For discussion purposes, a conceptual high-level formula could be as follows:**

Image 4: Example of a High-Level Formula for Funding



Baseline

The block could consist of a fixed baseline portion which is provided to all First Nations who enter into agreements that support jurisdiction or other Indigenous communities who enter into agreements that require consultation and cooperation from MCFD. This amount would likely be consistent for all First Nations or other Indigenous communities, regardless of size, capacity, the scope of jurisdiction being asserted, or scope of consultation and cooperation sought with MCFD.

Scope of Jurisdiction or Consultation and Cooperation

On a per capita basis, the next portion of the block would depend on the scope of jurisdiction a First Nation chooses to exercise, or the scope of consultation and cooperation sought with MCFD. For instance, with jurisdiction it will factor in the scope of support (i.e., content of programs and types of services such as voluntary, involuntary, or both) and the geographic scope of jurisdiction chosen by the First Nation. Examples are provided here.

Example 1:

First Nation 'A' exercises jurisdiction in relation to both **voluntary and involuntary services for all members**, regardless of geographic location. Funding would apply to all members of First Nation 'A,' and a per capita amount would be provided for both types of support. The high-level funding formula would be:

\$X per capita for Voluntary Services + \$Y per capita for Involuntary Services

Example 2:

First Nation 'B' exercises jurisdiction in relation to **voluntary support services only** and limits the geographic scope. Funding would apply to only the number of members within the specified geographic boundaries, and a per capita amount would be provided for voluntary support services. The high-level funding formula would be:

\$X per capita (within specified geographic boundaries) for Voluntary Services

Needs-Based Top Ups

First Nations or other Indigenous communities could have access to additional funding based on jointly determined indicators of need. Examples include, but would not be limited to:

- First Nations or other Indigenous communities situated in geographically remote areas where the cost of living and delivering services is much higher.
- One-time transition costs enabling a seamless transition of services from BC to a First Nation.
- Capacity-building investments where First Nations or other Indigenous communities require financial resources to be able to meaningfully participate in planning/discussions with BC and/or Canada.

Annual Adjusters

Funding adjustments could be considered annually to address inflation, population changes, changes in jurisdiction scope or service delivery model, or exceptional circumstances.

Implementation of the Funding Model

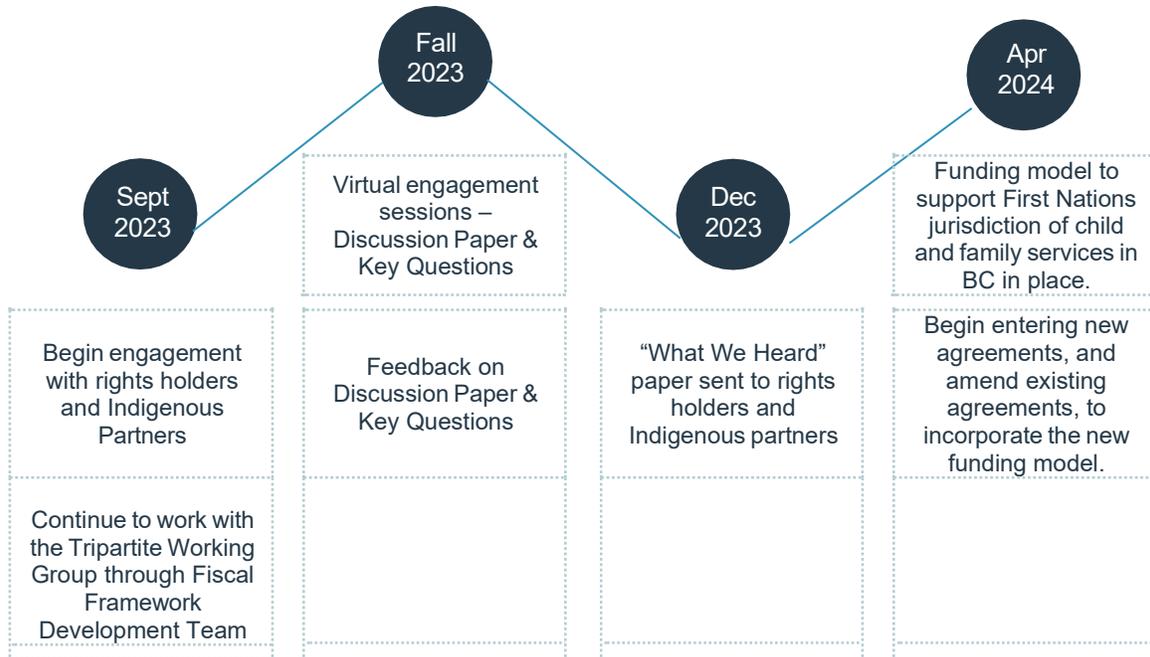
- Developing a funding model for First Nations jurisdiction over child and family services in BC within the membership-based jurisdiction model presents challenges. Traditionally, First Nations' funding has been geographically determined by the federal government. Reconciling the existing fiscal framework for child and family services with a membership-based approach requires clear guidelines to handle the model's complexities. However, some Nations may also end up choosing to resume their jurisdiction only over a specified geographic area rather than taking a solely membership-based approach.
- Factors like membership size, specific service requirements, and self-governance principles must be considered. Aligning a funding model for child and family services with legislation while adopting an inclusive approach will establish a resilient framework for the membership-based jurisdiction model that ensures equitable resource allocation and holds Canada accountable for funding obligations.
- In 2023, the TWG began to work collaboratively to inform the Institute for Fiscal Studies and Democracy (IFSD) national level work on a funding model for First Nations jurisdiction over child and family services.

Timeline

- This discussion paper will be formally presented to First Nations, Inuit, and Métis per the **timeline below**, providing a platform for active participation and meaningful engagement. Feedback and insights from rights holders and Indigenous partners during Fall 2023 engagement sessions will be collected and incorporated into ongoing framework development. BC will prioritize transparency by involving rights holders and Indigenous

partners and ensuring their voices shape the final outcomes. Following a thorough review process, including the valuable feedback from Cabinet, the finalized framework will guide funding allocations within agreements.

Image 5: Timeline of Next Steps for Funding Model



How Does the Funding Model Link to BC’s Broader New Fiscal Framework?

Actions 1.4, 1.5 and 4.49 of the Declaration Act Action Plan commit BC to co-developing with Indigenous Peoples a new distinctions-based fiscal framework that supports the operation of Indigenous governments, and new policy frameworks for resource revenue-sharing. This overarching New Fiscal Framework must be based on the recognition and co-operative implementation of Indigenous rights and consistent with the standards of the UN Declaration.

Actions 1.4 and 1.5 of the Action Plan reflect earlier commitments made by BC and Indigenous communities. The development of a renewed fiscal relationship was committed to in the 2018 *Joint Agenda: Implementing the Commitment Document (Concrete Actions)*. Action 3, Goal 2 commits to the joint design and implementation of new approaches and models of renewed fiscal relations “to support the co-existence and exercise of our respective jurisdictions and the sharing and distribution of revenues”. Action 4.49 is being addressed through ongoing work with the Alliance of Modern Treaty Nations through the Shared Priorities Framework.

The funding model discussed in this paper is anticipated to be a distinct component of the New Fiscal Framework. Work on this funding model is proceeding separately from the broader New Fiscal Framework. However, over the long term, this funding model for Indigenous child and family services jurisdiction will need to align with this broader work under Actions 1.4, 1.5 and 4.49, to ensure co-development of a principled New Fiscal Framework that comprehensively supports the operation of Indigenous governments.