



## CHAPTER SEVEN



# Making a Difference: Actions, Plans, Commitments & Recommendations



*Ultimately a genuine leader is not a searcher of consensus but a molder of consensus. On some positions cowardice asks the question, is it safe? Expediency asks the question, is it politic? Vanity asks the question, is it popular? But conscience asks the question, is it right? And there comes a time when one must take a position that is neither safe, nor politic, nor popular but he must take it because conscience tells him it is right.*

– Martin Luther King Jr. “A PROPER SENSE OF PRIORITIES” February 6, 1968, Washington, D.C.

## Introduction

The Restorative Inquiry has come to an end but the work it was mandated to address and contribute to continues. The Inquiry has facilitated parties to come together to build relationships, learn and understand, and plan and take action related to this mandate. The Inquiry has carried the responsibility to build capacity and serve as a catalyst to make a difference on the issues related to the mandate: responding to institutional abuse (failures of care), the experience of the system of care, and systemic racism. This Chapter shares the elements of the journey forward aimed at making this difference that have emerged from this process. It shares actions taken, progress made, planning underway, commitments made, and recommendations for further steps. This Chapter is intended to transition the mandate – the collective and shared responsibility to lead this work – from the Restorative Inquiry to the parties and partners that have been involved in this process.

**The Inquiry process has not been focused on getting agreement or consensus on what to do. It has, however, been committed to building shared understanding about *why* things need to change and how we need to work together for change.**

The Restorative Inquiry process created space for those within the Government and community to begin the work to shift to a human-centred approach and to envision and plan elements of the journey ahead. This has allowed consideration of what is *right* – and how to go about doing what is right. It has not been simply focused, as discussed in Chapter 6, on doing things within current systems in right or better ways, but, first, on doing the right things.

It is important to be clear that the Inquiry’s commitment to building relationships, collaborative learning and understanding, and collective action has not been limited to what parties can agree upon. The Inquiry process has not been focused on getting agreement or consensus on what to do. It has, however, been committed to building shared understanding about *why* things need to change and how we need to work together for change. It is this understanding that underpins the various elements of the way forward described in this Chapter.

The restorative approach of the Inquiry has resulted in significant progress in building the relationships needed to make a difference for the future. It has also revealed where continued work is required to build and deepen a shared vision and understanding to make the necessary shifts identified through the Restorative Inquiry (as described in detail in Chapter 6).

## Reading this Chapter

Chapters 1 and 2 describe the Restorative Inquiry and the different way forward it has taken. One of the significant differences has been the founding commitment to seek and support change in real time through collaboration among those most involved. Public inquiries typically investigate to determine what happened, conduct research, and seek out other expertise as needed, in order to determine what, in the view of the commissioner(s), ought to happen. Commissioners then issue a report detailing their findings and recommendations for what needs to happen. Those involved, responsible, or otherwise connected to the issues of concern must generally await the report and recommendations of the Inquiry to determine whether or how to respond. Engagement and response are sometimes made more difficult, or less likely, because of the lack of involvement of those most central to securing the outcomes in determining what action is needed.

As described throughout this Report, this Inquiry was different in both design and implementation, which has resulted in a different outcome. It is likely that readers will flip through this Report to this chapter seeking out a list of recommendations as is common with other public inquiries. Many will be looking for an itemized list – complete with details about whom the recommendations are aimed at and the actions, timelines, costs, and outcomes expected. Others will look to these recommendations, and the reaction of those identified with responsibilities within them, as a way to measure acceptance of responsibility, and/or sincerity, or level of commitment of those parties. So common is this structure of inquiries that those responsible sometimes prepare their responses in advance of reading the report (and without having time to really assess the recommendations in terms of likely value or impact). From governments and other public institutions, to corporations and individuals, the standard or acceptable response to inquiry reports has become acceptance of the report with thanks. Generally, although not always, this includes acceptance of the recommendations, or (less often lately) a commitment to study and respond to the recommendations, or to determine how to proceed with respect to such recommendations. Regardless of the precise response, the process following acceptance of the report typically involves those with responsibilities (and those with a stake in the recommendations) working to process the report – its findings and recommendations – to try and figure out the expectations and instructions. Results vary from this process, but there is significant evidence that such reports and their recommendations often

have less impact than intended or hoped. This sometimes results from a lack of will, but, often, is a consequence of the realities of governance and change processes.

Part of the impetus to take a different approach to this Restorative Inquiry was to support better outcomes and impacts from the process. The former residents wanted what happened to them to matter – to make a difference. The Restorative Inquiry was designed for this purpose. As described in Chapter 2, the process engaged parties with one another throughout. The role of the Commissioners on the Council of Parties was thus different than in other inquiries. They were not tasked with determining the facts and then deciding what should happen on their own. Rather, members of the Council of Parties were responsible to facilitate a process that would build the relationships needed to come to learn and understand what happened, figure out what to do about it, and bring about the changes needed. This approach has made a difference to the process and its outcomes. This Chapter reflects this difference and should be read accordingly.

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This Chapter describes some of the ways forward that have emerged out of the Restorative Inquiry. In this respect, it serves the function of recommendations in traditional inquiries, as it is intended to help make a difference, to provide guidance and spur action on the important issues at stake. It is also meant to be clear and transparent about responsibilities that need to be fulfilled and to provide some measure by which the commitment, progress, and impact of the parties involved can be assessed. However, while this Chapter is similar in these ambitions, it is different in its form and substance from a traditional approach. It is different in a number of ways that are important to understand before reading the various elements of the way forward described in this Chapter.

- ***These plans and recommendations do not come only from the Council of Parties.*** The elements described in this Chapter were not determined by the Council of Parties alone. The Commissioners who comprised the Council of Parties led the Inquiry. They approached their leadership role and exercised their authority restoratively. This meant working collaboratively within the Council of Parties which (as detailed in Chapter 2) is made up of representatives from many of the parties most central to the mandate of the Inquiry. This approach was also reflected in the way the Council discharged its responsibilities and

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used its authority under the *Public Inquiries Act*. The Council of Parties took a facilitative approach to its leadership of the Inquiry. This required careful and constant deliberation to inform decision-making regarding the direction, progress, and focus of processes to meet the mandate. A fuller description of the work of the Inquiry is offered in Chapter 2; for now, it is important to understand how this approach informed the planning and action work of the Inquiry as reflected in this Chapter.

The Council of Parties played a significant role throughout the learning and understanding phase of the process, gathering insights and understanding, sharing it among relevant parties, and facilitating processes to consider the implications for the future. The Council actively engaged

with participants to support identification of possible responses or actions needed to address issues and support the necessary shifts (see Chapter 6) to make a difference in the central issues. As described below, this work has enabled some immediate action and changes, supported parties to undertake planning to implement changes, convened groups able and committed to take on planning and action in an identified area, and facilitated discussion and consideration of other recommended steps.

The elements of the way forward described in this Chapter reflect this collaborative work. The determination of the shifts needed and the ideas and actions for change taken, underway, or proposed, have come out of the collaborative processes of the Inquiry. They reflect the considerable knowledge, insight, and commitment of participants. This Chapter reflects the collective work of those parties who participated in the Inquiry and their shared responsibility for the progress and success of these actions, plans, and commitments in future.

• ***The ways forward are not intended as isolated actions – this is not a “checklist” of what to do.*** It would be a mistake to read this Chapter as a checklist, or directions, for what to do. Instead, a better analogy might be to consider it a road map, providing information, guidance, and support for the journey ahead. This map reflects the terrain and possible routes; it highlights some pathways but is most focused on where we are going and how we will travel there, because that is what is essential for a successful journey.

A full appreciation of the actions, plans, commitments, and recommendations that follow, then, requires an understanding of why we are travelling (making this move or shift) and how we will get there. Chapter 6 is intended to provide the information required to understand and navigate the way ahead as suggested in this Chapter. Chapter 6 provides information about what was heard through the Inquiry and what was learned from international research to help explain why these actions, plans, commitments, and recommendations are important. In short, they are important to the shift required to a human-centred approach that we have determined as essential to make a difference on the central issues of concern: systemic racism, the experience of the care system, and responding to institutional abuse and other failures of care. The elements of the way forward identified here reflect what we have come to learn and understand about making such a shift in Nova Scotia. It is clear this shift requires a change in *how* we do things, not just in the things we do. The actions, plans, commitments, and recommendations described here are rooted in a commitment to a different way of doing things – to supporting a fundamental shift in ways of thinking and working at systemic and structural levels. The elements detailed below should be read in light of this commitment to this different way. It is a way guided by relational principles and a restorative approach.

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In many ways, attention to this different way of doing things, as the basis from which to determine what should be done, was modelled by the experience of the Restorative Inquiry. The Inquiry was more than just a different approach to processes or activities from traditional inquiries. The impact of the Restorative Inquiry was not simply in what it did, but in *why* and *how* it worked. This different way of thinking and working animates the elements of the journey forward we describe here.

The Restorative Inquiry provided an opportunity to test and experience this different way of working. In doing so, it also built and strengthened the understanding and relationships essential to the capacity to work in this different way in the future. Parties within the process not only learned what needs to be done, but also gained insight about how these things should be done. The Restorative Inquiry modelled working in a principle-based way and exemplified the shift to a human-centred, restorative approach. The Inquiry has been grounded in and guided by relational/restorative principles. They are:

## Restorative Principles:

- **Relationally focused**

Understanding and seeking to structure/support just relations

- **Comprehensive/holistic/ integrative**

Connecting dots between issues, incidents, contexts, causes, & circumstances

Working in integrated ways, not siloed or fragmented

- **Inclusive/Participatory**

Empowering first voice

Trauma-informed

Culturally aware

Needs-based

- **Responsive**

Contextual, flexible practice

Informed by data/knowledge

- **Focused on individual and collective responsibility**

- **Collaborative/non-adversarial**

- **Forward-focused**

Educative, problem solving/preventative & proactive

These principles underpin the restorative approach of the Inquiry and inform the elements of the journey described in the rest of this Chapter. They help guide how we can fulfil the commitment to relational ways of working key to a human-centred approach.

As the experience of the Restorative Inquiry demonstrates, a restorative approach is not a fixed model or process. The Restorative Inquiry modelled the shift and a way of working but did not seek to be “the” model of a restorative inquiry. There are, thus, lessons to learn from how the Inquiry worked about working differently in future. Perhaps most importantly, the Inquiry demonstrated that a restorative process must be principle-based and flexible in order to be responsive to the situation, the issues, the parties, and the work required. Given its mandate to deal with the harms and impacts of the Home, the Restorative Inquiry may offer a more specific model of how to respond when things have



gone wrong – to institutional abuse and failures of care. However, it also holds significant lessons for how to approach the system of care more broadly. It is a principle-based approach that can inform policy, process, and practice. The work involved in the planning and action phase of the Inquiry revealed implications of this approach for the way forward. It demonstrated that the shift desired will not be achieved simply by adopting a ready-made process. The actions, plans, commitments, and recommendations here should be read in light of the aim for more fundamental change, not simply as a call to adopt new programs or process models.

• **Planning and action are already underway.** Traditional inquiry processes generally assumed action will happen after the Inquiry report is released. They assume the parties are waiting for the recommendations to tell them how to move ahead. The parties in the Restorative Inquiry process were committed from the outset to change in real time. As discussed, such change has happened during the process through the building and shifting of relationships, perspectives, and understanding. The experience of working together in a different way has also been an instructive model and experience of how to work restoratively in ways relevant to ongoing work on the Inquiry's central issues. It is important to recognize as action in real time the work parties and partners have done to build relationships that will support working differently in the future (including with respect to fulfilling some of the plans and commitments emerging from the Inquiry). It was not always easy work, as it involved a significant learning curve and some risk for those involved to trust in a process, and one another, in unfamiliar ways.

The parties in the Restorative Inquiry process were committed from the outset to change in real time.

This different way of working together has also led to changes implemented in real time during the mandate of the Inquiry. Parties have not had to wait on findings and related recommendations coming from the Restorative Inquiry in the form of this report to begin to make a difference. The process was designed to ensure learning and understanding was shared throughout the process and among the parties with interests and responsibilities to ensure that it could be mobilized in real time to make a difference. It would be a mistake to think that parties needed to wait for some instruction or mandate from the Council of Parties to deploy the learning and understanding obtained through the process. Indeed, the Inquiry was clear in its intention and hope that its various phases of work would support parties to see and act differently within and, importantly, beyond the process. The Council of Parties has oriented its work to facilitate parties to take action. Considerable time and energy were dedicated to bringing groups together to consider what work is needed and to begin planning and action. This Chapter is reflective of that work. It not only describes next steps but also steps that have been taken or are in progress as part of the journey forward.

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**The fact that some things remain at the level of recommendations reflects one of the learnings from the Restorative Inquiry experience: namely that making change in real time, takes time.**

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To the extent possible, the Council of Parties intended its final Report would be weighted towards actions, plans, and commitments already made or underway, and less on recommendations coming from the Council. As will be noted in the sections that follow, we have made some recommendations. However, these remain at the stage of recommendations, generally, because of the progress that was possible within the time and capacity of the Inquiry's mandate, rather than because of parties' unwillingness or disagreement. Indeed, generally, the recommendations offered in this Chapter are based on and emerged from discussions and work within the Inquiry. The recommendations in this Report reflect where parties have agreed on the importance of further consideration and work in an area. As with the other actions, plans, and commitments outlined here, recommendations will not be a surprise or unwelcomed by the parties that have engaged within the Inquiry process.

The fact that some things remain at the level of recommendations reflects one of the learnings from the Restorative Inquiry experience: namely that making change in real time, takes time. The shift to an Inquiry model oriented to facilitate and support planning and action within the mandate requires changes to assumptions about the nature and timing of Inquiry work. This is not to suggest the work of this Inquiry is incomplete simply because there is work remaining. Indeed, it was anticipated in the design

and objectives of the Restorative Inquiry that this process was not intended to achieve all of the change needed during its mandate. Instead, through its focus on building relationships and planning and action, the Inquiry was designed to support the conditions needed to make a lasting and sustained difference into the future.

That said, however, there are many important insights and lessons from this first experience of taking a restorative approach to a public inquiry, particularly with respect to the time and support needed to enable change of this nature in real time. It was clear from the experience of the Inquiry that expectations of the timing and processes of such inquiries must be adjusted to fully realize the potential of the planning and action phase of work. There also needs to be considerable attention given to ensure the means and mechanisms needed to work in this restorative way. This is true for future restorative public inquiry processes and for a restorative approach more broadly — structure and systematic support is needed to enable parties, particularly across governments and agencies, to participate in the integrated and collaborative ways required. Indeed, it is important and urgent that such mechanisms be developed to support the work outlined in this Chapter in order to ensure success as the mandate is taken forward by the parties to this Inquiry.

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Lessons regarding time are also relevant to appreciating the way ahead described in this Chapter. The shift sought through these actions, plans, commitments, and recommendations is of a fundamental nature. Such a shift will not be achieved overnight or even in the short term. The elements described here are a part of this shift and should not be expected to be “completed” on a timeline of weeks or months. Certainly, there are elements that can be implemented and progress made quickly, but success, in terms of this significant shift, will take time. It is important, then, that there is not a rush to simply check boxes on the outcomes from this Inquiry as proof of

action. The elements need to be followed through in a way that is aimed at real and lasting change at a fundamental level. It is important that there be a sense of urgency to do better now that we know what needs to be better. However, such urgency should be channelled into ensuring a sustained commitment over time, rather than swift, but fleeting, changes for the sake of action. Patience, persistence, and perseverance will be required to make the shift happen at all the levels and in all the areas required, and in a way that will bring meaningful and lasting change.

