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**MINISTRY OF ATTORNEY GENERAL
OFFICE OF HOUSING AND CONSTRUCTION STANDARDS
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for Honourable David Eby, QC
Attorney General

ISSUE:

To provide an overview of the Representative for Children and Youth's latest report as it relates to Provincial housing actions.

SUMMARY:

- On December 15, 2020 the Representative for Children and Youth (RCY) will publicly release a report on a review of services for youth transitioning from care into adulthood.
- The report makes one recommendation related to MAG regarding increasing and expanding housing options and wraparound supports for youth as part of a comprehensive plan to end youth homelessness.
- The Ministry and BC Housing are well positioned to respond to this recommendation given the work already underway.

BACKGROUND:

On December 15, 2020, B.C.'s Representative for Children and Youth (RCY) will publicly release a report on a review of services for youth transitioning from care into adulthood. The report is a review of existing research and work, focusing on the approximately 850 young people who age out of government care or a Youth Agreement in the province each year.

The report makes one recommendation specific to MAG related to increasing and expanding housing options and wraparound supports for youth:

- **Recommendation #6 – Provide Additional Dedicated Housing for Youth Aging out of Care:**
 - The Ministry of Attorney General and Minister Responsible for Housing should work with BC Housing to develop and implement an aggressive plan to work toward ending youth homelessness in BC, with particular attention to young adults who have transitioned from care.
 - As part of this plan, additional dedicated housing units should be provided for young people aging out of care. Units on a continuum of support - including with mental health and addictions supports where needed - should be available and eligibility requirements reduced.
 - BC Housing is to develop a comprehensive plan by April 1, 2022 and begin full implementation of that plan thereafter.

BC Housing Programs Assisting Youth

- Youth housing is a broad term and can include; youth housing models for 19 and under, youth housing for ages 18 to 25, and/or youth housing for those transitioning out of foster care. MCFD has the primary operational responsibility for vulnerable youth who are aged 19 and under and experiencing homelessness.
- BC Housing funds a range of housing options and supports available to youth, such as subsidized housing, emergency shelters, temporary shelters, homeless outreach and rent supplements.
- Youth who receive a direct housing benefit from BC Housing, either through rent supplement programs, subsidized housing or in congregate housing, are typically between the ages of 19 and 25 with a history of homelessness or being at risk of homelessness. Youth under the age of 19 may be eligible to receive services funded by BC Housing.
- Some of these programs that serve youth include:
 - **Youth Specific Housing:** As of September 30, 2020, BC Housing provides funding to 547 units of housing targeting youth across the province, including affordable rental housing, group homes, supportive housing, emergency shelters, and second stage housing.
 - The **Homeless Prevention Program (HPP):** rent supplements and supports to individuals in the following identified at-risk groups facing homelessness including youth transitioning out of care.
 - The **Rental Assistance Program (RAP):** Rent supplement for low-income working families. Youth aged 16 or older, with dependents, can apply.
 - The **Women's Transition Housing and Supports Program:** assists women and their children who have experienced violence or are at risk of experiencing violence. Women under the age of 19 who live independently are eligible.
 - The **Housing Registry:** subsidized housing listing and application service. Eligible youth under the age of 19 can apply.
 - The **Supportive Housing Registry:** housing listing and application service for housing with supports for people at risk of homelessness. There is no age restriction for application.

DISCUSSION:

Youth homelessness exists at the intersection of several ministry mandates and requires a cross-government response to address. MCFD will co-ordinate a cross-government response to the RCY report and recommendations. MAG and BC Housing are already working with MCFD, SDPR, and non-profit partners to address youth housing and homelessness and will engage with the Ministry of Mental Health and Addictions to ensure addressing the need for youth mental health and substance use supports are a part of this work. This includes looking at the intersectionality of various systems and developing a new process to ensure youth are streamlined into housing. A strategic planning session for partners ministries has been scheduled for January 2021 to improve how we can partner and support the needs of youth.

In addition, BC Housing has analyzed costing for a youth homelessness response that includes rent supplements and housing spaces for youth who are transitioning out of care and youth who are currently on the Housing Registry or Supportive Housing Registration Service. BC Housing is also working on developing a program that will help prepare youth for housing. This program will ensure youth can access housing, have wraparound supports, and remain housed.

MAG has begun work on actions to address youth homelessness and has been supporting A Way Home Kamloops to organize a youth led symposium Light the Way, in Jan 2021 that will include the voices of former youth in care with lived expertise in homelessness. Further, MAG coordinates cross government discussions and responses that address the BC Coalition to End Youth Homelessness (BCCEYH) reports that identify, through youth expertise, service improvements or gaps in the system of supports. These reports, which were released earlier this year, will help MAG, BC Housing and partners to develop a comprehensive youth housing strategy.

BC Housing's Building BC Request for Proposals (RFPs) also explicitly invited youth serving agencies to apply for funding. In previous RFPs, youth serving agencies were not listed, and had to inquire to BC Housing to determine eligibility, creating a barrier to access and reducing uptake. BC Housing currently has seven projects totalling almost 80 housing units for youth in various stages of development and construction.

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INDIGENOUS PEOPLES CONSIDERATIONS:

Indigenous peoples are overrepresented in both MCFD's Youth in Care numbers and the homeless population.

The 2018 Report on Homeless Counts in BC found 38 percent of homeless individuals identified as Indigenous, though they account for only 5.9 percent of the BC population. Additionally, a larger proportion of Indigenous respondents were unsheltered compared to non-Indigenous respondents. Indigenous people are believed to be frequently under-counted in homeless counts.

Youth requiring addictions and mental health support, and youth who are female, LGBTQ+, and or are Indigenous, are especially vulnerable in encampments and street sheltering environments. Youth may be physically, mentally or emotionally vulnerable and, as such, require culturally supportive, inclusive and compassionate assistance that includes Elders and community. Indigenous youth should always have input into safe and suitable housing solutions.

OTHER MINISTRIES IMPACTED/CONSULTED:

Homelessness is in the mandate of the Ministry of Children and Family Development for the first time. MAG, MCFD, MMHA and SDPR will work together in the coming months on actions to address youth homelessness.

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Office of Housing and Construction
Standards
250-812-3345

Attachment (s):

- Representative for Children and Youth (RCY) A Parent's Duty Embargoed copy

A Parent's Duty:

Government's Obligation to Youth
Transitioning into Adulthood



REPRESENTATIVE FOR
CHILDREN AND YOUTH

December 2020

Cover art

By Star Martin

Star Martin is a young digital artist based in Vancouver, B.C.. Having spent 15 years in B.C.'s foster care system, Star is very passionate about improving the lives of youth in and from care. She was previously employed by the Federation of BC Youth In Care Networks as the Youth Coordinator, and loved that role very much before deciding to pursue her passions in art. She hopes that through her art and storytelling, she will be able to raise awareness and understanding about the realities of foster care, so that more positive change can be made. She is incredibly grateful for the opportunity to create this piece for the Representative's report.

Dec. 15, 2020

The Honourable Raj Chouhan
Speaker of the Legislative Assembly
Suite 207, Parliament Buildings
Victoria, B.C., V8V 1X4

Dear Mr. Speaker,

I have the honour of submitting the report *A Parent's Duty: Government's Obligation to Youth Transitioning into Adulthood* to the Legislative Assembly of British Columbia.

This special report is prepared in accordance with Section 20 of the *Representative for Children and Youth Act*.

Sincerely,

A handwritten signature in dark ink, appearing to read "J Charlesworth". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dr. Jennifer Charlesworth
Representative for Children and Youth

pc: Kate Ryan-Lloyd
Clerk of the Legislative Assembly
Susan Sourial
Committee Clerk, Legislative Assembly

The Representative and staff, who do their work throughout the province, would like to acknowledge that we are living and working with gratitude and respect on the traditional territories of the First Nation peoples of British Columbia. We specifically acknowledge and express our gratitude to the keepers of the lands on the traditional territories of the Lheidli T'enneh peoples (Prince George), the Songhees and Esquimalt Nations (Victoria), and the Musqueam, Skwxwu'7mesh, Tsleil-Waututh and Kwikwetlem Nations (Burnaby) where our offices are located.

We would also like to acknowledge our Métis and Inuit partners and friends living in these beautiful territories.

Dedication

The Representative for Children and Youth dedicates this report to the late Katherine McParland. Her death Dec. 4 has been a tragic blow to so many who have had the great fortune to walk alongside this passionate young advocate for social justice.

A former youth in care who had “aged out” into homelessness herself, Katherine was a tireless advocate for youth experiencing or at risk of homelessness. She put young people and their voices at the centre of all she did. Her February 2020 report done in collaboration with RCY, *From Marginalized to Magnified – Youth Homelessness Solutions from Those with Lived Expertise*, was a shining example of this. Young people felt valued, respected and heard by her.

Katherine often referred to foster care as a “*superhighway to homelessness*” to describe the impact of B.C.’s current approach when youth transition out of care. Her work on the *Marginalized to Magnified* report, as well as her leadership of the non-profit she founded in her home town, A Way Home Kamloops, stand as powerful reminders that youth homelessness is an issue of systems failures, not the failings of the young people experiencing it.

With tenacity, fierceness and grace, Katherine set about changing the world, first in Kamloops and then growing her reach and influence both provincially and nationally. She was determined to change the trajectory of youth homelessness, and to make life better for the youth who would come after her. As she wrote in her report, “*our most horrific life experiences that cause the deepest wounds can sometimes become our life purpose.*”

Her passing leaves a huge hole and a terrible pain in our hearts. We honour Katherine’s legacy by carrying on with this important work that she cared about so deeply. She often closed her presentations with the following: “*Together we must prevent and end youth homelessness in our communities and our province. There is no time to wait. I stand rooted in action. Please stand with me.*”

In her memory, we most certainly will.

– Katherine McParland –
May 8, 1988 – December 4, 2020



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The Representative would also like to acknowledge the participants who took part in focus groups and individual interviews conducted for this report, as well as the authors and sponsors of past reports on this topic including the Provincial Health Officer, Fostering Change, First Call BC Child and Youth Advocacy Coalition and the Vancouver Foundation.

Finally, the Representative would like to thank the visual and literary artists who contributed their work to this report.

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Executive Summary

The transition to adulthood is a time of trial and error for any young person. Stepping away from your adolescent support system and into adulthood is hard work that takes many years and many helping hands to get right, and every young person can expect to stumble now and again while navigating through those years.

But for far too many of the 850 or so young people who transition out of government care or a youth agreement in B.C. every year, turning 19 can be the start of a frightening solo journey into the unknown – one that their experiences in government care have left them particularly poorly prepared for.

This report is about those youth. It's about good intentions gone unrealized, and systems that look much better on paper than in reality. It's about supports that are notoriously scarce, inequitable, rigid, and a poor fit for so many of the diverse young people who turn 19 while in government care. It's about practice and policy that are out of line with current research, and the ongoing legacy of colonization on new generations of First Nations, Métis, Inuit and Urban Indigenous youth, who are 17 times more likely to be in government care in B.C. than non-Indigenous youth.

And it's also about the incredible and resilient youth who make this difficult journey. So much of their life experiences and time in government care deny them the opportunities and connections that we know are essential to support children in reaching their potential, and yet many succeed anyway. Their stories have informed this work, as have those of the far too many youth lost along the way.

The compiled data and research here tell stories of higher rates of homelessness, less educational attainment, less attachment to the workforce, lower rates of income and poorer mental health among youth leaving care and transitioning to adulthood as compared to their non-care peers.

This is the 10th major report in six years done on this same issue in B.C., five of them by our Office.

Some expanded services have been introduced in that time – more tuition support for former youth in care attending post-secondary and expanded eligibility for the Agreements with Young Adults (AYA) program. But much more remains to be done.

We know that the Ministry of Children and Family Development and the B.C. government overall want to help these vulnerable young people to succeed.

But the gaps and gulfs in the government system of post-majority supports create profoundly inequitable and difficult access for youth who could benefit from these supports. The lack of data challenges anyone attempting to analyze what is or isn't working, or untangle the vastly disproportionate impact on the lives of First Nations, Métis, Inuit and Urban Indigenous youth.

The transactional nature of B.C.'s primary post-majority support for youth in care, the AYA program, bears little resemblance to the kind of "wraparound support" that young people in families will receive from their loved ones as they transition into adulthood.

Research – and common sense – confirms the importance of a similar approach for youth who have been in care, in order to support better outcomes for these young people. Growing into adulthood can be daunting at the best of times, but all the more so for a young person who hasn't had a well-supported

Executive Summary

childhood, is disconnected from family and community, and is struggling with a complex system of partial and even grudging supports that is hard to find, hard to access and even harder to maintain.

Research over decades has repeatedly confirmed that poverty is a major predictor for everything difficult that happens to a person in the course of a life. Yet our own system of care for B.C.'s most vulnerable children and youth virtually shapes a life of poverty for them. In our consultations with youth and youth-serving organizations for this report, we heard of the fear that grips young people at the idea of their 19th birthday – and impending homelessness – looming.

B.C. created the AYA program almost 25 years ago. In its most recent form, it provides up to \$15,000 a year for a total of four years for eligible youth ages 19 to 26, as long as they are attending school, taking a life skills program or attending a rehabilitation program.

But there are multiple problems with the AYA program, as is clearly evidenced by the fact that as of March 2020, fewer than 10 per cent of the total number of eligible young adults in B.C. were receiving it. This transactional program requires young people to prove their eligibility to qualify and claws back any money they earn, maintaining them in poverty. There are significant and unexplained differences in AYA access in B.C. based on gender, race, region, education level and type of previous ministry involvement.

The expansion of post-secondary tuition support for youth transitioning out of care has been a major benefit for the youth who are able to come straight out of care and into post-secondary. Administered by the Ministry of Advanced Education and Skills Training, this program has helped more than 1,100 former youth in care attend post-secondary.

But for the many youth who need more support before they can think about post-secondary, there is no bridge between their reality and tuition support. They have aged out of the government care system, but aren't yet ready for post-secondary. What are the options for them? Only 17 per cent of B.C. youth with backgrounds in government care currently make this transition in the three years after high school, compared to 48 per cent for other youth. Those figures aren't surprising, given that B.C. youth who haven't been in care are almost twice as likely to graduate high school than youth in care.

Government intervention in a child's life can be understood as a commitment to a young person's well-being – one that requires a long-term relationship and ongoing support in line with a person's needs. Research – including hard science on brain development – along with the experiences of parents and youth everywhere underlines that the journey to self-sufficiency takes time and much support, well into a person's twenties. We need systems of support for youth in care that look much more like the diverse, long-lasting and highly individual supports that a parent provides as their own children grow into adulthood.

We make a number of recommendations, which include, in summary:

- Extend and improve transition planning, which should start at least by age 14 and extend beyond age 19.
- Develop a province-wide system of dedicated transition workers through community agencies to provide systems navigation and case management support, as well as adult guidance, for these young people up to the age of 27.
- Extend support past age 19, including the automatic enrollment of all young people across all types of care and youth agreements in Agreements with Young Adults, continuing to age 27.
- Consider an extension of voluntary residential care. MCFD should evaluate current emergency measures in place due to COVID-19 that allow young people to continue to stay in their placements past their 19th birthday, with a goal of making that flexibility a permanent change.

- Provide additional dedicated housing for youth and young adults leaving care. There is perhaps no greater challenge facing young people transitioning out of care than finding appropriate, affordable, and safe housing.
- Develop and implement a plan for mental health and substance use services for youth in care transitioning to adulthood.
- Collect longitudinal data on youth transitioning out of care and evaluate services, with results made public. Data collection and evaluation are essential to ensure high-quality and equitable services. That we know so little in these two critically important areas hinders efforts in B.C. to improve outcomes for children and youth in care.

Improving and expanding supports for youth and young adults in their transition out of government care is not just a moral imperative, but an economic one. Maintaining the status quo is the most expensive choice. A 2016 B.C. cost-benefit analysis estimated major savings to government – more than \$100 million annually – that would result from funding the kinds of changes we are recommending here.

This report builds on a foundation of research and advocacy campaigns that stretch back many years, and involve a long list of passionate people and organizations committed to improving outcomes for young people transitioning out of care in B.C.

We are particularly grateful for the ongoing work of Fostering Change on behalf of young people in care and under youth agreements, to the Vancouver Foundation for initiating Fostering Change, and to First Call: BC Child and Youth Advocacy Coalition for hosting the Fostering Change campaign. The work of the late Katherine McParland in partnership with RCY brought together the voices of youth in care to inform a new conversation on ending youth homelessness in the report *From Marginalized to Magnified: Youth Homelessness Solutions from Those with Lived Expertise*, released in February 2020.

We want to acknowledge leaders in First Nations, Métis, Inuit and Urban Indigenous communities who have forcefully and repeatedly told us that “aging out” is not a concept that fits with their cultures. Indigenous organizations such as the First Nations Leadership Council, Métis Nation BC, the Delegated Aboriginal Agencies Directors’ Forum and the BC Association of Aboriginal Friendship Centres have been strong advocates for more robust and more appropriate supports for their youth.

The COVID-19 pandemic response demonstrates that government can act quickly to make the kind of changes that advocates have long been asking for to prevent young people in government care from falling over the precipice at age 19.

As of March 2020, MCFD has implemented measures and tried to engage with youth to maintain support and services for those transitioning into adulthood, allowing youth to stay put in their current living arrangements until March 2021. Independent living and youth agreements have been extended, and youth in the AYA program will continue to receive funding until Sept. 30, 2021 even if their eligibility status changes.

We have an opportunity to take the temporary changes that are being implemented during the pandemic and build on them. We have the duty to reform a system that not only doesn’t function as intended, but in many cases causes great harm for the young people ostensibly being helped. Poorer outcomes experienced by young people transitioning out of care are not inherent in the young people themselves, but rather a product of their life experiences and a deeply flawed and inadequate system of care.

We can, and must, do better.

Introduction

Take a few minutes to think back to your 19th birthday. Perhaps it was a few years ago, perhaps it was 30 years ago, perhaps even longer. What were you looking forward to? What were you dreaming about? What kind of adulthood did you imagine for yourself?

Chances are you were only beginning to take the first steps to bring those dreams into reality when you were 19. Maybe you were going to school or working. Maybe you were doing both. If you were like the majority of young adults, you had a lot of support. You had adults around you to give you advice, help to pay for your education, and probably even provide you with a place to live. Even once you moved out of your house, you still most likely had a place to go to do your laundry on the weekends or have a meal or to return to live if you really had to. You had a person to help you think through decisions, big and small, if you needed and wanted that. You made a gradual transition to being more independent, while still being closely connected with family of all sorts, whether those you grew up with or those you choose to call family. For many of us, it's an age that we look back on fondly, because we were on the precipice of discovering who we were to become.

However, for many youth who are forced to leave the care of the child welfare system at age 19, a different kind of precipice awaits. They face having to leave the support of that system and learn, all too often by themselves, to navigate entirely new systems of support that will require them to find the right services, determine if they're eligible and traverse the bureaucratic barriers to access.

For more than 20 years, there has been a growing demand for change among these young people for a more just and equitable transition from care to interdependence and for the support they deserve. Indeed, ongoing research and advocacy efforts have brought about some tangible change. But change for youth transitioning into adulthood in B.C. has to date been one of incremental shifts and tinkering with programs and services. Government has yet to develop a cohesive and robust cross-ministry plan that ensures all youth who age out of care transition to the support they need – that any person needs – to successfully navigate young adulthood.

"I'm 49, and I've never 'aged out' from my parents. That's the paradigm shift that is needed," notes Gwen Cardinal, Director of Youth and Community Services at Prince George Native Friendship Centre. *"When I turned 19, it was such a celebration. But for kids in the system, it's the trigger, it's the threat, it's the pressure. It's a threat for them to think about turning 19 – 'What are you going to do when you turn 19?'"*

This year, the COVID-19 pandemic has magnified the vulnerabilities of young people transitioning into adulthood. *"COVID-19 is a truth-sayer,"* wrote Canadian writer Tessa McWatt in the *Globe and Mail*.¹ But so many of those cracks, fissures and deep gaps in our social safety nets that COVID has exposed have existed for years for youth transitioning into adulthood.

However, the pandemic has also demonstrated that government can act quickly to make the kind of changes that advocates have long been asking for to prevent young people in government care from falling over the precipice at age 19. Since March 2020, the Ministry of Children and Family Development has implemented measures and engaged with youth to try to maintain support and services

¹ Tessa McWatt, "As the COVID-19 lockdown ends, what world awaits people?" *The Globe and Mail*, Aug. 7, 2020.

for those transitioning into adulthood. Youth are able to stay put in their current living arrangements – whether that is in foster care, a contracted residential agency, court-ordered out-of-care living arrangements or with relatives through the extended family program – until March 31, 2021. Independent living and youth agreements have been extended, and youth in the Agreements with Young Adults (AYA) program are able to continue to receive funding until Sept. 30.

Additionally, government is maintaining emergency measures until Sept. 30, 2021 that broaden the options and reduce the required hours of participation per week for young adults receiving life skills and rehabilitation supports through the AYA program. These measures expand AYA program eligibility to a wider range of existing programs online and in communities, and include cultural programs. There is also more flexibility in accessing mental health supports, including cultural healing and wellness under the AYA rehabilitative program area.²

There is much to be learned from the experiences of young people on the cusp of transitioning into adulthood during this COVID-19 pandemic. The temporary emergency measures along with innovative and agile shifts by service providers working with this population of youth provide a glimpse of a different way of supporting B.C. youth transitioning into adulthood.

Sadly, these positive changes are only temporary. This report calls on government to enact comprehensive and lasting change for the young people in its care as they transition into adulthood.

"Don't expect us to be adults at 19."
– youth participant

This report looks at what is known about outcomes for young people in care transitioning into adulthood, with particular focus on the over-involvement of the child welfare system in the lives of First Nations, Métis, Inuit and Urban Indigenous children and youth in care. The report also examines current policies and programs for young people transitioning into adulthood in B.C.

Our report highlights research on how best to support youth in this transition to adulthood. We look at how that support can align with research-based practices supporting youth in this transition and examine costs and cost benefits as well as how some other jurisdictions are addressing this issue. We conclude with recommendations on how to better support young people leaving care in British Columbia.

² Ministry of Children and Family Development, "Supports extended for youth aging out of care," B.C. Government News, Sept. 20, 2020. <https://news.gov.bc.ca/releases/2020CFD0097-001825>.

A Note on Terminology

The term “aging out of care” is commonly understood to describe the situation in which young adults who reach the age of majority (19 in B.C.) can no longer access the supports that were available to them in the child welfare system. While this term is widely used, and is descriptive of the situation youth in care find themselves on their 19th birthday, the term also has limitations. It connotes the termination of government obligation to these young people, and a mindset of no longer having care and concern for them. The term “aging out” is not aligned with the experience of young people who are not in care, and does not describe what we wish to be true for these young people. It is also not future-focused. Many advocates have promoted the use of different language to describe this situation – language that is more aspirational and helps to envisage the world we would like to see for these young people. These alternatives include “youth transitioning out of care,” “youth transitioning into adulthood” and “aging into community.” Additionally, First Nations, Métis, Inuit and Urban Indigenous advocates have pointed out that “aging out” is a colonial concept, and that there is no such concept in Indigenous cultures. In this report, we have chosen to intentionally shift our language, and have used the term “youth transitioning to adulthood” to signal that we understand this to be a transitional time in the lives of young people, and we see an opportunity to prepare young people for successful adulthood and a different kind of future.



Photo Credit: Fostering Change

Scope and Methodology

This report is a review of existing research and previous work on the issue of young people transitioning into adulthood in British Columbia. The report specifically focuses on the more than 800 young people who age out of care or a Youth Agreement in B.C. every year. It does not address young people with neuro-developmental disabilities who will be transitioning into Community Living BC (CLBC) services because this relatively small group is eligible for alternative support services.

Because the B.C. government does not systematically capture longitudinal data on the experiences and outcomes of young people transitioning into adulthood, this report relies on other government data and research studies that have been completed in B.C. and other jurisdictions that paint a picture of the experience of transitioning into adulthood. Several studies dating back a decade or more have had significant input directly from young people with lived experience. Despite the absence of rigorous, systematic, longitudinal data collection by government on the experiences of young people transitioning into adulthood in B.C., the Representative believes there is more than enough evidence from other work to understand the experiences of young people transitioning into adulthood as well as the strengths and weaknesses of the current system, and to make recommendations for improvement.

Available data collected by government on the experiences of transitioning to adulthood in B.C. have been included in this report, including high school completion rates, rates of accessing income assistance, and participation in programs such as Agreements with Young Adults or the Provincial Tuition Waiver program. Our review of available provincial supports to young people transitioning into adulthood has been drawn from government websites and other government documentation.

This report includes case examples from the work of two RCY teams: Advocacy and Reviews and Investigations. It features a review of literature on topics such as promising practices for youth transitioning into adulthood, emerging adulthood, cost-benefit analysis and policy and practice in other jurisdictions. Pseudonyms are used for the youth in our case examples to protect their identities, and one case (Jack) is presented as a composite.

Additionally, focus group consultations and one-on-one conversations were held with key stakeholders including youth from care, front-line service providers, foster parents, community service agency representatives and staff representatives from the First Nations Leadership Council, Métis Nation BC and Delegated Aboriginal Agencies.

Happy 19th Birthday*By Zae*

Hi my name is Zae (Zee)

I am a 22-year-old non-binary individual who has been an advocate for youth for over four years. I myself have had experience in and out of care. I am an artist and I am in the CYC program at Douglas. I aspire to become an artist and create powerful pieces that can hopefully inspire others.

When thinking about the realities of youth leaving care, all I can think of is the social worker handing the youth their final cheque and some garbage bags to pack their things and head out into the world. This is the true reality for most of our youth leaving care. I painted some garbage bags that say happy 19th birthday to represent how it feels to leave care without any guidance or help on what youth should do or how they can support themselves in the real world. Sadly, most of the youth like myself who have experienced aging out of care feel lost and let down. Let down by the workers who are our "parents." I am hoping this piece can really inspire workers and government to change some of their ways on how we put our youth out into the world. The end goal is to see our youth succeed and follow their goals and dreams. But we can't do that if we continue to hand them last cheques and garbage bags and assume they're fine on their own.

Background

The British Columbia Child Welfare System

In order to fully understand the child welfare system today and the experience of transitioning into adulthood, it is necessary to understand the historical context in which it was created. This means understanding both the moral “child-saving” movement of the late 19th and early 20th centuries along with the colonization of Indigenous peoples.³ Over time, the child welfare system has evolved from being primarily concerned with the prevention of cruelty to children to one that seeks to support families before removing children from their homes, and at the same time is still reconciling with its colonial past.⁴

Child welfare services in British Columbia are the responsibility of the Ministry of Children and Family Development. As of Oct. 31, 2020 there were 5,437 children and youth in care in B.C.⁵ Of these, 3,602 (66 per cent) were Indigenous (56 per cent First Nations, 0.6 per cent Inuit, 8 per cent Métis and 0.9 per cent Nisga’a).⁶ Child welfare services in B.C. are governed by the *Child, Family and Community Service Act (CFCS Act)*. Services are provided either by service delivery offices or one of 24 Delegated Aboriginal Agencies (DAAs) that have signed agreements with the ministry. These agreements delegate authority from the Provincial Director of Child Welfare to the DAAs to undertake child welfare responsibilities, which can vary from family support and guardianship services to full child protection authority, including removals.⁷

Children in care in B.C. range in age from newborn up to age 19. The majority of those children (89 per cent) are in care because the ministry has determined that there is abuse or neglect in the family home, and the children are placed in care by court order. Neglect accounts for almost three-quarters of these cases.⁸ Other children (11 per cent) enter care through voluntary care or special needs agreements with parents or guardians who ask for government help, whether because of illness, family issues or parent/child conflicts. Some families need help providing specialized care to a child who has physical or developmental delays, medical needs or mental health, emotional or behavioural needs.

On the day they turn 19, youth are considered to have “aged out” of care. According to ministry data, in fiscal year 2019/2020, there were 406 youth who aged out of care (approximately half Indigenous) and 414 youth who aged out of a Youth Agreement (40 per cent Indigenous).⁹

³ Nico Trocmé, et al., “Child Welfare Services in Canada,” in *National Systems of Child Protection: Understanding the International Variability and Context for Developing Policy and Practice*, eds. Richard D. Krugman, Lisa A. Merkel-Holguin, John D. Fluke (Switzerland: Springer, 2019), 27-50.

⁴ Nico Trocmé, Della Knoll and Cindy Blackstock, “Pathways to the Overrepresentation of Aboriginal Children in Canada’s Child Welfare System,” *Social Services Review* 78, no. 4 (2004): 577-600, <https://doi.org/10.1086/424545>.

⁵ Data extracted from the Corporate Data Warehouse on Nov. 13, 2020.

⁶ Data extracted from the Corporate Data Warehouse on Nov. 13, 2020.

⁷ Ministry of Children and Family Development, “Delegated Aboriginal Agencies in BC,” Government of B.C., accessed Sept. 9, 2020, <https://www2.gov.bc.ca/gov/content/family-social-supports/data-monitoring-quality-assurance/reporting-monitoring/accountability/delegated-aboriginal-agencies>.

⁸ Ministry of Children and Family Development, “Permanency for Children and Youth in Care,” accessed Sept. 9, 2020, <https://mcfcd.gov.bc.ca/reporting/services/child-protection/permanency-for-children-and-youth/case-data-and-trends>.

⁹ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

A Youth Agreement is a legal agreement made between MCFD or a DAA and a young person between the ages of 16 and 18 in, for example, cases involving a “significant adverse condition, such as severe substance use, a significant behavioural or mental disorder, or sexual exploitation”.^{10, 11} A thorough assessment of the youth’s circumstances is made by their local MCFD office or DAA, and the youth may receive help with housing, life skills, managing mental health and substance use issues and education. Youth must remain in compliance with their agreement or it can be terminated. As of Oct. 31, 2020, there were 643 youth on Youth Agreements, 271 (42 per cent) of whom were Indigenous.¹²

Trauma and Adverse Childhood Experiences

A growing body of literature demonstrates that exposure to trauma during childhood has long-term consequences, and that adults who experienced trauma as children are at higher risk of physical and psychological problems.¹³ As one scholar said:

*“The exposure to trauma during childhood can interrupt the developmental processes and cause life-long physical, mental, and emotional deficiencies. Research shows that trauma survivors can suffer from depression, anxiety, abandonment issues, unstable relationships, and other mental illnesses.”*¹⁴

Studies have estimated that up to 90 per cent of youth in care have some exposure to trauma.¹⁵ In fact, “many of the emotional and behavioral problems manifested by children and youth in care are well recognized to be the result of early trauma.”¹⁶

Article 39 of the *United Nations Convention on the Rights of the Child* – the most widely ratified human rights treaty in the world – says that governments shall: “... take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse...”¹⁷ However, trauma-informed care is not always provided, and often youth transitioning into adulthood have not had the appropriate services and supports to recover from their trauma. As we recently reported, while MCFD recognizes the importance of a system-wide trauma-informed approach to delivering services and supports to children and families, this has yet to be integrated into child welfare practice. Full implementation of MCFD’s Trauma-Informed Practice Guide would require considerable resources, but if implemented, it would increase the capacity among service providers to deliver robust, appropriate and accessible services to children with complex needs.¹⁸

¹⁰ Revised Statutes of British Columbia, *Child, Family and Community Service Act*, 8.1 § (1996).

¹¹ A youth under 16 can also be placed on a Youth Agreement if they are married, a parent or an expectant parent.

¹² Data extracted from the Corporate Data Warehouse on Nov. 13, 2020.

¹³ Heather Dye, “The impact and long-term effects of childhood trauma,” *Journal of Human Behavior in the Social Environment*, 28:3 (2018): 381-392, <https://doi.org/10.1080/10911359.2018.1435328>.

¹⁴ Dye, “The impact and long-term effects of childhood trauma,” 389.

¹⁵ Shannon Dorsey et al., “Prior trauma exposure for youth in treatment foster care,” *Journal of Child & Family Studies*, 21, (2012): 816-824, <https://doi.org/10.1007/s10826-011-9542-4>.

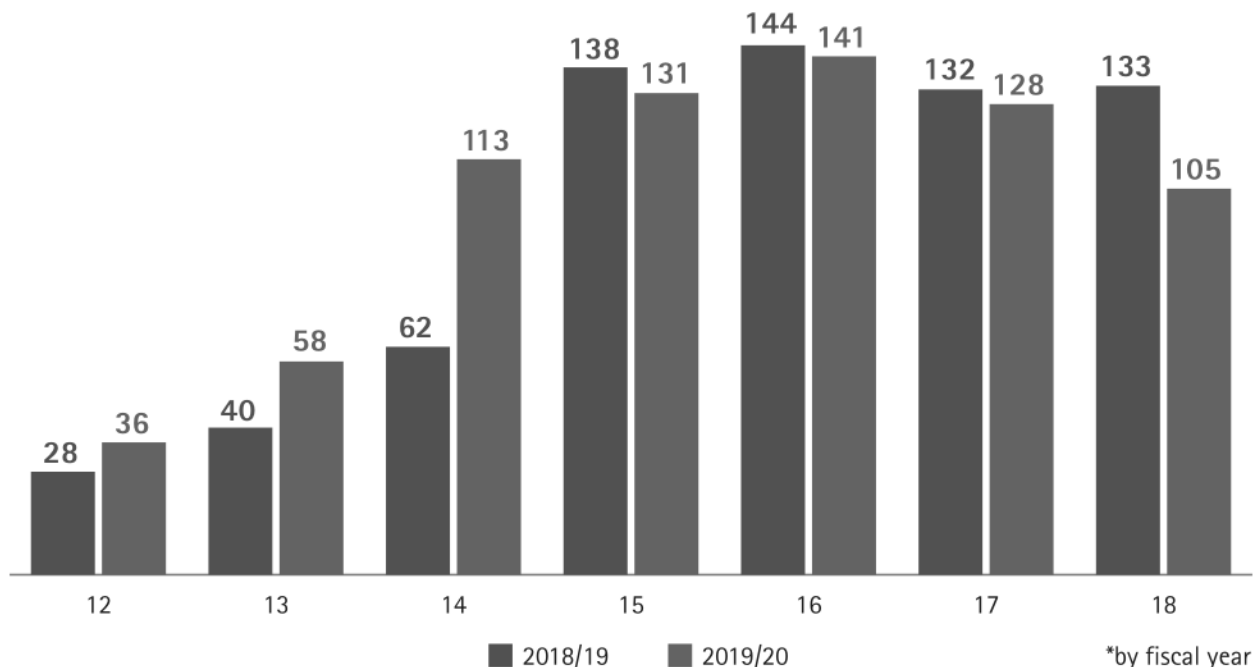
¹⁶ Harriet Ward, “Continuities and discontinuities: Issues concerning the establishment of a persistent sense of self amongst care leavers,” *Children and Youth Services Review*, 33(12) (2011): 2512–2518. <https://doi.org/10.1016/j.childyouth.2011.08.028>.

¹⁷ “Convention on the Rights of the Child,” United Nations Human Rights Office of the High Commissioner, accessed Nov. 13, 2020, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

¹⁸ Representative for Children and Youth, “*A Way to Cope: Exploring non-suicidal self-injury in B.C. youth*,” September 2020, Victoria, B.C..

Data collected by RCY on deaths and critical injuries (which includes suicide attempt/ideation, sexualized violence and substance-related harm) show that as youth progress through adolescence, their vulnerability and risk increase in the two years prior to transitioning into adulthood, and remain heightened as they hit the precipice at their 19th birthday. Figure 1 below shows the number of injuries reported at each age from 12 through 18 for those in care in fiscal years (FY) 2018/2019 and 2019/2020. Data collected for those on Youth Agreements shows a similar increase year-over-year from age 16 to age 18.¹⁹

Figure 1. Count of injuries by age 2018/2019 and 2019/2020*



While children and youth often enter care already having experienced trauma in their lives, experiences while in care can cause further trauma, leading to “*accumulative and chronic*” experiences of trauma over an individual’s life.²⁰ Applying a systems lens to this issue is helpful, as policy expert and former youth in care Jane Kovarikova did in her 2017 report on youth outcomes after aging out of care. She wrote:

“It is tempting to suggest that traumatic backgrounds and personal characteristics of youth are the “cause” of these poor outcomes; however, the findings from this study suggest structural factors and professional practices inherent in the child protection system may contribute significantly to poor outcomes for youth aging-out of care.”²¹

¹⁹ Representative for Children and Youth, critical injury data for youth in care, 2018/19 and 2019/20, Accessed Sept. 4, 2020.

²⁰ Heather C. Forkey et al, “Outpatient clinical identification of trauma symptoms in children in foster care,” *Journal of Child & Family Studies*, 25(5) (2016):1480-1487, <https://doi.org/10.1007/s10826-015-0331-3>.

²¹ Jane Kovarikova, *Exploring Youth Outcomes After Aging-Out of Care*, (Ontario: Office of the Provincial Advocate for Children and Youth), 2017, 4, <https://cwrp.ca/sites/default/files/publications/report-exploring-youth-outcomes.pdf>.

Background

Practices that can cause trauma during a child or youth's care experience include placement instability or moving frequently while in care, concurrent changes in schools and social workers, and continual experiences of loss.²² When youth age out of care without having had sufficient support to recover from their trauma, and experience "*compressed and accelerated transitions*," they are more likely to experience issues with mental health and other associated challenges throughout their lives.²³

CASE STUDY – Shawn

Shawn is a youth with an amazing sense of humour who loves to connect with people and take care of them. He was involved in the care system for virtually his entire young life, removed for the first time from his parents when he was 16 months old and moved around more than 50 times before he transitioned out of care at age 19.

His mother was a child in care who experienced severe abuse by her biological family before coming into the care of MCFD, where she lived in more than 20 different homes before turning 19. His father had a long history of involvement with the criminal justice system, including several convictions for violent assaults.

Shawn spent the first 11 years of his life in and out of foster care, living either with his parents or with other relatives in between times in care. At age 11 he came into the full-time care of MCFD, where he remained until 19.

Shawn was using substances and had considerable involvement with youth justice. In the year before he aged out of care, Shawn was staying mainly in safe houses and youth custody centres.

His MCFD social worker secured Shawn an independent living suite in youth housing, but he was evicted three months later. Although he was in care, MCFD could not find another placement for him, and instead he stayed in a "tent city." His main connections were his youth outreach worker through a local safe house and his youth probation officer.

When Shawn turned 19, he moved from government care into homelessness with very few services supporting him. He is still trying to gain post-majority supports from MCFD.

²² Ward, "Continuities and discontinuities: Issues concerning the establishment of a persistent sense of self amongst care leavers."

²³ Ward, "Continuities and discontinuities: Issues concerning the establishment of a persistent sense of self amongst care leavers."

Over-involvement of the Child Welfare System in the Lives of First Nations, Métis, Inuit and Urban Indigenous Youth

Due to the history of colonization in Canada as well as ongoing systemic racism, the B.C. child welfare system is over-involved in the lives of First Nations, Métis, Inuit and Urban Indigenous children and youth. Indigenous children account for less than 10 per cent of B.C. children, but represent 66 per cent of those in care.²⁴ They are about 17 times more likely to be in care than non-Indigenous children and youth.²⁵

Among experts in child welfare, neglect is commonly understood as another way to describe poverty.²⁶ Dr. Nico Trocmé – a professor at McGill University and the principal investigator for a leading Canadian Incidence Study (CIS) of Reported Child Abuse and Neglect – has stated that “*most Indigenous children end up in care because their parents are poor.*” Trocmé goes on to say:

*“I’ve certainly never seen any evidence from any of the research to indicate that there is something endemic to First Nations families that would explain a higher rate of placement. It has much more to do with the high rates of poverty and the difficult social and economic circumstances they’re living in.”*²⁷

While the over-involvement of the child welfare system in the lives of First Nations, Métis, Inuit and Urban Indigenous children and youth in care is a well-known issue in B.C. and Canada, more focused attention must be paid to the unique issues young Indigenous people face when transitioning into adulthood. The *Review of MCFD-Involved Youth Transitioning to Independence*, released by the BC Coroner in 2018 “*found a disproportionate representation of deaths among Indigenous young persons compared to the number of Indigenous young people in the general population.*” (Indigenous youth and young adults accounted for 34 per cent of the 200 deaths investigated in the report.)

The report goes on to discuss the role of culture and its integral role in health and wellness for Indigenous people.²⁸ Indigenous children and youth have not only been removed from their families, but often from their Indigenous communities as well. This practice inhibits connections with their culture, which in turn leaves them more vulnerable to mental health concerns, substance misuse and death by suicide.²⁹

²⁴ Ministry of Children and Family Development, “Permanency for Children and Youth in Care,” accessed Sept. 9, 2020, <https://mcfcd.gov.bc.ca/reporting/services/child-protection/permanency-for-children-and-youth/case-data-and-trends>.

²⁵ The Ministry of Children and Family Development’s Annual Service Plan Report states that the rate of Indigenous children and youth in care for fiscal year 2019/2020 was 40.4 per 1,000 (0 to 18 population), whereas the rate for non-Indigenous children was 2.4 per 1,000 (0 to 18), meaning that Indigenous children are 16.8 times more likely to be in care than non-Indigenous children.

Ministry of Children and Family Development, “2019/20 Annual Service Plan Report” (Victoria, B.C.: Ministry of Children and Family Development), 2020, https://www.bcbudget.gov.bc.ca/Annual_Reports/2019_2020/pdf/ministry/cfd.pdf.

²⁶ Katherine Schumaker, “An Exploration of the Relationship Between Poverty and Child Neglect in Canadian Child Welfare” (PhD diss., University of Toronto, 2012).

²⁷ Katie Hyslop, “How Poverty and Underfunding Land Indigenous Kids in Care,” *The Tyee*, May 14, 2018, <https://thetyee.ca/News/2018/05/14/Indigenous-Kids-Poverty-Care/>.

²⁸ BC Coroners Service, “BC Coroners Service Death Review Panel: Review of MCFD-Involved Youth Transitioning to Independence” (Victoria, BC.: Office of the Chief Coroner of British Columbia), 2018.

²⁹ Robert Mahikwa, “The Next Chapter: A Practical Guide for Individuals, Families, Communities, Social Workers, and Organizations Supporting Indigenous Youth Aging-Out of Care” (MSW Thesis, University of Victoria, 2018), <https://dspace.library.uvic.ca/handle/1828/10396>.

Background

RCY heard in our consultations that MCFD workers need different skills for working with Indigenous youth.

“There’s so much more to supporting Indigenous youth in or from care than what most social work university education programs are typically offering,” says Rob Mahikwa, sessional instructor at the University of Victoria and Indigenous Education Navigator at Vancouver Island University. *That’s not to say that it cannot be done, it’s just that there’s often a need for social workers to approach their practice in a culturally-informed way that isn’t always taught in post-secondary alone.”*

As Fast et al. write in *Leaving Care and the Transition to Adulthood*, *“The process of reclamation of culture and identity are particularly critical for emerging adults.”*³⁰ Any attempts to improve policy and practice for youth leaving care must centre on the experiences and needs of Indigenous youth.

“It’s quite challenging to Indigenize a system that is colonial in design. I want the legacy to be different. I want our kids to have the chance to flourish, there’s so much more they can give,” says Gwen Cardinal, Director of Youth and Community Services, Prince George Native Friendship Centre.



BRIGHT SPOT – Lii Michif Otipemisiwak

Kikékyelc: A Place of Belonging: Lii Michif Otipemisiwak Family and Community Services

Lii Michif Otipemisiwak Family and Community Services is the first Métis child welfare agency in B.C. to develop and operate its own housing. Kikékyelc: A Place of Belonging is a culturally safe, fully supported, 31-unit apartment development that houses Indigenous Elders and Indigenous youth between the ages of 16 and 27, who are receiving child welfare services. Co-housing fosters traditional intergenerational relationships, which strengthen the community and cultivate a sense of belonging to residents. The building is alcohol, drug and violence-free. There are single and one-bedroom suites, accessible suites, a kekuli common space, a common kitchen, coin laundry facilities, green space, basketball court, community garden, fire pit, resident Elders, cultural mentors and programming, in-house support workers, a 16-week Indigenous life skills program and a food services training program that provides daily nutritious meals to tenants.

Executive Director Colleen Lucier says, *“The idea for Kikékyelc: A Place of Belonging came from a desperate need to improve outcomes for Indigenous youth receiving services from the child welfare system. Our local Métis Elders challenged us by asking what, as a Métis service provider, we were doing differently to break the cycle of lost generations. Kikékyelc is an example of one of our many efforts to do something different. It is our hope that Kikékyelc will contribute to a youth’s ability to conceive of a brighter future and ultimately break the cycle that has perpetuated the over-representation of Indigenous children in care for far too long. The support received for this project is a reflection of reconciliation in action and demonstrates what can happen when Indigenous communities are supported to develop and lead services for our People.”*

“New Housing for Indigenous Youth and Elders Opens In Kamloops,” Canada Mortgage and Housing Cooperation, Nov. 16, 2020, <https://lmofcs.ca/kikekyelc/>.

³⁰ Elizabeth Fast et al., in *Leaving Care and the Transition to Adulthood*, eds. Varda Mann-Feder and Martin Goyette (Oxford University Press, 2019), 11.

Outcomes for Youth Transitioning into Adulthood

Although there is a lack of systematic data collection about the experiences of young people transitioning into adulthood in British Columbia and Canada as a whole, much is known about what happens when young people leave care in B.C. Many reports have highlighted the poor outcomes of a system that leaves young people with insufficient support or no support at all as of age 19.

Data shared here is drawn from multiple sources, and wherever it is available, we have used data from B.C. and Canada. We present highlights from the outcomes data and research that is available and acknowledge that more detailed information is available in the referenced reports.

This data and research tell stories of higher rates of homelessness, less attachment to the workforce, lower rates of income and poorer mental health among youth leaving care, as compared to their non-care peers who have transitioned to adulthood. These stories are told so often that in the early days of Fostering Change, a Vancouver-based initiative seeking to change policy and practice for youth transitioning into adulthood in B.C., the Youth Advisory Circle set out to create a new narrative about this transition – one that honours lived experiences while examining weaknesses in the system, rather than focusing on individuals.³¹ RCY shares this data and research while recognizing that the poor outcomes faced by so many young people transitioning into adulthood are the result of systemic and structural problems.

Homelessness

Aging out of care has been called a “*super highway to homelessness*.”³² It is widely reported that young people from care are more likely to become homeless than young people who are not in care. The *Opportunities in Transition* report found that, “*The differing housing circumstances for youth aging out of care and the general population is perhaps the most basic disadvantage youth aging out of care face*.”³³ Several U.S. studies have found that up to 30 per cent of young people who age out of care experience homelessness and/or housing instability.

Multiple studies have also shown that a significant proportion of young people experiencing homelessness have come from the child welfare system. The *National Youth Homelessness Survey*, conducted in Canada in 2016, found that 57.8 per cent of homeless youth reported involvement with the child welfare system

“I definitely was afraid that I was going to have to live out of my car when I turned 19, because my lease was ending, I had nowhere to go, and I had a cat. I thought about going through B.C. Housing for a subsidized place, but they prioritize people with children, with no priority for youth aging out of care. I finally reached out to my former foster mom for help, and now I rent her basement suite.”

– A former youth in care

³¹ Fostering Change, “Save the Sob Story,” accessed Sept. 10, 2020, https://www.fosteringchange.ca/save_the_sob_story_vancouver_foundation_s_youth_advisory_circle_conceives_a_new_ending_to_an_age_out_tale, N.D.

³² Bill Metcalfe, “Foster-care is ‘superhighway to homelessness’ youth advocate tells Nelson audience,” *Nelson Star*, Oct. 18, 2018, <https://www.nelsonstar.com/community/foster-care-is-superhighway-to-homelessness-youth-advocate-tells-nelson-audience/>.

³³ Marvin Shaffer and Lynell Anderson, *Opportunities in Transition: An Economic Analysis of Investing in Youth Aging out of Foster Care in their 20s, Report 1* (Vancouver: Simon Fraser University, Vancouver Foundation, Fostering Change, 2016), p. 22, <https://assets.nationbuilder.com/vancouverfoundation/pages/227/attachments/original/1552419273/Fostering-Change-Opportunities-in-Transition-Report-1.pdf?1552419273>.

at some point in their lives.³⁴ Studies conducted across jurisdictions over the past two decades have found that at least 40 per cent of young people who are homeless or “street-involved” have experience in the child welfare system. These studies generally show a correlation between time spent in the child welfare system and a higher likelihood of experiencing homelessness.³⁵

Kovarikova’s 2017 report on youth transitioning out of care in Ontario reviews outcomes for these young people and attempts to better understand the lasting impact of growing up in the child protection system. Her analysis synthesizes data from the literature and supplements it with informal interviews with staff at Ontario organizations serving youth in care. In the report, she identifies the following key findings:

- Rates of homelessness are elevated for youth who have aged out.
- Youth are most vulnerable to homelessness in the first six months of aging out.
- Placement instability prior to aging out may project into adulthood; youth move frequently after care.
- Couch-surfing is common even into the mid-20s.
- One close contact or merely the perception of having social support available decreases risk of homelessness significantly.
- Running away, group care, physical abuse and delinquency while in care increase the risk of homelessness after care.
- Housing options may also be limited for youth with special needs, mental health or behavioural disorders or substance abuse.
- Rural youth may also be more vulnerable to homelessness and required to move to access services.³⁶



BRIGHT SPOT – United Kingdom – The Housing First for Youth project by Rock Trust

The Housing First for Youth project by Rock Trust operates in West Lothian, Scotland and serves young people leaving care. Participants in Housing First for Youth are offered immediate and permanent accommodation on an unconditional basis. In addition, youth are provided with holistic support across education, employment and health and well-being needs. An evaluation of the program found that participants noted improvements in physical health, life satisfaction and independent living skills. In addition, half of participants were engaged in some form of education or training.

Samantha Shewchuk, Transition Supports to Prevent Homelessness for Youth Leaving Out-of-Home Care, (Ontario: Canadian Observatory on Homelessness and A Way Home, Canada), 2020, <https://www.homelesshub.ca/sites/default/files/attachments/TransitionSupportReport-31082020.pdf>.

³⁴ Stephen Gaetz, Bill O’Grady, Sean Kidd and Kaitlin Schwan, *Without a Home: The National Youth Homelessness Survey* (Toronto: Canadian Observatory on Homelessness Press), 2016, <https://homelesshub.ca/YouthWithoutHome>.

³⁵ Amy Dworsky et al., *Missed opportunities: Pathways from foster care to youth homelessness in America* (Chicago, IL: University of Chicago), 2019, https://www.chapinhall.org/wp-content/uploads/Chapin-Hall_VoYC_Child-Welfare-One-Pager_2019-FINAL.pdf.

Katherine McParland, *From Marginalized to Magnified: Youth Homelessness Solutions from Those with Lived Expertise*, (Victoria, B.C.: Representative for Children and Youth), February 2020, <https://rcybc.ca/reports-and-publications/reports/general-reports/from-marginalized-to-magnified/>.

³⁶ Kovarikova, “Exploring Youth Outcomes After Aging-Out of Care,” 18.



BRIGHT SPOT – Aunt Leah's Place

Aunt Leah's Place is dedicated to creating an environment where all children connected to the child welfare system have as much opportunity as parented children. Aunt Leah's Place was one of the first organizations in B.C. to develop Youth Housing First and to adapt the model to support young people in or from care. Aunt Leah's Place has multiple programs focused on housing for youth from care, including:

The Friendly Landlord Network – network of homeowners and property managers who rent suites to youth transitioning out of government care. The landlords receive market rent and tenancy support.

Housing and Education Link Program Subsidy (HELPS) – housing subsidies for former youth in care so they can continue to pursue their education in a supportive space.

The Link: Housing First program – provides at-risk or homeless participants immediate access to housing and regular support services. The Housing First program ensures that youth in great need can enter difficult rental markets, avoid homelessness and develop essential life skills. This program includes rent subsidies for former youth in care.

Thresholds program – supported housing and services for new moms at risk of losing custody of their child. Moms live in a safe, caring home environment where they can learn how to care for their baby with the guidance of Aunt Leah's staff and a family support worker.

Link Supportive Housing – supportive housing program for youth who have aged out of government care. Using a scattered-site model, this program has basement suites throughout Metro Vancouver dedicated to housing young people transitioning from care into adulthood. Supports range from emergency housing and supportive housing to a straight rental agreement.

Evaluations of these programs have found that participants experience increased housing stability, both while they are in the programs and also after they leave.

Aunt Leah's Place, 2020, <https://www.auntleahs.org/>.

Educational Achievement

Research has established that educational attainment is a key determinant of future employment, income, health status, housing and many other amenities.³⁷ The most significant impact of low educational achievement is lifetime limited earnings potential, discussed further in the next section. There are also well-researched links between low educational attainment and poor health, increased likelihood of involvement in criminal activity and early pregnancy.³⁸

³⁷ Levin et al., cited in *Opportunities in Transition*, Report 2.

³⁸ Olena Hankivsky, *Cost Estimates of Dropping Out of High School in Canada: Technical Report*. (Vancouver: Canadian Council on Learning), 2008, <http://200.6.99.248/~bru487cl/files/Costofdroppingout.pdf>.

The large gaps in school achievement between children and youth in care and other children have been noted in two reports from the Representative and the Provincial Health Officer – *Growing up in B.C.*, and the follow-up, *Growing Up in B.C. – 2015* – and the 2017 RCY report, *Room for Improvement: Toward Better Educational Outcomes for Children in Care*.³⁹ While there have been some improvements, gaps persist: according to recent data reported by the Ministry of Education, the six-year high school completion rate

“Starting post-secondary is a hard transition for youth who have been in care. You're coping with your traumas, trying to figure out what you want to do with your life, trying to learn how to budget because nobody's ever taught you that – and all with no parent to help you.”

– A former youth in care

for students in care in B.C. was 47.5 per cent in 2019 as compared to an 85.9 per cent completion rate for their non-care peers.⁴⁰ The figure for youth in care includes some youth who received only a School Completion certificate, typically not adequate for admission to post-secondary institutions.⁴¹

Even if a young person in care graduates high school, their chances of proceeding on to post-secondary education are far less than their non-care peers. In an effort to track post-secondary education participation, the provincial government has embarked on the *The Student Transitions*

Project, a cross-ministry initiative to track B.C. students across K to 12 and into the B.C. public post-secondary system. Looking at the transition rate from high school graduation to post-secondary within three years, only 17 per cent of children and youth in care or those on youth agreements made this transition, far lower than the 48 per cent of those not in care or on a youth agreement.⁴²

Limited Earnings Potential

As mentioned earlier, the relationship between educational attainment and lifetime earning potential has been clearly demonstrated through research. MCFD tracks the number of youth leaving care and those on youth agreements who access income assistance within six months of leaving care, and the most recent available figures confirm that 48 per cent of youth leaving care access Persons with Disabilities or Income Assistance support.⁴³ For those aging out of a Youth Agreement in the same time period, 23 per cent accessed Persons with Disabilities or Income Assistance support.⁴⁴

³⁹ Representative for Children and Youth, *Growing Up in B.C.* (Victoria, B.C.: Representative for Children and Youth), 2010.

Representative for Children and Youth, *Growing Up in B.C. - 2015* (Victoria, B.C.: Representative for Children and Youth), 2015.

Representative for Children and Youth, *Room for Improvement: Toward Better Educational Outcomes for Children in Care* (Victoria, B.C.: Representative for Children and Youth), 2017.

⁴⁰ Correspondence from Ministry of Education, Dec. 8, 2020.

⁴¹ Deborah Rutman and Carol Hubberstey, *Fostering Success: Improving Educational Outcomes for Youth in/from Care* (Victoria, BC: University of Victoria), 2016, https://cwrp.ca/sites/default/files/publications/FOSTERING-_0.pdf.

⁴² Ministry of Education, *How are we doing? Children and Youth in Government Care and Youth on Youth Agreements*, (Victoria, B.C.: Ministry of Children and Family Development), 2018, <https://www2.gov.bc.ca/assets/gov/education/administration/kindergarten-to-grade-12/reports/cyic/cyic-report.pdf>.

⁴³ Data are for those who aged out of care between April and September 2019.

Source: Integrated Case Management System (ICM) with income assistance information provided by the Ministry of Social Development and Poverty Reduction (SDPR), provided by MCFD Dec. 2, 2020.

⁴⁴ Data are for those who aged out of care between April and September 2019.

Source: Integrated Case Management System (ICM) with income assistance information provided by SDPR, provided by MCFD Dec. 2, 2020.

While there is limited data on employment and income levels for youth who have transitioned out of care, research shows that employment rates are generally low and those who are working are primarily working in low-paying jobs.⁴⁵ As noted, there is a high degree of dependence on government assistance in B.C., and income from all sources is low, most commonly below the poverty line:

“With low employment rates and earnings, and heavy dependence on government income assistancethe total income for many youth aging out of care is below designated poverty lines.”⁴⁶



BRIGHT SPOT – Surrounded by Cedar Child and Family Services

Surrounded by Cedar Child and Family Services (SCCFS) is a Delegated Aboriginal Agency located in Victoria, B.C., that provides child and family services rooted in Indigenous cultural values and world views while ensuring that Urban Indigenous children and youth grow up connected to family, community and culture.

Culturally Appropriate Coming of Age and Urban Indigenous Youth in Care

SCCFS is partnering on a research project – *Culturally Appropriate Coming of Age and Urban Indigenous Youth in Care* – with the University of Victoria and Island Health, funded by a Social Sciences and Humanities Research Council Reconciliation Connection Grant and an Island Health Collaborative Grant. This project is part of SCCFS’ mission to connect youth to spirit and identity through familial, hereditary and cultural linkages because these are protective factors that promote safety and well-being among Indigenous people. Coming-of-age teachings are grounded in wisdom held by knowledge keepers, and are shared through songs, stories, ceremonies and traditional rites of passage. (Re)connecting with these teachings supports community healing, wellness and resilience, and helps to prepare young people for their roles in carrying this wisdom forward in a good way.

An Indigenist research paradigm and a community-based participatory research framework guide the research. Early findings suggest that there are opportunities for coming of age to be a culturally appropriate positive action initiative or intervention for Indigenous youth. Five themes have emerged: self-continuity, self-awareness, empowerment, being part of something bigger and support networks. These themes provide evidence that engaging with coming of age teachings and activities protect youth wellness and help youth to build strong foundations from which they can learn about their Indigenous ancestry and history in their own time.

Nest to Wings

SCCFS holds an annual Nest to Wings ceremony to honour young people leaving care on their 19th birthday. Held in various locations such as the Esquimalt Big House and Wawaditla in Thunderbird Park, this ceremony ensures that the young people know they are not alone and the community is there to support them in whatever way they may need. SCCFS begins transition planning with young people at approximately age 16, and this includes youth transition conferences where

⁴⁵ Peter J. Pecora et al., “Educational and employment outcomes of adults formerly placed in foster care: Results from the Northwest Foster Care Alumni Study,” *Children and Youth Services Review*, 28 (12), (2006): 1,459–1,481.

⁴⁶ Shaffer and Anderson, *Opportunities in Transition*, Report 1, p. 20.

the young person can invite their natural supports, such as their family, best friends and other important people in their lives. In addition, youth workers, social workers and caregivers participate. Acknowledging that most young people will return to their families once they leave care, SCCFS includes family members in this transition planning.

As youth prepare to turn 19, they also prepare to participate in the Nest to Wings ceremony. The ceremony follows local cultural protocols. Each youth is blanketed, and through the blanketing ceremony, the intention is that they will be wrapped in protection and support with their community and ancestors around them. Along with family, members of each young person's Nation or community are invited to attend and witness the transition of these young people. There is drumming, singing and feasting. In addition to words from Elders, others are invited to speak and emphasize the lifelong support available to the young people. Youth are also gifted something of meaning from their individual culture; sometimes it's beaded regalia, a ribbon skirt or a cedar basket. No young person is turned away from participating in this ceremony, no matter what is going on in their lives at that time. The message clearly delivered through this ceremony is that these young people have a community, a connection to their culture, spirit and identity, and a safe place to return to at SCCFS.

Andrea Melor and Denise Cloutier, "Becoming Self-in-Relation: Coming of Age as a Pathway towards Wellness for Urban Indigenous Youth in Care," *First Peoples Child and Family Review* 15, no.1 (2020).
Alysha Brown, Phone conversation, Nov. 30, 2020.

Health and Mental Health

While major differences have not been consistently found between the physical health of youth in care and the general population, it is well documented that there is a higher prevalence of mental health conditions among children and youth in care than there is in the general population. For example, the

"Access to mental health needs to be top of the list for what has to change for youth coming out of care. People are silent with what they're struggling with, but there really needs to be more support to help them manage that."

– A former youth in care

BC Coroners Service Death Review Panel of MCFD-Involved Youth Transitioning to Independence in 2018 found that 82 per cent of the young people included in the review had a reported mental health issue.⁴⁷ Additionally, a 2019 report by the Canadian Mental Health Association reviewed the literature and found that approximately 40 to 60 per cent of young people in care have at least one psychiatric disorder, and that the prevalence of depression and post-traumatic stress disorder is about twice the rate of non-care youth.⁴⁸

⁴⁷ BC Coroners Service, *BC Coroners Service Death Review Panel: Review of MCFD-Involved Youth Transitioning to Independence*.

⁴⁸ MJ Zieman, *We Don't Know What to Do With You: Changing the Way We Support the Mental Health of Youth In and From Care* (Vancouver, B.C.: Canadian Mental Health Association B.C. Division), 2019.

Mental health issues for Indigenous youth in care are compounded by the history of colonialism in Canada and B.C.:

“The emotional and mental health issues that stem from Canada’s legacy of institutionalized discrimination and the social determinants of health in First Nations communities continue to worsen...meeting with Indigenous leaders, parents, and families reinforced the troubling reality that many Indigenous parents and families remain trapped in a vicious cycle of trauma leading to neglect.”⁴⁹

CASE STUDY – Anna

Anna is a youth who has been in care since childhood on a Continuing Custody Order (CCO). She is a strong advocate, determined and passionate. Anna first came into contact with the Representative for Children and Youth when she was 17 and requested support to have her name legally changed to better represent the gender she identifies with. Anna is living with significant mental health issues and wanting a name change was deeply personal and important to her. Anna’s anxiety impacted her ability to connect with her care team, making it challenging for her to be involved in her transition planning as she prepared to age out of care. The RCY advocate worked collaboratively with her care team to ensure that Anna was eligible for post-majority support. As her 19th birthday neared, Anna’s anxiety mounted, and she tried to push everyone away. With persistence and compassion, her team continued to collaborate and Anna eventually agreed to meet with a support worker and made strides towards gaining independent living skills and preparing for adulthood.

Substance Use

Studies have consistently found that youth in and from care experience earlier and elevated rates of substance use and substance use disorders when compared with their peers who have not been in the care system.⁵⁰ The adverse experiences associated with child welfare system involvement are also well-documented risk factors for subsequent substance use, with studies confirming that rates of substance use are particularly high among those who transition into adulthood from the care system.⁵¹

Barker et al. conducted a study in Vancouver in 2020 to assess the relationship between transitional service utilization and health and social outcomes among young people who use drugs and have histories

⁴⁹ Grand Chief Ed John, *Indigenous Resilience, Connectedness, and Reunification – From Root Causes to Root Solutions: A Report on Indigenous Child Welfare in British Columbia*, 2016, <http://fns.bc.ca/wp-content/uploads/2017/01/Final-Report-of-Grand-Chief-Ed-John-re-Indig-Child-Welfare-in-BC-November-2016.pdf>.

⁵⁰ Jeanne S. Ringel et al., *Improving Child Welfare Outcomes: Balancing Investments in Prevention and Treatment*, (Santa Monica, CA: RAND Corporation), 2017, https://www.rand.org/pubs/research_reports/RR1775-1.html. Thomas P. McDonald, E. Susana Mariscal, Yueqi Yan & Jody Brook, “Substance Use and Abuse for Youths in Foster Care: Results From the Communities That Care Normative Database,” *Journal of Child & Adolescent Substance Abuse*, 23:4, (2014): 262-268, <https://doi.org/10.1080/1067828X.2014.912093>. MJ Zieman, *We Don’t Know What to Do With You: Changing the Way We Support the Mental Health of Youth In and From Care*.

⁵¹ Sarah Carter Narendorf and J. Curtis McMillen, “Substance use and substance use disorders as foster youth transition to adulthood,” *Children and Youth Services Review*, 32(1), (2010): 113–119. <https://doi.org/10.1016/j.childyouth.2009.07.021>.

in the child welfare system. The study included 217 participants, and found that young people who have been in government care are vastly more likely to be experiencing homelessness and substance use than those who have not been in government care. The study looked at the extent to which young people who were no longer in care used transitional services, and whether or not they would have used additional services and supports had they been available. It found long-term benefit for youth who engaged with services but significant gaps in service delivery, and the need for additional harm reduction and substance-use supports for youth transitioning into adulthood.⁵²

CASE STUDY – Emma

Both of Emma's parents grew up in care. MCFD removed Emma from her parents' care when she was five, following concerns of substance misuse and neglect. The following year, Emma was placed under a Continuing Custody Order (CCO). Her mother stayed in contact with her throughout her time in care and they had a close relationship. Emma was described as being a loyal and caring youth who had a genuine concern for others. She was observed as being nurturing and supportive to young children and those with special needs.

When Emma was 14, she was asked to leave the placement she had been in since age five due to challenges coping with Emma's substance use, mental health concerns and deliberate self-harm. Over the next year, Emma lived in seven different foster homes.

At age 15, Emma went to a residential substance use treatment program. She received multiple diagnoses and remained at the program for almost a year. The next year, Emma experienced nine more placements, which all broke down due to conflicts, behavioural challenges and substance misuse. By the age of 16, she was in her 17th placement, a contracted residential resource. She had experienced multiple reported critical injuries while in care and was reluctant to accept the services that were offered to her given her negative experiences in care.

Emma lost her placement in the residential resource at age 18 when the program was closed. She moved 21 times the following year, including in and out of jail and detox centres.

Before turning 19, Emma chose to move into her own apartment. Her youth probation officer was concerned that this choice was not safe, but her social worker said they had no other placements for her. She was evicted a week later and admitted to detox, where she was discharged within a few days. She was using heroin and methamphetamines daily at this point. MCFD placements were offered to her, but because they were far from her family, she slept outside and in camps or shelters instead.

Emma's social worker was not able to meet with her in the months leading up to her leaving care. There is no indication of post-majority supports being in place for Emma, who had no home when she turned 19. She died from an overdose shortly after her 19th birthday.

⁵² Brittany Barker et al., "Long-term benefits of providing transitional services to youth aging-out of the child welfare system: Evidence from a cohort of young people who use drugs in Vancouver, Canada," *International Journal of Drug Policy*, 85 (November 2020), <https://doi.org/10.1016/j.drugpo.2020.102912>.

Criminal Justice System Involvement

Studies have found that youth in care have higher rates of involvement with the criminal justice system than the general population. The 2009 RCY report, *Kids, Crime and Care: Youth Justice Experiences and Outcomes*, found that youth in care were involved with the youth criminal justice system at approximately eight times the rate of young people in the general population.⁵³

Additionally, American research has found that child welfare system experience may also increase risk for later criminal justice system involvement.⁵⁴ Young adults with Child Protective Services involvement during childhood were two-to-three times more likely to have been incarcerated or have a criminal conviction than those with no CPS involvement.⁵⁵

While a 2016 report appropriately cautions against applying the results of American studies to Canada due to differences in policing practices and laws between the two countries, it nonetheless concludes:

“However, the clear fact remains that in Canada as well as the United States, the incidence of criminal activity, involvement with the criminal justice system, conviction and incarceration are much higher for youth aging out of care than other youth their age.”⁵⁶

Taken together, the data in this section shows clearly that outcomes for young people who are transitioning out of the child welfare system are substantially poorer than those who have not had this experience. It is critical to understand that these poorer life and developmental outcomes are not inherent in the young people themselves, but rather a product of their life experiences, including the systems they interact with and the colonial history of those systems. These outcomes are not inevitable; they are preventable by changing approaches to child welfare and the process of youth transitioning into adulthood.

In recent years, there has been a shift in how we understand the transition to adulthood from a developmental and societal perspective. Research has illuminated important findings that can inform how child welfare systems structure supports and services in order to achieve better outcomes for young people as they transition to adulthood. In the next section, we share a summary of this research, in addition to results from public opinion polling revealing how British Columbia’s families support their own young adult children.

⁵³ The report found that 35.5 per cent of youth in care had some involvement with the youth criminal justice system by age 17, which is the maximum age jurisdiction under the *Youth Criminal Justice Act* in Canada (44 per cent for males and 27.2 per cent for females). This compares to 4.4 per cent of the general population in that same age group (5.8 per cent for males; 2.9 per cent for females).

Representative for Children and Youth, *Kids, Crime and Care: Youth Justice Experiences and Outcomes*, (Victoria, B.C.: Representative for Children and Youth), 2009.

⁵⁴ Mark E. Courtney, Amy Dworsky, Adam Brown and Colleen Cary Katz, *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 26*, (Chicago, IL: University of Chicago), 2011, <https://www.chapinhall.org/research/midwest-evaluation-of-the-adult-functioning-of-former-foster-youth/>.

⁵⁵ Joshua Mersky and Colleen Janczewski, “Adult well-being of foster care alumni: Comparisons to other child welfare recipients and a non-child welfare sample in a high-risk, urban setting,” *Children and Youth Services Review* 35 (March 2013): 2012, <https://doi.org/10.1016/j.childyouth.2012.11.016>.

⁵⁶ Shaffer and Anderson, *Opportunities in Transition*, 2016.

Shifting Understandings of the Transition to Adulthood

Research on the Adolescent Brain

Over the past several years, there has been a growing understanding of the developmental progression from teenager into young adulthood. Previously understood to be a more abrupt change from “child” to “adult” at age 18 or 19, research now shows a more prolonged and gradual transition extending into a young person’s twenties. In 2011, the Jim Casey Youth Opportunities Initiative published *“The Adolescent Brain: New Research and Its Implications for Young People Transitioning From Foster Care,”* which shared critical neuroscientific data showing “*that in adolescence the brain experiences a period of major development comparable to that of early childhood.*”⁵⁷

Following up on this in 2017, the Annie E. Casey Foundation published *“The Road to Adulthood: Aligning Child Welfare Practice With Adolescent Brain Development.”*⁵⁸ This paper offers recommendations to individuals working to support young people transitioning out of care on how to effectively use adolescent brain development research. The paper also offers five recommendations for systems that support young people in their transition out of care:

- Train and equip practitioners to understand the role of trauma and racism, and employ effective practices to help young people understand their experiences and develop effective strategies for healing and growth.
- Prioritize legal permanency for all youth.⁵⁹ Use disaggregated data and racial impact analysis tools to hold the system accountable and develop strategies for improvement.
- Understand that foster care carries a level of stigma, effecting successful educational outcomes and opportunities for employment. Provide a range of career pathways.
- Build connections with local housing providers to ensure adequate and safe housing for youth while encouraging youth choice and voice.
- Understand that young parents and their children are both in important stages of their brain development. Support practitioners to help young parents continue to make progress toward their educational and employment goals, build self-sufficiency, maintain healthy relationships and support them as the primary nurturers of their children.⁶⁰

⁵⁷ Jim Casey Youth Opportunities Initiative, *The Adolescent Brain: New Research and Its Implications for Young People Transitioning from Foster Care*, (Baltimore: The Annie E. Casey Foundation), 2011, <https://www.aecf.org/resources/the-adolescent-brain-foster-care/>.

⁵⁸ Annie E. Casey Foundation, *The Road to Adulthood: Aligning Child Welfare Practice With Adolescent Brain Development*, (Baltimore: The Annie E. Casey Foundation), 2017, <https://www.aecf.org/resources/the-road-to-adulthood/>.

⁵⁹ Our Office holds a cautious view about legal permanency; while it may be very important to and significant for some youth, there are some limitations and concerns, especially regarding the role of adoption under colonial systems for First Nations, Métis and Inuit children. Additionally, for many young people, other dimensions of permanency are of equal or greater importance.

⁶⁰ Annie E. Casey Foundation, *The Road to Adulthood: Aligning Child Welfare Practice With Adolescent Brain Development*.

Research such as the above, combined with earlier work done by Dr. Jeffrey Jensen Arnett and others on the developmental phase Jensen calls “emerging adulthood,” has generally served to make society aware of the fact that young adults need more support during their transition from adolescents to young adults.⁶¹ Emerging adulthood is now a defined field of study, complete with a journal of its own and an annual conference.

“Emerging adulthood describes the gradual transition young people make to adulthood from about age 18 through 25. This process is marked by gradual independence from family in the areas of residence, employment, education, finances, romance and parenting.”⁶²

Public Perceptions in British Columbia

In 2016, Fostering Change followed up its 2013 Youth Transitions Survey with another one measuring public attitudes, values and perceptions related to young people in and from care in British Columbia. That work included surveying B.C. parents of adult children between ages 19 and 28, providing a baseline for the kinds of informal supports that young adults who do not come out of care receive during their own transition.

Importantly, this survey found that,

“...becoming independent is recognized as a gradual process, and B.C. parents provide exceptional support for their own children aged 19–28. This includes providing financial support, as well as important social and emotional support.”⁶³

“It’s like MCFD thinks you go to sleep one night just before your 19th birthday and wake up the next day knowing everything – what you want to study in school, where to live, how to budget, how to navigate all the stuff of your life.”

– A former youth in care

In fact, the survey found that 92 per cent of British Columbians who are parents of adult children ages 19 to 28 are providing them with a range of financial, social and emotional supports. The same survey found that 90 per cent of British Columbians agree that young people in their 20s need the support of their family, while 86 per cent of British Columbians do not believe that the majority of 19-year-olds have the necessary skills and resources to live away from home and support themselves independently. These trends are echoed in 2016 Canadian census data, which found that nearly two thirds (62.6 per cent) of young adults ages 20 to 24 were living with at least one parent, a figure that has been steadily increasing since 2001.⁶⁴ Taken together, this data demonstrates that parents overall presume their own children will need support during this phase of emerging adulthood.

It is clear that child welfare practice regarding transitions of youth in care into adulthood has not kept pace with brain science, public attitudes or the parenting practices of the vast majority of Canadians.

⁶¹ Jeffrey Arnett, *Emerging Adulthood: The Winding Road From the Late Teens Through the Twenties* (Oxford University Press, 2004).

⁶² Rosemary J. Avery, “An examination of theory and promising practice for achieving permanency for teens before they age out of foster care,” *Children and Youth Services Review*, 32(3) (2009) 399–408, <https://doi.org/10.1016/j.childyouth.2009.10.011>.

⁶³ Fostering Change, *Youth Transitions Survey: Early Results*, 2016, https://www.fosteringchange.ca/2016_youth_transitions_survey_early_results.

⁶⁴ Statistics Canada, “Young adults living with their parents in Canada in 2016,” Aug. 2, 2017, <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016008/98-200-x2016008-eng.cfm>.



