

March 12, 2024

Attn: Hon. David Eby, K.C.
Office of the Premier
PO Box 9041 Stn Prov. Govt.
Victoria, BC, V8W 9E1
Via Email: Premier@gov.bc.ca

Attn: Hon. Grace Lore
Minister of Children and Family Development
PO Box 9057 Stn Prov. Govt.
Victoria, BC, V8W 9E2
Via Email: MCF.Minister@gov.bc.ca

RE: Changes to MCFD’s Out-of-Care Policy on Extended Family Program Agreements

Dear Premier Eby and Minister Lore:

We are a group of front-line family support organizations, impacted parents, and legal advocates with expertise in child protection law and practice. We are writing to share our serious concerns about amendments made in September 2023 to MCFD’s Out-of-Care Policy (“Policy”). In light of our concerns, we request an urgent meeting with Minister Lore and policy staff on the impact of the amendments as discussed below.

Pursuant to the Policy, Section 12 requires that MCFD staff be present whenever possible on the day a child/youth is placed with an out-of-care provider, including pursuant to an Extended Family Program (“EFP”) Agreement, to support the transition of the child/youth to the home and observe the child/youth in the home.¹ Section 13 requires that MCFD maintain in-person, private contact with a child/youth in an EFP Agreement every 90 days at home and ensure the home environment is meeting the child/youth’s needs.² The Policy was amended in September and November 2023 with the addition of sections 12 and 13 and these amendments remain in place as of January 2024.³ Our concerns with these amendments center on the lack of consultation with family support organizations and advocates who support Indigenous kinship caregivers, and lack of consideration of how routine home visits and inspections may impact Indigenous children/youth and kinship carers subject to EFP Agreements.

Routine home visits, as required by section 13, would be a highly intrusive degree of engagement with kinship care families providing care through EFP arrangements. Should MCFD now engage in regular surveillance of children and kinship caregivers

¹ Ministry of Child and Family Development, “Out-of-Care Policy,” Amendment Dates: September 1, 2023 and November 6, 2023, s. 12.

² Ministry of Child and Family Development, “Out-of-Care Policy,” Amendment Dates: September 1, 2023 and November 6, 2023, s. 13.

³ Ministry of Child and Family Development, “Out-of-Care Policy,” Amendment Date: January 15, 2024, s. 12 and 13.



and inspections of kinship care homes, its approach will continue and reinforce a culture of risk and surveillance that has been shown to harm Indigenous children/youth, families and communities.⁴ Family supporting organizations have shared that frequent home visits carried out without any specific basis or identified need do not reflect trauma-informed practice and are likely to be disruptive and intrusive, and to create insecurity, stress, and anxiety for children/youth and families who have experienced removals or fear being removed, particularly those who may have personal and inter-generational traumatic experiences of colonial interventionist practices in their homes and communities.⁵ This policy change also fails to account for key distinctions between EFP Agreement arrangements and contracted care given that EFP arrangements are intended to be as a less intrusive measure compared to contracted care placements.

Section 13 may also pose a serious barrier to Indigenous kin readily agreeing to enter into EFP Agreements in the future as kinship carers would effectively be acceding to routine surveillance. If these amendments reduce the interest or likelihood of kinship carers to consent to EFP Agreements, the consequences for Indigenous children/youth may be severe. EFP Agreements provide an avenue for Indigenous children/youth to stay within their families, communities, and Nations through kinship care and to maintain cultural and community ties, as an alternative to being placed into government care including foster care.⁶ Preservation of kinship ties, and attachment to extended family, culture and community are prioritized under the *Child, Family, and Community Service Act*.⁷ Likewise, the federal *Act respecting First Nations, Inuit and Métis children, youth, and families* also recognizes the importance of cultural continuity as well as the priority of placement of Indigenous children/youth with family members or members of the same Indigenous group, community, or people as critical to the consideration of an Indigenous child/youth's best interests.⁸ Additionally, EFP Agreements may also allow kinship caregivers access to more robust financial and other support services.⁹ Given the importance of EFP Agreements to kinship carers as an option to keep families and communities together and to receive the supports families need, we urge MCFD to reconsider its use of risk and surveillance methods per section 13 of the Policy, which may create barriers to kinship caregivers entering into EFP Agreements going forward.