• ***This is not a complete list of the actions, plans, commitments, and recommendations that will be needed.*** The elements of the way forward detailed in this Chapter are neither a complete nor comprehensive list of all that will be needed to shift to a human-centred approach, as described in Chapter 6. As noted above, the actions, plans, commitments, and recommendations described here are all oriented to support this overarching shift. Whether they “work” or are “achieved” depends upon the difference they make. It is possible that parties could “check all the boxes” on the elements listed here and still fail to achieve their intended outcomes. What is sought is not simply achievement of a set of actions, but the difference they are meant to make in how we act.

The actions, plans, commitments, and recommendations emerging from the Inquiry are only a start, or partial list, of what may be required on the journey ahead. The Inquiry gave careful consideration to what will be needed to address the central issues. Through the process, parties came together to learn from each other, and from research and experience elsewhere, about what can

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be done to make a difference. As with all journeys, things can happen that will require a change of direction or additional supplies or a different route. We acknowledge and expect this will be the case for the work ahead in support of a shift in approach to systems, institutions, structures, and ways of being with one another for equality and care. The focus on a shift rooted in why and how we need to be different provides a basis for flexibility and responsiveness to meet changing needs and circumstances.

In considering what actions, plans, commitments, and recommendations to make, the Inquiry was concerned to establish and support the conditions needed to make a lasting difference on the central issues of systemic racism, the experience of care, and response to institutional abuse and other failures of care. One of the central beliefs driving the vision and design and the planning and action work of the Inquiry was that making a difference requires attention to

the ways in which people can come together to share responsibility and take collective action. This requires setting aside adversarial ways of seeking change, power, and position. While we understand making a difference is something worth fighting for, it is not something that can be achieved through fighting with each other. The Council of Parties is under no illusions that the shift it calls for will be easy. The journey to light, including the Inquiry, has shown that it will take bravery, tenacity, and patience to succeed in making the difference we seek. It will require us to revisit our current patterns and assumptions, and to resist habits of mind and action deeply ingrained in our systems that structure what we think and do. While we must fight for change, we must not mistake this as about fighting each other. This is one of the patterns that needs to shift. In trying to do the right thing, we cannot assume we are right or be righteous about what we do. Otherwise, we will resist true collaboration for fear it will require us to change our minds or views, or lose power or position. The focus on winning the fight to be right, then, is potentially distracting and detrimental to the work ahead because it leads to an oversimplification of problems and undermines our capacity to work together for significant change that would benefit all of us and, significantly, our children.

**In trying to do the right thing, we cannot assume we are right or be righteous about what we do. Otherwise, we will resist true collaboration for fear it will require us to change our minds or views, or lose power or position.**

The actions, plans, commitments, and recommendations outlined in this Chapter are not the final word on what needs to happen, rather they are intended as a start to moving forward in a different way.

• ***The success of the Restorative Inquiry should not be measured by the different things that get done, but by the difference made to why and how things are done.***

Assessment of success cannot simply be based on what gets done – on whether the list of actions, plans, commitments, and recommendations is completed. Of course, this Chapter and the plans, commitments, and recommendations it shares are intended to provide a measure of accountability and guidance in fulfilling the shared responsibility for collective action flowing from the Restorative Inquiry. The suggestion that it should not be treated as a checklist does not weaken the power and influence it should have over what happens next. Indeed, the suggestion that the measure of success should be about impact, and not simply actions taken, requires more, not less, scrutiny and attention to ensuring parties follow through with the actions, plans, commitments, and recommendations. While there may be adjustments and changes to the plans and actions along the way, such departures must reflect the intentions underlying the elements. The flexibility allowed for in the implementation of various plans does not permit compromise on the underlying commitments to why and how we need to make a shift to be human centred. Chapter 6 provides a clear articulation of the commitment to a shift in thinking and practice that underlies planning and action aimed at making this difference.

The work of the Inquiry, including the actions, plans, commitments, and recommendations shared in this Chapter, has been determined mindful of fulfilling the mandate. Responsibility for this mandate is shared by the parties and partners involved. The planning and action phase of the work sought to ensure the relationships and other conditions necessary for parties to take up responsibility for the mandate following the completion of the Restorative Inquiry.

## **The Nova Scotia Home for Colored Children Restorative Inquiry (RI) will:**

**EXAMINE** the experience of the Nova Scotia Home for Colored Children (NSHCC) as part of the history and legacy of systemic and institutionalized racism, both historic and current, in Nova Scotia.

**EXAMINE** and seek to understand the experiences of former residents within the NSHCC and the legacy and impact of these experiences for former residents, their families and communities.

**EXAMINE** the experiences of former residents within the NSHCC for what they might reveal about issues of institutionalized child abuse and prevention and protection in future.

**INQUIRE** into how the history and legacy of the NSHCC has impacted not only African Nova Scotian communities but all peoples in Nova Scotia and consider how to address this harmful legacy. It will reveal, reckon with and address this part of the harmful history and legacy of anti-Black racism in the Province of Nova Scotia.

**EMPOWER** those involved in, and affected by, the history and legacy of the NSHCC to learn about what happened and the contexts, causes, circumstances and ongoing legacy of the harms related to the NSHCC.

**EXAMINE** the role and contribution of various systems, sectors and institutions in the harmful history and legacy of the NSHCC, including, for example: education, justice, health and community services.

**ENGAGE** affected parties and all Nova Scotians in collaborative planning and action to address this history and its legacy and create change to secure a better future for African Nova Scotian children and their families and communities.

**EDUCATE** the public about the history and legacy of the NSHCC.

**CONTRIBUTE** to the goal of social change to end the harmful legacy of abuse and ensure the conditions, context and causes that contributed to it are not repeated.

**PUBLICLY SHARE** the truth and understanding established through the RI and the actions taken, planned and recommended to address systemic and institutionalized racism and build more just relationships for the future.

**AFFIRM** and strengthen the cultural knowledge, leadership and health of the African Nova Scotian people and communities as one of Nova Scotia's founding cultures.

**MODEL** a restorative approach to conflict resolution.

**CREATE** agenda and momentum for further learning and action on related issues of systemic racism that are revealed through the process.

## **Actions, Plans, Commitments, & Recommendations**

The actions, plans, commitments, and recommendations emerging from the Restorative Inquiry process are detailed below. They are focused on the three central issues that guided the Inquiry's work: addressing systemic and institutionalized racism; the experience of the care system; responding to institutional abuse (and other failures of the care system). This chapter, and the elements of the journey ahead described below, should be read and understood in close connection with the other chapters of this Report. They reflect the understanding gained through the examination and reflection on the history and experience of the Home and the journey to seek a just response for the harms experience by former residents. A detailed account of this history and experience is provided in Chapters 3 and 4 of this Report. What we came to learn and understand through an analysis of the history and experience of the Home is shared in Chapter 5. These chapters provide the basis from which we considered what matters about this history and experience for today and the future of just relations and care in the Province of Nova Scotia. Chapter 6 shares what has been learned and understood through the Inquiry about the change that is needed to make a difference on the central issues – systemic racism, experience of care, and responding to institutional abuse and failures of care. Chapter 6 also provides the essential background, rationale, and insights from the Inquiry (through its processes, research, and consultation with international experts) out of which the actions, plans, commitments, and recommendations in this Chapter came and that should guide their implementation.

These elements form the plan for the way forward on the mandate of the Restorative Inquiry to ensure the lessons from the history and experience of the Home for Colored Children make a positive difference for the future. They are focused on addressing systemic racism and its impacts in order to secure justice and equality for African Nova Scotians and to improve care for young people, families, and their communities across the province.

The actions, plans, commitments, and recommendations arrived at through the Restorative Inquiry are not, however, structured along the lines of the three central issues. As evident throughout the work of the Inquiry, and in this Report, these issues are interrelated; therefore, the work ahead must be integrated. We have also not organized this chapter according to the status or nature of various elements as actions taken, plans underway, commitments made, or recommendations. The Council felt this would be an inaccurate reflection of the progress made within the mandate of the Inquiry and of what is required for the work ahead. Instead, we have shared the areas of work and the elements key to making a real and lasting difference in keeping with the shift to a human-centred approach described in Chapter 6.

The actions, plans, commitments, and recommendations arrived at during the planning and action phase of the Inquiry are shared here under the following headings that reflect areas or pathways forward for the journey ahead. Within each of these pathways, we have identified the steps that have been actioned, planned, committed to, or recommended through the Inquiry.

- 1. Modelling a Different Way Forward**
- 2. Shift to Human-Centred Systems and Structures**
- 3. Continued Learning and Understanding Towards Just Relationships**
- 4. Human-Centred – Integrated System of Care**
- 5. Children and Youth Commission**
- 6. Restorative Responses to Failures of Care**

## 1. Modelling a Different Way Forward

As discussed above, it is important to recognize the contribution of the Restorative Inquiry as more than a means to an end, but, as itself, an action in real time. The Restorative Inquiry

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modelled a principle-based, human-centred process through a restorative approach. In doing so, it supported a shift in the way in which participants thought about the issues, the process, and the ways in which they engaged. Through the phases of the Inquiry, parties built relationships, came to new understandings of the issues,

and discerned what is needed to make a difference. The process thereby supported the real-time changes needed for parties to plan and act together in ways needed to make a difference. Thus, the Inquiry process itself made a contribution to understanding and modelling the shift to be human-centred. Through its process, the Inquiry met some of its goals and objectives. The process also resulted in actions, plans, and commitments that furthered the broader mandate as part of the different way forward on the central issues of systemic racism, the experience of the care system, and responses to institutional abuse and other failures of care as detailed in the following sections.

## 2. Shift to Human-Centred Systems and Structures

All of the actions, plans, commitments, and recommendations are rooted in an overall commitment to a shift in our ways of thinking and doing, and to the related structural and system change this shift entails. Through the Inquiry, parties developed a shared commitment to a shift focused on doing the right thing over doing things right – to being human-centred.



Through the Inquiry process, it has become clear that this is not a matter of political orientation (left, right, or centre) or party affiliation. The support across parties and other traditional political divides reveals that commitment to the need for a shift is not a matter of political ideology, but about an understanding of our shared humanity and collective responsibility to ensure the just and caring relationships that flow from it. At its core, this commitment is about the promises we make to each other, and to our children, to ensure the care and concern they need and deserve. It is a commitment that speaks to who and how we want to be with one another. There can (and are) reasonable and reasoned debates to be had about how best to achieve this shared goal. The debates do not, however, cast doubt on the core commitment to each other — and to children and families — about what we value and how they will be treated in Nova Scotia.

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In many ways, we are fortunate in Nova Scotia to have a long-standing history of living in small and close-knit communities. The importance of connection and interdependence runs deep in the DNA of this province and its people. This is evident from the history of African Nova Scotian communities and deeply reflected in the founding story of the Home. It is also true for Nova Scotia more broadly. The challenges and changes that have marked this province's history, and the adversity that has often accompanied them, has required collectivity and creativity by community members in coming together to care for one another. We have witnessed, through

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the Inquiry, the importance and depth of commitment to connection and interdependence as core values worth pursuing and protecting.

The importance of these values to our well-being as individuals, groups, communities, and a province, underpin why we seek a shift to a human-centred approach. As detailed in Chapters 5 and 6, the lessons of the past have shown us that the silos and fragmentation of our current system-centred approach get in the way of our caring well for one another. Through this work, we have come to see the necessity of placing human beings and their needs at the centre of the systems and structures that seek to care for them. This will require a relational/integrated approach that places people at the centre and, in response, will require systems, institutions, policies, and programs to work differently, in more integrated and holistic ways. It is a commitment to this shift that informed the planning and action work of the Inquiry and underpins the actions and plans described in this Chapter.

**...the lessons of the past have shown us that the silos and fragmentation of our current system-centred approach get in the way of our caring well for one another.**

The Restorative Inquiry is not the first to recognize that such a shift is needed. There has been broad-based recognition of the problem of a system-oriented approach and of silos and fragmentation. This process and Report are actually part of a growing chorus recognizing the problems and the need for a change. Indeed, this issue has received attention (implicitly and explicitly) in many of the public inquiry or review processes in Nova Scotia over the past two decades. Of particular note are the reports from the Marshall Inquiry (Royal Commission on the Donald Marshall, Jr., Prosecution), the Nunn Commission of Inquiry, the reviews into Rehtaeh Parsons' suicide (including of the roles of justice, health, and education), the Action Team on Sexual Violence and Bullying, the Kaufman Report, and the Hyde Inquiry. In different ways, each highlighted silos and gaps in systems and services through which people and issues fell. There is then an emerging recognition, if not consensus, of the problem and its nature. However, solutions have been out of reach even when the nature of the change needed has been named and pursued.

Too often, governments and agencies responsible for the systems and services have resisted the idea of a fundamental shift in the structure of systems and ways of working. This is not merely a lack of will, but, rather, often of capacity and skill. Such change takes a long time – it takes patience that is often lacking in the face of frustration and public outrage at urgent and pressing problems and failures. In place of a fundamental shift, efforts have generally focused on coordination of silos and systems to try to make things better. These efforts have sometimes succeeded in making things better – they have helped ensure things are done right or better *within* the system. However, they have not brought about a real and lasting difference in terms of doing the right thing. For that we need relational and integrated ways of thinking, working, and of structuring our systems and services.

Chapter 6 considered in some detail the nature of the shift and what it means for dealing with systemic racism, the system of care, and responding to failures of care including institutional abuse.

Throughout the Inquiry, we have been attentive to the need to build upon areas of strength in Government and community where efforts at change, consistent with the shift we are seeking, are underway. We wanted to avoid the risk that in seeking change we ignore that which should be retained or amplified. The Inquiry was charged with making a difference, but difference is not achieved by change for change's sake. It requires meaningful change for young people, families, and communities in Nova Scotia. Parties in the Inquiry shared the efforts, programs, policies, practices, and people currently making such a difference. It is essential to critically examine such current efforts to ensure they will contribute to the more fundamental shift we intend. Where this is the case, the way forward must energize and amplify these efforts in support of a shift in the ways of working within and across systems and communities to realize lasting change.

### 3. Continued Learning and Understanding Towards Just Relationships

The Restorative Inquiry began its work following the historic apology by Premier McNeil on behalf of the Government of Nova Scotia. This apology was to the former residents of the Home and also to the African Nova Scotian community for the systemic racism that has marked the Province's past and continues to structure relationships of power and privilege in Nova Scotia.

*To the African Nova Scotian community: we are sorry. The struggle of the Home is only one chapter in a history of systemic racism and inequality that has scarred our province for generations.*

*African Nova Scotians are a founding culture in our province—a resourceful people of strength. The Home for Colored Children was birthed in the community as a way to meet a need that was not being met.*

*We must acknowledge that in many ways, and for many years, we as a province have not adequately met the needs of African Nova Scotian children and their families. We are sorry.*

*As Nova Scotians—as a people, walking together—we must do better. An apology is not a closing of the books, but a recognition that we must cast an unflinching eye on the past as we strive toward a better future.*

The commitment was clear. The apology acknowledged the failures of the past and also committed to a different future. It is a commitment to walk together to create that better future and a recognition that responding to the history and experience of the Home is only one step in that journey forward together. It is vital then, in support of this commitment to a different future, that the learning and understanding achieved by looking back at the Home through the Restorative Inquiry be shared broadly with the African Nova Scotian community and, importantly, with all Nova Scotians.