BRIGHT SPOT – United Kingdom – Staying Put/Staying Close

The “Staying Put” legislation came into effect in 2014. It allows young people in foster care who meet certain conditions to choose to remain with their former foster carers until they reach the age of 21 (presuming this is what they and their carers want), unless the local authority considers that the arrangement is not consistent with the welfare of the young person. In turn, their carers continue to receive financial support. Approximately half (55 per cent) of 18-year-olds remain with their foster carers, and approximately one-quarter (23 per cent) of 19- and 20-year-olds remain living with their carers.

Evaluations of the program have found positive benefits, and that those who “stay put” were significantly more likely to be in full-time education at 19 than their peers who did not stay put. Those who did not stay put were more likely to experience complex transition pathways and housing instability. There are challenges with the Staying Put program, however. It impacts the foster care system by causing foster carers to become unavailable for younger children and evaluations have identified challenges with equitable implementation across the country as well as insufficient financial resources.

In 2016, the “Staying Close” program was developed for those leaving residential care. Pilot programs launched in 2018 provided an enhanced support offering for those leaving residential care. The support includes accommodation close to a youth’s residential care home alongside practical and emotional support from a trusted member of staff from their former children’s home. An evaluation of this pilot is currently underway.

Nerys Roberts et al., Support for Care Leavers, October 2019, House of Commons Library Briefing Paper Number CBP08429.

Emily R. Munro et al., *Evaluation of the Staying Put: 18 Plus Family Placement Programme: Final Report*, (Loughborough, UK: Loughborough University, Centre for Child and Family Research), 2012.

Harsh Reality

By Trent Jack

Walking through the snow, sleeping in the rain, with a heart full of pain, slit veins & this loneliness and shame. Struggling with adolescence as we miss our parents presence. Addiction can cause Pain and Affliction, irresponsible & toxic behaviour can cause eviction. The way I had to grow up is Ugly, Smile on my face even though society has to judge me, I had to box my way out of detox, no more crushing meth rocks, I'm stuck at the gym training and complaining, I guess a normal life is lame, No financial gain. No 15 seconds of fame, Just an alter ego to tame. Walking these cracked Side walks with Suicide thoughts. Deforestation and Child Molestation happens on every Cold Canadian Reservation, I have dreams bigger than constellations. Why do we all Grow up with Substance use and Sexual abuse. Why do we all have the same Fake disguise, When the pain is visible in our eyes. No money for lunch, just enough change for the bus, yeah foster kids! This is us. I am no rapper or entrepreneur, I'm just an Old Soul, residential school kid that climbed out of the sewers. Night life, street lights and fist fights, We can't live right, to some people this life isn't real, Having to steal or make a quick drug deal for the Last Meal. This is a Foster kids mentality, This is the tragedy of a broken family, This is a Harsh Reality.

My name is Trent Jack, a former youth in care. I'm a poet and a boxer, I'm First Nation, I write poetry to vent and let out emotions, I've never been too serious about it, but I definitely see myself in the studio in the future, making music about what it's like to be in foster care.

Post-majority Supports in B.C.: Current State

After-care Supports in B.C.

B.C. youth may be eligible for various services after they leave care. For most of these young people, the transition out of care means access to either the Agreements with Young Adults (AYA) program or a Persons with a Disability (PWD) designation that enables long-term disability income support. At first glance, young people appear to have an array of resources such as AYA and the Provincial Tuition Waiver Program after 19 to support educational development and successful transition into adulthood. Accordingly, B.C. is often held up as a leader in Canada for its progressive approach to post-majority supports. However, upon closer investigation, this network of services and supports is mired by complicated and restrictive eligibility criteria, inequitable access across the province, disproportionately negative outcomes for Indigenous peoples and insufficient resources to support the young people in most need.

The Representative and several advocacy bodies have reported on these issues and made recommendations for improvement over the past several years. Table 1 below highlights a few of these key reports issued in the past six years.

Table 1. Key reports on youth transitioning into adulthood

Name of report	Author	Year
On Their Own: Examining the Needs of B.C. Youth as They Leave Government Care	Representative for Children and Youth	2014
Paige's Story: Abuse, Indifference and a Young Life Discarded	Representative for Children and Youth	2015
Room for Improvement: Toward Better Education Outcomes for Children in Care	Representative for Children and Youth	2017
Broken Promises: Alex's Story	Representative for Children and Youth	2017
Relationships Matter for Youth 'Aging Out' of Care	Melanie Doucet	2018
BC Coroners Service Death Review Panel: Review of MCFD-Involved Youth Transitioning to Independence	BC Coroners Service	2018
"We Don't Know What to do With You": Changing the Way we Support the Mental Health of Youth In and From Care	Canadian Mental Health Association, British Columbia Division	2019
Red Women Rising: Indigenous Women Survivors in Vancouver's Downtown Eastside	Downtown Eastside Women's Centre	2019
From Marginalized to Magnified: Youth Homelessness Solutions From Those with Lived Expertise	Katherine McParland/Representative for Children and Youth	2020

Agreements with Young Adults

The Agreements with Young Adults (AYA) program was first introduced in 1996 under the *Child, Family, and Community Service Act*, and has been revised since its inception.⁶⁵ Agreements with Young Adults is a needs-based program set up as a contractual and transactional relationship between youth formerly from care or on a youth agreement and the ministry. These youth are expected to meet certain criteria and outcomes in order to be eligible and if these are not realized, they are removed from the program. Our Office has been told that in some cases this occurs with little or no consultation – experiences that were also shared by some of those who were consulted in the ministry's 2019 report, *What We Heard About Youth Transitions*.⁶⁶

Agreements with Young Adults are available to young people who leave care with certain legal statuses, such as a Continuing Custody Order, or much smaller numbers of those who turn 19 while in the

"Something I always like to ask of every MCFD worker when I get the chance: Would you treat your own kid the way you're treating us?"

– A former youth in care

custody of the Director as per the *Adoptions Act*. AYAs are also available to those transitioning out of a Youth Agreement. The eligibility criteria for AYA exclude youth in other types of care under the *CFCS Act*, such as temporary care orders, voluntary care agreements and special needs agreements.⁶⁷ Using the current age eligibility of 19 to 26 years inclusive, data from MCFD shows that as of March 31, 2020, there are 7,298

young people who have aged out of all types of care in the past eight years. Of these, 6,491 (89 per cent) aged out with legal statuses that make them eligible for AYA benefits.^{68, 69} This leaves 807 young people completely ineligible for AYA benefits when they transition out of care, due to their care status at time of aging out.⁷⁰

Youth can enter into an agreement if they are enrolled in either a vocational or educational program, or by taking part in a rehabilitative or life skills program. Originally, the AYA program provided a maximum total of 24 months of support for youth enrolled in an educational or vocational program. Since 2018, AYAs have been expanded to provide a total 48 months of support that a youth can access sometime between their 19th and 27th birthdays. AYAs can be paused, restarted or extended as needed.

⁶⁵ Revised Statutes of British Columbia, *Child, Family and Community Service Act*, 72 § (1996).

⁶⁶ The Ministry of Children and Family Development, *What We Heard About Youth Transitions and the Family Based Caregiver Payment Model in British Columbia* (Victoria: B.C.: Ministry of Children and Family Development), February, 2019, https://www2.gov.bc.ca/assets/gov/family-and-social-supports/services-supports-for-parents-with-young-children/reporting-monitoring/00-public-ministry-reports/what_we_heard_feb_2019.pdf?bcgovtm=Cowichan%20Valley%20Newsletter

⁶⁷ Ministry of Children and Family Development, "Agreements with Young adults."

⁶⁸ Of these 6,491, 3,466 aged out of care as a CCO (Continuing Custody Order) and 2,983 aged out of a Youth Agreement.

Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

⁶⁹ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

⁷⁰ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

Currently, AYA support can be up to \$1,250 per month, equivalent to \$15,000 annual income. The Ministry of Social Development and Poverty Reduction recognizes the poverty line for a single person in B.C. to be approximately \$20,000 annual income.⁷¹ Given this, a young person who is receiving the full amount of AYA support for a 12-month period is living well below the poverty line established by government.

AYA is a needs-based program; recipients receive funding to cover their basic costs such as housing, utilities and food. Youth receive an amount that covers their specific expenses, so rates vary. The ministry's 2019 *What We Heard about Youth Transitions* report noted, "*many young adults noted feeling discouraged and deterred to be employed while on AYA, as their AYA funding is 'clawed back' when their employment income reaches a certain amount.*"⁷² In contrast, another provincial government program – Persons with Disabilities benefits administered by the Ministry of Social Development and Poverty Reduction – expressly encourages work as well as enabling participants to achieve an income that approaches or even exceeds the poverty line by allowing single recipients to retain up to \$12,000 per year additional income without clawback.⁷³

Other supports offered by MCFD within the AYA program at the discretion of MCFD offices include post-secondary tuition and housing start-up costs, such as security deposits.⁷⁴

"I'm on AYA right now, and it doesn't even cover your basic needs, and I'm at the max. I'm working three jobs, going to school full-time."

– Youth consultation participant

Agreements with Young Adults: Education / Vocational training

For young people accessing AYA on an education program, the required course load varies depending on whether a youth is designated as a Person with a Disability (PWD). Youth with a PWD designation are required to take a 40 per cent course load to qualify for AYA, while other youth must take a 60 per cent course load to be eligible.⁷⁵ Youth accessing AYAs are expected to supplement their income with loans, external scholarships and bursaries, jobs and savings. Prior to 2018, AYAs terminated during summer months; however, young people are now able to stay on AYA during the summer school break.

While some young people transitioning into adulthood are ready to go to school, AYAs provide little to no assistance for those who need transitional support or other resources to get to a position where school is possible. For many young people, AYAs are available as a solution only if a youth is ready to attend

⁷¹ Government of British Columbia, "B.C. Poverty Reduction," accessed Nov. 20, 2020. <https://engage.gov.bc.ca/bcpovertyreduction/poverty-reduction-101/>.

⁷² The Ministry of Children and Family Development, *What We Heard About Youth Transitions*.

⁷³ Government of British Columbia. "Disability Assistance: Annual earnings exemptions", accessed Nov. 20, 2020, <https://www2.gov.bc.ca/gov/content/family-social-supports/services-for-people-with-disabilities/disability-assistance/on-disability-assistance/annual-earnings-exemption>.

⁷⁴ Ministry of Children and Family Development, "Youth and Young Adults Cost Estimate Guide," Sept. 2019, https://assets.nationbuilder.com/vancouverfoundation/pages/245/attachments/original/1551228698/AYA_Cost_Estimate_Guide-MCFD_2018.pdf?1551228698.

⁷⁵ Ministry of Children and Family Development. "Agreements with Young Adults." Accessed Nov. 10, 2020. <https://www2.gov.bc.ca/gov/content/family-social-supports/youth-and-family-services/teens-in-foster-care/agreements-with-young-adults>. A Director of Operations or equivalent position in a DAA can approve a course load falling outside of these requirements since Oct. 2020.

Note that the requirements set out in these sections reflect the regular policies, not the temporary provisions in place during the pandemic.

school, with few to no provincial resources offered to help build skills and develop a support system needed to succeed academically.⁷⁶

Agreements with Young Adults: Life Skills Programs

Life skills programs were added as a way to access AYAs in early 2017.⁷⁷ This change addressed a gap in the program's eligibility requirements, which previously provided support for those ready to attend post-secondary but missed those who needed different kinds of support. Life skills programs offer support for skills such as money management, time management, decision-making and problem-solving. Additionally, many such programs focus on employment readiness and housing support.

However, the limited availability of support for these community-based life skills programs remains a major barrier. MCFD screens existing life skills programs and may then give approved-program status that enables eligible youth to access AYA for as long as they are in the program.⁷⁸ But to date, only 15 providers in 11 communities have life skills programs that have been approved by MCFD to accept AYA participants. None of these pre-existing programs receive funding to facilitate acceptance of AYA participants, who are required to attend at least five hours a week.⁷⁹ Youth receive AYA funding only for the duration of the program they are in, which ranges from one to six months.⁸⁰

Agreements with Young Adults: Access and Utilization

Almost two-thirds of youth who have been eligible for AYA have not accessed the program. An analysis of MCFD data shows that only 36 per cent of the young people eligible for AYA benefits between the

"I feel like I will get through the challenges of all of this, but there are a lot of youth who are slipping through the cracks, and nobody's paying attention to them."

– A former youth in care

fiscal years 2012/2013 and 2019/2020 have received them at least one time during their several years of age eligibility.⁸¹ Since AYA agreements are limited to periods of a few months each, subject to renewal, and may also be terminated due to non-compliance with program requirements and other issues, these are admissions data which do not capture the actual number and proportion of eligible youth on an AYA at any given time (i.e., caseload). The caseload for AYA on March 31, 2020 is estimated at 600 young people or less than 10 per cent (9.2 per cent) of the estimated total number of young people eligible for AYA on that date.

⁷⁶ The Ministry of Children and Family Development, *What We Heard About Youth Transitions and the Family Based Caregiver Payment Model in British Columbia*.

⁷⁷ The Ministry of Children and Family Development, "B.C. Leads Canada, Extends Support for Youth Aging out of Care," *B.C. Gov News*, Oct. 17, 2016, <https://news.gov.bc.ca/releases/2016CFD0047-002023>.

⁷⁸ Ministry of Children and Family Development. "Agreements with Young Adults." Accessed Nov. 10, 2020. <https://www2.gov.bc.ca/gov/content/family-social-supports/youth-and-family-services/teens-in-foster-care/agreements-with-young-adults>.

⁷⁹ Ministry of Children and Family Development. "Agreements with Young Adults." Accessed Nov. 10, 2020. <https://www2.gov.bc.ca/gov/content/family-social-supports/youth-and-family-services/teens-in-foster-care/agreements-with-young-adults>.

⁸⁰ AYA policy, effective Oct. 1, 2020, provides that the agreement should be for a period that is based on the young adult's program, covering the next interval, semester or scheduled program break, as the case may be. This policy change was not part of the pandemic response.

⁸¹ Of the 6,491 young people who aged out of care from FY 2012/13 to FY 2019/2020 with care statuses that make them eligible for AYA, 2,366 have received AYA benefits.

Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

Post-majority Supports in B.C.: Current State

Data is not currently available on whether or not a young person has completed the program for which they were receiving AYA support.

MCFD data shows that the majority of young people who have accessed AYA benefits access them within the same fiscal year that they age out of care. As shown in Table 2 below, far fewer youth access the program after their first post-majority year even though they remain eligible for the program.⁸² This not only underlines the critical need for effective transitional planning well before a youth ages out in order to maximize that initial first post-majority year of eligibility, but also the need for outreach services to engage eligible youth in later years who did not initially access the program. Currently, there are no dedicated outreach services for this purpose.

“Support can’t be a one-way door,” says a Métis Nation BC staff member. “There are pathways away [from care], but we also need pathways back into supports. When a young adult is saying ‘I need support, but I don’t know where to get it, who to ask, what I’m eligible for’ – in that continuum, there needs to be a place that these young people can come back to.”

Table 2. Number of young adults accessing AYA after turning 19 (by fiscal year)

Fiscal year of 19 th birthday	AYA 2012/2013	AYA 2013/2014	AYA 2014/2015	AYA 2015/2016	AYA 2016/2017	AYA 2017/2018	AYA 2018/2019	AYA 2019/2020	Total with AYA	Total youth eligible for AYA with CCO and YAG who turned 19
2012/2013	107	25	25	20	24	20	26	18	265	861
2013/2014		95	30	25	35	21	29	25	260	814
2014/2015			128	28	24	39	34	39	292	860
2015/2016				128	32	36	50	42	288	815
2016/2017					158	42	48	37	285	797
2017/2018						212	67	60	339	811
2018/2019							260	75	335	770
2019/2020								302	302	763
Total	107	120	183	201	273	370	514	598	2366	6491

Data notes: some youth in the dataset had application dates prior to their 19th birthday; however, closer analysis confirmed that youth did not receive funds through the AYA program until after their 19th birthday. These youth are counted in the fiscal year they received funding, rather than the year they applied for AYA.

The last column on the right of this table includes the number of eligible youth by the fiscal year in which they turned 19.

The ministry has worked to increase the number of AYA applications, with some success. Table 3 shows that access in the first year of eligibility has increased from 12 per cent in 2012/2013 to 40 per cent in 2019/2020. However, the access pattern to date indicates that the remaining 60 per cent are less likely to access AYA as they move beyond their first year out of care.⁸³ Moreover, this data does not account for the duration of support and if one looks at the actual proportion of the total number of eligible young people between 19 and 26 being supported at a particular point in time (March 2020) then, as stated earlier, the proportion is far smaller – less than 10 per cent.

⁸² Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

⁸³ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

Table 3. Youth transitioning to adulthood by AYA eligibility, and first AYA application in fiscal year of 19th birthday (2012/13 through 2019/20)

Fiscal year	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year	Per cent of eligible who received AYA within fiscal year of 19 th birthday	Total eligible
2012/13	754	107	12%	861
2013/14	719	95	12%	814
2014/15	732	128	15%	860
2015/16	687	128	16%	815
2016/17	639	158	20%	797
2017/18	599	212	26%	811
2018/19	510	260	34%	770
2019/20	461	302	40%	763
Total	5101	1390	21%	6491

Access and Utilization: Variability Among Subgroups

MCFD data demonstrates that access to AYA is inequitable among certain sub-groups and across regions of the province. The data shows some important differences in access by gender and by First Nations, Métis and Inuit status compared with non-Indigenous young people, as well as by education level.

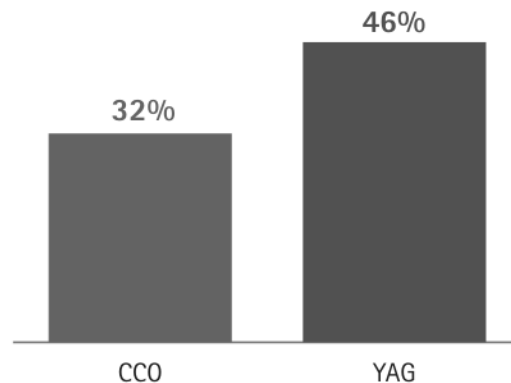
Those Who Aged Out from Youth Agreements Compared with Those Who Aged Out from a Continuing Custody Order

MCFD data shows that young people who were on a Youth Agreement at age 19 accessed AYA benefits at a higher rate than those who had Continuing Custody Order status. As shown in Figure 2, 46 per cent of those with Youth Agreements in the most recent fiscal year (2019/20) accessed AYA benefits in the same fiscal year that they aged out, while only 32 per cent of those with CCO status accessed AYA benefits.⁸⁴ Similar patterns are seen in data from previous years, and this data can be found in the Appendix.

One possible explanation for this difference is that young people on a Youth Agreement are already living independently, so it may be less of a transition for them to continue that independence in the form of an AYA. These differences underscore the critical need for life skills and independent living skills for young people before they transition to adulthood.

⁸⁴ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

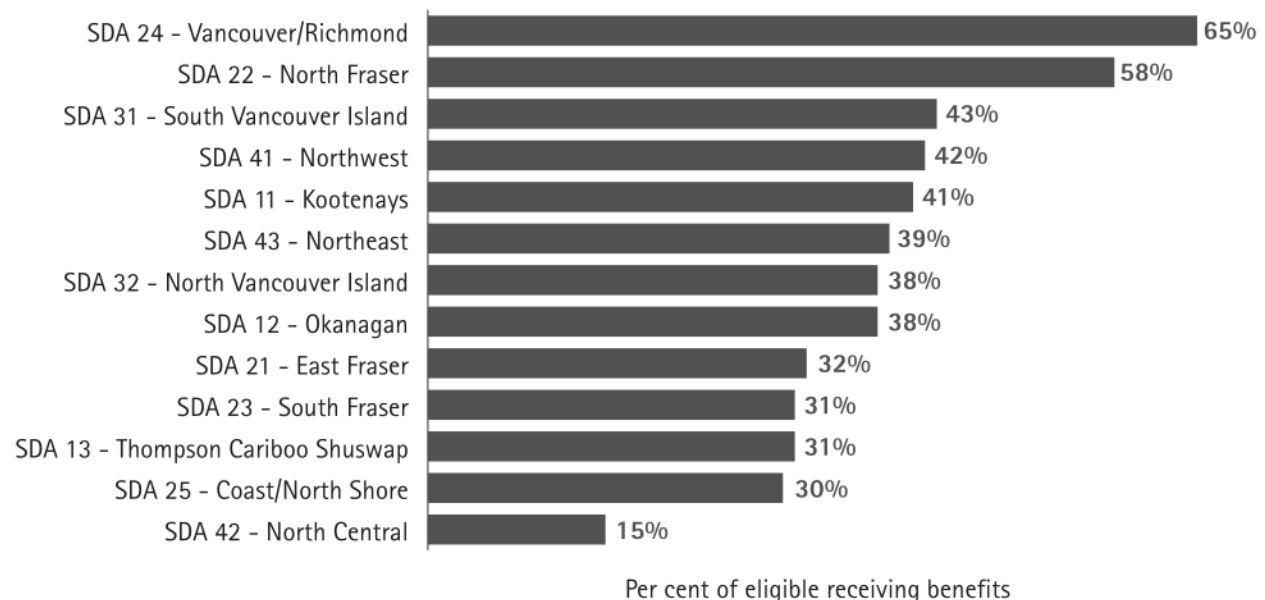
Figure 2. Per cent of youth with a YAG or CCO transitioning to adulthood in 2019/20 who received AYA within the fiscal year they turned 19



Regional Variation

As shown in Figure 3 below, there is significant variability in AYA access among eligible youth in the various Service Delivery Areas. The highest rate of access was in the Vancouver/Richmond SDA, where 65 per cent of eligible youth received benefits in 2019/20. The lowest rate of access was in the North Central SDA (includes Quesnel, Nechako Lakes and Prince George), with an uptake of just 15 per cent.⁸⁵ Data from previous years shows similar regional variations, and can be found in the Appendix, Table B. Further efforts to understand this regional variation are warranted and may be related to differences in how the program is communicated or administered across the province.

Figure 3. Variability in AYA access rates across service delivery areas in 2019/2020



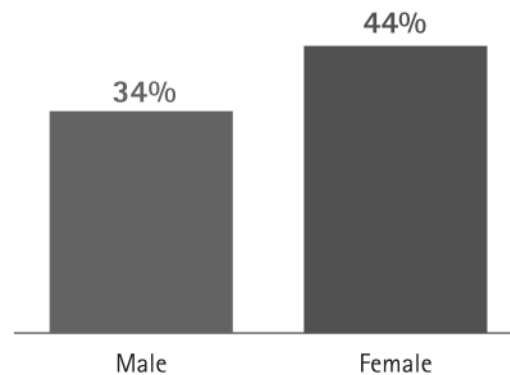
Data Note: Does not include: Delegated Aboriginal Agencies, one case not assigned to an SDA, and one case “not applicable”.

⁸⁵ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

Gender Differences

MCFD data shows that females access AYA at an appreciably higher rate than males. Figure 4 below shows that in fiscal year 2019/2020, 44 per cent of females accessed AYA benefits within the year that they turned 19, whereas only 34 per cent of males accessed benefits in this same time period.⁸⁶ These access rates are similar to patterns in the data from previous years, and the data can be found in the Appendix, Table C.

Figure 4. Per cent of youth with a YAG or CCO transitioning to adulthood in 2019/20 who received AYA within the fiscal year they turned 19, by gender



Access to Benefits: First Nations, Métis and Inuit Youth Compared with Non-Indigenous Youth

Young people served by Delegated Aboriginal Agencies accessed AYA benefits in the 2019/20 fiscal year at a lower rate (36 per cent) than young people served through MCFD Service Delivery Areas (41 per cent).⁸⁷ Advocates working with First Nations, Métis, Inuit and Urban Indigenous young people have said that the AYA program does not work well for many Indigenous young people:

“The AYA program, a lot of our [Métis] youth don’t qualify. It’s too rigid. I think they need to really look at this program or develop another program for youth who don’t fit this. A lot of the kids aren’t ready to head into school ... We limit those kids and don’t get them the support they need because of the way the program is designed.”

– Métis Nation staff member

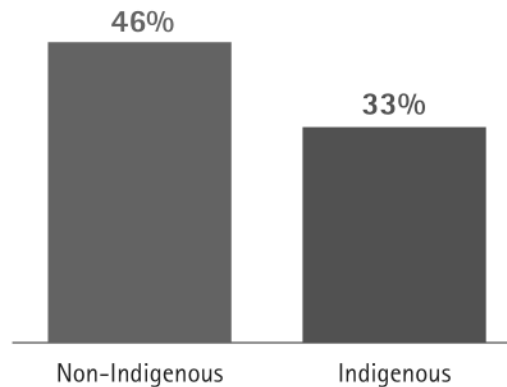
Figure 5 below shows that non-Indigenous young people access AYA at an appreciably higher rate than First Nations, Métis and Inuit young people. In fiscal year 2019/2020, 46 per cent of non-Indigenous young people accessed AYA within the year they turned 19, as compared with 33 per cent of Indigenous young people.⁸⁸ Data from previous years shows similar patterns in access rates for First Nations, Métis, Inuit and non-Indigenous young people, and can be found in the Appendix, Table B.

⁸⁶ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

⁸⁷ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

⁸⁸ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

Figure 5. Per cent of youth with a YAG or CCO transitioning to adulthood in 2019/20 who received AYA within the fiscal year they turned 19, by Indigenous status



Level of Education

MCFD data clearly demonstrates that the higher the level of education a young person has achieved prior to their 19th birthday, the more likely they are to receive AYA benefits, as described in Table 4. In fiscal year 2019/2020, half of the young people who graduated from secondary school went on to receive AYA benefits within the year of their 19th birthday, while of those who have some secondary school but have not completed it, only 35 per cent received benefits.⁸⁹ Similar patterns are seen in data from previous years, as described in the Appendix, Table E.

Table 4. Youth with a YAG or CCO transitioning to adulthood in 2019/20 by education level

Education level	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (per cent of total)	Total
No secondary school	8	2 (20%)	10
Some secondary school	227	123 (35%)	350
B.C. school completion certificate (Evergreen Certificate)	25	2 (7%)	27
Secondary school graduation	116	118 (50%)	234
B.C. adult graduation diploma	55	34 (38%)	89
Total	431	279	710

Note: No education data was available for 53 individuals.

The data above reinforces what young people have often said about the AYA program: it is not equitably accessible to all young people who are eligible. Male youth, First Nations and Métis youth and youth with lower education levels are all less likely to access AYA support than female youth, non-Indigenous youth and youth who have graduated from high school. In addition, the variability of access rates in different regions of the province indicates issues with equitable access. Generally speaking, those young people who are more likely to access AYA support are those who likely experience fewer barriers in their transition to adulthood and are more likely to have the skills and supports necessary to access and make use of the program.

⁸⁹ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

“Many young people have said that they see this more as a financial support, and they don’t necessarily see it as social support,” says Bart Knudsgaard, Policy Lead, Directors Forum Secretariat. “Many of the Indigenous youth who are transitioning need that social support to help them. Connections to cultural and land-based services are really critical.”

The ministry has sought to increase access and awareness of the Agreements with Young Adults program.⁹⁰ Access is difficult for some young people due to barriers such as the opt-in nature of the program, meaning young people not only need to know about the program but how to complete the application for it. Inconsistent service delivery within the province is also a barrier.⁹¹ The needs-based nature of the program requires youth to pursue other funding sources first, a challenge that can disproportionately impact First Nations youth. For example, the Representative has been informed that some First Nations youth have been required to seek a letter from their band denying funding for post-secondary education before being considered for an AYA.

As mentioned above, since the AYA program is transactional in nature, it feels impersonal for many youth. This dynamic can lead many young people to disengage with services after care, especially those who may have had historically difficult and untrustworthy experiences with the child welfare system. Some disillusioned youth may leave care and not wish to return to their workers and the system that was present and participatory in much of their trauma. Additionally, research has found that the choice to refuse further assistance or extended care is one of the first decisions that young people transitioning to adulthood are free to make. This choice is, in fact, an expression of their personal agency.⁹²

In the ministry’s own 2019 report on AYA consultations, the report authors write:

“The process for accessing AYA is too complex and onerous. The current application process for the AYA program is a challenge for young adults, as the application form itself requires a lot of information and many young adults do not have the necessary information or technology to complete the application process. Many young adults must then seek out someone to support them with the application, which can be difficult for them to find, and if they do find someone, they must then re-tell their care history to someone new. For many youth, especially those who have previous relationships with a DAA, attending or returning to an MCFD office for support is not something they want to do.”⁹³

Low access rates of AYA may be at least partially explained through the AYA program’s opt-in approach. Young people must access AYA intentionally and on their own volition to receive income support. “It should be mandatory that social workers tell youth about AYAs and how to access them,” stressed one youth consultation participant.

⁹⁰ The Ministry of Children and Family Development, *What We Heard About Youth Transitions and the Family Based Caregiver Payment Model in British Columbia*.

⁹¹ Different SDAs administer the AYA program differently. For example, in some SDAs there are AYA workers that oversee the program, and in other SDAs guardianship workers oversee the program.

⁹² Chris Lee and Jill Duerr Berrick, “Experiences of youth who transition to adulthood out of care: Developing a theoretical framework,” *Children and Youth Services Review*, 46(C), 2014, 78-84, <http://dx.doi.org/10.1016/j.childyouth.2014.08.005>.

⁹³ The Ministry of Children and Family Development, *What We Heard About Youth Transitions and the Family Based Caregiver Payment Model in British Columbia*.

AYAs are administered differently across the province. In some Service Delivery Areas (SDAs), youth who seek AYAs are referred to specific social workers to manage their application and ensure compliance with educational and other requirements. Other SDAs take a different approach. In some areas of the Lower Mainland area for example, dedicated AYA workers solely administer AYAs and are a central point of contact for service providers and youth. These AYA workers generally hold significantly higher caseloads than protection or guardianship workers and are new workers in a youth's life after care.⁹⁴ In addition, variability in interpretation and application of rules further compounds differences in administration of AYA across the province.⁹⁵ These differences in administration may in part be explained by current funding arrangements; while the ministry is funded for AYA payments, it is not funded for the field operations staffing required to administer and support the program.

After a series of consultations in 2019 for *What We Heard*, the report identified common concerns with the AYA program:⁹⁶

- eligibility and access, discussed as “too restrictive and complex and not available to all youth and young adults aging out of care”
- the lack of holistic or wraparound supports creating what the ministry describes as its “current transactional approach”
- insufficient funding levels for individual youth to cover basic costs, and a lack of any funding toward mental health or other resources.

Life skills programs are sometimes utilized as a way to access AYA funding. For example, the *Branches AYA Life Skills Program* at Aunt Leah's Place states on its website that the “project removes barriers to eligible youth to receive AYA funding.”⁹⁷ However, it is important to note that time spent with AYA funding in life skills programming counts against the total amount of time allowable in the AYA program (48 months). If a youth spends time on AYA in a life skills program, this reduces the number of months available to participate in post-secondary education, for example, with AYA support.

“[As] former foster youth, we aren't advocating for AYA because it wasn't used well to begin with. I'm looking for better and new things now, because when we're advocating for change, it's like AYA is too broken to fix.”

– Youth consultation participant

While there certainly have been improvements, AYA to date has served as an ineffective placeholder for adequate and sufficient supports for youth transitioning to adulthood from care after 19. The program has been mired in access problems from its beginning, and it has never served more than 40 per cent of eligible youth in their first year of leaving care.⁹⁸ Premier John Horgan stated in his 2020 mandate letter to Minister Mitzi Dean and in several media conferences that services must be amended “to

⁹⁴ Select Standing Committee on Finance and Government Services, “Minutes,” Thursday, June 20, 2019. AYA caseloads quoted by Sarah Chown at 9:55am. <https://www.leg.bc.ca/content/HansardCommittee/41st4th/fgs/20190620am-Finance-Abbotsford-n85.html>.

⁹⁵ The Ministry of Children and Family Development, *What We Heard About Youth Transitions and the Family Based Caregiver Payment Model in British Columbia*.

⁹⁶ The Ministry of Children and Family Development, *What We Heard About Youth Transitions and the Family Based Caregiver Payment Model in British Columbia*.

⁹⁷ Aunt Leah's Place, “Branches AYA Life Skills Program,” accessed Nov. 16, 2020, <https://auntleahs.org/services/education-training/branches-aya-life-skills-program/>.

⁹⁸ Source: Integrated Case Management System (ICM), provided by MCFD Oct. 2, 2020.

offer supports to all youth aging out of care who need it, not just a few.”⁹⁹ Despite some progress, this admirable aspiration remains just that – an aspiration.

Post-Secondary Education Funding

Support for post-secondary education access for former B.C. youth in care has grown among post-secondary institutions themselves. Challenged by the Representative in 2013, colleges and universities across B.C. began to offer tuition waivers and other supports to former youth in care.¹⁰⁰ A number of public post secondary-institutions now offer tuition waiver programs, and many employ full-time support staff to provide assistance to students on tuition waivers.

The 2017 introduction of the Provincial Tuition Waiver Program (PTWP) formalized supports available for young people and rapidly expanded access to post-secondary bursaries for youth with care experience. This marked the first time that former youth in care were guaranteed tuition, though funding in previous years was made available through a variety of ad-hoc scholarships and bursary programs, such as the Learning Fund for Young Adults and the Youth Education Assistance Fund, described further in this section.

The expansion of post-secondary supports signals the importance that government places on post-secondary education for former youth in care. However, while more supports have become available over time, it continues to be difficult for some young people to navigate the system and find the appropriate supports.

The Provincial Tuition Waiver Program

This provincially administered and funded program under the Advanced Education and Skills Training expanded eligibility criteria for youth coming out of care and ensured a public financial commitment to supporting access to post-secondary education. Attending post-secondary became a more realistic option

“You get some health benefits through AYA, but you need to ask and ask to get the approvals, and then the coverage isn't enough. You also have to pay for everything up front, and wait for maybe three months to get reimbursed. For eyeglasses, you get \$200 maximum. I didn't even bother trying when I needed glasses.”

– A former youth in care

for former children and youth in care, provided that they had spent at least two continuous or cumulative years in care and were between ages 19 to 26. A noteworthy difference between the PTWP and AYA programs, administered by Advanced Education and Skills Training and MCFD, respectively, is eligibility in relation to a young person's care status. The PTWP is much more expansive in its eligibility, including all forms of care as well as support through the former Child in the Home of a Relative program. In contrast, the AYA program is limited to youth on a Continuing Custody Order and in other guardianship situations, or on Youth Agreements. To be eligible for AYA, a young

person must have left care or a Youth Agreement at age 19, whereas the PTWP is available as long as the youth has a history of being in care for at least two years at some point in their life.

⁹⁹ Vancouver Island University, “Premier Horgan Expands Tuition Waiver for Former Youth in Care | News | VIU,” *VIU News*, Sept. 6, 2017, <https://news.viu.ca/premier-horgan-expands-tuition-waiver-former-youth-care>.

Office of the Premier, *Mandate Letter to Minister Dean*, Victoria: Government of British Columbia, November 2020, <https://news.gov.bc.ca/files/MCFD-Dean-mandate.pdf>.

¹⁰⁰ Tamara Cunningham, “VIU Tuition Waiver Program Targets Youth in Care,” *Nanaimo News Bulletin*, Aug. 22, 2013, <https://www.nanaimobulletin.com/news/niu-tuition-waiver-program-targets-youth-in-care/>.

The tuition waiver program has seen significant success. The most recent available data from the Ministry of Advanced Education, Skills and Training shows that 1,185 students have accessed the program.¹⁰¹ Of these students, significantly more are female (70 per cent) than male (29 per cent).¹⁰² Additionally, students who have received tuition waivers are more likely to be non-Indigenous (60 per cent) than Indigenous (39 per cent).¹⁰³ These variations in utilization reflect the variability seen in access rates for the Agreement with Young Adults program.

The Provincial Tuition Waiver program has been praised for creating new opportunities for young people and signaling a more promising future for them after care. While there is a great deal to celebrate, the program does not work for everyone, as the government has acknowledged. The PTWP is invaluable for those who are ready to attend post-secondary, but lacks the wraparound services and supports needed to ensure the success of youth who need more time to be ready for that step. The provincial government has talked about a more comprehensive program with wraparound supports, being developed in partnership with the Ministry of Children and Family Development as part of the 2018/19 budget process.”¹⁰⁴ This program has yet to be developed and implemented.

Provincially Funded and Administered Scholarships and Bursaries

Many efforts have been made over the years in B.C. to support post-secondary education for former youth in care, including several scholarship and bursary funds in addition to the Provincial Tuition Waiver Program. These funds include The Learning Fund for Young Adults, Youth Futures Education Fund and the Youth Education Assistance Fund. The PGT Educational Assistance Fund is a privately funded and publicly administered scholarship held by the Public Guardian and Trustee for former youth in care attending post-secondary education.

As described in Table 7 below, each of the funds are independently managed and set out different outcomes for applicants. For example, the Youth Futures Education Fund (YFEF) and Youth Education Assistance Fund (YEAF) are both bursary programs, but YFEF provides funding to tuition waiver recipients, while YEAF seeks scholarship applications from youth ages 19 to 24 with certain care statuses on their 19th birthday.¹⁰⁵ They are financed with different pools of money, have separate governance models and are administered independently by various charities.

While efforts to support post-secondary education for former youth in care have certainly been made, there is a lack of coherence and comprehensiveness to the current supports. The landscape of post-secondary funding options and available bursaries can be challenging for some youth to understand and navigate.

¹⁰¹ Source: Ministry of Advanced Education, Skills and Training, provided Nov. 13, 2020.

¹⁰² Gender data was unavailable for 5 (1 per cent) of students.

Source: Ministry of Advanced Education, Skills and Training, provided Nov. 13, 2020.

¹⁰³ Data on whether a student is Indigenous or non-Indigenous was unavailable for 6 (1 per cent) of students.

Source: Ministry of Advanced Education, Skills and Training, provided Nov. 13, 2020.

¹⁰⁴ Office of the Premier, “Premier Horgan Expands Tuition Waiver for Former Youth in Care,” *B.C. Gov News*, Sept. 1, 2017, <https://news.gov.bc.ca/releases/2017PREM0076-001509>.

¹⁰⁵ “Youth Educational Assistance Fund for Former Youth in Care,” *StudentAid BC*, June 2020, https://studentaidbc.ca/sites/all/files/form-library/yeaf_application.pdf.

Table 7. Summary of education supports for B.C. youth from care: support offered and eligibility

Program name	Where does the money come from?	Eligibility criteria	Brief description
Provincial Tuition Waiver	Ministry of Advanced Education, Skills and Training	<ul style="list-style-type: none"> • Ages 19-26 inclusive • 24 cumulative months in care including Child in the Home of a Relative • First program only • Must apply 	Provides unlimited tuition fees for a first post-secondary program
Agreements with Young Adults	Ministry of Children and Family Development	<ul style="list-style-type: none"> • 19-26 inclusive • Turned 19 with either a Youth Agreement or Continuing Custody Order care status • Maximum 48 months • Must apply 	Income support up to \$1,250 per month available to eligible youth, for up to 48 months
Youth Education Assistance Fund	Ministry of Children and Family Development and private foundations	<ul style="list-style-type: none"> • 19-24 inclusive • Had either a Continuing Custody Order care status, or were under Guardianship of the Director as per the <i>Adoptions Act</i> • Had to turn 19 under either status or have been in care for 5 years before being adopted • Independent applications which are administered by Student Aid BC 	Bursaries of up to \$5,500
Youth Futures Education Fund	Ministry of Children and Family Development, Ministry of Advanced Education, Skills and Training, private foundations	<ul style="list-style-type: none"> • Students accessing a tuition waiver at a B.C. post-secondary institution are eligible for funding • Funds are administered by United Way of the Lower Mainland 	Provides funds for books and supplies, living expenses, and other costs. Funds per student range from \$50 – \$4500
Learning Fund for Young Adults	Ministry of Children and Family Development matches federal program	<ul style="list-style-type: none"> • Born after Jan. 1 2007, in care for at least one year. Can access after turning 17 • First disbursements in 2024 	Administered by the Victoria Foundation, MCFD contributes to match the British Columbia Training and Education Savings Grant which provides \$1,200 for every B.C. child born after 2006
PGT Educational Assistance Fund	Administered by Public Guardian and Trustee	<ul style="list-style-type: none"> • Must have had a Continuing Custody Order care status and be at least 19 at time of application • Applicants must demonstrate financial need 	Two private donors created the fund which is held and administered by the Public Guardian and Trustee Eligible youth may receive bursaries from the fund
Post-secondary institution-specific tuition waiver programs	University Student Aid budgets	<ul style="list-style-type: none"> • Each university has varying policies that provide for youth in care. Some are B.C.-specific, and some provide bursaries in addition to tuition 	Many B.C. post-secondary institutions offer waivers to former youth in care

Youth Not Yet Ready for Post-Secondary Education

The growth in post-secondary funding sources for youth in care after 19 has resulted in an expansion of post-secondary access for former youth in care. Unfortunately, these programs can exclude those who need support before they can begin to think about attending post-secondary. As noted earlier, the high school graduation rates for children in care, while improving to some extent in recent years, are poor in comparison to their non-care peers.¹⁰⁶ Scholarships and bursaries are not sufficient to support these young people in addressing the factors in their lives that put them at a disadvantage in terms of readiness for post-secondary education.¹⁰⁷

Mental Health and Substance Use Supports

“The regular mental health system does not fit for our kids. It just doesn’t work. One of the things that I have seen work really well is when we bring the Elders in; they have the wisdom to help the kids. A lot of what we see when we talk “mental health” is trauma, plain and simple trauma. Those kids finding and feeling like they have someone who cares about them, who has the ability to work with them from that trauma place, but not in the regular sense of the way the regular mental health system is set up, that just perpetuates the trauma in my opinion. We’ve got to go back and look at the ways things were in the old days. Some of the things that were developed by the Nations a long time ago still work really well today. We’ve thrown away all of that history and we’re trying to look at how do we fix this problem. We actually have a lot of the answers in front of us if we just look.”

– Métis Nation BC staff member

Mental health has remained a long-standing issue for youth with experience in care as young people and other stakeholders continue to raise the need for increased focus. In June 2019, the Ministry of Mental Health and Addictions (MMHA) released its 10-year vision, and accompanying three-year plan of actions, for mental health and addictions services for the province. That report, echoing previous reports from the Representative and others, acknowledged that the current system of mental health services for children and youth is a fragmented patchwork of services *“defined by waitlists and crises.”*¹⁰⁹

“I think the worst part of my life was the first year and a half after I got put on independent living at age 18. That’s an age when you don’t want to look like you need any help. I’m 24 now and have no problem asking for help, but at 18, you want to look like, “I got this!” Except you don’t.”

– A former youth in care

¹⁰⁶ Representative for Children and Youth, *“Room for Improvement: Toward Better Education Outcomes for Children in Care”* (Victoria, B.C.: Representative for Children and Youth), October 2017.

¹⁰⁷ “PGT Educational Assistance Fund,” Public Guardian and Trustee of British Columbia, July 15, 2020, <https://www.trustee.bc.ca/services/estate-and-personal-trust-services/Pages/pgt-educational-assistance-fund.aspx>.

¹⁰⁸ Ministry of Children and Family Development, “Education Savings Fund Established for Youth in Care,” *B.C. Gov News*, June 9, 2015), https://archive.news.gov.bc.ca/releases/news_releases_2013-2017/2015CFD0025-000826.htm.

¹⁰⁹ Ministry of Mental Health and Addictions, *A Pathway to Hope: A roadmap for making mental health and addictions care better for people in British Columbia* (Victoria, B.C.: Ministry of Mental Health and Addictions), June 2019, https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/initiatives-plans-strategies/mental-health-and-addictions-strategy/bcmentalhealthroadmap_2019web-5.pdf.

CASE STUDY – Jack

This is the story of 20-year-old Jack, a former youth in care. He's one of many young people who have shared stories with RCY of long and fruitless searches for the supports they needed after transitioning out of care. In Jack's case, he came close to finding what he needed after months of knocking on one closed door after another, only to have that final door close on him, too. His situation is not unique.

Jack needed and wanted mental health support. In high school, he struggled to maintain his mental wellness, which was affecting his ability to keep up with his academic workload. He was only able to see a counsellor through his school every couple of weeks – not enough to meet his needs, plus the counselling was geared toward school and not overall mental health. Jack went looking in his community for mental health support. But the first agency that he called did not offer the service that he wanted and referred him elsewhere. He connected with that next agency only to end up referred to a third one. Like the others, that organization did not offer what he was looking for either.

He had a social worker through the Agreements with Young Adults (AYA) program, who sent him information on where to find private counselling for free or at reduced cost. The worker advised Jack to speak with his family doctor and call the local Adult Mental Health team for an intake meeting. Jack did get a referral from his doctor to a therapist for specialized counselling. But the counsellor did not have the expertise needed to provide the therapeutic support that Jack needed. Clear on his mental health needs and the type of therapy that would support his mental wellness, Jack decided not to pursue sessions with this counsellor, or participate in the group therapy that Adult Mental Health was offering.

Meanwhile, Jack's RCY advocate had been researching supports in the community. But there were no publicly funded agencies providing the specialized counselling Jack needed. The advocate reviewed AYA policy and learned that supervisors have some funding discretion in extenuating circumstances, in cases where a mental health program is not covered by another ministry or service provider. On Jack's behalf, the advocate reached out to Jack's AYA social worker. They talked about what the advocate had learned about discretionary AYA supports, and why none of the publicly funded supports were going to work for Jack. The advocate asked that private counselling sessions be paid for as part of Jack's AYA plan. The request was denied. Appeals were unsuccessful. During this period, the advocate found out that in fact, MCFD had recently circulated a practice directive advising that AYA funds could not be spent on counselling therapy or "other direct-service costs."

Jack's long search for help with his mental health had dead-ended yet again. Jack's advocate never could find him financial support for specialized counselling. Jack has not maintained connection with his advocate. It's not known how he is doing currently.

The ministry's plans include some promising initiatives for young people aged 12 to 24, such as the expansion of Foundry centres – which include primary care, walk-in counselling, mental health and peer support check-ins and groups, and mental health substance use services all under one roof as well as a remote counselling session service for students called “Here2Talk.”¹¹⁰

Additionally, in August 2020, MMHA announced the doubling of B.C.'s beds for substance-use treatment and withdrawal management for youth ages 14 to 24.¹¹¹ The addition of 123 beds will take place over two years. These beds are not specifically targeted to former youth in care.

While promising for youth and young adults generally, none of the initiatives described above nor others outlined in the ministry's plans are specific to the unique circumstances of youth in care transitioning to adulthood.

RCY's advocacy work has identified that the lack of financial support for young people on AYAs to engage in individual trauma-informed counselling has been a significant barrier for some young adults. Accessing AYA requires a young person to navigate the application process, something that is not always possible for a young person struggling with their own mental health. They are expected to advocate for the mental health support they need through a fragmented and inadequate service delivery system. Our Office has also heard from young people, especially Indigenous youth, of their difficulty in identifying developmentally and culturally appropriate mental health services through the adult system.

“Having to choose between substance use healing and school shouldn't be a decision you have to make,” said one youth consultation participant. Another noted that AYA funding is *“not enough to live and cover counselling and therapy.”*

The data in this section on post-majority supports underlines that while supports are available, there is relatively low uptake and significant variability across many dimensions, ranging from gender, education level, type of care agreement, region of the province and whether or not a young person is Indigenous. The Provincial Tuition Waiver Program is a bright spot and a clear indication of government's belief in the potential of young people from care to succeed in post-secondary education. However, as a group, the supports that exist for young people transitioning to adulthood are insufficient and not structured in a way that allows for easy access. The next section of the report offers insight from research into how supports for young people should be structured and delivered.



Photo: Fostering Change

¹¹⁰ Ministry of Mental Health and Addictions, “New Foundry Centres improve access to vital services for youth,” June 15, 2020, <https://news.gov.bc.ca/releases/2020MMHA0028-001053>.

¹¹¹ Ministry of Mental Health and Addictions, “Doubling youth treatment beds throughout B.C.,” *B.C. Gov News*, Aug. 13, 2020, <https://news.gov.bc.ca/releases/2020MMHA0043-001514>.

What the Research Tells Us

Years of studies on youth leaving care consistently demonstrate that youth from care are forced to live independently much earlier on than their peers and experience significantly worse outcomes, especially in housing, education, well-being and social exclusion (see Outcomes for Youth Aging out of Care in this report).¹¹² Leaving care and transitioning into adulthood is a complex process. A growing evidence base supports the notion that age alone cannot define readiness in the transition toward interdependence. In any youth's life, socially defined markers of successful interdependence come with achievements and setbacks, and engagement and disengagement from supportive resources.

While poor outcomes and the consequent need for effective interventions for youth who have been in care are validated in the literature, that literature also demonstrates that successful transition outcomes are possible. As detailed below, academics note that flexible and accessible services which prioritize youth agency and remain available for many years after the age of majority see successful outcomes. Prioritizing the development and maintenance of natural relationships and expanding social connections serve as primary predictors of these successes.

"We need to have more 'love' words in these conversations," says Gwen Cardinal. "We have to bring that into any of the work we do. Because it's people. It's humanity."

When a range of supports is provided to address several domains – including mental health, housing, education and identity formation – young people fare better. It is also important to listen to youth voices and incorporate their goals and vision into individual and systemic service delivery and policy design. Below are the major themes emerging from the literature on youth leaving care, presented with an analysis of how these findings can inform approaches to better support young people in their transition to adulthood.

Defining Readiness

Despite defining a legislated limit to care at 19, research demonstrates that successful transitions are dependent on many factors other than age. The theory of emerging adulthood signaled a shift in youth independence literature and gave instructive focus to the need for programs and services for vulnerable individuals throughout their twenties.¹¹³ Emerging adulthood is a nonlinear process *"often characterized by shifts back and forth between independence and dependence."*¹¹⁴ Young people in care typically face an abrupt and intense transition to independence after care ends, whereas young people without the trauma and challenges associated with the child welfare system benefit from a more gradual transition.¹¹⁵

¹¹² Annemiek T. Harder et al., "Supporting Transitions to Adulthood for Youth Leaving Care: Consensus Based Principles," *Children and Youth Services Review* 116 (September 2020): 2, <https://doi.org/10.1016/j.childyouth.2020.105260>.

¹¹³ Varda R. Mann-Feder, "Introduction," in *Leaving Care and the Transition to Adulthood: International Contributions to Theory, Research and Practice* (Oxford: Oxford Scholarship Online, 2019), <https://oxford.universitypressscholarship.com/view/10.1093/oso/9780190630485.001.0001/oso-9780190630485-chapter-1>.

¹¹⁴ Élodie Marion and Veronika Paulsen, "The Transition to Adulthood from Care: A Review of Current Research," in *Leaving Care and the Transition to Adulthood: International Contributions to Theory, Research and Practice*.

¹¹⁵ Marion and Paulsen, "The Transition to Adulthood from Care: A Review of Current Research."

Transitions to adulthood can be defined as a progressive arrival to adult identity.¹¹⁶ Young people from care report feeling like adults earlier and more often during this developmental period.¹¹⁷ The way independence is defined is a function of expectations of young people and assumptions about what is possible at a certain age. Transitioning from care is not only about development toward independence, but also the “social construction of interdependence,”¹¹⁸ meaning that outcomes can be dependent on a young person’s social surroundings or external environment, and cannot be fully separated from an individual young person’s relationships, connections and community.

“I was lucky having a youth worker who walked alongside me as I bought my first car, got my first job, that kind of thing. That was a role that a family member usually plays.”

– Youth participant

Academic literature on youth leaving care presents several common domains of success: education, work, housing, healthy relationships with peers and adult mentors, and identity formation, among others.¹¹⁹ Those who transition out of care and do well – measured by engagement in education, secure attachment and “relatively few problem behaviours” – are those who have more gradual transitions from care than others and are able to move on psychologically after care.¹²⁰

CASE STUDY – Sarah

Sarah is a Métis youth who is outgoing, kind, confident, has a strong sense of humour and a strong connection with her culture. She lived with her mother until she was 12, at which time she came into care under a Voluntary Care Agreement while her mother was struggling with substance misuse and was unable to safely care for Sarah.

Sarah moved in with her grandparents, where she remained for two years before MCFD learned that her grandfather was physically abusing her. She was then moved into a foster home. When Sarah was 16, she moved back with her mother, as MCFD was attempting to help reunify the family. This lasted one month, at which point Sarah was placed in a staffed residential resource where she remained for the next two years.

She received mental health services and substance use services and was well-connected with cultural and community supports during this time. But there were ongoing and significant concerns with her staffed residential resource, including a lack of food and insufficient numbers of workers. The resource was shut down, and Sarah was moved into a foster home.

Six weeks before aging out of care, Sarah’s social worker moved her into a semi-independent living situation at an apartment where she could stay after turning 19. She had the continuous support of her social worker and a youth worker.

When Sarah turned 19, she continued to live in the apartment and a post-majority services file was opened for her. However, there was very little planning for Sarah’s independence, and no services or supports were provided for her beyond the apartment to help Sarah in her transition to adulthood.

¹¹⁶ Marion and Paulsen, “The Transition to Adulthood from Care: A Review of Current Research.”

¹¹⁷ Marion and Paulsen, “The Transition to Adulthood from Care: A Review of Current Research.”

¹¹⁸ John Pinkerton and Adrian Van Breda, “Policy as Social Ecological Resilience Scaffolding for Leaving Care,” in *Leaving Care and the Transition to Adulthood*.

¹¹⁹ Pinkerton and Van Breda, “Policy as Social Ecological Resilience Scaffolding for Leaving Care.”

¹²⁰ Mann-Feder, “Introduction.”

Effective Interventions

"It's a very different experience to be a former youth in care at post-secondary compared to everybody else. We're our own parents, with full responsibility for our school and work, and left on our own to navigate whatever traumas and challenges we have. You miss out on normal connections with other young people, always having to say no because you don't have the money. AYA doesn't cover a spring-break trip to Mexico."

– A former youth in care

Different ways of supporting youth transitioning into adulthood are in place all over the world, all with varying degrees of success and depth of support. An extensive review of research suggests that there may be positive outcomes associated with most interventions, whether they are in housing, employment, education, cultural programming or other initiatives related to the needs of youth leaving care. However, while many services exist, researchers have noted a lack of thorough evaluation of the impact and outcomes of these interventions.¹²¹ While many services exist, researchers have noted a gap in thorough evaluation of these interventions.¹²²

Recent academic work has attempted to summarize the main principles from research to inform practice and

policy. A 2020 paper produced by members of the International Resource Network on Transitions to Adulthood from Care (INTRAC) identified 10 consensus-based principles for care-leaving policy. The principles, derived from both literature and youth consultation, provide important direction for practice and policy:

1. Listen to young people and safeguard their rights
2. Support the autonomy of young people during and after care
3. Ensure access of care-leavers to education
4. Honor diversity, including cultural identity
5. Support care-leavers to connect and maintain connections with their biological families
6. Ensure relationship continuity by providing long-term supports and safety nets
7. Provide intervention for working through trauma
8. Ensure adequate preparation for leaving care
9. Create legal frameworks to ensure the rights and needs of care-leavers
10. Ensure access to services¹²³

These principles represent the academic consensus that youth from care need effective and meaningful interventions that prioritize their well-being, agency and long-term outlook through thoughtful policy and services.

¹²¹ Roberta L. Woodgate, Oluwatobiloba Morakinyo and Katrina M. Martin, "Interventions for Youth Aging out of Care: A Scoping Review," *Children and Youth Services Review* 82, no. C (November 2017): 296-298, <https://doi.org/10.1016/j.childyouth.2017.09.031>.

¹²² Marion and Paulsen, "The Transition to Adulthood from Care: A Review of Current Research."

¹²³ Harder et al., "Supporting Transitions to Adulthood for Youth Leaving Care: Consensus Based Principles," 5-21.

Limitations of Programs and Services

Many services target the development of youth competencies as a way to achieve transition outcomes. Life skills programs, which target domains such as financial literacy or grocery shopping, aim to fix the missing elements in young people's lives that hinder their good outcomes. These types of interventions also tend to be focused on "fixing the youth" instead of "fixing the system."¹²⁴ Several studies have surfaced youth perspectives that these programs are inadequate in preparing them to live independently; as well, these programs are controversial in the literature.¹²⁵ An extensive review of evaluation research of U.S. life skills programs targeting hundreds of thousands of youth showed little evidence to suggest that the programs had a positive impact on outcomes.¹²⁶ Teaching skills is less important than practicing skills and supporting the development of identity.¹²⁷ However, some research shows positive outcomes in employment and education after accessing these programs.¹²⁸ There are many questions about the efficacy of these programs and their use as a primary intervention for youth leaving care. As Varda Mann-Feder, Concordia University Professor of Applied Human Sciences and co-editor of *Leaving Care and the Transition to Adulthood*, writes, "*The fact that research tells us that young people who have aged out of care demonstrate difficulties in acknowledging dependency needs and engaging in close relationships also underscores the need to address something other than skill development and self-reliance.*"¹²⁹

"It's normal for people in their early 20s to change their minds about what they want to study in school, the kind of work they want to do. We should accept that, and understand that changing your mind is part of your development."

– A former youth in care

Focus on Relationships

Resilience – or the ability to overcome adversity – can be challenging to nurture in young people. Two major factors are confirmed by research to help in determining one's resilience: a natural resistance to adversity, and strong relationships with caring and dependable adults to manage healthy amounts of stress.¹³⁰ A central part of preparing young people to exit care is "the mobilization or establishment of a network of relationships, including immediate and extended family, the neighbourhood and a range of formal social and other services."¹³¹ This is achievable through robust social policy that creates "scaffolding" for the formal supports that create a foundation for growing the informal and personal networks vital for successful transitions.¹³²

"There needs to be more meaningful focus on connecting youth. That's not just taking someone to the friendship centre, or pointing them to a website," said one social service agency leader who took part in consultations. *"There's also an obligation on the part of MCFD to make sure there's some safety around the connecting to family."*

¹²⁴ Jane Kovarikova, "Exploring Youth Outcomes After Aging-Out of Care."

¹²⁵ Woodgate, Morakinyo and Martin, "Interventions for Youth Aging out of Care: A Scoping Review," 283-294.

¹²⁶ Heidi Sommer, "Independent Living Service Programs for Foster Youth: How Individual Factors and Program Features Affect Participation and Outcomes," (PhD diss., University of California, Berkeley, 2013).

¹²⁷ Mann-Feder, "How Can I Be a Real Adult?"

¹²⁸ Woodgate, Morakinyo and Martin, "Interventions for Youth Aging out of Care: A Scoping Review," 283-294.

¹²⁹ Mann-Feder, "How Can I Be a Real Adult?"

¹³⁰ Center on the Developing Child, "In Brief - The Science of Resilience" (Cambridge, MA: Harvard University), accessed Sept. 1, 2020, <https://46y5eh11fhgw3ve3ytpwxt9r-wpengine.netdna-ssl.com/wp-content/uploads/2015/05/InBrief-The-Science-of-Resilience.pdf>.

¹³¹ Pinkerton and Van Breda, "Policy as Social Ecological Resilience Scaffolding for Leaving Care," 3-4.

¹³² Pinkerton and Van Breda, "Policy as Social Ecological Resilience Scaffolding for Leaving Care," 1-15.



BRIGHT SPOT – Nanaimo Aboriginal Centre

The Nanaimo Aboriginal Centre provides education, cultural supports and services for Indigenous and homeless youth. The centre's housing program, "Nuuksmuut Lelum," features 25 units of affordable housing, including four units designated for youth transitioning out of care. The program is designed to support the integration of youth into community as they transition to independence, and to create connections and build a supportive community around the youth.

The centre's Youth Advisory Council consists of 10 Indigenous youth in and from the care system. The council has three objectives: peer support, sustainability (permanency) and systems change. As one youth said, *"I hope for the next youth who goes through the system that it will be a better experience."*

Additionally, the centre provides community-based alternative education programs to help youth complete Grade 12. There are currently 97 youth enrolled in Tsawalk Learning Centre. The school provides a "Land and Sea" program, in which youth are taught traditional harvesting, salmon fishing, gathering herbs and more.

Katherine McParland, *From Marginalized to Magnified: Youth Homelessness Solutions from Those with Lived Expertise*, 98.

Nanaimo Aboriginal Centre, <https://www.nanaimoaboriginalcentre.ca/>.

Multiple Dimensions of Permanency

The concept of permanency developed within the child welfare field, and in its simplest form, involves ensuring that children and youth in the child welfare system have meaningful and enduring connections to family or other adults. Over time, research has expanded the notion of permanency to incorporate multiple dimensions of belonging and connection – relational, physical, legal, identity and cultural.

"Permanency planning is really important," one former youth in care told RCY in consultations. *"It could be the biological family or chosen family or a youth worker, like a mentor – just someone who's going to stay with you. It's not going to be the social worker, who doesn't have the capacity with their caseloads."*

There is also further unpacking of permanency that must be done for Indigenous children and youth in care:

*"Disconnection from family, kin, community, culture, ancestral relations and language necessitates that the goal of permanency include more than the pursuit of a stable forever family.' It must also aim to create lifelong healthy connections to community, culture and land that can bring Indigenous youth the experience of truly belonging – of being "claimed back" as proud First Peoples."*¹³³

¹³³ Sandrina de Finney and Lara di Tomasso, "Creating Places of Belonging: Expanding Notions of Permanency with Indigenous Youth in Care," *First Peoples Child and Family Review* 10, no. 1 (2015): 63-65, <https://fpcfr.com/index.php/FPCFR/article/view/246>.

What the research tells us

There is a clear relationship between increased permanency and improved outcomes in a youth's physical and mental health. Increased permanency reduces psychological stress and uncertainty, while effective mental health treatment makes permanency goals more achievable. *"In practice, that means possibly working from both ends – supporting mental health to achieve permanency and supporting permanency to improve mental health."*¹³⁴

"After I get my bachelor's degree, my plan is to become a child protection worker with MCFD. I'm going to actually get to know the young people on my caseload. They're not going to be just names on folders."

– A former youth in care



BRIGHT SPOT – Eva's Initiatives for Homeless Youth

Eva's Initiatives for Homeless Youth – a non-profit organization based in Toronto – provides shelter, transitional housing and programming to help homeless and at-risk youth reach their potential to lead productive, self-sufficient and healthy lives. Eva's Initiatives offers housing in addition to multiple programs, including the Family Reconnect Program. This unique and award-winning program offers group and individual counselling to youth at-risk of or experiencing homelessness and those that they define as family. Recognizing the critical importance of creating a circle of support for teens and young adults, the program attempts to establish, re-establish and maintain healthy, supportive relationships around the youth.

Eva's Initiatives for Youth Homelessness, <https://www.evas.ca/>.

The Need for a Range of Services

Successful outcomes for young people in transition rely on a multitude of resources. The 10 principles referenced earlier highlight the importance of the full range of supports, including support for relationships with biological families and trauma intervention. Youth agency – the ability to choose and direct your life – is an integral part of service design that improves outcomes and participation.

"It's empowering to have adults who listen to us and want to make a difference in our lives and the community around us, as we see how broken it is," says one youth.

¹³⁴ Amy M. Salazar et al., "Defining and achieving permanency among older youth in foster care," *Children and Youth Services Review* 87 (April 2018): 9-16, <https://doi.org/10.1016/j.childyouth.2018.02.006>.

Governments and service agencies that listen to young people lead to better outcomes and feelings of agency for youth.¹³⁵ Conversely, the failure to provide such opportunities for participation has negative outcomes related to self-esteem, emotions and behaviour.¹³⁶ Youth themselves have been saying for years what research now echoes: that “*young people should be involved in their own care plan and have a say into what’s being done.*”¹³⁷ Agency is possible with a broad range of services available to support young people in their transition.

There is also consistent evidence on continuation of services after the age of majority. A range of services with more open eligibility would serve youth in preparing to leave care, find work or identify other supports, as well as find a place to live, overcome trauma and process the negative experiences of childhood and the care system.¹³⁸ Current opportunities largely don’t exist for youth who need more support just to be able to access services. Youth who require multiple interventions and support in their transition to interdependence thus end up with the least services. This is in keeping with the principles of the Inverse Care Law, which established for the medical community that the availability of medical care is inversely proportionate to a population’s need for it.¹³⁹ Research underlines that young people need not only a range of services, but the ability to return to services even after initially rejecting them.¹⁴⁰

Consequences of Trauma

The adverse circumstances and experiences that result in a child or youth coming into care may be traumatic, and coming into care is inherently a traumatic experience. The act of placement and various care experiences can contribute to re-traumatization.¹⁴¹ The impacts of adverse childhood experiences and childhood trauma are well documented and are associated with behaviour and interpersonal challenges, unhealthy boundaries, high-risk behaviours such as substance misuse and attachment impairments.¹⁴² These consequences require significant and committed interventions available throughout a young person’s life.

¹³⁵ Harder et al., “Supporting Transitions to Adulthood for Youth Leaving Care: Consensus Based Principles,” 6.

¹³⁶ Harder et al., “Supporting Transitions to Adulthood for Youth Leaving Care: Consensus Based Principles,” 7.

¹³⁷ FICE International, “Be the Change: 10 Standards for Care Leavers,” *Global Social Services Workforce Alliance* (Vienna, Austria: FICE International, 2016), <http://www.socialserviceworkforce.org/system/files/resource/files/Be-the-Change.pdf>. 1-10.

¹³⁸ Harder et al., “Supporting Transitions to Adulthood for Youth Leaving Care: Consensus Based Principles,” 18.

¹³⁹ Julian Tudor Hart, “The Inverse Care Law,” *The Lancet* 297 no. 7696 (February 1971): 405-412, [https://doi.org/10.1016/S0140-6736\(71\)92410-X](https://doi.org/10.1016/S0140-6736(71)92410-X).

¹⁴⁰ Ruth Rogers, “I Remember Thinking, Why Isn’t There Someone to Help Me? Why Isn’t There Someone Who Can Help Me Make Sense of What I’m Going through?,” *Journal of Sociology* 47, no. 4 (Nov. 29, 2011): 411, <https://doi.org/10.1177%2F1440783311420793>.

¹⁴¹ Harder et al., “Supporting Transitions to Adulthood for Youth Leaving Care: Consensus Based Principles,” 14.

¹⁴² Dye, “The Impact and Long-Term Effects of Childhood Trauma,” 382.

CASE STUDY – Benjamin

Just three months before he was scheduled to transition out of government care, Benjamin was ill-equipped for his approaching independence. He had been in government care since the age of two, and lived in four separate placements. In his short life, the teenager faced many challenges, including developmental delays tied to fetal alcohol spectrum disorder, trauma, loss of permanency, struggles with peer relationship and substance misuse. Benjamin's care team attempted to support him in these challenges, but he developed overwhelming anxiety and suicidal ideation. He increasingly struggled to complete simple tasks and interact with adults, even the ones he used to trust. At age 18, he died of an overdose.

In the months preceding his death, Benjamin expressed panic about leaving government care, specifically about the possibility of ending up “*dead or homeless*.” At the time of his death, Benjamin's file showed no meaningful transition planning. His Care Plan contained broad goals such as learning to use transit, complete household tasks and save money. The plan laid out the bare minimum required for independence, but there was little evidence of progress in these areas.

Benjamin's care team appeared to be exclusively focused on Community Living BC (CLBC) supports, fixing on CLBC's Services to Transition Adults with Developmental Disabilities as a means to manage his progression toward independence. But weeks before his 18th birthday, the team learned that Benjamin would not be eligible for these services. He had a year left before having to leave care, and there was no alternative plan in place. His care team tried to get him financial assistance with a Persons With Disabilities designation, though that support did not include other kinds of support that Benjamin required. Scared, Benjamin texted his foster mother: “*Man, what happens if I don't get nothing n do I even qualify for a pwd abhh I ain't living that long if I don't get nothing, life is scary rather die then be homeless.*”

No supportive adults were identified in Benjamin's Care Plan beyond those involved in the care system – his foster mother and social worker. Benjamin's attempts to re-establish relationships with his biological family resulted in little more than occasional meals and transportation. He did not receive support in navigating these complex and likely traumatic relationships in a healthy way. Benjamin found that attempts to re-establish relationships only seemed to cause rifts with other family members and caregivers, leaving him further isolated. Benjamin disclosed sexual assault to his support team multiple times, yet there is no evidence of him ever having been connected with a sexual assault centre or with counselling specifically intended to process the trauma of these experiences.

Impacts of Colonization

A great deal of Canadian research has analyzed and reflected on the experiences of Indigenous youth in care. As stated throughout this report, and many others, the child welfare system is significantly over-involved in the lives of First Nations, Métis, Inuit and Urban Indigenous children, youth and families.

It is important to note that the notion of “aging out” of care does not fit into Indigenous ways of considering communities, relationships and caring.¹⁴³ Most young people do not “age out” of natural

¹⁴³ Fast et al., “Indigenous Youth Leaving Care in Canada,” 4.

care with their biological families and continue to be supported in the nonlinear fashion described elsewhere in this report. Indigenous perspectives on honouring children and the family structure have begun to permeate into mainstream approaches in child welfare, but the disproportionately negative outcomes borne by Indigenous youth are disturbing and persistent.

Addressing the impacts of care for Indigenous young people requires an attuned focus on Indigenous identity and relationships. Researchers continue to cite the need for cultural connections and adequate identity formation facilitated while in care.¹⁴⁴

“The vicious circle of a continued colonial legacy will be unbreakable unless a resurgence of Indigenous ways of caring for children is incorporated as integral to the right of Indigenous peoples to sovereignty and self-determination.”¹⁴⁵

Government as a Parent

Provincial and territorial child welfare legislation in Canada, as well as the Federal legislation *An Act respecting First Nations, Inuit and Métis children, youth and families*, are guided by the principle that all actions and decisions be made in the best interests of the child.¹⁴⁶ While there is no question that best interests should be a guiding principle in child welfare practice and decision-making, application of the concept has been criticized by some for its subjectivity, short-sightedness and a lack of cultural recognition of the wholeness of a family in a child’s life.^{147, 148} While legislation identifies the factors that should be taken into account in the determination of best interests, there may be competing perspectives.

“My social worker, I maybe talked to her every two months, and it was always me who had to call. I know I wasn’t seen as high-risk, but those of us who look like lower risk are still high-risk, we just hide it better.”

– A former youth in care

Government intervention in a child’s life can be understood as a commitment to a young person’s well-being – one that requires a long-term relationship and ongoing support in line with a person’s needs. Research shows that the “*journey to self-sufficiency depends on the availability of long-term emotional and financial support*” well into a person’s twenties, so that identity can be explored before the young person is thrust into independence.¹⁴⁹ Best interests and their related legal arrangements currently expire at 19, but youth needs do

not. A growing number of jurisdictions are recognizing young people’s long-term needs and have made commitments to their well-being after care.

¹⁴⁴ Fast et al., “Indigenous Youth Leaving Care in Canada,” 8.

¹⁴⁵ Fast et al., “Indigenous Youth Leaving Care in Canada,” 11.

¹⁴⁶ *An Act respecting First Nations, Inuit and Métis children, youth and families*, Statutes of Canada 2019, c.24. <https://laws.justice.gc.ca/eng/acts/F-11.73/index.html>.

¹⁴⁷ Vivek Sankaran, “Let’s Be Honest: ‘Best Interests’ Is in The Eye of the Beholder,” *The Imprint*, Sept. 25, 2019, <https://imprintnews.org/opinion/lets-be-honest-best-interest-is-in-the-eye-of-the-beholder/37784>.

¹⁴⁸ Fast et al., “Indigenous Youth Leaving Care in Canada,” 4.

¹⁴⁹ Mann-Feder, “Introduction,” in *Leaving Care and the Transition to Adulthood*, 3.



BRIGHT SPOT – California Fostering Connections to Success Act

The U.S. *Fostering Connections to Success and Increasing Adoptions Act* of 2008 extended the age of eligibility from 18 to 21 for youth in foster care. Under provisions of the law, states now have the option to extend care, but are not required to do so. A number of states have adopted legislation to extend care and others are considering doing so. California enacted the *California Fostering Connections to Success Act* in 2010 and began extending care on Jan. 1, 2012. With the largest state foster care population in the U.S., it is arguably the most important early adopter of the new policy.

In order to be eligible for Extended Foster Care in California, young people must meet one of the following criteria:

- working toward completion of high school or equivalent program (e.g., GED)
- enrolled in college, community college or a vocational education program
- employed at least 80 hours a month
- participating in a program designed to assist in gaining employment
- unable to do one of the above requirements because of a documented medical condition.

CalYOUTH, an eight-year evaluation of the impact of this Act in California, will be completed in 2020. Findings to date suggest that most young adults who are eligible choose to take advantage of the opportunity to remain in extended foster care (85 per cent). While most youth are satisfied with the services received, the study also found that the diversity of the California foster youth population makes a one-size-fits-all approach inappropriate.

At age 21, young people are still faring poorly compared to their age peers across many measures of well-being. The 2018 interim report found that:

“while many of these youths are on track to complete a college degree they have long desired, are connected to multiple supportive adults, and have no serious health problems to challenge their progress, others are isolated, face multiple challenges to a successful transition to adulthood, and will likely require intensive and ongoing support to avoid future hardship. Our findings add to the growing body of evidence that extended care should provide young adults with developmentally appropriate living arrangements and connect them to formal and informal supports that recognize the wide variety of their aspirations and needs.”

Mark E. Courtney et al., “Findings from the California Youth Transitions to Adulthood Study (CalYOUTH): Conditions of youth at age 21,” (Chicago, IL: University of Chicago), 2018, https://www.chapinhall.org/wp-content/uploads/CY_YT_RE0517_1.pdf.

Our Communities

By Jess Boon



Jess Boon is a former youth in care and child welfare activist who lives in East Vancouver on the traditional and unceded territory of the Musqueam Peoples. Jess mostly draws cartoons and children's illustrations for her friends.

"Our communities" is a four panelled gouache painting signifying the diversity of communities in which youth in/from care live all throughout the province.

Economic Analysis

During efforts to shift policy, arguments are often made about the affordability of expanding supports, services and jurisdictions to more people. Importantly, much work has been done to investigate the economic implications of expanding support to young people transitioning out of care.

"When I was 17, I needed a root canal, and it took almost four months to get it approved by MCFD. I got an infection in the tooth and was so sick, I lost 40 pounds. When I finally got to a dentist, the tooth was so bad it couldn't be saved and had to be extracted. I got yelled at by my worker because they hadn't approved an extraction."

– A former youth in care

In 2016, Fostering Change published *Opportunities in Transition*, the first and only analysis to date to attach a cost of adverse outcomes for young people transitioning into adulthood in B.C., as well as to cost out increased supports in comparison to potential savings and benefits.¹⁵⁰ This report presented a clear economic argument for increasing support to young people transitioning into adulthood in B.C., adding to the social and moral arguments that society has the same obligation to assist these young people as do individual families for their own children as they transition to adulthood.

The report found that costs are driven by three inter-related factors: low educational attainment, poverty and poor mental health. The authors estimated an average annual cost due to adverse outcomes experienced by youth transitioning into adulthood at between \$222,000 and \$268,000 per youth. They also identified an economic impact from the short- and long-term costs of insufficient support of youth transitioning into adulthood, from poorer health over a lifetime to the immediate and intergenerational costs of higher early pregnancy and parenting, homelessness and homelessness compounded by substance use.