It is our understanding that prior to implementing these amendments, MCFD's approach to out-of-care arrangements involved an initial assessment of the proposed care provider and the home environment as well as review of EFP Agreements to ensure

⁴ West Coast LEAF, "Letter to Premier Horgan and Members of the Select Standing Committee on Children and Youth: Re: The Time to Transform MCFD's Culture of Risk and Surveillance is Now!", October 26, 2022. <<https://westcoastleaf.org/wp-content/uploads/2023/06/10.25.22-Risk-and-Surveillance-Letter-to-Premier-and-Standing-Committee-Final.pdf>>

⁵ West Coast LEAF, *Pathways in a Forest: Indigenous guidance on prevention-based child welfare* (Vancouver, BC: 2019), p. 6. <<https://westcoastleaf.org/wp-content/uploads/2023/05/West-Coast-LEAF-Pathways-in-a-Forest-web-Sept-17-2019-002-Online-Version-2021-compressed4.pdf>>

⁶ West Coast LEAF, *Pathways in a Forest*, pp. 15, 78.

⁷ *Child, Family, and Community Service Act*, RSBC 1996, c-46, s. 2(e) and 4(2).

⁸ *Act respecting First Nations, Inuit and Métis children, youth, and families*, SC 2019, c-24, s. 9(2) and 16.

⁹ BC Government, "Temporary Out-of-Care Arrangements: Extended Family Program (EFP)," accessed February 22, 2024. <<https://www2.gov.bc.ca/gov/content/family-social-supports/fostering/out-of-care-kinship-care-options-for-children-and-youth-in-bc/temporary-out-of-care-arrangements>>

that the child/youth's needs continued to be met at least every six months.¹⁰ Indigenous families caring for their kin already underwent a significant safety assessment at the outset. This process did not require routine MCFD inspection of caregivers' homes or visitation with children/youth in the home environment. We request information on the reasons for this significant and highly intrusive shift in MCFD's approach to EFP Agreement homes even in the absence of any issues requiring enhanced oversight.

We recognize that grave concerns exist with respect to the well-being of all children, including Indigenous children/youth within foster care, contracted care, and other systems. For this reason, we have advocated for kinship caregiving as an alternative to these systems, and for EFP Agreements as a means for kinship families to access necessary financial and other supports. While oversight and accountability are important when children are placed into any care arrangement, kinship carers must not be subject to reactive risk-based approaches that undermine out-of-care arrangements intended to provide children/youth with alternatives to government care. EFP Agreements for kinship carers should be encouraged and well-supported financially and otherwise so that Indigenous children/youth are kept out of government care including foster care where possible and benefit from cultural continuity and community connection.

We also seek information on what, if any, consultation was carried out with Indigenous kinship caregivers and family supporting organizations including Indigenous organizations before these amendments were made in accordance with MCFD's stated transformation goals of ensuring collaboration, cooperation, and consultation with families, Indigenous rights-holders and partners, and service providers who support children/youth and families.¹¹

We ask MCFD to immediately address the serious concerns arising from the amendments. To this end, we ask that MCFD:

1. Stay the implementation of section 13 with respect to Indigenous EFP families.
2. Provide information on what consultation MCFD undertook prior to implementing the section 12 and section 13 amendments.
3. Consult with Indigenous kinship caregivers, family supporting organizations, and Indigenous organizations on the section 12 and 13 amendments.

Due to the significant potential impact of these amendments on Indigenous children/youth, kin and communities, we intend to communicate with the public and community stakeholders on this important issue. Prior to doing so, we request an urgent meeting with Minister Lore and policy staff to discuss our concerns and questions directly. Please advise Humera Jabir, Staff Lawyer at West Coast LEAF (hjabir@westcoastleaf.org) of your earliest availability for a meeting.

Sincerely,

¹⁰ Ministry of Child and Family Development, "Out-of-Care Policy," Amendment Date: April 1, 2023, s. 4, 12.

¹¹ Government of BC, "MCFD Transformation," accessed February 24, 2023.

<<https://www2.gov.bc.ca/gov/content/family-social-supports/data-monitoring-quality-assurance/reporting-monitoring/mcfd-transformation>>

Organizational signatories

West Coast LEAF
Keeping Families Together
Centre for Family Equity
South Asian Legal Clinic of British Columbia
RainCity Housing
YWCA Metro Vancouver
Red Willow Society
Rise Women's Legal Center

Individual signatories

Nina Taghaddosi, RSW
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Allies and Endorsers

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