The following actions, plans, commitments and recommendations are aimed at ensuring the learning and understanding achieved within the Restorative Inquiry is shared and mobilized in support of securing just relationships. Particular attention has been paid in planning and action to shifting the understanding and approach to addressing systemic racism, particularly in the context of the system of care and responses to its failures.

#### 3.1 Records Access

##### i. Former Residents

Central to the mandate of the Restorative Inquiry was learning what happened in terms of the history and experience of the Nova Scotian Home for Colored Children. Throughout this work, the

Council of Parties was struck by the lack of records and other information related to the young people most central to the history and experience of the Home. Our understanding has been informed and significantly enriched by the memories of former residents and those within the community and the care system who were involved or connected to

the Home. Many former residents shared how little information they have access to about their lives before the Home, their time in the Home, and their time in care. Some indicated they do not know where to go to find such information. Others who have accessed their information through the Home and Department of Community Services over past decades expressed frustration with that experience. They found the processes confusing and time consuming, particularly because information was kept both in files at the Home and at Community Services (and sometimes with the child welfare agencies involved in their apprehension). Once they gained access to their file(s), many expressed concern about the accuracy or scarcity of information contained about their time in care. For some, these files represent all of the information they have about their childhood. Former residents expressed frustration that access to some information within

**Former residents expressed frustration that access to some information within the files was blocked (redacted). The reason (often to protect the privacy of other individuals) was often unclear to them. Given that this access often happened in the context of adversarial processes against the institutions and agencies involved, the redactions often felt like something was being hidden from them.**

the files was blocked (redacted). The reason (often to protect the privacy of other individuals) was often unclear to them. Given that this access often happened in the context of adversarial processes against the institutions and agencies involved, the redactions often felt like something was being hidden from them. Others found the process difficult or traumatic as they discovered difficult or painful details of their lives sitting in a government office and controlled by the rules of a bureaucratic information-access process. The process lacked the care or support they felt was needed for the humane experience of learning such information. The Inquiry heard similar experiences and concerns from the young people with care system experience.

Through the Restorative Inquiry's efforts to access information required to fulfil its mandate, we have come to understand that records related to former residents' time at the Home are uneven. The records are very thin in terms of information and accuracy for a significant period of the Home's history. Records (and recordkeeping practices) improved over time. Records are more comprehensive and complete (at least

**Many former residents shared how little information they have access to about their lives before the Home, their time in the Home, and their time in care. Some indicated they do not know where to go to find such information.**

with respect to administrative details) during the later years of the Home, particularly after the opening of the New Home. They continue, though, to be devoid of robust personal information regarding the young person's life and experience in the Home. Many former residents have multiple files (particularly from the later decades): one at the Home, and others maintained by State authorities. Since the Department of Community Services has centralized responsibility for children in care, these files are now held by the Department. One of the early examples of the ability of the collaborative approach of the Inquiry to make change in real time related to the process for records access for former residents of the Home, and, by extension, others formerly in care. The Department of Community Services responded immediately to learning about the issues and experiences of former residents of the Home in trying to access information about their life in the Home. They committed to working with the Inquiry to provide a streamlined process for former residents to access information about their time in the Home. They also committed to learn from this experience in order to improve the approach to records access for young people in the care system more broadly. This work is underway. Former residents can contact (via email) [CS\\_Privacy@novascotia.ca](mailto:CS_Privacy@novascotia.ca) for support in accessing their records, or by regular mail:

Department of Community Services  
5675 Spring Garden Rd (3rd Flr)  
Halifax, NS B4C 2T8

The work of the Inquiry has resulted in streamlined access for former residents to their records in another way. The subpoena power of the Inquiry was helpful in clearing real or perceived barriers for the Board of the Akoma Family Centre and Akoma Holdings to provide access to the historical records of the Home for Colored Children. These records remained in their possession after the Home ceased to operate and the Akoma Family Centre and Akoma Holdings were established. The Akoma Family Centre took up operations on the Home site and Akoma Holdings took possession of the property and assets of the Home. The Restorative Inquiry obtained these records in conjunction with its mandate. In order to ensure additional care and security for former resident case files (that formed part of the records holdings obtained), the Inquiry asked the Department of Community Services to store these files alongside the other children-in-care files in their possession during the Inquiry's mandate. Given the Home is no longer an operating child-caring facility, the Department determined it was proper for the former residents' case files to be retained permanently by the Department. The existing records are under the control of the Department of Community Services, which will make it easier for former residents to access their records through a single process. As a result, it is now possible for

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**The Department of Community Services has applied lessons from the experience of former residents, shared within the Inquiry, to ensure the process of records access is human-centred – streamlined, clearly explained, with care and support provided.**

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former residents to have integrated access to records pertaining to their time at the Home. The Department of Community Services has applied lessons from the experience of former residents, shared within the Inquiry, to ensure the process of records access is human-centred – streamlined, clearly explained, with care and support provided.

## ii. Home Records

As the Inquiry delved into the records and historical information about the Home, it also became clear how little information is publicly accessible about the Home. As described in Chapter 2, Nova Scotia Archives have some information related to the Home, including relevant annual reports from the Superintendent of Neglected and Delinquent Children and, later, the Director of Child Welfare. Other public archives in the province and nationally have some documentation, including that related to the AUBA, held at the Esther Clark Wright Archives at Acadia University. By far the most significant body of records, though, were held by the Akoma Family Centre and Akoma Holdings Boards in the Home's files (the "Home Fonds"). As we acknowledged in Chapter 2, there are significant gaps in the historical records of the Home. The loss of records appears attributable to both natural and human causes. Some records reportedly succumbed to water damage from a flood at the Home site. Others seem to have been discarded as part of a downsizing, perhaps during the move to the New Home site. Other gaps appear to be the result of recordkeeping practices and standards (or the lack thereof) during the earlier periods of the Home. The wholesale absence of minutes from the Home Board meetings for almost the entire first half of its existence suggests they may have been retained or stored with Board members or maintained in a single source (like a minute book) that may be stored somewhere else or has been destroyed.

Despite the fact that there are gaps in the Home's records, they form an important part of the historical record of the Institution and its place in the history of the African Nova Scotian community and the Province. The Inquiry reviewed all of the available documentation in order to provide a general overview of the history of the Home as it pertained to the mandate and central issues. The Inquiry did not, however, seek to write a comprehensive history of the Home or its significance. There have been some efforts to examine this history. As noted in Chapter 2, and in the analysis of the history of the Home in Chapter 5, significant misunderstandings and limitations persist in the written, public, and commonly told narratives about the Home. In part, these reflect long-held beliefs that have been treated as fact because there has been no cause or occasion until now to examine or challenge them. Other limitations in these existing historical accounts reflect either the lack of historical records or lack of access to those records that do exist. It is hoped the Inquiry's efforts to produce an accurate account of the history of the Home in support of learning and understanding about our three central issues will serve as a helpful foundation for continued research and exploration of the history of the Home and its place in the history of African Nova Scotians and Nova Scotia.

It is vital to these future efforts to continue to learn and understand the history, experience, and significance of the Home that existing records be protected and made accessible for future study. The records of the Home are an important community and public resource. Our experience working with the Home files has revealed both the significance and vulnerability of this resource. Given that the Home is no longer operational (see explanation in Chapter 4), the Inquiry had to determine who should hold the records following the end of its mandate. In discussions with the Akoma Boards (including members who were formerly on the Home Board), the Department of Community Services, and the Nova Scotia Archives, all parties agreed on the significance of the records and the need to ensure their preservation and protection. They also recognized the need to ensure access to information for generations to come.

The Inquiry determined that the Department of Community Services continued to hold a fiduciary responsibility with respect to the historical operations of the Home as a child-caring institution; therefore, it was agreed the historical records of the Home would be turned over to the Department. The Department has committed to work with the Nova Scotia Archives to ensure preservation, protection, and public access (to the extent possible according to policies and practices). The Nova Scotia Archives also provided vital support throughout the work of the Inquiry to facilitate future public access to the documentation referenced and relied upon in this Report. The Archives has committed to, and is actively planning for, the care and maintenance of the historical records of the Nova Scotia Home for Colored Children.

### 3.2 Community Conversations Initiative

Community participation in the Restorative Inquiry has been central to understanding and addressing the complex, multi-generational history and experience of the Home and its connection to the history and experiences of African Nova Scotian communities. This relationship was significantly shaped by systemic racism in Nova Scotia. In circles with community members, they acknowledged the important role of the Home in the African Nova Scotian community and spoke of the pain of learning that children had been abused and often suffered in silence. Community members reflected on the culture of silence within the community. As discussed in Chapters 5 and 6, they recognized it as part of the impact of systemic racism within the community. Systemic racism has fragmented and divided communities and community members one from the other. As discussed in Chapter 6, racism has been internalized within the African Nova Scotian community in ways that has impacted and destabilized leadership within communities and undermined connections between leaders and community members. This has rendered it unsafe, or challenging, to confront difficult and painful issues and failures within the community. These impacts have meant a lack of opportunities, mechanisms, and support for community dialogue and conflict resolution contributing to the culture of silence in the face of difficult issues.

In the wake of community silence, Government has often looked to a small group of familiar leaders from the African Nova Scotian community to represent the African Nova Scotian community's concerns and interests on issues. As we learned through the experience of the response to abuse in the Home, this approach to representing and engaging community is often fraught for those who are called on by Government, and often lacks legitimacy in the eyes of community members. This is made worse by the lack of spaces, opportunities, and capacity for community to come together to hear one another and understand diverse experiences and perspectives within the community.

The Restorative Inquiry process brought former residents into circles with members of the African Nova Scotian community. They shared the stigma they felt within the community as "Home children." They talked about how they felt silenced both as children and as adults in trying to bring their harms to light. They described how they felt the culture of silence and shame helped protect their abusers within the community and prevented people of influence in their lives from speaking up — including teachers, police who returned runaways to the Home, and family and community members who avoided talking openly about the Home.

Many former residents and community members welcomed the opportunity the Restorative Inquiry provided to begin these very difficult, yet necessary, conversations — to learn from the past, to understand and address the painful aspects of this shared history, and to consider how to walk together towards a better future.

Participants recognized that the journey of healing for former residents and the community will take time. They acknowledged the legacy of the Home is part of the broader impact of systemic racism in Nova Scotia and expressed hope that understanding and addressing the harms surrounding the Home will open the door to addressing those larger issues.

Through its work with former residents and community, the Restorative Inquiry heard a desire and commitment to continue to engage together, as community, in these discussions about the history of the Home, the experiences of former residents, and the significant impact of the history and experience of systemic racism on relationships within community. Community members spoke of the importance of breaking the silence about the past in order to understand and support a better path forward together. Such mechanisms and processes are essential to ensure the community knowledge, experience, and participation that is integral to understanding and acting together to address the central issues identified through the Inquiry.

**Community members spoke of the importance of breaking the silence about the past in order to understand and support a better path forward together**



Participants identified the importance, and the challenges and difficulties, of fostering a different way forward within community. They noted how few opportunities exist to speak with one another and, importantly, with those that have taken up leadership roles within and on behalf of the community in these different ways. They recognized the need to foster and support more opportunities, like this Inquiry, to talk to one another about difficult and sometimes painful issues, and to work together for integrated and collaborative responses.

As discussed in Chapters 5 and 6, the culture of silence, and the silos and fragmentation that contribute to it and maintain it within the community, are a consequence of systemic racism. The story of the Home reveals how systemic racism impacted the roles and relationships of the community in pursuing care for children and families. It sowed significant divisions as members of the community made choices about how to navigate the power and privilege of the white establishment. As outlined in Chapter 6, the systemic and institutionalized nature of racism facilitated its internalization within communities and individuals by structuring their relationships and interactions in the world. This impacted relationships within the community, creating social distance between and among community members and their leaders.

Systemic racism has sowed divisions and created conflicts that inhibit the dialogue necessary within community to reveal and address problems and failures. For example, those who participated within the Inquiry were honest about their hesitancy at first to participate, for fear it would cause harm within the community. Given past experiences, there was a real sense that it is best not to talk about such things. Yet those who took part in the Inquiry circles remarked on the importance of taking the time to talk to one another about difficult and painful issues, and to reflect on relationships within the community. There was a clear consensus within the circles that these were important conversations and that there needed to be more of them.

Participants identified the desire to create more opportunities to talk within the community in this different, restorative way. It was hoped that taking a restorative approach within the community would foster better connections and relationships between leaders, community institutions, and members of communities. Following the example set by the Restorative Inquiry, such an approach within community would enable relationship building and learning and understanding in support of collective planning and action. Community participants noted the potential of such an approach to ensure a diversity of voices and views within the community. It would also, they thought, support better Government–community relations because it would provide a better mechanism for those in leadership (in community and Government) to hear from community in more authentic ways. It would also address the significant issue of Government talking to only a few “leaders” in order to discern the view of all African Nova Scotians.

Based on the experience and feedback of community members within the Restorative Inquiry, work began during the planning and action phase to consider ways to continue the restorative

approach to healing and strengthening relationships within the community. It was seen as important to do this both with respect to the history and experience of the Home and, more broadly, to deal with issues of systemic racism and its impact within the African Nova Scotian community.

The Restorative Inquiry experience has revealed how difficult and painful revelations about the history and experience of the Home can be for many within the community. The Inquiry made significant efforts during its mandate to open space and opportunity for members of the African Nova Scotian community to be engaged. There was obvious concern and hesitancy about participating in a process that might cause harm within the community. It took considerable time to build trust within community that the Inquiry would honour its commitment upon which it was founded and seek to do no further harm. This does not mean the process did not tackle difficult and painful issues, but, rather, that it did so guided by Sankofa – with a commitment to learn from the past to move forward to the future, rather than look back to find blame.

Trust was established through the experience of the Inquiry process because it took care and attended to building relationships in which learning and understanding were possible. As trust was established, community members became more actively engaged within the Inquiry process. There was a strong sense this engagement was gaining momentum as the Inquiry concluded its mandate. The conditions and opportunity to build upon this progress and opportunity was a focus during the planning and action phase of work.

The history and experience of the Home is a powerful example of the complexity of issues of systemic racism within the community. In order to tap the potential for the restorative approach to dialogue begun during the Restorative Inquiry to continue in future within the African Nova Scotian community, the Inquiry worked with the Office of African Nova Scotian Affairs, community-based organizations, and community members with experience in facilitating restorative processes, to consider how best to foster and facilitate further community conversations. During the planning and action phase of the Inquiry, models for community conversations were tested. Lessons learned from these community conversation experiences informed the planning for a provincewide initiative aimed at identifying and opening up important discussions within the community, and at building capacity within the community to work in this way in future.

A community conversations initiative is now planned to follow the release of this Report and serve as a mechanism for the community to consider and discuss what has been learned and understood about the Home through the Restorative Inquiry. The community conversations initiative will be coordinated and facilitated by the Office of African Nova Scotian Affairs with support from VOICES and community-based facilitators.

The initiative will consider the lessons, experience, and outcomes of the Restorative Inquiry in terms of understanding and contending with the history of the Home and its impacts. It will engage and support African Nova Scotian community members, individuals, groups, and organizations to consider what the learning and understanding from the Inquiry means for the community. This will provide support to hear, understand, and heal from the harmful aspect of the past in the spirit of Sankofa – bringing that knowledge and understanding which is good and important forward for the journey ahead.