In 2006, the Washington State Legislature began to enable youth who turned 18 to remain in foster care until age 21 while enrolled in a post-secondary education program. Since that time, eligibility for extended foster care (EFC) has expanded to include youth who are working, in programs to reduce barriers to employment or have certain medical conditions. A 2017 study of this policy found that between 2006 and 2018, the percentage of youth receiving EFC services increased from 5% to 80%. Compared to non-participants, the average youth participating in EFC was more likely to be employed and have greater earnings. EFC also significantly reduced homelessness, receipt of public assistance, use of medical emergency departments, reduced diagnosis of substance use and treatment and criminal convictions. Additionally, the study found that EFC reduced involvement of offspring in the child welfare system. Finally, the benefit-cost analysis found that the EFC program produces \$3.95 of lifetime benefits for each \$1 invested.

M. Miller, D. Bales and M. Hirsch, *Extended foster care in Washington State: Final Report* (Olympia: Washington State Institute for Public Policy), 2020, https://www.wsipp.wa.gov/ReportFile/1721/Wsipp_Extended-Foster-Care-in-Washington-State-Final-Report_Report.pdf.

¹⁵⁰ Shaffer and Anderson, "Opportunities in Transition."

“A youth needs to be looked at overall, not piece by piece,” one community youth advocate told us. “How is this young person actually functioning?”

The report recommends a basic package of increased supports that continue to age 25. It recommends support similar to what Agreements with Young Adults provide, but with continuous availability from ages 19 to 24; broadened eligibility criteria and increased funding levels designed to eliminate the need for youth transitioning into adulthood to go on income assistance. The total incremental funding requirement for the support package at the time of the 2016 report was estimated to be \$57 million for the cohort of youth transitioning into adulthood each year.

The report argued that this level of support would close the existing gap in educational attainment and earnings by up to 40 per cent, effectively saving the province as much as \$180 million even while expenditures for the extra supports would increase government spending by only \$57 million. The authors concluded that continued inaction on this issue was denying youth basic supports they need to transition into adulthood while costing the province unnecessarily. The Fostering Change cost-benefit analysis was conducted a few years ago and while stated costs and benefits may have changed to some degree since that time, the fundamental conclusion holds: the ongoing scarcity of accessible, flexible supports for youth in transition is by far the most expensive option for government. Findings in this report echo those from a number of similar studies.

Table 8. Post-majority economic costs and benefits reports

Name of report	Author	Year
Extending Foster Care to Age 21: Weighing the Costs to Government against the Benefits to Youth	Clark Peters, Mark Courtney, Harold Pollack and Amy Dworsky	2009
25 is the New 21: The Costs and Benefits of Providing Extended Care and Maintenance to Ontario Youth in Care until Age 25	John Stapleton et al.	2012
Success For All: Investing in the Future of Canadian Children in Care	Conference Board of Canada	2014
Cost Avoidance: The Business Case for Investing in Youth Aging Out of Foster Care	Jim Casey Youth Opportunities Initiative	2013



Photo: Fostering Change

Conclusion and Recommendations

The time has come in B.C. to remove the precipice for 19-year-olds transitioning into adulthood from the child welfare system. Young people have repeatedly told us what they need, and researchers and the public agree. Extended and universal support that is similar to what most people in B.C. provide for their own families is the necessary and morally right thing to do, and it will save government money in the long run.

The outcomes for young people who leave the care system at 19 are unacceptable. The current system does not afford these young people access to the same kind of opportunities that their non-care peers typically enjoy.

The recommendations that follow are set out according to domain and primary ministerial responsibility. To achieve better outcomes, however, they must be considered and implemented as a whole, as they are inter-related and inter-dependent. For example, simply improving income security for youth transitioning into adulthood would not be sufficient without the complementary steps of ensuring better planning, the consistent availability of culturally appropriate adult guidance and support and better access to housing and mental health services. The full range of needs of these young adults must be addressed, not just a single dimension. To that end, it is hoped that those assigned to lead implementation of the recommendations from relevant ministries and public bodies will collectively collaborate and coordinate their responses.

Currently, eligibility for MCFD's AYA program is limited to young people on Continuing Custody Orders and on Youth Agreements as well as a small number of other legal guardianship situations. That leaves out a number of youth such as those on temporary custody orders, voluntary care agreements and special needs agreements. The recommendations being made here are intended to be inclusive of that group of youth who are currently ineligible, across all recommendations.

Recommendation #1 – Extend and improve transition planning

The Ministry of Children and Family Development should fully implement and proactively support and monitor effective practice in planning for transition into adulthood, beginning at least by age 14 for youth in continuing care and extending beyond age 19. Principles of this transition planning process should include:

- a. Developmentally appropriate processes, aligned with the non-linear and complex process of transitioning to adulthood, and supporting the shift from dependence to interdependence, with relationships at the centre.
- b. Contextualization of the experience of Indigenous youth transitioning to adulthood within the experience of colonization and supporting the reclamation of culture and identity as critically important elements of the lives of emerging First Nations, Métis, Inuit and Urban Indigenous young adults.
- c. Reciprocal processes, where youth agency is prioritized and youth are responsible and empowered to design a case plan representative of their goals, interests and support networks.

MCFD is to have developed a comprehensive plan by April 1, 2022 that addresses policy and practice guidelines, staff training and processes and mechanisms for support and monitoring of practice, with full implementation of that plan in the ensuing 18 months.

Of note:

A smoother transition into adult services and supports requires effective, dynamic planning that addresses the full range of a youth's needs, including cultural needs, and fully engages the young person as a partner in that planning. Staff, however, need to have the time, training, proper tools and supports and expert practice guidance to ensure better transition planning. Implementation of this recommendation will therefore have staffing and resource implications. Further, enabling the continuation of planning involvement for at least the initial stages past a young person's 19th birthday may require changes to legislation/regulation.

RCY has been undertaking a comprehensive review of the care planning process and practices of MCFD staff that addresses three key domains: permanency planning, cultural planning and youth transitions planning. All are directly relevant to young people aging into adulthood and will be addressed in three separate public reports that RCY will release in the first months of 2021. They will further inform the above recommendation, which signals the need for the ministry to begin a comprehensive process of reviewing, refreshing and appropriately resourcing care planning, with particular focus on youth transitioning into adulthood.

Practice Observation

Young people have told the Representative that they often leave care without having access to quality assessments that ensure they clearly understand their own cognitive, physical, developmental or mental health issues. These issues may require follow up support in adulthood or workplace accommodations, for example. Young people are not defined by these issues, but assessments certainly provide important information and insight as young people move forward into adulthood. Having the assessments provides language young people can use with friends, families, employers and others. It is critical that young people from care have access to these assessments, and that they are culturally and developmentally appropriate.

- continued on next page

Recommendation #1 – continued from previous page

The three individual reports won't contain recommendations but will be followed by an omnibus public report on care planning in mid-2021 that will have recommendations.

Beginning planning at least by age 14 is limited to youth in continuing care in this recommendation. We recognize this benchmark cannot or may not be able to be applied to other types of care or ministry involvement, such as youth agreements, voluntary care, special needs agreements and temporary custody orders. Nonetheless, transition planning for youth in other care agreements should apply the same principles and begin as early as possible as a matter of good practice.

Recommendation #2 – Provide ongoing adult guidance and support by implementing dedicated youth transition workers through community agencies

In partnership with community agencies, MCFD should develop and implement a plan to establish dedicated youth transition workers to assist and support youth transitioning from care into adulthood. This plan should result in the province-wide (including rural and remote communities) implementation of dedicated transition workers who engage with young people before they turn 19 and provide systems navigation support, case management and adult guidance up to the age of 27 years. These professionals should work alongside a young person's natural systems of support and assist in providing mentorship and developmentally appropriate support. Supports should include a focus on skills development with the goal of education and employment. Particular attention should be paid to engaging transitional support workers who are First Nations, Métis, Inuit and Urban Indigenous, as well as non-Indigenous workers who have received cultural safety and trauma awareness training to work respectfully with these young people.

MCFD is to have completed policy and planning by April 1, 2022 and have completed full implementation of that plan in the ensuing 18 months.

Of note:

Given the current absence of dedicated transition workers for youth transitioning into adulthood, this recommendation will have resource implications and may require legislation/regulation change to establish a clear statutory mandate.

Currently, the principal post-majority supports available to youth transitioning into adulthood – AYA and the Provincial Tuition Waiver Program – are transactional in nature. These youth need far more than just impersonal transactions and money. They need available, caring adults who can, for example, steer them to the right services and supports, help them with forms and appointments, offer guidance, or just listen and help them problem solve. These functions do not need to be carried out by ministry staff who have statutory duties, but rather, are better provided in the more informal, flexible and welcoming circumstances typically offered through community-based service agencies – including, notably, First Nations, Métis, Inuit and Urban Indigenous agencies and entities.

Although this recommendation assumes that the principal responsibility for this adult guidance will be carried out by community agencies, we recognize that some youth have established close relationships over time with their guardianship social workers and may wish to maintain contact with them. As a matter of good practice, this concurrent and continuing contact and transition planning support should be encouraged where appropriate, especially in the early stages of transition as per Recommendation 1.

Recommendation #3 – Ensure continuing post-majority financial support

In order to support the same gradual and extended transition to adulthood that most young people enjoy, MCFD should implement universal and comprehensive financial support for young people aging out of all types of care and out of Youth Agreements by automatically enrolling them on their 19th birthday in Agreements with Young Adults, unless the young person chooses to opt out. Universal support should continue until the young person's 27th birthday without restriction, subject to reasonable constraints such as consideration of other income.

MCFD is to have developed a comprehensive plan by April 1, 2022 and fully implement that plan over the ensuing 18 months.

Of note:

Implementation of this recommendation will require legislation/regulation reform to address and remove current program eligibility requirements and AYA time limitations (currently 48 months), as well as a budget enhancement to support both the costs of increased enrollment and the operational (staffing) infrastructure to administer much larger numbers on the program.

Despite earnest efforts by MCFD to improve eligibility and enrollment in the AYA program, the continuing low uptake as well as the variable and inequitable access to the program documented in this report demands extensive reform. The current program requires youth to jump through eligibility hoops; if they are not able to, their benefits are terminated. Too many youth are not well enough prepared to even take the initial step of enrolling in the program, as evidenced by the fact that almost two-thirds of these young people do not enroll in their first year of eligibility.

A typical parent in the community would not simply cut off their child altogether for being unable to enroll in or complete a program, but rather would encourage and support them to move forward as best they can in the circumstances. Removing AYA eligibility requirements does not mean removing expectations about educational and skill enhancement, labour attachment or engagement in rehabilitation measures. The Representative envisages that helping young people identify and meet such requirements would be one of the roles of the dedicated transition support workers outlined in Recommendation 2. These transition workers would work alongside the young person's natural support systems to engage, prompt and support the young person to move forward. The key difference in the approach recommended here is that if a young person is initially unable to take those positive steps or to follow through to completion, they would be supported to figure out those challenges rather than abandoned to fall into poverty and homelessness, as is too often the case now.

Although this recommendation respects the right of a young person to opt out of automatic enrollment in the AYA program at age 19 (or later), a young person who opts out should also have the right to opt back in.

The total costs to government of implementing this measure is best considered by looking at current costs of not only the AYA program but also for people receiving Persons With Disabilities (PWD) benefits, as well as social assistance payments for youth transitioning into adulthood. The section of this report detailing cost benefits establishes that considerable savings over the long term will result from implementing the recommendations we are putting forward.

It should also be noted that this recommendation is obviously congruent with government's intention to reduce poverty.

Recommendation #4 – Consider an extension of voluntary residential care

MCFD should evaluate the current emergency measures in place due to COVID-19 that allow young people to continue to stay in their foster home or staffed residential placements past their 19th birthday. Our Office anticipates that such an evaluation would reveal benefits and feasibility on an ongoing basis. If that is the case, the ministry should implement changes that would allow for continuing foster home or staffed residential care on a voluntary basis, with the length of extension based on the young person's readiness to transition out of care. Priority consideration should be given to youth and young adults who have disabilities and other physical and mental health needs who are not ready for independence at 19, and not eligible for Community Living BC services.

MCFD is to complete the evaluation by December 31, 2021 and develop and implement an approved plan of next steps by April 1, 2022.

Of note:

The Representative is mindful that well-intentioned recommendations may have unintended consequences, and that it may not be feasible for all youth transitioning from care to be eligible for continued voluntary residential placement past their 19th birthday. For example, continuing foster home or staffed residential care for a large number of youth past their 19th birthdays may strain the capacity of an already challenged residential care system and further compromise the ability to appropriately place younger children.

This recommendation will need to be approached with caution by evaluating the current emergency measures and targeting extended voluntary care placements as needed to the most vulnerable youth. As well, there is an obvious intersection between this recommendation and Recommendation 5 regarding housing. That recommendation, when implemented, could provide an effective alternative transitional support for many young people.

Recommendation #5 – Provide additional dedicated housing for youth aging out of care

There is perhaps no greater challenge currently facing young people in B.C. transitioning into adulthood than finding appropriate, affordable and safe housing. We echo the recommendation made in the late Katherine McParland's report, *From Marginalized to Magnified: Youth Homelessness Solutions from those with Lived Expertise* – that the Ministry of Attorney General and Minister responsible for Housing should work with BC Housing to develop and implement an aggressive plan to work toward ending youth homelessness in B.C., with particular attention to young adults who have transitioned from care.

As part of this plan, additional dedicated housing units should be provided for young people aging out of care. Units on a continuum of support – including with mental health and addictions supports where needed – should be available and eligibility requirements reduced.

BC Housing is to develop a comprehensive plan by April 1, 2022 and begin full implementation of that plan thereafter.

Recommendation #6 – Provide an enhanced range of trauma-informed and culturally appropriate mental health and substance use services for young people transitioning from care into adulthood

The Ministry of Mental Health and Addictions, in partnership with the Ministry of Health and MCFD, should develop and implement a plan for mental health and substance use services for youth in care who are transitioning to adulthood. The plan should be developed in consultation with appropriate First Nations, Métis, Inuit and Urban Indigenous representatives as well as young people with lived experience.

This plan should be integrated into *A Pathway to Hope*.¹⁵¹ It should specifically address the needs of the population of young people leaving care and the specialized services they need due to the inequities, adversities and trauma they have experienced in their lives before and while in care. The plan and all services should be trauma-informed and give particular attention and priority to First Nations, Métis, Inuit and Urban Indigenous young people transitioning to adulthood.

The plan is to be developed by April 1, 2022, with full implementation being completed within the ensuing two years.

Of note:

There is the potential for considerable alignment between this recommendation and the first three-year priority actions already set out in *A Pathway to Hope* and other initiatives, including:

- the expansion of Foundry Centres for youth ages 12 to 24
- expanding Indigenous land-based cultural and healing services
- expanding access to affordable community counselling services through grants to non-profit organizations across the province
- a proposed doubling of the number of substance use treatment and withdrawal management beds for young people ages 14 to 24.¹⁵²

¹⁵¹ Ministry of Mental Health and Addictions, *A Pathway to Hope*.

¹⁵² Ministry of Mental Health and Addictions, “Doubling Youth Treatment Beds Throughout B.C.”

Recommendation #7 – Collect longitudinal data and evaluate services

In order to ensure high quality and equitable services, there must be ongoing data collection and evaluation. MCFD should engage the Ministry of Citizen Services and relevant ministries and public bodies to develop and implement a plan that enables:

- a. longitudinal data collection about young people who have aged out of care in British Columbia¹⁵³
- b. evaluation of post-majority services and supports and the public sharing of the evaluation results
- c. standardized data across the province that is reported regularly, including (but not limited to) the following disaggregated data: identity factors such as ethnicity and gender identity as well as indigeneity – First Nations, Métis and Inuit identity.¹⁵⁴

A cross-ministry plan is to be developed by April 1, 2022 with full implementation of that plan to begin thereafter.

Of note:

We know what needs to be done to improve the lives of young people transitioning out of care, and we know a great deal about how to do it. Young people need an extended transition into adulthood. They need connections to their culture, their families and their communities. They need relationship-based supports and they need to be able to stumble, stand up again and develop their identity and skills, just like any other youth making their way into adulthood.

The current system does not support this process, as has been evident for many years in the ongoing poor outcomes for youth with histories in care. The recommendations in this report call on government to make changes that will ensure developmentally and culturally appropriate services, supports and connections are as available for youth transitioning out of care as they need to be for all young people beginning the important journey from youth to adult.

¹⁵³ The National Youth in Transition Database (<https://www.acf.hhs.gov/cb/research-data-technology/reporting-systems/nytd>) provides one possible model.

¹⁵⁴ Data collection and reporting should be disaggregated per the Office of the Human Rights Commissioner 2020 Report, *Disaggregated demographic data collection in British Columbia: The grandmother perspective* (Vancouver, BC: British Columbia Office of the Human Rights Commissioner), 2020, https://bchumanrights.ca/wp-content/uploads/BCOHRC_Sept2020_Disaggregated-Data-Report_FINAL.pdf.

Toothless and The Orca

By SEMA'TSE Jordan



This one is called “Toothless” because it is inspired from the movie *How to Train Your Dragon*. Mixed media is my favourite thing to do so this is a lino block design and water colours.



The Orca is something I did when I first started learning water colours. I loved it too much to sell it or give it away so I've had it for awhile.

SEMA'TSE Jordan is a former youth in care. She is Nuu-chah-nulth from Ahousat B.C, Snuneymuxw from Nanaimo B.C., and Nisga'a from Terrace, B.C. She works for RCY on the Social Media Youth Team and enjoys working with water colours and mixed media.

Appendix

Table A. Youth with a YAG or CCO transitioning to adulthood 2012/2013 through 2019/20 by AYA eligibility and status*

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
FY2012/13	754	107	12%	861
CCO	459	43	9%	502
YAG	295	64	18%	359
FY2013/14	719	95	12%	814
CCO	456	36	7%	492
YAG	263	59	18%	322
FY2014/15	732	128	15%	860
CCO	466	42	8%	508
YAG	266	86	24%	352
FY2015/16	687	128	16%	815
CCO	409	46	10%	455
YAG	278	82	23%	360
FY2016/17	639	158	20%	797
CCO	357	49	12%	406
YAG	282	109	28%	391
FY2017/18	599	212	26%	811
CCO	338	80	19%	418
YAG	261	132	34%	393
FY2018/19	510	260	34%	770
CCO	277	99	26%	376
YAG	233	161	41%	394
FY2019/20	461	302	40%	763
CCO	236	113	32%	349
YAG	225	189	46%	414
Total	5101	1390	21%	6491

*by fiscal year

Table B. Variability in AYA access rates across Service Delivery Areas
(2012/2013 through 2019/2020)*

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
SDA 11 – Kootenays	153	40	21%	193
2012/13	28	3	10%	31
2013/14	19	3	14%	22
2014/15	19	1	5%	20
2015/16	26	3	10%	29
2016/17	17	7	29%	24
2017/18	19	8	30%	27
2018/19	12	6	33%	18
2019/20	13	9	41%	22
SDA 12 – Okanagan	449	100	18%	549
2012/13	50	7	12%	57
2013/14	69	9	12%	78
2014/15	54	10	16%	64
2015/16	64	8	11%	72
2016/17	66	4	6%	70
2017/18	56	25	31%	81
2018/19	53	14	21%	67
2019/20	37	23	38%	60
SDA 13 – Thompson Cariboo Shuswap	316	61	16%	377
2012/13	45	9	17%	54
2013/14	48	6	11%	54
2014/15	46	6	12%	52
2015/16	39	5	11%	44
2016/17	44	6	12%	50
2017/18	36	5	12%	41
2018/19	27	10	27%	37
2019/20	31	14	31%	45
SDA 21 – East Fraser	428	81	16%	509
2012/13	59	9	13%	68
2013/14	63	6	9%	69
2014/15	59	7	11%	66
2015/16	59	13	18%	72
2016/17	58	7	11%	65

*by fiscal year

Appendix

Table B. Variability in AYA access rates across Service Delivery Areas (2012/2013 through 2019/2020)*, continued

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
2017/18	49	12	20%	61
2018/19	49	12	20%	61
2019/20	32	15	32%	47
SDA 22 – North Fraser	348	124	26%	472
2012/13	57	7	11%	64
2013/14	52	12	19%	64
2014/15	47	10	18%	57
2015/16	61	13	18%	74
2016/17	42	14	25%	56
2017/18	45	9	17%	54
2018/19	22	29	57%	51
2019/20	22	30	58%	52
SDA 23 – South Fraser	524	129	20%	653
2012/13	81	10	11%	91
2013/14	71	8	10%	79
2014/15	63	17	21%	80
2015/16	61	11	15%	72
2016/17	71	19	21%	90
2017/18	73	22	23%	95
2018/19	61	23	27%	84
2019/20	43	19	31%	62
SDA 24 – Vancouver/ Richmond	384	260	40%	644
2012/13	58	17	23%	75
2013/14	59	20	25%	79
2014/15	66	26	28%	92
2015/16	53	30	36%	83
2016/17	49	44	47%	93
2017/18	45	35	44%	80
2018/19	25	35	58%	60
2019/20	29	53	65%	82

*by fiscal year

Table B. Variability in AYA access rates across Service Delivery Areas (2012/2013 through 2019/2020)*, continued

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
SDA 25 – Coast/North Shore	175	64	27%	239
2012/13	26	6	19%	32
2013/14	22	4	15%	26
2014/15	29	8	22%	37
2015/16	20	7	26%	27
2016/17	22	9	29%	31
2017/18	22	7	24%	29
2018/19	15	15	50%	30
2019/20	19	8	30%	27
SDA 31 – South Vancouver Island	471	177	27%	648
2012/13	81	18	18%	99
2013/14	74	13	15%	87
2014/15	64	14	18%	78
2015/16	59	10	14%	69
2016/17	53	15	22%	68
2017/18	55	28	34%	83
2018/19	43	47	52%	90
2019/20	42	32	43%	74
SDA 32 – North Vancouver Island	366	112	23%	478
2012/13	47	2	4%	49
2013/14	48	4	8%	52
2014/15	49	7	13%	56
2015/16	46	8	15%	54
2016/17	52	11	17%	63
2017/18	36	22	38%	58
2018/19	43	31	42%	74
2019/20	45	27	38%	72
SDA 41 – Northwest	106	38	26%	144
2012/13	25	1	4%	26
2013/14	14	4	22%	18

*by fiscal year

Appendix

Table B. Variability in AYA access rates across Service Delivery Areas (2012/2013 through 2019/2020)*, continued

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
2014/15	8	6	43%	14
2015/16	10	3	23%	13
2016/17	15	6	29%	21
2017/18	10	4	29%	14
2018/19	13	6	32%	19
2019/20	11	8	42%	19
SDA 42 – North Central	232	39	14%	271
2012/13	34	5	13%	39
2013/14	39	3	7%	42
2014/15	38	4	10%	42
2015/16	29	4	12%	33
2016/17	25	6	19%	31
2017/18	30	7	19%	37
2018/19	14	6	30%	20
2019/20	23	4	15%	27
SDA 43 – Northeast	74	16	18%	90
2012/13	10	1	9%	11
2013/14	13	2	13%	15
2014/15	11	2	15%	13
2015/16	7		0%	7
2016/17	7	1	13%	8
2017/18	7	4	36%	11
2018/19	11	1	8%	12
2019/20	8	5	38%	13
SDA 99 – Delegated Aboriginal Agencies	1058	147	12%	1205
2012/13	146	10	6%	156
2013/14	128	1	1%	129
2014/15	178	10	5%	188
2015/16	150	13	8%	163
2016/17	115	9	7%	124
2017/18	115	24	17%	139

*by fiscal year

Table B. Variability in AYA access rates across Service Delivery Areas
(2012/2013 through 2019/2020)*, continued

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
2018/19	122	25	17%	147
2019/20	104	55	35%	159
#N/A	10		0%	10
2012/13	1		0%	1
2014/15	1		0%	1
2015/16	3		0%	3
2016/17	3		0%	3
2017/18	1		0%	1
2019/20	1		0%	1
Office not assigned to an SDA	7	2	22%	9
2012/13	6	2	25%	8
2019/20	1		0%	1
Total	5101	1390	21%	6491

*by fiscal year

Appendix

Table C. Youth with a YAG or CCO transitioning to adulthood in 2012/13 through 2019/20 by gender in ICM and by AYA eligibility and status*

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
2012/13	754	107	12%	861
Female	387	74	16%	461
Male	367	33	8%	400
2013/14	719	95	12%	814
Female	367	59	14%	426
Male	352	36	9%	388
2014/15	732	128	15%	860
Female	377	82	18%	459
Male	355	46	11%	401
2015/16	687	128	16%	815
Female	348	74	18%	422
Male	339	54	14%	393
2016/17	639	158	20%	797
Female	349	102	23%	451
Male	290	55	16%	345
Unknown		1	100%	1
2017/18	599	212	26%	811
Female	321	135	30%	456
Male	278	77	22%	355
2018/19	510	260	34%	770
Female	260	170	40%	430
Male	250	90	26%	340
2019/20	461	302	40%	763
Female	232	186	44%	418
Male	229	116	34%	345
Total	5101	1391	21%	6491

*by fiscal year

Table D. Youth with a YAG or CCO transitioning to adulthood in 2012/13 through 2019/20 by Indigenous status in ICM and by AYA eligibility and status*

Data caveat: Data entered prior to November, 2014 in the field in ICM that identifies individuals as First Nation, Inuit, Métis, Nisga'a or no (not First Nation, Inuit, Métis, or Nisga'a) may have been compromised during a system upgrade. This accounts for the higher level of statuses of TBD (To Be Determined) or Unknown.

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
2012/13	754	107	12%	861
Inuit		1	100%	1
YAG		1	100%	1
Nisga'a	4		0%	4
CCO	1		0%	1
YAG	3		0%	3
Métis	63	12	16%	75
CCO	49	8	14%	57
YAG	14	4	22%	18
First Nation	281	19	6%	300
CCO	202	12	6%	214
YAG	79	7	8%	86
Non-Indigenous	215	30	12%	245
CCO	109	13	11%	122
YAG	106	17	14%	123
TBD	1		0%	1
YAG	1		0%	1
Unknown	190	45	19%	235
CCO	98	10	9%	108
YAG	92	35	28%	127
2013/14	719	95	12%	814
Inuit	2		0%	2
CCO	2		0%	2
Nisga'a	5		0%	5
CCO	2		0%	2
YAG	3		0%	3
Métis	65	5	7%	70
CCO	47	3	6%	50
YAG	18	2	10%	20
First Nation	248	25	9%	273
CCO	186	14	7%	200

*by fiscal year

Appendix

Table D. Youth with a YAG or CCO transitioning to adulthood in 2012/13 through 2019/20 by Indigenous status in ICM and by AYA eligibility and status*, continued

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
YAG	62	11	15%	73
Non-Indigenous	239	46	16%	285
CCO	129	15	10%	144
YAG	110	31	22%	141
TBD	1		0%	1
YAG	1		0%	1
Unknown	159	19	11%	178
CCO	90	4	4%	94
YAG	69	15	18%	84
2014/15	732	128	15%	860
Inuit	2	1	33%	3
CCO	1	1	50%	2
YAG	1		0%	1
Nisga'a	3	1	25%	4
CCO	3		0%	3
YAG		1	100%	1
Métis	57	10	15%	67
CCO	45	4	8%	49
YAG	12	6	33%	18
First Nation	305	28	8%	333
CCO	232	12	5%	244
YAG	73	16	18%	89
Non-Indigenous	289	82	22%	371
CCO	136	24	15%	160
YAG	153	58	27%	211
TBD		1	100%	1
YAG		1	100%	1
Unknown	76	5	6%	81
CCO	49	1	2%	50
YAG	27	4	13%	31
2015/16	687	128	16%	815
Inuit	1		0%	1
CCO	1		0%	1
Nisga'a	3		0%	3
CCO	3		0%	3

*by fiscal year

Table D. Youth with a YAG or CCO transitioning to adulthood in 2012/13 through 2019/20 by Indigenous status in ICM and by AYA eligibility and status*, continued

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
Métis	67	8	11%	75
CCO	47	4	8%	51
YAG	20	4	17%	24
First Nation	263	39	13%	302
CCO	175	21	11%	196
YAG	88	18	17%	106
Non-Indigenous	352	81	19%	433
CCO	182	21	10%	203
YAG	170	60	26%	230
TBD	1		0%	1
CCO	1		0%	1
2016/17	639	158	20%	797
Inuit	3	1	25%	4
CCO	3	1	25%	4
Nisga'a	8	2	20%	10
CCO	2		0%	2
YAG	6	2	25%	8
Métis	54	16	23%	70
CCO	34	10	23%	44
YAG	20	6	23%	26
First Nation	250	37	13%	287
CCO	159	5	3%	164
YAG	91	32	26%	123
Non-Indigenous	323	102	24%	425
CCO	158	33	17%	191
YAG	165	69	29%	234
Unknown	1		0%	1
CCO	1		0%	1
2017/18	599	212	26%	811
Inuit	1	1	50%	2
CCO	1		0%	1
YAG		1	100%	1
Nisga'a	4		0%	4
CCO	3		0%	3
YAG	1		0%	1

*by fiscal year

Table D. Youth with a YAG or CCO transitioning to adulthood in 2012/13 through 2019/20 by Indigenous status in ICM and by AYA eligibility and status*, continued

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
Métis	61	13	18%	74
CCO	35	7	17%	42
YAG	26	6	19%	32
First Nation	217	68	24%	285
CCO	152	32	17%	184
YAG	65	36	36%	101
Non-Indigenous	314	130	29%	444
CCO	147	41	22%	188
YAG	167	89	35%	256
TBD	2		0%	2
YAG	2		0%	2
2018/19	510	260	34%	770
Inuit	2		0%	2
YAG	2		0%	2
Nisga'a	5	2	29%	7
CCO	5		0%	5
YAG		2	100%	2
Métis	47	21	31%	68
CCO	27	10	27%	37
YAG	20	11	35%	31
First Nation	214	66	24%	280
CCO	136	28	17%	164
YAG	78	38	33%	116
Non-Indigenous	241	171	42%	412
CCO	109	61	36%	170
YAG	132	110	45%	242
Unknown	1		0%	1
YAG	1		0%	1

*by fiscal year

Table D. Youth with a YAG or CCO transitioning to adulthood in 2012/13 through 2019/20 by Indigenous status in ICM and by AYA eligibility and status*, continued

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
2019/20	461	302	40%	763
Inuit	4		0%	4
CCO	1		0%	1
YAG	3		0%	3
Nisga'a	3	3	50%	6
CCO	1	2	67%	3
YAG	2	1	33%	3
Métis	40	23	37%	63
CCO	23	11	32%	34
YAG	17	12	41%	29
First Nation	205	100	33%	305
CCO	132	43	25%	175
YAG	73	57	44%	130
Non-Indigenous	209	176	46%	385
CCO	79	57	42%	136
YAG	130	119	48%	249
Total	5101	1390	21%	6491

*by fiscal year

Appendix

Table E. Youth with a YAG or CCO transitioning to adulthood in 2012/13 through 2019/20 by education level*

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
2012/13	754	107	12%	861
No secondary school	6		0%	6
Some secondary school	355	25	7%	380
B.C. school completion certificate (Evergreen certificate)	69	4	5%	73
Secondary school graduation	226	57	20%	283
B.C. adult graduation diploma	54	16	23%	70
no data provided	44	5	10%	49
2013/14	719	95	12%	814
No secondary school	14	1	7%	15
Some secondary school	307	25	8%	332
B.C. school completion certificate (Evergreen certificate)	65	1	2%	66
Secondary school graduation	234	45	16%	279
B.C. adult graduation diploma	68	20	23%	88
no data provided	31	3	9%	34
2014/15	732	128	15%	860
No secondary school	13	1	7%	14
Some secondary school	287	41	13%	328
B.C. school completion certificate (Evergreen certificate)	69	2	3%	71
Secondary school graduation	236	63	21%	299
B.C. adult graduation diploma	90	17	16%	107
no data provided	37	4	10%	41
2015/16	687	128	16%	815
No secondary school	15	2	12%	17
Some secondary school	265	32	11%	297
B.C. school completion certificate (Evergreen certificate)	60	1	2%	61
Secondary school graduation	218	68	24%	286
B.C. adult graduation diploma	89	20	18%	109
no data provided	40	5	11%	45

*by fiscal year

Table E. Youth with a YAG or CCO transitioning to adulthood in 2012/13 through 2019/20 by education level*, continued

	Eligible, no benefit in fiscal year	Receiving AYA within fiscal year (Per cent of eligible receiving benefits)		Total
2016/17	639	158	20%	797
No secondary school	9		0%	9
Some secondary school	244	37	13%	281
B.C. school completion certificate (Evergreen certificate)	63	3	5%	66
Secondary school graduation	187	83	31%	270
B.C. adult graduation diploma	89	27	23%	116
no data provided	47	8	15%	55
2017/18	599	212	26%	811
No secondary school	17		0%	17
Some secondary school	228	53	19%	281
B.C. school completion certificate (Evergreen certificate)	57	3	5%	60
Secondary school graduation	190	99	34%	289
B.C. adult graduation diploma	82	52	39%	134
no data provided	25	5	17%	30
2018/19	510	260	34%	770
No secondary school	6	1	14%	7
Some secondary school	192	70	27%	262
B.C. school completion certificate (Evergreen certificate)	42	5	11%	47
Secondary school graduation	124	119	49%	243
B.C. adult graduation diploma	80	48	38%	128
no data provided	66	17	20%	83
2019/20	461	302	40%	763
No secondary school	8	2	20%	10
Some secondary school	227	123	35%	350
B.C. school completion certificate (Evergreen certificate)	25	2	7%	27
Secondary school graduation	116	118	50%	234
B.C. adult graduation diploma	55	34	38%	89
no data provided	30	23	43%	53
Total	5101	1390	21%	6491

*by fiscal year

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REPRESENTATIVE FOR
CHILDREN AND YOUTH

**MINISTRY OF ATTORNEY GENERAL
BC HOUSING
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for David Eby, QC
Attorney General

ISSUE:

Update on navigation centres

SUMMARY:

- Budget 2020 announced funding for two new navigation centres, which are shelters with enhanced services for individuals experiencing chronic homelessness with complex needs.
- BC Housing has issued a Request for Proposals to seek a non-profit operator for the navigation centre in Vancouver. A Request for Proposals to seek a non-profit operator for the centre in Nanaimo will be issued in the next few weeks.

BACKGROUND:

Budget 2020 will provide \$9 million over three years (\$1.5 million per centre per year) to create two new navigation centres with approximately 60 beds each. The sites will be in Vancouver and Nanaimo. Locations are being finalized.

The navigation centre model responds to limitations or barriers of the existing shelter model, offering more capacity, a “less chaotic” environment with higher levels of support services, in-reach health services, and a simplified check-in process for those who are often unable to navigate traditional shelter requirements. These barriers can be exacerbated for people with chronic mental health concerns or substance use issues.

These centres are shelters with enhanced services for chronically homeless adults with complex challenges who require a high level of support services, including connections to health and housing programs. Specifically, the centres will provide:

- 24/7 access, meals, and services focused on stabilization and connections to housing;
- Health services, including connections to mental health and substance use community-based programs in conjunction with health partners;
- Overdose prevention and response programs;
- Culturally appropriate services for Indigenous people and distinct groups.

Serving individuals who are chronically homeless with complex needs can be challenging. The navigation centres will provide additional levels of service not offered in traditional shelters. This includes:

- Residents who are referred to the shelter may stay until housing is secured without leaving each day, lining up or waiting on a bed space.
- Pets are permitted and couples are allowed to stay. There is also access to secure storage for belongings.
- Wraparound services in one location to remove barriers for clients who may struggle to attend appointments.
- A coordinated entry in which individuals are identified and referred to the centres through a designed street homelessness and encampment coordinating team. This team will target individuals who have persistent unmet needs.
- Bringing the Coordinated Access and Assessment (CAA) process into the navigation centres. CAA streamlines the process for people experiencing homelessness to access housing and supports.

BC Housing will provide annual operating funding for both locations to the selected operator plus one-time funding for building renovations and start up costs. Placement will be based on the individuals' willingness to participate in the goal of stabilization and securing long-term housing.

This is a new model of shelter service based on research on integrating support services and lessons learned from other cities. The City of San Francisco started using the navigation centre model in 2015 to serve long-term street homeless individuals who were often fearful of accessing traditional shelter and services. After a successful pilot, San Francisco opened eight navigation centres and currently has six in operation. For more information on San Francisco's experience, please visit their [website](#).

DISCUSSION:

BC Housing has issued a Request for Proposals to seek an experienced non-profit operator for the centre in Vancouver. A Request for Proposal will also be issued for the centre in Nanaimo in the next few weeks.

Locations for both centres are being identified.

It is anticipated both navigation centres will be open and operational by spring 2021.

INDIGENOUS PEOPLES CONSIDERATIONS:

Recognizing over representation of Indigenous peoples within the homeless population, both navigation centres will have culturally appropriate services for Indigenous people. For example, BC Housing has been working with Kilala Lelum (an Indigenous health centre) to seek potential partnerships for the centre in Vancouver.

OTHER MINISTRIES IMPACTED/CONSULTED:

BC Housing will consult with the Ministry of Health, Ministry of Mental Health and Addictions, Ministry of Social Development and Poverty Reduction, and health authorities as specific plans and services for the navigation centres are being developed.

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Approved by:

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**MINISTRY OF ATTORNEY GENERAL
Housing Policy Branch
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for David Eby, QC
Attorney General

ISSUE: Meeting with Mayor Kennedy Stewart, City of Vancouver, regarding encampments, housing and funding opportunities.

SUMMARY:

- The Province, BC Housing and partners continue to work in partnership with the City of Vancouver (the City) to create housing opportunities, meet immediate needs and support housing stability for vulnerable populations.

BACKGROUND:

- MAG staff, BC Housing and the City of Vancouver are working on a number of shared housing and homelessness matters including:
 - The Strathcona Park encampment,
 - Applications to the Rapid Housing Initiative,
 - Supporting implementation of the City's \$30 million housing action plan,
 - The successful expropriations of the Balmoral and Regent Single Room Occupancy (SRO) hotels; and
 - Requests from the City to enable vacancy control in SROs.
- Information on each topic is detailed below.

DISCUSSION:

Strathcona Park Encampment:

- As of December 4, 2020, there were approximately 230 people at the Strathcona Park encampment.
- BC Housing is working with its partners, including Vancouver Coastal Health, to provide outreach and supports to people.
- The Vancouver Park Board indicated (confidential – in-camera meeting), that once there is shelter/housing space they will issue an order to evict people and pursue an injunction through the courts.
- MAG and BC Housing are working with the City of Vancouver to bring more housing and shelter online in the coming months, dependent on funding decision at the provincial and federal levels.

Rapid Housing Initiative:

- The Rapid Housing Initiative (RHI) is a \$1 billion capital grant program, administered by the Canada Mortgage and Housing Corporation (CMHC) for housing projects that support vulnerable populations.

- RHI is split in two streams, the Major City Stream and the Project Stream. Under the Major City Stream, Vancouver received \$51.5 million in notional capital funding for at least 106 units.
- BC Housing also plans to bring forward an application to the Projects Stream for a portfolio of projects that will include hotel purchases in Vancouver. Finalization of specific projects is still ongoing.
- MAG is bringing a request for operating funding for both the Major Cities Stream and the Projects Stream before Treasury Board on December 11, 2020.
- The funding for the Major Cities Stream will be finalized and announced by CMHC once they receive BC's decision on operational funding.
- CMHC is accepting applications to the Projects Stream until December 27, 2020 and will make funding decisions in January 2021.

\$30 million Housing action plan operational funding request:

- On October 8, 2020, Vancouver City Council passed a motion to provide \$30 million in capital funding for Emergency COVID-19 Relief for unsheltered residents and directed staff to lease or acquire spaces to immediately shelter and house people experiencing homelessness in the City.
- The City has put forward a request to BC Housing for operational funding to support their plan, including their capital investments, their anticipated RHI allocation and expanded outreach. BC Housing is currently reviewing the request as individual components and is including items in relevant upcoming Treasury Board submissions.
- The funding ask includes:
 - \$4.2 million annually to operate RHI projects;
 - \$1.3 million annually to operate a motel conversion;
 - \$4.9 million annually to operate additional shelters
 - \$2.75 million for expanded outreach and encampment support
- BC Housing is still working to determine the feasibility of these funding requests from a financial and logistical perspective.

Balmoral and Regent purchase:

- On December 4, 2020, the City of Vancouver announced that it had completed a deal to take possession of the Balmoral and Regent SROs.
- The City and BC Housing have discussed the redevelopment of the hotels, as well as the City's interest in a larger redevelopment of the full 100 block of East Hastings Street.
- In 2018, BC Housing confidentially committed \$75 million to the City of Vancouver to renovate and redevelop the hotels through their capital renovation fund.
- In summer 2020, the City proposed a tri-partite partnership with the federal government for an SRO acquisition strategy. Minister Robinson met with the federal Minister on this, but there was no interest on the federal side.

SRO vacancy control:

- Vancouver has previously requested that the Province amend the Residential Tenancy Act or the Vancouver Charter to allow vacancy control in SROs in Vancouver.
- Vacancy control is where rents are tied to the unit, not the tenancy, and generally only increase according to the annual allowable rent increase formula.
- Vancouver is the only municipality in the Province with such a large, regulated segment of private below-market rental units with approximately 4,700 SROs under private ownership regulated under the City's Single Room Accommodation bylaw.
- Vacancy control reduces the financial incentive to maintain or improve buildings and it has also been shown to result in rental units being removed from the housing market.
- The Office of Housing and Construction Standards is currently completing policy work on the implications of enabling vacancy control in the City of Vancouver.

INDIGENOUS PEOPLES CONSIDERATIONS:

- Indigenous Peoples have made up 35 to 45 percent of campers at Strathcona park. The 2020 Metro Vancouver Homeless Count found 33 percent of respondents self-identified as Indigenous and were 13.2 times more likely to experience homelessness than their presence in the general population would predict.

OTHER MINISTRIES IMPACTED/CONSULTED:

- None.

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**MINISTRY OF ATTORNEY GENERAL
BC Housing
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for David Eby, QC
Attorney General

ISSUE:

Meeting with Mayor Mike Hurley (City of Burnaby) to discuss and update Minister Eby on portfolios before BC Housing for funding consideration

SUMMARY:

The City of Burnaby has been working closely with BC Housing to develop proposals for a number of housing projects to be submitted to the Community Housing Fund Request for Proposals (RFP), including five projects described under the 2019 Memorandum of Understanding between BC Housing and the City of Burnaby.

BACKGROUND:

BC Housing is working with the City of Burnaby on a number of projects which would increase the availability of affordable rental housing options in the community.

In Fall 2019, BC Housing entered into a Memorandum of Understanding (MOU) to develop five City-owned sites; since that time the City has continued to express interest in developing additional projects under the Community Housing Fund.

DISCUSSION:

The City is involved in the development of housing projects with BC Housing, and is expected to submit a number of proposals (through proponents) to Community Housing Fund in mid-January 2021, including the five projects identified in the MOU.

The 2019 MOU comprises the development of five City-owned sites in partnership with BC Housing and non-profit proponents:

- - Royal Oak and Imperial: 134 units (Catalyst)
- - Sunset/Kincaid: 271 units (Vancouver Native Housing Society)
- - Byrnespark: 129 units (M'akola)
- - Kingsway and 16th: 205 units (Catalyst)
- - Bevan Lands: 118 units (Community Land Trust)

In addition, there are three other proposals likely to be submitted for consideration:

- Southgate – with Ledingham McAllister/New Vista
- George Derby Society on 16th
- Action Line Housing/Seton Villa on Triumph

BC Housing expects a large number of qualified submissions to the Community Housing Fund RFP. Given the number of sites being advanced by the City of Burnaby, they may create a situation in which they are competing against themselves for funding.

In addition, the City of Burnaby has expressed interest in the recently announced federal Rapid Housing Initiative, proposing two sites: one for women and children, and the other for immigrant households. Presently BC Housing is working on identifying suitable projects and applying for this funding.

INDIGENOUS PEOPLES CONSIDERATIONS:

N/A

GBA+ OR DIVERSITY AND INCLUSION IMPLICATIONS:

N/A

OTHER MINISTRIES IMPACTED/CONSULTED:

N/A

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Attachment(s)

2019/20 Community Profile – City of Burnaby

Burnaby

BC Housing expenditures represent direct costs incurred in Burnaby to provide subsidized housing including all costs that directly contribute to units in the service allocation groups (i.e. projects for new development, capital renewal projects, one-time grants, operating subsidies/rental assistance to societies/tenants).¹

BC Housing Expenditures	2019-20 Fiscal
Emergency Shelter & Housing for the Homeless	\$8,449,000
Transitional Supportive & Assisted Living	\$3,552,000
Independent Social Housing	\$28,630,000
Rent Assistance in the Private Market	\$6,117,000
Affordable Housing	\$0
Total Expenditures	\$46,748,000

Subsidized Housing Units Across the Housing Continuum

Service Allocation	Service Allocation Subgroup	Units
Emergency Shelter & Housing for the Homeless	Homeless Housed ²	81
	Homeless Rent Supplements	116
	Homeless Shelters	50
Total Emergency Shelter and Housing for the Homeless		247
Transitional Supported and Assisted Living	Supportive Seniors	749
	Special Needs	229
	Women and Children Fleeing Violence	19
Total Transitional Supported and Assisted Living		997
Independent Social Housing	Low Income Families	1,403
	Independent Seniors	2,447
Total Independent Social Housing		3,850
Rent Assistance in Private Market	Rent Assistance Families	565
	Rent Assistance Seniors	1,095
Total Rent Assistance in Private Market		1,660
Affordable Housing ³	Affordable Rental	0
	Affordable Homeownership	0
Total Affordable Housing		0
Homeownership ⁴	Homeownership	51
Total Homeownership		51
Total Units		6,805

Note: The word 'unit' may refer to a shelter space, bedroom, rent supplement or household, depending on the program delivering the service.

¹ Reporting for expenditures has changed from previous years in which both direct and allocated costs were reported. Only direct costs are reported in 2019-20. Allocated costs removed include salaries, administration and office expenses (home office expenditures) that cannot be directly attributed to units in the service allocation groups.

² Supportive Housing for clients who are at the risk of homelessness, or formerly homeless with a tenure of 30 days to 2-3 years. This type of housing includes provision of support services to help the clients move towards independence and self-sufficiency.

³ Affordable housing programs aims to increase supply of rental and home ownership housing for middle-income households.

⁴ Homeownership assists first time home buyers with down payment through under the BC HOME Partnership program. This program ended March 31st, 2018.

Highlighted items (Housing Continuum)

Indigenous Housing Supports

(Indigenous individuals and families are assisted across the Housing Continuum. Assistance is not limited to the units below)

Number of available housing units dedicated to Indigenous individuals and families (as of March 31, 2020)	3
-----------------------------------------------------------------------------------------------------------	---

Note: Indigenous Peoples are supported in all categories of the Housing Continuum, not just in housing specifically dedicated to Indigenous Peoples.

Senior Housing Supports (As of March 31, 2020)	Supportive Seniors	Subsidized Housing Units	Rent Assistance in the Private Market	Total Households
Total number of households assisted through subsidized housing targeted to seniors	749	2,447	1,095	4,291

Low Income Family Housing Supports (As of March 31, 2020)	Subsidized Housing Units	Rent Assistance in the Private Market	Total Households
Total number of households assisted through subsidized housing targeted to low-income families	1,403	565	1,968

Additional Program Information – not included in the Housing Continuum

Additional Temporary and/or Extreme Weather Response spaces⁵

(Available anytime during the 2019-20 year and/or winter season November to March)

	Spaces
Temporary Shelter (seasonally or longer)	40
Extreme Weather Response (November to March)	47

Note: Temporary and Extreme Weather Response Shelter spaces are **NOT** included in the Housing Continuum/Service Plan Unit Count.

Housing created in 2019-20

Service Allocation Subgroup	Project Name	Total Units
Homeless Shelters	3986 Norland Avenue	52

⁵ Shelter types are defined as:

Temporary shelter – operate for a short period of time, either seasonally or longer, in order to meet a community need.

Extreme Weather Response shelter – available during the winter season (November to March) and open only when the community issues an Extreme Weather Alert.



Home Adaptations for Independence (HAFI)

Households that have had modifications completed through HAFI (As of March 31, 2020)	2019-20	Program to Date
Number of households that have had modification <u>completed</u> through the HAFI program	3	112

Licensing & Consumer Services Report

New Homes Enrolled with Home Warranty Insurance (April 1, 2019 to March 31, 2020)	Single Detached Homes	Duplexes	Other Multi-Unit Building Homes	Total
Number of new homes enrolled with home warranty insurance	161	56	1,356	1,573

Builder Licenses (as of April 1, 2020)	Total
Total number of residential builder licenses ⁶	410

⁶ Approved and conditional Licensed Residential Builders and dual license holders based on mailing address.



**MINISTRY OF ATTORNEY GENERAL
BC Housing
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for David Eby, QC
Attorney General

ISSUE: Minister Eby requested comparative data on the percentage of federal funding committed to provinces and territories under the National Housing Strategy and the Rapid Housing Initiative

SUMMARY:

- Minister Eby will be meeting with federal Minister Ahmed Hussen (Families, Children and Social Development) and MP Adam Vaughan, (Parliamentary Secretary to Minister Hussen) on Tuesday, December 15, 2020 to discuss the allocation of federal housing funds under the National Housing Strategy and Rapid Housing Initiative

BACKGROUND:

- Announced in November 2017, and expanded upon in Budget 2019, the National Housing Strategy is the largest federal housing program in Canada's history, investing more than \$55 billion over ten years into safe, affordable housing for Canadians across the country.
- In June 2018, the governments of Canada and British Columbia signed the CMHC-BC Bilateral agreement under the 2017 National Housing Strategy to protect, renew and expand social and community housing. Under this Agreement, BC will benefit from National Housing Strategy funding of \$990 million over 10 years. This would be 50/50 cost-matched funding.
- Over the first three years (from April 1, 2019 to March 31, 2022), the contributions will be invested into three initiatives:
 1. **BC Priorities Housing Initiative.** Funding under this initiative is applied to support the following BC Housing programs: Home Adaptations for Independence, Capital Renewal Fund, and the Provincial Rental Supply program. This initiative was implemented in 2019/20.
 2. **Canada Community Housing Initiative.** Funding under this initiative is applied to support the following BC Housing programs: Community Housing Fund, Capital Renewal Fund, and the retention of social and community housing. This initiative was implemented in 2019/20.
 3. **BC-Canada Housing Benefit (BC-CHB).** The BC-CHB was originally planned to launch in April 2020. The ongoing COVID-19 pandemic resulted in a soft launch of a modified form of the housing benefit. CMHC and BC Housing agreed to use a significant portion of the BC-CHB funding towards expanding BC Housing's Homeless Prevention Program (HPP). The CHB-HPP program will assist people in the following at-risk groups facing

homelessness: people leaving correctional and hospital systems, women escaping violence, youth transitioning out of the foster care system and individuals of Indigenous descent. This was implemented in 2020/21.

- In October 2020, the federal government announced the new Rapid Housing Initiative that will invest \$1 billion to create up to 3,000 new permanent, affordable housing units across the country. While the RHI is being delivered by CMHC through the National Housing Strategy, it is not part of the CMHC-BC bilateral agreement.
- The Rapid Housing Initiative is a capital grant program to create new affordable housing for people experiencing homelessness. The program does not require any matching provincial funding; however, eligible projects must have operating funding for at least 20 years. There are two streams: a major cities stream and a project stream.

DISCUSSION:

National Housing Strategy:

- The funding commitments to each province to date for the National Housing Strategy is shown below.
- Under the CMHC-BC Bilateral Agreement, BC will benefit from National Housing Strategy funding of \$990 million over 10 years. This would be 50/50 cost-matched funding.

National Housing Strategy per capita amounts					
	<i>Federal Dollars</i>	<i>Population</i>	<i>Per Capita</i>	<i>Share of Total CMHC</i>	<i>Share of Population</i>
British Columbia	495,546,300	5,147,712	96.27	8.1%	13.5%
Alberta	339,050,700	4,421,876	76.68	5.5%	11.6%
Saskatchewan	224,965,400	1,178,681	190.86	3.7%	3.1%
Manitoba	225,396,900	1,379,263	163.42	3.7%	3.6%
Ontario	2,144,855,000	14,734,014	145.57	34.9%	38.8%
Quebec	1,842,501,200	8,574,571	214.88	30.0%	22.6%
Nova Scotia	197,080,700	979,351	201.24	3.2%	2.6%
New Brunswick	149,585,600	781,476	191.41	2.4%	2.1%
Prince Edward Island	7,466,900	159,625	46.78	0.1%	0.4%
Newfoundland/Labrador	135,310,900	522,103	259.17	2.2%	1.4%
Nunavut	265,618,100	39,353	6,749.63	4.3%	0.1%
Northwest Territories	84,112,800	45,161	1,862.51	1.4%	0.1%
Yukon	39,560,300	42,052	940.75	0.6%	0.1%
TOTALS:	6,151,050,800	38,005,238			
<i>Nunavut, Northwest Territories, and Yukon agreements include Northern Housing allowances.</i>					

Rapid Housing Initiative:

- While RHI is being delivered by CMHC through the National Housing Strategy, it is not part of the funding through the CMHC-BC Bilateral Agreement and hence, not part of the chart above.
- There are two streams of funding under the RHI: a Projects stream, and a Major Cities stream
- The application-based Projects Stream is open to Province and Territories, municipal governments, non-profit and charitable organizations, Indigenous governing bodies or organizations. It will have a 60-day application window from October 27 to December 26.
- Staff have identified a number of considerations for BC Housing to apply for Project Stream:
 1. BC Housing is currently developing a portfolio application of projects, with an emphasis on sub-urban and semi-rural regions excluded from the Major Cities Stream.
 2. Existing TB direction required BC Housing to receive approval from TB to enter agreements with federal government.
 3. The short timelines for this initiative require shovel ready projects already in development, which likely would have capital and operating contributions already notionally committed.
 4. Projects in development with existing notional capital funding could be included, reducing provincial capital contributions for the existing projects.
 5. Net new projects would require additional operating funds to be secured.
- Funding Commitment levels for the Projects Stream are not yet available; however, funding commitments to each province to date for the Major Cities Stream of the Rapid Housing Initiative are provided below.
- In BC, the municipalities receiving funding under the Major Cities Stream are:
 1. Vancouver - \$51.5 million for at least 106 units
 2. Capital Regional District - \$13 million for at least 52 units
 3. Surrey - \$16.3 million for at least 33 units
- The table below shows the funding commitments to each province to date for the Major Cities Stream of the Rapid Housing Initiative:

Rapid Housing Initiative						
Major Cities Stream			By Province			
City	Province	Amount		Amount	Population	Per Capita \$
Toronto	Ontario	203.3	Alberta	41.9	4,421,876.00	9.48
Montreal	Quebec	56.8	British Columbia	81	5,147,712.00	15.74
Vancouver	British Columbia	51.5	Manitoba	12.5	1,379,263.00	9.06
Ottawa	Ontario	31.9	Nova Scotia	8.7	979,351.00	8.88
Region of Peel	Ontario	30.4	Ontario	292.1	14,734,014.00	19.82
Calgary	Alberta	24.6	Quebec	63.9	8,574,571.00	7.45
Edmonton	Alberta	17.3	Total:	500.1		
Surrey	British Columbia	16.4				
Capital Region	British Columbia	13.1				
Winnipeg	Manitoba	12.5				
Hamilton	Ontario	10.8				
Halifax	Nova Scotia	8.7				
Region of Waterloo	Ontario	8.2				
London	Ontario	7.5				
Quebec City	Quebec	7.1				
Total:		500.1				

- BC considerations for Major Cities Stream:
 1. Municipalities require an operating funding commitment from the province to be viable.
 2. TB Submission to the Chair of Treasury Board on related operating costs is currently being drafted (estimated at \$5.7 million per year).
 3. Without new funding, in order for operational funding to be promised to municipalities it would have to be taken away from other projects in the pipeline, which would then postpone or cancel those projects since operating funding would no longer be available.
 4. BC is seeking an extension on the investment plan deadline for municipalities because of the requirement to go to TB for the operating funding.

INDIGENOUS PEOPLES CONSIDERATIONS:

- n/a

GBA+ OR DIVERSITY AND INCLUSION IMPLICATIONS:

- n/a

OTHER MINISTRIES IMPACTED/CONSULTED:

- n/a

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Attachment(s): None

**MINISTRY OF ATTORNEY GENERAL
BC Housing
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for David Eby, QC
Attorney General

ISSUE:
BC Housing, Indigenous Relations update

SUMMARY:

- Recognizing over representation of Indigenous peoples within the homeless population and in housing that is not adequate nor affordable, BC Housing works in partnership with Indigenous communities and organizations to help create more affordable housing and to increase self-reliance in the Indigenous housing sector.

BACKGROUND:

- BC Housing programs work to ensure that Indigenous people are supported at every point across the housing continuum and are not limited to housing that is specifically designated as an Indigenous housing development. The emphasis is on creating more housing options, improving housing conditions in First Nations, Metis and Inuit communities, and helping to build a strong Indigenous housing sector.

DISCUSSION:

Reconciliation Strategy

- BC Housing is developing a reconciliation strategy as part of its commitment to adopt policies and practices based on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Calls to Action from the Truth and Reconciliation Commission's (TRC) final report within BC Housing's specific mandate and context. The development of a reconciliation strategy will create a broader and more meaningful framework for how BC Housing does business.
- The first phase of the Reconciliation Strategy has been developed by Two Worlds Consulting (TWC) in the form of a 'what we heard' report titled, Reconciliation: Moving Forward Together. BC Housing is developing an operational plan under direction from the board of Commissioners.

Indigenous Housing Fund

- The Indigenous Housing Fund (IHF) was announced through Budget 2018; this program will provide \$550 million over 10 years to build and operate 1,750 units of social housing for projects both on- and off-Nation, where on-Nation is defined as being part of reserve lands and lands owned by a First Nation in fee simple under treaty or Agreement in Principle. As of September 30, 2020, 1,097 units are in progress. This is the first time the province has made significant investments in housing on-nation.
- The number of proposals received in the first IHF call were well over the amount of funding available. At this time, BC Housing is focused on advancing the successful

proponents and getting these projects underway. It is anticipated that the IHF could have a second call for proposals in fiscal 2021/22.

Other Building BC Programs

- In addition to the IHF, all Indigenous organizations and First Nations can access provincial support under all the new housing funds announced as part of Building BC. BC Housing is working closely with Indigenous-led societies and First Nations to develop opportunities available through the Community Housing Fund (CHF), the Supportive Housing Fund (SHF), and the Women's Transition Housing Fund (WTHF). For example, the 2020 CHF call has selected five shovel-ready projects on-nation, and there are on-nation projects proceeding under SHF.

Asset Management MOUs

- As an extension of the commitment to partner with First Nations, BC Housing has entered into 4 Memorandums of Understanding (MOU) with 19 First Nations to collaborate on the improvement of residential asset management practices. These agreements are the first of their kind in Canada. The durations of the agreements are 3-years with a 1-year extension option and include:
 - First Nations in the Merritt-Nicola Valley area - January 2019
 - Ktunaxa and Shuswap Nations - January 2019
 - Nisga'a Nation - February 2020
 - T̓silhqot'in National Government – Official Signing Ceremony has been delayed by COVID-19
- BC Housing works with these First Nations to build capacity in the administration of housing and development and share best practices in residential asset management. In turn, First Nations provide unique insight to the issues and challenges of on-nation housing.
- There is significant demand coming from other First Nations across the province to enter into similar MOUs, reflecting the desire of Indigenous people to improve the quality and capacity of their existing housing. BC Housing would like to engage in further MOUs to assist with this but requires additional resources to be effective.
- This team is currently staffed at 3.5 FTE, which needs to be increased to 6 FTE to assist First Nations in their post-pandemic recovery planning and to fully build out the supporting structures of the MOU

Aboriginal Housing Management Association (AHMA)

- AHMA is the umbrella organization for Indigenous housing providers BC. It supports the management and development of culturally appropriate, quality affordable housing for Indigenous people in BC developed through provincial and federally funded social housing programs.
- In 2004, BC became the first Canadian province to transfer the management of existing Indigenous social housing to the Indigenous housing community. Today, AHMA is responsible for more than 5,000 subsidized Indigenous homes across the province.

- In 2020/21, BC Housing provided approximately \$37 million to AHMA to administer subsidy payments and operating agreements for 44 Indigenous non-profits. This funding is provided through a five-year agreement with AHMA referred to as the Indigenous Social Housing Management Agreement (ISHMA) which came into effect as of April 1, 2019 through until 2023/24. Concurrently, BC Housing approved a five-year budget for AHMA with increases for administration and operating subsidies to enable enhanced supports for the Indigenous housing sector.

Key Partnerships

- BC Housing is collaborating on an ongoing basis with some key partners that support work to address Indigenous homelessness, women and children affected by violence, child poverty, encampments, infrastructure funding, Indigenous health and relationship building. These include; Metro Vancouver Aboriginal Executive Council; Indigenous Services Canada; First Nations Health Authority; Surrey Urban Indigenous Leadership Council; Aboriginal Coalition to End Homelessness; NorthWest First Nations Alliance and First Nations Housing and Infrastructure Council.

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**MINISTRY OF ATTORNEY GENERAL AND MINISTER RESPONSIBLE FOR
HOUSING
CORPORATE MANAGEMENT SERVICES BRANCH
DECISION BRIEFING NOTE**

PURPOSE: For DECISION of David Eby, QC
Attorney General and Minister Responsible for Housing

ISSUE: MAG Service Plan for 2021/22 -2023/24

DECISION REQUIRED/ RECOMMENDATION:

Develop an independent 2021/22 – 2022/23 Annual Service Plan for the Ministry of Attorney General and Minister Responsible for Housing

SUMMARY:

- Given the refreshed mandate of the ministry, there is an opportunity to profile priorities of the new Housing, Homelessness and Anti-racism portfolios, existing priorities that were not previously captured, as well other newly emerging priorities related to access to justice, in an independent 2021/22 – 2022/23 Service Plan for MAG.

BACKGROUND:

- In accordance with the *Budget Transparency and Accountability Act*, each ministry is required to complete an Annual Service Plan that includes high level financial information, statement of goals and objectives, strategies that will be undertaken over the following three years, and performance measures and targets; the Service Plan is tabled in the legislature on Budget Day.
- In December 2015, the Ministry of Justice separated into two ministries: the Ministry of Attorney General and the Ministry of Public Safety and Solicitor General.
- Since 2015, the two ministries have developed a joint Service Plan for the Justice and Public Safety Sector.
- The current Service Plan goals were developed to align with the Justice and Public Safety Council Strategic Plan (JPSC). One of the limitations is that these goals will not fully capture the new priorities within the ministry, such as housing, etc.
- The following are the four goals in the joint Service Plan:
 - **Goal 1:** The justice and public safety sector in BC is fair;
 - **Goal 2:** The justice and public safety sector in BC protects people;

- **Goal 3:** The justice and public safety sector in BC is sustainable; and
- **Goal 4:** The justice and public safety sector in BC has the public's confidence.
- On November 26, 2020, the Premier announced a new Cabinet to deliver on government's priorities under a new mandate. Below is a list of new responsibilities and reporting changes that affect the ministry:
 - **New responsibilities:**
 - Housing (including BC Housing);
 - Homelessness; and
 - Anti-Racism and Multiculturalism.
 - **Key changes in reporting structure:**
 - The Liquor and Cannabis Regulation Branch and Insurance Corporation of British Columbia report to PSSG; and
 - The Liquor Distribution Branch, Gaming Policy and Enforcement¹ Branch and BC Lottery Corporation moved to the Ministry of Finance.
- The ministry's new responsibilities were previously captured in the existing goals of the following ministries' Service Plans:
 - Housing and homeless strategies for Municipal Affairs and Housing are captured in Goal 1: Safe, Affordable and Functional Housing;
 - Homeless strategies for Social Development and Poverty Reduction area captured in Goal 1: Reduce Poverty in British Columbia; and
 - Anti-racism and multiculturalism strategies for Tourism, Arts and Culture are captured in Goal 3: Promote diversity and inclusion in communities throughout British Columbia.
- CABRO's Guidelines for 2021/22, Service Plan directed ministries to include no more than 3 goals, 6 objectives, 5 strategies (per objective), and one performance measure per objective. Due to the size and scope of AG/PSSG, CABRO allowed inclusion of four goals as it was submitted as a joint submission.

DISCUSSION:

- Given the new responsibilities for the ministry, there is an opportunity to highlight and showcase key priorities for the ministry by pursuing a Service Plan independent from PSSG that incorporates housing, homelessness, and anti-racism initiatives. It will also provide the opportunity to specifically highlight other priorities, such as

¹ The Gaming Policy and Enforcement will move to Ministry of Public Safety and Solicitor General following legislative changes to the *Gaming Control Act*.

improvement to courthouses, the Justice Recovery Initiative, and enhancements to the family justice system.

- The ministry's new priorities do not align well within the scope of the existing four goals. Considering these priorities make up the majority of the new mandate letter commitments there is an opportunity to better reflect and elevate them as their own goals and objectives.
- The existing goals were developed in consultation with stakeholders for the JPSC Strategic Plan and adopted by MAG/PSSG as the Ministry goals. It is important to note that the JPSC Strategic Plan is independent of Government and that there is no requirement to adopt these goals.
- With some responsibilities moving out of the ministry (e.g. ICBC, Liquor and Cannabis, Gaming), the bulk of MAG's remaining strategic work, as it relates to access to justice, aligns with Goal 1: Our System is Fair.
- There is less opportunity to highlight new priorities related to housing, homelessness, and anti-racism in a joint Service Plan due to limitations of CABRO's Guidelines.
- Given the new and changing responsibilities coupled with the existing work related to access to justice, the ministry is well positioned to highlight its new and existing strategic work within CABRO's guidelines (see Attachment 1 for example of draft Goals statements and scope).
- If approval to draft an independent Service Plan is given, ministry program areas will work to develop and refine goals, objectives, and strategies to be brought forward for Minister's consideration.
- An independent Service Plan will likely require development of new performance measures to meet CABRO's requirements, particularly on the work relating to Indigenous Justice and Homelessness. CABRO's standards allow for a ministry to include a new "measure in development" which would give the ministry a year to create them.

INDIGENOUS PEOPLES CONSIDERATIONS:

- It is anticipated that Indigenous Peoples will be supportive of continuing to highlight priorities related to Indigenous Justice in this public facing document.

OPTIONS:

1. Develop an independent 2021/22 – 2022/23 Annual Service Plan for the Ministry of Attorney General and Minister Responsible for Housing **[Recommended]**.

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OTHER MINISTRIES IMPACTED/CONSULTED:

- Ministry of Public Safety and Solicitor: The Assistant Deputy Minister and Executive Financial Officer, Corporate Management Service Branch has consulted with and received endorsement from the Deputy Solicitor General and Deputy Attorney General for each ministry to pursue their own Service Plan.



Richard J. M. Fyfe, QC
Deputy Attorney General and Deputy Minister Responsible for Housing

DATE:

December 21, 2020

OPTION 1 APPROVED



David Eby, QC
Attorney General and Minister Responsible for Housing

DATE:

December 31, 2020

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Attachments:

Attachment 1: Potential 2021/22 – 2023/24 Service Plan Goals, Objectives and Scope of Work

Attachment 2: AG Mandate Letter

Attachment 1: Potential 2021/22 – 2023/24 Service Plan Goals, Objectives and Scope of Work

Potential Goals		Potential Objectives		Scope of Work ²
1	The justice sector in British Columbia is fair	1.1	Increased access to justice	<ul style="list-style-type: none"> • Courthouse Capital Asset Management Plan • Justice Recovery Initiative • Family Justice Strategy • Legal clinics • Government Modernization
		1.2	Improved outcomes for Indigenous people through strengthened partnerships with Indigenous leadership and communities	<ul style="list-style-type: none"> • First Nations Justice Strategy • Metis Justice Strategy • Indigenous Justice Centres • Gladue
2	Safe, affordable and functional housing	2.1	Increased supply of affordable market rental, non-profit, co-op, student and supported housing	<ul style="list-style-type: none"> • Deliver a freeze on rent increases until the end of 2021 • Deliver more affordable housing through Housing Hub partnerships • Continue delivering government's 10-year housing plan
		2.2	Enhanced safety, occupant health and accessibility, and sustainability of the built environment	<ul style="list-style-type: none"> • Enable installation of electric vehicle charging infrastructure in more strata and apartments • Lead work on the next iteration of the BC Building Code • Work with local governments to require new buildings and retrofits to be more energy efficient
		2.3	Reduced homeless population through permanent housing and services – in partnership with provincial ministries and agencies, local governments	<ul style="list-style-type: none"> • Implement a Homelessness strategy • Permanent housing plan for vulnerable population in temporary accommodations due to COVID-19
3	Promote diversity and inclusion in communities	3.1	Build intercultural trust and understanding, reduce systemic barriers to participation, and support communities to respond to public incidents of racism and hate	<ul style="list-style-type: none"> • Anti-Racism Act • Reducing systemic discrimination and Race-based data collection • Other multiculturalism initiatives

² These existing priorities and new mandate letter items would be translated into Strategies for each relevant Objective in the Service Plan.

Attachment 2: AG Mandate Letter



November 26, 2020

Honourable David Eby
Attorney General
Parliament Buildings
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Dear Attorney General Eby:

Thank you for agreeing to serve British Columbians as Attorney General and Minister responsible for Housing. You are taking on this responsibility at a time when people in our province face significant challenges as a result of the global COVID-19 pandemic.

COVID-19 has turned the lives of British Columbians upside down. None of us expected to face the challenges of the past number of months, yet British Columbians have demonstrated incredible resilience, time and time again. We will get through the pandemic and its aftereffects by building on this resilience and focusing on what matters most to people.

British Columbians voted for a government focused on their priorities: fighting the COVID-19 pandemic, providing better health care for people and families, delivering affordability and security in our communities, and investing in good jobs and livelihoods in a clean-energy future.

I expect you – and the work of your ministry – to focus on the commitments detailed in our platform, *Working for You*, along with the following foundational principles:

- **Putting people first:** Since 2017, our government has focused on making decisions to meet people's needs. That focus drove our work in our first term and will continue to be our priority. British Columbians are counting on the government to keep them safe and to build an economic recovery that works for everyone, not just those at the top. Keeping people at the centre of everything we do means protecting and enhancing the public services people rely on and working to make life more affordable for everyone.
- **Lasting and meaningful reconciliation:** Reconciliation is an ongoing process and a shared responsibility for us all. The unanimous passage of the *Declaration on the Rights of Indigenous Peoples Act* was a significant step forward in this journey. True

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reconciliation will take time and ongoing commitment to work with Indigenous peoples as they move toward self-determination. Our government – and every ministry – must remain focused on creating opportunities for Indigenous peoples to be full partners in our economy and providing a clear and sustainable path for everyone to work toward lasting reconciliation.

- **Equity and anti-racism:** Our province's history, identity and strength are rooted in its diverse population. Yet racialized and marginalized people face historic and present-day barriers that limit their full participation in their communities, workplaces, government and their lives. Our government has a moral and ethical responsibility to tackle systemic discrimination in all its forms – and every ministry has a role in this work. While our caucus elected a record number of women, more work remains to address gender equity. Delivering on our commitments to address racial discrimination will require a commitment by all of government to ensure increased IBPOC (Indigenous, Black and People of Colour) representation within the public service, including in government appointments. Our efforts to address systemic discrimination must also inform policy and budget decisions by reviewing all decisions through a Gender-Based Analysis Plus (GBA+) lens.
- **A better future through fighting climate change:** In 2018, our government launched our CleanBC climate action plan. CleanBC puts British Columbia on the path to a cleaner, better future by building a low-carbon economy with new clean-energy jobs and opportunities, protecting our air, land and water and supporting communities to prepare for climate impacts. It is every Minister's responsibility to ensure your ministry's work continues to achieve CleanBC's goals.
- **A strong, sustainable economy that works for everyone:** We will continue our work to support British Columbians through the pandemic and the economic recovery by investing in health care, getting people back to work, helping businesses and communities, and building the clean, innovative economy of the future. Our plan will train the workforce of tomorrow, help businesses hire and grow and invest in the infrastructure needed to build our province.

The pandemic has reminded us that we're strongest when we work together. Delivering on our commitments to people will require a coordinated effort with your cabinet and caucus colleagues, supported by the skilled professionals in the public service. You will also support your cabinet colleagues to do their work, particularly where commitments cross ministry lines.

British Columbians expect their elected representatives to work together to advance the broader public good despite their partisan perspectives. That means seeking out, fostering and championing good ideas, regardless of their origin. I expect you to reach out to elected members from all parties as you deliver on your mandate. Further, you will build thoughtful and sustained relationships through public and stakeholder engagement plans that connect with people to incorporate their perspectives early in the policy development process. These plans must include measurable outcomes and ensure active dialogue and ongoing outreach in your ministry's actions and priorities.

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Over the course of our mandate, I expect you will make progress on the following items:

- Work with Indigenous communities and the BC First Nations Justice Council to advance the First Nations Justice Strategy and to improve access to culturally appropriate justice, including continuing to establish Indigenous Justice Centres across the province.
- Work with the Minister of Public Safety and Solicitor General and the Minister of Mental Health and Addictions to fast track the move toward decriminalization by working with police chiefs to push Ottawa to decriminalize simple possession of small amounts of illicit drugs for personal use. In the absence of prompt federal action, develop a made-in-B.C. solution that will help save lives.
- Advance recommendations from the findings of the Cullen Commission and the German Report to fight money laundering.
- To make life more affordable for renters – particularly during the hardship caused by COVID-19 – deliver a freeze on rent increases until the end of 2021, and then make permanent the actions our government took to limit rent increases to the rate of inflation.
- Lead work to continue delivering our government's 10-year housing plan, Homes for B.C., and the affordable housing it's bringing to tens of thousands of British Columbians, including working in partnership to create 114,000 affordable homes.
- Lead government's efforts to address homelessness by implementing a homelessness strategy.
- Deliver more affordable housing through Housing Hub partnerships by providing additional low-interest loans; expanding partnerships with non-profit and co-op housing providers to acquire and preserve existing rental housing; and tasking the Hub with identifying new pathways to home ownership through rent-to-own or other equity-building programs.
- Build on our government's work to require new buildings and retrofits to be more energy efficient and cleaner by supporting local governments to set their own carbon pollution performance standards for new buildings.
- Bring in "right-to-charge" legislation that will enable installation of electric vehicle charging infrastructure in more strata and apartment buildings.
- Lead work on the next iteration of the BC Building Code, working with the Parliamentary Secretary for Accessibility to ensure that it includes changes that will make new buildings more accessible for all people.
- Support the work of the Minister of Finance to control the rising cost of strata insurance by building on work already done to close loopholes and enhance regulatory powers and acting on the forthcoming final report of the BC Financial Services Authority. If rates have not corrected by the end of 2021, explore a public strata insurance option.