There are issues raised within the Inquiry and shared within this Report that raise important issues and questions for the African Nova Scotian community as part of the journey forward. Examples include:

- The response to former residents when they shared their experiences of abuse showed the culture of silence within the community related to issues of abuse, particularly sexual abuse and violence within families. It is important to open up spaces and places for honest discussion of these issues within community.
- Dealing with the history and experience of the Home revealed the need for greater connection and communication between community members and those in leadership roles.
- The history of the Home reveals the importance of the Home as a shared community resource, a view that remains for many, as expressed during the Inquiry process. The community will have to explore the implications of the legacy of the Home, and its originating purpose as a resource dedicated to benefiting the African Nova Scotia community, given it is no longer operative and its historic site is no longer directed to this purpose and vision.
- The future of the Home site and its significance are also complex and enduring for former residents. Given that the site is now owned by Akoma Holdings and no longer dedicated to the Home's community purposes, there may be a need to work together with the community to build a common understanding of the legacy of the Home and a commitment to the lessons learned.

The community conversations initiative is not limited to reconciling what happened with the Home. As this report attests, the lessons from the Home are about more than this one institution and its history. They are lessons about systemic racism, about the nature of the care system, and how we respond to its failures. For the community, this is but one example of the impact of systemic racism. There are lessons that are transferable about the nature of systemic racism and the processes needed to address it and the impacts on and within the African Nova Scotian community. As discussed above, the initiative will support continued healing within the community related to the Home and the harmful and painful aspects of this part of the African Nova Scotian community's history. However, the focus on the Home is intended to serve as

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**...the focus on the Home is intended to serve as an entry point to broader issues at stake, including breaking the silence about difficult issues within the community and establishing new ways of fostering understanding and inclusion within the community.**

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an entry point to broader issues at stake, including breaking the silence about difficult issues within the community and establishing new ways of fostering understanding and inclusion within the community.

The initiative is intended to serve as a catalyst to shift the ways in which similar issues impacting the community are approached. It will provide an opportunity for members within the African Nova Scotian community to engage with one another to explore the impacts of systemic racism on relationships, systems, and culture within the community. The initiative will be designed explicitly to contribute to community capacity to take this approach on an ongoing basis to support community well-being and collective action.

In order for the process to have the intended effect – to support the way forward and not cause more harm through blame and defensiveness – the initiative will take a restorative approach to community conversations.

The initiative will facilitate a series of community conversations in African Nova Scotian communities throughout the province beginning in 2020. The Office of African Nova Scotian Affairs (ANSA) has worked in collaboration with others from the community through the Restorative Inquiry planning and action phase to envision the initiative. It will be designed to invite and encourage leadership and participation from key parties within the community who have been connected to the Inquiry and the history of the Home, including, for example, the AUBA and VOICES. ANSA will continue its role to plan and convene these community conversations. They will be supported in this initiative by community-based facilitators who have been engaged in planning the initiative as part of the Inquiry. They will prepare and support communities to host and engage in these community conversations.

### **3.3 Increasing Police Awareness: Coming to understand the Home & Systemic Racism**

As indicated previously, police partners have participated throughout the Inquiry process. Throughout the work of the Inquiry, the importance of police as both part of the system of care and in response to institutional abuse and failures of care has been clear. They have identified the significance of the shift to a human-centred approach, including working in integrated and holistic ways as a part of the care system. Police will have contributed to learning and understanding and will have an important role in the elements described below that seek to support that shift.

Police shared that participating in the Inquiry provided an opportunity for reflection, learning, and understanding through the lens of the history and experience of the Home and their connection to it. Through the example of the Home, they were able to see the impacts of the siloed and fragmented approach and of systemic racism on the roles they played in that history. It provided significant insights and learnings for how they approach their roles and responsibilities now and in the future. This was reflected, for example, in the apology offered by the RCMP participants in the process.

*On behalf of the Nova Scotia RCMP, I am sorry for the pain and suffering that the survivors have endured. No child should have had these experiences and trauma. I hope that the survivors know that their voices have been heard and that the RCMP in Nova Scotia have and will continue to implement changes to reduce the likelihood of this occurring in the future.*

*Marlene Snowman  
RCMP Chief Superintendent, Nova Scotia  
March 18, 2019*

Reflective of the significance of their learning within the process, and their commitment to mobilizing that learning to make a difference for the future, the RCMP invited the Inquiry and VOICES to be a part of their internal training sessions related to understanding and addressing systemic racism through a module on the African Canadian Experience.

Based on the work of the Inquiry, a part of the module was developed to increase knowledge and understanding of the significant role of the NSHCC in the history and culture of African Nova Scotians in this Province to gain a deeper understanding of the impact and legacy of harms endured by former residents, and the centrality of trusting relationships at individual, community, and institutional levels. The role of police was centrally considered within the history and experience of the Home. Members of the RCMP engaged together in this module through a restorative approach to learning.

This shared learning experience enabled members to deepen their understanding of the police role in the complicated story of the Home, how it impacted their relationship with former residents and the broader African Nova Scotian community, and what they can do differently as they move forward.

This module is an example of the partnership in learning and understanding made possible through the Inquiry. It took what mattered about the story of the Home and experience of former residents and reflected on what is required for more just relations for a healthy and respectful future. The module was offered three times during the Inquiry mandate: once in 2018, and twice in 2019. There is a commitment to include this learning opportunity as part of future training and development.

### 3.4 Digital Oral Histories for Reconciliation (DOHR): The Home for Colored Children Initiative

Early in its work, the Restorative Inquiry considered its mandate for public education. The Inquiry was responsible to:

**EDUCATE** the public about the history and legacy of the NSHCC.

**CONTRIBUTE** to the goal of social change to end the harmful legacy of abuse and ensure the conditions, context and causes that contributed to it are not repeated.

**PUBLICLY SHARE** the truth and understanding established through the RI and the actions taken, planned and recommended to address systemic and institutionalized racism and build more just relationships for the future.

**...the DOHR project offers an important opportunity for young people to develop historical consciousness about the history of African Nova Scotians and about the systemic racism that has marked the history of this province.**

The story of the Home offers important insights and lessons about systemic racism and the needs and experience of African Nova Scotian young people in particular, and young people generally, with the system of care. The Inquiry recognized the importance of centering the voice of former residents who shared their experiences as young people within the Home and with the system of care. The Inquiry also benefited from hearing from young

people with recent and current experiences of care. The resonance across these experiences, and the power of bringing former residents together with young people within the African Nova Scotian community with experience in care and more broadly, was striking. It made clear the importance of sharing the learning and understanding about the Home with young people if it is to make a lasting difference. The Inquiry partnered in the creation of the Digital Oral Histories for Reconciliation (DOHR) project to engage young people in the process of learning and understanding towards making a difference for the future. The Home is an important part of Nova Scotia history. By engaging with this history, the DOHR project offers an important opportunity for young people to develop historical consciousness about the history of African Nova Scotians and about the systemic racism that has marked the history of this province.

DOHR involves a partnership with former residents of the Home through VOICES and educators, historians, legal experts, and gaming specialists. The Inquiry joined VOICES in partnering with the Nova Scotian Department of Education and Early Childhood Development and other community partners, together with academic researchers from across Canada with expertise in oral history, history education, virtual reality reconciliation, and a restorative approach in education, to bring the history of the Nova Scotia Home for Colored Children to schools. The project will be piloted first for grade 11 students as part of the Canadian history curriculum. Through the leadership of Dr. Kristina Llewellyn at the University of Waterloo, the project received funding support from the Social Science and Humanities Research Council of Canada.

The project has been designed to support students to examine their relationship to this knowledge and to understand it in the context of the history of the African Nova Scotian people and the history of systemic racism in Nova Scotia and Canada. The curriculum is guided by the Sankofa commitment to looking back with a focus on its significance for the future. The approach to the curriculum reflects the restorative approach of the Inquiry. Through the use of oral histories, shared in virtual reality, the project centres the voices and lived experiences of former residents. The curriculum shared the oral histories of former residents of the Home and engages students in lessons about the significance, causes, and implications of the Home.

The DOHR history curriculum was completed (including a virtual reality experience in which students experience the oral histories of former residents from different generations at the Home) in collaboration with the Inquiry. It serves as an important mechanism to share the learning and understanding of the history and experience of the Home developed through the Inquiry. The two-week curriculum was piloted in two schools in Nova Scotia from October 28 to November 8, 2019.

The DOHR partners are committed to continuing the work on the project after the Inquiry completes its mandate. They will be studying the pilots to assess how young people made sense of the historical harm of the Home and how that knowledge may help them to build healthy relationships in the community in future. Researchers will consider different aspects of the curriculum: how virtual reality storytelling develops students' understanding of history; how historical thinking concepts, like significance and evidence, help students learn about difficult knowledge; how a restorative approach supports students' understanding of harms that seeks to build a better future. Partners will then assess the potential to expand upon the pilot to offer the DOHR project in schools throughout Nova Scotia and beyond. For more information, please visit [www.dohr.ca](http://www.dohr.ca)

### 3.5 Video Series: *The Nova Scotia Home for Colored Children & the Journey to Light*

This Report contributes to the Inquiry's mandate to public education and to sharing the learning and understanding achieved through the process. As part of the final reporting, the Inquiry worked with award-winning Nova Scotia filmmaker Sylvia D. Hamilton (whose work explores the lives and experiences of people of African descent with a particular focus on African Nova Scotians) to produce a video series that would reflect the history and experience of the Home, the Journey to Light and the work of the Restorative Inquiry as part of this journey. The five-part video series follows the wisdom of Sankofa in looking back at the history of the Home and the journey forward towards the future through the Restorative Inquiry.



The videos share reflections from participants on the nature, experience, and impact of the different way forward through the Restorative Inquiry. The videos are available online at [restorativeinquiry.ca](http://restorativeinquiry.ca):

- ▶ Part 1: The Nova Scotia Home for Colored Children: A Brief History
- ▶ Part 2: The Journey
- ▶ Part 3: What is a Restorative Inquiry?
- ▶ Part 4: Experiencing the Restorative Process
- ▶ Part 5: What Difference Did it Make?

### 3.6 Interactive Museum Exhibition

As the Restorative Inquiry process and this Report reflect, the Nova Scotia Home for Colored Children is a powerful and important example through which to understand the complexity and impacts of systemic racism in Nova Scotia.

Through the Inquiry, partners came together to consider ways to ensure Nova Scotians can continue to engage with the learning and understanding achieved during the Restorative Inquiry. It is important they do so in a way that invites and equips them to walk together on the journey to a better future. Both the DOHR project and the video series are important resources in supporting further public engagement to learn and understand better the history and experience of the Home as an example of systemic racism, its legacy, and impacts.

Through the planning and action phase of the Inquiry, partners envisioned and committed to the development of a mechanism to support continued public education and engagement. The DOHR project's virtual-reality experience, in which three former residents share their experience of the Home in their own voices; the related DOHR curriculum; the video series; and this Report will all be used as the basis for developing a permanent and travelling museum exhibition. This exhibition will be developed in collaboration with VOICES, the DOHR project team, the Black Cultural Centre, African Nova Scotia Affairs, and the Department of Communities, Culture and Heritage.

This exhibition will find a permanent home at the Black Cultural Centre. This is an important site for such an exhibition for many reasons. The Home holds a significant place in the history of the African Nova Scotian people. It is a testament to the community's resilience and commitment to care for one another in the face of systemic racism and its impacts. The absence of any current display on the Home at the Black Cultural Centre is a notable gap in representing the history of the African Nova Scotian community. The Black Cultural Centre also holds particular significance as a place for learning about the Home because it sits on land donated by the Home (given in keeping with the original commitment that the Home and its land would be used in support of, and for the benefit of, the African Nova Scotian community).



The parties to the Inquiry recognized there is a real opportunity to develop an exhibition in ways that would not previously been possible before the relationship building, and learning and understanding during the Restorative Inquiry. The exhibition will be developed with significant input from former residents and community to reflect the importance of this story for former residents, the community, and all Nova Scotians. It will be developed in the spirit of Sankofa so all Nova Scotians, visitors to Nova Scotia, and Canadians more broadly might be able to look back to learn and understand with a view to building capacity and support for the journey forward together.

## 4. Human-Centred—Integrated System of Care

### 4.1 System Changes for a Human-Centred Approach — Re-orientation to Family-Led Decision-Making

The story of the Home, as we have come to understand it through the Inquiry (as detailed in Chapter 5), reveals it was founded on a fundamental commitment of family and community to care for their children and young people. The Home was established and continued to be supported as an important part of the African Nova Scotian community's system of care. The overwhelming sense of the importance of its mission was deeply rooted in a recognition of the vital role of family and community connection in care. It was, in this sense, a reflection of the centrality of family and kin connection within the African Nova Scotian community. We also came to understand, through the Inquiry, that the depth and nature of the harms experienced by former residents were, in part, related to the failure to deliver care reflective of that connection to family and community.

The Inquiry also revealed the significance of relationship and connection to family and community is not unique to African Nova Scotian young people. It is core to the experience of children and youth with systems and care, and to the response to failures of care.

As discussed in Chapter 6, a shift to human-centred care requires attention to the importance of relationship/connection with family (understood broadly). This requires re-orienting and equipping the whole system of care to support the caring role and capacity of families. A human-centred system of care recognizes that such relationships play an essential role in the well-being of young people and are, thus, protective. The overall system of care must surround and support the caring role of family, rather than intervene in ways aimed at serving or protecting children apart *from* relationship and connection with family. It has become clear through the work of the Inquiry that this is not the responsibility of the child protection system alone. Indeed, the holistic, proactive, and responsive

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**Authentic partnership must involve sharing power and authority with family to support their decision-making role in the provision of care.**

nature of the care needed cannot be left to, or even led by, child protection systems if we are to achieve the shift to human-centred care we seek.

As discussed in Chapter 6, there is a significant commitment in current child welfare to be “child-centred” with a commitment to “partnership” with families in the

provision of care. Yet this commitment to partnership has not shifted the system towards a human-centred approach in the ways identified as essential to make a difference in the experience of care. Instead, partnership is often concerned with involvement or engagement of young people, families, and community within the bounds of (or in service of) system imperatives and goals. Authentic partnership must involve sharing power and authority with family to support their decision-making role in the provision of care. True partnership, as described in Chapter 6, requires a commitment to family empowerment and an approach that can make this real in practice. This commitment must be reflected in the nature of the system and structures, and not merely in the processes and programs they employ. Thus, the shift to be human-centred must be rooted in a fundamental shift in the system that should then find expression in the policies, programs, and practices throughout the system of care.

The work of the Inquiry, including the lessons it gleaned from the history and experience of the Home and from the existing research and experience of other jurisdictions, points to the importance of securing real changes in the assumptions, relationships, and structures that govern the system of care if we seek to make a lasting and sustainable difference. New policies, programs, and practices alone are insufficient.

As discussed in Chapter 6, parties to the Inquiry spoke powerfully of the need for changes at structural and systemic levels in order to support a shift in the ways of working and in what is done within the system of care. It was in this context that Government and community organizations and agencies involved across the system of care (justice, education, health, community service – including child protection) came to understand the importance of family-led decision-making (FLDM) as part of the shift to a human-centred approach to care. FLDM then must be understood as a call for a fundamental shift in the approach and orientation of the system, not simply as a process through which families might participate more in the system of care.

**FLDM then must be understood as a call for a fundamental shift in the approach and orientation of the system, not simply as a process through which families might participate more in the system of care.**

Parties have agreed FLDM should form a central commitment of the system of care. During the planning and action phase of the Inquiry, parties from Government and community explored the implications of this approach for the system of care and have begun plan for implementation of the elements required for this system shift.

As detailed below, this work has included a commitment to a prototype of a family-led decision-making model at the community level. It is important to recognize this prototype as a way of testing and demonstrating the shift in the system, rather than as a means and mode of FLDM.

### Principles Core to Family-led Decision-Making (FLDM):

- Family recognized as having a pivotal role in the care and protection of children and youth.
- Connection to family is crucial and, wherever possible, should be maintained and every effort made to support children/youth to be cared for within family networks.
- Children/youth should have broadest possible network of family around them.
- Collective and collaborative decision-making process.
- Culture must be respected and reflected throughout the system of care.
- Systems are oriented and committed to support and empower family decisions and plans.
- Information sharing in support of integrated and holistic approach required for family-led decision-making.

It is clear that any model must be reflective of a deeper and broader system shift, and not simply an alternative delivery model within the system. To this end, system partners have worked to identify the elements and changes necessary for such a system shift as the required conditions and supports needed for an orientation to FLDM.

As discussed at length in Chapter 6, FLDM is not a process (or program or practice model), but a commitment to a human-centred way of working. It is grounded in relational principles and reflects a restorative approach. It is aimed at shifting the character and orientation of the system of care in Nova Scotia. The work underway is not about a one-off introduction of a practice or process as part of child protection processes. It is more transformative and ambitious. Its objective is for FLDM to become the way of decision-making throughout the system of care.

This will require a shift at the level of structures and systems that must be reflected in practice as the way of thinking about and then approaching care. It will require a phased

implementation aimed at shifting the system and experience of care for all children/youth/families and community.

Family-led decision-making then is an expression of human-centred care and is intended to drive a shift in the whole system of care. As we learned through the example of the Home, decision-making is key to the way in which systems are structured, governed, and operated. The focus on FLDM requires a fundamental shift in the way we think about why and how systems of care work. As detailed in Chapter 6, it requires flexible systems and services tailored to the needs of families and relational networks. Placing families at the centre of thinking and decision making

**Placing families at the centre of thinking and decision making about care will shift the role of systems and services and, in the process, their relationship to one another.**

## Child/youth focused, family-centred process

- Family group including child/youth convened and empowered to make decisions regarding plan for care and support.
- Systems share power, support, and respect decision making unless safety risk requires different plan.

## Approach applies to all decision making to care decisions for children and youth

- Common principled commitment across care system for children and youth (should shape the approach of social services for children and youth across the whole system of care and not only those on the edge of care [child protection services or in care])
- *Entitlement* for young people on the edge of care and within care system (applies to decisions regarding care interventions and within care system) or facing state intervention in decision making about fundamental issues
- Include support for *family meetings* and more formally supported *family conferences*

about care will shift the role of systems and services and, in the process, their relationship to one another. It will require collaboration and integration of systems and services in order to work together to support FLDM and the resulting approach and plans for care.

Chapter 6 provides important background information and evidence shared within the Inquiry process from other jurisdictions that have implemented this approach as part of a similar shift. It considers the significant and important elements based on the research of family-led decision-making for a shift to human-centred care. The research, evidence, and conclusions from the learning and understanding phase of the Inquiry detailed in Chapter 6 should serve as a resource to support and guide those across the system of care (Government and community) that will carry through the commitment to FLDM.

Family-led decision-making is not a process, but a way of working that is grounded in core principles. These core principles reflect the restorative principles underlying the restorative approach that, as explained in Chapter 6, is key to the shift to human-centred care. FLDM is sometimes mistaken for a process or practice because of the success of family group conferencing models internationally. Done well – that is, in support of an authentic shift in the structure and nature of the system of care – family group

conferencing is reflective of a way of working that is committed to empowering families. Family group conferencing processes may be an important part of realizing FLDM. However, they cannot be the only expression of this commitment. FLDM should inform the way all decisions are made that involve the well-being or care of a young person, whether or not the decision is directly concerned with who will be responsible for taking care of a young person. It is, for

example, important with respect to decisions regarding schooling (including school-planning teams determining supports and programming for a young person in school), the approach to health care (as in the existing models of whole family care that reflect this approach), and to young people in conflict with the law and the justice system response (as is in the Nova Scotia Restorative Justice Program, which provides significant opportunity for the involvement of family – often as supports, but, when done well, as part of the decision-making function within a restorative process).

The parties within the Inquiry recognized the importance of maintaining momentum regarding the commitment for a system shift following the end of the Inquiry’s mandate. It was agreed they should seek to trailblaze – learn while doing – in the sense of trying to work differently in real time and learning from these efforts. The commitment to trailblaze involves:

A) a shift to integrated and holistic human-centred approach to care – elements key to support the shift and FLDM include:

- I. Legislative and policy framework
- II. Shared outcomes framework
- III. Mechanisms for integrated governance and services
- IV. Information sharing norms and mechanisms

B) prototyping FLDM for families in collaboration with community.

## 4.2 Shift to integrated and holistic human-centred approach to care: key elements

### I. Legislative and policy framework

FLDM, as part of the shift to human-centred care, requires a supportive legislative and policy framework. The planning and action phase identified two key elements of this framework.

#### *i. Entitlement to FLDM – Legal and Policy Commitment*

As discussed in Chapter 6, it is essential to re-orient systems to ensure that connection and involvement of family in the care of young people is protected as a right or entitlement. This has been shown to be important in terms of promoting and protecting changes in the system of care.

In support of FLDM, there should be a legal commitment to young people and families that the Government, through its system of care, will prioritize and strengthen family relationship and connection. This will have implications in terms of a commitment to ensure children grow up with or stay with families and kin before interfering or taking them into the care of the State. Systems would thereby be required to make

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arrangements for children to live with family (including the wider family group) before action or intervention by the State is considered. Further, Government should guarantee young people and families that they will proactively support involvement of young people’s families and care networks in decision-making about well-being across the system of care.

Such a legislative guarantee should be grounded in a clear commitment to a human-centred approach to care, including the commitment to build, support, and protect young people’s fundamental family connections and the entitlement of family to participate in decision-making regarding the well-being and care of young people. The legislation should provide oversight and accountability mechanisms for implementation of this entitlement, including assessment against an agreed-upon shared outcomes framework for success (discussed below).

*ii. Legislative and policy framework for child protection enabling meaningful use of FLDM at all stages of child protection system*

FLDM will require a full review of the current Child and Family Services Act, given its significant role in framing decision-making with respect to children, youth, and families. The Act must be reviewed and adjusted as necessary, to ensure FLDM can be meaningfully accommodated within the current procedures and timelines. It will be important, for example, to consider whether time for FLDM processes can be accommodated once child protection proceedings have

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begun. The current Act (s.21) provides for time extensions for mediation in such circumstances; however, it is limited to three months. There is no such explicit extension provision for FLDM. Furthermore, the three-month time limit would be challenging for authentic engagement of FLDM at this stage of the process.

It is essential to ensure the legal and policy framework for assessing and managing risk can support “differential responses.” There are two main reason young people come into care: abuse and behaviour. Risk is often treated the same in both cases. The policy and legislative framework must be able to differentiate those young people who need a plan that involves their wider family and professionals and systems to keep them safe and improve the circumstances around the family (those who are on the edge of care or at risk of coming into care), from cases of immediate risk of harm – abuse and neglect. In these latter cases, safety concerns need to be managed, addressed, and responded to in a way

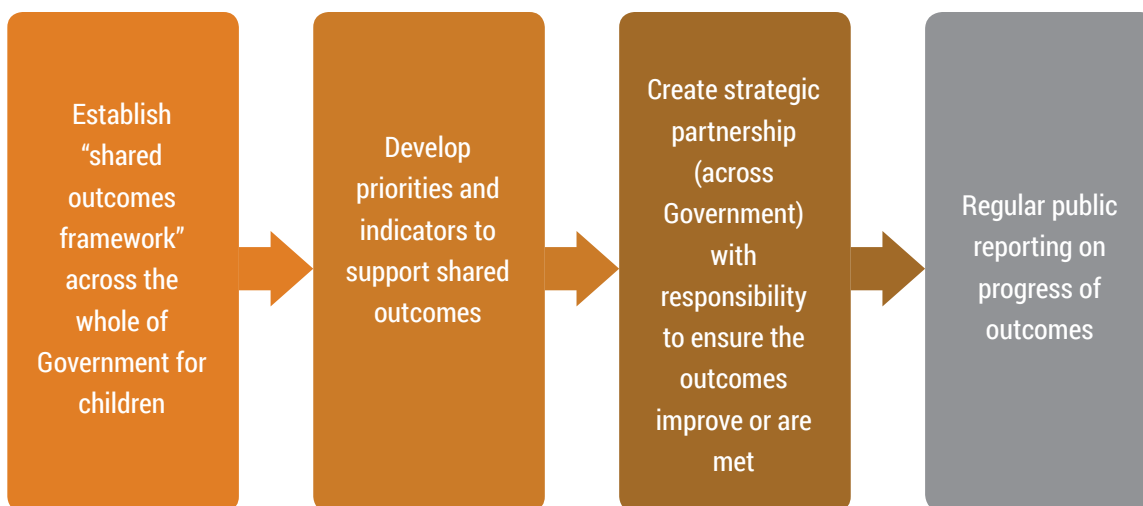
that balances, and is concerned with, the long-term needs and outcomes for well-being. The involvement of family is key in both cases, although the role of the State in setting the conditions for such planning may differ. There is a cohort of children on the edge of being taken into care of the State that need intensive family support – multi-agency response (with an FLDM model at the centre of this) and this may lead to kinship care and support arrangements, as needed, outside of the care system. Only where this fails, or there is actually no alternative, would the child come into the care of strangers through the system (so there should be more children in kin care than not).

The legislative and policy framework needs to support access to resources outside of the system. It will be essential to de-link support and services from the decision to bring a young person into the care system. It will also be important, in making the shift to a human-centred system in which families have a central role in determining what is needed for care, to ensure that court orders are not required to access services and supports. For example, young people outside of the formal care system should be able to access state support without needing to have it ordered by the court in conjunction with child protection proceedings. It will also be important in those cases where court proceedings are underway to ensure there is adequate information provided regarding family decision-making to courts. This might include clarifying that reports on the plans emerging from the family-led process will be provided and admissible to courts if and where necessary in support of the plans.

**...young people outside of the formal care system should be able to access state support without needing to have it ordered by the court in conjunction with child protection proceedings.**

It will be important, then, to consider mechanisms to share plans that result from FLDM in order to garner support or respect from the courts where proceedings are underway. However, there also needs to be consideration of the protections required to enable family to participate in decision making processes fully and without fear of legal consequences. For example, attention to the legal framework needed to support individual's involvement in restorative processes led the Inquiry to request a change to the *Public Inquiries Act* to address concerns with the use of information shared within the processes. In New Zealand, what is said within family decision-making processes is privileged and cannot be used as evidence before a court or other adjudicative process. A similar provision should be considered in Nova Scotia as part of the policy and legislative framework to support this way of working.

## II. Shared Outcomes Framework



As discussed in detail in Chapter 6, FLDM and the broader shift to a human-centred system should be guided and assessed by outcomes for young people's well-being. It is important to be particularly clear that such outcomes are not aimed at measuring the difference in system deliverables. They recognize and reflect the rights and needs of young people and families. As such, the voice of children, young people, and families will be essential

**...the voice of children, young people, and families will be essential to determining these outcomes. They need to reflect what matters to young people and families.**

to determining these outcomes. They need

to reflect what matters to young people and families. What does well-being mean to them? As Chapter 6 discusses, significant guidance on the development of such an outcomes framework can be found in the experiences of international jurisdictions.

Responsibility for such outcomes must be shared across the system of care. The Government should establish accountabilities and priorities across the whole of Government (with particular emphasis on the system of care) based on these shared outcomes for young people. As outlined in Chapter 6, these shared outcomes should form the basis of an integrated strategic plan for the whole system of care as it pertains to the well-being of young people and families. Priorities and indicators in support of these shared outcomes should be developed (see, for example, the Leeds Plan reproduced in Chapter 6).

**Responsibility for such outcomes must be shared across the system of care. The Government should establish accountabilities and priorities across the whole of Government (with particular emphasis on the system of care) based on these shared outcomes for young people.**



This shared outcomes framework for children will inform the whole system of care for all young people. Oversight and implementation of such a framework will require a strategic Government/ community partnership that looks across Government and community to ensure the outcomes improve or are met, and to report to ministers about the progress on the outcomes regularly.

### III. Mechanisms for integrated governance and services

The Inquiry's tagline: *A Different Way Forward* - is a clear reminder of the importance of attention to the way in which this work was carried out and supported. Attention to the process and experience of the Inquiry offers insight into what it will take to continue to work in this way on these and other complex issues.

As discussed in Chapter 2, the Inquiry was governed and led collaboratively by Commissioners serving as a Council of Parties. The Council of Parties took a restorative approach to its work. This work was not without its challenges. In many ways, the Council had to learn how to work this way while it was fulfilling its mandate. This experience revealed two key things for the way ahead: building capacity to work differently is foundational; and importantly, you can engage in the process while building this capacity (the work need not wait until you know everything or have all the processes in place before acting).

Through the Inquiry, we have come to learn and understand that capacity building is necessary in terms of knowledge and skills, but also, significantly, in terms of structure, mechanisms, and resources. The Inquiry served to model and build some capacity for the work ahead. It is important that intention and attention be given to continue the capacity building necessary to support this work.

Building capacity for systems to work differently also means building capacity of those individuals within systems to work differently, and building mechanisms to support their capacity to work in integrated and holistic ways.

Changing structures, systems, and processes will be required to achieve the shift to human-centred care. However, it is essential to ensure support for those who have responsibilities to carry this work forward. The experience of the Inquiry has shown the importance of people to this work of change. We are mindful, as we have seen during the Inquiry, of the position of many dedicated professionals within our systems who must both carry out their daily duties while supporting change to these very systems. This is a daunting position to be in – and one that requires resourcing and significant care and support. The way forward will require a commitment to dedicate the resources needed to ensure support for the work, including the people doing the work and the mechanisms they need to be able to work differently.

As described in Chapter 6, during the Inquiry, parties shared the structural barriers to working in the integrated and holistic ways that need to be addressed in order to shift to a human-centred

system of care. Overcoming silos and fragmentation will require Government to establish mechanisms for integration and collaboration in order to sustain the momentum needed to fulfil the actions, plans, and commitments coming out of the Inquiry.

As discussed in Chapter 2, the Inquiry was designed mindful of the need to facilitate comprehensive and holistic Government collaboration in the restorative process. The Reflection

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**...it is clear that commitment to a system shift requires the development of mechanisms both internal and external to Government to build and support the capacity to work restoratively – in principle-based, integrated, holistic, and collaborative ways. such a mechanism is essential to bring the holistic lens required to reveal and address systemic racism.**

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and Action Task Group played a key role assuring Government's capacity for participation and engagement in this collaborative work. The Reflection and Action Task Group provided a mechanism to develop shared understanding and collective responsibility related to the mandate of the Inquiry. It built capacity at the leadership level – among and across deputy ministers – in the work of the Inquiry. There was a significant level of engagement and commitment with the Inquiry at this level. The challenge during the time period of the Inquiry was to ensure this understanding, engagement, and commitment was shared within and across Government departments and agencies. This required significant effort and work to support and facilitate collaboration within and across the silos in Government. The challenge was not reflective of a lack of willingness. The Inquiry experience revealed a significant recognition among those within systems of the importance of having the facilitated opportunity to think and work together in this different way. Participants also clearly indicated they needed to be supported to work in this way in future to change current structures and systems.

Through the facilitative and convening role of the Council of Parties, the Inquiry was able to fulfil this role during its mandate. Indeed, this was one of the ways in which the Inquiry supported action in real time – through

its different way of working. It is essential that attention be paid to how to support working in this way going forward now that the Inquiry is no longer playing this role.