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- Support the Minister of Indigenous Relations and Reconciliation to deliver the action plan required under DRIPA to build strong relationships based on recognition and implementation of the inherent rights of Indigenous peoples protected in Canada's constitution.
- Support the work of the Minister of Mental Health and Addictions to provide an increased level of support – including more access to nurses and psychiatrists – for B.C.'s most vulnerable who need more intensive care than supportive housing provides by developing Complex Care housing.
- Support the work of the Minister of Indigenous Relations and Reconciliation to bring the federal government to the table to match our funding to build much-needed housing for Indigenous peoples both on and off reserve.

To assist you in meeting the commitments we have made to British Columbians, you are assigned a Parliamentary Secretary for Anti-Racism Initiatives. You will work closely together and ensure your Parliamentary Secretary receives appropriate support to deliver on the following priorities, outlined in the mandate letter issued to them:

- Conduct a full review of anti-racism laws in other jurisdictions and launch a stakeholder consultation to inform the introduction of a new *Anti-Racism Act* that better serves everyone in B.C.
- Work with B.C.'s new Human Rights Commissioner and other stakeholders to introduce legislation that will help reduce systemic discrimination and pave the way for race-based data collection essential to modernizing sectors like policing, health care and education.

Our work as a government must continually evolve to meet the changing needs of people in this province. Issues not contemplated in this letter will come forward for government action and I ask you to bring such matters forward for consideration by the Planning and Priorities Committee of cabinet, with the expectation that any proposed initiatives will be subject to the usual cabinet and Treasury Board oversight. Your ministry's priorities must reflect our government's overall strategic plan as determined by cabinet.

All cabinet members are expected to review, understand, and act according to the *Members' Conflict of Interest Act* and conduct themselves with the highest level of integrity. As a minister of the Crown, your conduct will reflect not only on you but on cabinet and our government. You are responsible for providing strong, professional and ethical leadership within cabinet and your ministry. You will establish a collaborative working relationship with your deputy minister and the public servants under their direction who provide the professional, non-partisan advice that is fundamental to delivering on our government's priorities. You must ensure your minister's office meets the highest standards for integrity and provides a respectful and rewarding environment for all staff.

.../5

My commitment to all British Columbians is to do my level best to make sure people's lives are better, safer and more affordable. I believe the challenges we face can and will be overcome by working together. By way of this letter, I am expressing my faith that people can expect the same commitment from you.

Sincerely,

A handwritten signature in black ink, reading "John J. Horgan", followed by a long horizontal flourish.

John Horgan
Premier

**MINISTRY OF ATTORNEY GENERAL
(HOUSING POLICY BRANCH)
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for David Eby, QC
Attorney General

ISSUE: Meeting with Tony Gioventu, Executive Director of the Condominium Home Owners Association on Monday December 14, 2020

SUMMARY:

- Tony Gioventu is the Executive Director of the Condominium Home Owners Association (CHOA). Mr. Gioventu is a long-serving and valued member of B.C.'s strata community with excellent strata-related expertise and extensive working relationships.
- s.13; s.21

BACKGROUND:

- CHOA is a consumer based non-profit association that promotes the understanding of strata property living and the interests of strata property owners.
- CHOA members include strata corporations, individual owners, and businesses that serve the strata industry, strata related associations and governmental agencies from all across British Columbia.

DISCUSSION:

- The Ministry of Finance and BC Financial Services Authority's (BCFSA) are the lead organizations on insurance and strata insurance.
- The Province passed a legislation framework to address strata insurance issues in August 2020, including increased transparency on insurance costs to owners and other measures that could be brought into effect by regulation.
- s.13
-
-

INDIGENOUS PEOPLES CONSIDERATIONS:

- Strata insurance has not impacted Indigenous People as a separate issue.

GBA+ OR DIVERSITY AND INCLUSION IMPLICATIONS:

- Strata insurance costs affects strata owners many of whom are moderate and middle income residents, including seniors on fixed incomes, first time home buyers and immigrant families.

OTHER MINISTRIES IMPACTED/CONSULTED:

- Ongoing consultation on insurance matters with the Ministry of Finance and the BC Finance Services Authority.

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Approved by:

Cheryl May
Assistant Deputy Minister
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Attachment(s)

s.13; s.21

- Attachment 2 - Issue Briefing note prepared for the Minister of Municipal Affairs and Housing on CHOA's Report on Strata Insurance

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s.21



BRIEFING NOTE FOR INFORMATION

Date: July 14, 2020
Prepared For: Honourable Selina Robinson, Minister of Municipal Affairs of Housing
Issue: Condominium Home Owners Association (CHOA) Report on Strata Insurance
Title: Summary of CHOA Report and Survey to Government on Strata Insurance

BACKGROUND:

s.21

On June 17, 2020, CHOA sent a 16-page report with insurance market commentary, survey findings and recommendations to the Ministers of Finance and Municipal Affairs and Housing (MAH). In the report, CHOA acknowledged the Insurance Bureau of Canada, the Insurance Brokers Association British Columbia and the Financial Services Authority of BC who assisted CHOA with research and navigating the complexity of property insurance in BC and across Canada.

DISCUSSION:

Key Report Findings

s.13



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A summary of survey results relating to public support for various possible government actions is included in Attachment 1.

CHOA Survey^{s.13}

s.13

Comparison with BCFSA Report

The B.C. Financial Services Authority (BCFSA) released an interim report on June 16, 2020 on strata insurance. The BCFSA is a financial services regulator responsible for safeguarding confidence and stability in BC's financial sector. At the direction of the Province, the BCFSA initiated formal inquiries in the strata insurance sector and used its authority to get detailed information from industry participants.

The BCFSA report found that the strata insurance market in BC is "unhealthy" and plans to consult further with community partners and present a final report in fall 2020. Both the CHOA report and the BCFSA report indicate that insurance costs for stratas have drastically increased over the last several years.

A key finding of the BCFSA report was that premiums have risen on average by approximately 40 percent across the province (50 percent in Metro Vancouver) over the past year while deductibles have increased up to triple-digits over the same period. Results are generally consistent with those in CHOA's report, with variations explainable by methodological differences: timing, weighting, types and locations of stratas included in the data, etc.

Both the CHOA report and the BCFSA report highlighted several key issues for Government's consideration,

s.13



s.13

CHOA Recommendations and Government Response

The CHOA report makes seven recommendations to address the insurance crisis in BC,^{s.12}
s.12

Recommendation	Rationale	Government Response to Date
1. Amend the Insurance Act to prohibit the payment by an insurer or insurance broker of finder's fees, commissions, or compensation in kind to any third party acting as an agent of a consumer.	Ensure that the strata management industry is competing in a fair market of pricing and services. Protect consumer from quid pro quo negotiations of placement of insurance in exchange for compensation.	s.12; s.13
2. Require insurance brokers to communicate renewal information, including the inability to get full insurance, within certain time periods; require brokers to release clients from partial coverage so they can seek alternatives.	Ensure that strata corporations have notice about changes to insurance premiums or deductibles and an opportunity to explore other options.	
3. Manage the impact of high cost appraisals/evaluations by establishing unit descriptions in the Strata Property Act.	To clearly define what the strata corporation's insurance must cover and shift coverage of highly variable fixture costs within strata units to those owners' policies.	
4. Review the requirements for Depreciation Reports and introduce minimum funding levels for strata corporations.	To ensure strata corporations have proper funding and resources to maintain aging infrastructure and avoid related insurance challenges.	
5. Limit the amount an owner may be exposed to for a common deductible to \$50,000	To limit the amount payable by individual owners if they are deemed responsible for damage through no fault of their own.	



Recommendation	Rationale	Government Response to Date
6. Mandatory reporting of claims for buildings under 5 years old	To give strata corporation the opportunity to make warranty claims and/or identify building defects before systematic failures occur.	s.13
7. Investigate the option of a Captive insurance Corporation in BC for Strata Corporations	A captive corporation may provide for a level of insurance stability for B.C.	

The Ministry of Finance provided separate responses to some of the recommendations, which are included as Attachment 2.

Attachments:

1. Summary of Key CHOA Survey Results
2. Ministry of Finance Response to CHOA Report

PREPARED BY:

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APPROVED BY:

Greg Steves, Assistant Deputy Minister
Office of Housing and Construction Standards

Silas Brownsey, Acting Deputy Minister

DATE APPROVED:

July 13, 2020
Greg Steves obo
July 13, 2020

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s.21



ATTACHMENT 2: Ministry of Finance Response to CHOA Report

CHOA recommendation:

Address the issue of commissions of third party non-disclosed commissions being paid to strata managers and brokers or any other agent, and commissions earned or charged on policy renewals

- Amend the Insurance Act in BC and prohibit the payment by an insurer or insurance broker of finder's fees, commissions, or compensation in kind to any third party acting directly or indirectly as an agent of a consumer. The effect will ensure the strata management industry is competing in a fair market of pricing and services, undisclosed commissions will become a practice violation, and the consumer will be protected from quid pro quo negotiations of placement of insurance in exchange for compensation.
- Require all commissions, fees, rebates or bonusing earned by an insurance brokerage to be disclosed to the client on renewal of a policy

Ministry of Finance response:

- s.12; s.13

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CHOA recommendation:

Address the problems with late notice of policy renewals and notice to clients

- Require a 30 day advanced notice period to a strata corporation be provided by the insurance broker indicating the renewal cycle, if there are projected complications with the renewals that relate to building conditions, claims history or other site conditions that may impact the renewals
- Require the broker to communicate directly with the strata corporation at least 15 days in advance of a renewal if they cannot place full insurance or if an exclusion is being imposed
- Require brokers to release their client from partial secured coverage to enable the client to seek competitive alternatives

Ministry of Finance response:

- s.13

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s.13

CHOA recommendation:

Limit the amount an owner may be exposed to for a common deductible to \$50,000?

Several recommendations have been made by industry partners to limit the amount that may be payable by an owner if they are responsible for a deductible. While this will limit the amount payable by the insurance industry it does not result in meaningful consequences for owners as occupants or landlords whose actions have resulted in claims in buildings. While strata owners share many risks and liabilities, the consequences for owners who do not maintain and repair strata lots, or whose actions are a result of a claim should not limit their liability to the strata corporation and fellow owners. Everyone will still share in the cost of the claims and the losses without recourse if the owner risk is limited, even though they were not involved in the cause of the claim.

Ministry of Finance response:

- s.13

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CHOA recommendation:

Investigate the option of a Captive insurance Corporation in BC for Strata Corporations

The profitability of insurance markets greatly influences the capacity of insurance coverage available and the costs. Global conditions play a significant role in the volatility of insurance risk assessment, with a predictable level of volatility. A captive corporation may provide for a level of insurance stability within the province; however, it may still impose high cost for participants with higher deductible rates for high risk users. CHOA has consulted with actuaries on the feasibility of such an endeavour; however, the capacity of coverage required with reserves to enable the high replacement value of assets is a substantial cost and exceeds many of the current costs covered by the insurance industry. This would also require legislative change to compel all strata corporations in BC to participate to enable the program to be feasible. Public consultation and dialogue on this option would be a valuable effort with input from actuaries and industry partners.

Ministry of Finance response:

- s.13

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Ministry of
Municipal Affairs
and Housing

• s.13

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Page 469 of 877 to/à Page 470 of 877

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s.12; s.13

s.12; s.13

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s.12 ; s.13

**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION of David Eby, QC
Attorney General

ISSUE:

Public release of annual reports for the BC Human Rights Tribunal (BCHRT) and the Mental Health Review Board (MHRB)

SUMMARY:

- In September 2020, the ministry received MHRB and BCHRT's annual reports for 2019/20.
- Shortly after receiving these reports, the provincial general election was announced and the Government of BC moved into the interregnum period.
- Following this announcement, Diana Juricevic (the Chair of BCHRT and MHRB) contacted the Ministry to seek approval before releasing BCHRT and MHRB's annual reports publicly.

s.14

- Now that the interregnum period has concluded, Ms. Juricevic intends to release her respective annual reports publicly.

BACKGROUND:

BCHRT's Annual Report

- Under Section 39.1 of the Human Rights Code (the Code), BCHRT is required to submit an annual report to the minister; this report must be submitted as soon as practicable after the end of the fiscal year of the government.
- Section 39.1 also states that the minister must table this report with the legislature. If the legislature is not in session, the report should be filed with the Clerk of the Legislative Assembly once it is received.
- The Ministry received BCHRT's 2019/20 Annual Report on September 14; the report was reviewed and on September 28 the Deputy Attorney General sent a written response to the Chair of the Tribunal confirming that it was received.
- With the announcement of the election and the resulting delay of the fall legislative session, BCHRT's report was sent to the Office of the Clerk in accordance with Section 39.1 of the Code to fulfil the tabling requirement; this report was received by the Office of the Clerk on October 16, 2020.

MHRB's Annual Report

- Unlike BCHRT, MHRB draws its reporting requirements from Section 59.2 of the Administrative Tribunals Act. Under this provision, MHRB is required to submit an annual report "as soon as practicable" after the end of the tribunal's reporting year. In addition, the minister is not required to table this report with the legislature.
- The Ministry received MHRB's 2019/20 Annual Report on September 10; the report was reviewed, and the Chair of the Tribunal was sent a response on September 28.

DISCUSSION:

- Following the election announcement, Diana Juricevic (the Chair of BCHRT and MHRB) contacted the Ministry to seek approval before releasing BCHRT and MHRB's annual reports publicly.

s.14

- Now that the interregnum period has concluded and the Executive Council has been announced, Ms. Juricevic has confirmed that she will be releasing BCHRT and MHRB's reports on their respective websites in early December 2020.

INDIGENOUS PEOPLES CONSIDERATIONS:

- No specific issues relevant to Indigenous People's considerations.

OTHER MINISTRIES IMPACTED/CONSULTED:

- No other ministries are impacted nor have been consulted

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Approved by:

Kurt Sandstrom
Assistant Deputy Minister

Attachment:

- Appendix A –Mental Health Review Board 2019/20 Annual Report
- Appendix B –BC Human Rights Tribunal 2019/20 Annual Report



Mental Health Review Board

**ANNUAL REPORT
2019/2020**

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Message from the Chair

I am pleased to present the Annual Report of the BC Mental Health Review Board for the fiscal year April 1, 2019 to March 31, 2020, submitted in accordance with s. 59.2 of the *Administrative Tribunals Act*.

Our Board was created to conduct review panel hearings under the *Mental Health Act* for patients admitted by physicians and detained involuntarily in provincial mental health facilities in a way that is consistent with the principles of fundamental justice and s. 7 of the *Charter of Rights and Freedoms*. We have a duty to give patients fair, timely, and independent reviews of their loss of liberty.

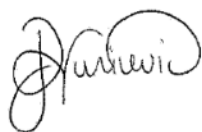
Since I began my term as Chair, we have made access to justice our top priority. Access to justice matters because the laws that set out whether patients should be discharged from involuntary status are very technical. Even lawyers have problems understanding them. But everyone has a right to know how laws affect them. And everyone should be able to understand how to challenge decisions that affect their liberty.

This is why we keep working to redesign our process around the needs of the people we serve. This is the first theme in our report. The second theme is accountability. We proudly endorse the [Access to Justice Triple Aim](#) which guides our renovation efforts. Our Board is grounded in these foundational values:

- Procedural Fairness
- Patient-Oriented Service Excellence
- Public Accountability
- Access to Justice Innovation

Change is not easy but the real work has already begun. I express my heartfelt thanks to everyone serving on our Board. You are working hard to make improvements. You have met the unprecedented challenges of Covid-19. Throughout, you continue to serve our public with integrity and compassion. This is reflected in the many gestures that show you care.

It has been a privilege to serve you as Chair over the past three years. As my term comes to an end, I look forward to passing the torch to the next leader. As a society, we are measured by how we treat the most vulnerable among us. We believe that fair and accessible justice is at the heart of our democracy. May we continue to do the hard work that is necessary to improve access to justice for all British Columbians. Until we meet again.



Diana Juricevic
Chair

September 9, 2020

Fairness and Access

Our Board is committed to improving fairness and access to justice.

Our commitment to Fairness

We strive to ensure the Board delivers fair services, processes, and decisions. These are the procedural, substantive, and relational aspects of fairness that matter to us.

A fair process refers to the process our Board follows to make decisions. A fair process has an impartial and unbiased decision maker. It allows people to be heard in processes that affect them. This includes knowing in advance that a decision will be made, clear information about the legal test and what to expect during a hearing, and a meaningful opportunity to be heard and present their case.

A fair decision refers to the decision itself and includes applying the legal test and considering individual circumstances to reach a fair outcome for the person affected. It also includes providing clear and meaningful reasons to support the decision.

A fair service refers to how a person is treated in their interaction with the Board. If a person feels that they were treated honestly and with respect then they may feel good about the service they received even in the face of an adverse outcome.

Our commitment to Access to Justice

There are three ways that we are seeking to improve access to justice at our Board. We want to improve population access to justice. We want to improve the experience of those who use our services. We want to improve how we spend the money we have been entrusted to spend by the public.

At a population level, our Board is trying to reduce the barriers faced by British Columbians with mental health issues who want to appeal decisions made by their physicians to detain them involuntarily in provincial mental health facilities. At an individual level, our Board is trying to improve the experience for participants in our hearings. Our Board should continually improve how we serve our public. At an operational level, we want to ensure the operations of our Board are administered in the most efficient and effective manner to provide quality services. This requires reviewing and analyzing all aspects of the operations to reduce unnecessary costs and improve quality of services.

What have we done?

Over the past three years, these are the steps that we have taken to achieve these goals:

Procedural Fairness and Quality of Service

- New [rules of practice and procedure](#).
- Seven new practice directions:
 - Guidelines for [Patient Representatives](#)

- Guidelines for [Disclosure](#)
- Guidelines for [Designated Facilities](#)
- Guidelines for [Case Presenters](#)
- Guidelines for [Case Notes](#) and [Helpful Tips](#)
- Guidelines for [Children in Hearings](#)
- Guidelines for [Mandatory Review Process](#)
- A new series of four training videos, [Best Practices for Conducting Hearings](#)
- Updated training manuals for legal members, medical members, and community members
- Regular meetings with public parties
- Public workshops and information sessions to educate the public on the new process
- New hearing handbook for Board members
- Developed a full orientation program for new Board members
- Annual training program for all Board members and staff

Board Integrity and Independence

- Created a [Code of Conduct](#)
- New and simple forms on how to participate in a hearing
- Restructured intake, mandatory review, and post hearing administration
- Established a complaints process
- New and simple information sheets on how to complain or file an appeal
- A [new website](#)
- Started issuing [annual reports](#)
- Established remuneration policy for Board members
- Established a three-year fiscal plan outlining operational and restructuring costs and means to reduce the deficit and comply with Ministry budget allocations

Transformational Change

- Advocated for legislative amendment that enables the recruitment of retired medical practitioners to serve as medical members on the Board
- Recruitment of members to improve diversity
- Restructuring of staffing to improve morale and operational efficiency
- Training and workshops for staff to support a healthy and respectful workplace
- Onboarded new technology including a new case management system that enables a paperless and mobile workplace
- Co-located with five other administrative justice tribunals, moving the Board office from New Westminster to Vancouver

What can we do better?

Most of this report will be focused on answering this question.

To begin with, we need to do a better job of collecting and publishing our metrics. A concept like Access to Justice is hard to measure in practice. We need to use practical indicators. This is why we are following the Access to Justice Triple Aim framework that is being supported and followed in British Columbia. Our new case management system is helping us create and measure what we are doing and what can be done better.

We onboarded a new case management system in November 2019. This has impacted our ability to show you some data because it was housed in two places. The data from April 1, 2019 to November 2019 was housed in the old legacy system. The data from November 2019 to March 31, 2020 is housed in the new case management system.

The information presented in this report relies on data pulled from both systems. The new system is more robust with the ability to compile data that was not accessible in the old legacy system. In some areas, we are only able to offer a smaller sample size, a “five-month” picture rather than a “twelve-month” picture. We are accounting for a 0.5% margin of human error where manual calculations were necessary.

Performance standards keep us moving forward. Having standards means that we know when and where we need to improve. Some of our performance measures are set by legislation, while others reflect our commitment to our public. Performance measures for the Board regarding the scheduling of hearings, rendering decisions, and providing written reasons are established by section 25 of the *Act*:

1. The hearing shall begin within 14 or 28 days after the day the Board receives the application, unless the patient requests a postponement.
2. The review panel must issue a determination no later than 48 hours after the hearing is completed.
3. The review panel must issue its reasons for its determination no later than 14 days after the determination has been issued.

The Board has met the last two performance measures. All review panels issued determinations and reasons within the legislated deadlines. Although the Board is technically meeting the first performance measure, we believe that there is a problem because too many hearings are being held outside of legislated timeframes due to postponements. This is discussed further below.

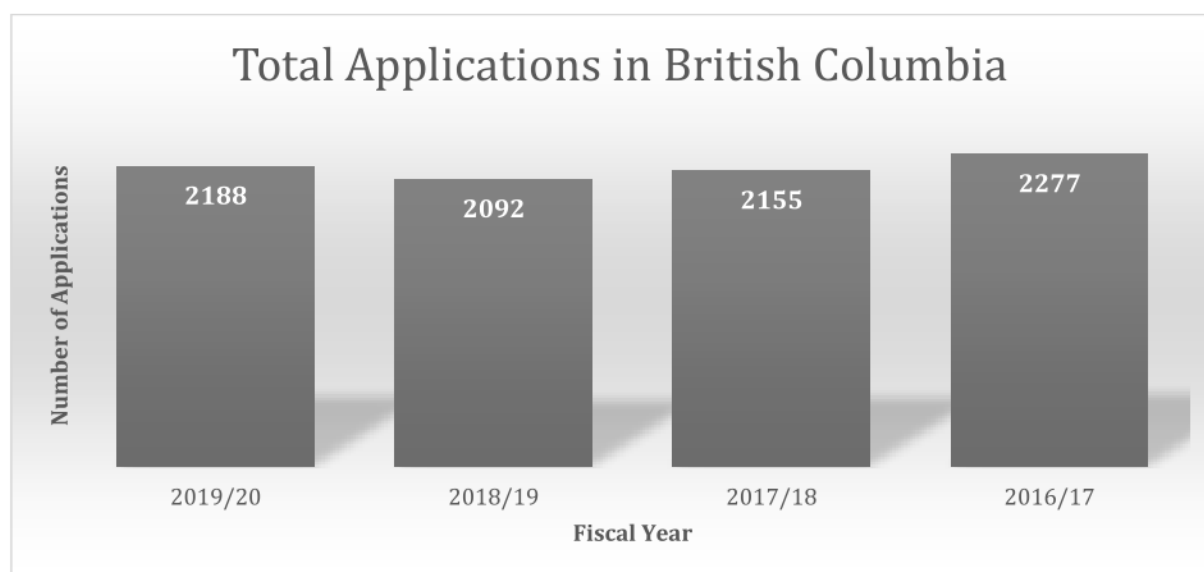
Operations

APPLICATIONS

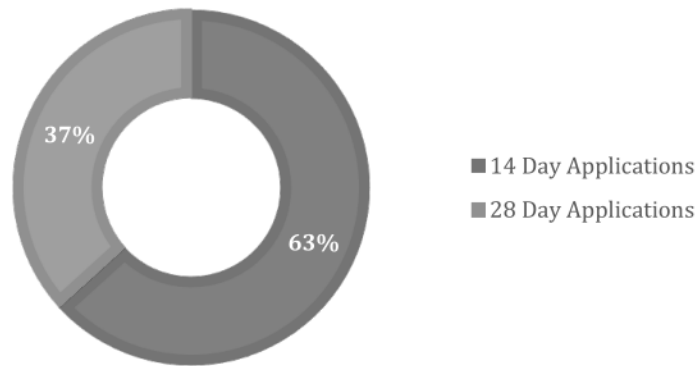
We recognize that only some of the people involuntarily detained under the *Mental Health Act* will challenge their certifications.

One way to measure whether we are improving population access to justice is to measure the number of involuntary detentions across the province against the number of applications we received. In other words, when involuntary detentions increase across the province, the number of applications for hearings should increase too. If they increase at the same rate, then the access is stable. If they increase at different rates, then the access is either improving or getting worse.

The trend that we are seeing is a decrease in population access to justice. Although we do not have the exact numbers, we know that the number of people who are involuntarily detained under the *Mental Health Act* is increasing, while the number of applications received by us remains consistent with previous years. This past fiscal year, the Board received a total of 2188 applications, of which 820 proceeded to a hearing on the merits.

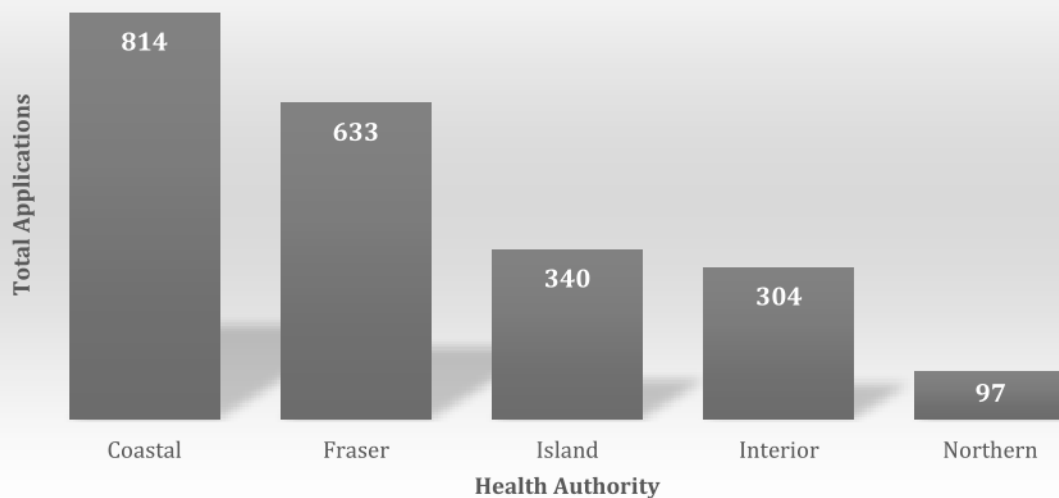


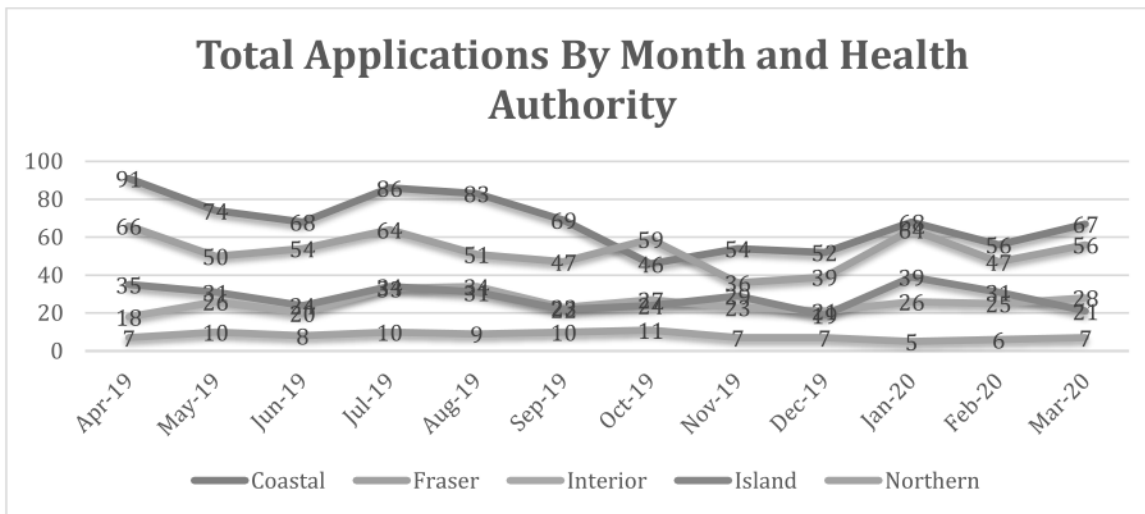
TOTAL APPLICATIONS RECEIVED



There are two kinds of applications that the Board receives. One application requires the Board to schedule a hearing within 14 days, and the other application requires the hearing to be scheduled within 28 days. The amount of time the Board has to schedule a hearing depends on the length of a patient's certification. The majority of the applications have been received from patients on shorter certification cycles (63%). In terms of geographic regions, the majority of the applications come from the Vancouver Coastal Health Authority (37%) and Fraser Health Authority (29%).

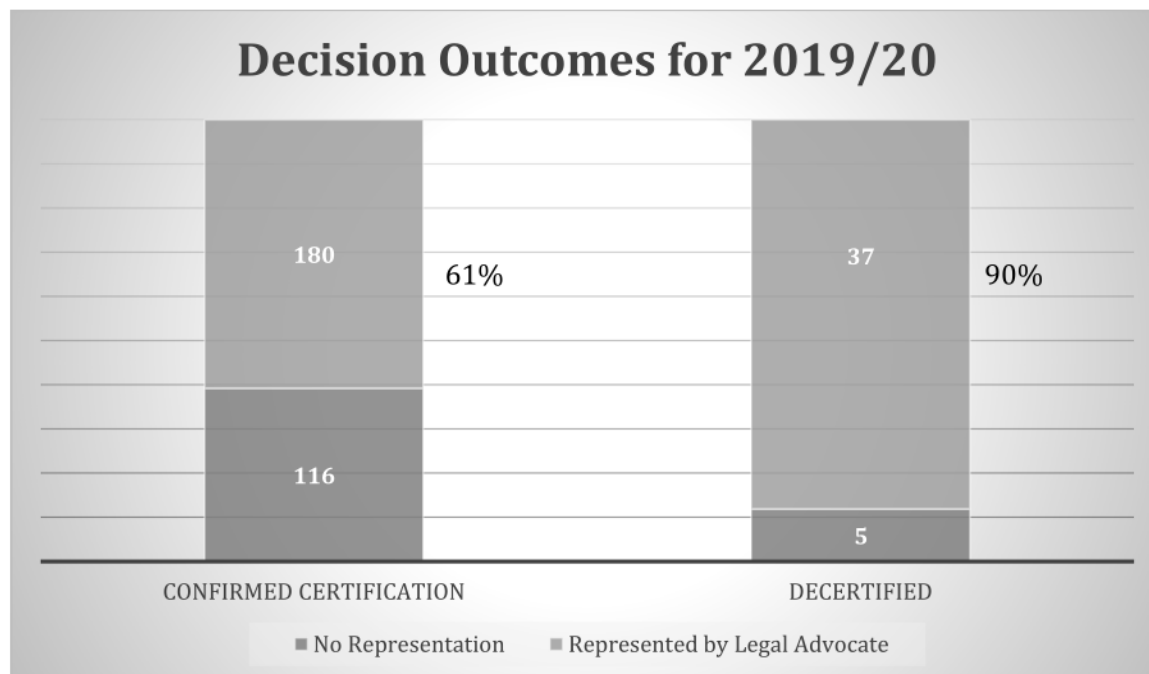
Total Applications by Region





The Board wanted to know whether requests for hearings fluctuate over seasons or geographic locations. The sample size is too small for the Board to draw any meaningful conclusions. However, this chart shows the total number of applications we received broken down by month and geographic location. In future, it may be useful to measure whether there are any seasonal fluctuations in hearings, and if so, whether they reflect fluctuations in certifications.

DECISION OUTCOMES



The data drawn from the new case management system, which is a smaller sample size of five months, shows that 12.4% of patients were decertified. Of those patients who were decertified, 90% of them were represented by a legal advocate.

MANDATORY REVIEWS

A patient can request a hearing at any time. The mandatory review process provides access to justice for those patients who are on extended leave and have been involuntarily detained for over one year.

Section 25(1.1) of the *Mental Health Act* requires a mandatory review of the treatment records for all patients who are on extended leave for 12 or more consecutive months when no hearing has been held during this time. This process is meant to safeguard against long-term involuntary detentions.

The mandatory review process depends on cooperation with Health Authorities. The Board needs help with the following steps. First, the Board asks Health Authorities twice a year to provide a list of patients who have been on extended leave for 12 months or more ("patient lists"). The Board reviews the patient lists to determine which patients may be entitled to a mandatory review of their medical file. Second, Facilities must submit to the Board an Extended Leave Review Panel Hearing Directive ("Directive") for each patient who has been on extended leave for 12 months or more and who has not had a hearing or requested one during that period. Another Directive must be submitted to the Board after every 12 months a patient continues to be on extended leave and has not had a hearing during that time.

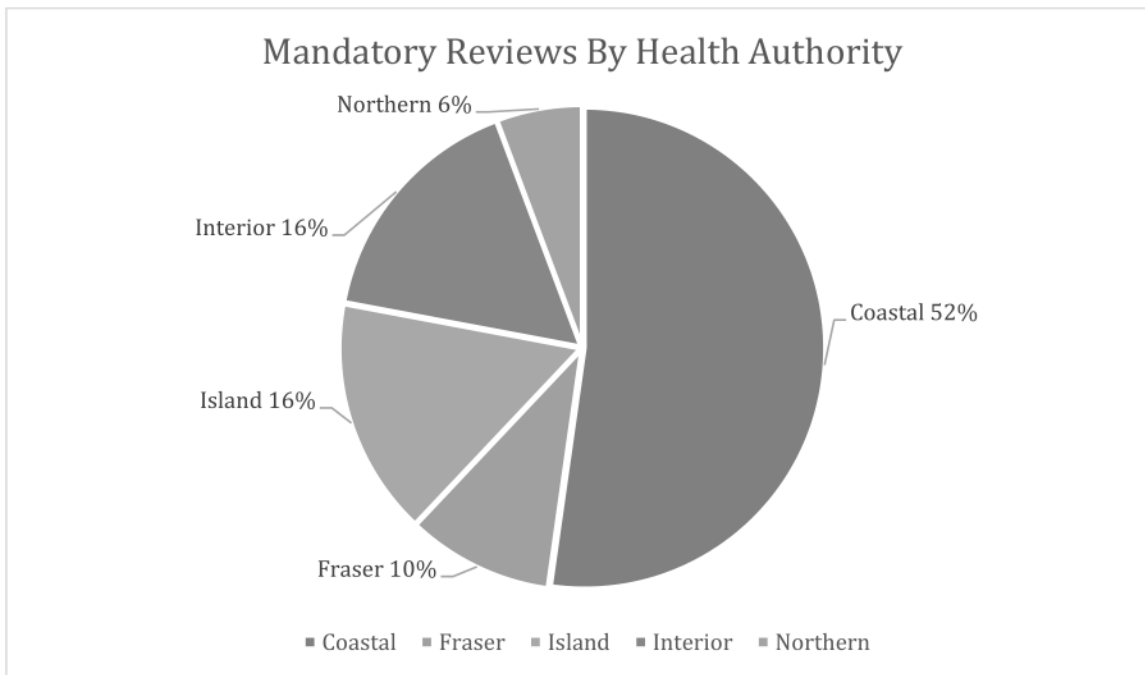
The Directive is how patients provide their guidance to the Board on whether or not they want their file reviewed. The Directive is also how facilities confirm to the Board that they have gone through the patients' rights with them. The Directive provides the patient with three options: request to have their file reviewed, waive their right to have their file reviewed, or request a review panel hearing.

A file review is conducted by the Board upon a patient's request or in the absence of a Directive being done. The Board requests treatment records from the facility in order to conduct a file review. The Board Chair reviews the patient's treatment record, assesses that record against the legal test set out in section 22(3) of the *Act*, and decides whether there is a reasonable likelihood that the patient would be discharged following a hearing. When there is a reasonable likelihood of success, the Board Chair must order a hearing.

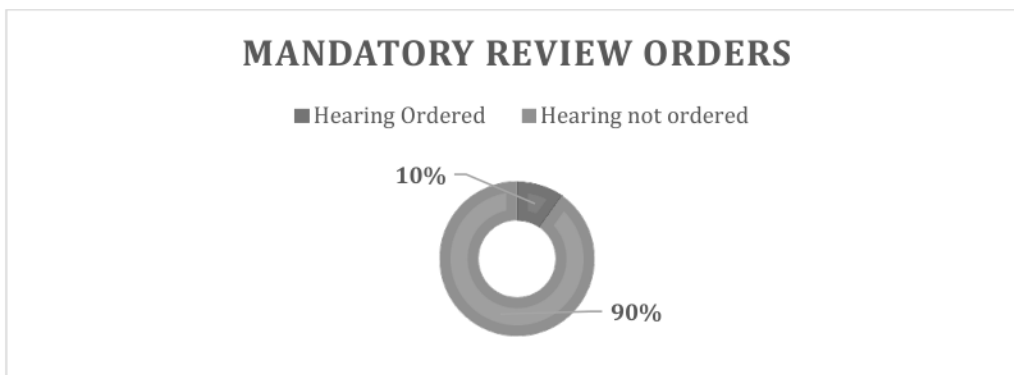
Based on data collected from the new case management system, which is a sample size of five months, the mandatory review process took an average of 17.5 days from the date the treatment records were received to the date the orders were sent.



The total number of mandatory review orders issued this fiscal year is 245. The spike in orders issued from 2017/18 to 2018/19 reflects steps taken by the Board to improve compliance with requests for patients lists and treatment records. The Board would like to see an expanded process for collecting information on the Directive.



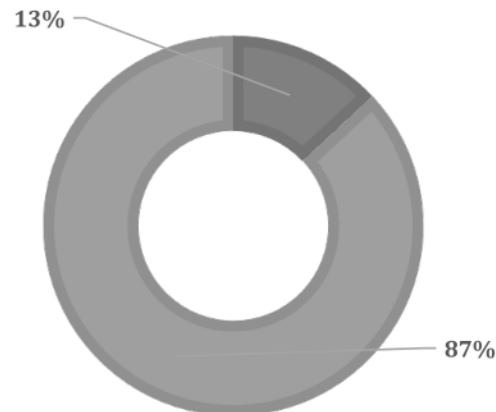
The number of mandatory reviews across geographic regions should be proportionate to the number of certified patients in those geographic regions who are on extended leave for 12 months or more. The Board does not have access to this data in order to assess population access to justice. This graph shows that 52% of mandatory reviews are done in the Vancouver Coastal Health Authority. This is more than the four other Health Authorities combined.



90% of mandatory reviews result in no hearings being ordered. This means that 10% of mandatory reviews result in a hearing being ordered. In other words, there is a reasonable likelihood that the patient would be discharged following a hearing in only 10% of mandatory reviews. Although this is not that far off from the 12.4% of patients who are decertified in hearings, the low percentage may indicate an access to justice concern if the screening threshold is too high or if there are other systemic barriers to access in this discretionary decision-making process.

WHAT HAPPENED AFTER A MANDATORY REVIEW HEARING WAS ORDERED?

■ Hearings proceeded after Order ■ Hearings did not proceed



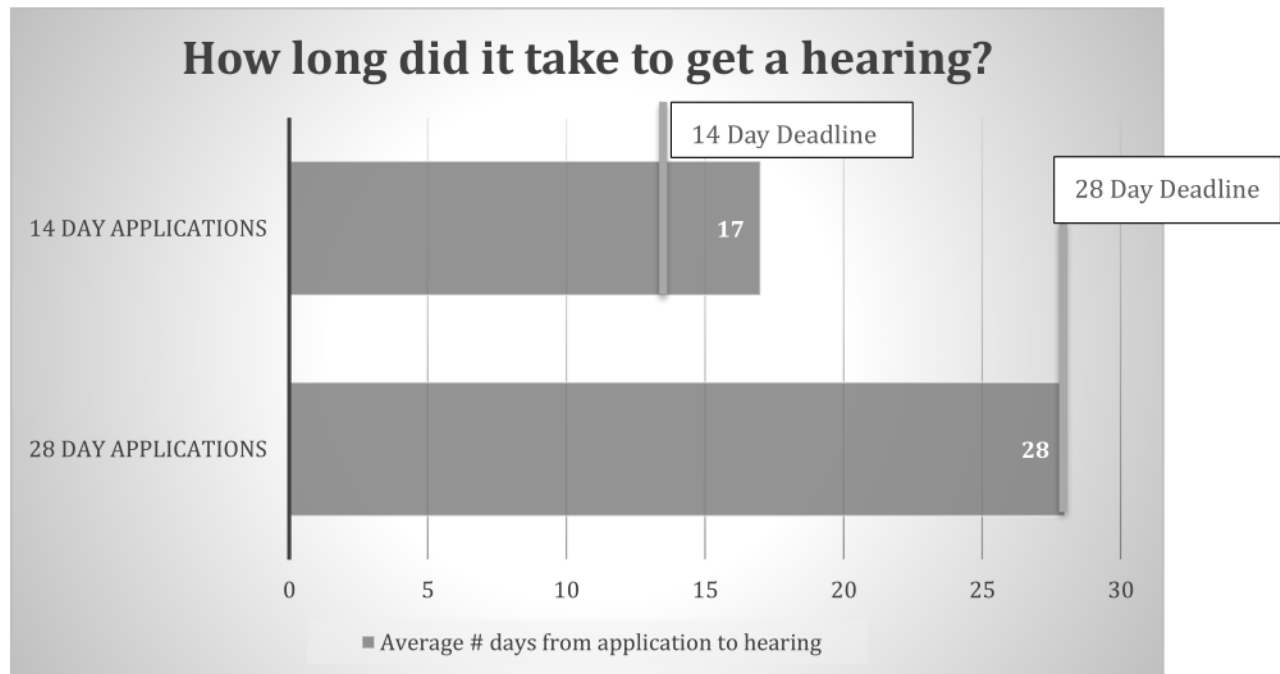
Of the mandatory reviews that ordered a hearing, only 13% of them went to a hearing.

Based on data collected from the new case management system, which is a sample size of five months, the review panel took an average of 5.5 days to issue reasons for their decision after a mandatory review hearing. This is compliant with the fourteen-day statutory deadline.

Mandatory review hearings did not proceed for two main reasons. First, 44% of the hearings did not proceed because the patient was decertified after the mandatory review order was sent. The remaining 43% did not proceed because the patient withdrew, and in a few cases, the hearing was postponed and ultimately cancelled because the patient could not be found.

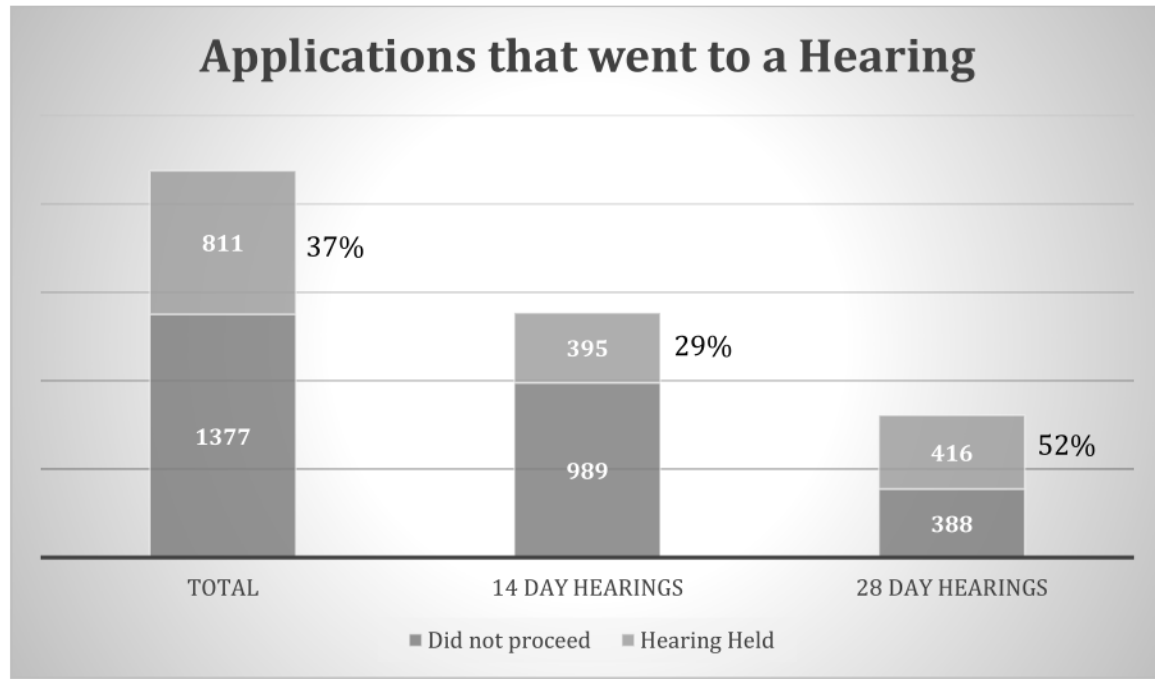
Improving Population Access to Justice

HEARINGS OUTSIDE STATUTORY TIMELINES

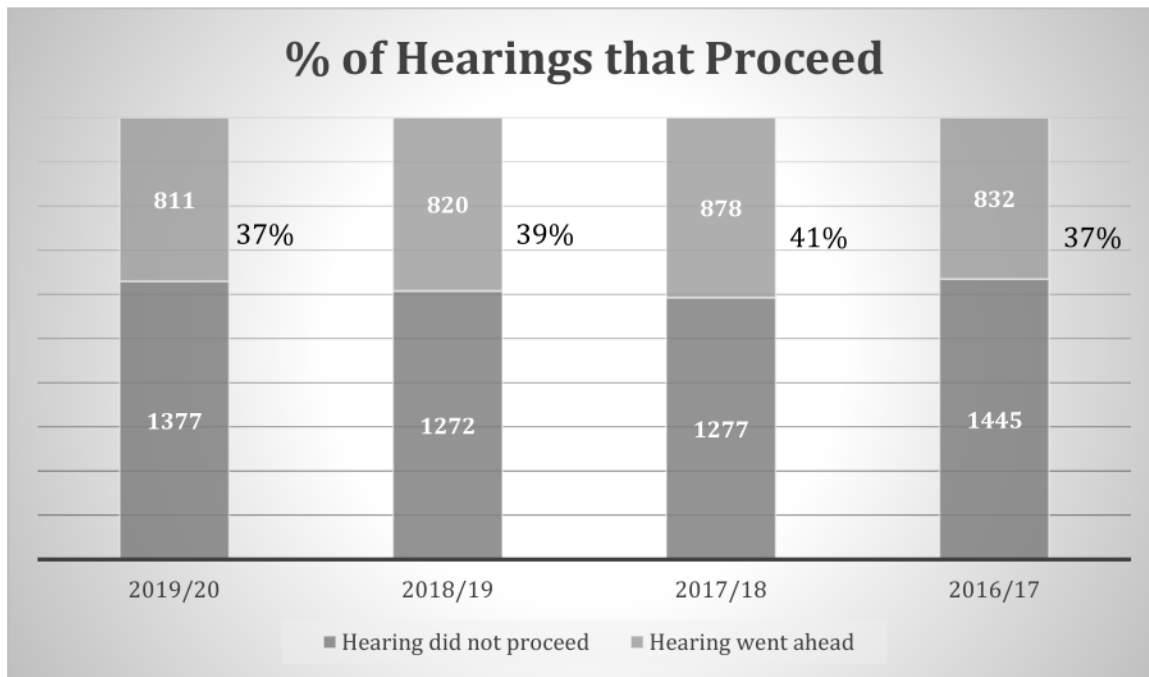


Hearings are taking place outside the legislated timelines. This is a problem. Although the Board always consults with parties and schedules hearings before the deadline, party-requested postponements are causing delays. For patients who are entitled to hearings within 14 days of asking for one, they are actually getting their hearing on average three days later. Although this may be due, in practice, to the number of patients who request postponements, our Board is very concerned about this statistic because it shows that we are not meeting the spirit of our mandate.

HEARINGS ARE NOT GOING AHEAD



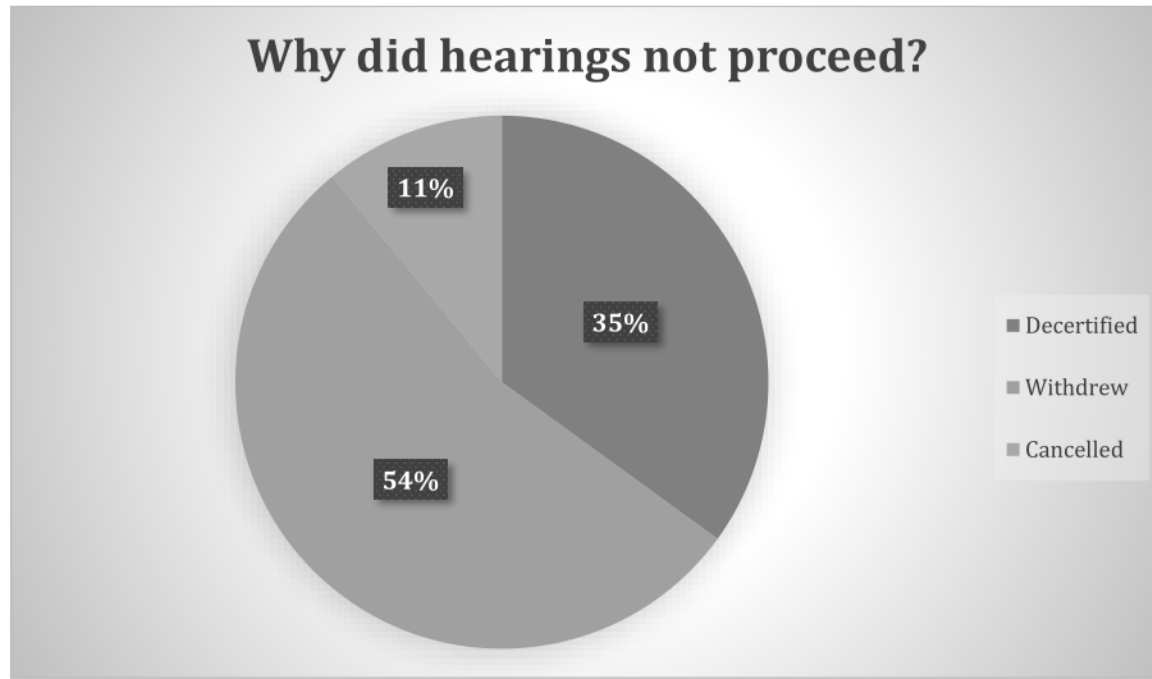
Our Board is concerned about the number of applications that do not proceed to a hearing. Only 37% of patients who applied for a hearing actually had a hearing. The patients who are on shorter certification cycles, and entitled to hearings within 14 days, are being disproportionately affected. Only 29% of them had the hearing they applied for. The Board wants to understand why.



Fewer patients proceeded to hearings they applied for this past year (37%) compared to the previous two years (39% and 41%). The trend is worsening over time.

Fiscal Year	Applications proceeded to hearings		Cancelled or Withdrawn by patients		Decertified prior to hearing		Others		Total applications
	#	%	#	%	#	%	#	%	
2019/20	811	37%	778	36%	485	22%	114	5%	2188
2018/19	820	39%	773	37%	352	17%	147	7%	2092
2017/18	878	41%	838	39%	372	17%	67	3%	2155
2016/17	832	37%	912	40%	408	18%	125	5%	2277

WHY DID HEARINGS NOT PROCEED?



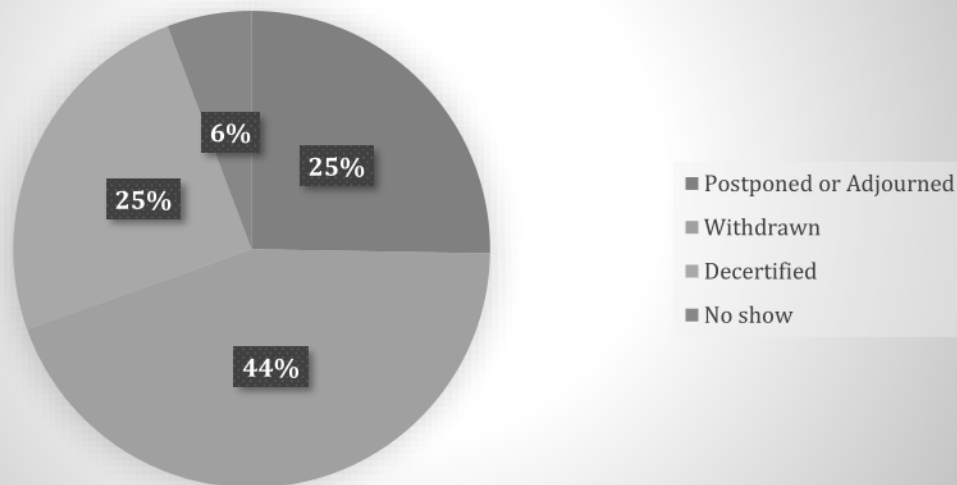
The Board has identified three main reasons why hearings are not going ahead.

First, of the hearings that did not proceed, 54% of them did not proceed because the patient withdrew. Patients can withdraw their applications at any time. Some certified patients are discharged from hospital and placed onto extended leave before their hearing so they decide to withdraw. The number of withdrawals may or may not raise an access to justice issue.

Second, of the hearings that did not proceed, 35% of them did not proceed because patients are being decertified after they have requested a hearing. This may or may not raise an access to justice issue. A decertification may show that treating physicians are being responsive to the needs of their patients. A decertification may also indicate an abuse of process. The Board would like to measure whether a patient is decertified and recertified in order to avoid a review panel hearing. The Board scheduling team reports that there is cause for concern but the Board was unable to publish reliable metrics. More work needs to be done on this issue.

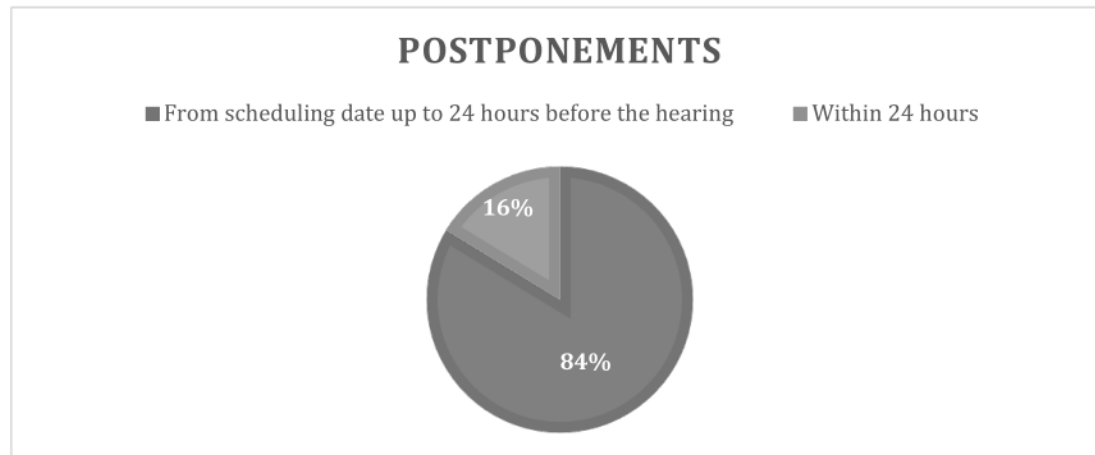
Third, of the hearings that did not proceed, 11% of them are cancelled or do not proceed for other reasons such as a patient not showing up to the hearing or being ineligible because they already had a hearing in their certification period. The Board has proactively addressed this access to justice issue by assessing eligibility requirements on a case-by-case basis and granting fresh hearings in the same certification period when it is fair and reasonable in the circumstances.

Why did hearings not proceed from November 2019 to March 2020?



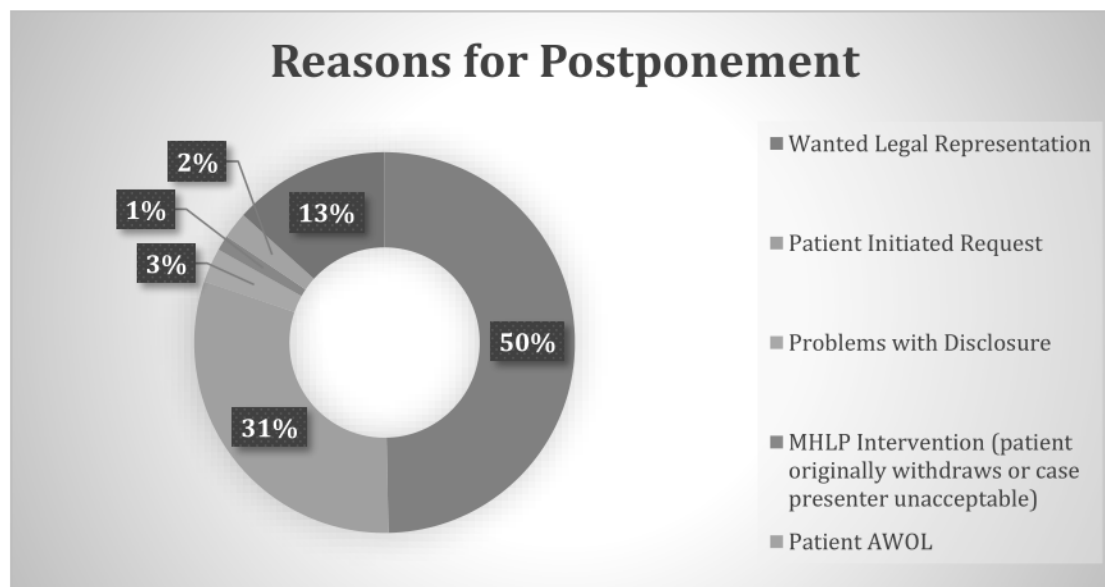
The information contained in this chart comes from the new case management system which is based on a sample size of five months. Of the hearings that did not proceed, 50% of them did not proceed because patients withdrew their applications or did not show up for their hearing. Of the hearings that did not proceed, 25% of them did not proceed because patients were decertified. Of the hearings that did not proceed, 25% of them did not proceed because the hearings were postponed or adjourned.

Postponements



84% of the hearings are postponed up to 24 hours prior to the hearing. 16% of hearings are postponed within 24 hours of the hearing. This has a cost impact on the Board because of cancellation fees.

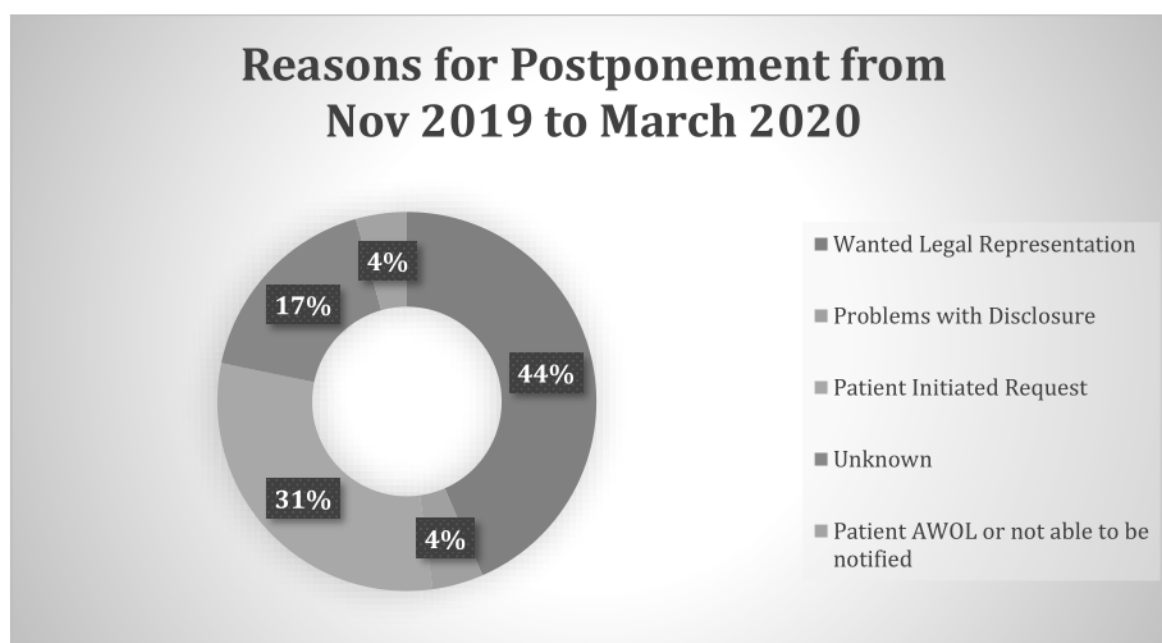
The Board asks for reasons to be given when there is a postponement of a hearing. Because we transitioned to a new case management system, we are providing you with two different sets of statistics. The first chart covers the whole fiscal year from April 1, 2019 to March 31, 2020 and is based on the applications received.



50% of patients postponed their hearings for legal representation. When a patient requests representation from a free legal advocate, but no legal advocate is available on the scheduled hearing date, the patient is faced with a decision. Do they postpone their hearing outside the legislated time frame or do they attend their hearing unrepresented? Of those self-represented patients who attended their hearing, some account

for the adjournments at the start of the hearing because they ask for a lawyer at the start of their hearing or the panel decides that they cannot proceed with the hearing unless the patient gets a legal advocate.

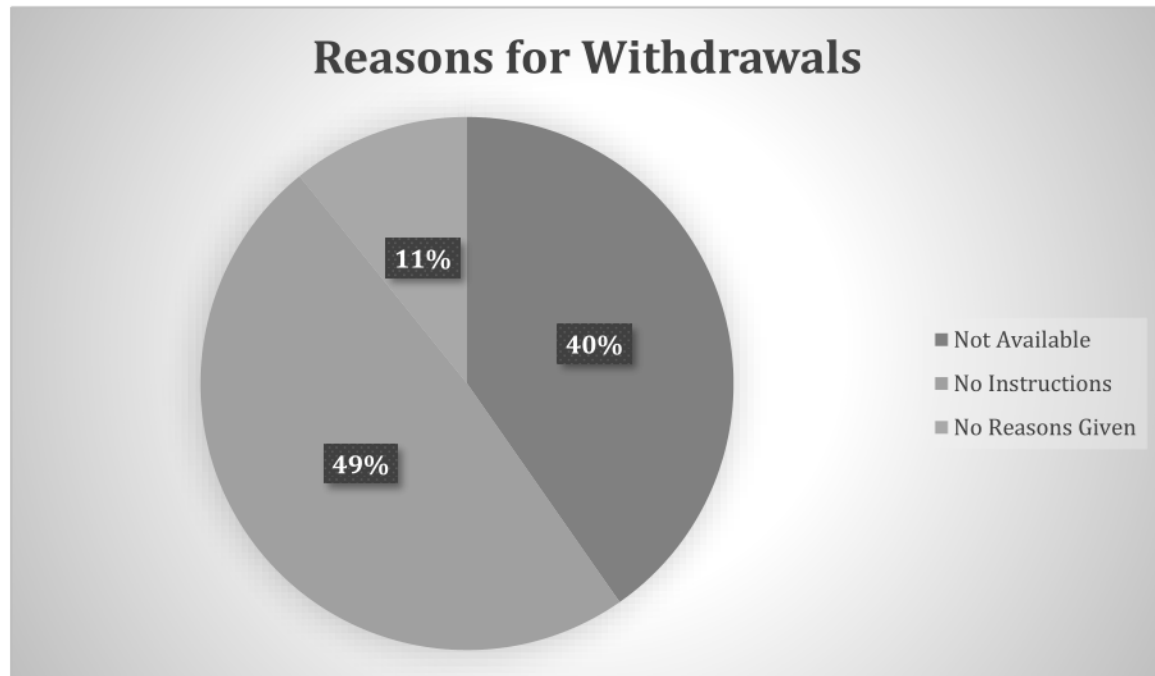
31% of patients postponed their hearings because they were no longer available that day, needed more time to prepare for the hearing, or gave no reason. 3% postponed because there were problems with disclosure. 2% of postponements are because the patient is unable to be found. 1% of postponements are because of an intervention from a legal advocate, such as where a patient originally withdrew but their advocate confirmed postponement. In one case, the legal advocate found the case presenter unacceptable. The remaining 13% postponed for unknown reasons.



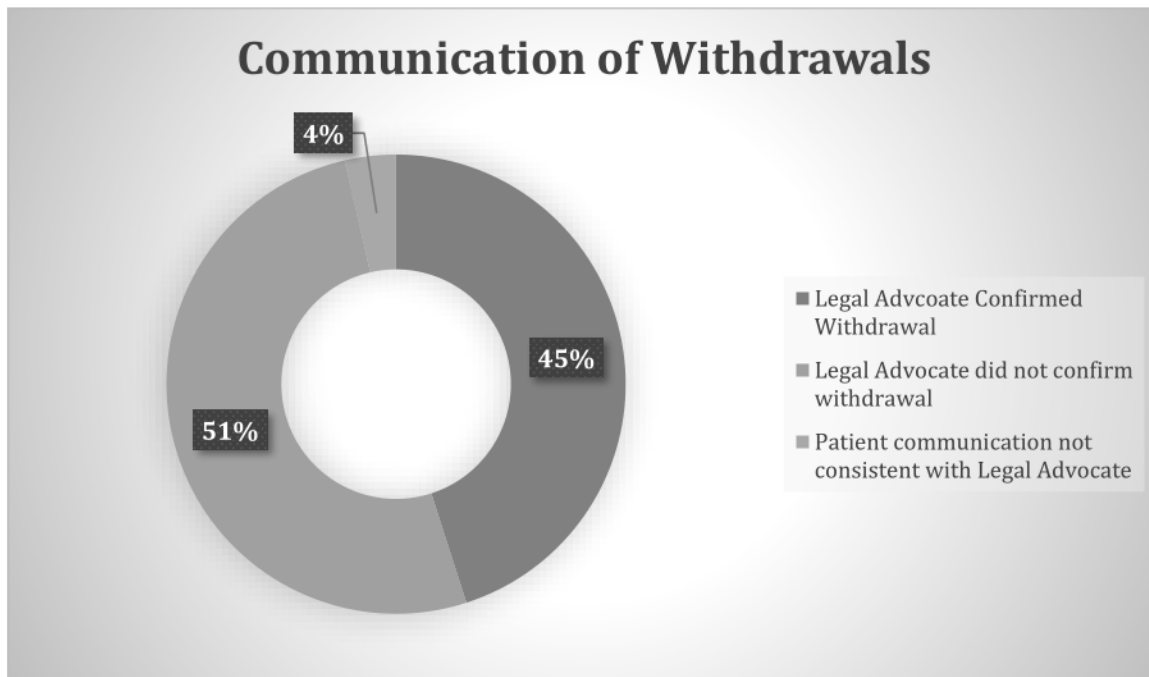
The information in this chart comes from the new case management system. The sample size is five months and based on the date of the hearing. No reasons were given in 17% of the cases. 44% of patients postponed their hearings for legal representation. 31% were patient initiated requests because they were unable to attend, needed more time, or did not give a reason. 4% were due to problems with disclosure. 4% were because the patient was unable to be found or not able to be notified.

Disclosure issues are impacting hearings. Postponements are being used as a remedy for disclosure issues. Legal advocates report that they are not able to offer effective representation without seeking a postponement. Although postponements are being used to remedy disclosure issues, the delay prejudices patients. This effectively deprives patients of the benefit of the mandatory scheduling timelines in sections 6(5) and (6) of the Mental Health Regulation. When a patient was represented by a legal advocate, it took an average of 19.6 days to reschedule the hearing.

Withdrawals



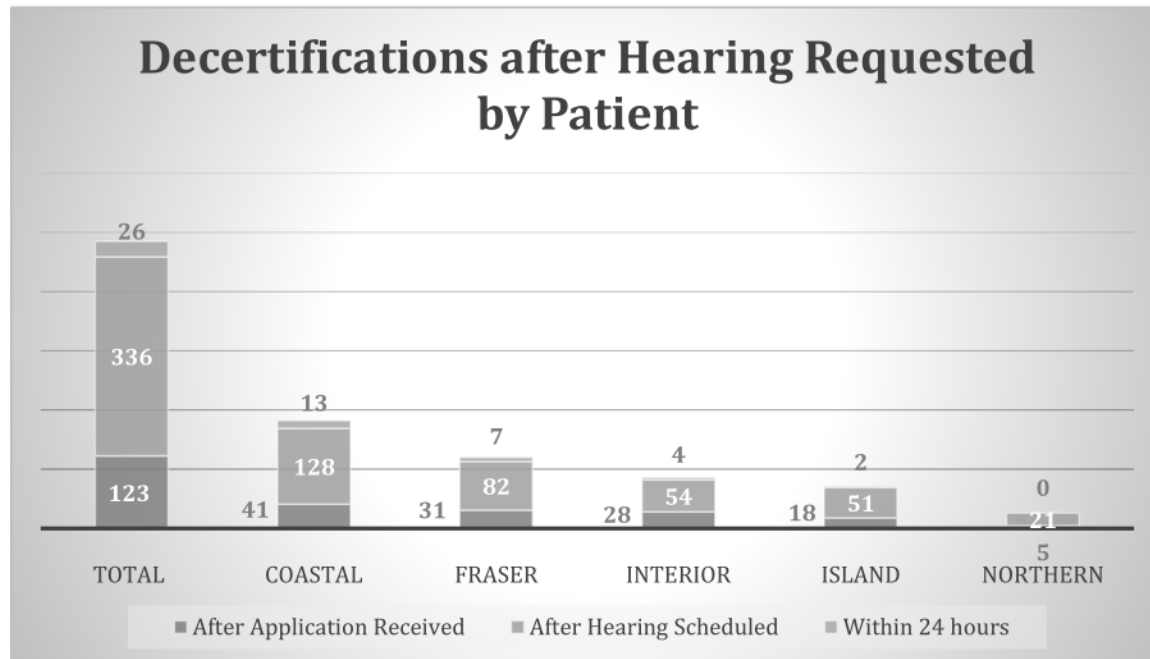
Legal advocates advise the Board by email if they come off record for a patient. Of those instances, 40% of the time, the legal advocate was not available and the patient chose to proceed without representation. 49% of the time, the legal advocate was not able to get instructions from the patient. 11% of the time no reasons were provided.



When the Board receives a signed withdrawal or verbal request for withdrawal by the patient, the Board provides legal advocates with an opportunity to confer with their client and confirm their intentions before closing a file. In 45% of the cases, legal advocates were able to confirm the patients' intentions and the file was closed. In 51% of the cases, legal advocates missed the Board's deadline for confirmation or did not respond.

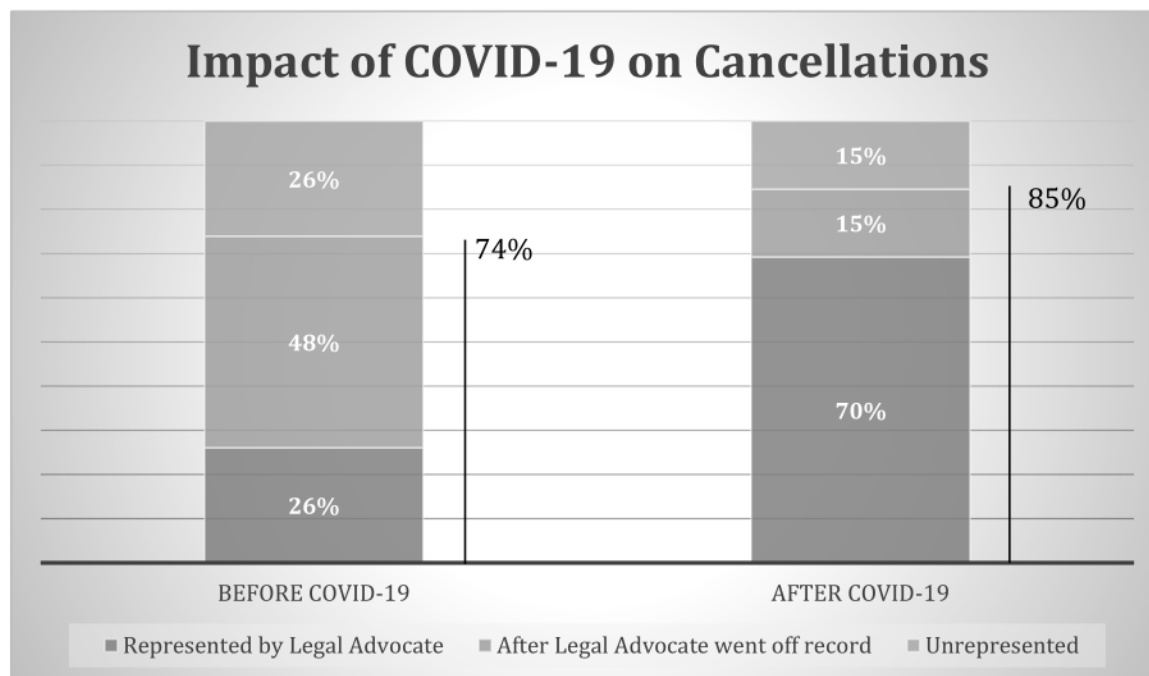
In 4% of the cases, the patient communicated information to the Board that was not consistent with their legal advocate. In those cases, the legal advocate confirmed that the patient does want to proceed or they want to postpone. One way of looking at this statistic is that this process is actually helpful 4% of the time. It gives legal advocates an opportunity to confer with their client to ensure that they are not being pressured to withdraw their requests for hearings.

Decertification



This metric is based on applications received in the 2019/2020 fiscal year. It shows the point in the process patients were decertified. Of those patients who were decertified, 25% were decertified before the Board was able to schedule a hearing and 75% were decertified after a hearing was scheduled. Of those patients who were decertified after the Board scheduled a hearing, 5% were decertified within 24 hours before the hearing.

Covid-19 Trends and Cancellations

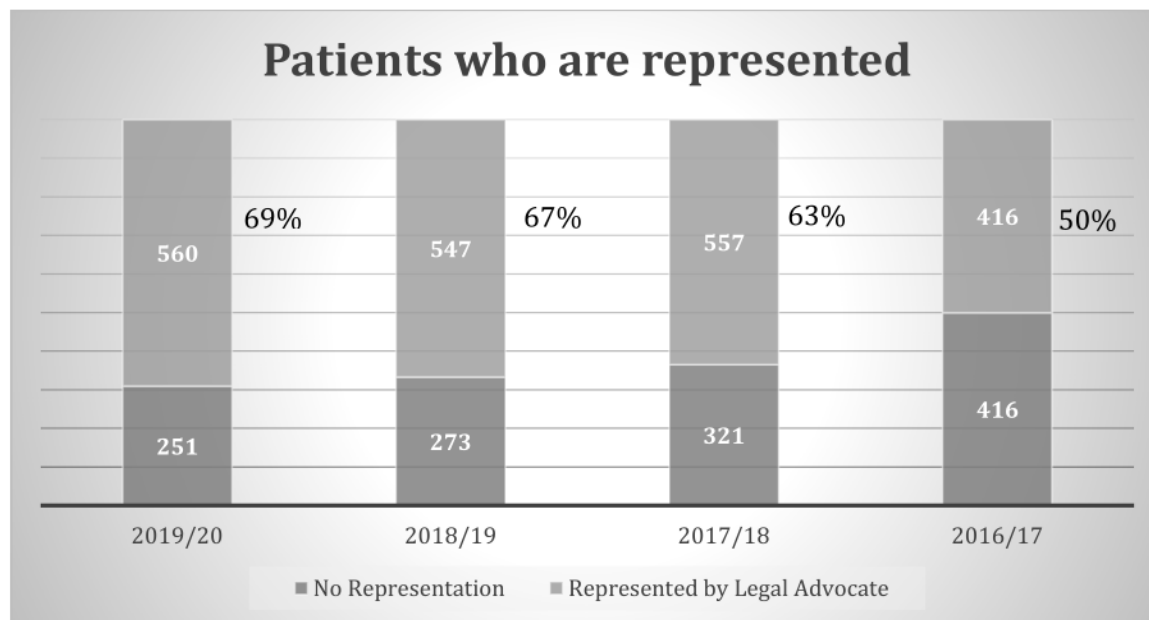


Sometimes, hearings do not proceed because a patient does not show up for their hearing. We refer to this as “patient no show cancellations”. Although the pandemic started just before the end of this fiscal, we want to see whether Covid-19 has had an impact on “patient no show cancellations”. Our ability to see trends is limited by a sample size of seven months that is unevenly distributed (we looked at what was happening 4.5 months before the start of Covid-19 and 2.5 months after the start of Covid-19).