There is a lesson in the experience of the Inquiry about the importance of both internal and external mechanisms to facilitate the connections required to work in integrative, holistic, and collaborative ways. The Children and Youth Commission discussed later in this Chapter may offer some support and opportunity for working this way in the context of care. However, there is a need to ensure broader and ongoing capacity for shifted ways of working in the future.

Based on the experience of the Inquiry and the learning and understanding developed with parties within the Inquiry, it is clear that commitment to a system shift requires the development of mechanisms both internal and external to Government to build and support the capacity to work restoratively – in principle-based, integrated, holistic, and collaborative ways. It has also

become clear, through the work of the Inquiry, that such a mechanism is essential to bring the holistic lens required to reveal and address systemic racism.

Internally, the Government must consider how (including *where*) to establish a mechanism to support such work across Government. Ultimately, this capacity for integrated work across Government is essential for partnership and collaboration with the community. This mechanism will require support and oversight from the highest level of Government in order to ensure the permission and protection required for the shift in the system and ways of working. This support was essential for the Inquiry to engage with Government in a different way.

Such a mechanism must be empowered to do more than coordinate existing systems, policies, and programs. It must be aimed at facilitating integrated collaboration of systems, policies, and programs. This will require significant change in support of the shift to human-centred systems. The mechanism is needed to steward the shift to be human-centred. This will require active engagement in the work as well as the support through facilitating, convening, coaching, and oversight.

It will be important to identify existing knowledge and capacity for working this way that currently rests within departmental silos and to ensure these are linked up to enable integrated and collaborative work, or to reposition such resources to enable support for a cross-governmental integrative approach. One such example of existing capacity and knowledge is the restorative initiatives unit in the Department of Justice. In support of the work ahead, Government must consider how to ensure a similar investment of knowledge and support is available broadly across Government.

For this shift to be successful, it is also essential to ensure expertise and support from outside of Government. The independent role contemplated for the Children and Youth Commission (discussed later in this chapter) will enable a facilitative and convening role similar to that played by the Inquiry. This support is essential for building and supporting capacity for system change. It will also be important to engage with experts outside of Government systems in order to continue to build and support capacity for learning, understanding, action, and innovation.

**For this shift to be successful, it is also essential to ensure expertise and support from outside of Government.**

#### IV. Information sharing norms and mechanisms

As discussed in Chapter 6, silos are often constructed and maintained in relation to information. Participants in the Inquiry regularly identified barriers to sharing information as a significant problem to working in integrated and holistic ways. Such barriers were real and perceived. They were erected by law, policy, and a culture of a lack of trust across systems and sectors.

FLDM as reflective of the shift to a human-centred approach, will require significant attention to developing norms (legal and cultural) about information sharing that support an integrated and holistic approach. Information sharing between the system of care and family is important. Families need and are entitled to information about what has happened to or is happening with their young people in order to play their role in decision-making. Information sharing is equally important among systems and agencies if they are to be able to work in an integrated way to support FLDM.

**FLDM as reflective of the shift to a human-centred approach, will require significant attention to developing norms (legal and cultural) about information sharing that support an integrated and holistic approach.**

**There was agreement that clearer language in the *Freedom of Information and Protection of Privacy Act* (as well as other relevant legislation) would be helpful. An amendment to the Act to specifically allow departments (or organizations or agencies) to share personal information for the purpose of implementing new programs or approaches to delivering services, such as FLDM or other social programs, would be advisable.**

During the Inquiry process, privacy experts from Government and the private sector supported the planning and action on this issue. There was significant agreement that sharing information in order to support young people and families, particularly in the context of a human-centred approach that involved those whose information and interests are at stake, is consistent with the intentions of current legislation. However, there was also general agreement that the current legislation lacks clarity regarding how personal information is shared sometimes, and this impairs appropriate information sharing. While there are existing processes through which such sharing could be approved or allowed, they are sometimes cumbersome and can contribute to a protectionist culture with respect to information.

There was agreement that clearer language in the *Freedom of Information and Protection of Privacy Act* (as well as other relevant legislation) would be helpful. An amendment to the Act to specifically allow departments (or organizations or agencies) to share personal information for the purpose of implementing new programs or approaches to delivering services, such as FLDM or other social programs, would be advisable. Such a legislative change should be accompanied by regulations and policy changes to ensure oversight so the information is shared and used for purposes consistent with a human-centred approach to care.

Recognizing that legislative change can take time, the Chief Information Access and Privacy Officer committed to develop a Practice Bulletin aimed at clarifying current law and policy. This would provide immediate support to shift the system and to prototype FLDM practices. It will include current criteria on how to share personal information, including disclosure of such information in the public interest.

We have come to understand, through the Inquiry, the pervasive impact of culture on the willingness to share information despite the legal authority to do so. This issue of culture will require attention through the mechanisms for integrated governance and services (discussed above). The introduction of a shared outcome framework will both rely upon, and support, a change in culture with respect to information sharing. It will establish shared responsibility for outcomes that will require greater transparency and communication with respect to young people and families to support and report on outcomes.

**We have come to understand, through the Inquiry, the pervasive impact of culture on the willingness to share information despite the legal authority to do so.**

#### **4.3 Trailblazing and Prototyping: Implications of Family-Led Decision-Making in Community**

Family-led decision-making then is about a system shift to be human-centred rather than the current system-oriented approach to care. This shift will have implications across the operations of the system of care. The shift should make a meaningful difference at the ground level in the experience of care for young people, families, and communities. It will result in:

- a commitment to bringing families together, empowering families, helping families care for children and to be part of planning and making determinations for and with their children.
- changes in power dynamics regarding who makes decisions for young people: families solving their own problems; making their own plans.
- supports for families' solutions not dictated by existing services and program options or solutions, enabling more creative plans that leverage relationships and other connections.
- resources tailored and provided in support of families' plans.
- changes in the focus of relationship: young people and families not involved as "clients" – focus on family relationship (who they are to each other) and what the system is to them (what they need from the system of care).
- decisions defined not by system needs but by family needs (i.e. not about "in care" or "out of care").
- broader understanding of care: recognition that young people are not only in need of "care" when they need protection from caregivers. Care and need require more than protection.

**Re-orienting the system to be human-centred and family-led will change the role of the system and community in supporting families.**

Re-orienting the system to be human-centred and family-led will change the role of the system and community in supporting families. For example, supporting FLDM will demand a broader range of knowledge and skills to find, convene, and support family empowerment. This

will rely on supports that are (or can be) trusted by family, that are culturally responsive and knowledgeable about family and community. This will mean resourcing community-based coordinators, family-finding services, and kinship care supports, etc.

Through the Inquiry, we have identified some key lessons/elements (as discussed in Chapter 6) needed to support FLDM as part of the larger shift to human-centred care. It is key to recognize the importance of the following:

- Fidelity to key principles
- Focusing not only on implementing new ways but on de-implementing old ways of doing things.
- Taking a trailblaze/prototype approach to incremental implementation. Action-based learning with a clear commitment to scaling up, allowing for trial and error (fail fast, learn and try again); Resilience in the face of difficulties or challenges making the shift.
- Forging and maintaining real partnership and collaboration with young people, families, and community
- Integrating and collaborating across systems, agencies, and services.
- Identifying and nurturing/supporting change leaders at all levels.
- Measuring quality and outcomes (for young people and families) – capturing and sharing stories of success and failure.
- Developing a legislative framework that establishes entitlement for young people and families, and new accountabilities and priorities for shared outcomes across the whole of Government for young people in relation to the system of care.
- Information sharing – among and across Government and community child-caring systems, services, agencies, and organizations, as well as families.
- Implementing mechanisms for integrated governance and service delivery.
- Supporting resources to find and convene family (wider family network).

During the planning and action phase of the Inquiry, partners from Government and the community came together to begin to plan for implementation of a prototype to support FLDM with respect to care. The idea of prototyping is not to establish a single model to be replicated, but to work together to model how FLDM can work in order to learn what is required for success.

**...prototyping must be an integrated part of the system shift. It cannot be pursued separately from the elements of the system shift discussed above. In fact, the prototype is intended to test and reflect system shifts.**

To be clear, such prototyping must be an integrated part of the system shift. It cannot be pursued separately from the elements of the system shift discussed above. In fact, the prototype is intended to test and reflect system shifts.

This does not mean the system shift must be completed before prototyping can begin. It

means prototyping must be approached as part of, and in support of, blazing a trail of system transformation. Careful attention must be paid to ensure prototyping does not become a pilot project divorced from the system shift it is intended to feed and inform. It is also key to recognize that the Inquiry is not suggesting a pilot to determine whether FLDM should be implemented, but, rather, to test how and *whether* the system has shifted sufficiently to make a difference to the experience of care. Prototyping is about learning and improving to consider important elements to scale up the approach across the province and throughout the system of care. To that end, the approach is intended to blaze a trail that can be followed in the future – to learn while doing.

**Careful attention must be paid to ensure prototyping does not become a pilot project divorced from the system shift it is intended to feed and inform.**

As discussed in Chapter 6, family-led decision-making is not a strategic approach to achieve system outcomes. It is not a mechanism to merely get things right, but rather is fundamentally concerned with doing the right thing by young people and their families. It is grounded in an understanding of the needs and rights of young people and the centrality of family connections to their well-being and success.

**...family-led decision-making is not a strategic approach to achieve system outcomes. It is not a mechanism to merely get things right, but rather is fundamentally concerned with doing the right thing by young people and their families.**

This means the purpose of prototyping is not to assess whether family-led decision-making should be continued. It is to determine what is needed to support the rights and entitlements of young people to meaningful connection with family (a network of caring relationships).

It is essential to understand this work through that lens. The prototype is focused not only on the implementation of family-led decision-making, but also on securing the changes needed within the existing system of care to support its success. As such, prototyping a model of FLDM in one community should be reflective of, and a catalyst for, larger system changes required to scale up FLDM throughout the system of care.

**It is essential that the prototyping be undertaken as an integrated part of the system shift to human-centred care and, as such, that it pay particular attention to this different way of working rather than merely delivering a different practice model.**

The commitment the parties made within the Restorative Inquiry process is to family-led decision-making as a core element of a human-centred approach to care. Government and community partners have worked together during the Inquiry's mandate to explore the potential to prototype FLDM as part of the system shift to human-centred care.

The deputy ministers on the Reflection and Action Task Group have committed to trailblaze the system shift required for FLDM and to prototype a model of FLDM within the community as part of this trailblaze before the final report from the Reflection and Action Task Group in 2020.

It is essential that the prototyping be undertaken as an integrated part of the system shift to human-centred care and, as such, that it pay particular attention to this different way of working rather than merely delivering a different practice model. To this end, through the Inquiry, it has been determined that prototyping should involve certain key elements:

- ▶ It should start in an African Nova Scotian community. This reflects the focus of the Inquiry on the experience of care with particular attention to the context and impacts of systemic racism. As discussed in Chapters 5 & 6, the current system-centred approach contributes to the maintenance of systemic racism and amplifies its effects. Shifting to a human-centred approach and empowering families and community to articulate what is needed for the care and well-being of young people is a significant counter to the effects of systemic and institutional racism and brings change to those systems. During the Inquiry, we learned from Mi'kmaw leaders involved with Mi'kmaw Family and Children's Services about their experience of the importance and significance of this approach to child welfare in addressing similar issues of systemic racism.

The prototype will be undertaken with a view to designing a model attentive to the culture and needs of the African Nova Scotian community. The initial community site will provide support for other African Nova Scotian communities to adopt and adapt the resulting model and approach for their communities.

The commitment to FLDM is not limited to African Nova Scotian young people, families, and communities. The commitment is to bring FLDM to the entire system of care as a key aspect of the shift to a human-centred system. It was felt to be important and advantageous to prototype within a largely African Nova Scotian community because it will ensure necessary attention to issues of systemic inequality, marginalization, and cultural context essential to the success of FLDM for all young people and families in Nova Scotia.



► Prototyping is to be implemented *within* a community rather than with respect to a particular entry point, or system decision-making point, or part of the system of care. The choice to prototype in a community area focuses attention on relationship to place, people, and culture, not to the system. Building FLDM in response to the care needs of young people and families in a community will ensure attention to the integrated nature of care viewed from a human-centred perspective.

Designing FLDM in response to the needs of young people and families places them at the centre of care and planning, whatever the issue or wherever it arises. This is less likely to be the case if FLDM is implemented within a particular silo of the system of care or at one stage in the care system, or led by one part of the current system of care. As we have learned through the Inquiry, such a system-oriented

approach would fragment the experiences and needs of young people and families according to the silos and structures of the systems. For example, if the prototype is to reflect and contribute to a system shift, it cannot be focused on supporting families to contribute or participate in current child protection processes or be under the auspices or jurisdiction of child protection.

Focusing a prototype on young people and families within a particular community resists system control. It requires identification and building of relationships across the system actors and stakeholders within that community, oriented by the needs and plans of young people and their families. As such, the prototype needs to be approached explicitly as a concrete way to test and support integration of systems and services. For example, the FLDM prototype should engage care system stakeholders connected to a community, including school principals and student supports, family doctors and mental health providers, income support officers, disability services, housing supports and social workers. The same collaboration will be important across community-based organizations and programs, for example boys and girls clubs, the local library, the Federation of Foster Families of Nova Scotia, Elizabeth Fry and John Howard societies, restorative justice agency, after-school tutoring supports, churches, daycares, and family resource centres.

It is clear that FLDM will require more than service coordination or navigation. Current efforts to co-locate services may serve as a useful starting point to shift to greater integration, but the shift to integrated and holistic care will require much more.

► It is helpful and important to prototype in a community with a strong sense of its culture and the dynamics of its families. FLDM relies on community level resources and capacity to understand and find family connections and support their coming together in meaningful ways to make decisions.

**...if the prototype is to reflect and contribute to a system shift, it cannot be focused on supporting families to contribute or participate in current child protection processes or be under the auspices or jurisdiction of child protection.**

▶ It is essential that the prototyping of FLDM be designed, governed, and implemented collaboratively between Government and community. As discussed in Chapter 6, such collaboration requires shared authority and responsibility. It requires more than traditional models of community “consultation” led by Government. The shift to human-centred care will require genuine partnership between Government and community. This will require the development of mechanisms for collaborative decision-making in design and ongoing governance.

▶ Prototyping must be based on a shared outcomes framework. As described in Chapter 6, this must be developed and determined with a central voice for young people, families, and community. It must be focused on outcomes for children, young people and their families not systems.

**Prototyping FLDM must also attend to the significance of shifting the approach in all aspects of the care system with respect to preventative and proactive support for the well-being of children and youth already within the care of the State.**

▶ In prototyping, priority may first be given to the application of FLDM to situations where the system is (or is more likely) intervening because of assessed risk to a young person. This is consistent with the recommendation that there should be a legal entitlement to FLDM in such circumstances. The prototype should be designed to ensure response to situations where a young person is what is sometimes referenced as “on the edge of care,” or where a determination has been made that a young person requires a change in their care arrangement (including potential removal from their parent).

▶ The priority (entitlement) for FLDM in circumstances where the State may interfere in the provision of care should not limit the development of the FLDM prototype to these circumstances. Prototyping FLDM must also attend to the significance of shifting the approach in all aspects of the care system with respect to preventative and proactive support for the well-being of children and youth already within the care of the State. =

▶ FLDM should be incorporated into decision-making processes in various parts of the system of care (education, health, housing, justice, etc.). FLDM processes should not be reserved only for use in relation to the child protection system. It is important to recognize that being preventative and proactive about securing and supporting the well-being and care for young people will require involvement and engagement of family in meaningful ways wherever the system of care makes plans for the care of young people. The need to support families to play a central role in care planning is relevant for all parts of the system of care within State- or community-based agencies, services, or programs.