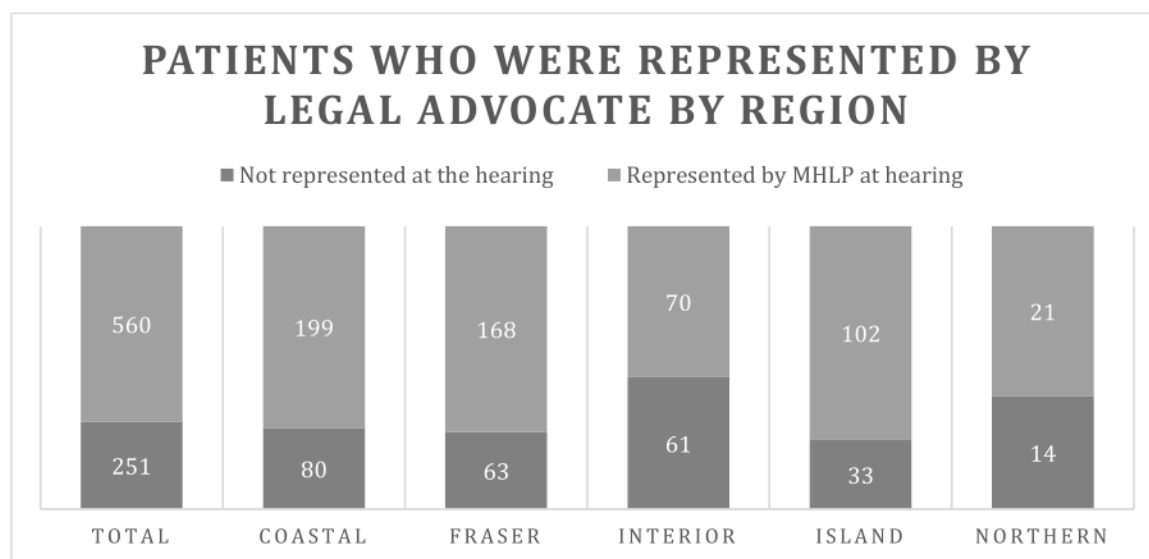
We are expecting an impact in user experience because we have only been able to conduct telephone hearings in response to Covid-19. We are moving to video hearings and will return to in-person hearings as soon as possible.

Covid-19 appears to be having an impact on the ability of legal advocates to represent patients. Of those patients who do not show up to their hearings, the vast majority have been represented by a legal advocate at some point. 74% of patients who did not show up to their hearings had been represented by a legal advocate at some point before Covid-19, and that number increases to 85% of patients after Covid-19. 48% of “no show cancellations” happened after legal advocates went off the record before Covid-19 compared to 15% after Covid-19. 70% of patients who did not show up to their hearings after Covid-19 were still represented by a legal advocate.

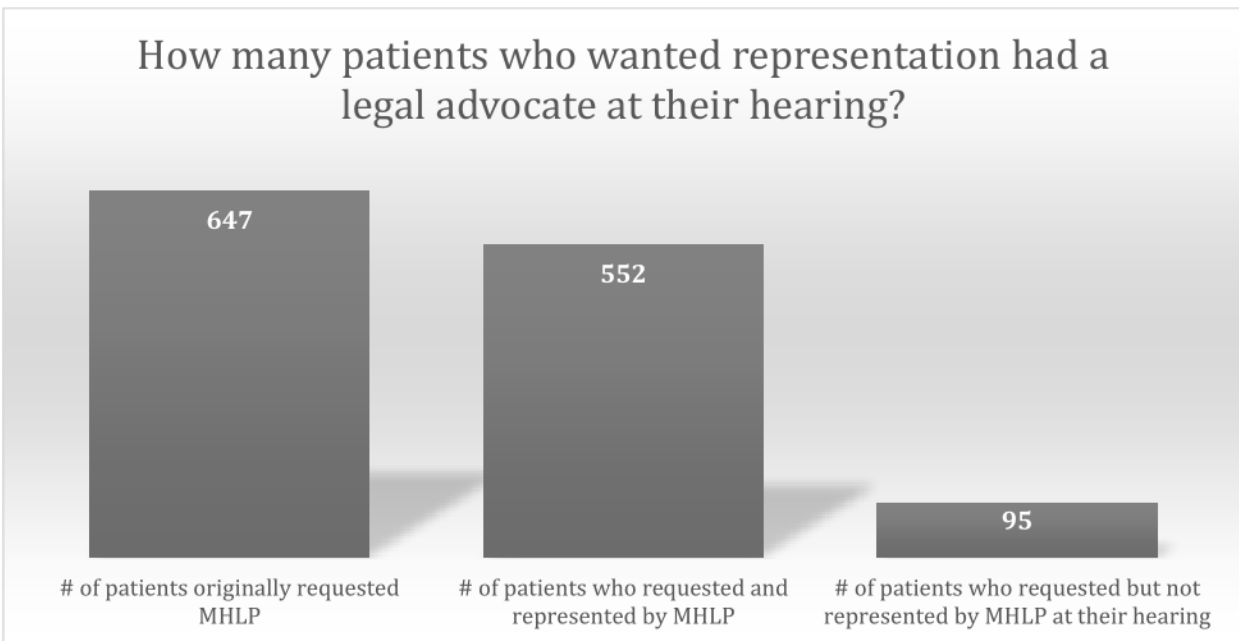
ACCESS TO LEGAL REPRESENTATION



This chart shows that a total of 69% of patients are represented by legal advocates at hearings. The trend is moving slowly in the right direction. Only 50% of the patients were represented at hearings four years ago.



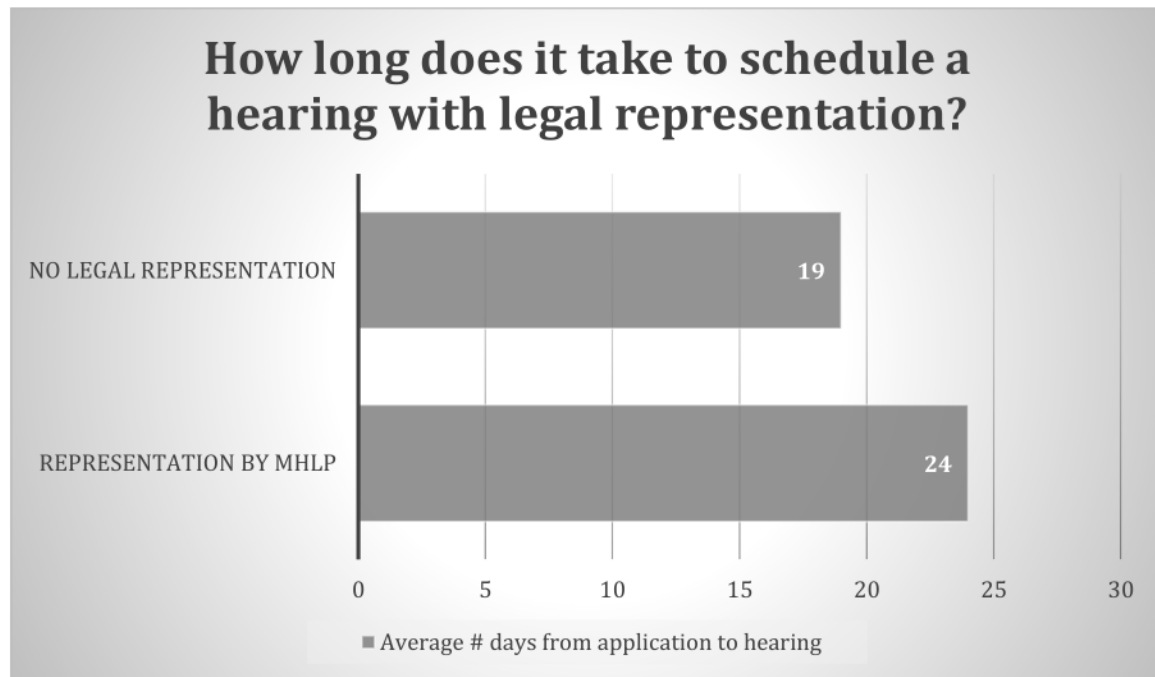
This chart shows the number of patients who were represented by a legal advocate at their hearings as a portion of the number of total applications that went to a hearing in each health authority across the province. 71% of patients were represented by a legal advocate at their hearing in Vancouver Coastal Health, 73% in Fraser Health, 53% in Interior, 76% in Vancouver Island, and 60% in Northern.



This chart includes only those patients who had a hearing which amounts to a subset of 647 patients. Of those patients who asked for legal representation and had a hearing, 85% of them were represented by a legal advocate at their hearing. 15% of them did not get the legal representation they asked for.

Please note that of all of the applications received, 1572 patients originally requested the support of free legal advocates through the Mental Health Law Program ("MHLP") on their applications. Most of those applications did not proceed to a hearing, and these patients may or may not have received some legal assistance along the way, depending on what point in the process their hearing was cancelled.

There were 13 additional patients who asked to be represented by MHLP after they applied for a hearing. This means that they originally did select the option on their application to be represented by MHLP but later asked for that representation. MHLP was able to represent 8 of those 13 patients at their hearings.



It takes longer to schedule a hearing when a patient is represented by a legal advocate than when a patient is unrepresented. This shows that the system is creating delays in scheduling timely reviews for represented patients. The Board would like to know why.

Improving User Experience

A responsive tribunal is one that listens to the people who use its services. We cannot design a user-centered justice system unless we know how our public experiences our process. Feedback from our public tells us what we are doing right and where we need to improve. It is also important to publish the feedback we get because we believe in being transparent about how our Board works.

We reached out to members of the community to survey how they are experiencing our process. These were the questions asked:

- 1) How does your client experience our hearings?
- 2) Do they feel empowered to participate in our process and are their voices heard?
- 3) What obstacles do your clients face in accessing our hearings?
- 4) What obstacles have your clients faced in receiving help from legal advocates?
- 5) How can we improve our process for your clients?
- 6) What challenges does your team face when navigating our process?

Patients on Extended Leave

Our first survey response is from an **"Assertive Community Treatment" team that serves a vulnerable population of patients who are, in some cases, homeless.** We have paraphrased some of their answers to protect their privacy:

General Feedback

- It is hard to connect our clients with their legal advocates. Some advocates are really flexible and provide us their cell numbers. Other advocates are a harder to connect with.
- For most of our clients, the hearing is not an empowering experience. They are listening to evidence that highlights times in which they have not been at their best. For those who are discharged from extended leave, it may empower them but often damages our relationship with them; this is even truer for those who are detained.
- Only a small percentage of our clients who ask for hearing are organized enough to follow up with their advocates. Our Assertive Community Treatment ("ACT") team spends a lot of time trying to connect our clients with their advocates. We leave reminders about the hearing, provide cab vouchers to get them to the hearing, and deal with the fallout when their advocates pull out of representing them because they have not been able to make contact. We go above and beyond trying to get our clients to hearings and to connect them with their advocates.
- Our ACT team does not have challenges navigating the process. The challenge is to get clients to the hearing and to connect them with their advocate. It would be useful to have some direction as to how much effort is expected from the ACT team to get clients to a hearing because we have to balance client's rights along with their level of wellness, organization, and motivation to attend or follow through.

Feedback about the Mandatory Extended Leave Review Process

- This process happens every 6 months and creates an influx of hearings. For example, one of our doctors had 5 hearings booked over a period of three weeks.
- Of the hearings that are booked, few of our clients are able to follow through with them. This is even with a great deal of support from our ACT team: numerous reminders and prompts, leaving taxi vouchers, calling to remind clients on the day of the hearing. We put a great deal of work into connecting clients with their advocates, and even still, this rarely happens as our clients do not generally have phones.
- We believe our clients have a hard time following through with these hearings because of the severity of their mental health issues: disorganization, paranoia, significant substance use.
- We review client's rights each time we renew their extended leave (and informally on a regular basis). The mandatory review process for our extended leave clients seems duplicative. Our clients have several opportunities in between renewal periods to request panels given how often they are being seen in the community.
- We take every opportunity to take clients off extended leave if it is not required. Where it is required, we believe it is for a good reason given the severity of their symptoms. We really do not want to see people become ill.

Patients in Hospitals

The Board also received feedback from a hospital about the experience of a youth in hospital. The patient participated in a hearing and chose to do so without a legal advocate. The patient's treating psychiatrist provided the following feedback about the panel review hearing:

- Due to COVID-19, the hearing proceeded by way of telephone which was quite challenging for the patient.
- The three adjudicators were on the phone. It was difficult for the patient to understand all of the information being presented on the phone and it was challenging for the adjudicators to respond to the patient's difficulties as they could not see the non-verbal communication. The patient often spoke softly or with gestures, which the adjudicators could not hear or see. The psychiatrist had to frequently assist the patient and the adjudicators to facilitate the conversation. The psychiatrist needed to intercede at one point to notify the adjudicators that the patient appeared to be struggling (based on the psychiatrist's interpretation of expression and body language) and offer a break which the patient accepted.
- The patient's parent was present during the hearing, as a witness, but also as a supporter by choice of the patient. The adjudicators were not able to see the interaction taking place between the patient and the parent.
- The patient found the whole process quite anxiety provoking. During deliberations, the patient chose to spend time alone in the hospital room.
- Once the patient was invited back into the meeting room for the adjudicator decision, the adjudicators shared that "all four criteria were met." The adjudicators did not provide further

explanation, i.e. that meant that the patient would remain a certified patient and have to stay in the hospital. Before the adjudicators ended the call, the psychiatrist quickly clarified what this meant, which they affirmed, and the call was abruptly ended. The patient was still not clear on what had been decided and the psychiatrist needed to explain it slowly and clearly after the call.

- A week later, the patient reapplied for a hearing, appearing disgruntled with the experience and repeatedly asked the psychiatrist questions. The patient kept saying they “needed to be prepared” and asking what was needed to “win” a hearing.

These surveys highlight areas where we believe we can do better in serving British Columbians at the Board. This is just the start of our commitment to engage in user experience surveys. We have so much more work to do.

Improving Costs

Cost per Hearing

The Board is accountable for all expenditures and wants to make sure that public resources are spent in the most responsible and cost-effective way.

The Board pays its members to conduct hearings. The Board also pays members when hearings are cancelled within 24 hours of the scheduled hearing or withdrawn or postponed within 24 hours of the scheduled hearing. We are trying to find ways to reduce the number of hearing cancellations.

The cost per hearing captures all of the expenses associated with adjudication. This includes paying members for their time at the hearing, any travel-related expenses, and the costs for interpreters. It also includes paying the treating physician who is referred to as a ("case presenter") to prepare for and attend the hearing. The Board should not be paying case presenter fees. This funding model must be changed because it undermines public confidence in the administrative justice sector. Tribunals must remain neutral and should not be paying the fees for "only one party" to a legal proceeding. The Board welcomes the support from government to preserve the neutrality and integrity of the administrative justice sector.

The hearing costs have increased slightly. We have seen a decline in travel costs as a result of our policy decision to stop members from flying and reduce members from travelling long distances to attend hearings. There are three reasons that we are seeing an increase in hearing costs. First, hearings are taking longer to complete which is a direct result of our efforts to improve fairness in our proceedings. Our adjudicators are reporting document disclosure disputes, late attendance of parties, and inadequate preparation from legal advocates as reasons for adjournments at the start of hearings which is causing them to last longer. Second, the number of late cancellations has a direct impact on the costs of hearings. Third, the case presenter and medical members have received annual increases in their fees.

Fiscal Year	Hearings Proceeded	Adjudication Cost	Cost Per Hearing
2019/20	811	\$1,668,763	\$2,057
2018/19	820	\$1,563,657	\$1,846
2017/18	878	\$1,642,653	\$1,866
2016/17	832	\$1,662,423	\$2,027

Adjudication Coast	2016/17	2017/18	2018/19	2019/20
Member Fees	1,226,616	1,174,380	1,113,031	1,200,973
Case Presenter Fees	290,358	377,458	364,407	384,556
Members Travel	139,683	90,152	81,809	82,080
Interpreters	5,766	663	4,410	1,154
Total	1,662,423	1,642,653	1,563,657	1,668,763

Cost per Application

The cost per application includes all areas of expenditures from the moment we receive an application to post hearing administration and record retention. The cost per application stabilized this past year but still remains higher than in the two preceding years. This trend flows from the Board's restructuring efforts to improve access to justice and fairness. There were expenses associated with member training, a new website, the office relocation, and a new case management system.

Fiscal Year	Total Applications	Total Cost	Cost Per Application
2019/20	2,188	\$2,516,128	\$1,149
2018/19	2,092	\$2,420,841	\$1,157
2017/18	2,155	\$2,021,567	\$938
2016/17	2,277	\$2,087,398	\$917

Financial Disclosure

OPERATING COSTS			
DESCRIPTION	EXPENDITURES	DELEGATED BUDGET	VARIANCE
Salaries	593,813	585,000	(7,812)
Employee Benefits	150,769	148,000	(2,769)
Hearing Costs	1,668,763	1,555,000	(119,462)
Members Fees	1,200,973		
Case Presenter Fees	384,556		
Travel Costs	82,080		
Interpreters	1,154		
Travel			
Deputy Registrar and Legal Member	5,699	5,000	(699)
Professional Services	21,540	30,000	8,460
Information Services	70,016	19,000	(51,016)
Office and Business Expenses	5,530	10,000	4,470
Other Expenses	0	0	0
TOTAL COST	2,516,128	2,348,000	(168,128)

The deficit is fully reflected in two areas:

Hearing costs – The Board historically expends 1.6 million in this area. The costs associated with hearings vary according to the number of applications received and the number of hearings conducted.

Information Systems – This is a new expense that is directly related to the development and operating costs associated with the new case management system.

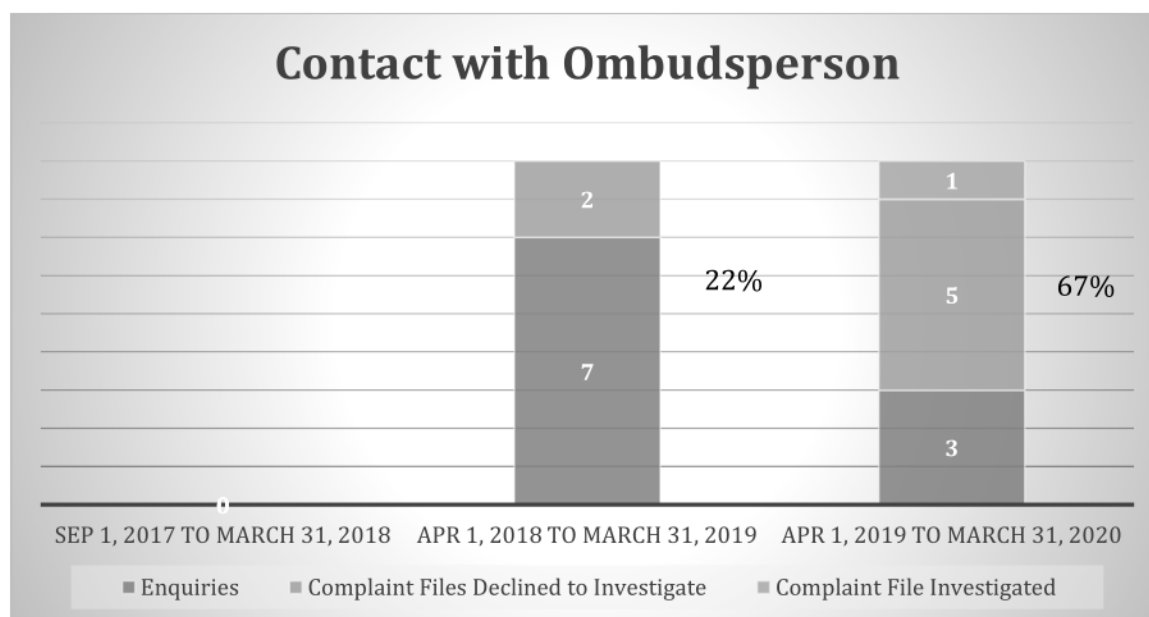
Accountability

The Board strives to be as open and accountable as possible.

COMPLAINTS TO THE BOARD CHAIR

The Board has a new internal complaints and investigation process. The Board Chair receives, on average, a dozen complaints a month by participants in the hearing process. Some complaints are from advocates who are complaining about facilities not complying with disclosure. Other complaints are from facilities complaining about advocates not picking up disclosure or meeting with clients in a timely manner. Some complaints are about panel members. Some complaints are by patients that they did not receive a fair hearing. The Board chair investigates all complaints, and for those complaints made by patients, grants the patient a new hearing when it is fair and reasonable in the circumstances.

COMPLAINTS FROM THE OFFICE OF THE OMBUDSPERSON



More complaints are being filed about the Board with the Office of the Ombudsperson. This past year, one complaint resulted in an investigation which raised administrative fairness issues. By way of remedy, the Board Chair agreed to add content to Information Sheets sent to patients and improve hearing procedures to accommodate what information patients can submit as evidence. The Board Chair required the member who was the subject of the complaint to attend procedural fairness training and incorporated these lessons into a training program for all Board members.

OPERATING IN DARKNESS REPORT

On November 29, 2017, the Community Legal Assistance Society issued a report titled “Operating in Darkness: BC’s Mental Health Act Detention System” which raises serious access to justice issues for those detained under the *Mental Health Act*. The report made a number of recommendations to the Board. Over the past three years, our Board has taken the following steps to implement these recommendations.

Recommendation	Actions Taken
Create a rule that patients have the right to wear clothes during review panel hearings.	Completely addressed ✓ The Board created Rule 23(2): A patient may wear attire of the patient’s choosing during a hearing. Facilities must not prevent patients from wearing attire of their choosing at a hearing unless they can demonstrate that there is a health and safety risk or that it is not possible in the circumstances.
Eliminate former Rule 7.1 that precludes detainees who have cancelled a hearing from requesting a hearing until the next certification period.	Completely addressed ✓ The Board eliminated this preclusion and instead permits patients to request another hearing within the same certification period despite a previous cancellation pursuant to Rule 12(3).
Address the process and timelines for rescheduling postponed hearings.	Partially addressed — The Board has committed to firm timelines for rescheduling postponed hearings in Rule 21(3) to ensure that patients have access to timely hearings following postponement. However, this is not happening in practice. More needs to be done in the area of compliance. Consider stopping the practice of a using a consensus model for scheduling hearings.
Address the process for implementing <i>Mental Health Act</i> , s. 25(1.1).	Partially addressed — The Board has created Rule 13, which establishes a patient notification process and a requirement for facilities to submit a case note when a s. 25(1.1) hearing is scheduled. The Board issued a new Practice Direction – Mandatory Review Process and updated the Extended Leave Review Panel Hearing Directive. However, a number of questions and issues remain about the Board’s process surrounding s. 25(1.1) reviews for extended leave patients. For example, should the Board continue to provide patients with the option of waiving their right for a mandatory file review?
Establish timelines for detaining facilities and mental health teams to conduct prehearing disclosure.	Partially addressed — The Board has established timelines and a process for facilities and mental health teams to conduct prehearing disclosure in Part 4 of the rules. The MHRB has also produced a Practice Direction to provide disclosure guidance to facilities. These are significant and positive steps to establish a reasonable timeline for disclosure to take place. However, there is an issue with compliance on both sides. Some facilities are not disclosing or disclosing late. Some advocates are not picking up disclosure or reviewing it in a timely manner. There is also an issue around consistency among Board members in how the Board should handle breaches of disclosure. The Practice Direction on Disclosure expressly allows for discretion among Board members on dealing with breaches of disclosure. This is a training issue.

<p>Ensure that panel members grant patients a reasonable recess to review evidence presented by detaining facilities that did not form part of the pre-hearing disclosure.</p>	<p>Completely addressed ✓</p> <p>The Board has established Rule 17, which requires that panels must give detainees a reasonable recess to review evidence that was not disclosed in advance of the hearing.</p>
<p>Amend the Rules of Practice and Procedure or produce policies or guidelines to address bias and the apprehension of bias among review panel members.</p>	<p>Completely addressed ✓</p> <p>The Board created a Code of Conduct and clear standards. The Chair holds members accountable to these standards through a complaints process and performance reviews. When a bias or conflict of interest issue is raised at the hearing, the panel will address it as a preliminary matter. The Hearing Handbook provides the following guidance to members on process and the threshold for establishing bias:</p> <ol style="list-style-type: none"> 1. When an allegation of bias is made against a panel member, hear submissions from both parties before making a ruling 2. Mere suspicion of bias is not sufficient to establish bias, a real likelihood or probability of bias must be demonstrated. There must be some evidence to demonstrate the member would not decide fairly, impartially and with an open mind. 3. Contact the Board office if additional information or guidance is required. The Board office has information about a patient's history of applications and hearings, including past panel assignments. 4. If the panel rules that the panel member is not biased and denies a recusal application, the hearing continues. 5. If the panel rules that a panel member is biased, it is without quorum and the hearing must be postponed.
<p>Stop the practice of funding detaining facilities to prepare and present expert evidence and participate in review panels or start providing equivalent funding to detainees.</p>	<p>No Actions Taken ✗</p> <p>The Board agrees that this practice should stop. We have raised this issue multiple times over the past three years. No action has been taken by government. We understand that unless the case presenter is on salary with a Health Authority or paid via pre-approved sessional funding, presently, there is no other vehicle to reimburse the presenter for their time. We propose establishing an MSP billing code for physicians who are case presenters. This is consistent with best practices across the administrative justice sector in other provinces such as Alberta and Ontario.</p>
<p>Improve initial training and ongoing professional development for review panel members.</p>	<p>Partially addressed —</p> <p>On November 6, 2018, the Board held the first mandatory one-day training session for members on procedural fairness. The session was presented by representatives of the <i>Office of the Ombudsperson, Prevention Initiatives</i>. All members were required to participate.</p> <p>In October 2018, the Board created a hearing handbook for members that was updated in January 2020 and is intended as a procedural fairness roadmap to navigate any issues that arise in the hearing process. The Board has also</p>

	<p>updated our member training manuals to reflect the updated <i>Rules of Practice and Procedure</i>.</p> <p>We also created a new orientation program for members. The orientation package including the training manual, hearing handbook and other relevant materials such as a decision template and a decision criteria worksheet. New members are required to observe two hearings as part of their training.</p> <p>The Board has recently created four new training videos. The Board needs to start peer-based learning and mentoring initiatives. The Board needs to identify and offer ongoing training per year in a webinar format that is easily accessible to Board members and keeps costs down.</p>
Establish clear hearing procedures in which parties are permitted a full opportunity to present their case.	<p>Completely addressed ✓</p> <p>The new Rules of Practice and Procedure address several components of hearing procedures to ensure that parties are permitted a full opportunity to present their case. For example, the Board established Rule 24(4), which requires the panel to give parties an opportunity to call witnesses, cross-examine the witnesses of opposing parties, introduce evidence, and make submissions. These hearing procedures are set out in the Hearing Handbook.</p>
Address the issue of observers and support people attending review panel hearings.	<p>Partially addressed —</p> <p>The Board has established Rule 23(10), which permits observers to attend the hearing with prior approval of the Board or with approval of the panel at the commencement of the hearing. Need to do more around consistency in application and enforcement.</p>
Establish parameters for detaining facilities to ensure that hearings take place in appropriate physical locations.	<p>Completely addressed ✓</p> <p>The Board has established Rule 20(4), which requires facilities to provide a physical space that is private, adequate in size to accommodate all panel members and participants, and appropriate for the proper conduct of the hearing. Guidance is also provided to Board members on how to address non-compliance.</p>
Address consistent interpretation of the legal criteria for detention.	<p>Partially addressed —</p> <p>This has been addressed through a new decision template, decision criteria worksheet, training manual, hearing handbook, and new training videos. More work needs to be done.</p>
Develop a consistent and transparent policy regarding the internal process for reviewing the draft reasons of review panel members	<p>Partially addressed —</p> <p>The Board follows the decision review process that is set out in the Court of Appeal decision in <u>Shuttleworth v. Ontario</u>. The Board has established a complaints process to address any issues that arise with non-compliance.</p>
Publish anonymized review panel	<p>Partially addressed —</p> <p>The Board has collected anonymized decisions. They will be published on the</p>

decisions.	website before the end of the year.
Provide information to patients regarding their options for challenging review panel decisions when delivering written reasons for the decision.	Completely addressed ✓ The Board provides patients with a new one page hand out with information on Appeal, Review, and Complaint Procedures along with written reasons for the review panel decision. This handout has been recently updated to address administrative fairness issues raised by the Office of the Ombudsperson.
Comply with the legal obligation to produce an annual report.	Completely addressed ✓ As required by the <i>Administrative Tribunals Act</i> , the Board produced a 2017/18 Annual Report, the first in many years. The new case management system established this year will enable better collection and reporting of statistics
Produce rules, policies, guidelines, or practice directions to address inconsistencies in procedures and the substantive application of the <i>Mental Health Act</i>.	Partially addressed — Progress is set out in this annual report. More work needs to be done.

Call for Reform

It is clear that things need to change. Many of the *indicia* of access to justice appear to have shown no improvements. Some of them appear to be trending in the wrong direction. Despite the fact that the number of involuntary admissions has been steadily increasing for more than a decade¹, this annual report appears to show:

- More patients should be applying for hearings based on the number of involuntary admissions
- Patients requesting hearings are not always getting them
- Patients requesting advocates are not getting legal representation
- Disclosure problems are resulting in hearing delays and lengthier hearings
- Parties are challenged and frustrated by the process
- Money is being wasted on hearings that do not proceed

These are systemic issues that undermine the ability of patients to receive fair, timely, and independent reviews of their loss of liberty. At its core, is the Mental Health Act.

The Ombudsperson of British Columbia issued a report on March 7, 2019 entitled “Committed to Change: Protecting the Rights of Involuntary Patients under the Mental Health Act”. The report makes 24 recommendations, all of which have been accepted in principle by government and health authorities and focus on three key areas:

- Increasing oversight and accountability by conducting regular compliance audits, setting 100 percent compliance targets and increasing public reporting about involuntary admissions.
- Training staff and physicians regarding the necessity of form completion and the codification of standards for compliance with the Mental Health Act.
- Third and most importantly, the Ministry of Attorney General has committed in principle to develop an independent rights advisor service that would work in designated facilities in the province and provide advice to patients about the circumstances of their detention and their options if they disagree with the detention or a related decision.

Provinces that already have a legislated rights advisor include Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia, New Brunswick and Newfoundland and Labrador.²

In February 2017, Canadian Bar Association BC Branch issued a report entitled “Agenda for Justice” calling for a series of legislative reforms, aimed at improving the justice system, including changes to the Mental Health Act. In November 2017, the Community Legal Assistance Society issued its report “Operating in Darkness: BC’s Mental Health Act Detention System” raising serious access to justice issues for those

¹ Ombudsperson’s Special Report No. 41, *Committed to Change: Protecting the Rights of Involuntary Patients under the Mental Health Act*, March 2019 (“Ombudsperson’s Special Report”), p. 15

² Ombudsperson’s Special Report, p. 84, footnote 158.

detained under the Mental Health Act. I report elsewhere on our Board's progress in implementing the recommendations in this report.

Notwithstanding the improvements that our Board has made, it does not go far enough. More substantive and systemic reforms are needed to ensure that the system meets the needs of the people it was intended to serve. In British Columbia, the mental health system appears to be interacting with people with mental health problems in an adversarial way by removing their rights rather than in a voluntary way that promotes autonomy and collaboration in the recovery process. We need to ask why and take a hard look at what is going on. I support a public and independent inquiry into the Mental Health Act to address the following issues:

1. Analysis and recommendations related to the Mental Health Act in light of the human rights focus of international instruments like the UN Convention on the Rights of Persons with Disabilities, the UN Convention on the Rights of the Child, and the UN Declaration on the Rights of Indigenous Peoples.
2. The role of including principles and rights into the Mental Health Act, including principles focused on protections to avoid discriminatory application of the Act.
3. Consideration of how the current statute disenables or enables increasing rates of detention.
4. Analysis and recommendations related to any racial disparities in the use of the Act (i.e. does the application of the Act lead to disproportionate rates of detention among racialized minorities or Indigenous Peoples?).
5. Consideration of how the statute and regulations can be more responsive to trauma-informed practice and cultural safety.
6. Assessing whether the Act aligns with the latest evidence and best practice in applying models of assessment of capacity, consent, and decision-making.
7. Determining if the current definition of a "mental disorder" and the balance of the Act are fit for purpose in relation to substance use disorder and the ongoing public health crisis related to opioid poisonings.
8. Analysis of how the provisioning of independent rights advice could improve outcomes when people are subjected to the Act.
9. Exploration of how components of the legislation could be used to significantly reduce the number of detentions under the Act and improve monitoring and the availability of data related to the application of the legislation.
10. Identify interfaces with other relevant statutes in BC and identify opportunities for harmonization and avoidance of sequential application of legislation in the detention of individuals.
11. In light of the Province's review of the Police Act, critically examine the role of police and the use of police vehicles in apprehending and conveying people to a designated facility.
12. Consider how to strengthen existing and add new safeguards to enable patients to challenge detention and to protect from arbitrary treatment.

13. Methods through which the diversity and representation on the Mental Health Review Board could be increased and include the perspectives of people with lived experience of mental health and substance use problems.
14. Exploration of how to statutorily improve care planning and aftercare, especially in the context of suicide prevention.
15. A systemic evaluation of the efficacy of extended leave

A number of jurisdictions have completed timely and independent reviews of their existing mental health laws. There is an active review underway in [Scotland](#) and a recently completed review in [England](#). [New Zealand](#) has also recently commissioned a government inquiry into mental health and addiction. It is time for British Columbia to do the same. The more we learn, the better we can act in the interest of all British Columbians.

Our Team

BOARD MEMBERS

Board members are independent decision-makers. They hold a variety of professional backgrounds. They are lawyers, doctors, psychologists, social workers, and counsellors with expertise in mental health. Our members and staff work together closely to ensure that timely, fair and professional services are delivered.

The Board currently has a complement of 92 members, including the Chair, who are all appointed in accordance with the [*Mental Health Act*](#) and the [*Administrative Tribunals Act*](#). Our Board promotes diversity and inclusion in its membership and is leading the province's Access to Justice initiatives. The biographies of the members can be found on the [Crown Agencies and Board Resourcing Office](#) website.

PROFESSIONAL STAFF

Our staff are an integral part of our professional team and organization:

Manager of Finance and Operations

Andrea Nash

Board Staff

Johanna Barbosa (part-time)

Karly Betsworth

Shannon Drummond (partial year)

YJ Lin (partial year)

Jacqueline Nash

Charlotte Richardson (return from maternity and parental leave)

Laura Weninger

ORGANIZATION CHART





British Columbia Human Rights Tribunal

ANNUAL REPORT

2019/2020

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Message from the Chair

I am pleased to present the Annual Report of the British Columbia Human Rights Tribunal for the fiscal year April 1, 2019 to March 31, 2020 submitted under s. 59.2 of the *Administrative Tribunals Act* and s. 39.1 of the *Human Rights Code*.

Our Tribunal was created to resolve human rights complaints through fair, effective, timely, and accessible services. Since my appointment as Chair, access to justice has been our top priority. Our focus is to improve the accessibility and quality of our services so they work for those who need them most. This is the only way we can fulfil our mandate under s. 3 of the Code:

- a) To foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia;
- b) To promote a climate of understanding and mutual respect where all are equal in dignity and rights;
- c) To prevent discrimination prohibited by this Code;
- d) To identify and eliminate persistent patterns of inequality associated with discrimination prohibited by this Code;
- e) To provide a means of redress for those persons who are discriminated against contrary to this Code.

We are working hard to offer a simpler, safer, and more accessible process that embraces the spirit of the Access to Justice Triple Aim. Our Tribunal is grounded in these foundational values:

- Fairness and Accessibility
- Service Excellence
- Public Accountability
- Access to Justice Innovation

Real change is not easy, but the work has already begun. I express my heartfelt thanks to our Tribunal team. You are resolving higher case volumes with fewer resources, and even stretching those resources to support our administrative justice and human rights communities. You are sharing office space, adapting to a mobile workplace, and onboarding a new case management system in the middle of a pandemic. Throughout, you continue to serve our public with integrity and compassion. This is reflected in the daily gestures that show you care. It is with immense gratitude that I stand here, together with you, to steward our Tribunal forward.



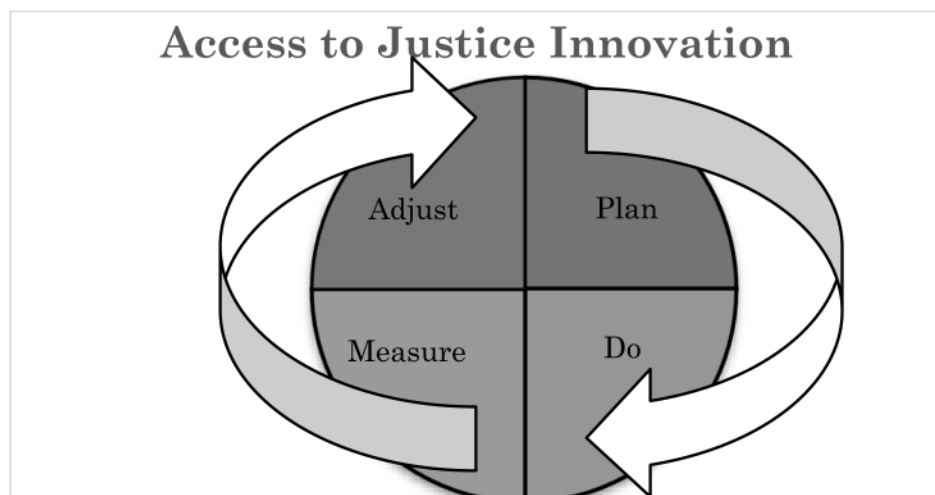
Diana Juricevic
Chair
September 14, 2020

Improving Access to Justice

We are taking steps to implement the Access to Justice Triple Aim. This means improving population access to our Tribunal, improving the experience of those who use our services, and improving how we spend the money we have been entrusted to spend by the public.



This report shows what we are doing and what we can do better. To begin with, we need to do a better job of collecting and publishing metrics. A concept like Access to Justice is hard to measure in practice. We need to use practical indicators. This is why we are following the Access to Justice Triple Aim framework that is being supported and followed in British Columbia. All of our efforts are moving through a continuous improvement cycle:



We held four user-experience feedback sessions with self-represented parties who had completed different human rights complaints processes to give each of them an opportunity to share their experiences at our Tribunal. We are in the middle of onboarding a new case management system that will help us next year measure more of what we are doing and what can be done better.

OFFICE OF HUMAN RIGHTS COMMISSIONER

Kasari Govender took office as British Columbia's first independent Human Rights Commissioner on Sept. 3, 2019. Her role is to lead the promotion and protection of human rights in the province through BC's Office of the Human Rights Commissioner ("BCOHRC"), which has a broad mandate and is independent from government.

Together, our organizations have established a strong, principled, sustainable partnership grounded in our shared commitment to improve access to justice within the human rights system. We support efforts to promote transparency, accountability and the independence of both bodies. We are providing BCOHRC with access to information about our human rights dispute resolution process to ensure we are held accountable to the highest standards. Over the past year, we have collaborated and transitioned with BCOHRC by:

- Preparing transfer of special programs from the Tribunal to the BCOHRC under s. 42 of the Code through meetings with the Deputy Commissioner and Executive Director of Research and Policy regarding the scope, procedure and process for adjudication and administration of special program applications. Providing sample templates and a summary of procedures for adjudicating applications and providing ongoing support.
- Supporting the BCOHRC with hiring by adjudicating two applications for special programs on very short notice prior to the transfer.
- Providing the BCOHRC with a Tribunal Inquiry Officer under a temporary assignment.
- Working together to create temporary and permanent information sharing agreements to enable BCOHRC's access to Tribunal records under s. 47.13 of the Code.
- Working together to ensure BCOHRC has practical access to the Tribunal's new document management system under 47.13 of the Code so they can build their own reports. This involved forming a committee with the BCOHRC to shape requirements for the Tribunal's new case management system, participant portal and online intake forms.
- Working together with other human rights institutions in British Columbia to establish a "no wrong door" unified response to citizen inquiries on human rights issues.
- Including BCOHRC in the Expanding our Vision Committee that is tasked to create a plan to implement the recommendations set out in the report authored by Ardith Walpetko We'dalx Walkem, QC, entitled *Expanding Our Vision: Cultural Equality & Indigenous Peoples' Human Rights*, to remedy the underrepresentation of Indigenous complainants accessing the Tribunal.
- Collaborating to advance legislative amendments to the Code.
- Establishing bi-monthly meetings between the Commissioner and Tribunal Chair to support strong institutional and independent ties.

EXPANDING OUR VISION

A responsive tribunal is one that listens to the people who use its services. We cannot design a user-centered justice system unless we know how our public experiences our process. Feedback from our public tells us what we are doing right and where we need to improve. It is important to publish the feedback we get because we believe in being transparent about how our Tribunal works.

On January 15, 2020, our Tribunal released a report addressing serious access to justice concerns for Indigenous Peoples bringing human rights complaints in British Columbia. The report, entitled *Expanding Our Vision: Cultural Equality & Indigenous Peoples' Human Rights*, makes far-reaching recommendations that could transform human rights in this province.

Report author Ardith Walpetko We'dalx Walkem QC surveyed over 100 Indigenous Peoples about their experiences with discrimination and the Tribunal. Overwhelmingly those surveyed reported pervasive levels of discrimination. Many had no idea that the Tribunal existed, or how to access it. Many said that their experiences of racism as Indigenous Peoples were so widespread that they did not believe it would make any difference to file a complaint with the Tribunal.

Survey participants identified “institutional racism” within the Tribunal which is preventing their complaints to pass through screening. Of the 25 surveyed that had tried to file a complaint, 36% did not continue because the process was too confusing, 28% said their claims did not go through due to lack of evidence, 20% did not go ahead because the Tribunal determined there was no discrimination, 20% said their claim failed on other grounds such as time limits. This sentiment was expressed by many: “[The Tribunal is a] waste of time and in my experience goes nowhere”.

Survey participants described the Tribunal’s gatekeeping function as operating to exclude Indigenous complainants. They described discrimination based on race as insidious and rarely clearly stated. Finding language to identify and “prove it” to the degree required for a complaint to proceed may become an impossible task. Survey participants reported that many Indigenous complainants are rejected at the preliminary screening stage, reflecting a difficulty framing their complaint rather than because they did not experience discrimination. One survey participant reported: “The system and questions all seem to be geared towards providing evidence, when most of these situations I experience are more subtle. How can you provide that? Even though it happens all the time and there’s a pattern, it’s on a societal level involving individual experiences”.

Survey participants cited the time limit for bringing complaints as an issue. In some cases, they reported experiencing intergenerational trauma which prevented them from filing on time. The language and process required to tie acts of discrimination to a prohibited ground requires expertise. It is not enough to allege what happened was discrimination. Survey participants with legitimate complaints often say “forget it” because they experience a system that is structured to weed out complaints, not hear them. Strict adherence to the technicality of the Tribunal process may defeat the spirit of the Code. The Tribunal’s screening process can become another procedural barrier to access to justice. The determination of what is a valid complaint, or what information is enough to ground a complaint, can reflect unacknowledged biases.

Survey participants raise a concern that Indigenous complainants need legal representation to file and forward their human rights complaints. Lack of legal representation, especially Indigenous lawyers, was identified as a significant access to justice issue in the report. Culturally knowledgeable and appropriate legal help is required for Indigenous complainants. Lack of adequate legal representation is a barrier to access.

Even with legal representation, survey participants described the application process as too technical and difficult. One lawyer described a process where they had filed a complaint on behalf of a client, which was initially rejected, and amending the complaint took eight hours of pro bono time from a trained lawyer. Another lawyer described spending a significant amount of time filing a complaint, only to have it rejected at the screening stage. That lawyer was unable to donate more time to pursue the complaint.

Another concern raised was the Tribunal operating on a settlement model. The report raises the concern that Indigenous complainants may be at increased disadvantage in settlement discussions, especially those that occur outside of Indigenous traditions. The report highlights research that suggests that parties who identify as racialized minorities both pay more and settle for less in alternative dispute resolution processes.

What this means is that high settlement rates do not necessarily further the purposes of s. 3 of the Code. The report recommends including Indigenous dispute resolution models, mediators, and peacemakers in Tribunal mediation or settlement discussions. The report also recommends that the Tribunal track and report upon instances where Indigenous Peoples settle complaints and interview them after several months about their reasons for settling and their satisfaction with the resolution.

The report also recommends holding hearings in spaces that are culturally safe for Indigenous complainants, asking participants what culturally appropriate practices they would like to include in hearings, asking if there are cultural supports that are needed during the hearing process, and asking participants if there are any Indigenous protocols for how information or evidence may be offered or shared that they would like to incorporate into the hearing process.

The *Expanding our Vision* report makes 18 recommendations which are summarized below:

1.0 Guiding Recommendations

- 1.1. Broaden the concept of human rights to incorporate international human rights principles as reflected in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Indigenous legal traditions, in the Code and Tribunal operations and practice.
- 1.2. Advocate to add Indigenous identity as a protected ground to the Code.
- 1.3. Increase the number of Indigenous Peoples at all levels of the Tribunal
- 1.4. Create education materials and training:
 - a) For Indigenous Peoples, about the Code and Tribunal processes
 - b) Within the Tribunal, to develop cultural competency and safety
 - c) For the general public, through a proactive campaign to highlight specific areas of discrimination faced by Indigenous Peoples.

- 1.5. Identify and remove procedural barriers within the Tribunal
- 1.6. Increase the training for and number of lawyers available to support Indigenous Peoples in bringing human rights complaints, with an emphasis on Indigenous lawyers

2.0 Immediate Procedural Steps

- 2.1 Consider these recommendations remedial measures. Implement active and concerted efforts to address the underrepresentation of Indigenous complainants accessing the Tribunal. Create an affirmative access program for Indigenous Peoples.
- 2.2 Create a Tribunal committee to implement the recommendations in *Expanding Our Vision*. Indigenous lawyers and cultural leaders or academics with knowledge of human rights should be recruited to join these efforts. The committee should recommend immediate steps within the first six months.
- 2.3 The Tribunal should report on what steps have been taken to implement the recommendations in their annual report

3.0 Incorporate Indigenous Laws

- 3.1 The Tribunal should actively engage with Indigenous Peoples, working with the Office of the Human Rights Commissioner, Indigenous lawyers, and law schools, to incorporate Indigenous laws into a renewed human rights process which reflects Indigenous approaches for protecting human rights.
- 3.2 The Tribunal, working in concert with the Canadian Human Rights Tribunal, could approach other human rights agencies to institute an Indigenous Ombuds office across jurisdictions

4.0 Increase Indigenous Involvement within Tribunal

- 4.1 Priority should be given to hiring or appointing Indigenous staff and tribunal members
- 4.2 Audit the current Tribunal processes to identify why Indigenous Peoples are not being recruited or hired. Provide specific training to staff on how to actively recruit and fairly assess Indigenous applicants. Seek specific mentoring advice from other organizations with higher Indigenous staff ratios about how to address this underrepresentation. The Tribunal should set yearly targets for the first five years, and report on success in meeting those targets in annual reports.
- 4.3 Audit the Tribunal appointment process to identify why Indigenous Peoples are not applying or being appointed as tribunal members. Set specific recruitment and appointment goals for Indigenous tribunal members.
- 4.4 Implement options for part-time appointments to qualified Indigenous tribunal members. This could be a way to reflect Indigenous adjudicative and dispute resolution traditions within the tribunal's expertise
- 4.5 Offer human rights clinics in remote regions (going back regularly) to both teach about human rights and to assist with filing claims. Approach law schools for options to work jointly in providing these clinics regionally and to create regional expertise.

5.0 Public Outreach to Indigenous Communities

- 5.1 Create a public education campaign for Indigenous Peoples which addresses human rights from an Indigenous perspective:
 - a) Make materials easily accessible at Band offices, Metis organizations, Friendship Centers, Indigenous political organizations, and universities
 - b) Emphasize cases where Indigenous individuals have successfully brought human rights claims
- 5.2 Create a step-by-step process for Indigenous applicants, which includes: what you can ask for; outline what help or resources are available; and what adverse impacts may look like for Indigenous Peoples
- 5.3 Create videos or fact sheets to talk about cases that have been successful to assist Indigenous Peoples in situating their experiences as discrimination within the Tribunal framework

6.0 Micro-Discriminations

- 6.1 The Tribunal partnering with the Office of the Human Rights Commissioner should create public education and awareness about micro-discriminations against Indigenous Peoples. The focus of the education would be to bring unconscious and pervasive bias to light so that it can be addressed.

7.0 Coordinating Human Rights Responses Across Jurisdictions

- 7.1 The Tribunal should discuss with the Canadian Human Rights Commission a coordinated process for sorting jurisdictions between the federal and provincial bodies when Indigenous Peoples bring a human rights complaint. An agreement to triage claims between the Canadian Human Rights Commission and Tribunal would assist Indigenous claimants.

8.0 Addressing Systemic Racism

- 8.1 Develop a baseline of information and understanding of the racism that Indigenous Peoples experience so that individual complainants are not put to a process of proof again and again. Advance research or statements about common areas of discrimination experienced by Indigenous Peoples. This would operate similar to judicial notice of facts that are beyond dispute as encouraged by the Supreme Court of Canada in cases such as *R v. Williams* [1998] 1 SCR 1128, *R v. Gladue* [1999] 1 SCR 688, and *R v. Ipeelee*, 2012 SCC 13.
- 8.2 Develop guidelines and education about the intersectional discrimination Indigenous Peoples may face. Intersectional discrimination may be even more difficult to make out, and guidelines and education for how to do this should be provided.
- 8.3 Empower the ability for Indigenous organizations to file collectively, to advance claims on behalf of individuals, similar in context to a “human rights class action”.

9.0 Create an Indigenous Specific Stream within the Tribunal

- 9.1 Offer specialized training to Tribunal staff and members, starting with recommendations of the TRC, to reduce and eliminate procedural barriers that Indigenous Peoples face in accessing Tribunal services. The goal should be to develop cultural competency and safety.
- 9.2 Create the position of Indigenous Advocates or Navigators to help guide, support and coach Indigenous Peoples through the Tribunal process, and to help them address administrative barriers.

- 9.3 Create an Indigenous stream for following through with Indigenous Peoples' complaints from intake through to hearing.
- 9.4 Amend Tribunal forms to contemplate Indigenous Peoples, including Indigenous names, where a delay may be reflective of historic trauma, or to allow for exploration of options to resolve an issue, as required by Indigenous protocols.

10.0 Trauma-Informed Approach

- 10.1 Adopt a trauma-informed practice overall, including for assessing and accommodating delays or requests for extensions. The Tribunal staff and members should be provided with training on how trauma may impact Indigenous Peoples' actions or interactions within the Tribunal system.

11.0 Clarify Special Exemption under s. 42 of the Code

- 11.1 Educate employers about s. 42 of the Code. Education should highlight where a fair consideration of Indigenous applicants (for example, strongly weighing Indigenous knowledge and experience) does not require an exemption

12.0 Settlement

- 12.1 Include Indigenous dispute resolution models, mediators, and peacemakers in Tribunal mediation or settlement discussions. Consider use of co-mediation or joint processes involving Indigenous Peoples
- 12.2 Track and report upon instances where Indigenous Peoples settle complaints and interview them after several months about their reasons for settling and their satisfaction with the resolution.

13.0 Gatekeeping Function

- 13.1 Track and report on claims made by Indigenous Peoples that are rejected at the screening stage or under s. 27 of the Code or sent back for further detail and not pursued. An analysis of the claims that are procedurally weeded out may reveal where further action and training is necessary.
- 13.2 Institute an internal process for screening at first filing, and in s. 27 applications, by staff specifically trained in the issues Indigenous Peoples face as an immediate remedial measure, as so few Indigenous complaints are filed or advanced.

14.0 Plain Language

- 14.1 Use plain language, easily understood by the average person with a grade five education when communicating with complainants. Review communications, including forms and template letters, to ensure that they use plain language.

15.0 Time Limits

- 15.1 Provide public education for Indigenous Peoples that complaints should be filed at the same time that a complainant is pursuing internal or informal processes because the Tribunal time limits are strict.
- 15.2 Assess time extension requests with a trauma-informed lens and consider any circumstances Indigenous applicants raise tied to Indigenous traditions or ways of approaching conflict (such as attempts at relationship repair or restoration).

16.0 Hearings

- 16.1 Hold hearings in spaces that are culturally safe for Indigenous complainants. Though appropriate spaces will vary by Indigenous cultures, examples could include Band offices, friendship centers, cultural spaces at universities, or land-based venues.
- 16.2 Ask participants what culturally appropriate practices they would like to include in hearings, such as smudging the room, swearing on an eagle feather, or sitting in a circle.
- 16.3 Ask if there are cultural supports that are needed during the hearing process. This could include elders, witnesses, or other culturally relevant people which may vary according to the culture of the applicant.
- 16.4 Incorporate Indigenous Peoples (as tribunal members or as co-appointed decision-makers)
- 16.5 Ask participants if there are any Indigenous protocols for how information or evidence may be offered or shared that they would like to incorporate.

17.0 Website

- 17.1 Develop a website using plain and easily accessible language to provide Indigenous Peoples with information and to guide them through stages of the application process. The website should feature case-based examples, specific to Indigenous Peoples; short videos to illustrate the Tribunal process; and a guide to help people through the Tribunal process.

18.0 Need for Legal Representation

- 18.1 Advocate, perhaps with the Office of the Human Rights Commissioner, Indigenous political organizations and legal advocacy organizations, for legal representation at the filing stage through to resolution for Indigenous claimants.
- 18.2 Explore options to support greater access to justice for Indigenous Peoples in this area, including Indigenous human rights legal aid funding, administered by the Legal Services Society or a similar organization, to support Indigenous Peoples in making and advancing claims.
- 18.3 Partner with other organizations (such as the Office of the Human Rights Commissioner, CLEBC, law schools, Indigenous and legal organizations) to provide bootcamps and other training opportunities for lawyers or law students about Indigenous Peoples' human rights. This case-based education should address the different elements in bringing a case: what is discrimination on prohibited grounds? Where are examples of evidence? Does the fact that no one witnessed an event mean that no case for discrimination can be brought? Training should include systemic features and intersectionality of the discrimination that Indigenous Peoples experience based on race and gender, geographic and socio-economic status, etc.
- 18.4 Provide student opportunities, such as articling or summer jobs for Indigenous law students to increase practitioners in this area
- 18.5 Encourage the creation of regional, or circuit human rights clinics to both educate and assist Indigenous Peoples in filing and carrying through human rights claims. Explore options for clinics or workshops that operate regionally over time so lawyers can stick with a case, including potentially working with the three BC law schools. Clinics should

be led by leading Indigenous counsel and provide representation to Indigenous Peoples, individually and collectively.

Some of these recommendations require the Tribunal to act immediately. The appendix of this annual report lists the progress the Tribunal has made over the first six months in implementing the recommendations ("*Expanding our Vision* Implementation Update"). Although released on June 15, 2020, it includes those recommendations that were implemented this past fiscal year.

Other recommendations require the Tribunal to collaborate for transformative change. Removing barriers to access to the Tribunal is not enough. Structural change is needed to incorporate Indigenous definitions of human rights according to Indigenous laws. The main recommendations broaden the concept of human rights in that Indigenous Peoples have the right to exist and to be protected in that existence.

Our Tribunal is undertaking this process of renewal amidst widespread calls for change in the relationship between Indigenous Peoples and Canadian society. Change has been driven by the *United Nations Declaration on the Rights of Indigenous Peoples* which the BC government will implement through the *Declaration on the Rights of Indigenous Peoples Act*, the Truth and Reconciliation Commission Calls to Action, and the MMIWG2S Inquiry.

Our Tribunal wants to ensure that its processes are safe and accessible for Indigenous Peoples. Your voices and wisdom are central to our efforts. Please join us on this journey as we develop an Indigenous Justice Initiative that is open and responsive to the experiences of Indigenous Peoples. It is a challenge to begin a journey, together with Indigenous Peoples and communities, to transform the way we provide justice. The provincial government's legislation to implement the *United Nations Declaration on the Rights of Indigenous Peoples* has made embarking on this journey an immediate obligation. The *Expanding our Vision* report presents not just a challenge, but also an opportunity. I am hopeful that it will open up a dialogue and lead to action beyond the Human Rights Tribunal. As a justice system, we are collectively failing Indigenous Peoples, and we can collectively make a difference. We must engage, we can engage, and we must act together.

Operations and Accountability

Our Tribunal receives and reviews complaints about human rights violations in British Columbia under the *Human Rights Code*. The purpose of this section is to show what we are doing and what we should be doing better.

PUBLIC INQUIRY

Our Tribunal has Inquiry Officers who receive and respond to thousands of public inquiries every year about the Code, including making referrals to other community and government agencies.

We are currently working with the Office of the Human Rights Commissioner and BC Human Rights Clinic on a “No Wrong Door” project to improve the accessibility and effectiveness of our human rights system, with a real focus on improving access for marginalized populations and Indigenous Peoples. We want an integrated and coordinated approach that makes any entry point to the BC human rights system the “right door” for individuals seeking assistance in identifying their needs, obtaining referrals, and receiving appropriate support. We have three main objectives with this initiative:

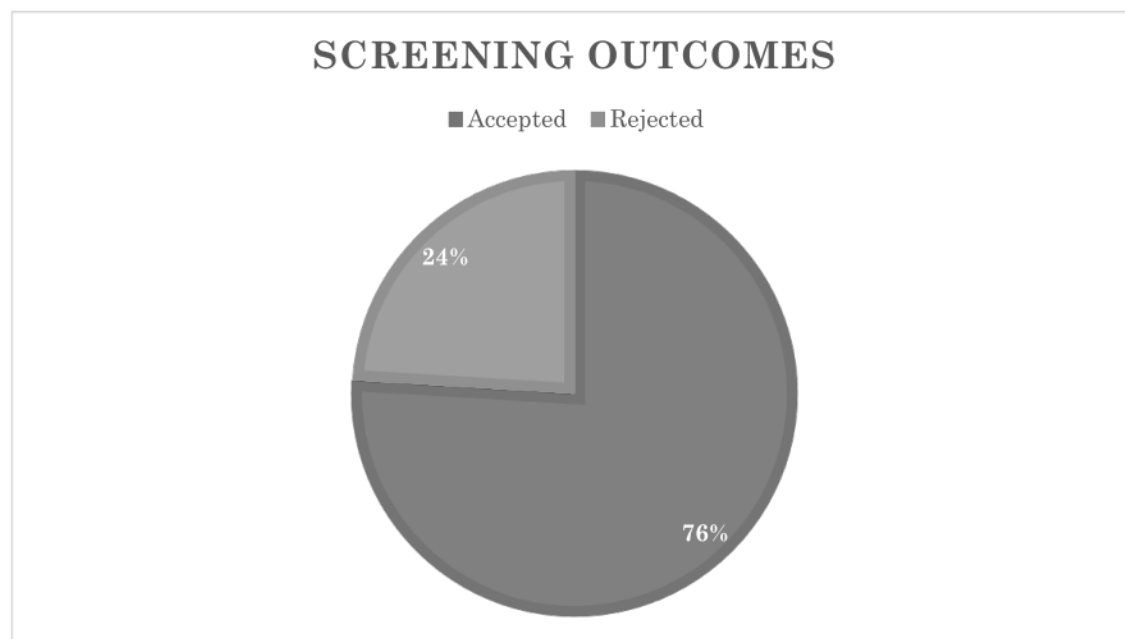
1. To increase understanding of our human rights system with better communication to the public we exist to serve
2. To increase access to human rights information and referrals by coordinating our responses to public requests for information in a meaningful way
3. To enhance our respective services through information sharing

Our [website](#) is another important way for the public to find information they need. The number of website visits to the Tribunal has increased from 146,000 in 2014-2015 to 769,530 in 2019-2020, which is an unprecedented 427% increase over a five-year period.

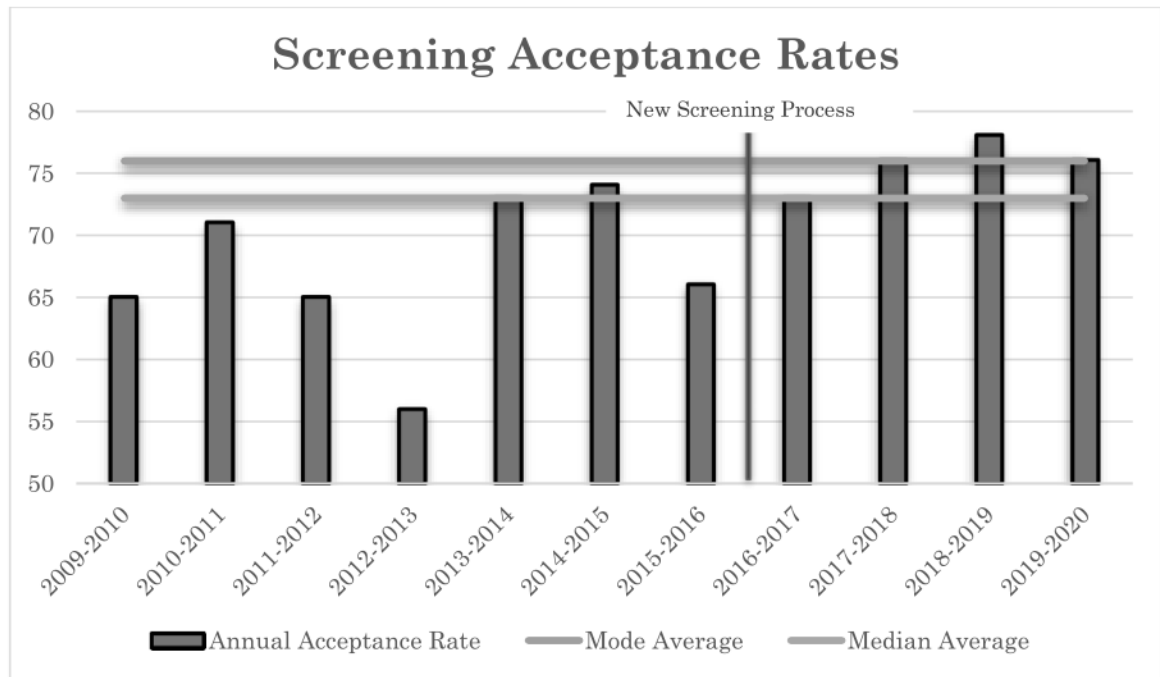
We have more work to do to improve access to information. A significant number of those surveyed in the *Expanding our Vision* report were unaware of the Tribunal website. Most had never used or accessed the website. Those who had accessed or tried to use the Tribunal process said that it was cumbersome, wordy, and difficult to use. The website was described by one person as a “wall of words”. Several survey participants pointed out that the language could be a barrier to Indigenous Peoples and called for “easy access and easy to read for people who can’t read or have limited reading abilities”. Remote communities with limited internet access or few electronic devices would be unable to access the website at all. One survey participant reported that “many of our elderly ... do not have computers. Is there a way that we could reach out to that demographic”?

SCREENING NEW COMPLAINTS

Human Rights complaints are filed directly with the Tribunal which is responsible for all steps in the human rights process. The first step is to screen the complaint to determine whether it is timely and sets out an arguable contravention of the Code. The time limit for filing complaints is one year.

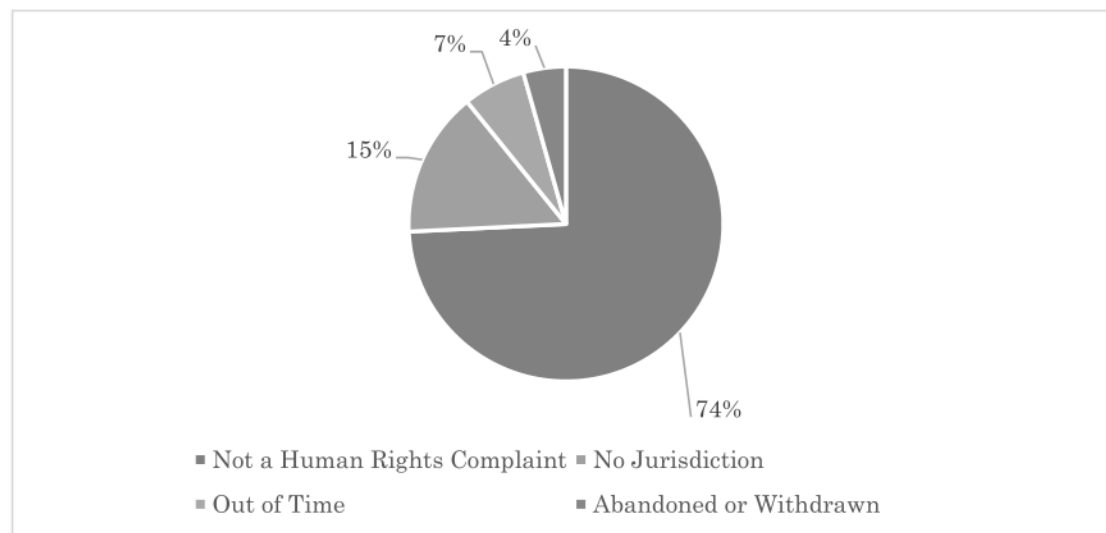


Of the 1,614 complaints screened by the Tribunal, 1,226 new complaints were accepted for filing. This shows a screening acceptance rate of 76%. The screening acceptance rate is consistent with average over the past decade.



This chart shows the screening acceptance rates over the past eleven years. To account for outliers, we have calculated the average over this time period three ways. The “mode” average was 76%, the “median” average was 73%, and the “mean” average was 72%. The variability in these averages reflects the variability in annual acceptance rates. Since the legal threshold has not changed, greater variability over the years may reflect poor quality in adjudication. To improve quality and consistency, the Tribunal implemented a new screening process four years ago which has resulted in greater consistency. This is demonstrated by a stabilization of acceptance rates at the high end of the range. The four-year “mean”, “median”, and “mode” averages are each 76%.

Complaints Not Accepted for Filing

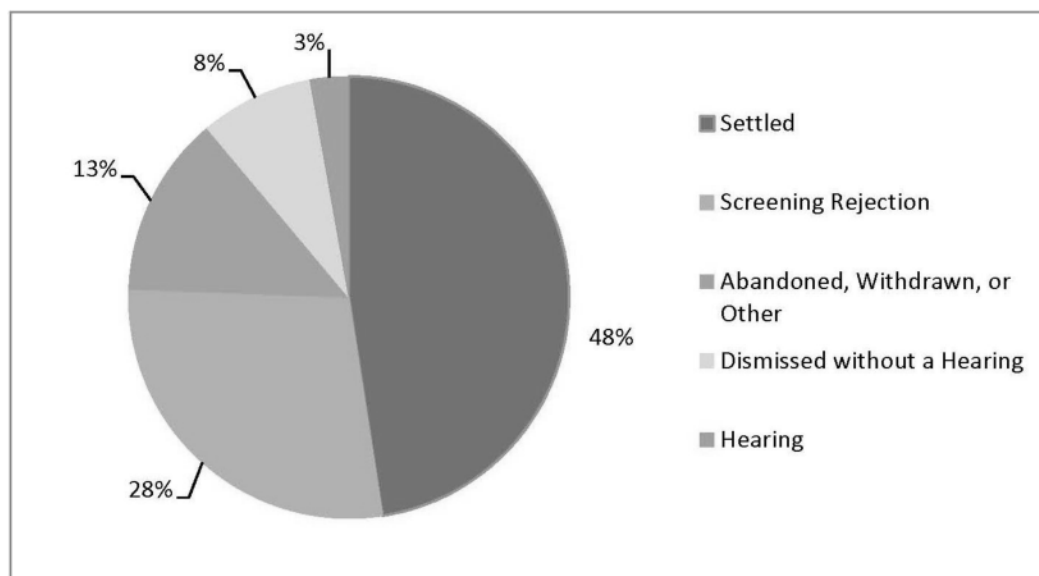


Of those complaints that were not accepted for filing, the majority were rejected because they were not a human rights complaint (74%). Others were rejected because the Tribunal did not have jurisdiction (15%). Others were rejected because the complaint was outside the time limit in the Code (7%). The remainder were abandoned or withdrawn by the complainant (4%).

The Tribunal needs to examine whether there are any structural or systemic barriers that are weeding out human rights complaints that are difficult to prove – such as those alleging micro-discriminations – at this stage in the process. An analysis of the human rights complaints that are not accepted for filing may reveal where further action or training is necessary.

Our service standard is 80% of the time to complete the screening process and notify parties within 30 days of filing, or within 60 days of filing when more information is requested. We are not meeting these service targets. We completed the screening process and notified parties within 30 days of filing only 16% of the time (down from 45% last year). We completed the screening process and notified parties within 60 days of filing only 6% of the time (up from 5% last year).

COMPLAINT RESOLUTION

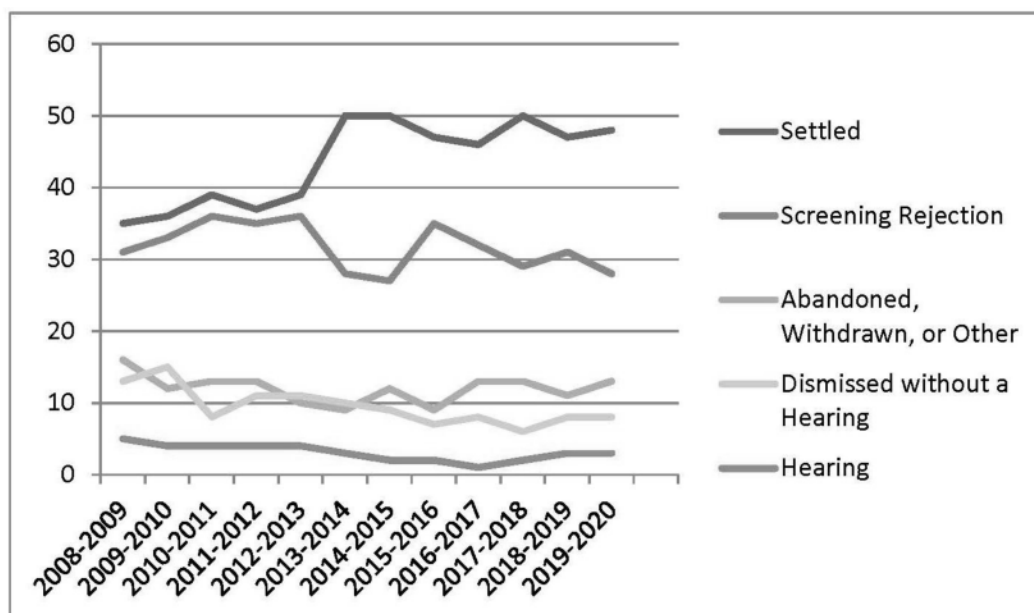


Human rights complaints resolve in different ways. First, they may not be accepted for filing. Of the 1,384 closed complaints, 28% of the complaints were closed because they were not accepted for filing. After being accepted for filing, the majority of human rights complaints resolve through mediation or adjudication. Last year, of all cases closed, 48% were closed due to settlement, 8% closed after a dismissal decision without a hearing, and 3% closed after a hearing on the merits.

13% of complaints closed because they were abandoned, or withdrawn by the complainant, or resolved through other means. This category includes complaints that were previously deferred for other proceedings and settled by the parties on their own. This category also includes those who stopped pursuing the human rights complaints that they initiated. Any percentage of human rights complaints that are abandoned or withdrawn by a complainant may raise access to justice concerns.

MEDIATIONS

The Tribunal's settlement meeting services continue to be heavily used. Over the past twelve years, the majority of human rights complaints are being resolved through mediation (around 50%).



Tribunal-assisted settlement services are most often initiated before the respondent files a response to the complaint (78%) but can occur at any later stage in the process. The other 22% of settlements occur after a response to the complaint is filed and before the start of a hearing.

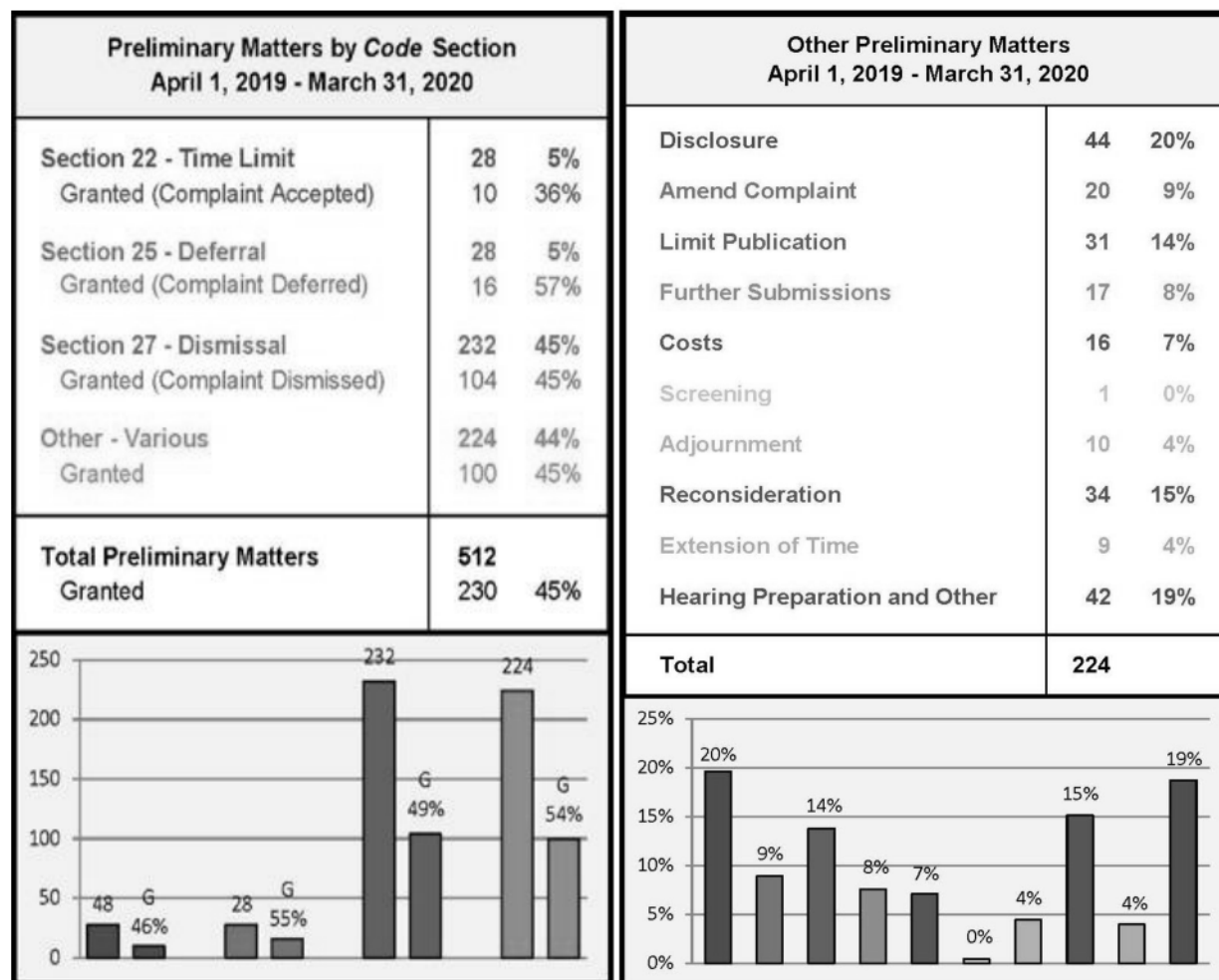
Settlement meetings are confidential, and the Tribunal does not publish the results. In many cases, settlement meetings resolve other aspects of the parties' relationship and have transformative impacts in the justice system. Many cases also result in systemic change that are beyond the scope of remedies available under the Code after a hearing. However, settlement meetings may also conceal systemic barriers to access to justice.

The Tribunal has adopted new social justice mediation techniques to interest-based mediation processes. This may improve the experience of the parties to the process but will not necessarily improve outcomes. In terms of outcomes, the Tribunal's settlement rate is decreasing. Parties were able to resolve their disputes in 57% of all human rights complaint in which the Tribunal provided assistance through a mediator.

We are committed to scheduling mediations at the earliest possible date that parties are ready and available. The Tribunal has set a service standard of 60 days (2 months) to schedule the mediation from the date the parties indicate their willingness to participate, 80% of the time. Last year, the Tribunal met this timeliness target as mediations were offered an average of 60 days (two months) after the parties indicated their willingness to participate.

PRELIMINARY DECISIONS

The Tribunal issued a total of 512 preliminary decisions this year, which is up 17% from the last year. Applications to dismiss a complaint without a hearing represented 45% of all preliminary decisions.



The service standard for dismissal applications is to issue decisions 90 days after submissions are complete 80% of the time. The Tribunal did not meet this service standard last year. The timeliness target was met 45% of the time, which is down from 59% last year and slightly up from 42% the year before that.

The Tribunal tried to address the backlog in issuing decisions on dismissal applications by requiring parties to reduce the length of submissions. This was accomplished through a new practice direction. The Tribunal surveyed adjudicators over a six-month period to see what impact the page limits had on the timeliness of their decisions. 63% of the adjudicators found “no change” and 37% found that it was “easier to write” the decision.

The service standard for other preliminary applications is to issue decisions 30 days after submissions are complete 80% of the time. For other preliminary applications, the timeliness target was met 75% of the time, which is down from 79% last year. For deferral applications, the standard was met 78% of the time, which is down from 95% last year. For timeliness decisions, the standard was met 39% of the time which is down from 63% last year.

HEARINGS

Relatively few cases make their way to a hearing at the Tribunal. The Tribunal issued 29 decisions after a hearing on the merits last year which is an increase from 23 in 2018-2019, 14 in 2017-2018, and 11 in 2016-2017. Although the numbers are small, this represents a 163% increase in the number of hearings over a four-year period which reflects the Tribunal's efforts to promote access to justice by ensuring that the resolution services offered by the Tribunal are responsive to the parties' needs and proportionate to the issues in dispute. For some cases, the appropriate resolution service is through a hearing on the merits of a human rights complaint.

In terms of outcomes, human rights complaints succeeded in 12 of the 29 cases (41%). Again, for comparison, the success rate was 35% in 2018-2019, 29% in 2017-2018, and 45% in 2016-2017.

In terms of process, the Tribunal wants to ensure that its hearings are safe and accessible to all participants. This may involve incorporating a trauma-informed approach to adjudication and flexibility in terms of how evidence is received during a hearing. The Tribunal asks participants what supports are needed during their hearing. The Tribunal incorporated an Indigenous smudging ceremony in one hearing and held another hearing in a culturally appropriate venue. The Tribunal commences most hearings with land acknowledgements.

For decisions following a hearing, the Tribunal's service standard is to issue final decisions on the merits of a complaint within 90 days, or 180 days in cases where the hearing lasts more than 3 days, 80% of the time. This year the Tribunal issued final decisions within these time frames only 53% of the time which is down from 63% last year.

Hearing dates are usually set if a respondent does not apply to dismiss a complaint by the deadline for doing so, or if the Tribunal denies an application to dismiss the complaint. From that date, the service standard for offering a date for hearings 2 days or less is 60 days and 3 days or more is 120 days, 80% of the time. The Tribunal is not meeting this service standard for most hearings. The Tribunal is not able to schedule hearings at the earliest date the parties are ready and available. Rather, hearing dates are being scheduled at the earliest date the member is available. Due to high case volumes, hearings are being scheduled, on average, one year in advance.

Grounds and Areas of Discrimination in Final Decisions

The final decisions dealt with the following grounds of discrimination:

- Complaints alleged discrimination based on physical disability in 11 of the 29 cases, with three (27%) justified.
- Seven complaints alleged discrimination based on mental disability, with two cases (29%) justified.
- Three of seven (43%) cases alleging sex discrimination were found to be justified. One of those cases also alleged family status discrimination, which was justified; the Tribunal dismissed the other family status complaint.
- The three cases based on race, colour, ancestry, and/or place of origin were found to be justified. One of those also alleged discrimination based on religion, which was justified.
- The Tribunal found discrimination in the one case based on political belief.
- The Tribunal dismissed two cases based on age, and one case based on sexual orientation.
- No cases addressed marital status, criminal conviction, or source of income.

The final decisions dealt with the following areas of daily life:

- Employment continues to be the most litigated area of discrimination, with 20 of the 29 cases (69%).
- Seven of the 20 (35%) employment cases were found to be justified.
- Four decisions were in the area of services, with two found to be justified.
- Four decisions were in the area of tenancy, with three found to be justified.
- Three decisions dealt with complaints of retaliation contrary to s. 43 of the Code, with one found to be justified.
- One of the employment cases also dealt with retaliation, which was found to be justified.
- No decisions addressed publications, purchase of property, employment advertisements, wage discrimination based on sex, or unions and occupational associations.

Representation Before the Tribunal in Final Decisions

The complainant appeared in 28 of the 29 hearings. In those 28 hearings, the complainant had a lawyer in 15, or slightly over half (54%). This is higher than previous years. Last year, the complainant had a lawyer in 32% of the hearings. In 2017-2018, the complainant had a lawyer in 29% of the hearings.

The respondent appeared in 26 of the 29 hearings. In those 26 hearings, the respondent had a lawyer in 20 (77%). This is higher than last year (74%), but lower than 2017-2018 which was 93%.

In past annual reports, the Tribunal has noted a correlation between legal representation and outcomes, though we have cautioned on the small sample size. Statistics are less helpful when they flow from a small number of decisions. This year's number of final decisions (29) is higher than the previous three years, but still small for statistical purposes. With this caveat, we make the following observations.

This year, the results were about the same whether or not the complainant had a lawyer.

In the 14 cases where the complainant had a lawyer, the complaint succeeded in six (43%). In 10 of those cases, the respondent also had a lawyer. The complaint succeeded in three of those 10 cases (30%). The complaint succeeded in two of the three cases where only the complainant had a lawyer. In one of those the respondent did not appear.

In the 14 cases where the complainant did not have a lawyer, the complaint succeeded in six (43%). In those six cases, the respondent did not appear in one, and the respondent did not have a lawyer in two. In the eight cases where a self-represented complainant lost their case, the respondent had a lawyer in six, did not appear in one, and did not have a lawyer in one.

For respondents, they did better with a lawyer. In the 19 hearings where the respondent had a lawyer, the complaint was dismissed in 13 cases (68%). In the 7 hearings where the respondent did not have a lawyer, the complaint was dismissed in three cases (43%). In one of those, the complaint was dismissed because the complainant did not appear.

Summary of Decisions

Discrimination based on Indigenous Identity

In two decisions this year, the Tribunal found discrimination against an Indigenous person.

Campbell v. Vancouver Police Board (No. 4), 2019 BCHRT 275

Ms. Campbell is an Indigenous mother who witnessed the police arrest her son. The police roughly and physically separated her from her son and blocked her from witnessing his arrest. The context for these events is a long history of colonialism and cultural genocide, which have contributed to a deep distrust of the police and of any state attempt to interfere with parenting. Ms. Campbell had a heightened need to witness her son's arrest and ensure his safety. The police conduct that prevented this discriminated against her based on her Indigenous identity, captured in this case by the grounds of race, ancestry, and colour. Aspects of the police response were based on stereotype and prejudice. The Tribunal ordered \$20,000 for injury to Ms. Campbell's dignity, feelings, and self-respect, and training to ensure police interacting with Indigenous people do so without discrimination.

Smith v. Mohan (No. 2), 2020 BCHRT 52

Ms. Smith is an Indigenous woman. Smudging is part of her connection to and expression of her Indigenous identity and, for her, a regular spiritual practice. Her landlord discriminated against Ms. Smith based on her Indigenous identity – protected under the grounds related to cultural identity and background – as well as her religion. Her landlord made comments and asked invasive questions based in part on Ms. Smith's Indigeneity and, in some cases, based on stereotypes. This included asking her if she drinks or does drugs, asking why she has a "typical white name", talking about previous Indigenous tenants drinking and doing drugs, asking if he could trust her brother,

and saying he liked a comment she made because it matched the “whiteness” of her name. This was discrimination in tenancy. The landlord also discriminated when he did not let Ms. Smith smudge in her apartment and tried to evict her as a result. The Tribunal ordered \$20,000 for injury to Ms. Smith’s dignity, feelings, and self-respect, lost wages flowing from having to move out, and expenses for an expert report.

Sexual Harassment

Araniva v. RSY Contracting and another (No. 3), 2019 BCHRT 97

Ms. Araniva worked for the respondent out of his home. The respondent’s conduct was sexual harassment. On two occasions, he said she was “beautiful” and “hot”; asked her to have sex with him; asked for a hug; made her watch a music video that depicted a sexual relationship; asked her on a date; and followed her to the washroom. Both times, Ms. Araniva left work as soon as she could and ultimately did not return. The respondent also reduced Ms. Araniva’s hours after she rejected him and declined to go out with him. The Tribunal awarded compensation for lost wages and expenses for counselling, parking during the hearing, an expert report, and the cost of the expert testifying. The Tribunal ordered \$40,000 for injury to Ms. Araniva’s dignity, feelings, and self-respect, taking into account the nature of the harassment, Ms. Araniva’s vulnerability, and the extreme impact on her because of a history of trauma.

The Employee v. The University and another (No. 2), 2020 BCHRT 12

An employee had a good working relationship with a faculty member at a university. After a successful workday and dinner, the faculty member told the employee he was crazy about her. The faculty member apologized. The employee experienced a tremendous negative impact – she felt confused, anguished, anxious, depressed, and angry. She stayed in her position in significant distress until she completed her probation, when she began a medical leave. The Tribunal found that the employee’s subjective negative feelings did not establish an adverse impact in employment. The Tribunal considered that the comment was not virulent or egregious, that it was made in the context of a successful day of work, and that an apology was offered. Despite the subjective impact, power imbalance, and vulnerability of the employee as a woman in the workplace, the conduct did not rise to the level of harm protected under the Code. A petition for judicial review has been filed.

Discrimination in Housing

In addition to *Smith v. Mohan*, above, the Tribunal found tenancy discrimination in two cases.

NT by HST v. Daljit Sekhon and others, 2019 BCHRT 201

NT is a child with a disability. He needs significant parental care. His parents transport him by wheelchair. He lived with his family in a suite in a house. The new landlord continued to raise the rent, threw garbage outside the family’s kitchen window, left a stove and toilet outside their access door, said they could no longer park in the driveway, and ultimately evicted the family. NT was

adversely affected by these actions and his disabilities were a factor in the landlord's actions. The Tribunal ordered \$10,000 as compensation for injury to NT's dignity, feelings and self-respect.

Valdez v. Bahcheli and another, 2020 BCHRT 41

Mrs. Valdez gave birth three months after moving into an apartment. The landlord said the apartment was too small for a family of four. Because of the landlord's persistent harassment and pressure to leave, Mrs. Valdez and her family left the apartment only 12 days after her child was born. This was discrimination based on sex and family status. The Tribunal ordered compensation for expenses and \$9,000 for injury to Mrs. Valdez' dignity, feelings, and self-respect.

Employment – Duty to Accommodate Satisfied

Sahota v. WorkSafe BC (No. 2), 2019 BCHRT 104

The employer took reasonable steps to accommodate Ms. Sahota's return to work, including bundling duties, tailored work assignments, lowering productivity standards, and tolerating chronically high absenteeism. Eventually the work she could do was exhausted and the employer put her return-to-work on hold and she continued to receive long-term disability benefits. The employer was not required to keep her at work where it could not derive value from her work.

Lawlor v. PHSA and another, 2019 BCHRT 186

The employer took reasonable steps to accommodate Mr. Lawlor's disability. While Mr. Lawlor did not want to accept any position that he did not consider meaningful or that did not restore his pre-injury pay, the employer offered him reasonable accommodation, which fulfilled its duty to accommodate. A petition for judicial review has been filed.

Employment Discrimination – Termination

Chen v. La Brass Foods, 2019 BCHRT 111

Ms. Chen's employer fired her based at least in part on her disability. The Tribunal awarded compensation for lost wages and \$10,000 for injury to Ms. Chen's dignity, feelings, and self-respect.

Pacheco v. Local Pest Control, 2019 BCHRT 191

Mr. Pacheco's employer fired him the day after he was injured at work and provided a doctor's note saying he needed two weeks of medical leave. The Tribunal ordered \$7,500 for injury to Mr. Pacheco's dignity, feelings, and self-respect.

Weihs v. Great Clips and others (No. 2), 2019 BCHRT 125

Ms. Weihs' employer fired her based at least in part on her pregnancy. The Tribunal awarded compensation for lost wages and expenses related to the complaint and \$9,000 for damages to Ms. Weihs' dignity, feelings, and self-respect.

Benton v. Richmond Plastics, 2020 BCHRT 82

The employer fired Ms. Benton on her first day of work after she disclosed a number of mental health conditions. The Tribunal ordered \$30,000 for injury to Ms. Benton's dignity, feelings, and self-respect and \$35,000 compensation for lost wages.

Employment Discrimination – Poisoned Work Environment

Francis v. BC Ministry of Justice (No. 3), 2019 BCHRT 136

Mr. Francis is Black. In his work as a correctional officer, he experienced racialized stereotyping, and “everyday behaviour” in the form of racialized comments and slurs. His employer singled him out for criticism and heightened scrutiny, required him to attend muster when this wasn't common practice, ordered him to breach protocols and reprimanded him for doing so. Mr. Francis frequently raised issues of racism with management. He was perceived as too sensitive, overreacting, having a chip on his shoulder, playing the “race card”, and a troublemaker for advocating for human rights in the workplace. The cumulative effect on Mr. Francis was profound. The Tribunal also found the employer retaliated against Mr. Francis for filing his human rights complaint. Mr. Francis was subject to a poisoned work environment when he left the workplace and did not return. The Tribunal retained jurisdiction to order a remedy.

Employment Discrimination – Political Belief

Fraser v. BC Ministry of Forests (No. 4), 2019 BCHRT 140

Mr. Fraser is a professional forester. He successfully applied for a job, but the government employer revoked the offer. The Tribunal found this was connected to Mr. Fraser's political belief, which included his duties as a professional forester and his adherence to a regime under the *Forest and Range Practices Act*, which gave professional foresters working for licensees more responsibility. This is a political issue and was the topic of discussion and lobbying for many years. In deciding to revoke the offer, the employer considered Mr. Fraser's comments and activities that fit within his political beliefs. The employer did not justify this decision. Among other things, Mr. Fraser's political belief would not constrain his duty of loyalty. The Tribunal declined to order reinstatement. It awarded \$25,000 for injury to Mr. Fraser's dignity, feelings and self-respect.

Retaliation Complaint Dismissed & Conditions placed on Future Retaliation Complaints

Gichuru v. Vancouver Swing Society (No. 3), 2020 BCHRT 1

Mr. Gichuru attended dances put on by a non-profit society. He took issue with a Facebook post someone made about his conduct toward another person, AB. He asked the society to address his complaint under its code of conduct because all involved were part of the dance community. The society spoke to AB about what happened and temporarily banned Mr. Gichuru from dances. The society decided any further ban would depend on AB's views and Mr. Gichuru's receptiveness to the issue raised about his conduct. After a society representative met with Mr. Gichuru, he said he

would file a complaint against the society. The society then made the ban permanent. While timing could suggest retaliation, there wasn't a sufficient connection in this case – the society made the ban because it believed Mr. Gichuru had not taken their concerns seriously and lacked insight, not because he might file a complaint.

The Tribunal also found that Mr. Gichuru deliberately set up the facts in this case so that he could make a retaliation complaint. The Tribunal concluded that using the Code as a sword in this manner was improper conduct. When coupled with Mr. Gichuru's history of making retaliation complaints, this warranted the extraordinary step of putting a condition on his filing of further complaints under s. 43. In particular, he must seek leave of the Tribunal and explain why it would further the purposes of the Code to proceed with the complaint. The Tribunal found this was necessary to protect the integrity of the complaint system. The Tribunal also ordered Mr. Gichuru to pay \$10,000 in costs for improper conduct.

Complaints Dismissed – Services not Customarily Available & Improper Purposes

Yaniv v. Various Waxing Salons (No. 2), 2019 BCHRT 222

Ms. Yaniv, a transgender woman, sought waxing services at several salons. In the complaints where Ms. Yaniv sought waxing of her scrotum, the salons did not customarily provide scrotum waxing as a service to the public and did not discriminate in refusing the service. In the complaints where Ms. Yaniv sought arm or leg waxing, the Tribunal found that Ms. Yaniv filed her complaint for improper purposes and dismissed them under s. 27(1)(e) of the Code. Ms. Yaniv filed 13 very similar complaints in four months; used deception to manufacture the circumstances for the complaints; and sought a financial remedy in each. Her predominant motive was not to prevent or remedy discrimination but to target small businesses for person financial gain, and often to punish racialized and immigrant women. The Tribunal ordered Ms. Yaniv to pay \$2,000 in costs for improper conduct to each of three respondents.

JUDICIAL REVIEWS AND APPEALS

The *Human Rights Code* does not provide for appeals of Tribunal decisions. Instead, a party may apply for judicial review in BC Supreme Court, under the *Judicial Review Procedure Act*. There is a 60-day time limit for judicial review of final decisions set out in the *Administrative Tribunals Act* [ATA].

Judicial review is a limited type of review. Generally, the court considers the information that the Tribunal had before it and decides if the Tribunal made a decision within its power. The court applies standards of review set out in s. 59 of the ATA to determine whether the Tribunal's decision should be set aside. If the Tribunal's decision is set aside, the usual remedy is to send it back to the Tribunal for reconsideration.

A decision on judicial review may be appealed to the BC Court of Appeal. There is a further appeal to the Supreme Court of Canada if that Court agrees to hear it.

This year, the Tribunal received 22 petitions for judicial review filed in the BC Supreme Court. This was higher than in past years; last year we received 14 petitions and the year before that we received 10. There were five appeals filed with the BC Court of Appeal. This is also higher than past years; we received 3 notices of appeal in each of the last two years. This year there were no leave applications filed with the Supreme Court of Canada.

Also this year, the BC Supreme Court issued eight final judgments on judicial review applications regarding Tribunal decisions. The BC Court of Appeal issued one judgment, and the Supreme Court of Canada denied leave to appeal in one case.

BC Supreme Court Judgments

Gichuru v. Purewal, 2019 BCSC 484

The Tribunal found that Mr. Gichuru's landlord discriminated by making derogatory references to having a mental illness. However, the Tribunal found that the subsequent eviction was not discriminatory and declined to award compensation for expenses, wage loss, and injury to dignity, finding the negative impact flowed from other threatening and harassing conduct and because Mr. Gichuru had provoked discrimination. The court allowed the petition in part, finding that the Tribunal committed three errors: when it found that the eviction for non-payment of rent was not discriminatory absent consideration of why rent was not paid; in isolating the effects of the respondent's discriminatory conduct from the effects of some of his other threatening and harassing conduct that occurred at the same time and place; and in finding the complainant provoked the initial discriminatory outburst. The court remitted the matter for reconsideration.

In two subsequent judgments, the court addressed costs of the petition: *Gichuru v. Purewal*, 2019 BCSC 951 and *Gichuru v. Purewal*, 2019 BCSC 1803. The court awarded Mr. Gichuru 50% of his costs at scale B.

McCulloch v. British Columbia (Human Rights Tribunal), 2019 BCSC 624 at paras. 123, 130

Ms. McCulloch had a legal right to reside in a dwelling on her brother's property. She did not pay rent. She alleged that her brother discriminated against her based on her disability when, among other things, he cut off her electricity. The Tribunal found no tenancy relationship without the payment of rent or other form of discrimination. The court disagreed. The court held that the Tribunal must conduct a contextual analysis to determine if the alleged discriminatory conduct has a sufficient nexus with the tenancy context, which is a "context of vulnerability". Relevant factors may include whether the respondent had control over the complainant's living space; whether the impugned conduct occurred in the complainant's living space; and whether the complainant's tenancy or living space was negatively affected. The payment of rent or other consideration is not necessary. The court said that Ms. McCulloch's brother, as the property owner, had the power to negatively affect Ms. McCulloch's living conditions, that Ms. McCulloch was in a vulnerable position, and that this seemed to be the type of vulnerability that s. 10(b) of the Code was intended to protect.

The Parent obo The Child v. The School District, 2019 BCSC 659

The Tribunal originally found a complaint regarding educational services for a child was filed on time as a continuing contravention under s. 22(2) of the Code. The BC Supreme Court upheld the decision, but the Court of Appeal set it aside. On reconsideration, the Tribunal found the complaint was filed late, and did not accept it for filing under s. 22(3). The BC Supreme Court set aside the decision, finding the Tribunal erred in relation to an “extricable question of law”. In particular, the Tribunal said that, for the Parent to rely on erroneous legal advice as a reason for late filing, he needed to identify the lawyer, confirmation of the error, and an explanation about how the error occurred. This set of pre-requisites was too rigid and in error. The error rendered the decision patently unreasonable. An appeal has been filed.

Roos v. BC Ministry of Advanced Education and others, (May 3, 2019) Van. Reg. No. S1811200 (Oral Reasons)

The Tribunal denied the Province’s application to dismiss Mr. Roos’ complaint regarding the provision of hearing aids. In part, the Tribunal found that more evidence was needed about a provincial program, which was referred to in the materials but not addressed by the Province. The court upheld this decision and rejected the argument that the Tribunal acted unfairly by not giving the Province an opportunity to make submissions about its program. Rather, the court found that the Province had an opportunity to provide information about the program but did not do so.

Gardezi v. The Positive Living Society of British Columbia, 2019 BCSC 666

The court upheld the Tribunal’s decision to dismiss Ms. Gardezi’s retaliation complaint under s. 27(1)(c) of the Code, but found it was unfair to dismiss Ms. Gardezi’s discrimination complaint when the respondent had not applied to dismiss that part of the complaint. An appeal has been filed regarding the retaliation complaint.

Stein v. Keeblers, 2019 BCSC 1194

The Tribunal dismissed Ms. Stein’s complaint without a hearing for non-compliance with orders under s. 27(1)(d)(ii) of the Code and rule 4 of its *Rules*. The court upheld the decision, finding the Tribunal has jurisdiction to dismiss a complaint under rule 4(2) or rule 22 and that the decision to dismiss was not patently unreasonable. There was no breach of procedural fairness. An appeal has been filed.

College of Physicians and Surgeons of BC v. The Complainant, 2019 BCSC 1898

The Tribunal denied an application to dismiss the complaint without a hearing. The court dismissed the petition as premature. Review of the decision would require the court to review the evidence to determine if the Tribunal’s findings regarding the inferences that could be drawn were reasonable; this is an area of specialty for the Tribunal; it has not made a final determination; and there is no alleged error of law. It is not the court’s role to determine whether the credibility issues and conflicts in the evidence were “key”. The arguments made would require the court to delve into evidentiary issues and reweigh evidence which would be inappropriate.

Stein v. British Columbia (Human Rights Tribunal), 2020 BCSC 70

The court upheld the Tribunal's decisions declining to retroactively anonymize decisions. These discretionary decisions were not patently unreasonable. There was no denial of procedural fairness.

BC Court of Appeal

Sebastian v. Vancouver Coastal Health Authority, 2019 BCCA 241

The Tribunal dismissed Mr. Sebastian's complaint under s. 27(1)(d)(ii) of the Code on the basis that a consent award and settlement offer would adequately remedy the alleged human rights violation. The Tribunal rejected Mr. Sebastian's concern that he wasn't a party to the consent award. The Court of Appeal upheld the decision. It rejected the argument that the consent award was a nullity. The decision was not patently unreasonable

Supreme Court of Canada

The Supreme Court of Canada dismissed the application for leave to appeal from *Envirocon Environmental Services, ULC v. Suen*, 2019 BCCA 46 (2019 CanLII 73206).

SPECIAL PROGRAMS

Until March 31, 2020, the Tribunal had the power to approve special programs under s. 42 of the Code. Effective April 1, 2020, responsibility for special programs transferred to British Columbia's Office of the Human Rights Commissioner: *Code*, s. 47.12. Any existing special program approved by the Tribunal Chair under s. 42 of the Code remains valid as if it had been approved by the Human Rights Commissioner: *Human Rights Amendment Act Regulation*, BC Reg 71/2020, s. 15. More information about special programs can be found [here](#).

Special programs aim to improve the conditions for an individual or group that has faced historic barriers to participation in social, cultural, economic, and political life. Certain groups in our society continue to experience disadvantage. This includes Indigenous people, racialized groups, people with disabilities, women and the LGBTQ+ community. Special programs that aim to ameliorate those patterns of disadvantage further the purposes of the Code. A special program approved by the Tribunal is not discriminatory for the duration of the approval.

In the last year, the Tribunal approved 22 new special programs and 8 renewals:

- **Amazon Canada Fulfillment Services ULC:** Preferential target and hiring of persons with disabilities to work as Associates in Amazon Fulfillment Centres.
- **Belle Construction:** Restrict hiring to female tradespersons.
- **Camosun College:** 16 seats (10%) in the Bachelor of Science Nursing Program reserved for qualified student applicants of Indigenous ancestry.
- **College of New Caledonia:** Limit access to the College's Aboriginal Centres and the services offered through those Centres to Indigenous persons only.

Restrict hiring to Aboriginal (First Nations, Inuit, Métis) applicants for 79 positions across the following categories:

- a) employees providing direct operational, instructional or administrative services to primarily Aboriginal students;
 - b) employees instructing courses whose content is primarily Aboriginal;
 - c) employees offering services and/or programs funded through Aboriginal-specific funding initiatives; and
 - d) administrators working on campus with significant numbers of Aboriginal learners, or with a significant population of Aboriginal peoples in their campus area.
- **Covenant House:** Restrict advertising of employment and hiring to female-identified applicants for 78 positions in the organization's residential programs for young women.
 - **Directors Guild of Canada, BC District Council:** Approval to operate a searchable database that will include voluntarily provided information about individual directors' protected characteristics for the purpose of facilitating hiring of diverse directors in BC's film and television industry

- **Emily Carr University of Art & Design:** Restrict hiring to persons who self-identify as Indigenous for the position of Tier 1 Canada Research Chair, Indigenous Research.

Preferential hiring of persons who self-identify as Indigenous for up to five (5) tenured or tenure-track faculty member positions.

Restrict hiring to either an Indigenous or racialized candidate that possesses the qualifications for the position of Vice Provost, Students.

- **Fraser Health Authority:** Preferential hiring of qualified persons who self-identify as Indigenous for specific positions in the Aboriginal Health Program and Indigenous Primary Health and Wellness Program.
- **Métis Provincial Council of British Columbia:** preferential hiring of qualified individuals who self-identify as Aboriginal for all open positions in the organization.
- **Nlha'7kapmx Child and Family Services Society:** Preferential hiring of qualified persons who self-identify as Indigenous for all positions that directly interface with the children and families of the Nlha'7kapmx communities that the Society serves.
- **North Island College:** Restrict hiring to persons of Aboriginal ancestry for the positions of: Director, Aboriginal Education; Aboriginal Education Advisors; Faculty, Aboriginal Programming and Elders.
- **Office of the Human Rights Commissioner:** Restrict hiring to qualified persons who self-identify as Indigenous for the position of Indigenous Advisor.

Restrict hiring to qualified persons who self-identify as Indigenous for the position of Manager, Engagement.
- **Office of the Ombudsperson:** Restrict hiring to Indigenous persons for the position of Indigenous Liaison Officer.
- **PLEA Community Services:** Restrict hiring to women for all positions that work directly with participants in the Daughters & Sisters Program.

Restrict hiring to men for four Youth Support Worker positions in the Waypoint Program.
- **School District No. 34 (Abbotsford):** Restrict hiring to persons with disabilities for six (6) Special Assistant positions that may be assigned to work in any of the following areas: Custodial, Mailroom, Clerical, Food Services, Grounds Maintenance and Library Assistant.
- **School District No. 35 (Langley):** Restrict hiring to people of Aboriginal ancestry for the positions of Aboriginal Support Worker, District Teacher (Aboriginal Program) and Aboriginal Learning Support Teacher.
- **School District No. 36 (Surrey):** Restrict hiring to people of Aboriginal ancestry for 1 Director of instruction, 1 District Vice Principal, 10 Teachers and 45 Support Workers in the Aboriginal Education Program.

- **School District No. 39 (Vancouver):** preferential hiring of persons of Aboriginal ancestry for positions in the Indigenous Education Department in order to reach or exceed parity in the respective representation rates of Aboriginal educators and Aboriginal students in the District.

Restrict hiring to a person of Aboriginal ancestry for the position of Indigenous Education Worker.

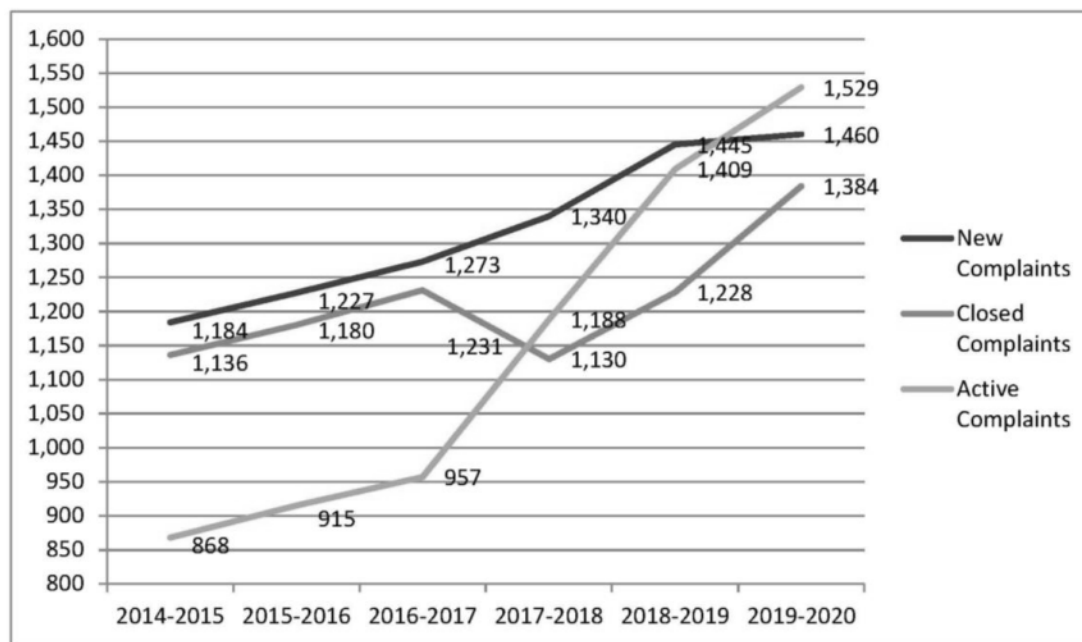
- **School District No. 48 (Sea to Sky):** Preferential hiring of Aboriginal persons for 43 teaching positions.
- **School District No. 54 (Bulkley Valley):** Preferential hiring of persons who self-identify as Aboriginal for an Aboriginal Education Worker position.
- **TRIUMF:** Preferential hiring of women for the following positions: 7 Board Appointed Research Scientists, 5 Staff Scientists, 16 Engineers, 4 Info Systems & Technologists, 32 Technicians/Technologists, 1 Postdoc, 3 Graduate Students, and 3 Faculty Joint Appointments.
- **University of British Columbia:** Restrict hiring for Tier 1 and Tier 2 Canada Research Chair Program positions until the following levels of representation are met within each tier: persons who self-identify as Indigenous (Aboriginal, Metis, Inuit) 4.9%; persons with disabilities 7.5%; racialized persons 22%; and women 50.9%.
- **Vancouver Coastal Health:** Restrict hiring to gay men for one counsellor position in the Vancouver Addictions Matrix Program.
- **Visceral Visions Society:** Restrict provision of services under the CulturalBrew.Art program to self-identified Indigenous or racialized persons only.

The *Expanding our Vision* report raises concerns that special programs approval in the hiring of Indigenous Peoples has had unintended consequences. Survey participants reported that the exemption suggests that to give due weight to Indigenous experience or cultural knowledge in hiring is an example of “special” treatment and risks a discrimination claim by non-Indigenous applicants. Survey participants reported that s. 42 of the Code has had a “dampening” impact on Indigenous hires. The *Expanding our Vision* report recommends education to employers about s. 42 of the Code which should highlight where a fair consideration of Indigenous applicants – for example, strongly weighing Indigenous knowledge and experience – does not require an exemption.


Tribunal Workload

We have reported on what we are doing, and what we need to do better, in order to fulfill our mandate under s. 3 of the Code. As we implement the Access to Justice Triple Aim, we are balancing the three goals of improving population access to justice, improving user experience, and improving costs. Adding to the challenges are the delays in our current process. Not only are there challenges in filing a human rights complaint, but there are also challenges in reaching a timely resolution of a human rights complaint after it has been accepted for filing.

The Tribunal continues to have a significant workload. The caseload volume is at an all-time high and continues to grow which is not surprising given our expanded mandate. The number of active complaints at the Tribunal is 1,529 which represents an 9% increase over the previous year and a 60% increase over the past four years. Active cases mean those that require active engagement by Tribunal case managers and adjudicators.

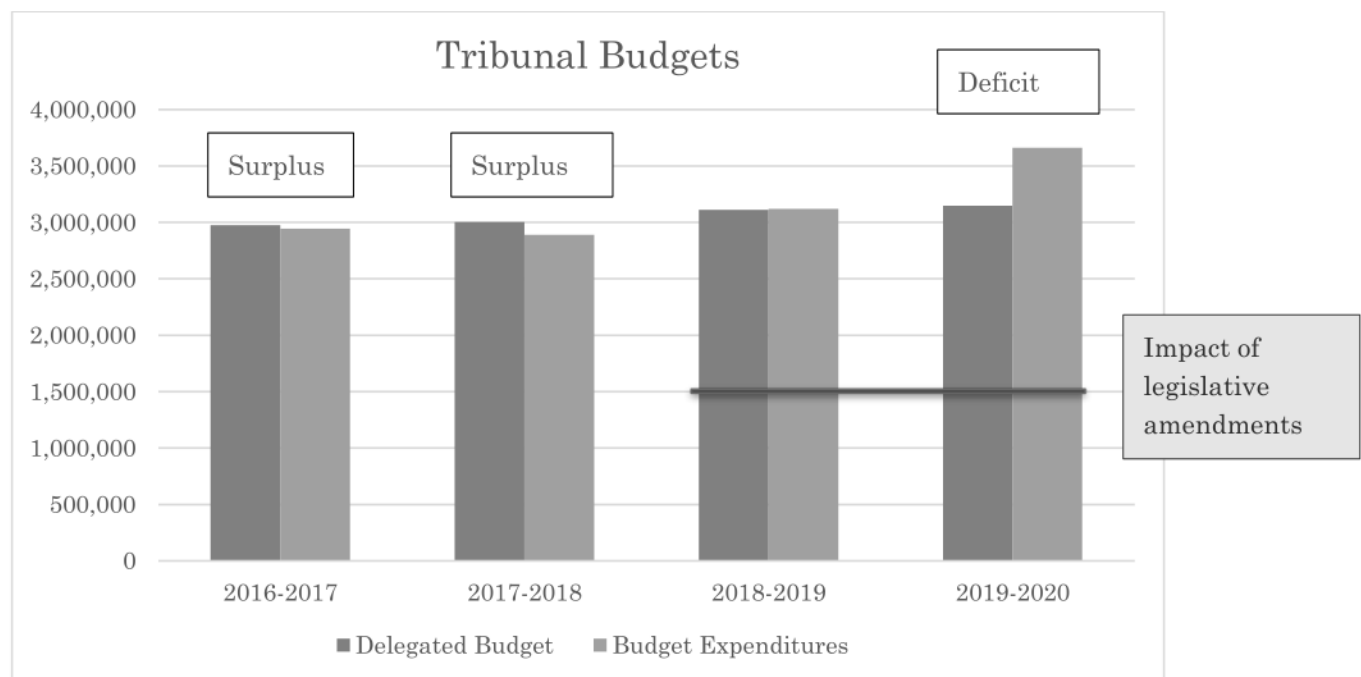


Although the gap between opened and closed cases is narrowing, the Tribunal continues to receive more new complaints than it can resolve. This is reflected in a reduction in the service standards on timeliness. Every stage of the human rights complaint process is being affected by delays. The backlog is growing. The Tribunal has managed the caseload volume by stretching human resources and implementing operational efficiencies. However, this approach is unsustainable. The staffing complement has not changed since the inception of the Tribunal in 2003, at 26 full-time equivalent positions. The Tribunal is seeking to meet the increased demand for services through responsible human resource management, and this will add budgetary pressures over the coming years.



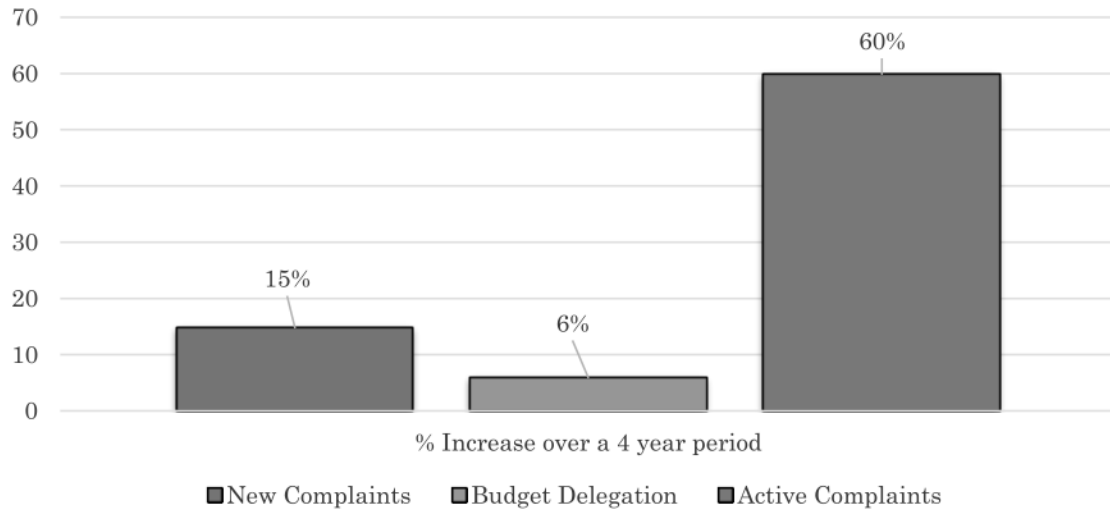
The Tribunal is finding effective ways to achieve the conflicting goals of fiscal restraint and our continued pursuit of operational excellence and access to justice innovation. Improving access to justice and operationalizing the Access to Justice Triple Aim is necessary for the Tribunal to fulfil its mandate under s. 3 of the Code.

The Tribunal is confident that investing adequate resources in the administrative justice sector will save the province money through overall savings in the health care costs and economic costs associated with those who have experienced human rights violations that are not acknowledged, addressed, or remedied. This is demonstrated in a recent collection of empirical research, [Justice Crisis: the Cost and Value of Accessing Law](#), which measures what is and is not working in the justice system. This research shows that Canadians are spending on average about \$6,000 each year resolving legal disputes in what for most was an unsatisfying process. This amount of money represents approximately 75% of what households spend on food each year, 50% of what they pay for transportation, and one third of what they spend on housing. Researchers have also begun to quantify the impact of an individual's lack of access to justice on society. The research also shows that the societal and governmental costs are up to a combined total of \$800 million a year which is broken down into \$450 million in more EI payments, \$101 million in more health care expenses, and \$248 million in more social assistance.



The Tribunal has balanced a budget in three of the past four fiscal years. For two of those balanced years, the Tribunal carried a budget surplus which means that it spent less money than it was given. The recent budgetary pressures on the Tribunal are due to expanding legislative and human rights mandates in the province. This includes the 2016 legislative change adding the ground of “gender identity and expression” to the Code, the 2018 legislative change that increased the time limit for filing a human rights complaint from six months to one year, the 2018 legislative change that established the Office of the Human Rights Commissioner, and the appointment of BC’s Human Rights Commissioner in 2019. The first decisions following a hearing regarding the ground “gender identity and expression” were held in the 2018-2019 fiscal year.

Impact of Expanded Mandates and Reduced Resources



The demand for human rights services at the Tribunal can be measured through the number of new human rights complaints that are filed in any given year. The supply for human rights services at the Tribunal can be measured through annual budget delegations.

Over the past four years, the demand for human rights services (15%) has increased at a higher rate than the supply of human rights services (6%).

One way of measuring the impact of this resource deficit is through the number of active human rights complaints. Over the past four years, the number of active human rights complaints has increased at a rate of 60%. This means that human rights complaints are taking longer to resolve and the delay is growing.

Financial Disclosure

TRIBUNAL OPERATING COSTS

DESCRIPTION	EXPENDITURES	DELEGATED BUDGET	VARIANCE
Salaries	2,675,058	2,324,000	(351,058)
Employee Benefits	678,350	589,280	(89,070)
Fees for Temporary Members	28,808	15,000	(13,808)
Travel*	13,485	10,000	(3,485)
Professional Services	138,857	149,720	10,863
Information Services	35,572	0	(35,572)
Office and Business Expenses	52,232	60,000	7,768
Other Expenses	0	0	0
TOTAL COST	3,622,362	3,148,000	(474,362)

*Travel

All travel costs are associated with Tribunal Members attending hearings and mediations in the province.

Our Tribunal Team

Members are administrative law judges who adjudicate, mediate, and case manage human rights complaints. Our Staff are an integral part of our professional team. We work together to serve our public to the highest standards of integrity and professionalism.

STAFF

Registrar

Steven Adamson

Manager of Finance and Operations

Andrea Nash

Legal Counsel

Katherine Hardie

Barbara Korenkiewicz

Registry Staff

Cheryl Bigelow

Priscilia Bolanos

Kerry Jervelund

Mattie Kalicharan

Ainsley Kelly

Carla Kennedy

Anne-Marie Kloss

Lorne MacDonald

Nikki Mann

Sarah Muench (partial year)

Kate O'Brien (shared with other tribunals)

Britt Stevens (partial year)

Daniel Varnals

Meagan Stangl

Sandy Tse

Danyka Wadley

MEMBERS

Chair

Diana Juricevic

Tribunal Members

Steven Adamson (Registrar and Member)

Jacqueline Beltgens

Grace Chen

Devyn Cousineau (part-time)

Beverly Froese

Laura Matthews (partial year)

Catherine McCreary (partial year/retired)

Pamela Murray (partial year/part-time)

Emily Ohler

Walter Rilkoff (partial year/retired)

Paul Singh

Kathleen Smith

Karen Snowshoe (partial year)

Norman Trerise (part-time)

Please contact us or visit our [website](#) if you require additional information:

Appendix

EXPANDING OUR VISION IMPLEMENTATION UPDATE

This is the Tribunal's first progress report under its *Expanding Our Vision* Indigenous Justice Initiative. This report covers the first six-month period after the release of *Expanding Our Vision*, from January until June 2020.

Committee

Recommendation 2.2 *Create a staff/tribunal committee tasked with developing the Expanding our Vision Implementation Plan. Indigenous lawyers and cultural leaders or academics with knowledge of human rights should be recruited to join these efforts. The Expanding Our Vision Implementation Plan should include immediate steps to be taken in the first 6 months, and then be renewed on a yearly basis.*

In January 2020, the Tribunal sought members for its *Expanding Our Vision* Implementation Committee [**Committee**]. The composition of the Committee expanded over the following weeks. The membership of the Committee is now comprised of a diverse group of Indigenous lawyers, community leaders, youth, and academics from across the province, as well as a representative from BC's Office of the Human Rights Commissioner. A full list of Committee members is listed at the end of this report. The Committee first met on March 2, 2020.

The Committee meets monthly to oversee and guide the Tribunal's efforts in implementing *Expanding Our Vision*. In this first period, it identified immediate priorities for the Tribunal in respect of hiring and training. It continues to identify priorities and direct the Tribunal's initiatives.

Hiring

Recommendation 1.3 Increase the number of Indigenous Peoples at all levels of the BCHRT, including staff, tribunal members and contractors.

Recommendation 4.1 Priority should be given to hiring or appointing Indigenous staff and tribunal members.

Recommendation 4.2 Audit the current HR process to identify why Indigenous Peoples are not being recruited or hired. Provide specific training to HR staff on how to actively recruit and fairly assess Indigenous applicants. Seek specific mentoring advice from other organizations with higher Indigenous staff ratios about how to address this underrepresentation. The BCHRT should set yearly hiring targets for the first five years, and report on success in meeting those targets in annual reports.

Recommendation 4.3 Audit the tribunal appointment process to identify why Indigenous Peoples are not applying or being appointed as tribunal members. Set specific recruitment and appointment goals for BCHRT Indigenous tribunal members.

Recommendation 4.4 Implement options for part-time appointments to qualified Indigenous tribunal members, who may not be available full-time. This could provide a way to reflect Indigenous adjudicative and dispute resolution traditions within the Tribunal's expertise.

The Committee identified increasing Indigenous representation within the Tribunal as the first priority. The Tribunal has taken a number of steps towards this goal.

In February 2020, the Tribunal appointed two Indigenous members under s. 6 of the *Administrative Tribunals Act*. These appointments are for six months.

On January 22, 2020, the Tribunal advertised a Notice of Position seeking applicants for the position of Tribunal Member. The Tribunal advised it may prefer Indigenous applicants for the position, and that part-time options are available. To attract Indigenous candidates, the Tribunal held an Information Session for Indigenous Lawyers, to share information about becoming a member. That hiring process is now under way. The position posting has attracted many qualified Indigenous candidates.

The Tribunal has also concluded an internal audit of its hiring process to identify barriers to the recruitment and hiring of Indigenous Peoples. That audit identified a number of factors that may create such barriers:

1. Failure to give weight to the need for the Tribunal to reflect Indigenous Peoples or otherwise reflect the diversity of people coming to the Tribunal, social context understanding, lived experience, cultural competency, or trauma-informed practice;
2. Limited advertisement of the position and failure to actively reach out to diverse communities;

3. Reliance on personal connections or word of mouth;
4. Political influence from government;
5. Bureaucratic process can take a long time;
6. Lack of Indigenous members and staff at all levels, including leadership positions;
7. Highly structured application process; and /or
8. Job application process that is exclusively online.

In response to this audit, the Tribunal has prepared a draft *Framework for Recruitment, Hiring and Retention of Indigenous Peoples*. That framework identifies practices to guide the Tribunal's recruitment, hiring and retention initiatives going forward. A subcommittee comprised of Tribunal legal counsel, one Tribunal member, and a number of Committee members, will oversee and assist with the continued development and implementation of this framework.

Training

Recommendation 8.1 *Develop a baseline of information and understanding of the racism that Indigenous Peoples experience so that individual complainants are not put to a process of proof again and again...*

Recommendation 10.1 *Adopt a trauma-informed practice overall, including for assessing and accommodating delays or requests for extensions. The BCHRT staff and tribunal members should be provided with training on how trauma may impact Indigenous Peoples' actions or interactions within the BCHRT system.*

In tandem with increasing Indigenous staff and members at the Tribunal, the Committee directed the Tribunal to prioritize developing cultural competency, humility, and safety among its staff and members. To that end, the Committee is overseeing the development of a *BC Human Rights Tribunal Indigenous Cultural Competency and Humility Framework* [**Cultural Training Framework**]. A subcommittee of Tribunal members and Committee members will work on its further development and implementation.

Under the *Cultural Training Framework*, the Tribunal seeks to be a safe and welcoming place for Indigenous Peoples, as staff, Tribunal Members, mediators, parties, and communities which we serve. Specific learning initiatives for staff, members and mediators include: monthly meetings for Tribunal members which incorporate Indigenous cultural learning; and monthly small group work for all staff and members. When the restrictions of the current pandemic are lifted, the Tribunal will also be organizing site visits to Indigenous organizations or communities and be participating in a blanket exercise.

Amendments to the *Human Rights Code*

Recommendation 1.2 Advocate to add Indigenous identity as a protected ground to the Code. Current grounds of discrimination under the Code (including based on race, colour, ancestry or religion) do not adequately address the discrimination Indigenous Peoples report experiencing. This would send a message of inclusion and reflect the individual and collective nature of Indigenous human rights.

On May 7, 2020, the Tribunal wrote to the Ministry of the Attorney General to request, on an urgent basis, for an amendment to ss. 7-14 of the *Human Rights Code* to add Indigenous identity as a ground of discrimination. That letter was updated with an expanded list of supporting organizations on May 19, 2020. A copy of this letter is posted on the Tribunal's website. The request was supported by Indigenous and human rights organizations, including:

- Union of BC Indian Chiefs
- BC Assembly of First Nations
- Métis Nation British Columbia
- Office of the Human Rights Commissioner
- Aboriginal Front Door
- Aboriginal Women's Action Network
- ATIRA Group of Women Serving Agencies
- BC Civil Liberties Association
- Community Legal Assistance Society (CLAS)
- Downtown Eastside Women's Center
- Ending Violence Association of BC
- First United Church Community Ministry Society
- Human Rights Clinic
- Indigenous Community Legal Clinic, UBC
- Native Education College
- Pacific Association of First Nations Women
- The Provincial Council of Women of British Columbia
- Residential School History and Dialogue Centre, UBC
- Rise Women's Legal Centre
- Vancouver Aboriginal Community Policing Centre
- WAVAW Rape Crisis Centre
- West Coast LEAF
- Bradford W. Morse, Professor of Law, Thompson Rivers University

This work is done in partnership with the Office of the Human Rights Commissioner.

Recommendation 14.1 *Use plain language, easily understood by the average person with a grade five education, when communicating with complainants. Review communications, including forms and template letters, to ensure that they use plain language.*

Recommendation 9.4 *Amend BCHRT forms to contemplate Indigenous Peoples, including Indigenous names, where a delay may be reflective of historic trauma, or to allow for exploration of options to resolve issues as required by Indigenous protocols.*

Communications and Forms

The Tribunal is revising its forms. The new forms will use plain language and will identify a place for people to identify traditional or other names. The forms will acknowledge that trauma may be a cause of delay in filing complaints. The new forms will also collect demographic information on a voluntary basis, including Indigenous identity. The Tribunal will introduce the new forms in June 2020 and will revise them with user feedback.

Next steps

The Tribunal continues to work with the Committee to implement the *Expanding Our Vision* recommendations. The Committee is currently mapping the recommendations to identify which ones fall within or outside the Tribunal's mandate, which ones will require additional funding, and which ones the Tribunal can take immediate steps on. The Committee will then set further priorities and timelines. The Tribunal will continue to report on its progress.

Committee Members

Patricia M. Barkaskas
Jade Baxter
Romona Baxter
Cynthia Callison
Rosalind Campbell
Dylan Cohen
Devyn Cousineau
Trish Garner
Andrea Glickman
Katherine Hardie
Andrea Hilland
Jo Ann Nahanee
Amber Prince
Lissa Dawn Smith

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**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION of David Eby, QC
Attorney General and Minister Responsible for Housing

ISSUE: Public Guardian and Trustee's 2019-2020 Annual Report.

SUMMARY:

- Section 25 of the *Public Guardian and Trustee Act* requires the Public Guardian and Trustee of British Columbia (PGT) to report in each fiscal year to the Attorney General on the operations of the office for the preceding fiscal year.
- The report must be made by September 30 following the preceding fiscal year end. The PGT's 2019-2020 Annual Report (Attachment 3) was submitted on September 25, 2020.
- The Attorney General must promptly lay a copy of the report before the Legislative Assembly if it is in session or, if not in session, within 30 days after the beginning of the next session.
- The Justice Services Branch will arrange for the tabling of the report with the Minister's Office and the Clerk of the Legislative Assembly.
- During 2019-2020, the PGT provided services through 269 full-time equivalent employee positions to approximately 26,500 clients and administered over \$1.1 billion of trust assets.
- Some of the matters noted in the Message from the PGT in the 2019-2020 Annual Report are:
 - In November 2019, the PGT commenced a new statutory service for adults as legislative amendments related to care facility admission came into force.
 - The PGT made progress on its multiyear plan to enhance client service through the modernization of its information technology systems by starting the evolution from a traditional paper-based environment to one supported by digital records management and, at a future stage, interactive online client services.
 - The continuous education and skills development of staff is a key focus of the annual plan to provide effective client services.
 - This year over 160 staff members participated in working groups led by an Indigenous cultural awareness consultant and PGT leadership to develop a trust and reconciliation strategy for the PGT to inform organizational culture and client service.
 - COVID-19 disrupted the last few weeks of the year covered by the report and required an immediate response by the PGT to minimize health and safety

risks caused by the virus. The PGT expects to have more insight into the impact of the pandemic on their clients and operations in the next annual report.

- In 2019-2020, the PGT met or exceeded its targets for 18 of 19 (95%) of the performance measures on which it is reporting.
- The 2019-2020 Annual Report notes that the highest residual risk for the PGT as of October 2019 relates to workload impacting employee engagement.
- The PGT has provided an Information Note (attached); and has also offered to brief the Attorney General with respect to the contents of the Annual Report.

BACKGROUND:

- The PGT is a corporation sole, established under the *Public Guardian and Trustee Act*.
- The PGT's mandate generally relates to the following three areas:
 - protecting the legal and financial interest of children under the age of 19 years;
 - protecting the legal, financial, personal and health care interests of adults who require assistance in decision making; and
 - administering the estates of deceased and missing persons.
- The PGT has a role under more than 20 provincial statutes.
- The *Public Guardian and Trustee Act* requires the annual report to include:
 - audited financial statements on the stewardship of trusts and estates under administration;
 - audited financial statements on the operations of the office of the PGT;
 - a statement of the extent to which the PGT has met the performance targets and other objectives established in the PGT's service delivery plan; and
 - the report of an auditor on the PGT's statement regarding performance targets and other objectives.

DISCUSSION:

PGT's 2019-2020 Annual Report

- The 2019-2020 Annual Report reports on PGT performance in year one of the PGT's 2019-2022 Service Delivery Plan, which was approved by the Attorney General. The 2019-2020 budget was funded as set out in the plan.
- The 2019-2020 Annual Report notes that the PGT contributed its expertise through extensive partnership and outreach activities, engaged in education outreach, and participated in a number of law reform initiatives and consultations, including:

- consultation with the British Columbia Law Institute and the Ministry of Children and Family Development to review the *Child, Family and Community Service Act*;
 - engaging with Insurance Corporation of British Columbia representatives to discuss matters of mutual interest concerning the settlement of motor vehicle-related claims for children and youth; and
 - liaising with the Ministry of Health regarding *ex-gratia* payments by government to former residents of Woodlands School.
- The 2019-2020 Annual Report notes social trends, risk factors and internal issues that affect the work of the PGT, the impact on PGT clients, and the PGT response to these matters. These issues include:
 - Improving client service through the use of technology enhancements:
 - Significant gaps exist between client service expectations and the organization's ability to meet them (e.g., reviewing accounts online; submitting information interactively through a secure portal).
 - The PGT will continue to work closely with the B.C. Chief Information Officer and the Ministry of Attorney General to follow leading practice in implementing new technology and making corresponding process improvements, and will continue implementation of a document management system.
 - The PGT will move forward with obtaining business intelligence reporting tools and pursue funding to begin development of interactive digital client self-service.
 - Responding to changing demographics:
 - An aging population gives rise to an increase in demand for PGT services to adults and estate and administration services; the role of a fiduciary is becoming more complex; and managing clients' financial affairs is increasingly more complex with as assets are located around the world and in multiple formats, and clients and estates increasingly require debt management and resolution of tax issues.
 - The PGT will allocate new resources to services in program areas with sustained increases in demand when required funding is secured, and will conduct a review of the manner in which estate administration services are delivered.
 - Responding to increasing service expectations:
 - Public expectations and advances in technology have increased demand for instant and easily accessible information; and the scope of duties associated within the PGT's statutory roles continue to expand.
 - Feedback from consultations with clients and stakeholders has highlighted the need for improved communication by the PGT.

- The PGT will develop clear communications materials about services for clients and stakeholders, and will continue to focus on making operations more efficient and will continue to assess trends and service demand changes in order to manage its resources in a manner that is flexible and responsive to changing service delivery needs.
 - Enhancing employee engagement:
 - Traditional PGT recruitment sources are providing fewer qualified candidates; PGT compensation rates, which are determined by government, have not kept pace with private sector equivalents in several key areas; and staff retention is challenged by the fact that other employers are able to offer more flexible work arrangements and better compensation.
 - The PGT will continue to use bridging positions and temporary assignments to promote career growth; continue to build its corporate training program and to engage in succession planning; and investigate strategies to support staff recruitment and retention such as offering a range of flexible work options and working with government to review classification of key positions.
 - Assessing the impact of recent legislative reform:
 - In recent years, there have been several legislative reforms that have confirmed and/or enhanced the PGT's mandate, requiring the implementation of changes to policies, procedures, technology and resourcing.
 - The PGT will review implementation of recent legislative reforms; and will consider any impacts to the PGT role resulting from the anticipated introduction of Enhanced Care Coverage by ICBC and related legislative and regulatory amendments.
- Flowing from the PGT's risk management evaluation, the most significant specific risks facing the PGT (as well as some of the major mitigation strategies) are outlined in the 2019-2020 Annual Report:
 - workload impacting employee engagement – this was identified as the highest residual risk as of October 2019 as employee workloads are becoming increasingly complex and difficult to manage;
 - sufficiency of human resources;
 - sufficiency of internal reporting;
 - priority setting and capacity;
 - changing demographics; and
 - funding sufficiency and expense authority.
- The PGT self-funds a large percentage (70% in 2019-2020) of its operating expenses through fees charged on client income and assets with supplementary

voted funding that supports public services such as regulatory and oversight activities. Any operating surplus at year-end is retained in the Special Account and is not accessible to the PGT for spending in subsequent years without Treasury Board approval.

- In 2019-2020, the PGT met or exceeded its targets for 18 of 19 (95%) of the performance measures on which it is reporting.
 - The PGT missed, by 1%, its target measure for taking protective steps in circumstances where an abused or neglected adult's assets are at risk. A number of factors contributed to the PGT missing this target, including recently enhanced rigour with which performance data is captured; staffing challenges resulting in understaffing; and cognizance of the changing landscape as it relates to balancing of rights and protective action.
- With respect to legal services:
 - at March 31, 2020, PGT staff lawyers were providing legal advice and services to clients that involved acting on nearly 3,000 legal issues; and
 - in 2019-2020, the PGT investigated clients' eligibility for settlement payments in 10 class actions and filed claims where appropriate; and continues to monitor 22 class actions and/or potential class actions on behalf of clients.
- All PGT expenditures are allocated into one of two categories according to the nature of the work:
 - Estate and trust services are the primary PGT responsibility and, in 2019-2020, accounted for \$21 million or 68% of total costs and produced \$20.5 million or 95% of total self-generated recoveries from fees. The PGT Estate and Personal Trust Services division achieved cost recovery; the rate of recovery was 110% in 2019-2020 (113% in 2018-19).
 - Public services accounted for \$9.8 million or 32% of total costs in 2019-2020, and produced \$1 million or 5% of total self-generated recoveries from fees.
- Financial information, including recoveries and program costs for 2019-2020 and other financial statements, are set in the annual report.
 - The PGT audited financial statements differ from CAS in two material respects: expense recoveries from clients are included in STOB 9003, but for financial statement purposes are presented net of the relevant expense STOB; and manual adjustments were made after the government corporate accounting system (CAS) closed due to more complete financial information at the time of the June audit (June) compared to when CAS is closed for year-end in early April.

INDIGENOUS PEOPLES CONSIDERATIONS:

- N/A

OTHER MINISTRIES IMPACTED/CONSULTED:

- N/A

Prepared by:

Andrea Buzbuzian
Legal Counsel
Justice Services Branch
778 974-3682

Approved by:

Paul Craven
Executive Director
Justice Services Branch
778 698-9333

Approved by:

Kurt J.W. Sandstrom, QC
Assistant Deputy Minister
Justice Services Branch
778 974-3689

Approved by:

Richard J.M Fyfe, QC
Deputy Attorney General
250 356-0149

Attachment

Attachment 1 - Information Note prepared by the PGT

Attachment 2 - Letter from the PGT

Attachment 3 - Public Guardian and Trustee 2019-2020 Annual Report

**PUBLIC GUARDIAN AND TRUSTEE
INFORMATION NOTE**

PURPOSE: For INFORMATION for the Honourable David Eby, Q.C., Attorney General

ISSUE: Public Guardian and Trustee (PGT) 2019 - 2020 Annual Report

SUMMARY:

- During 2019-20, the PGT provided services through 269 full time equivalent employee positions to approximately 27,000 clients and administered over \$1.11 billion of client assets in trust.
- Budget: \$29.50 million (\$19.80 million self generated revenue from client paid fees for estate and trust services; \$9.70 million voted appropriation for public services including monitoring services, substitute health care decisions and financial abuse investigations).
- The PGT self funds a large percentage (70% in 2019-20) of its actual expenditures through fees charged on client income and assets under PGT administration with supplementary voted funding that supports public services such as regulatory and oversight activities.
- Independent auditors confirmed that in 2019-20, the Public Guardian and Trustee met or exceeded 18 of 19 performance targets.
- The activities related to achieving the performance targets included:
 - reviewing and initiating action on 1,328 critical incident reports in respect of children in continuing care to protect their legal and financial interests;
 - reviewing 454 proposed settlements of civil claims for unliquidated damages on behalf of minors;
 - distributing over \$40 million estate assets to intestate successors and beneficiaries;
 - completing 1,449 client investment plans and reviews; and
 - exceeding investment industry average returns for all three PGT client pooled investment funds.
- Key activities included:
 - continued implementation of a multiyear strategic transformation plan including the completion of the first phase of deployment of a document management system;
 - prioritized the continuous education and skills development of our staff who are required as part of their duties to manage complex legal, financial, personal and healthcare decisions on behalf of PGT clients;
 - developed a truth and reconciliation strategy, which included goals, actions and performance measures, for the PGT to inform organizational culture and client service.
 - commenced a new statutory service for adults as provincial legislative amendments related to care facility admission came into force;

- participated on a broad range of provincial and national committees to consider issues such as the review of the *Child, Family and Community Services Act* with the British Columbia Law Institute and the Ministry of Children and Family Development and consulted with the Ministry of Health on implementation of Part 3 of *Health Care (Consent) and Care Facility (Admission) Act* legislation which came into force November 4, 2019.

BACKGROUND:

- Section 25 of the *Public Guardian and Trustee Act* requires the Public Guardian and Trustee to produce a report on the operations of the office for the preceding fiscal year to the Attorney General by September 30.
- Section 25 also requires the Attorney General to promptly lay a copy of the Public Guardian and Trustee Annual Report before the Legislative Assembly when it is in session, and if not in session, then within 30 days of the beginning of the next session.
- Statutory role of the Public Guardian and Trustee – independent (with respect to client matters), fiduciary:
 - protects the legal and financial interests of children under the age of 19 years;
 - protects the legal, financial, personal and health care interests of adults who require assistance in decision making; and
 - administers the estates of deceased and missing persons.

Submitted by:

Catherine Romanko
Public Guardian and Trustee
Tel: 604.660.4489
September 25, 2020

Attachment:

Public Guardian and Trustee 2019 - 2020 Annual Report [PDF]



PUBLIC GUARDIAN
AND TRUSTEE OF
BRITISH COLUMBIA

700-808 West Hastings Street, Vancouver, BC Canada V6C 3L3 • Phone: (604) 660-4444 • Fax: (604) 660-0374
www.trustee.bc.ca

September 25, 2020

The Honourable David Eby, QC
Attorney General
Ministry of Attorney General
PO Box 9044, STN PROV GOVT
Victoria, British Columbia V8W 9E2

Dear Attorney General:

I have the honour of presenting to you the Annual Report of the Public Guardian and Trustee in accordance with the provisions of section 25 of the *Public Guardian and Trustee Act*.

This report covers the period April 1, 2019 to March 31, 2020.

Section 25(2) of the *Public Guardian and Trustee Act* requires the Public Guardian and Trustee to deliver a report on the operations of the office for the preceding fiscal year by September 30 following the preceding fiscal year end. Section 25(4) of the *Public Guardian and Trustee Act* provides that the Attorney General must lay a copy of the Public Guardian and Trustee's Annual Report before the Legislative Assembly within 30 days after the beginning of the next session.

This electronic document constitutes the official audited report.

I would be pleased to brief you with respect to the contents of this report should you require it. I have also included an Information Note about the Public Guardian and Trustee 2019-2020 Annual Report.

Yours truly,

Catherine M. Romanko
Public Guardian and Trustee

Enclosure

cc: Richard Fyfe, QC, Deputy Attorney General
Shaun Wilson, KPMG

2019 2020

Annual Report







Rights, choices and security for all British Columbians

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Letter of Transmittal

September 24, 2020

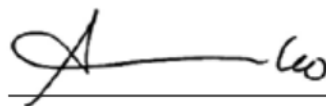
The Honourable David Eby, QC
Attorney General
Ministry of Attorney General
PO Box 9044, STN PROV GOVT
Victoria, British Columbia V8W 9E2

Dear Attorney General:

I have the honour of delivering to you the Annual Report of the Public Guardian and Trustee in accordance with the provisions of section 25 of the *Public Guardian and Trustee Act*.

This report covers the period April 1, 2019 to March 31, 2020.

Yours truly,



Catherine M. Romanko
Public Guardian and Trustee

Message from the Public Guardian and Trustee

This year was a period of continued growth and development for the Public Guardian and Trustee (PGT) in the areas of mandate and organizational capacity to provide effective services.

In November 2019, the PGT commenced a new statutory service for adults as provincial legislative amendments related to care facility admission came into force. The new law creates a legal scheme for consent to admission to a care home. Under these provisions, the PGT provides or selects an eligible person to provide substitute consent to admission for adults who are incapable of providing consent and who have no legal representative authorized to do so on their behalf. In this new role, the PGT supports due process protection for adults entering a care facility by ensuring that legal consent for admission is obtained and that placement decisions include consideration of an adult's individual needs and wishes.

During the year, the PGT also made progress on our multiyear plan to enhance client service through the modernization of our information technology systems. Having recently replaced an unsustainable legacy trust accounting system with a modern system, this year we started the evolution of our office from a traditional paper-based environment to one supported by digital records management and at a future stage, interactive online client service.

In February 2020, we successfully implemented the first phase of a document management system focusing initially on records relating to client accounts payable. Staff quickly appreciated the efficiencies enabled by this first venture into client digital records and automated workflows and are looking forward to the improvements to client services further development of the system promises to bring. In related work during the year, we also significantly enhanced our network infrastructure and security to improve performance and reduce our exposure to the risk of cyber attacks.

The continuous education and skills development of our staff is also a key focus of our annual plan to provide effective client service. PGT staff are required as part of their duties to manage often complex legal, financial, personal and health care matters on behalf of our clients. To support that work, we provide ongoing training on a broad range of subjects and skills including ethical decision making, protection of privacy, avoidance of conflicts of interest as well as a variety of legal and financial matters. In recent years, PGT staff have engaged in learning about the history of Indigenous Peoples in Canada including the destructive impact of the residential school system and other facets of colonization on generations of Indigenous families and their communities.

This year over 160 staff members participated in working groups led by an Indigenous cultural awareness consultant and PGT leadership to develop a truth and reconciliation strategy for the PGT to inform organizational culture and client service. The strategy we developed is unique to the PGT and establishes goals, actions and performance measures to guide staff as we pursue reconciliation and take steps to make our client service culturally appropriate.

COVID-19 disrupted the last few weeks of the year covered by this report and required an immediate response by the PGT to minimize health and safety risks caused by the virus. Fortunately, because we had just implemented the first phase of our document management system, we were able to quickly move the majority of staff in all locations to work from home arrangements with minimal disruption to client service. Although we have temporarily suspended in-person interactions with clients and the broader community, staff have maintained these important relationships through regular virtual communication. We expect to have more insight into the impact of the pandemic on our clients and operations in our next annual report.

At the PGT we recognize that our employees are our most valuable resource. Our ability to attract and retain bright, skilled and experienced people is the foundation upon which we provide our client services. The PGT engagement scores in the 2020 BC Public Service Work Environment Survey reassures us that we are on the right track and that our continuous improvement efforts help make our organization a place where employees want to work. In the year ahead, we will continue to work with staff to make our workplace the best it can be.

The work carried out by the PGT on behalf of clients is supported by the generous contribution of time and expertise made by the members of the PGT Investment and Audit Advisory Committees. We are so grateful for their interest in the PGT and thank them for their valuable advice.

I also want to recognize and thank our staff across the province for their professionalism and commitment to providing their best in serving PGT clients.

Catherine M. Romanko

Public Guardian and Trustee



Performance Report



Accountability Statement

Under my direction, the 2019–2020 Performance Report has been properly prepared and fairly stated, in all material respects, based on the requirements of subsections 25 (1), 25 (2), 25 (3) (c), 25 (3) (d) and 26 (1) (b) of the *Public Guardian and Trustee Act* and on the Performance Reporting Principles For the British Columbia Public Sector (collectively, the “Criteria”). I am accountable for the results achieved and how actual performance has been reported; complying with the requirements of the Criteria; designing, implementing and maintaining internal control relevant to the preparation and presentation of the Performance Report in accordance with the Criteria and free from material misstatement, whether due to fraud or error; the selection of the performance measures included in the Performance Report; making judgments and estimates that are reasonable in the circumstances; and maintaining adequate records in relation to the PGT’s Performance Report. The information presented in the Performance Report reflects the actual performance of the Public Guardian and Trustee for the 12 months ended March 31, 2020.

The information presented represents a comprehensive picture of our actual performance in relation to our service delivery plan. The report contains estimates and significant interpretive information that represents the best judgment of management. The measures presented are consistent with the organization’s mandate, goals and objectives and focus on aspects critical to understanding our performance. Any significant limitations in the reliability of specific data are identified in the report.

The report is intended for a general audience. Specific users may require more detailed information than is contained in this report.

Catherine M. Romanko
Public Guardian and Trustee
September 24, 2020



KPMG LLP
PO Box 10426 777 Dunsmuir Street
Vancouver BC V7Y 1K3
Telephone (604) 691-3000
Fax: (604) 691-3031

Independent Practitioners' Reasonable Assurance Report on the 2019–2020 Performance Report of the Public Guardian and Trustee of British Columbia

To:

**The Public Guardian and Trustee of British Columbia,
The Attorney General of the Province of British Columbia,
and the Members of the Legislative Assembly of British Columbia**

We were engaged by the Public Guardian and Trustee of British Columbia (PGT) to undertake a reasonable assurance engagement and report on the 2019–2020 Performance Report (Performance Report) of the PGT for the year ended March 31, 2020 and the PGT's Accountability Statement (statement) thereon as set out on page 11, in the form of an independent opinion about whether the PGT's statement that the Performance Report is properly prepared and fairly stated, in all material respects, based on the requirements of subsections 25 (1), 25 (2), 25 (3) (c), 25 (3) (d) and 26 (1) (b) of the *Public Guardian and Trustee Act* (PGT Act) and on the Performance Reporting Principles For the British Columbia Public Sector (BC Performance Reporting Principles) (collectively referred to herein as the Criteria) is fairly stated.

Our conclusion excludes the following elements of the Performance Report: The Performance Report necessarily contains a number of representations by the PGT concerning the appropriateness of the PGT's goals, objectives, targets, explanations of the adequacy of planned and actual performance, and expectations for the future. These are provided to provide context to assist the reader in evaluating the plans and performance of the PGT. Such representations are the opinions of the PGT and, given their necessarily subjective nature and also the future orientation of some of the representations, such representations inherently cannot be subject to independent verification. Further, as described in the Performance Report section entitled Linking Resources to Performance, the tables and related information on pages 68 to 77 of the Performance Report are derived using an allocation model developed to reflect approximate usage of key services and other segmentation methodologies that are beyond the scope of this engagement; accordingly, with respect to the tables and related information on pages 68 to 77 of the Performance Report, our engagement was limited to providing reasonable assurance that the historical financial information in the Performance Report is consistent with the audited financial statements contained in the PGT's 2019–2020 Annual Report. Accordingly, our opinion set out below excludes the effect of adjustments, if any, which we may have determined to be necessary had we been able to independently verify the representations described in this paragraph, and had we performed a more extensive examination of the tables and related information on pages 68 to 77 of the Performance Report.



Public Guardian and Trustee of British Columbia Responsibilities

The PGT is responsible for properly preparing and fairly presenting the Performance Report free from material misstatement in accordance with the Criteria, and for the information contained therein. The PGT is also responsible for preparing the accompanying statement thereon as set out on page 11.

These responsibilities include: complying with the requirements of subsections 25 (1), 25 (2), 25 (3) (c), 25 (3) (d) and 26 (1) (b) of the *PGT Act*; designing, implementing and maintaining internal control relevant to the preparation and presentation of the Performance Report in accordance with the Criteria and free from material misstatement, whether due to fraud or error; the selection of the performance measures included in the Performance Report; making judgments and estimates that are reasonable in the circumstances; and maintaining adequate records in relation to the PGT's Performance Report.