As the history of the Home shows, particularly in communities that do not have trust in authorities and systems, the need for care will often be revealed to trusted community

members or institutions. Many children came to the Home through family or community and not through the formal child protection processes. They were no less in need of care and support. In designing the FLDM prototype, then its use must not be linked only to current child protection processes.

► As discussed in Chapter 6, FLDM will require adjusting the understanding and assessment of risk. Clarity will be needed in terms of how risk is managed and dealt with in the system. The role and work of responding to risk cannot dictate or consume the entire focus of the FLDM or it will fail to respond to the full needs of children and families.

#### 4.4 Integrated Court Processes (Multiple Proceedings) – A Restorative Approach

As described in Chapter 6, through the learning and understanding phase of the Inquiry it became clear that another barrier to integrated care is the fragmentation resulting from the siloed nature of our court system. Matters related to care of young people (either directly about the young person or the issues resulting in the need for a care plan) can be subject to multiple proceedings in different courts. For example, a situation of family breakdown affecting the care of a young person can result in any or all of the following proceedings: criminal proceedings (including youth criminal charges; adult criminal charges, including domestic violence), family law matters (custody and access, emergency protection orders) child protection matters, and, in some cases (although fewer instances), civil matters. These matters are dealt with by different courts owing to the structure of the court system in Canada. This means that different courts have jurisdiction over different matters. Further, it is not possible to combine matters before a single court because the judges are appointed by different levels of Government and do not have the authority to decide matters within the jurisdiction of another court.

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In Nova Scotia, criminal matters are dealt with by the Nova Scotia Provincial Court and the Supreme Court, depending on jurisdiction over the matter. Nova Scotia also has a number of specialized (problem-solving courts) at the provincial level that deal with criminal matters, including Youth Justice Court, Domestic Violence Court, Drug Treatment Court, Mental Health Court, and Wellness Court. Family matters are also currently divided between Provincial and Supreme Courts depending on where one resides in the province. For example, in Cape Breton and Halifax, family matters (including child protection) are dealt with at the Supreme Court – Family Division. Elsewhere in the province, family matters (except divorce) are dealt with by the Family Court.

These divisions can result in multiple proceedings for young people and families in need of care. This can have a significantly negative impact on the lives of young people and families in need of care. It can place significant pressures and stress on families as they have to navigate multiple processes, often without adequate support to ensure easy access to justice.<sup>1</sup> During the Inquiry, we heard about the confusion of young people in care who had come into conflict with the law during their time in care (youth criminal justice charges) while also being subject to child protection proceedings, and could not understand why the legal aid lawyer representing them in Youth Justice Court could not help them the next day in the child protection hearing. Similarly, we heard how the same parent can be subject to multiple orders (sometimes conflicting) that make it difficult to meet the requirements of supervised visitation, for example. Stakeholders from across the justice and child protection systems shared that often those appearing before the courts are unclear about the orders or undertakings they are subject to. We also learned about the intersection of criminal justice and child protection when young

people are taken into care because their parent is remanded awaiting trial or has been sentenced to custody.

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**This fragmentation and complexity undermines the integrated and holistic approach needed for human-centred care. While it may not be possible to integrate the court system, it is possible to provide opportunities for integrated case conferencing processes to deal with multiple proceedings at the same time. The application of a restorative approach and FLDM offer helpful models for collaborative case management and settlement conferences that would support a more integrative and holistic approach in such circumstances.**

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This fragmentation and complexity undermines the integrated and holistic approach needed for human-centred care. While it may not be possible to integrate the court system, it is possible to provide opportunities for integrated case conferencing processes to deal with multiple proceedings at the same time. The application of a restorative approach and FLDM offer helpful models for collaborative case management and settlement conferences that would support a more integrative and holistic approach in such circumstances.

The planning and action phase of the Inquiry brought together justice-system and community-based stakeholders to consider this issue and potential pathways forward. There was a shared commitment to working collaboratively to address the issue. The initiative has the support of the Departments of Justice and Community Services. The Nova Scotia Advisory Council on the Status of Women, in conjunction with the Standing Together to Prevent Domestic Violence initiative and the Domestic Violence Court Committee, are positioned to provide leadership support to design and pilot a collaborative cross-court and cross-jurisdictional initiative to support a restorative approach and family-led decision-making in cases at the intersection of child protection, family law, and criminal law. This initiative will explore and implement an integrated court process model to ensure the best interests of young people and their families are considered in the complex intersections between court orders from different levels of courts, and to ensure families are at the centre, and supported, through decision-making processes.

## 5. Children and Youth Commission

The Restorative Inquiry has demonstrated the potential of a restorative approach to inquiry and action to support a shift to human-centred systems. It has become clear that it is important to the success of the journey forward to have a mechanism or entity that can continue to play the role the Inquiry has – an independent body able to facilitate relationship building, learning and understanding, and planning and action. This is important both to support a human-centred, integrated, holistic approach to care and a restorative approach to responding to failures of care in ways that can ensure learning and understanding to improve future care. Based on the interest and commitment of parties within the Inquiry, it is recommended that an independent Children and Youth Commission be designed and established to fulfill this role.

The name Children and Youth Commission intentionally avoids use of the term “advocate” (as is used elsewhere). There have been significant and sustained calls to establish a Child and Youth Advocate in Nova Scotia in recent years. Yet these calls are not new in this Province. The Task Force on Children with Special Needs in 1973 commented on similar calls and made a recommendation that the Government consider the possibility of a Commission for Child Advocacy. The report traces its roots to the same developments in child welfare that influenced the founding and operation of the Home.<sup>2</sup>



Although we are in no way attempting to assess the wisdom. Or lack of wisdom, of including a child advocacy program as part of our overall program of services to children, the Task Force views child advocacy as a symptom of social change noteworthy of comment.

During the latter part of the nineteenth century and early in the twentieth century, associations such as the Society for the Prevention of Cruelty to Animals and Children were expressing their concern for the plight of children in need. Their leaders spoke eloquently on behalf of the rights of children and fought to provide justice for them. They were, essentially, the, child advocates.

It is from these auspicious beginnings that our present child welfare agencies have evolved. Today an implicit part of their mandate is still the responsibility for “the protection of children from cruelty and the care and custody of children in need of protection and delinquent children.”

For many years they fulfilled this inherent part of their functioning in the role of advocates for children in need. In the intervening years, the focus of our child caring agencies has changed from solely defending the rights of children to preserving the well-being of the family unit.

Because of the interest and concern which has been generated in regard to child advocacy in recent years, Columbia University has completed a comprehensive study on the subject. The comments which follow are excerpts from that report and clarify, to some extent, the nature of the child advocacy movement at this time.

The key factor that defines child advocacy is the concept that individual children or parents, categories of children and parents, or all children and parents, have specific rights and needs, and that prevailing circumstances require that they be given support to assure their access to entitlements, benefits and services. Child advocacy is, therefore, intervention on behalf of children in relation to those services and institutions that impinge on their lives. It has developed to correct serious inequalities and deficiencies in policies and programs for children. Any function, process, method of structure may be the target of advocacy at some time, and the action may include help, support, suggestion, education, demands, confrontations, and legal action.

Child advocacy is based on the premise that society has an obligation parallel to that of parents, i.e. to provide adequately for children’s welfare. Since social services are sometimes unresponsive to children’s needs, they too, may need systemic monitoring. Whereas child welfare agencies and child protective services seek children’s welfare by intervening in the parent-child relationships or by substituting for it, child advocacy interviews into the larger social environment and those institutions affecting children’s lives.

Task Force on Children with Special Needs (1973)

The report continues, explaining that the focus of such advocacy is typically on specific cases, but that there are, increasingly, other advocacy roles to be taken up on a more regularized basis aimed at review and oversight of systems and programs.

Much in the nature of the child advocacy movement remains the same some 45 years on. As discussed below, much of what is described in terms of the need and role for advocacy is reflected in the purpose and function of the Children and Youth Commission recommended here. Indeed, the need for advocacy in terms of attending to and caring about the rights and needs of children and families underpins the Children and Youth Commission as it is envisioned here.

Why, then, not join those who propose an Advocate? There are several reasons we have not taken this approach. First, the nature and the approach of the child advocacy movement has changed somewhat since the task force report in 1973. It has changed alongside developments in care systems as detailed in Chapter 6 that are increasingly siloed, adversarial, and concerned with risk- and blame-based accountability mechanisms. In this context, advocacy has often taken up an adversarial blame-based approach to accountability as well. Advocacy has also been undertaken in other systems and provinces on behalf of, or representing the interests of, children often separate from, or adverse to, those of their families or the State. This is not to say that children and youth do not sometimes need support, or that their interests are always aligned with their parents or caregivers. However, as the Inquiry has shown, the relational nature of young people and families make the protection of rights and interests much more complex than a simple adversarial individualized approach can manage. It requires processes that can work with complexity to understand and support the mutuality and interconnection of interests that mark the relationship between children and families and work to ensure it is just and safe.

The shift to a human-centred approach also cannot be achieved through a mechanism that is designed to speak to systems *for* children and youth, rather than create space for and amplify their own voices. It is noteworthy that many advocates have recently made significant investments in centering the voice of children and youth in their work.

The idea of advocacy then evokes the adversarial, individualized, approach familiar in the current system-centred approach. Clearly, it need not be this way. The term could, of course, be rehabilitated to accord with a vision of advocacy that is in line with the relational and restorative principles at the core of the human-centred approach we seek. However, it is difficult to shift understanding and expectations using words so connected to old ways of thinking and working. For this reason, we have found the title Children and Youth Commission helpful.

It is also significant that we have opted to use the term “Commission” and not “commissioner.” This is because we feel that what is needed is a body capable of facilitating relationship building, learning and understanding, and planning and action. We do not envision an individual doing these things alone, but, rather, a mechanism that can support all those with interests, responsibilities, or a stake in the outcome to be engaged and involved in this work.

The vision of a Children and Youth Commission that has developed through the Inquiry would:

- model and facilitate a “different way of working”
- be proactive/responsive, not only reactive or complaint driven
- serve as a mechanism to support integration and collaboration across the system of care
- monitor and ensure respect for young people’s entitlement to relationship with family
- play an essential role in oversight and accountability for a shared outcomes framework; assess how children & youth are doing against the shared outcomes framework
- centre and amplify first voice

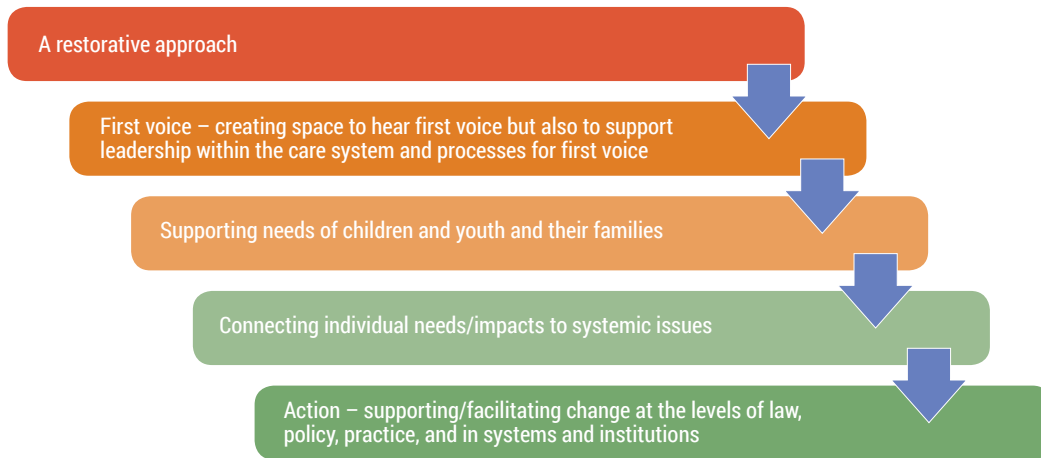
In doing these things, the Children and Youth Commission would take a different approach reflective of the shift to human-centred care. The Commission would be human-centred not system-centred. It would not be concerned only with advocating within the existing system, nor with merely “navigating” current systems. The Commission would be designed to work in collaborative ways “with” children, youth, and their families, as well as with the system of care (Government and community based). The Commission would not be oriented to doing things “to” or “for” young people, families, communities, or system stakeholders. In this respect, the Commission would be collaborative and not adversarial in its model of advocacy. The Commission would not frame its work through an individual rights protection framework, but rather would understand and seek to promote and protect rights in a relational way (not as against others, but as structuring the terms and conditions of relationship with others).

The Children and Youth Commission would have the following features and functions:

- Independence — Capable of facilitating and supporting change within a Government and community-based system of care.
- Take a restorative approach to its work.
- Build and support relationships with and within the care system to meet the needs of children and youth.
- Support response to institutional failures of care and work proactively and preventatively to support a better care system.
- Engage, empower, and amplify the first voice of children and youth.
- Support and assess progress toward shared outcomes for children and youth in Nova Scotia (with particular focus on children and youth in care, on the edge of care, or marginalized).



Following the model of the Restorative Inquiry, the Children and Youth Commission will be committed to:



Activities of the Commission would include:

- ▶ Hear and facilitate response to concerns or issues raised by children, young people or their families, or communities of care. This work would be approached restoratively – aimed at understanding what happened, the impacts, and what matters about what happened for moving forward to addressing needs and improving experiences and outcomes for children and youth. In doing this work, care will be taken to work in collaborative and non-adversarial ways among parties and with the system of care.
- ▶ Support problem solving or system change. The Commission would convene and facilitate processes involving those with a stake, interest, or responsibility for the outcome of a situation to work together to understand and address situations and determine what needs to happen at the individual case and system levels.
- ▶ Support, assist and advise children and youth to understand, discern, articulate, and advance their needs and rights with respect to care and the care system.
- ▶ Encourage and mobilize research and knowledge in Nova Scotia in support of its mandate and work.
- ▶ Support education and facilitate the development of law, policy, and practice to meet the care needs of children and youth.
- ▶ Support access to justice for children and youth through a restorative human-centred approach to responding to failures of care, including restorative inquiries into individual and systemic issues/problems and support for conflict resolution.

During the planning and action phase of work, the Inquiry held several processes among parties from community and Government to consider the approach and model of a Commission. The parties expressed significant interest in pursuing this approach and a commitment to work together to design such a body. The Reflection and Action Task Group that has supported Government's participation in the work of the Inquiry indicated Government's commitment to the idea and approach of a Children and Youth Commission. They have agreed to work collaboratively with community stakeholders to develop a model and a plan for its implementation.

## 6. Restorative Responses to Failures of Care

### 6.1 Police Response to Institutional Abuse and Failures of Care

As discussed in Chapter 6, police participants in the Inquiry recognized the impact of adversarial processes (and their role within it) on victims – both as witnesses and complainants. They acknowledged how difficult it is to find ways within the roles they play to attend to the needs of those who have experienced trauma and harm. They identified the ways in which they are constrained from working differently by the system as it currently exists. These insights are instructive – while police practices have evolved, including the incorporation of trauma-informed understanding into investigation approach and techniques, they acknowledged there is still much work to be done in this area. During the Inquiry, police were clearly committed to support learning and change on this front. The RCMP also shared there have been significant changes to the way files are handled ever since their role in response to complaints regarding the Home. These changes have been aimed at ensuring better tracking and accountability. They recognized more needs to be done to place human beings at the centre of their approach to handling case files, information, and investigations.