Practitioners' Responsibilities

Our responsibility is to express an opinion on the Performance Report prepared by the PGT and to report thereon in the form of an independent reasonable assurance conclusion based on the evidence obtained. We conducted our reasonable assurance engagement in accordance with Canadian Standard on Assurance Engagements 3000, *Attestation Engagements Other than Audits or Reviews of Historical Financial Information*. This standard requires that we plan and perform this engagement to obtain reasonable assurance about whether the Performance Report is properly prepared and fairly stated, in all material respects, based on the Criteria.

Reasonable assurance is a high level of assurance, but is not a guarantee that an engagement conducted in accordance with this standard will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of users of our report.

The nature, timing and extent of procedures performed depends on our professional judgment, including an assessment of the risks that the Performance Report is not properly prepared and fairly presented, in all material respects, in accordance with the Criteria, whether due to fraud or error. In making those risk assessments, we have considered internal control relevant to the preparation and presentation of the Performance Report in order to design assurance procedures that are appropriate in the circumstances, but not for the purposes of expressing a conclusion as to the effectiveness of the PGT's internal control over the preparation and presentation of the Performance Report.

Our engagement also included: assessing the suitability of the Criteria used by the PGT in preparing the Performance Report; evaluating the appropriateness of the methods and procedures used by the PGT in the preparation of the Performance Report; evaluating the reasonableness of calculations, judgements, and estimates made by the PGT in preparing the Performance Report; examining, on a test basis, evidence supporting the amounts and disclosures in the Performance Report; evaluating the proper preparation and fair presentation of the Performance Report in accordance with the Criteria; and performing such other procedures as we considered necessary in the circumstances.

We believe the evidence we obtained is sufficient and appropriate to provide a basis for our opinion.



Practitioners' Independence and Quality Control

We have complied with the relevant rules of professional conduct/code of ethics applicable to the practice of public accounting and related to assurance engagements, issued by various professional accounting bodies, which are founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

The firm applies Canadian Standard on Quality Control 1, *Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and Other Assurance Engagements* and, accordingly, maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

Opinion

Our conclusion has been formed on the basis of, and is subject to, the matters outlined in this report.

In our opinion, the PGT's statement, that the Performance Report of the PGT for the year ended March 31, 2020 is properly prepared and fairly presented in all material respects based on the Criteria, is fairly stated.

Purpose of the Performance Report

The Performance Report has been evaluated against the Criteria. The Performance Report reports on the performance of the PGT as a BC public sector entity, in accordance with the requirements of the Criteria, and is intended to provide readers of the Performance Report with credible information, fairly interpreted, with respect to: the public purpose served by the PGT; its goals and results, focusing on the few critical aspects of its performance; information relating the PGT's results to its risks, capacity, resources, and strategies; comparative information; and the basis for key reporting judgements. The Performance Report may not be suitable for other purposes.

The attached Appendix to this report summarizes and explains selected key aspects of how the Performance Report has been properly prepared and fairly stated, in all material respects, based on the Criteria.

A handwritten signature in black ink that reads 'KPMG LLP'. The signature is written in a cursive, stylized font. Below the signature is a horizontal line.

Chartered Professional Accountants

Vancouver, Canada

September 24, 2020



Appendix to Independent Practitioners' Reasonable Assurance Report on the 2019-2020 Performance Report of the Public Guardian and Trustee of British Columbia

This Appendix summarizes and explains selected key aspects of how the Performance Report has been properly prepared and fairly stated, in all material respects, based on the requirements of subsections 25 (1), 25 (2), 25 (3) (c), 25 (3) (d) and 26 (1) (b) of the PGT Act and on the BC Performance Reporting Principles (collectively referred to herein as the Criteria).

BC Performance Reporting Principle 1 – Explain the Public Purpose Served

The Performance Report identifies and explains the PGT's mandate, enabling legislation, vision, values, and organizational structure. Core program areas, services, clients, and stakeholders are described, as is the role of service partners. The PGT's role and relation to the courts and the Crown are explained.

BC Performance Reporting Principle 2 – Link Goals and Results

The Performance Report identifies and explains the PGT's mandate and vision, its service delivery plan including the goals it has identified in support of its mandate and vision, the related more detailed objectives and performance measures, and its actual results, providing linkages and a logical flow between them. The relevance and relation to long-term outcomes are identified and explained for key performance measures and results. Variances between planned and actual results are identified and explained. The impact of results on the PGT's future direction is also identified and explained where relevant.

BC Performance Reporting Principle 3 – Focus on the Few, Critical Aspects of Performance

The PGT's April 1, 2019 – March 31, 2022 Service Delivery Plan identifies the PGT's five strategic goals related to the three aspects of its mandate, one to three specific objectives related to each goal, and related specific performance measures. The Performance Report repeats this information from the Service Delivery Plan, and provides in a clear, concise format the PGT's actual results for each performance measure, and the meaning and importance of each performance measure and result. The Performance Report also provides related contextual information regarding factors influencing the selection of goals, objectives, and performance measures, and factors influencing the actual results.



Appendix to Independent Practitioners' Reasonable Assurance Report on the 2019-2020 Performance Report of the Public Guardian and Trustee of British Columbia

BC Performance Reporting Principle 4 – Relate Results to Risk and Capacity

The Performance Report summarizes management's approach to risk, including risk identification and assessment, consideration of potential impacts of risks on achievement of PGT goals, and consideration of risk tolerance, resource constraints, and mitigation strategies. It summarizes management's view of the significant risks faced by the PGT, related potential causes including capacity issues, and current and possible risk mitigation strategies for dealing with the risks. Current capacity is described in relation to current results and to the PGT's ability to deliver on its organizational goals and objectives.

BC Performance Reporting Principle 5 – Link Resources, Strategies and Results

The Performance Report identifies the major sources, nature, and amounts of the PGT's funding, provides budgeted and actual revenues and expenses by program area and for the PGT as a whole, and explains key variances between budgeted and actual revenues and expenses for the PGT as a whole. Year over year comparative financial information is provided in the audited financial statements included in the PGT's Annual Report. The Performance Report identifies, for each program area and for the PGT as a whole, the total staff, number of clients, and financial indicators including revenue, expenses, and assets under administration. The Performance Report identifies trends and issues impacting results, revenues, and expenses, and also describes how resources, strategies, and results are linked, including linking areas of expenditure with its goals that are most directly affected by the expenditures. The Performance Report links financial and performance information in a way that should help readers understand the efficiency and economy of the PGT's operations.

BC Performance Reporting Principle 6 – Provide Comparative Information

For each identified specific performance measure linked to the PGT's goals, when applicable the Performance Report provides clear comparisons between planned results, actual results, and previous years' results, as well as targeted results for the following year. When relevant and material, explanations are provided of changes in the nature, source data, and/or calculation of the performance measures. Year over year comparative financial information is provided in the audited financial statements included in the PGT's Annual Report. The Performance Report identifies trends and issues impacting results, revenues, and expenses. The Performance Report also explains the reasons for the lack of provision in the Performance Report of comparative information to similar organizations.



Appendix to Independent Practitioners' Reasonable Assurance Report on the 2019-2020 Performance Report of the Public Guardian and Trustee of British Columbia

The PGT Act, and BC Performance Reporting Principle 7 – Present Credible Information, Fairly Interpreted

The Performance Report has been made by the PGT to the Attorney General, Province of British Columbia, by September 30, 2020 as required by the statutory reporting requirements and deadline specified in subsections 25 (1), 25 (2), 25 (3) (c), and 25 (3) (d) of the PGT Act. Our related Independent Practitioners' Reasonable Assurance Report is provided as required by section 26 (1) (b) of the PGT Act. Subject to the limitations described in our report, our opinion relates to the credibility of the information in the Performance Report by providing an opinion, based on our reasonable assurance engagement, as to its proper preparation, in all material respects, based on the Criteria.

BC Performance Reporting Principle 8 – Disclose the Basis for Key Reporting Judgements

The Performance Report explains the basis for selecting the aspects of performance on which it focuses and the rationale for the performance measures reported upon. The Performance Report also provides concise explanations of how most performance measures are derived including, where relevant, data sources and the period covered. The process for selecting goals, objectives, and targeted results for performance measures, and how it is evolving, is described. Any significant changes in the way performance is measured or presented are described. The PGT provides an accountability statement describing her accountability for the Performance Report, and representing (among other things) that the Performance Report has been properly prepared and fairly stated, in all material respects, based on the requirements of the Criteria, and that it reflects the actual performance of the PGT for the 12 months ended March 31, 2020.

Mandate

The mandate of the Public Guardian and Trustee (PGT) is to:



During 2019–2020, the PGT provided services through 269 full time equivalent employee positions to approximately 26,500 clients and administered over \$1.1 billion of trust assets. When managing the financial interests of an individual, estate or trust, the PGT is bound by both common law and statutory fiduciary principles associated with acting as a trustee.

The PGT exercises quasi-judicial authority in specific situations as a result of obligations created by statutory law. In addition, the PGT provides the court with reliable independent submissions when the property or financial interests of minors, vulnerable adults or estates are at risk.

The PGT self funds a large percentage (70% in 2019–2020) of its operating expenses through fees charged on client income and assets with supplementary voted funding that supports public services such as regulatory and oversight activities. Any operating surplus at year end is retained in the Special Account and is not accessible to the PGT for spending in subsequent years without Treasury Board approval.

The PGT has a fiduciary duty to advance the private interests of its clients even if they are contrary to the interests of government. The PGT is independent of government in its case related decision making responsibilities.



Vision

Rights,
choices
and security
for all British
Columbians.

Values

Innovation

We challenge ourselves to seek new and improved ways to deliver service and assist clients.

Integrity

We act in accordance with the highest ethical, legal and personal standards.

Respect

We treat clients, family and friends in a courteous, respectful manner.

Openness

We demonstrate responsibility and transparency to clients, government and the public through annual statutory public reporting on all aspects of our performance.

Client Centred Service

We constantly strive to provide quality service to our clients.

Teamwork

We work with one another and with service partners in striving for seamless service delivery.

Staff Support

We acknowledge staff as our greatest resource and recognize and appreciate their expertise, professionalism and commitment.

Child and
Youth Services

15,752 clients¹

\$193 million assets²

43 staff³

Services to Adults

8,128 clients¹

\$642 million assets²

104 staff³

Estate and Personal
Trust Services

3,018 clients¹

\$275 million assets²

45 staff³

¹ Clients: the number of individual clients served by both the division and by major business lines throughout the year. Because of this, the divisional total is typically less than the sum of the business lines as clients may require service in more than one business line.

² Total value of assets under administration (at March 31, 2020).

³ Full time equivalent employee positions.

Statutes

Numerous acts set out the powers and duties of the PGT.

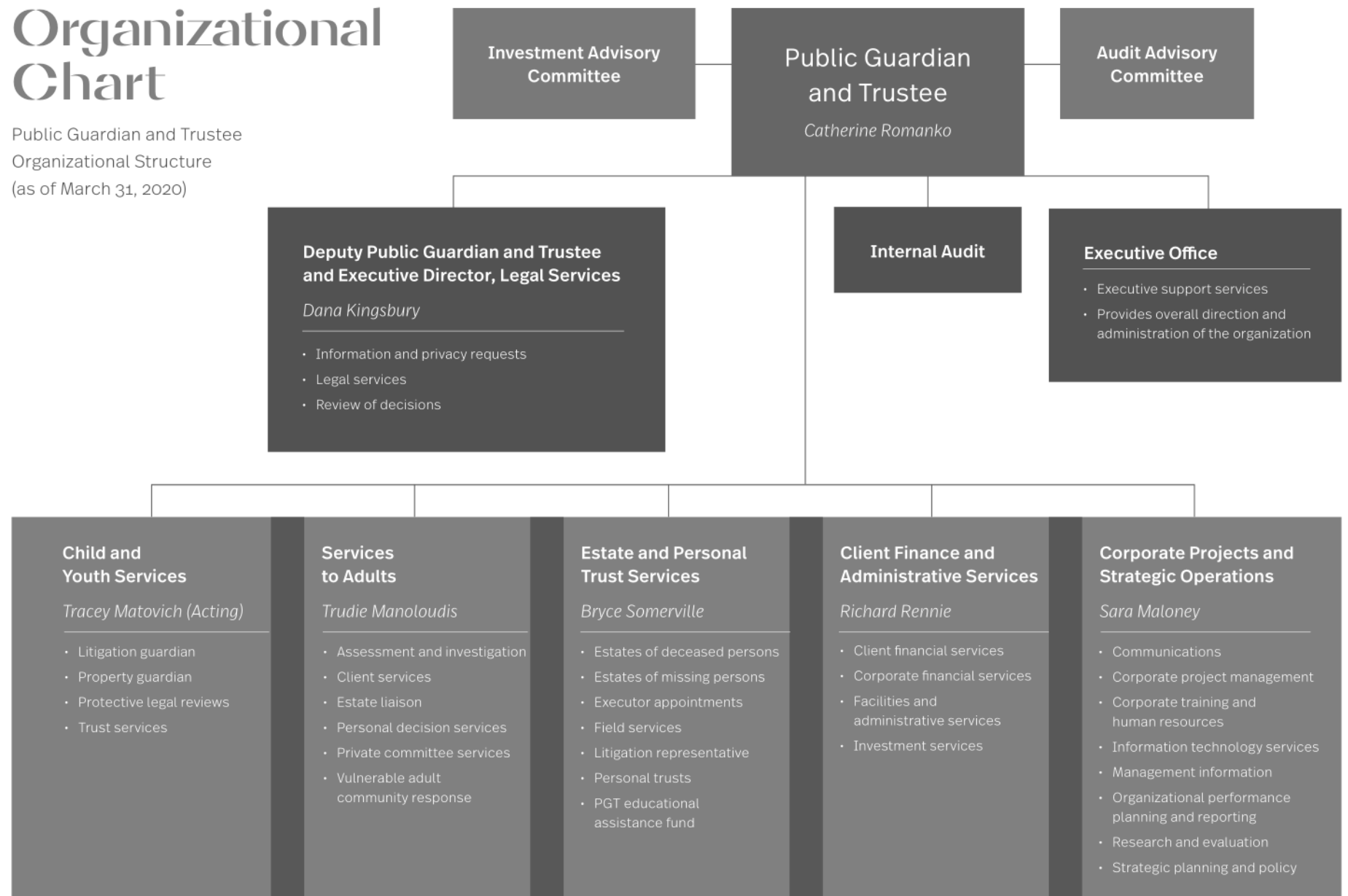
Key provincial statutes include:

- *Adoption Act*
- *Adult Guardianship Act*
- *Child, Family and Community Service Act*
- *Community Care and Assisted Living Act*
- *Cremation, Interment and Funeral Services Act*
- *Employment Standards Act*
- *Estate Administration Act **
- *Estates of Missing Persons Act*
- *Family Law Act*
- *Health Care (Consent) and Care Facility (Admission) Act*
- *Hospital Act*
- *Infants Act*
- *Insurance Act*
- *Insurance (Vehicle) Act*
- *Limitation Act*
- *Marriage Act*
- *Patients Property Act*
- *Power of Attorney Act*
- *Public Guardian and Trustee Act*
- *Representation Agreement Act*
- *Trust and Settlement Variation Act*
- *Trustee Act*
- *Wills Act **
- *Wills, Estates and Succession Act **
- *Wills Variation Act **

*The *Wills, Estates and Succession Act* came into force on March 31, 2014. The *Estate Administration Act*, *Wills Act* and *Wills Variation Act* have been repealed by the *Wills, Estates and Succession Act*, however, portions of those acts continue to apply if a deceased person died before March 31, 2014.

Organizational Chart

Public Guardian and Trustee
Organizational Structure
(as of March 31, 2020)



Accountability Framework

The PGT is a corporation sole established under the *Public Guardian and Trustee Act*.

Catherine M. Romanko was reappointed as the Public Guardian and Trustee for a second six year term effective October 10, 2017. The PGT can serve a maximum of two terms.

The PGT is accountable to the provincial government, the legislature, the public and directly to PGT clients. Overall accountability is exercised through the government's review and approval of the PGT Service Delivery Plan (SDP) and through publicly reported annual independent performance and financial audits.

Accountability to PGT clients is exercised through internal review processes, the Ombudsperson and judicial oversight of PGT statutory and fiduciary obligations.

Two advisory committees assist the PGT. The **Investment Advisory Committee** is a statutory committee established under the *Public Guardian and Trustee Act* to advise on strategic investment policy. The **Audit Advisory Committee** is established by the PGT to advise on key aspects of internal and external audit, accountability and internal controls. Members of each advisory committee are external to the PGT and are broadly experienced professionals in the legal, financial and social services arena from the public and private sector.

Performance Planning and Reporting

Part 3 of the *Public Guardian and Trustee Act* establishes an accountability framework that provides for performance planning and reporting.

Section 22 of the *Public Guardian and Trustee Act* requires the PGT to prepare an annual three year service delivery plan and deliver it to the Attorney General no later than December 31 for the upcoming three fiscal years. If approved by the Attorney General, the PGT must submit the SDP to the provincial Treasury Board for approval. The *Public Guardian and Trustee Act* specifies SDP content.

Section 25 of the *Public Guardian and Trustee Act* requires the PGT to report to the Attorney General in each fiscal year on operations of the organization for the preceding fiscal year. This annual report must be submitted to the Attorney General by September 30 and thereafter tabled in the Legislative Assembly.

The *Public Guardian and Trustee Act* stipulates that the annual report must include an audited performance report relating to the performance targets and other objectives established in the SDP, together with audited financial statements for both PGT operations and its stewardship of client estates and trusts under administration.

Corporation Sole

The PGT is a corporation sole. This is a corporate legal structure in which all authority and responsibility is vested in a single office holder who operates without a board of directors. This structure is used primarily in situations requiring clear accountability and is a common model for public guardians and trustees in Canada.

Clients, Stakeholders and Service Partners

Primary Client Groups

Almost all PGT clients are vulnerable due to legal status or other incapacity arising from diseases of aging, mental illness, brain injury, special needs or minority. Clients include:

- Children in continuing care of the province
- Children with trust funds
- Children whose guardians wish to settle a claim for damages on behalf of the child
- Adults with cognitive impairments due to brain injury, developmental disability, diseases of aging and mental illness who require assistance with decision making
- Adults requiring substitute decision making for health care decisions and/or consent to care facility admission
- Vulnerable adults who may be experiencing abuse, neglect or self neglect
- Intestate successors and beneficiaries of estates of deceased or missing persons
- Beneficiaries of personal trusts

Key External Relationships

Clients are at the core of all PGT activity. The PGT liaises with, and works in partnership with, a broad range of individuals and organizations in helping clients meet their needs. These include:

- Family and friends of clients
- Community groups and non-profit organizations
- Indigenous organizations
- Provincial government ministries
- Public service partners with statutory authority
- British Columbia Courts
- Law Society of British Columbia and other organizations of legal professionals
- Government of Canada departments and agencies
- BC Investment Management Corporation
- Insurance Corporation of BC
- BC Unclaimed Property Society

Key Private Sector Relationships

The PGT works with a wide range of private sector service providers in meeting its responsibilities for protecting the personal, legal and financial interests of clients. These include:

- Private service providers such as care facilities, funeral homes and personal attendants
- Personal service providers
- Financial institutions
- Medical and social services professionals
- Lawyers
- Accountants
- Insurance providers
- Real property managers
- Heir tracers
- Private investment managers





Program Areas

The PGT serves clients primarily through three broad program areas:

- **Child and Youth Services;**
- **Services to Adults;** and
- **Estate and Personal Trust Services.**

These are supported by:

- **Client Finance and Administrative Services;**
- **Legal Services;**
- **Corporate Projects and Strategic Operations;** and
- **Internal Audit.**

The **Executive Office** provides overall direction and administration of the organization, including coordination and consultation with external service providers and government bodies.

Child and Youth Services

The PGT protects the legal and financial interests of minors under the authority of a range of provincial statutes. The PGT Child and Youth Services division (CYS) works on behalf of and directly with children and youth as well as with their parents or guardians.

Property Guardian

As property guardian, the PGT is co-guardian with the Ministry of Children and Family Development (MCFD) and Delegated Aboriginal Child and Family Service Agencies (DAAs), who are guardians of person for children in continuing care of the Province. The PGT is also property guardian for children who have no legal guardian or are undergoing adoption.

As property guardian, the PGT advances legal claims for damages arising from injuries suffered by the children as the result of the negligence or wrongful act of others. The PGT also pursues financial benefits to which PGT property guardian clients may be entitled such as Canada Pension Plan Children's Benefits and establishes Registered Disability Savings Plans (RDSPs) for qualifying clients.

Trustee

The PGT receives funds to hold in trust on behalf of children, including personal injury settlement proceeds, life insurance proceeds where a minor is a beneficiary and no trustee is named to administer the funds, shares of estates where no trustee is named and a portion of wages earned by child entertainers. Funds are typically held in trust until the child turns 19 (the age of majority in BC) unless disbursed earlier for the benefit of the child. PGT property guardian clients may enter into an agreement with the PGT to hold and manage their funds after reaching the age of majority up until the age of 27. The PGT is required to act as trustee for certain types of funds payable to minors while the *Family Law Act* provides that other funds may be paid directly to parents or guardians.

Protective Legal Reviews

The PGT protects the legal interests of minors by reviewing proposed settlements of claims for unliquidated damages brought on their behalf. The settlements relate to a variety of claims such as the wrongful death of a parent or guardian, medical malpractice or motor vehicle accidents. These reviews help ensure that the settlements are reasonable and in the best interests of the minors.

To protect the property interests of minors in trusts and estates, the PGT also reviews notices of applications to administer an estate of a deceased person or to vary a trust or a will when a minor is a beneficiary or may be entitled to a share in the estate or trust. Where the PGT has reason to believe that a minor's interest in a trust is at risk, the PGT may investigate on behalf of the minor.

Child and Youth Services is also responsible for reviewing grant applications (including grants of probate, any grant of administration or the resealing of a grant) for incapable adults within BC. Any person applying for a representation grant is required to send written notice to the PGT, if any person to whom notice must be given is, or may be, mentally incapable.

Child and Youth Services

Total staff*	43 positions
Total clients**	15,752
Property guardian	4,652
Trustee	9,011
Protective legal reviews	3,082
Litigation guardian (non property guardian)	68
Total value of assets under administration (at March 31, 2020)	\$193 million
Investments and securities	\$191 million
Real property	\$1 million
Other	\$1 million
Business Indicators	
RDSPs (at March 31, 2020)	\$8 million
Other Indicators	
Property guardian clients with assets (at March 31, 2020)	1,329

* Staff refers to full time equivalent employee positions.

** Client counts reflect the number of individual clients served both by the division and by major business lines throughout the year. Because of this, the divisional total is typically less than the sum of the business lines as clients may require service in more than one business line.



Services to Adults

The majority of adult clients rely on PGT financial and legal management or on the PGT's review of decisions made by others. The PGT also makes or provides for substitute health care decisions and substitute consent to care facility admission decisions to be made on behalf of some adults and exercises health and personal care decision making as committee of person for a small number of other adults.

The PGT Services to Adults division (STA) serves adult clients when other appropriate substitute decision makers are not available. Most adult clients have diseases of aging which have impaired their mental capability, while others have mental illnesses, developmental disabilities or brain injuries. In serving adult clients, the PGT strives to balance client independence and the right to self-determination with the need for protection.

Assessment and Investigation

Assessment and Investigation is the first contact point for most adult clients with the PGT. Staff respond to requests from concerned friends, relatives or professionals to assess whether PGT services are required to assist a vulnerable adult. The service includes investigating reports of financial abuse of adults who may be mentally incapable. The PGT may consult with community and family members on possible abuse, neglect

and self neglect issues during an investigation. As a last resort, the PGT might seek authority to be the decision maker where other options for assistance for the adult are not available.

Personal Decision Services

Under the *Health Care (Consent) and Care Facility (Admission) Act*, health care professionals must obtain informed consent before treating a patient and/or admitting them into a licensed care facility. A substitute decision maker is generally needed if patients are mentally incapable of making their own treatment or care facility admission decisions. In the absence of an existing substitute decision maker such as a committee of person or a representative under a representation agreement, the *Health Care (Consent) and Care Facility (Admission) Act* allows the closest qualified relative or close friend to make decisions regarding treatment and/or care facility admission. When these qualified individuals are not available or where there is dispute regarding who to select among equally ranked individuals, the PGT is called upon to appoint another substitute decision maker or to make substitute treatment and/or care facility admission decisions on behalf of the incapable adult.

Client Services

The PGT provides a wide range of direct financial management and personal decision making services for vulnerable adults who require assistance managing their affairs. The PGT acts

in a number of different roles including committee of estate, committee of person, power of attorney, representative, litigation guardian and pension trustee.

When the PGT is appointed as committee of estate, staff work with the adult to establish an effective plan that includes securing assets and pursuing income, benefits and compensation, paying bills and managing investments and property. When appointed as committee of person, the PGT makes health and personal care decisions on behalf of the adult.

Estate Liaison

Estate Liaison coordinates completion of STA direct involvement in a client's affairs and releases property under PGT administration when PGT services are no longer required. Client affairs are transferred to Estate Liaison when the PGT no longer has authority, or is transferring authority for an adult client because the client has become capable of managing their own affairs, someone else has been appointed as committee or the client has died.

Adult Legal Monitoring

The PGT provides a wide range of legal services to incapable adults in British Columbia, the largest component of which is reviewing private committee applications. When individuals apply to be appointed as a committee, the PGT reviews the application and makes recommendations to the court with respect to the medical evidence, bonding requirements and any restrictions to be considered on a committee's

authority. Other legal services include reviewing applications to vary trusts and wills where an incapable adult is named as a beneficiary.

Private Committee Services

A family member or friend of an adult may be appointed by the court to manage the legal and financial and/or personal interests of an incapable adult. When private committees are appointed, the PGT reviews the accounts of the private committees with respect to their management of the adult's affairs and investigates concerns that they may not be complying with their duties.

Vulnerable Adult Community Response

The *Adult Guardianship Act* provides authority for the PGT to designate by regulation external agencies that then have a duty to receive and respond to allegations of abuse, neglect and self neglect of vulnerable adults. The current Designated Agencies are the regional Health Authorities, Community Living BC (CLBC) and Providence Health Care Society.

The *Adult Guardianship Act* further provides authority for the PGT to organize community networks to provide support and assistance to abused and/or neglected adults. The PGT accomplishes this through coordinating a range of province wide standing committees and special events involving service partners and other stakeholders with an interest in issues concerning the reduction of abuse and neglect of vulnerable adults.

Services to Adults

Total staff*	104 positions
Total clients**	8,128
Assessment and investigation	2,275
Personal decision services	688
Client services	3,540
Estate liaison	977
Adult legal monitoring	498
Private committee services	2,110
Total value of assets under administration (at March 31, 2020)	\$642 million
Investments and securities	\$464 million
Real property	\$167 million
Other	\$11 million
Business Indicators	
Liabilities (at March 31, 2020)	\$34 million
RDSPs (at March 31, 2020)	\$22 million
Other Indicators	
Clients with PGT opened tax free savings account(s) (at March 31, 2020)	438

* Staff refers to full time equivalent employee positions.

** Client counts reflect the number of individual clients served both by the division and by major business lines throughout the year. Because of this, the divisional total is typically less than the sum of the business lines as clients may require service in more than one business line.

Estate and Personal Trust Services

The PGT provides estate administration and personal trust services through the Estate and Personal Trust Services division (EPTS). EPTS is also responsible for investigating, securing and maintaining physical assets for all PGT clients.

Administration of Estates of Deceased Persons

The PGT administers estates of deceased persons when the executor, intestate successor, beneficiary or other eligible person is not able or willing to do so. The PGT also administers estates of deceased persons when the intestate successor or beneficiary is a client under authority in another PGT division such as Services to Adults or Child and Youth Services. In addition, the PGT may agree to be appointed as the executor under a will.

If the estate is of minimal value and no next of kin can be found who are willing and able to make funeral arrangements, EPTS makes a referral to the Ministry of Social Development and Poverty Reduction (MSDPR) to make funeral arrangements.

Personal Trusts

The PGT acts as trustee of trusts created by will, court order, or *inter vivos* settlement. If options to appoint a family member or trust company are not appropriate, the PGT may agree to act as trustee. These trusts, for which the PGT acts as trustee, are usually settled to provide benefits to a child or vulnerable adult or alternatively, to provide benefits going forward in perpetuity for a charitable purpose.

Executor Appointments

The PGT may agree to be appointed executor of a will in appropriate circumstances. Once appointed executor, the PGT follows up with each will maker periodically to help ensure that the will is current.

Litigation Representative

The PGT may agree to act as litigation representative for purposes of a specific legal action brought against an estate if there is no executor, administrator or other person to act. The PGT role is generally limited to accepting service of legal documents on behalf of estates without assets. If the estate has assets, the PGT will apply for letters of administration and will manage the litigation in the role of administrator.

PGT Educational Assistance Fund

The PGT Educational Assistance Fund was established by the Province of British Columbia in 1989. As trustee, the PGT distributes funds from the trust in the form of bursaries to qualifying adults who were formerly children in the continuing care of the province.

Under the terms of the trust, applicants are assessed on their grades, financial needs, career goals, personal commitment and other sources of funding available to them to cover education costs. Annual funds available for distribution are dependent on rates of investment return. The trust had a capital value of \$985,832, at December 31, 2019. In 2019–2020, there were 17 applicants and bursaries totaling \$19,300 awarded to 12 individuals.

Estates of Missing Persons

The PGT acts as curator for missing persons as defined in the *Estates of Missing Persons Act*. As curator, the PGT manages the adult's property until the person is located or until the funds are paid into court for safekeeping.

Field Services

Field Services investigates, secures and maintains client physical assets, including real and personal property.

Estate and Personal Trust Services

Total staff*	45 positions
Total clients**	3,018
Deceased estates	2,442
Executor appointments	359
Trusts	225
Estates of missing persons	3
Litigation representative	15
PGT educational assistance fund	17 applicants
Total value of assets under administration (at March 31, 2020)	\$275 million
Investments and securities	\$206 million
Real property	\$58 million
Other	\$11 million
Business Indicators	
Liabilities (at March 31, 2020)	\$6 million
Other Indicators	
Estate administration referrals***	1,193
Probate applications filed with Supreme Court***	282

* Staff refers to full time equivalent employee positions.

** Client counts reflect the number of individual clients served both by the division and by major business lines throughout the year. Because of this, the divisional total is typically less than the sum of the business lines as clients may require service in more than one business line.

*** Figure reflects the count of particular activity across the year.



Client Finance and Administrative Services

The PGT Client Finance and Administrative Services division (CFAS) provides a wide range of both corporate and client services.

The PGT is independent of government in client matters and accordingly requires its own corporate services which include budget planning, corporate accounting and facilities and administrative services.

Client services include collecting receivables, making disbursements and providing investment expertise.

Client Financial Services

Client Financial Services is responsible for the day to day management of client financial services for trusts and estates administered, including client receipts and disbursements. This department also provides tax services, oversees the processing of PGT fees, maintains the security and integrity of client assets and liabilities, helps to ensure an effective system of internal controls and develops annual audited financial statements.

Investment Services

Investment Services is responsible for establishing and managing effective investment plans on behalf of clients and for overseeing the overall investment management process. Investing client assets is a core PGT responsibility and by statute, the PGT is required to act as a prudent investor. The PGT assesses client needs to determine investment goals and objectives to develop personalized investment plans for adult clients and personal trusts with more than \$50,000 in net financial assets and children and youth clients with more than \$25,000 in net financial assets. This department includes an Assets and Liabilities Team responsible for the record keeping of investments, real property and other assets and liabilities.

Corporate Financial Services

Corporate Financial Services is responsible for operating and capital budgeting, forecasting, reporting, payment processing and corporate contract management for the Operating Account. The department develops financial models, projects operating expenses and recoveries from fees, sets out multi-year budget plans, prepares Treasury Board submissions, produces financial management reports and develops annual audited financial statements.

Facilities and Administrative Services

Facilities and Administrative Services is responsible for the delivery of corporate administrative services including records management and archiving, mail services, site and staff safety and security, goods and services purchasing and facilities maintenance.

Legal Services

PGT Legal Services are delivered by a complement of 15.6 staff lawyer positions distributed among program and corporate services and supplemented by outside counsel as required. The Deputy Public Guardian and Trustee is the Executive Director of Legal Services.

Within their assigned areas of practice, the staff lawyers provide advice to the PGT when acting on behalf of clients in a representative capacity. In this role, they may appear at mediations or in civil proceedings on behalf of PGT clients or may instruct outside counsel acting on behalf of clients in a variety of civil matters.

Staff lawyers also carry out certain statutory obligations of the PGT, such as reviewing applications for appointment of private committees, settlements of claims for unliquidated damages on behalf of minors and reviewing proposed transactions affecting the property interests of minors and legal notices where the interests of minors or incapable adults may be affected. In some circumstances, staff lawyers prepare written comments to the court regarding issues concerning the interests of minors or incapable adults in civil proceedings.

At March 31, 2020, PGT staff lawyers were providing legal advice and services to clients that involved acting on nearly 3,000 legal issues.

Other in house counsel carry out a variety of duties to support PGT statutory obligations, including providing legal oversight of PGT involvement in advancing client interests in class proceedings, managing the overall provision of legal services to PGT clients by outside counsel and coordinating compliance with access to information and privacy legislation. In 2019–2020, the PGT responded to 36 requests for information and one court order for production of records.

In 2019–2020, the PGT investigated clients' eligibility for settlement payments in 10 class actions and filed claims where appropriate. The PGT continues to monitor 22 class actions and/or potential class actions on behalf of clients.

The Deputy Public Guardian and Trustee and staff lawyers contribute regularly as speakers and writers for a variety of organizations with respect to the law that impacts PGT clients. They also participate in government law reform initiatives relevant to the PGT mandate.





Corporate Projects and Strategic Operations

The Corporate Projects and Strategic Operations division (CPSO) provides a range of organization wide services in support of PGT operations. These include statutory performance planning and reporting, corporate project management, internal and external communications, strategic and business planning, policy development, management information, research and evaluation, human resource coordination and corporate training.

The PGT maintains its own information technology services independently from the provincial government to help ensure that client information is kept confidential. Information Technology Services implements enhancements to technology infrastructure to support client service.

Internal Audit

The PGT has established an Internal Audit function to support PGT management, employees and clients and other stakeholders, by providing an independent, objective assurance and consulting service designed to improve PGT operations.

Internal Audit employs a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes for the PGT. Internal Audit has direct and unimpaired access to the Public Guardian and Trustee and members of the Audit Advisory Committee to report findings and issues and to request advice and opinions.

PGT Summary Indicators

Total staff*	269 positions
Total clients**	26,542
Total value of assets under administration (at March 31, 2020)	\$1.11 billion
Investments and securities	\$861 million
Real property	\$226 million
Other	\$23 million
Business Indicators	
Client bills paid***	\$231 million
Client receipts processed***	\$290 million
Other Indicators	
Clients with trust accounts (at March 31, 2020)	14,784
Income tax filings***	3,236
Real properties sold***	117
Work Environment Survey Engagement Score	74

* Staff refers to full time equivalent employee positions.

** Client counts reflect the number of individual clients served both by individual divisions and by major business lines throughout the year. Because of this, the PGT total is typically less than the sum of the divisional totals as clients may require service in more than one division.

*** Figure reflects the count or amount of particular activity across the year.

\$1.11 billion

Total value of assets under administration (at March 31, 2020)

Investments

The PGT has three pooled investment funds for clients: the Premium Money Market Fund, the Balanced Income Fund and the Balanced Growth Fund.

The **Premium Money Market Fund** is intended to preserve capital for risk averse clients and provide liquidity and an improved rate of return for short term investments. (Fund size \$495 million at March 31, 2020).

The **Balanced Income Fund** is aimed at generating income with some growth. It is used most frequently by adult clients with medium term investment time horizons. (Fund size \$40 million at March 31, 2020).

The **Balanced Growth Fund** is aimed at long term capital growth. It is used most frequently by clients with longer investment time horizons. (Fund size \$124 million at March 31, 2020).

The PGT invests client funds in the pooled funds and other investment alternatives and may also rely on the services of brokerages. Although the PGT generally invests client funds in its three pooled funds, the choice of alternatives is determined by client goals and objectives set out in investment plans which are monitored on a regular basis according to portfolio risk.

The following table provides comparisons of rates of return for PGT pooled funds and standard alternatives as of March 31, 2020.



Sources: Premium Money Market Fund, Balanced Income Fund and Balanced Growth Fund – BC Investment Management Corporation; GOC Treasury Bill – Bank of Canada; GIC – CIBC Wood Gundy; Chequing account – CIBC Wood Gundy.



Partnerships and Outreach

The PGT recognizes the importance of providing public information and education about the PGT and related services to facilitate cooperation with service partners and stakeholders, to inform the public about related issues and to mitigate the growth in demand for PGT services.

To this end, the PGT mandate includes providing public education and applying PGT special expertise to advocate for PGT clients at a systemic level as well as that of individual clients. Under the strategic goal of contributing to a fair and just society, the PGT Service Delivery Plan has a specific performance objective related to this work: the PGT will contribute to public awareness, policy development and law reform initiatives to promote the interests of PGT clients.

In 2019–2020, the PGT contributed its expertise through extensive partnership and outreach activities.

Formal Committees

- Member, Children's Forum, an information sharing forum for senior officials with an interest in child protection and related services;
- Member, National Association of Public Trustees and Guardians, an association of Canadian federal, provincial and territorial Public Trustees, Public Guardians and equivalents, committed to excellence in public trusteeship and guardianship and focused on advocacy, policy reform, awareness and shared best practices in the interests of clients;
- Member, Estate Planning Council of Vancouver, an association of estate planning professionals who meet to share ideas and work experiences related to various areas of estate planning;
- Member, National Guardianship Association, a USA organization dedicated to advancing the standard of excellence in guardianship;
- Member, Youth Futures Education Fund Advisory Committee, which guides the Youth Futures Education Fund that provides financial assistance to youth who were in government care and are pursuing a post-secondary education on a tuition waiver;
- Host, BC Adult Abuse/Neglect Prevention Collaborative, a province wide community/government group working towards continuous improvement in the BC response to adult abuse, neglect and self neglect;
- Facilitator, Adult Guardianship Provincial Advisory Committee, including representatives of Health Authorities and CLBC to collaborate on adult protection efforts on a provincial level;
- Member, Council to Reduce Elder Abuse (CREA), established as an integral part of the provincial government plan "Together to Reduce Elder Abuse – B.C.'s Strategy" and co-chair of the Financial Abuse Prevention Action Group;
- Member, Justice Strategic Advisors Team, a cross sector advisory committee with representatives from the ministries of Attorney General and Public Safety and Solicitor General who meet to discuss sector wide IT strategies;
- Member, "Collective Impact – Transition in Resources, Relationships and Understanding Support Together (TRRUST)" an initiative sponsored by the McCreary Centre Society focused on achieving systemic improvements in outcomes for youth transitioning out of government care in Vancouver;
- Member, Trending Table Committee, a Vancouver based working group hosted by MCFD, including members from social work, law enforcement and other agencies, discussing a range of issues relevant to children and youth in care;
- Member, Registered Disability Savings Plan Action Group, an advisory committee to government which works to realize government's Accessibility 2024 commitment to build and maintain BC's

position as the province with the highest per capita uptake of RDSPs in Canada; and

- Partner, BC Child and Youth in Care Week, a partnership between the PGT, Ministry of Children and Family Development, Federation of BC Youth in Care Networks, Adoptive Families Association, Federation of Community Social Services of BC and the Representative for Children and Youth to highlight the accomplishments and talents of children and youth in government care.

Consultations

- Participated in law reform initiatives including:
 - Consultation with the Ministry of Health and Health Authorities on implementation of the care facility admission provisions of the *Health Care (Consent) and Care Facility (Admission) Act* legislation which came into force on November 4, 2019 and implementation of the associated long term care access policy which came into force on July 15, 2019; and
 - Consultation with the British Columbia Law Institute and the Ministry of Children and Family Development to review the *Child, Family and Community Service Act* to identify outdated provisions and gaps within the legislation and to review comparative legislative models related to youth aging out of care.
- Participated in the Canadian Centre for Elder Law project “Inclusive Investing: Respecting the Rights of Vulnerable Investors through Supported Decision Making”;
- Engaged with Insurance Corporation of British Columbia (ICBC) representatives to discuss matters of mutual interest concerning the settlement of motor vehicle related claims for children and youth;
- Liaised with Ministry of Health regarding *ex-gratia* payments by government to former residents of Woodlands School;
- Worked collaboratively with National Association of Public Trustees and Guardians and Service Canada on access changes to the national social insurance registry to help ensure staff can access information from the registry on behalf of clients;
- Continued to liaise with Community Living British Columbia and the Advocate for Service Quality on a range of projects relating to incapable adults including information sharing and related data matching; and
- Partnered with Ministry of Children and Family Development and Delegated Aboriginal Agencies on the development and launch of resources and training materials designed to increase the uptake of RDSPs for children in continuing care.

Educational Outreach

- Contributed to professional development programs and conferences such as the BC Branch of the Canadian Bar Association, the BC Notaries, the Vancouver Police Department's Financial Crimes Unit and the Pacific Business and Law Institute;
- Provided periodic training on the role of the PGT to new social workers through the Indigenous Perspectives Society;
- Facilitated a broad range of financial literacy workshops for youth in care, including MCFD/YWCA programs and workshops at the Burnaby Youth Custody Services Centre, the Cedar Walk and Aries programs facilitated by the Urban Native Youth Association and the Vancouver School Board and the First Nations Youth Training Program coordinated by the Blue Collar Group;
- Made submissions to the *Power Pages* magazine issued by the Federation of BC Youth in Care Networks; and
- Participated in National Indigenous Peoples Day activities in Vancouver and the provincial Gathering Our Voices Indigenous Youth Leadership Training Conference.



Societal Trends and Other Factors

A number of social trends, risk factors and internal issues affect the work of the PGT, and are outlined on the following pages.

A. Improving client service through the use of technology enhancements

THE ISSUE	<ul style="list-style-type: none"> • Technology continues to significantly transform the way individuals and organizations operate. • Citizens expect organizations to be service oriented, providing programs and services in a simple, modern and effective manner. 	THE IMPACT ON PGT CLIENTS	THE PGT RESPONSE	<ul style="list-style-type: none"> • Since 2015, the PGT has taken steps to shift toward an enterprise approach in modernizing the way it manages information, data, technology and security as modernized systems and related processes will support more responsive and effective client service. • The PGT will continue to work closely with the BC Chief Information Officer and the Ministry of Attorney General to follow leading practice in implementing new technology and making corresponding process improvements. • The PGT will continue to enhance existing software applications including a modern trust accounting system and associated processes to improve operations and client service. • The PGT will continue implementation of a document management system including associated process improvements. A document management system is critical to the effective management of significant volumes of client records. • The PGT will move forward with obtaining business intelligence reporting tools and pursue funding to begin development of interactive digital client self-service.
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B. Responding to changing demographics

THE ISSUE	<ul style="list-style-type: none"> • The percentage of the population of people in British Columbia who are age 65 years or older is increasing, giving rise to an increase in demand for PGT services to adults. • As the number of older adults in BC increases, the number of deaths also increases giving rise to a growing demand for PGT estate administration services. • The PGT's role as fiduciary is becoming more complex and carries an increasing degree of risk due to the changing nature and location of client assets, an increasing level of client debt and escalating value of estates being administered. • British Columbians are ethnically and culturally diverse and require services that are tailored to meet their needs. • The changing provincial framework for child protection requires the PGT to collaborate with an increasing number of partners, including Delegated Aboriginal Agencies and Indigenous communities to provide property guardianship services to children and youth. 	THE IMPACT ON PGT CLIENTS	THE PGT RESPONSE
		<ul style="list-style-type: none"> • PGT clients reasonably expect the PGT to professionally and effectively manage their financial affairs, a task which is increasingly complex as assets are located around the world often in jurisdictions that do not recognize the PGT's legal authority. Assets are in multiple formats including digital. Clients and estates increasingly require debt management and resolution of tax issues. • Clients also reasonably expect that PGT policies and procedures will be culturally sensitive and culturally competent. 	<ul style="list-style-type: none"> • The PGT will allocate new resources to services in program areas with sustained increases in demand when required funding is secured. • The PGT will review the impact of increased demand for PGT estate administration services by conducting a review of the manner in which the services are delivered and implementing opportunities for improvement. • The PGT will provide ongoing skills and knowledge training to staff to support management of complex caseloads including a focus on diversity and Indigenous cultural awareness training. • The PGT will continue to build its relationships with Indigenous communities, to enhance its capacity to provide effective and relevant services to Indigenous clients.

C. Responding to increasing service expectations

THE ISSUE	<ul style="list-style-type: none">Public expectations and advances in technology have increased demand for instant and easily accessible information.The services provided by stakeholders and service partners continue to evolve, increasing the demand for PGT resources.
THE IMPACT ON PGT CLIENTS	<ul style="list-style-type: none">The scope of duties associated within the PGT’s statutory roles continue to expand. For example, as the result of improved reporting and stronger support for youth leaving care by the Ministry of Children and Family Development, the scope of the PGT’s duties as property guardian for children in care has expanded and now includes:<ul style="list-style-type: none">responding to an increasing number of critical incident reports about injury or loss suffered by children in continuing care;providing financial literacy training and other transitional supports to a larger number of youth leaving care; andserving as trustee to former youth in care up to their 27th birthday, where the youth has requested continuing PGT support.
THE PGT RESPONSE	<ul style="list-style-type: none">Feedback from consultations with clients and stakeholders has highlighted the need for improved communication by the PGT about what PGT services entail, how PGT involvement will affect clients and their families and expected service timelines.
	<ul style="list-style-type: none">The PGT will continue to focus on making operations more efficient and will continue to assess trends and service demand changes in order to manage its resources in a manner that is flexible and responsive to changing service delivery needs.The PGT will develop clear communications materials about services for clients and stakeholders and increase staff training in public education about PGT services.

D. Enhancing employee engagement

THE ISSUE	<ul style="list-style-type: none"> Traditional PGT recruitment sources are providing fewer candidates with the education, skills and knowledge required to fill many PGT positions. PGT compensation rates, which are determined by government, have not kept pace with private sector equivalents in several key areas. Staff retention is challenged by the fact that other employers are able to offer more flexible work arrangements and better compensation. In addition to the requirement to have the traditional skills and knowledge required to fulfill PGT roles, staff are increasingly required to have the technical skills to deliver services using new information technology systems. 	THE IMPACT ON PGT CLIENTS	THE PGT RESPONSE	<ul style="list-style-type: none"> The PGT will continue to use bridging positions and temporary assignments to promote career growth. The PGT will continue to build its corporate training program, focusing on role based training including technical and communication skills development. The PGT will continue to engage in succession planning for critical positions. The PGT will continue to include staff in improving business processes. The PGT will continue to develop a healthy work environment by promoting health and safety initiatives, respectful workplace policies, a meaningful recognition program and effective communication between staff and leadership teams. The PGT will investigate strategies to support staff recruitment and retention such as offering a range of flexible work options and working with government to review classification of key positions.
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E. Assessing the impact of recent legislative reform

THE ISSUE	<ul style="list-style-type: none"> • In recent years, there have been several legislative reforms that have confirmed and/or enhanced the PGT's mandate including amendments to or introduction of: <ul style="list-style-type: none"> • <i>Family Law Act</i> (2013); • <i>Adult Guardianship Act</i> (2014); • <i>Public Guardian and Trustee Act</i> (2014, 2018 and 2019); • <i>Wills, Estates and Succession Act</i> (2014); • <i>Infants Act</i> (2018); • <i>Insurance (Vehicle) Act</i> (2019); and • <i>Health Care (Consent) and Care Facility (Admission) Act</i> (2019). 	THE IMPACT ON PGT CLIENTS <ul style="list-style-type: none"> • Many of these legislative changes have offered benefits to PGT clients including: <ul style="list-style-type: none"> • improved rights protection for vulnerable adults; • new post majority trustee services for youth leaving care; and • a more modern and efficient legal framework for the making of wills, the administration of estates and the determination of rights of succession. 	THE PGT RESPONSE <ul style="list-style-type: none"> • Each of these legal reforms required the PGT to implement a combination of changes to policies, procedures, technology and resourcing. • The PGT will review implementation of recent legislative reforms including care facility admission provisions under the <i>Health Care (Consent) and Care Facility (Admission) Act</i> and amendments to the <i>Infants Act</i> and the <i>Public Guardian and Trustee Act</i> that allow youth transitioning from care the option to enter into an agreement with the PGT to hold and manage their funds until the age of 27 to help ensure reforms are operating as intended. • The PGT will review and consider any impacts to the PGT role resulting from the anticipated introduction of Enhanced Care Coverage by the Insurance Corporation of British Columbia (ICBC) and related legislative and regulatory amendments.
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Context for 2019–2020 Performance Results

Development of PGT Goals, Objectives and Performance Measures

This document reports on PGT performance in year one of the 2019–2022 Service Delivery Plan (SDP) which was approved by the Attorney General. The 2019–2020 budget was funded as set out in the plan. Goals, objectives and performance measures were implemented during 2019–2020 as presented in the SDP and are reported upon in this report.

Accountability requirements under section 22 (2) (c) of the *Public Guardian and Trustee Act* require that the PGT describe major program areas and specify “the performance targets and other measures by which the performance of the program area may be assessed.”

The PGT makes it a priority to meet its performance targets and monitors performance during the year. When targets are at risk, available resources are allocated in year to the program area.

Goals

The PGT approach to developing its goals focuses on outcomes required to fulfill its mandate. These are the well-being of PGT clients, prudent and transparent management of client affairs, operational efficiency and staff effectiveness. Each of the five goals is related to one or more of these outcomes. The PGT’s strategic goals are to:

1. Optimize client service delivery
2. Contribute to a fair and just society
3. Achieve success through relationships
4. Demonstrate accountability and transparency
5. Engage and empower staff

A significant portion of PGT activity involves carrying out fiduciary duty to clients through management of client property and financial assets. The 2019–2020 PGT Performance Measurement Framework linking the goals, objectives and measures (pages 54 to 67) demonstrates that Goal 1 has the greatest number of associated measures and touches almost every area of the organization and its activities.

Objectives

Objectives identified in the SDP serve several functions. They interpret and make visible the meaning of the goals as they relate to specific aspects of PGT work, identify key areas of performance and point to certain desired results in achieving the goals.

The performance measures reflect PGT best efforts to identify aspects of its performance that are most directly related to achieving stated goals and are capable of being measured and validated to an audit standard. Selecting objectives and performance measures is particularly challenging because in most instances the PGT contribution to client outcomes is difficult to isolate.

Goals 3 and 4 do not have specific measures attached to them. The PGT reports on these goals more broadly throughout this Performance Report.

Performance Measures

The PGT selects goals, objectives, performance measures and targets in accordance with underlying assumptions from its corporate values. PGT clients are often particularly vulnerable and the PGT contributes to their wellbeing through activities that are significant to clients, their family, friends, caregivers or intestate successors. Factors such as accessibility, timeliness, accuracy and empowerment are important to client wellbeing. Other factors include the need for client, service partner, stakeholder and public confidence in PGT expertise.

Many targets are driven by external considerations such as meeting legal requirements (fiduciary obligations), benchmarking against private sector standards (investment returns), responding to safety issues (investigations of high risk situations) or may reflect a balance between determining the acceptable level of performance in a specific period with consideration for resources and constraints. In addition, the PGT must be able to substantiate its reported performance results to an audit standard.

Due to the planning and reporting cycle, targets for the first year of the plan reflect the PGT assessment of appropriate and attainable service levels based on its best judgment at the time the targets were established. Results are continually assessed to determine if measures should be continued, targets should be adjusted or if resources could be reassigned to other service areas. Performance measures and related current and future year targets appear in this report as they were approved in the 2019–2022 PGT Service Delivery Plan.

The PGT has a statutory obligation to report on all program areas. This 2019–2020 Performance Report includes 19 performance measures covering all program areas.

Risk Management

The PGT acts in a broad range of fiduciary, statutory and court ordered roles and maintains a strong internal control framework to address legal, financial, operational and other associated risks. Under its Enterprise Risk Management Framework, the PGT maintains a comprehensive risk register and regularly identifies, evaluates and manages risks to the achievement of the PGT's mandate, strategic goals and objectives.

Strategies are implemented to manage and mitigate the likelihood of risk events occurring, and their impact to the organization. These include maintaining a strong control environment, implementing further mitigating control activities to reduce risks to an acceptable level and monitoring the risks mitigating controls on an ongoing basis.

The PGT Executive Committee and other members of management reviewed, evaluated and updated the PGT risk register in October 2019. Risks are evaluated on a residual basis, which measures the amount of risk remaining after considering existing controls to reduce the risk's likelihood and/or impact. While the top residual risks following the October 2019 evaluation remained fairly consistent with those of previous years, there have been some changes. The risk associated with workload impacting employee engagement was found to have the highest residual risk as of October 2019 as employee workloads are becoming increasingly complex and difficult to manage.

Significant PGT risk factors fall into the following three broad risk categories:

- *Legislative framework*: reflecting the impact of changes in government policy, legislation and regulation which could significantly impact service delivery requirements, availability of resources and the PGT cost recovery model;

- *Demand side factors*: reflecting the impact of increasing demands and complexity without additional funding such as legislative reform and changes in client expectations, awareness of PGT services and demographics that will all significantly impact the demand for services from the PGT; and
- *Supply side factors*: reflecting the impact of significant financial, human and operational resource constraints to meet current and planned objectives.

The PGT Operational Risk Management Committee formally reviews the risk register and status of risk mitigation strategies on a quarterly basis and more frequently when necessary with a focus on the top risks facing the organization.

The following table summarizes the most significant specific risks facing the PGT as identified and assessed through the Enterprise Risk Management process in October 2019 and outlines some of the major mitigation strategies. This summary of specific key risks does not describe all potential risks facing the PGT nor all of the related controls and mitigation strategies.

Risk	Nature of Risk	Major Mitigation Strategies
Workload impacting employee engagement	Risk that PGT employees are not effectively engaged due to a very high workload which can impact client service.	The PGT aims to mitigate this risk by creating ongoing recruitment processes to maximize staffing resources, providing additional resources in specific service areas facing increased demands that have corresponding increases in fees, promoting health and wellness activities and resources to promote staff resiliency and continually pursuing efficiency improvements.
Sufficiency of human resources	Risk that PGT cannot recruit or retain adequate numbers of appropriately qualified employees due to constraints such as non-competitive compensation levels for key positions.	The PGT acts to mitigate this risk by striving to increase employee engagement, enhancing recruitment and retention initiatives, improving training programs, developing succession plans and working with the Public Service Agency to develop new strategies for achieving more competitive compensation rates and providing flexible work arrangements.
Sufficiency of internal reporting	Risk of current reporting capacity being insufficient to fully meet current and future operational demands.	The PGT plans to mitigate this risk by continuing to build and expand its existing information management infrastructure, pursuing business intelligence capabilities and continuing to develop additional internal reporting tools.
Priority setting and capacity planning	Risk that PGT has inadequate capacity planning and is committing to various priorities and may lack capacity to deliver on those priorities.	The PGT strives to mitigate this risk through rigorous business planning processes that prioritize current and new initiatives within organizational capacity and the overall strategic direction of the organization.
Changing demographics	Risk that PGT will not meet the needs of the changing demographics of the overall population (including age, ethnicity, geographical location, gender and other factors).	The PGT strives to mitigate this risk through monitoring and analyzing internal and external demographic trends to understand key demand drivers for service and reallocating existing resources where required.
Funding sufficiency and expense authority	Risk that provincial administrative controls will limit the PGT's expense authority so that it is unable to expend its fees in providing services to clients or declining fees will limit the funding available to provide client services.	The PGT strives to mitigate this risk by careful budgeting and by seeking relief from limits on its expense authority by clarifying its fiduciary role and the nature of its self-funding.

2019–2020 Performance Results

In 2019–2020, the PGT met or exceeded its targets for 18 of 19 (95%) of the performance measures on which it is reporting. Specific performance details related to each measure are provided in the following performance details section. The Performance Measurement Framework appears on pages 54-67.

Source Data

Data for this performance report has been drawn primarily from internal information management systems. The primary systems are AXIOM (trust accounting system), CASE (case management application) and FSS (field services system). Financial data is derived largely from the audited financial statements and is rounded.

The PGT maintains clear documentation of the process for collecting and reporting on data supporting its performance results to help ensure consistency and reliability in reported results. Unless otherwise stated, results for specific performance measures are comparable with previous years. The PGT applies a broad range of quality assurance processes and reviews its performance on a quarterly basis. In reporting on performance results, the PGT usually rounds to the nearest whole number.

Unless otherwise specified, client counts reflect varying program workloads as measured by the number of individual clients served throughout the fiscal year. In some instances, the counts will reflect the number of individual clients served and in others, the counts will reflect the number of specific legal authorities under which clients were served with consideration for the fact that one client may be served under multiple authorities.

The PGT continues to enhance its capacity to draw performance reporting results from its information technology systems. Most reports on individual performance measures are now drawn from PGT systems and work continues to make this comprehensive. In the 2016–2017 Performance Report, the PGT reported that it intended to redesign five measures that drew information from the legacy trust accounting system that was replaced on May 1, 2017. The PGT published three new measures that are aligned with the PGT's strategic goals in the 2018–2021 Service Delivery Plan and an additional two new measures were introduced in the 2019–2022 Service Delivery Plan and will be reported on publicly in this performance report for the first time.

The PGT will continue to follow a leading practices approach by investing time to analyze the information generated from enhancements to systems and design new measures that will most satisfy BC Reporting Principles requirements and the *Public Guardian and Trustee Act*.

In accordance with the *Public Guardian and Trustee Act*, this PGT annual performance report is subject to an independent audit to provide third party assurance on the reported results. Financial statements for the PGT Operating Account and Trusts and Estates Administered are also subject to an annual independent audit to provide third party assurance.

Comparative Information

The PGT is a unique organization largely without private sector comparators and with limited comparability to public bodies in BC and other jurisdictions. Due to its responsibilities, mix of services and unique legal status, PGT access to generally accepted service standards is limited. Public guardian and public trustee agencies in other provinces and territories each have some responsibilities and services or elements of them in common with the PGT but none have the same authorities.

For 2019–2020, the PGT is able to make comparisons from its own performance using information reported in its previous annual reports. While some measures have been changed, eliminated or newly introduced over time, the available comparative data has become more substantial each year and has been used in several instances for changing measures and/or modifying performance targets.



Reports on Individual Performance Measures



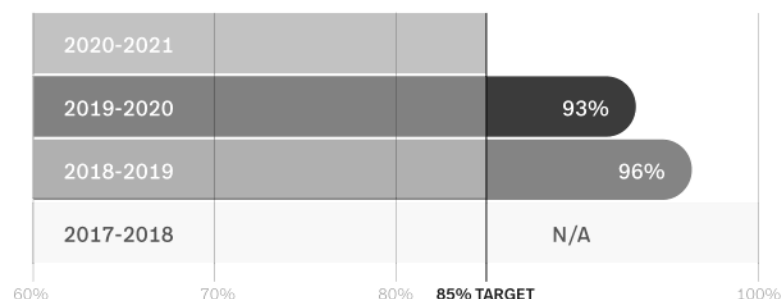
GOAL 1

Optimize Client Service Delivery

OBJECTIVE 1.1

Property and financial interests of PGT clients will be well managed

1.1.1 Percentage of deceased estate funds that are distributed to intestate successors and beneficiaries rather than transferred to the BC Unclaimed Property Society

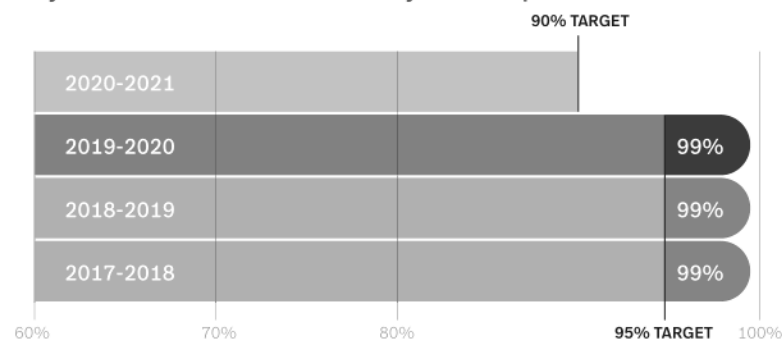


The PGT administers estates for which the executor, intestate successor, beneficiary or other eligible person is not able or willing to do so. If the PGT is unable to determine the lawful intestate successors of an estate after conducting a search, the balance of the estate after payment of creditors, administrator fees and expenses, is transferred to the BC Unclaimed Property Society.

This activity helps ensure that succession laws and wishes of persons making wills are respected and that efforts are made to locate and distribute their entitlements to intestate successors and beneficiaries.

In 2019-2020, PGT Estate and Personal Trust Services distributed \$40,430,250 of which \$37,719,794 (93%) was transferred to intestate successors and beneficiaries.

1.1.2 Percentage of critical incident reports in respect of children in continuing care that are reviewed and have action initiated by the PGT within 45 calendar days of receipt



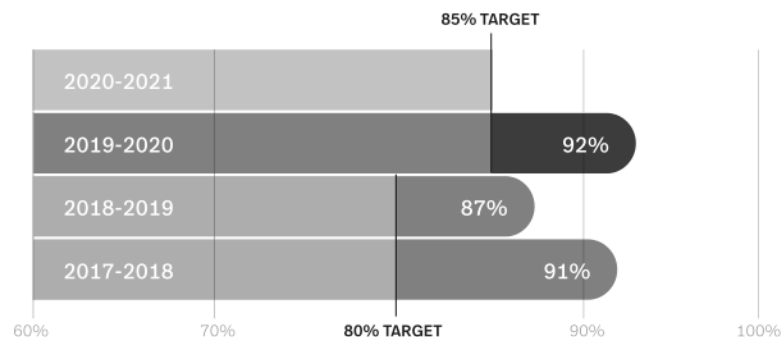
The PGT is co-guardian with MCFD and DAAs for children in continuing care of the Province. Designated officials of MCFD and the DAAs are personal guardians for children in continuing care and the PGT is property guardian. As property guardian, the PGT identifies financial entitlements or legal claims and brings forward appropriate legal action on behalf of the children and youth. This includes legal claims for damages such as personal injury arising from abuse, assault or motor vehicle accidents as well as for statutory benefits such as from the death of a parent.

The PGT receives automated reporting from MCFD and the DAAs of incidents involving children in continuing care and must review

these reports to determine whether to commence civil legal proceedings and/or pursue financial benefits on behalf of the child. This activity satisfies PGT legal obligations as fiduciary and improves the wellbeing of children and youth in continuing care of the Province by protecting their legal rights and financial interests.

In 2019-2020, of 1,328 critical incident reports received directly from MCFD and DAAs, 1,325 (99%) were reviewed and action was initiated by the PGT within 45 calendar days of receipt of the report. In 2020-2021, the target for this measure will be reduced for one year to 90% as the timeframe to complete reviews is reduced from 45 calendar days to 30 calendar days.

1.1.3 Percentage of personalized case plans (covering property, effects, legal issues and living arrangements) that are developed and implemented for new adult clients within six months of PGT appointment as committee of estate



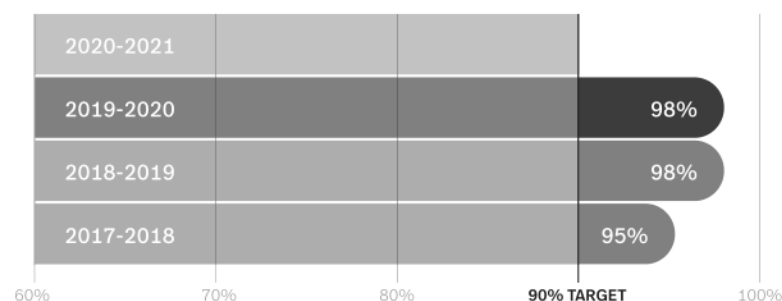
The PGT may become committee of estate under the *Patients Property Act* for adults who are unable to manage their financial and legal affairs. Completion of a personalized case plan for a new committee of estate client demonstrates that the PGT has taken the steps necessary to identify and secure the client's property and financial interests and provides for their ongoing protection. Time taken to develop and implement the plan will vary according to the complexity of the client's property and financial interests.

This activity improves quality of life for incapable adults by making arrangements

that respect client wishes to the extent possible and by developing plans to maximize resources available for their care. For most new committee of estate clients, six months is a reasonable expectation in which to complete the plan as normally several months are required to collect all relevant information about the client.

During 2019–2020, 202 new clients required these plans and the PGT developed personalized case plans for 186 (92%) of them within the six month time frame.

1.1.4 For children and youth where ongoing assistance with day to day maintenance has been approved, personalized expenditure plans will be developed and implemented within 20 calendar days of receiving all decision making information and then annually reviewed



The PGT implements and maintains personalized case plans on behalf of child and youth clients where ongoing assistance with day to day maintenance has been approved. Maintenance includes a broad range of payments to the caregiver for day to day costs of the child's needs. This activity improves the quality of life for minors by providing timely decisions regarding sustainable management of their resources to meet current and future financial needs.

In 2019–2020, personalized case plans were developed and implemented or reviewed within the target timelines for 84 of 86 (98%) minor clients for whom ongoing maintenance has been approved.

1.1.5 Percentage of investment plans and reviews completed prior to specified due date

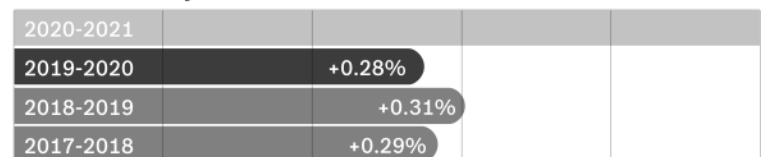


Developing and implementing client investment plans supports investment decisions that are tailored to individual client circumstances. Individual client circumstances, such as increased or decreased needs for cash funds, are considered when developing and reviewing investment plans. Reviewing existing client investment plans is important because client needs and risk tolerance change over time. Frequency of reviews is also related to the asset mix in the client investment plan. The PGT reviews client investment plans on a rotating basis according to the assessed level of risk associated with the client investment portfolio.

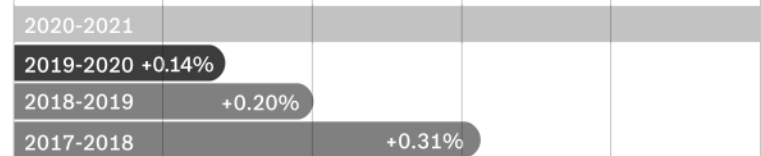
Completing investment plans and reviews contributes to improved quality of life for clients by helping ensure that financial planning remains current to maximize resources available for client specific needs. In 2019-2020, of 1,449 client investment plans and reviews scheduled and required to be completed, 1,353 (93%) were completed prior to the specified due date.

1.1.6 Investment returns for all three pooled funds match or exceed established benchmarks

Premium Money Market Fund



Balanced Income Fund



Balanced Growth Fund



PGT client funds are invested to maximize returns in a manner appropriate to individual client circumstances. This measure is a means of comparing performance by investment managers retained by the PGT against established industry benchmarks. The PGT has three pooled common funds: the Premium Money Market Fund (PMMF), the Balanced Income Fund (BIF) and the Balanced Growth Fund (BGF). The majority of client funds are held in the Premium Money Market Fund.

The PGT calculates investment returns using the investment industry standard of five year rolling averages with information on returns calculated by third party professional measurement services. BC Investment Management Corporation reports on the performance of all three pooled funds. The PGT verifies performance with reference to custodianship reports for actual returns and other third party data for industry benchmark returns.

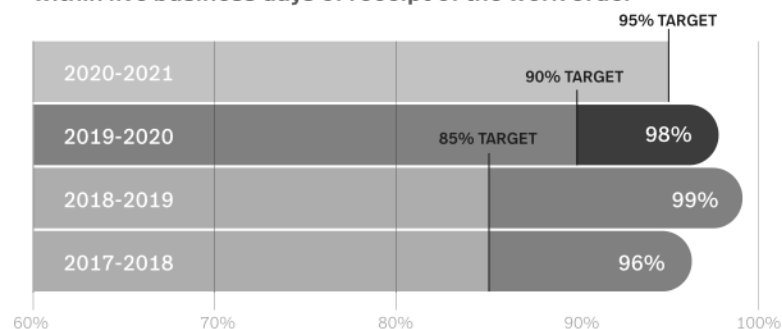
Professional investment management improves quality of life for clients by prudently managing their financial resources to help ensure their resources are maximized to meet their needs. In 2019-2020, investment returns for all three pooled funds exceeded the established benchmarks. The Premium Money Market Fund is comprised of two separate components, a money market pool component and a segregated bond portfolio. For the Premium Money Market Fund, the measure assesses only the performance of the money market pool. Details are recorded in the accompanying tables.

1.1.7 Physical assets of new deceased estates secured within 15 calendar days of notification of death

Securing the physical assets of a deceased person's estate is a critical step in reducing risk of damage and preventing loss to the value of the estate. The result for creditors and beneficiaries of the estate improves according to the speed with which physical assets are secured. This activity secures assets and maximizes funds available to estates of deceased persons.

Note that this measure is discontinued in both the 2019-2022 and 2020-2023 Service Delivery Plans until a more suitable replacement measure is developed. The previous measure could only be applied to a subset of client physical assets to be secured. The number included in the subset was too small to provide a meaningful measure of work undertaken on behalf of clients in this area.

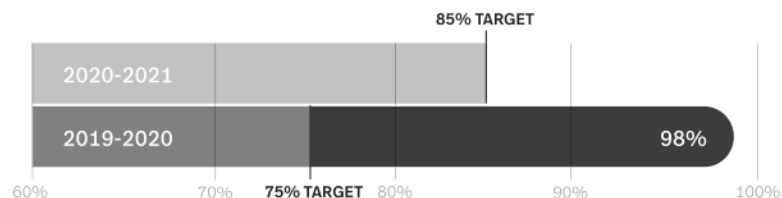
1.1.8 Assets will be entered into the trust accounting system within five business days of receipt of the work order



PGT Field Services secures client physical assets, taking custody of them and providing for their security. Timely recording of the assets in the PGT field services and trust accounting system are key elements in securing them.

In 2019-2020, of 639 client inventory reports, 627 (98%) were recorded within five business days.

1.1.9 Percentage of disbursements on behalf of children and youth processed within 30 calendar days of request

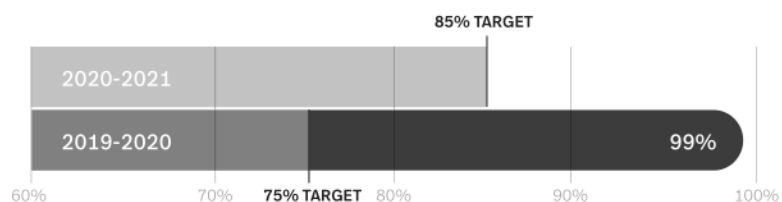


Administering trusts for which a child or youth is the beneficiary is a major responsibility of PGT Child and Youth Services. Funds held in trust by the PGT for a child, are subject to a number of statutory and policy terms and conditions designed to protect the child's interests. Guardianship and Trust Officers consider client requests to spend from the individual's trust fund and must determine whether the request falls within or outside of the trust restrictions

while still providing a timely response. This activity benefits children and youth by allowing appropriate disbursements in a timely manner while applying necessary constraints to satisfy fiduciary responsibilities to be prudent.

In 2019-2020, out of 2,098 decisions to issue funds, 2,065 (98%) were completed and a payment issued within 30 calendar days of the request by the guardian or client.

1.1.10 Percentage of disbursements on behalf of adult clients to vendors processed within 30 calendar days



Ensuring that amounts owed by PGT clients are paid in a timely manner is an important aspect of managing the affairs of adult clients. Where the client is able to manage some day to day expenses, funds will be made available to the client in the client's bank account to cover expenses. If the client is in a care facility, the PGT pays the maintenance charges and provides additional money for small purchases if the client can afford this. Where there are debts or other liabilities and the adult has

sufficient funds, the PGT will arrange for repayment or settle the claims on the adult's behalf. This activity improves quality of life for incapable adults by ensuring timely bill payments on their behalf, avoiding potential penalty or interest charges.

In 2019-2020, of 46,368 adult client disbursements, 45,836 (99%) were processed within 30 calendar days.

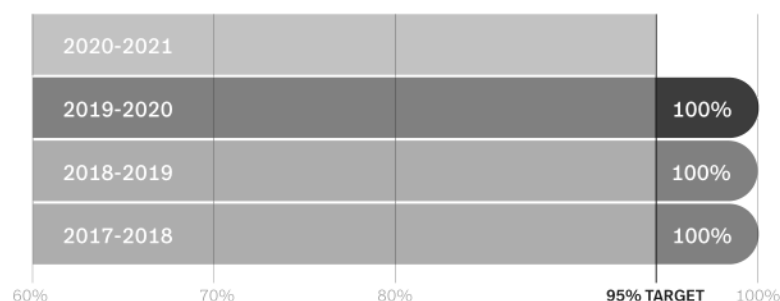
GOAL 1

Optimize Client Service Delivery

OBJECTIVE 1.2

The PGT will deliver high quality client centred services

1.2.1 Percentage of committee of person adult clients who are annually visited by PGT staff

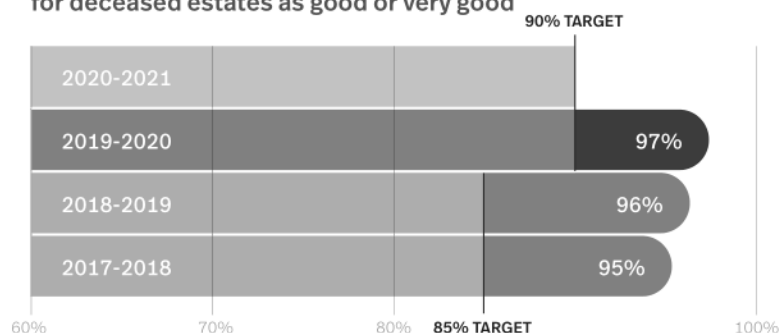


There are a small number of adult clients for whom the PGT acts as a court appointed committee of person and is responsible for their personal care interests. The PGT attempts to visit these clients at least once every year. For the PGT, the visit is an opportunity to review the client's personal situation and assess whether changes are required to help ensure protection of their ongoing personal and health care interests. For the adult, the visit is an opportunity to convey information directly to the PGT without an intermediary such as a caregiver or care facility administrator.

This performance measure focuses on clients for whom the PGT has the greatest

responsibility. Client visits improve quality of life for clients through direct contact with PGT staff and provide for their maximum empowerment. In 2019-2020, visits were made to 108 of 108 (100%) adult clients for whom the PGT acts as committee of person. Note that visits to 8 committee of person clients were excluded from this measure this year due to health and safety concerns arising from COVID-19. The PGT will be amending the definition of client visits to take into account the need for physical distancing during the pandemic. PGT performance with respect to this measure including the amended definition of client visits will be reported in the next annual report.