Police also identified that the siloed and fragmented culture of system responses continues to make it difficult for the care and protection of children to be a shared responsibility. There remain significant barriers to sharing information or stepping outside operational or jurisdictional boundaries to assess whether there is cause for concern and response. Participants acknowledged that the barriers are not always structural – there are cultural (organizational) issues that get in the way, including trust between and among professionals working in different systems. There is also often an assumption that other systems or professionals will take care of issues and situations if they appear to be on the edge or beyond the direct responsibility of police. There are also real structural impediments to responding in more integrated ways, including lack of mechanisms for integrative work, including mechanisms to develop shared understanding, common frameworks, and to share information.

Police were then cognizant of their role in the current system, and open to considering how that role may look in a less adversarial process and as part of the shift contemplated to a

human-centred approach. As holders of information emanating from criminal investigations (whether evidence exists to proceed to charge and trial or not), consideration needs to be given to the creation of (or awareness of existing) mechanisms that would allow information to be shared with system partners who have shared/collective responsibility for the care and well-being of children more generally. Sharing information in this way would support review/examination/sharing of the context, conditions, and circumstances that gave rise to complaints/investigations.

As part of the movement to support a system shift, consideration should be given to how specific aspects of law enforcement are connected to the broader work of system integration. This will include (but is not limited to) consideration of how to share important information gathered through investigations (irrespective of outcome of investigation) that impacts how systems provide care and support to children/young people. This will require more than a shift in police investigative practice within individual police agencies. As stated earlier, the shift requires a change in understanding and approach of the role of police and to the systems that structure it. This will include, for example, ongoing work to embed trauma-informed understanding in all aspects of policing and to orient policing in more human-centred ways. Merely focusing on training initiatives will be insufficient to bring about this shift. Attention is needed to consider how to intentionally connect and integrate information and services essential to this different way forward.

As stated earlier in chapter 6, how we respond to abuse/harm directly impacts how our current system of care operates, so it will be important that all aspects of knowledge and understanding are integrated in how the system provides care. This information cannot remain isolated or siloed within only one area of the system. The broader (and necessary) work around information sharing as part of the system shift will require a mechanism to support this shift across policing agencies and together with other aspects of the system of care. Consideration should be given to the potential role of the Department of Justice (policing services) to broker learning opportunities (by convening and facilitating) aimed at exploring the structural conditions and mechanisms that would enable, promote, and improve the ability of police agencies to share pertinent information related to completed investigations of institutionalized abuse (failure of care) proactively with the relevant parties as part of the accountability of the overall system of care.

## 6.2 Guidelines for Government Restorative Response to Institutional Failures of Care

During the Inquiry, parties recognized the significance of a restorative approach for former residents, particularly when compared with their difficult and harmful experience seeking justice through the civil justice system as detailed in Chapter 4. Parties identified the importance of shifting responses to failures in the system of care as described in Chapters 5 and 6. The

learning and understanding within the Inquiry mirrored the views of the Law Commission of Canada in its 1998 response to the Minister's Reference on Institutional Child Abuse. The Law Commission concluded:

If we rely on the piecemeal, case by case, reactive and largely adversarial approaches to redress which have been primarily used to date, it is likely to be a long, painful and expensive journey, both emotionally and financially, before the issue of past institutional child abuse is resolved. This journey will teach us few lessons about how to prevent, recognize and redress any abuse that our children may now be suffering in settings such as foster homes and organized sports programs. Starting anew, with a more comprehensive approach focussed on survivors and sensitive to their individual needs would demonstrate that, as a society, we are not afraid to face up to the legacy of institutional child abuse. It would signal that we are willing, at last, to respond to the voices we have failed to hear for so long.<sup>3</sup>

Parties within the Inquiry considered how to support such a shift and create the conditions for a different response to cases like the former residents and others dealing with harms related to failures of the system of care.

It was recognized that this shift would require a change in the way in which decision-makers and justice stakeholders (including, but not limited to, legal counsel) understand and approach such claims. It will require a move from a narrow risk and liability framework to a human-centred approach as described in Chapter 6. This shift requires more, however, than changing perspectives of individuals. It needs to be supported at a systemic and cultural level. One of the catalysts for such a shift is to require consideration of a different way – a restorative approach – as part of the process by which decision makers in Government deliberate and give instructions in such cases. It is also important that those who provide advice to inform and assist decision makers take this approach in their consideration of cases.

Nova Scotia has experience in supporting this sort of culture and practice shift in the justice system. For example, the Nova Scotia Restorative Justice Program from its beginning in 2001 until the recent release of new protocols, included a check list to inform exercise of police discretion in deciding to lay a charge or refer a young person to restorative justice. The new protocols for the expanded youth and adult restorative justice program require stakeholders in the criminal justice system to consider restorative justice as an option at all stages in the criminal justice process.<sup>4</sup> Further, police and the Crown are required to demonstrate their consideration by articulating the reason(s) they did not take a restorative approach in a given case. These protocols encourage and support a shift in ways of thinking and operating within the criminal justice system. They expand the range of consideration and information decision makers consider when determining how to proceed with a case.

A similar shift is sought in system decision making with respect to civil claims about system-related failures of care. One way to support a shift in responses to such failures of care is to provide similar guidelines to inform the approach of decision makers and legal counsel in these matters. Reflection and input from parties during the Inquiry, including multiple circles and other meetings with Government Ministers, deputy ministers, senior Government advisors, legal counsel (at the Department of Justice and the private bar), and other justice stakeholders have offered insights as to the form and substance for the adoption of such guidelines in Nova Scotia. The guidelines suggested here also reflect the insights and lessons gained through the experience of the former residents on their journey to light.

The adoption of these guidelines will reflect and articulate the commitment to a different way forward the parties have made on this issue. Based on the work within the planning and action phase of the Inquiry, it is recommended the Attorney General of Nova Scotia issue guidelines in support of a shift in the approach of Government in response to claims of system-related failures of care.

The Attorney General could issue guidelines consistent with their role under the *Public Service Act* (R.S. c 376) as the law officer of the Crown, and the official legal adviser of the Lieutenant Governor, and the legal member of the Executive Council. The Attorney General is responsible to advise the heads of the several departments upon all matters of law concerning such departments or arising in the administration thereof; and for regulation and conduct of all litigation for or against the Crown or any public department in respect of any subject within the authority or jurisdiction of the Government.

The guidelines would provide guidance to Government (to Ministers, departments, and agencies) when they are instructing counsel. They would serve as standing notice to the legal counsel of the intentions of Government with respect to the conduct of civil litigation in such matters so they might be prepared to provide advice and receive instruction consistent with these guidelines.

Guidelines would:

- a) Apply to cases of institutional failures of care involving the Government – including but not limited to institutional abuse including individual or class claims. While intended to support and further encourage the Province’s commitment and leadership to a restorative approach to justice broadly, however, these guidelines only apply to those cases involving a failure of care connected to systems or institutions over which Government has responsibility. They would not apply to all cases in which the Government is a respondent.
- b) Not apply when the Crown is acting as prosecutor within the criminal justice system. Guidance for the use of a restorative approach in criminal proceedings

is contained within the Nova Scotia Restorative Justice Program Protocols approved by the Attorney General.

c) As indicated below, the guidelines would apply to all stages of proceedings and are not limited to the settlement of civil claims.

The guidelines call for the application of restorative principles in the approach, response, and conduct of civil claims when and to the extent possible. The restorative approach within the guidelines is aimed at a principle-based approach, not a particular process, practice, or outcome. The principles of a restorative approach relevant to these guidelines should be reflective of the principles underlying the Inquiry and consistent with those articulated in the Nova Scotia Restorative Justice Protocols.

### **Content of Draft Guidelines:**

The exact content and wording of the guidelines should be determined through further consultation among Government stakeholders. It is essential, however, that they be developed by Government leaders and decision makers and should take into account the learning and understanding regarding risk aversion and responses to abuse achieved during the Inquiry and reflected in Chapter 6. It is also important to recognize that while these guidelines relate to the conduct of litigation, they are not aimed primarily at shifting the practice of legal counsel. Indeed, the guidelines recognize that the role of legal counsel is to give advice, but that they must act on instruction from their clients. In the case of Government, the clients are decision-makers and departmental leaders. The responsibility to shift Government's response to abuse then rests with these decision-makers and leaders who instruct legal counsel. The guidelines recommended here are aimed at informing and shaping the approach of these decision-makers and leaders. The guidelines will certainly impact the approach of legal counsel at an operational level. Legal counsel will also play an important role in supporting this different approach. However, given the guidelines relate to the instructions Government will give to legal counsel, legal counsel should not be primarily responsible to determine the content or commitment to such guidelines. Ministers and deputy ministers recognized their role and responsibility as decision-makers and leaders to support a shift in the response to abuse or failures of care in this way.

It is recommended that guidelines contain the following commitments and elements:

- ▶ Government will actively pursue a restorative approach as the first best option in responding to claims involving institutional failures of care. Government will look for, and take, all opportunities to respond restoratively at all stages in dealing with a file – including during preliminary review and assessment of the claim (advice and instruction) and at all stages in proceedings.

- ▶ A restorative approach requires integrative/whole of Government consideration and response to claims of institutional failures of care. In determining the appropriate response in a given case, attention should be paid to the connections and significance of relationships/issues involved across Government. The legal response should be considered as an integrated part of a holistic response. A relational analysis of interests, impacts, and opportunities, as well as risks, should inform legal advice and instruction.
- ▶ Client departments will have a central leadership role in determining and participating in a restorative response. Legal counsel should not be the lead or sole voice of Government within restorative processes. Attention and engagement of those involved in and connected to the matter is essential.
- ▶ In determining the conduct of litigation ensuring just outcomes for those affected individuals/communities particularly, and ensuring “no further harm,” will be considered a matter of public interest.
- ▶ Consistent with this restorative approach the Government will:
  - not pursue weak legal positions or tactics that will bring harm to parties and/or the relationship with or trust of Government;
  - carefully review denials and consider admissions where possible in an effort to seek forward-focused solutions;
  - be trauma informed and culturally responsive in communications and engagement.
- ▶ Files will regularly be reviewed where a restorative approach was taken or rejected to determine what lessons can be learned about principles and approach to increase opportunity and success for a restorative approach in future.

### 6.3 Education in a Restorative Approach for Justice and other System Stakeholders

Throughout the various Inquiry processes, and specifically in relation to shifting responses to abuse and failures of care, stakeholders in the justice system identified the need for capacity building in order to take a restorative approach and support a different way forward. This will be important, for example, in conjunction with the adoption of the guidelines discussed above. Implementation will require support and capacity building both for Government decision-makers and leaders, and significantly for legal counsel.

Nova Scotia has shown significant leadership in restorative justice in the criminal context. The use of restorative justice recently expanded within the criminal justice system with the recent roll out of adult restorative justice. It has also expanded beyond criminal justice to other areas of the legal system including into human rights protection<sup>5</sup> and the adopted by the Nova Scotia Barristers’ as part of its strategic plan and approach to complaints and regulation of the profession.<sup>6</sup>

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**Drawing on existing experience and expertise within the province, it is recommended that professional education for lawyers, justice, and other system stakeholders be developed and supported in collaboration with the Department of Justice and the Deputy Ministers' Social Policy Committee.**

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Ongoing education and training for lawyers and other justice stakeholders have been a key part of supporting a restorative approach in these areas. These efforts to provide such education and training for a restorative approach to justice will be an important resource in developing educational supports for legal counsel and system decision makers in relation to the shift in responding to failures in the system of care. The Children and Youth Commission and other external resources, as contemplated earlier in this chapter, in association with establishing mechanisms to support the system shift, will also be a helpful resource once it is established.

Drawing on existing experience and expertise within the province, it is recommended that professional education for lawyers, justice, and other system stakeholders be developed and supported in collaboration with the Department of Justice and the Deputy Ministers' Social Policy Committee.

The Nova Scotia Barristers' Society may also consider how it could support such education and professional development for its members in keeping with its responsibility for professional standards. In addition, the Canadian Bar Association has expressed a willingness to support efforts to offer education to its members.

#### **6.4 Restorative Approach to Reviews & Inquiries (including internal reviews/serious case reviews)**

This Restorative Inquiry has modelled the potential of taking a restorative approach in future to public inquiries and other inquiry processes, including, but not limited to, death reviews, domestic homicide reviews, serious case reviews, and other system and institutional investigation and review processes.

As the first experience in taking a restorative approach to a public inquiry, there is much to be learned from this Inquiry in terms of its design, governance, and operation (see Chapter 2 for some considerations regarding the design and operation of the Inquiry).

Parties and partners in the Inquiry have expressed a sincere commitment to taking a restorative approach to future inquiries and issues. It is important that efforts to take this approach in future benefit from the experience and lessons learned through this Inquiry. While the scope of processes will differ, the significance of a restorative approach in ensuring attention to context, causes, and circumstances, and to consider the role of culture, has relevance across the various inquiry and review processes. The core elements of the restorative inquiry's work focused on



relationship building, learning and understanding, and planning and action within the frame of a commitment to problem-solving, solution finding, and supporting conditions for action in real time also model the potential for a restorative approach. Taking a restorative approach to future inquiries and reviews is a key element in supporting the shift to human-centred systems described in Chapter 6.

Based on its experience through this Inquiry and the feedback from parties to the process, the Council of Parties recommends this approach for future public inquiries, or expanding its reach to other inquiry and review processes. It is recommended that a group of system leaders (including those responsible for establishing and/or conducting such inquiries and reviews) convene to consider lessons learned from this Inquiry and opportunities to support a restorative approach to such inquiries and reviews in future.

The Nova Scotia Advisory Council on the Status of Women, the Chief Medical Examiner's Office, and the Department of Justice have already expressed interest in participating in such a process. Other participants might include the Nova Scotia Human Rights Commission, the other social service departments (including the departments of Community Services, Labour and Advance Education, and Health and Wellness), as well as the Public Service Commission.

**Taking a restorative approach to future inquiries and reviews is a key element in supporting the shift to human-centred systems described in Chapter 6.**

In addition to considering the information provided in this Report, such a process would benefit from the involvement of members of the Council of Parties and the Reflection and Action Task Group to share their knowledge and experience of this Inquiry process. This would provide an opportunity to collectively consider the significance and potential of this different way forward for the future.

## Endnotes:

- <sup>1</sup> See the Reports of the Action Committee on Access to Justice in Family and Civil Matters <http://cfcj-fcjc.org/action-committee/publications/>
- <sup>2</sup> NSA, *Task Force on Children with Special Needs (N.S.)* (Halifax: Department of Social Services, 1973).
- <sup>3</sup> Law Commission of Canada, *Minister's Reference on Institutional Child Abuse : Interim Report* (Ottawa: Law Commission of Canada, 1998).
- <sup>4</sup> See the Nova Scotia Restorative Justice Program Protocols issued by the Attorney General online at: <https://novascotia.ca/restorative-justice-protocols/general-protocols.asp>
- <sup>5</sup> The Nova Scotia Human Rights Commission introduced a restorative approach to its work in 2012. Since that time, it has refined and expanded the approach. It is now the central approach informing its policies and procedures. See the Nova Scotia Human Rights Commission's dispute resolution policy and procedures online at: <https://humanrights.novascotia.ca/dispute-resolution-policy-and-procedures>
- <sup>6</sup> A restorative approach forms part of the foundational activities under the Society's current strategic framework. See online at: [https://nsbs.org/sites/default/files/cms/menu-pdf/2016-2019\\_stratframework.pdf](https://nsbs.org/sites/default/files/cms/menu-pdf/2016-2019_stratframework.pdf)