1.2.2 Percentage of intestate successors and beneficiaries responding to survey who rated administration services for deceased estates as good or very good



The PGT administers estates of deceased persons. The EPTS division conducts a client satisfaction survey with intestate successors and beneficiaries who receive funds when administration of an estate is completed. This activity measures client satisfaction and gives intestate successors and beneficiaries the opportunity to comment on what is important to them regarding services. This activity also improves service delivery by highlighting areas needing improvement.

In 2019-2020, 327 of the 338 (97%) beneficiaries who responded to the survey question rating estate administration services rated them as good or very good.

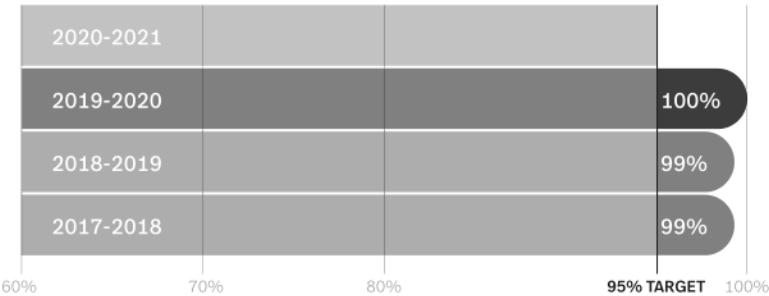
GOAL 2

Contribute to a fair and just society

OBJECTIVE 2.1

Personal interests of PGT clients will be protected

2.1.1 Percentage of major health care substitute decisions for adults made within three business days of all relevant information being received



The PGT protects the personal interests of adults incapable of giving health care consent by making these decisions on their behalf as temporary substitute decision maker (TSDM) under the *Health Care (Consent) and Care Facility (Admission) Act*. The timeliness of PGT substitute health care decisions as TSDM is important to the wellbeing and rights protection of the individual for whom treatment has been proposed by a health care provider.

This performance measure focuses on the most serious decisions which are classified as “major” under the *Health Care (Consent) and Care Facility (Admission) Act*. Timeliness of decision making is important because it facilitates clients receiving health care in a timely manner if that treatment is consented to by the TSDM. In 2019–2020, of 94 major health care decisions, 94 (100%) were made within the three business day time frame.

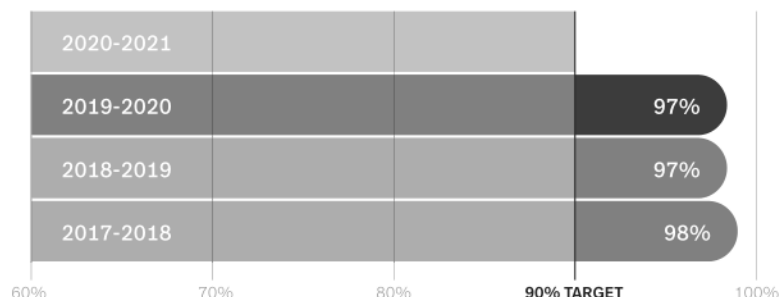
GOAL 2

Contribute to a fair and just society

OBJECTIVE 2.2

Statutory protective and monitoring services will be delivered in an appropriate, timely and fair manner

2.2.1 Percentage of proposed minors' settlements \$5,000 and over that are reviewed and the parties advised of the PGT position within 60 calendar days once all relevant information has been received



Under the *Infants Act*, the PGT must review all proposals to settle a variety of claims on behalf of a minor for unliquidated damages such as personal injury arising from motor vehicle accidents, medical malpractice, wrongful death of a parent and other claims. The PGT has jurisdiction to approve infant settlements of \$50,000 or less (exclusive of interest and costs) outside the court process. The PGT also provides written comments to the court for amounts greater than \$50,000 or when the PGT has refused to approve a settlement for less than \$50,000 and the parties have chosen to proceed to court to seek approval.

This statutory service protects the property rights of minors in obtaining fair and reasonable compensation from negligent parties or their insurers. It also contributes to increasing the efficiency of the court system by providing experienced, objective reviews in a timely manner. Within this time frame, the PGT works as quickly as possible as PGT review is usually the final step in what may already have been a very long process for the child and parent or guardian.

In 2019-2020, in 353 of 364 cases (97%), the PGT reviewed the proposed settlements and advised the parties of the PGT position within 60 calendar days of all relevant information being received.

2.2.2 For minors' settlements under \$5,000, the average number of calendar days to review and advise of the PGT position regarding proposed settlements once all relevant information has been received

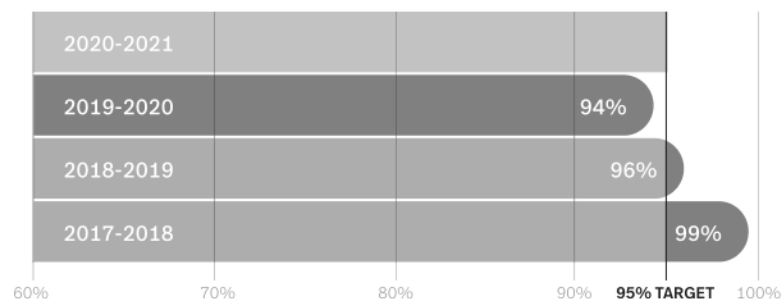


This measure is related to the previous measure (2.2.1) and focuses on proposed settlements of minors' claims for unliquidated damages under \$5,000. The PGT must review all proposals to settle a claim by a minor for unliquidated damages and has jurisdiction to approve infant settlements of \$50,000 or less (exclusive of interest and costs) outside the court process.

These smaller settlements are reported separately because they are usually less complex than larger settlements and it is

possible for them to be reviewed more quickly. In 2019-2020, the PGT reviewed and concluded 90 proposed settlements under \$5,000 in an average of 18.6 elapsed days per settlement. The average duration per review increased from prior years as resource allocations were adjusted to support other service delivery requirements while still maintaining service target levels in this area.

2.2.3 Percentage of cases where, on confirming that the assets of an apparently abused or neglected adult unable to seek support and assistance are at significant risk and in need of immediate protection, protective steps are taken within one business day under section 19 of the *Public Guardian and Trustee Act*

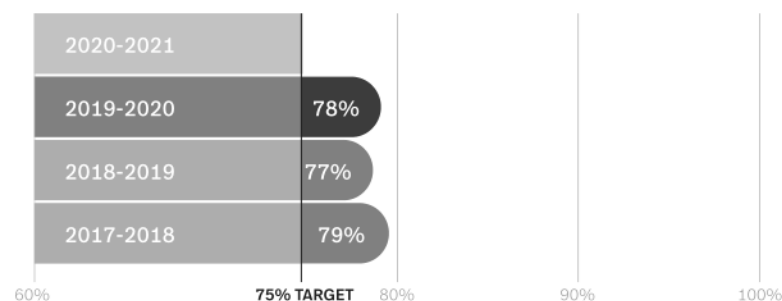


The PGT is mandated under the *Public Guardian and Trustee Act* to protect incapable adults at risk for abuse, neglect and self neglect. One way it does this is to safeguard their assets so that persons seeking to take financial advantage of the adults will be unable to do so. Under section 19 of the *Public Guardian and Trustee Act*, the PGT orders financial institutions and others to restrict access to the assets of an individual while the PGT investigates the situation.

The speed of PGT action can be a major determinant of whether client assets are protected. Taking protective measures in a timely manner increases safety for abused, neglected and self neglecting incapable adults. In 2019-2020, the PGT took protective measures in 126 cases. In 118 (94%) of these, protective measures were taken within one business day.

A number of factors contributed to the PGT missing the target for this measure. The PGT recently took steps to improve documentation of a specific data point for this measure within our case management system. This improvement enhances the rigour with which performance data is captured in the PGT system and increases the accuracy of reported results. The PGT also faced significant staffing challenges with recruitment and retention in 2019-2020, where the team accountable for this target was significantly understaffed. The PGT is also cognizant of the changing landscape of decision making as it relates to the context of balancing the rights of vulnerable adults with PGT statutory authority to freeze assets in urgent cases pending a determination of financial incapability.

2.2.4 Percentage of private committee accounts reviewed within six months of receipt



The court may order that a family member or other person may become committee of a mentally incapable adult.

The PGT helps committees to understand their role and monitors the actions of committees by reviewing their accounts on a regular basis and undertaking investigations when concerns are reported.

The PGT reviews accounts according to a defined schedule to help ensure the

committee is applying the adult's funds appropriately. Account reviews are completed in a timely manner so that losses related to mismanagement or misappropriation can be remedied and future problems prevented.

In 2019-2020, of 511 accounts submitted for review to the PGT, 397 (78%) were reviewed within six months of receipt.

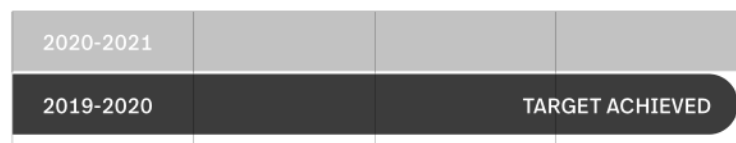
GOAL 2

Contribute to a fair and just society

OBJECTIVE 2.3

The PGT will contribute to public awareness, policy development and law reform initiatives to promote the interests of PGT clients

2.3.1 Review legislative amendments coming into force on April 1, 2019 relating to claims by minors for compensation regarding motor vehicle accident injuries and prepare public education material to explain the impacts to the PGT role to stakeholders

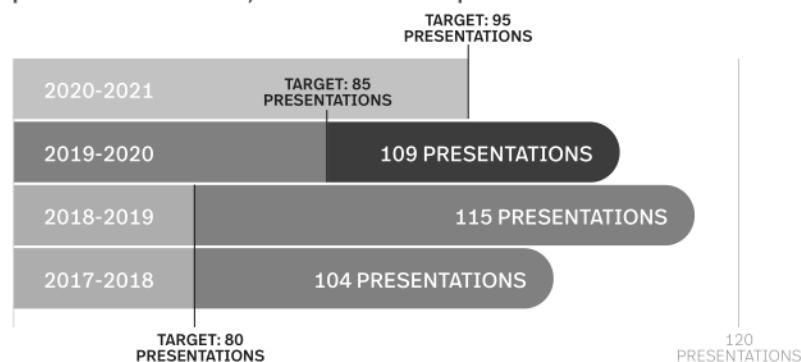


TARGET: EDUCATION MATERIALS POSTED TO PGT WEBSITE BY MARCH 31, 2020

When a minor is injured in a motor vehicle accident, the minor may be eligible for compensation from a variety of sources. When a compensation offer is made, the PGT is required to review the proposed settlement to see that the offer appropriately compensates the minor. On April 1, 2019 amendments to the *Insurance (Vehicle) Regulation*, clarifying changes to ICBC benefits and processes came into effect impacting minors who were subsequently injured in motor vehicle accidents.

The public education material, now available on the PGT website, describes the process for three specific scenarios under the amended legislation, where the PGT reviews settlements for motor vehicle accidents that took place on or after April 1, 2019. Additional changes to the infant settlement review process will take place on May 1, 2021 as the provincial government amended the *Insurance (Vehicle) Act* in February 2020. The PGT will review these changes and make corresponding updates to public education materials as required.

2.3.2 PGT role explained by PGT representatives at stakeholder and service partner conferences, events and other public education forums



The public, service partners and stakeholders continue to request the PGT to make presentations about PGT roles and areas of responsibility. Over the last few years, the PGT has been involved with implementing new legislation and the related requirement for public education activities is great. The PGT strives to meet the demand for public education activities which must be balanced against other service requirements.

Better understanding of the PGT role promotes appropriate uptake of PGT services and is an important element in a PGT demand management strategy. In 2019-2020, the PGT made 109 public presentations.

GOAL 3

Achieve success through relationships

OBJECTIVE 3.1

Build relationships and understanding of roles with clients and stakeholders to support improved service

Assessment – There are no specific performance measures for this goal, however, the PGT plans to achieve its mandate through working with others including clients, their friends and families, organizations with statutory authority and a wide range of professional and organizational service providers. This includes participating in government wide and government/ community initiatives as documented in this report (see pages 40-41).

GOAL 4

Demonstrate accountability and transparency

OBJECTIVE 4.1

Provide meaningful information to clients, stakeholders and the public

Assessment – All of the specific performance measures described under the previous goals also relate to this goal. In addition, the PGT is approaching this goal by responding to a large number of strategic and operational factors. Implementing supportive information technology, particularly further implementing a new document management system is a major strategic approach. The PGT has a strong accountability framework that includes an Enterprise Risk Management Framework (see pages 50-51) and independently audited public reporting on performance and operations (see pages 78-117).

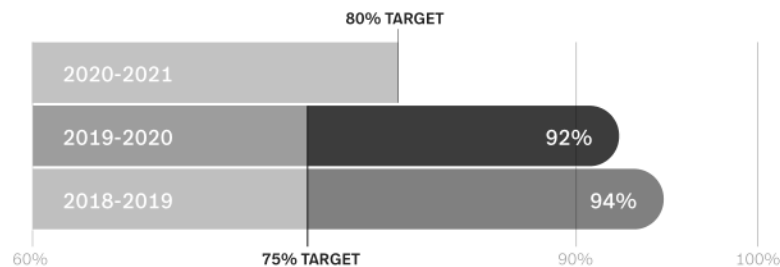
GOAL 5

Engage and empower staff

OBJECTIVE 5.1

Develop motivated, skilled and accountable leaders and staff

5.1.1 Percentage of existing PGT staff that completed at least 10 hours of client service related learning



Training and learning is a vital component of developing a motivated and skilled workforce. The increasing complexity of substitute decision making for vulnerable clients and of managing client financial assets and estates demands that appropriate and continuous skills and knowledge training be provided to staff. Often this type of learning is not available in formal educational programs. To this end, the PGT delivers in person and eLearning training and education programs focusing on substantive knowledge based education and role based training for staff.

The percentage of staff who receive training is another indicator contributing to quality client service. In 2019-2020, 220 of 239 (92%) received at least 10 hours of client service related learning.



Linking Resources to Performance



Linking Resources, Strategies and Results

Background

The PGT is responsible by law for delivering a broad range of services to clients and is self-funded for a large percentage of its expenditure budget. In developing its annual budget, the PGT provides for meeting its statutory and fiduciary obligations to its clients. The PGT establishes strategic goals and determines performance measures and targets within the budgeted resources and constraints of a given year in the context of its three year service plan.

The PGT delivers client services through a combination of activities that are specific to an operational division, integrated between divisions, across divisions or are delivered in conjunction with service partners:

- Operational divisions focus on broad client groups such as children and youth, adults and estates of deceased persons. Costs are assigned directly to the divisions.
- Activities of operational divisions are supported by integrated services such as legal, investments, information systems, securing of client assets, warehousing, budgeting, facilities and executive support services. Costs for these integrated services are assigned across operational divisions using an allocation model developed to reflect approximate usage.

- Some services, such as quality assurance and risk management, are delivered in a cross divisional manner. Costs of cross divisional services are assigned directly through operational division budgets and indirectly through costs assigned through an allocation model.
- Services such as maintaining client real property are delivered in conjunction with service partners and are charged directly to clients.

See pages 76 and 77 for the Allocation of Recoveries and Expenses by Program – Budget and Actual (unaudited) for the year ended March 31, 2020.

Delivery of services and allocation of costs are reflected in Areas of Expenditures and PGT Strategic Goals (unaudited) on pages 71 and 72, describing which PGT goals apply to which area of expenditure. The table provides a context to put PGT areas of expenditure into perspective. The distribution also reflects the integrated and cross divisional nature of PGT operations.

Linkages

Client services fall into one of two broad service areas:

- Trust and estate services are fiduciary in nature with the greatest impact from the service on the management of individual client assets which is reflected in the total or high level of cost recovery.
- Public services are regulatory in nature with the greatest impact from the service on monitoring or oversight and the limited or non-existent cost recovery reflects the public nature of these services.

Table 1 (unaudited) demonstrates that most PGT goals apply broadly to most areas of expenditure and may involve both a number of programs and expenditures and a number of divisions.

Challenges

The challenge of segmenting expenditures is greatest at the broad goal level. It is a lesser challenge in the case of specific performance measures within each goal as these are more likely to apply to a single area of expenditure. However, the PGT considers that elaboration of budget particulars at the individual measure level is not possible as the work is too interrelated and spread throughout PGT activities.

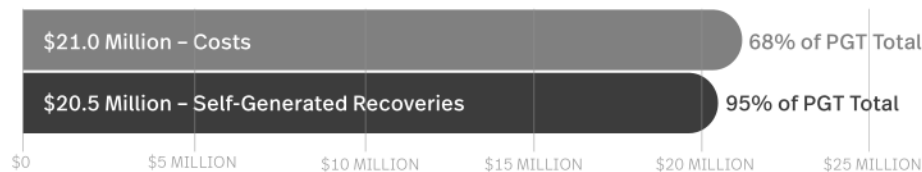
For example, integrating a new adult client requires more than preparation of a new case plan. Assets must be secured, legal interests must be considered, real property may have to be sold, an investment plan may have to be developed and overdue taxes may have to be made current.

These complex linkages mean that although the areas of expenditure are linked with groups of strategic goals, the relationship between performance and outcomes and changes in costs may not be direct or immediate.

Areas of Expenditure and PGT Strategic Goals

(Unaudited)*

Trust and Estate Services



Goals 1, 3, 4 and 5 most directly affected

*All PGT expenditures are allocated into one of two categories according to the nature of the work, i.e., trust and estate services or public services. Goals may apply in both categories. Individual performance measures within a goal may relate more specifically to one area of expenditure than another.

Trust and Estate Services

Trust and estate services are the primary PGT responsibility and in 2019–2020 accounted for \$21.0 million or 68% of total costs and produced \$20.5 million or 95% of total self-generated recoveries from fees.

Trust and estate services include the following:

- Child trust services
- Adult trust services
- Estate and personal trust services

Context

- PGT Estate and Personal Trust Services division achieved cost recovery. The rate of recovery was 110% in 2019–2020 (113% in 2018–2019).
- The PGT acts as a prudent investor in managing all client invested funds. These investment activities support objectives under Goal 1 by helping to ensure property and financial interests of PGT clients are well managed. At March 31, 2020, the average cost per client for salaries and benefits within the PGT investment services section was \$14.31 (\$12.67 at March 31, 2019).

Public Services

Goals 1, 2, 3, 4 and 5 most directly affected

Public services accounted for \$9.8 million or 32% of total costs in 2019–2020 and produced \$1.0 million or 5% of total self-generated recoveries from fees.

Public services include the following:

TABLE 1

Program Areas	COSTS	SELF-GENERATED RECOVERIES
Child and Youth Services		
Property guardian	\$ 2.58 million	-
Infant settlement and other legal reviews	\$ 1.19 million	\$ 0.32 million
Grant application reviews	\$ 0.68 million	\$ 0.18 million
Litigation guardian	\$ 0.10 million	-
Services to Adults		
Assessment and investigation	\$ 2.01 million	\$ 0.04 million
Personal decision services	\$ 1.07 million	-
Committee of person	\$ 0.11 million	-
Private committee services	\$ 1.92 million	\$ 0.44 million
Other adult legal services	\$ 0.14 million	-
Total	\$ 9.80 million	\$ 0.98 million

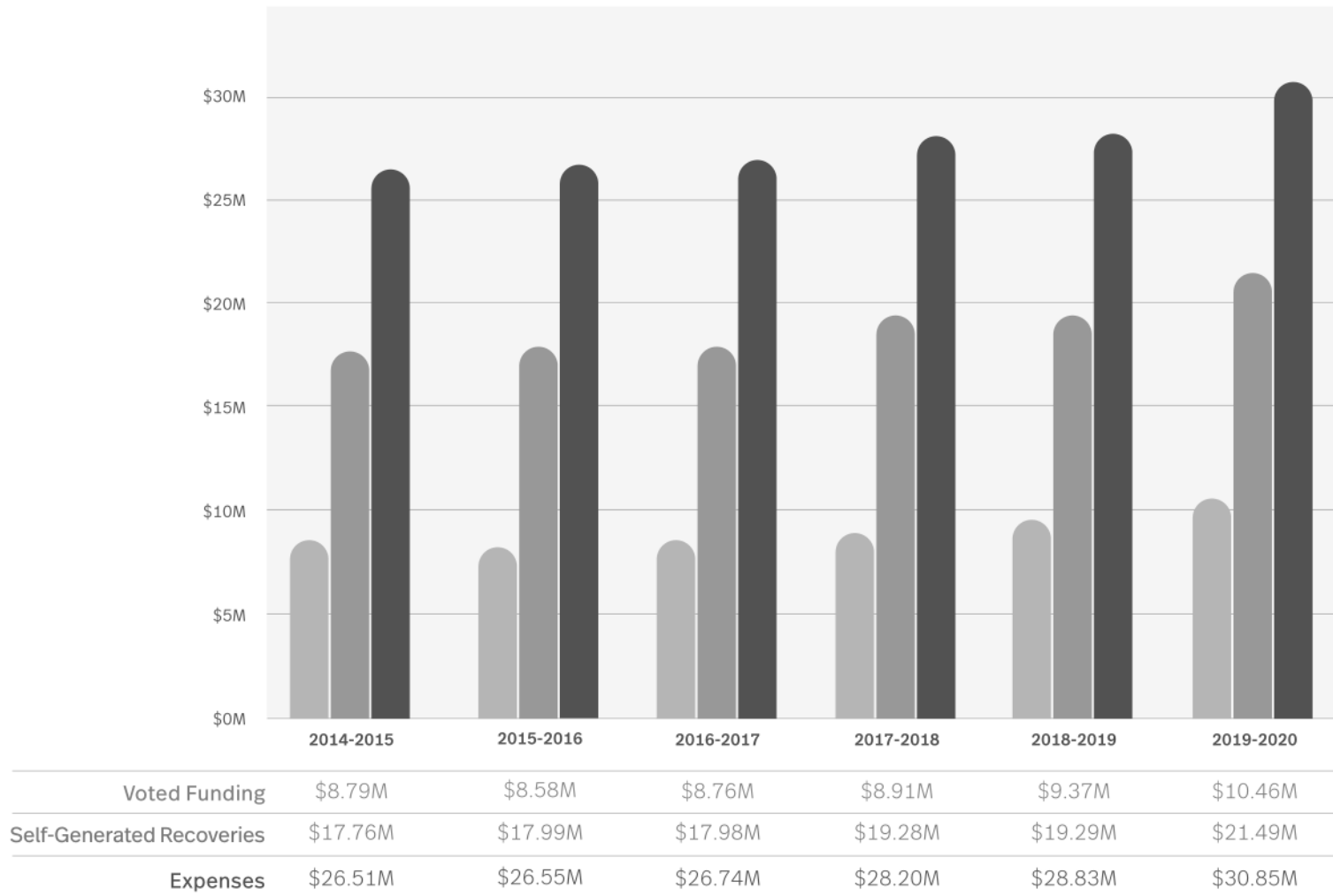
Context

Under the *Health Care (Consent) and Care Facility (Admission) Act*, PGT staff act as a substitute decision maker for health care treatment and care facility admission or appoint other suitable substitutes to make these decisions. This activity supports objectives under Goal 2 by helping to ensure personal interests of PGT clients are protected. In 2019–2020, average unit cost was \$1,815 (note, there is no comparable benchmark for the prior year as care facility admission activity commenced in 2019-2020).

The *Wills, Estates and Succession Act* requires that the PGT be notified before a court application for a grant involving interests of a child or incapable adult. These grant application reviews support objectives under Goal 3 by helping to ensure statutory protective and monitoring services are delivered in an appropriate, timely and fair manner. In 2019–2020, cost per review was \$937 (\$890 in 2018–2019) and the *Public Guardian and Trustee Fees Regulation* allows a fee of \$300 per notice for this review.

TABLE 2

PGT Voted Funding, Recoveries and Expenses
2014-2015 to 2019-2020



Recoveries and Program Costs 2019–2020

Introduction

The PGT cost allocation model was developed to show recoveries from fees and costs in a meaningful way by linking resources to the costs of providing service. Budgeted figures have been derived from the Estimates approved by the Legislative Assembly of British Columbia on May 30, 2019. Actual results are provided from the audited financial statements of the Public Guardian and Trustee Operating Account. These amounts may differ from the Public

Accounts of the Province of British Columbia due to timing differences resulting from year end accruals and adjustments posted to the PGT's accounts that are below the materiality threshold for posting to the Public Accounts.

Recovery Sources and Variances

Recoveries are comprised of fees charged in accordance with the *Public Guardian and Trustee Fees Regulation* and funding received from the Province of British Columbia.

Recoveries and Variances (Unaudited)

Year Ended March 31, 2020 (expressed in thousands of dollars)

	BUDGET	ACTUAL	VARIANCE*	% VARIANCE*	NOTE
External recoveries from fees					
Commissions	\$ 10,591	\$ 12,420	\$ 1,829	17%	1
Asset management fees	7,226	7,170	(56)	(1%)	
Fees for investigations, monitoring and legal services	975	976	1	0%	
Estate liaison administration fees	542	469	(73)	(13%)	2
Minimum administration fees	381	373	(8)	(2%)	
Heir tracing fees	85	84	(1)	(1%)	
Total external recoveries from fees	19,800	21,492	1,692	9%	
Voted funding from the Province of British Columbia	9,704	10,461	757	8%	3
Total	\$ 29,504	\$ 31,953	\$ 2,449	8%	

* Brackets in the above table indicate actual results are less than budget

Explanatory Notes on Recoveries Variances

1. Capital commissions were higher than budgeted due to multiple large settlements received and higher than expected investment market returns.
2. Estate liaison administration fees were lower than budgeted due to a 10% decrease in open Estate Liaison files during 2019-2020.
3. Additional funding was received for costs associated with the *Health Care (Consent) and Care Facilities (Admission) Act*.

Expenses and Variances (Unaudited)

Year Ended March 31, 2020 (expressed in thousands of dollars)

	BUDGET	ACTUAL	VARIANCE*	% VARIANCE*	NOTE
Expenses					
Salaries and benefits	\$ 23,746	\$ 23,330	\$ (416)	(2%)	
Computer systems and support	1,910	3,000	1,090	57%	1
Other operating and administrative costs	1,412	1,747	335	24%	2
Amortization	1,220	1,195	(25)	(2%)	
Client expenditures	667	603	(64)	(10%)	
Professional services	254	487	233	92%	3
Legal services	265	288	23	9%	
Building occupancy	30	198	168	560%	2
Total expenses	\$ 29,504	\$ 30,848	\$ 1,344	5%	

* Brackets in the above table indicate actual results are less than budget

Explanatory Notes on Expenses Variances

1. Increased contracted support was required for the maintenance and post implementation support of the trust accounting system. Additional computer hardware and software was purchased to implement network security improvements.
2. Facilities purchases deferred from prior years due to insufficient budget were made in 2019-2020.
3. Professional services were incurred for the translation of publications for the *Health Care (Consent) and Care Facilities (Admission) Act*, development of an Indigenous reconciliation strategy and staff training initiatives that are not included in the budget.

Allocation of Recoveries and Expenses by Program Area – Budget (Unaudited)

Year Ended March 31, 2020
(expressed in thousands of dollars)

	TRUST AND ESTATE SERVICES				PUBLIC SERVICES			TOTAL
	ADULT TRUST SERVICES	ESTATE AND PERSONAL TRUST SERVICES	CHILD TRUST SERVICES	SUBTOTAL	ADULT SERVICES	CHILD SERVICES	SUBTOTAL	

External recoveries from fees

Commissions	5,549	4,134	908	10,591	-	-	-	10,591
Asset management fees	4,163	1,748	1,315	7,226	-	-	-	7,226
Estate liaison administration fees	542	-	-	542	-	-	-	542
Minimum administration fees	381	-	-	381	-	-	-	381
Heir tracing fees	-	85	-	85	-	-	-	85
Fees for investigations, monitoring and legal services	-	-	-	-	474	501	975	975
Total external recoveries from fees	10,635	5,967	2,223	18,825	474	501	975	19,800

Operating Expenses

Salaries and benefits	9,803	4,450	1,491	15,744	4,056	3,946	8,002	23,746
Computer systems and support	840	347	126	1,313	332	265	597	1,910
Other operating and administrative costs	598	205	218	1,021	205	186	391	1,412
Amortization	536	221	81	838	212	170	382	1,220
Client expenditures	444	156	6	606	48	13	61	667
Professional services	90	48	32	170	45	39	84	254
Legal services	234	-	2	236	22	7	29	265
Building occupancy	12	6	2	20	5	5	10	30
Total operating expenses	12,557	5,433	1,958	19,948	4,925	4,631	9,556	29,504

Net external recovery (expense)*	(1,922)	534	265	(1,123)	(4,451)	(4,130)	(8,581)	(9,704)
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Other revenue

Voted funding from the Province of British Columbia	-	-	-	-	-	-	-	9,704
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Balance

-

* Does not include deduction for centralized overhead costs paid and expensed by other government entities for PGT operating costs including certain financial and administrative services, post-employment benefits, and office and warehouse facilities.

Allocation of Recoveries and Expenses by Program Area – Actual (Unaudited)

Year Ended March 31, 2020
(expressed in thousands of dollars)

	TRUST AND ESTATE SERVICES				PUBLIC SERVICES			TOTAL
	ADULT TRUST SERVICES	ESTATE AND PERSONAL TRUST SERVICES	CHILD TRUST SERVICES	SUBTOTAL	ADULT SERVICES	CHILD SERVICES	SUBTOTAL	
External recoveries from fees								
Commissions	6,283	4,504	1,633	12,420	-	-	-	12,420
Asset management fees	4,213	1,666	1,291	7,170	-	-	-	7,170
Estate liaison administration fees	469	-	-	469	-	-	-	469
Minimum administration fees	373	-	-	373	-	-	-	373
Heir tracing fees	-	84	-	84	-	-	-	84
Fees for investigations, monitoring and legal services	-	-	-	-	476	500	976	976
Total external recoveries from fees	11,338	6,254	2,924	20,516	476	500	976	21,492
Operating Expenses								
Salaries and benefits	9,790	4,364	1,492	15,646	4,061	3,623	7,684	23,330
Computer systems and support	1,321	541	197	2,059	525	416	941	3,000
Other operating and administrative costs	802	275	146	1,223	285	239	524	1,747
Amortization	526	217	79	822	208	165	373	1,195
Client expenditures	426	162	(4)	584	24	(5)	19	603
Professional services	191	87	47	325	90	72	162	487
Legal services	255	-	2	257	24	7	31	288
Building occupancy	81	38	12	131	35	32	67	198
Total operating expenses	13,392	5,684	1,971	21,047	5,252	4,549	9,801	30,848
Net external recovery (expense)*	(2,054)	570	953	(531)	(4,776)	(4,049)	(8,825)	(9,356)
Other revenue								
Voted funding from the Province of British Columbia	-	-	-	-	-	-	-	10,461
Balance								1,105

* Does not include deduction for centralized overhead costs paid and expensed by other government entities for PGT operating costs including certain financial and administrative services, post-employment benefits, and office and warehouse facilities.



Audited Financial Statements 2019–2020



Financial Statements of the
Operating Account of the

**PUBLIC GUARDIAN AND TRUSTEE OF
BRITISH COLUMBIA**

And Independent Auditors' Report thereon

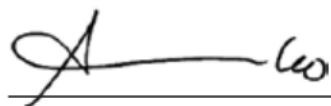
Year ended March 31, 2020

MANAGEMENT'S STATEMENT OF RESPONSIBILITIES FOR THE OPERATING ACCOUNT FINANCIAL STATEMENTS OF THE PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Management is responsible for preparing the accompanying financial statements and is responsible for their integrity and objectivity. The financial statements are prepared in conformity with Canadian public sector accounting standards and include amounts based on informed judgments and estimates of the expected effects of current events and transactions.

Management is also responsible for maintaining systems of internal control that provide reasonable assurance that financial information is reliable, that all financial transactions are properly authorized, that assets are safeguarded, and that the Public Guardian and Trustee of British Columbia adheres to legislation and regulatory requirements. These systems include the communication of policies and the Public Guardian and Trustee of British Columbia's ethical principles and standards of conduct throughout the organization. Management continually monitors the systems of internal controls for compliance.

KPMG LLP has been appointed by the Public Guardian and Trustee of British Columbia as independent auditors to examine and report on the financial statements and their report follows.



Catherine M. Romanko
Public Guardian and Trustee

June 25, 2020



KPMG LLP
PO Box 10426 777 Dunsmuir Street
Vancouver BC V7Y 1K3
Canada
Telephone (604) 691-3000
Fax (604) 691-3031

INDEPENDENT AUDITORS' REPORT

To the Public Guardian and Trustee of British Columbia

Opinion

We have audited the financial statements of the Operating Account of the Public Guardian and Trustee of British Columbia (the PGT), which comprise:

- the statement of financial position as at March 31, 2020
- the statement of operations and accumulated surplus for the year then ended
- the statement of changes in financial assets for the year then ended
- the statement of cash flows for the year then ended
- and notes to the financial statements, including a summary of significant accounting policies

(hereinafter referred to as the "financial statements").

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the PGT as at March 31, 2020 and the results of its operations and cash flow for the year ended in accordance with Canadian Public Sector Accounting Standards.



Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the ***“Auditors’ Responsibilities for the Audit of the Financial Statements”*** section of our auditors’ report.

We are independent of the PGT in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada and we have fulfilled our other ethical responsibilities in accordance with these requirements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with Canadian Public Sector Accounting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the PGT’s ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the PGT or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the PGT’s financial reporting process.

Auditors’ Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors’ report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit.



We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.

The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the PGT's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the PGT's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditors' report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditors' report. However, future events or conditions may cause the PGT to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Chartered Professional Accountants

Vancouver, Canada
June 25, 2020

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

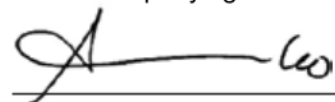
Operating Account

Statement of Financial Position
(Expressed in thousands of dollars)

March 31, 2020, with comparative information for 2019

	Notes	2020	2019
Financial assets			
Cash	4(a)	\$ 21,416	\$ 21,192
Due from Trusts and Estates Administered	5	4,050	3,499
Other financial assets		1,023	742
		26,489	25,433
Liabilities			
Accounts payable and accrued liabilities		1,187	2,092
Deferred revenue		377	330
		1,564	2,422
Net financial assets		24,925	23,011
Non-financial assets			
Tangible capital assets	6	2,848	3,657
Accumulated surplus	3	\$ 27,773	\$ 26,668
Contingent liabilities	7		

The accompanying notes are an integral part of these financial statements.



Catherine M. Romanko
Public Guardian and Trustee

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Operating Account

Statement of Operations and Accumulated Surplus (Expressed in thousands of dollars)

Year ended March 31, 2020, with comparative information for 2019

	Notes	2020 Budget (Note 8)	2020	2019
External recoveries from fees		\$ 19,800	\$ 21,492	\$ 19,286
Funding from the Province of British Columbia	4(b)	9,704	10,461	9,365
		29,504	31,953	28,651
Expenses:	4(c)			
Salaries and benefits		23,746	23,330	22,314
Computer systems and support		1,910	3,000	2,721
Other operating and administrative costs		1,412	1,747	1,474
Amortization		1,220	1,195	1,269
Client expenditures		667	603	669
Professional services		254	487	301
Legal services		265	288	53
Building occupancy	4(d)	30	198	30
		29,504	30,848	28,831
Annual surplus (deficit)		-	1,105	(180)
Accumulated surplus, beginning of year		26,668	26,668	26,848
Accumulated surplus, end of year		\$ 26,668	\$ 27,773	\$ 26,668

The accompanying notes are an integral part of these financial statements.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Operating Account

Statement of Changes in Net Financial Assets (Expressed in thousands of dollars)

Year ended March 31, 2020, with comparative information for 2019

	2020 Budget (Note 8)	2020	2019
Annual surplus (deficit)	\$ -	\$ 1,105	\$ (180)
Acquisition of tangible capital assets	(363)	(386)	(138)
Amortization of tangible capital assets	1,220	1,195	1,269
Increase in net financial assets	857	1,914	951
Net financial assets, beginning of the year	23,011	23,011	22,060
Net financial assets, end of the year	\$ 23,868	\$ 24,925	\$ 23,011

The accompanying notes are an integral part of these financial statements.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Operating Account

Statement of Cash Flows (Expressed in thousands of dollars)

Year ended March 31, 2020, with comparative information for 2019

	2020	2019
Cash provided by (used in):		
Operating activities:		
Annual surplus (deficit)	\$ 1,105	\$ (180)
Non-cash item:		
Amortization of tangible capital assets	1,195	1,269
Change in due from Trusts and Estates Administered	(551)	(270)
Change in other financial assets	(281)	(559)
Change in accounts payable and accrued liabilities	(905)	848
Change in deferred revenue	47	1
	610	1,109
Capital activities:		
Acquisition of tangible capital assets	(386)	(138)
Increase in cash	224	971
Cash, beginning of year	21,192	20,221
Cash, end of year	\$ 21,416	\$ 21,192
Cash consists of:		
Cash held by the Province of British Columbia	\$ 19,739	\$ 18,655
Cash held directly	1,677	2,537
	\$ 21,416	\$ 21,192

The accompanying notes are an integral part of these financial statements.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Operating Account

Notes to Financial Statements

(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

1. Reporting entity:

The Public Guardian and Trustee of British Columbia (the "PGT") Operating Account ("Operating Account") operates under the authority of the Public Guardian and Trustee Act (the "Act"). The Operating Account is not liable for taxation, except insofar as the government is liable. The Operating Account was established as a Special Account in the general fund of the consolidated revenue fund of the Province of British Columbia.

The Operating Account reports the revenues earned from the services provided to clients of the PGT and the operating and capital expenditures relating to the provision of these services. Clients are adults who are not capable of managing their own affairs, deceased persons' estates which have no other person willing and able to act for them, estates of missing persons, and children in receipt of settlement funds, insurance policy proceeds or money from estates.

Separate financial statements have been prepared as at March 31, 2020 for client trust accounts, which include \$1.07 billion (2019 - \$1.04 billion) of net assets held in trust.

2. Summary of significant accounting policies:

(a) Basis of accounting:

Management has prepared these financial statements in accordance with Canadian public sector accounting standards as recommended by the Public Sector Accounting Board of CPA Canada. These financial statements were authorized for issue by the Public Guardian and Trustee on June 25, 2020.

(b) Due from Trusts and Estates Administered and allowance for doubtful accounts:

Due from the Trusts and Estates Administered includes amounts owing from trusts and estates under administration by the PGT for fees, cost recoveries and short term loans. The PGT maintains an allowance for doubtful accounts that reflects management's best estimate of uncollectible amounts owing. Amounts deemed uncollectible are charged to client expenditures in the statement of operations in the period in which they are deemed uncollectible. These amounts are collectible on demand and are not interest bearing.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Operating Account

Notes to Financial Statements

(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

2. Summary of significant accounting policies (continued):

(c) Tangible capital assets:

Tangible capital assets are recorded at cost and are amortized on a straight-line basis over their estimated useful lives. Computer hardware and software purchases less than ten thousand dollars are amortized over three years. All remaining assets are amortized over five years.

(d) Revenue recognition:

External recoveries from fees consists of fees paid by clients in accordance with the Public Guardian and Trustee Fees Regulation as provided for under the Act. Fees are recognized in the period in which the service is provided or at the point in time directed by regulation, court order, co-trustees or beneficiaries. Funding from the Province of British Columbia is recognized as revenue when authorized and eligibility criteria, if any, have been met, unless the funding contains stipulations on how it is to be expended by the PGT, in which case the funding is recorded as deferred revenue. Once the stipulations have been met, the funding is subsequently recognized as revenue.

(e) Employee benefit plans:

All eligible employees participate in a multi-employer defined benefit pension plan. All contributions to this plan are expensed as incurred.

(f) Client expenditures:

Client expenditures represent amounts paid for clients' property management, provision for doubtful accounts on amounts owing from clients, and other miscellaneous expenditures made on behalf of clients. Legal expenditures paid on behalf of clients are reported under legal services.

(g) Use of estimates:

The preparation of financial statements requires management to make estimates and assumptions in determining reported amounts. The only significant areas requiring the use of management estimates are the estimation of the collectability of accounts receivable and the useful life of tangible capital assets. Actual results could differ from these estimates.

(h) Segmented information and expense presentation:

A segment is defined as a distinguishable activity or group of activities of a government for which it is appropriate to separately report financial information. As the Operating Account's sole activity is the managing of services provided to clients of the PGT, additional segmented disclosure is not required and expenses are presented by category on the statement of operations and accumulated surplus.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Operating Account

Notes to Financial Statements

(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

3. Accumulated surplus:

Spending from external recoveries in excess of the budget approved by the Province of British Columbia is permitted to the extent it does not reduce the Accumulated Surplus carried forward from the previous year. Spending from the Accumulated Surplus requires Treasury Board approval.

4. Related party transactions:

The PGT is a corporation sole. All transactions with related parties, including the Province of British Columbia ministries, agencies and Crown corporations occurred in the normal course of operations and are valued at the exchange amount, which reflects fair value unless otherwise disclosed in these notes.

- (a) The PGT uses the Province of British Columbia's financial and banking systems to process and record most of its transactions. Transactions related to PGT fees and other amounts collected from clients are processed and recorded first in the PGT's own financial and banking system, and subsequently recorded on a monthly aggregate basis in the Province of British Columbia's systems.
- (b) A transfer of \$10,461 (2019 - \$9,365) from a sub-vote of the Ministry of Attorney General has been provided for services to incapable adults, children and youth and for other expenditures of the PGT.
- (c) Certain financial and administrative services, post-employment benefits, and office and warehouse facilities are provided centrally by various ministries and agencies of the government of the Province of British Columbia. The costs of these services are not charged to the Operating Account and are, therefore, not included in the statement of operations.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Operating Account

Notes to Financial Statements

(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

4. Related party transactions (continued):

(d) Office and warehouse facilities are provided by Shared Services British Columbia ("SSBC") within the Ministry of Citizens' Services. The cost of buildings occupied by the PGT, including charges from SSBC, and the net building occupancy expense of the PGT is as follows:

	2020	2019
Building costs incurred by SSBC for facilities occupied by the PGT	\$ 2,774	\$ 2,802
Portion not charged to the PGT	(2,698)	(2,776)
Building costs paid by the PGT to SSBC	76	26
Building costs paid by the PGT to unrelated parties	122	4
Building occupancy expense, as reported on the statement of operations	\$ 198	\$ 30

5. Due from Trusts and Estates Administered:

	2020	2019
Gross amount due from Trusts and Estates Administered	\$ 5,587	\$ 5,025
Allowance for doubtful accounts	(1,537)	(1,526)
Net amount due from Trusts and Estates Administered	\$ 4,050	\$ 3,499

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Operating Account

Notes to Financial Statements

(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

6. Tangible capital assets:

	2020									
	Cost beginning of year	Additions for the year	Disposals for the year	Cost end of year	Accumulated amortization beginning of year	Disposals	Amortization expense	Accumulated amortization end of year	Net book value beginning of year	Net book value end of year
Operating equipment	\$ 21	\$ -	\$ -	\$ 21	\$ (21)	\$ -	\$ -	\$ (21)	\$ -	\$ -
Furniture and equipment	549	222	-	771	(470)	-	(24)	(494)	79	277
Personal computer software	32	-	-	32	(32)	-	-	(32)	-	-
Computer hardware - less than \$10,000	226	85	-	311	(209)	-	(11)	(220)	17	91
Server computer software	7,185	-	-	7,185	(3,826)	-	(1,062)	(4,888)	3,359	2,297
Computer hardware - greater than \$10,000	490	79	-	569	(288)	-	(98)	(386)	202	184
Tenant improvement	704	-	-	704	(704)	-	-	(704)	-	-
Total	\$ 9,207	\$ 386	\$ -	\$ 9,593	\$ (5,550)	\$ -	\$ (1,195)	\$ (6,745)	\$ 3,657	\$ 2,848

	2019									
	Cost beginning of year	Additions for the year	Disposals for the year	Cost end of year	Accumulated amortization beginning of year	Disposals	Amortization expense	Accumulated amortization end of year	Net book value beginning of year	Net book value end of year
Operating equipment	\$ 21	\$ -	\$ -	\$ 21	\$ (20)	\$ -	\$ (1)	\$ (21)	\$ 1	\$ -
Furniture and equipment	505	59	(15)	549	(464)	15	(21)	(470)	41	79
Personal computer software	111	-	(79)	32	(110)	79	(1)	(32)	1	-
Computer hardware - less than \$10,000	438	17	(229)	226	(427)	229	(11)	(209)	11	17
Server computer software	8,178	-	(993)	7,185	(3,658)	993	(1,161)	(3,826)	4,520	3,359
Computer hardware - greater than \$10,000	428	62	-	490	(214)	-	(74)	(288)	214	202
Tenant improvement	704	-	-	704	(704)	-	-	(704)	-	-
Total	\$ 10,385	\$ 138	\$ (1,316)	\$ 9,207	\$ (5,597)	\$ 1,316	\$ (1,269)	\$ (5,550)	\$ 4,788	\$ 3,657

Cost includes fully amortized assets that are still in use of \$3,526 (2019 - \$3,248).

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Operating Account

Notes to Financial Statements
(Expressed in thousands of dollars)

Year ended March 31, 2020

7. Contingent liabilities:

From time to time, the Public Guardian and Trustee is a defendant in legal actions in carrying out its duties. Under Section 21 of the Act, monies required to discharge any liability or claim against the PGT must be paid out of the consolidated revenue fund of the Province of British Columbia.

8. Budget figures:

Budget figures have been provided for comparative purposes and are derived from the estimates approved by the Legislative Assembly of British Columbia on May 30, 2019.

9. Employee benefit plans:

The PGT and all eligible employees contribute to the Public Service Pension Plan in accordance with the *Public Sector Pension Plans Act*. The British Columbia Pension Corporation administers the plan, including payments of pension benefits to eligible employees. A board of trustees, representing plan members and employers, is responsible for overseeing the management of the Plan, including investment of assets and administration of benefits.

The Public Service Pension Plan is a multi-employer, defined benefit plan. Under joint trusteeship, the risks and rewards associated with the Plan's unfunded liability or surplus are shared between the employers and the Plan members and will be reflected in their future contributions. Every three years, an actuarial valuation is performed to assess the financial position of the plan and the adequacy of the funding. The last actuarial valuation was published in December 2017 and showed that the Plan was at 108% funded as at March 31, 2017. The next actuarial valuation is to be completed as at March 31, 2020.

During the year ended March 31, 2020, the PGT contributed \$1,665 (2019 - \$1,598) to the Plan. These contributions are included in salaries and benefits expense. No pension liability for this Plan is included in these financial statements.

10. Fair value:

The fair value of the Operating Account's financial instruments, which include cash, due from Trusts and Estates Administered, other financial assets, and accounts payable and accrued liabilities are not materially different from their carrying value due to their short-term nature.

Financial Statements of the
Trusts and Estates Administered by the

**PUBLIC GUARDIAN AND TRUSTEE
OF BRITISH COLUMBIA**

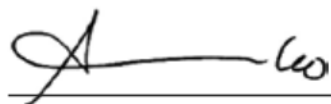
And Independent Auditors' Report thereon
Year ended March 31, 2020

MANAGEMENT'S STATEMENT OF RESPONSIBILITIES FOR THE FINANCIAL STATEMENTS OF TRUSTS AND ESTATES ADMINISTERED BY THE PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Management is responsible for preparing the accompanying financial statements and is responsible for their integrity and objectivity. The financial statements are prepared in conformity with International Financial Reporting Standards and include amounts based on informed judgments and estimates of the expected effects of current events and transactions.

Management is also responsible for maintaining systems of internal control that provide reasonable assurance that financial information is reliable, that all financial transactions are properly authorized, that assets are safeguarded, and that the Public Guardian and Trustee of British Columbia adheres to legislation and regulatory requirements. These systems include the communication of policies and the Public Guardian and Trustee of British Columbia's ethical principles and standards of conduct throughout the organization. Management continually monitors the systems of internal controls for compliance.

KPMG LLP has been appointed by the Public Guardian and Trustee of British Columbia as independent auditors to examine and report on the financial statements and their report follows.



Catherine M. Romanko
Public Guardian and Trustee

June 25, 2020



KPMG LLP
PO Box 10426 777 Dunsmuir Street
Vancouver BC V7Y 1K3
Canada
Telephone (604) 691-3000
Fax (604) 691-3031

INDEPENDENT AUDITORS' REPORT

To the Public Guardian and Trustee of British Columbia

Opinion

We have audited the financial statements of the trusts and estates administered by the Public Guardian and Trustee of British Columbia (the PGT), which comprise:

- the statement of net assets of trusts and estates administered as at March 31, 2020
 - the statements of income and expenses of trusts and estates administered for the year then ended
 - the statement of changes in net assets of trusts and estates administered for the year then ended
 - the statement of cash flows of trusts and estates administered for the year then ended
 - and notes to the financial statements, including a summary of significant accounting policies
- (hereinafter referred to as the "financial statements").

In our opinion, the accompanying financial statements present fairly, in all material respects, the net assets of the trusts and estates administered by the PGT as at March 31, 2020 and its income and expenses, its changes in net assets and its cash flow for the year then ended in accordance with International Financial Reporting Standards (IFRS).

Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the **"Auditors' Responsibilities for the Audit of the Financial Statements"** section of our auditors' report.

We are independent of the PGT in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada and we have fulfilled our other ethical responsibilities in accordance with these requirements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with International Financial Reporting Standards (IFRS), and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the PGT's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the PGT or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the PGT's financial reporting process.

Auditors' Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit.

We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.

The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the PGT's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.



- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the PGT's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditors' report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditors' report. However, future events or conditions may cause the PGT to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

A handwritten signature in black ink that reads 'KPMG LLP' in a cursive, stylized font. A horizontal line is drawn underneath the signature.

Chartered Professional Accountants

Vancouver, Canada
June 25, 2020

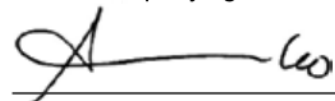
PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Statement of Net Assets of Trusts and Estates Administered
(Expressed in thousands of dollars)

March 31, 2020, with comparative information for 2019

	Notes	2020	2019
Assets			
Premium Money Market Fund	5	\$ 495,327	\$ 459,543
Balanced Income Fund	6	39,670	41,540
Balanced Growth Fund	7	123,510	141,039
Other investments and securities	8	202,455	181,992
Other financial assets	9	17,160	20,713
Real property	10	226,082	228,986
Other assets		5,659	5,348
		1,109,863	1,079,161
Liabilities			
Accounts payable and accrued liabilities		5,764	9,271
Payable to the Public Guardian and Trustee Operating Account	11	5,481	4,803
Mortgages and loans payable		30,956	28,070
		42,201	42,144
Net Assets of Trusts and Estates Administered		\$ 1,067,662	\$ 1,037,017

The accompanying notes are an integral part of these financial statements.



Catherine M. Romanko
Public Guardian and Trustee

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Statement of Income and Expenses of Trusts and Estates Administered
(Expressed in thousands of dollars)

Year ended March 31, 2020, with comparative information for 2019

	Notes	Premium Money Market Fund	Balanced Income Fund	Balanced Growth Fund	Other investments and securities	Real property	Movement in other assets less liabilities	2020	2019
Income:									
Pensions, benefits and settlements		\$ 123,435	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 123,435	\$ 111,676
Interest and dividends		9,792	804	3,850	2,172	-	-	16,618	15,559
		133,227	804	3,850	2,172	-	-	140,053	127,235
Expenses:									
Client care and maintenance	12(a)	70,915	-	-	-	-	(2,826)	68,089	68,723
Public Guardian and Trustee fees	12(b)	19,468	386	1,434	-	-	678	21,966	19,681
Professional services	12(c)	8,316	39	125	176	-	(277)	8,379	6,724
Estate settlement	12(d)	4,100	-	-	-	-	(121)	3,979	2,942
Income taxes paid from Trusts and Estates Administered		2,301	-	-	3	-	1,809	4,113	6,101
		105,100	425	1,559	179	-	(737)	106,526	104,171
Net income (loss) before realized and unrealized gains and losses									
		28,127	379	2,291	1,993	-	737	33,527	23,064
Realized and unrealized gains/losses:									
Net realized gains (losses) on assets sold or released		-	2,249	11,444	18,783	1,930	(270)	34,136	(9,671)
Change in unrealized gains/losses		3,060	(2,761)	(16,668)	(41,886)	(11,846)	(157)	(70,258)	33,408
		3,060	(512)	(5,224)	(23,103)	(9,916)	(427)	(36,122)	23,737
Net income (loss), representing total comprehensive income (loss) - 2020									
		\$ 31,187	\$ (133)	\$ (2,933)	\$ (21,110)	\$ (9,916)	\$ 310	\$ (2,595)	
Net income (loss), representing total comprehensive income (loss) - 2019									
		\$ 25,572	\$ 1,984	\$ 7,978	\$ 6,974	\$ 9,158	\$ (4,865)		\$ 46,801

The accompanying notes are an integral part of these financial statements.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Statement of Changes in Net Assets of Trusts and Estates Administered
(Expressed in thousands of dollars)

Year ended March 31, 2020, with comparative information for 2019

	Notes	Premium Money Market Fund	Balanced Income Fund	Balanced Growth Fund	Other investments and securities	Other financial assets	Real property	Other assets less liabilities	Total
Balance at March 31, 2018		\$ 441,613	\$ 39,993	\$ 127,907	\$ 173,446	\$ 20,039	\$ 214,395	\$ (37,121)	\$ 980,272
Net income (loss) representing comprehensive income (loss) for the year		25,572	1,984	7,978	6,974	145	9,158	(5,010)	46,801
Other changes in net assets of Trusts and Estates Administered:									
Assets acquired		-	-	-	49,214	30,515	81,562	-	161,291
Assets purchased		(34,596)	6,635	24,998	2,434	-	411	-	(118)
Assets sold or collected		127,667	(7,072)	(19,844)	(24,012)	(26,949)	(48,668)	-	1,122
Assets released to clients, beneficiaries and heirs		-	-	-	(26,064)	(3,037)	(27,872)	-	(56,973)
Cash distributions to clients, beneficiaries and heirs		(98,968)	-	-	-	-	-	-	(98,968)
Unclaimed assets transferred to the British Columbia Unclaimed Property Society	13	(1,745)	-	-	-	-	-	-	(1,745)
Movement in other assets less liabilities		-	-	-	-	-	-	5,335	5,335
Total changes in net assets of Trusts and Estates Administered		17,930	1,547	13,132	8,546	674	14,591	325	56,745
Balance at March 31, 2019		459,543	41,540	141,039	181,992	20,713	228,986	(36,796)	1,037,017
Net income (loss) representing comprehensive income (loss) for the year		31,187	(133)	(2,933)	(21,110)	(506)	(9,916)	816	(2,595)
Other changes in net assets of Trusts and Estates Administered:									
Assets acquired		-	-	-	81,539	21,371	78,030	-	180,940
Assets purchased		(49,917)	5,563	16,322	27,913	-	-	-	(119)
Assets sold or collected		156,989	(7,300)	(30,918)	(40,576)	(23,492)	(53,716)	-	987
Assets released to clients, beneficiaries and heirs		-	-	-	(27,303)	(926)	(17,302)	-	(45,531)
Cash distributions to clients, beneficiaries and heirs		(99,356)	-	-	-	-	-	-	(99,356)
Unclaimed assets transferred to the British Columbia Unclaimed Property Society	13	(3,119)	-	-	-	-	-	-	(3,119)
Movement in other assets less liabilities		-	-	-	-	-	-	(562)	(562)
Total changes in net assets of Trusts and Estates Administered		35,784	(1,870)	(17,529)	20,463	(3,553)	(2,904)	254	30,645
Balance at March 31, 2020		\$ 495,327	\$ 39,670	\$ 123,510	\$ 202,455	\$ 17,160	\$ 226,082	\$ (36,542)	\$ 1,067,662

The accompanying notes are an integral part of these financial statements.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Statement of Cash Flows of Trusts and Estates Administered
(Expressed in thousands of dollars)

Year ended March 31, 2020, with comparative information for 2019

	2020	2019
Cash provided by (used in):		
Operating activities:		
Income:		
Pensions, benefits and settlements	\$ 123,435	\$ 111,676
Interest and dividends	9,792	8,774
Expenses:		
Client care and maintenance	(70,915)	(66,463)
Fees paid to the Public Guardian and Trustee Operating Account	(19,468)	(18,712)
Professional services	(8,316)	(6,083)
Estate Settlement Expenses	(4,100)	(2,786)
Income taxes paid from Trusts and Estates Administered	(2,301)	(3,390)
	28,127	23,016
Investing activities:		
Contributions to Balanced Income Fund	(5,563)	(6,635)
Withdrawals from Balanced Income Fund	7,300	7,071
Contributions to Balanced Growth Fund	(16,322)	(24,998)
Withdrawals from Balanced Growth Fund	30,918	19,844
Contributions to other investments and securities	(27,913)	(2,434)
Withdrawals from other investments and securities	40,576	24,012
Purchases of real property	-	(411)
Purchases of other assets	(119)	(118)
Net proceeds from sale of assets	54,703	49,791
	83,580	66,122
Financing activities:		
Proceeds from collection of assets	23,492	26,949
Distributions to clients, beneficiaries and heirs	(99,356)	(98,968)
Transfers of unclaimed assets	(3,119)	(1,745)
	(78,983)	(73,764)
Increase in cash and cash equivalents	32,724	15,374
Increase in unrealized gain on Premium Money Market Fund	3,060	2,556
Premium Money Market Fund, representing cash and cash equivalents, beginning of year	459,543	441,613
Premium Money Market Fund, representing cash and cash equivalents, end of year	\$ 495,327	\$ 459,543

The accompanying notes are an integral part of these financial statements.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

1. Reporting entity:

The Public Guardian and Trustee of British Columbia (the "PGT") operates under the *Public Guardian and Trustee Act* (the "Act") and other provincial statutes to uphold the legal rights and safeguard the financial interests of adults who are not capable of managing their own affairs, deceased persons' estates which have no other person willing and able to act for them, estates of missing persons and children in receipt of settlement funds, insurance policy proceeds or money from estates.

The PGT's principal office is located at 700 - 808 West Hastings Street, Vancouver, British Columbia V6C 3L3.

These financial statements reflect the net assets held in trust and activity for the trusts and estates under administration by the PGT. This collection of accounts is now reported as Trusts and Estates Administered by the PGT and was reported in prior year financial statements as Estates and Trusts Administered by the PGT. Separate financial statements have been prepared for the PGT Operating Account, which report the recoveries from fees, funding from the Province of British Columbia, and the operating and capital expenses of the PGT.

2. Basis of preparation:

(a) Statement of compliance:

These financial statements have been prepared in accordance with the principles of International Financial Reporting Standards ("IFRS").

These financial statements meet the requirements of Section 25 of the Act.

These financial statements have been authorized for issue by the Public Guardian and Trustee on June 25, 2020.

(b) Basis of measurement:

These financial statements have been prepared on the historical cost basis except for the Premium Money Market Fund, Balanced Income Fund, Balanced Growth Fund, other investments and securities and real property, which are carried at fair value.

(c) Functional and presentational currency:

These financial statements are presented in Canadian dollars, which is the functional currency for the PGT.

(d) Use of estimates and judgments:

The preparation of these financial statements, in conformity with IFRS, requires management to make judgments, estimates and assumptions that affect the application of accounting policies and the reporting amounts of assets, liabilities, income and expenses. Actual values ultimately realized may differ from these estimates and are recognized in the period in which the estimates are revised and in any future periods affected.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

3. Summary of significant accounting policies:

The accounting policies set out below, have been applied consistently to all periods presented in these financial statements.

(a) Recognition and measurement of assets and liabilities:

On initial recognition, assets and liabilities are recorded at fair value on the effective date the PGT commences administration of the asset or liability, which is the date of death for estate administration, the date of PGT appointment for trust administration or the date that the estate or trust assumed beneficial ownership for assets and liabilities acquired after PGT appointment.

The Premium Money Market Fund ("PMMF"), Balanced Income Fund ("BIF"), Balanced Growth Fund ("BGF") and other investments and securities are carried at fair value as determined from valuation data provided by investment service providers.

Amounts receivable included in other financial assets are carried at amortized cost.

Other assets include jewelry, collectibles, intangibles, vehicles and effects and are carried at cost, which represents the estimated fair value of the asset on the effective date that the PGT commenced administration of the asset.

All financial liabilities are carried at amortized cost.

(b) Cash and cash equivalents:

Cash and cash equivalents is represented by the PMMF, which is used for day-to-day receipts and disbursements for all clients. Investments held by the PMMF are highly liquid and may be easily drawn upon by the PGT in administering the trusts and estates. Cash held in individual external client bank accounts, included in other financial assets (note 9), is not classified as cash and cash equivalents.

(c) Measurement of real property:

IFRS requires that, in the absence of an IFRS that can be specifically applied to a situation, management should use judgment in developing and applying an accounting policy to provide relevant, reliable and prudent information. In these instances, it is suggested that IFRS requirements in dealing with similar issues are applied, as well as measurement concepts included within the IFRS Framework.

Real property included within the statement of net assets primarily represents the value of residential properties, currently occupied by the clients of the PGT. This property does not meet the definition of property, plant and equipment, nor investment property, although the acceptable measurement bases for such assets include both cost and fair value.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

3. Summary of significant accounting policies (continued):

(c) Measurement of real property (continued):

Accordingly, real property is carried at fair value in the statement of net assets as determined by professional appraisals or, where an appraisal is not available or is not current, as determined from the most recent British Columbia Assessment Authority property assessment or other relevant valuation data.

(d) Revenue recognition:

Income from pensions, benefits and settlements, as well as interest and dividends is recognized on an accrual basis.

Gains and losses on assets represent the appreciation or depreciation in the value of assets administered by the PGT from the value assigned on the date of appointment of the client (if acquired on appointment) or date of purchase (if purchased for clients after appointment). Such gains and losses become realized on the date the assets are sold or released to clients, beneficiaries and heirs. Both realized gains/losses and changes in unrealized gains/losses are reported in the statement of income and expenses.

4. Financial risk management:

As a fiduciary, the PGT is responsible for managing the assets owned by each estate and trust under its authority. The PGT must exercise the care, skill, diligence and judgment of a prudent investor for its clients.

Under Section 12 of the Act, the PGT is permitted to create common funds within the trust fund account. The PGT has established three common funds called the PMMF, the BIF and the BGF. The PMMF holds short- and medium-term fixed income investments and is used for day-to-day receipts and disbursements of all clients. The BIF and the BGF hold investments, which are appropriate for clients with long-term investment horizons.

Under Section 13(1) of the Act, the PGT is permitted to make separate investments for clients if the money is subject to an express trust or direction for investment or it is, for any other reason, in the best interests of the client to do so. Other investments and securities include separate investment portfolios and registered plans which are established or maintained for clients according to their investment profile.

The three common funds are managed by British Columbia Investment Management Corporation ("BCI"). Other investments are managed by private investment management firms.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

4. Financial risk management (continued):

The PGT maintains a risk management practice that includes quarterly monitoring of the returns and investment strategy of the three common funds and annual monitoring for other client investment portfolios. PGT corporate investment policies assign the investment asset mix strategies for client trusts based on the PGT's assessment of appropriate investment strategy for the client.

Four investment portfolio asset mix models are used, and the asset mixes for the Balanced Growth Fund and Balanced Income Fund were modified on February 1, 2020. Client investment portfolios are allocated amongst the three common funds as follows:

Asset Mix	Investment portfolio allocation	Subsequent to January 31, 2020		Prior to February 1, 2020	
		Fixed Income	Equity	Fixed Income	Equity
Model A	Balanced Growth Fund	45%	55%	40%	60%
Model B	Balanced Income Fund	62%	38%	60%	40%
Model C	Blend of Balanced Income Fund and Premium Money Market Fund	81%	19%	80%	20%
Model D	Premium Money Market Fund	100%	nil	100%	nil

Assets in "other investments and securities" represent individual client accounts. Although these individual accounts may have a slightly different target asset mix, they have a similar risk profile to the above asset mix models.

PGT client investments are exposed to a variety of financial risks: credit risk, liquidity risk, and market risk (comprised of interest rate risk, currency risk and other price risk). The fair value of investments can fluctuate on a daily basis as a result of these risk exposures.

Credit risk:

Credit risk is the risk that a counterparty to a financial instrument will fail to discharge an obligation or commitment it has entered into, resulting in a financial loss. The investment policy established by the PGT limits credit risk by limiting the maximum exposure to one single issuer and by investing only in debt securities from governments and corporations with a minimum rating of at least "BBB" or "R-1" as defined by Moody's, Standard & Poor's or Dominion Bond Rating Service. The funds' compliance with policy asset mix and investment guidelines is reviewed quarterly by management and the PGT Investment Advisory Committee.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

4. Financial risk management (continued):

Liquidity risk:

Liquidity risk is the risk that a client account is unable to meet its financial obligations as they come due. PGT minimizes this risk by ensuring that client accounts hold sufficient cash funds to meet current liabilities and expenses and considers liquidity risk at March 31, 2020 and March 31, 2019 to be insignificant.

Interest rate risk:

Interest rate risk is the risk that the fair value or cash flows of interest bearing investments will fluctuate due to changes in market interest rates. Interest rate risk is managed by PGT through established asset mix policies.

Currency risk:

Currency risk is the risk that the fair value of investments will change due to changes in foreign exchange rates. Currency risk is managed by PGT through established asset mix policies.

Other price risk:

Other price risk is the risk that the fair value of a financial instrument will fluctuate because of changes in market prices (other than those arising from interest rate risk or currency risk), whether those changes are caused by factors specific to the individual financial instrument or its issuer, or factors affecting all similar financial instruments traded in the market. Other price risk is managed by PGT through established asset mix policies.

5. Premium Money Market Fund (PMMF):

The investment policy target asset mix for the PMMF is 50% (2019 - 50%) fixed income securities which are issued, insured or guaranteed by the Government of Canada, a provincial or municipal or territorial government with a maximum term to maturity of 5 years and 50% (2019 - 50%) government and corporate money market securities with a maximum term to maturity of 15 months.

The investment policy statement for the PMMF requires that fixed income and money market securities held must meet certain credit quality ratings. Specifically, fixed income investments must be investment grade and have a minimum credit rating of "BBB- "or better by Standard & Poor's, or an equivalent rating by another major recognized rating agency and Corporate short term debt securities, and non-Canadian short term debt securities, must be rated "A-1 (Low)" or better by Standard & Poor's or have an equivalent rating from another credit rating agency.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

5. Premium Money Market Fund (continued):

Credit risk:

The amount recorded for the PMMF on the statement of net assets held in trust represents the maximum credit risk associated with the PMMF. The PMMF is currently comprised of cash and debt instruments with credit ratings as follows:

	2020		2019	
	Amount	%	Amount	%
Segregated bonds:				
AAA	\$ 43,189	9	\$ 60,509	13
AA	97,786	20	93,020	21
A	76,710	15	88,958	19
	217,685	44	242,487	53
Money market:				
A-1 (low) or better	243,507	49	240,335	52
Cash (overdraft)	34,135	7	(23,278)	(5)
	\$ 495,327	100	\$ 459,543	100

Interest rate risk:

Debt instruments held within the PMMF mature on the following basis:

	2020	2019
Cash (overdraft)	\$ 34,135	\$ (23,278)
Debt instruments:		
Less than one year	298,779	287,961
One to three years	145,744	118,046
Three years to five years	16,669	76,814
	\$ 495,327	\$ 459,543

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

5. Premium Money Market Fund (continued):

As at March 31, 2020, if interest rates were to increase or decrease by 1%, with other variables held constant, the fair value of the PMMF, and accordingly, net assets, would have increased or decreased, respectively, by approximately \$4.7 million (2019 - \$6.6 million).

Currency risk:

As at March 31, 2020 and 2019, the PMMF is not exposed to currency risk as all PMMF securities are denominated in Canadian dollars.

Other price risk:

As at March 31, 2020 and 2019, the PMMF is not exposed to other price risk as all PMMF securities are fixed income instruments.

6. Balanced Income Fund (BIF):

The BIF is a unitized fund of funds pool of investments. The investment objective is to enhance returns for investors with a low to moderate level of risk by investing in a well-diversified portfolio. The investment policy target asset mix as at March 31, 2020 is 62% fixed income securities, rated "BBB" or better for bonds or "A-1 (low)" or better for money market securities, and 38% domestic and international equities, invested through indexed pooled funds (2019 - 60% fixed income, 40% equity).

Credit risk:

The BIF's maximum exposure to credit risk as at March 31, 2020 is \$25.2 million (2019 - \$25.2 million), representing the amount of debt instruments within the BIF at March 31, 2020. The BIF's investment policy guidelines require that debt instruments are rated BBB or A-1 (low) or better and have a duration that is within 20% of the FTSE TMX Canada Universe Bond Index.

Interest rate risk:

The BIF is exposed to interest rate risk on that portion of its portfolio invested in fixed income securities. As at March 31, 2020, if interest rates were to increase or decrease by 1%, with all other variables held constant, the fair value of the BIF, and accordingly net assets, would have increased or decreased, respectively, by approximately \$1.4 million (2019 - \$1.3 million).

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

6. Balanced Income Fund (continued):

Currency risk:

The BIF's maximum exposure to currency risk at March 31, 2020 is \$11.7 million (2019 - \$11.4 million), representing the amount of international equity investments within the BIF at March 31, 2020, of which \$7.4 million (2019 - \$7.4 million), is exposed to US dollars and \$4.3 million (2019 - \$4.0 million) is exposed to other international currencies.

As at March 31, 2020, if the Canadian dollar had strengthened or weakened by 2% in relation to all currencies, with all other variables held constant, the fair value of the BIF, and accordingly net assets held in trust, would have decreased or increased, respectively, by approximately \$0.2 million (2019 - \$0.2 million).

Other price risk:

The BIF's maximum exposure to other price risk as at March 31, 2020 is \$14.5 million (2019 - \$16.3 million), representing the amount of equity instruments within the BIF at March 31, 2020. As the BIF uses an indexed pooled and portfolio strategy, the BIF's net asset values will vary based on changes in the related market index benchmarks. The impact on the BIF due to a 10% change in benchmark, using historical correlation between the return of the BIF units as compared to the BIF's benchmark, as at March 31, 2020, with all other variables held constant, would be an increase or decrease to the fair value of the BIF, and accordingly net assets, of \$1.4 million (2019 - \$1.7 million).

7. Balanced Growth Fund (BGF):

The BGF is a unitized fund of funds pool of investments. The investment objective is to enhance long-term returns for investors with a moderate to high level of risk by investing in a well-diversified portfolio. The investment policy target asset mix as at March 31, 2020 is 45% fixed income securities, rated "BBB" or better for bonds or "A-1 (low)" or better for money market securities and 55% domestic and international equities, invested through indexed pooled funds (2019 - 40% fixed income, 60% equity).

Credit risk:

The BGF's maximum exposure to credit risk as at March 31, 2020 is \$59.4 million (2019 - \$56.6 million), representing the amount of debt instruments within the BGF at March 31, 2020. The BGF's investment policy guidelines require that debt instruments are rated BBB or A-1 (low) or better and have a duration that is within 20% of the FTSE TMX Canada Universe Bond Index.

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Notes to Financial Statements of Trusts and Estates Administered
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Year ended March 31, 2020

7. Balanced Growth Fund (continued):

Interest rate risk:

The BGF is exposed to interest rate risk on that portion of its portfolio invested in fixed income securities. As at March 31, 2020, if the interest rates were to increase or decrease by 1%, with all other variables held constant, the fair value of the BGF, and accordingly net assets, would have increased or decreased by approximately \$3.7 million (2019 - \$3.9 million).

Currency risk:

The BGF's maximum exposure to currency risk at March 31, 2020 is \$48.4 million (2019 - \$56.5 million), representing the amount of international equity investments within the BGF at March 31, 2020, of which \$29.2 million (2019 - \$36.7 million) is exposed to US dollars and \$19.3 million (2019 - \$19.8 million) is exposed to other international currencies.

As at March 31, 2020, if the Canadian dollar had strengthened or weakened by 2% in relation to all currencies, with all other variables held constant, the fair value of the BGF, and accordingly net assets, would have decreased or increased, respectively, by approximately \$1.1 million (2019 - \$1.1 million).

Other price risk:

The BGF's maximum exposure to other price risk as at March 31, 2020 is \$64.1 million (2019 - \$84.4 million), representing the amount of equity instruments within the BGF at March 31, 2020. As the BGF uses an indexed pooled fund portfolio strategy, the BGF's net asset values will vary based on changes in the related market index benchmarks. The impact on the BGF due to a 10% change in benchmark, using historical correlation between the return of the BGF units as compared to the BGF's benchmark, as at March 31, 2020, with all other variables held constant, would be an increase or decrease to the fair value of the BGF, and accordingly net assets, of \$7.0 million (2019 - \$8.5 million).

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Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

8. Other investments and securities:

Other investments and securities are comprised of the following:

	2020	2019
Investment portfolios	\$ 92,162	\$ 74,522
Registered plans	75,880	70,714
Other	34,413	36,756
	\$ 202,455	\$ 181,992

The balance of other investments and securities is comprised of numerous individual client accounts, each managed in accordance with specific target asset mix policies. Each individual client account is exposed to credit, interest rate, currency and other price risks based on individual asset mix and holdings. In management's opinion, aggregation and presentation of these individual risk exposures and fair value hierarchy measurements (note 14) would not provide additional meaningful information.

9. Other financial assets:

Other financial assets are comprised of the following:

	2020	2019
Cash in external client bank accounts	\$ 10,216	\$ 10,780
Amounts receivable	6,944	9,933
	\$ 17,160	\$ 20,713

External client bank accounts are bank accounts in the name of individual clients that were held at the time that the PGT commenced administration of the assets and that remain open as at the financial reporting date. The collection of cash from these external client bank accounts, to the PMMF, is classified as proceeds from collection of assets on the Statement of Cash Flows.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
(Tabular amounts, except percentages, expressed in thousands of dollars)

Year ended March 31, 2020

10. Real property:

Real property includes land, buildings and manufactured homes. As at March 31, 2020, approximately 99.12% (2019 - 98.97%) of the fair value of real properties represents properties located in British Columbia.

11. Payable to the Public Guardian and Trustee Operating Account:

The payable to the PGT Operating Account is payable on demand, not interest bearing and is comprised of PGT fees and cost recoveries (note 12(b)) and short-term loans as follows:

	2020	2019
Total fees and cost recoveries charged but not paid	\$ 4,203	\$ 3,886
Short term loans advanced but not repaid	1,384	1,139
Gross amount due to the PGT Operating Account	5,587	5,025
Portion of fees payable from within the Balanced Income Fund and Balanced Growth Fund	(106)	(222)
Balance payable to the PGT Operating Account as presented on the Statement of Net Assets	\$ 5,481	\$ 4,803

12. Expenses:

(a) Client care and maintenance:

Client care and maintenance represents goods and services purchased for clients and for personal living expenses, including payments to care facilities.

(b) Public Guardian and Trustee fees:

PGT fees are charged to trusts and estates, for services provided by the PGT, in accordance with the Public Guardian and Trustee Fees Regulation as provided for under the Act. In addition, the PGT recovers costs incurred in delivering certain services as provided for under the Act.

The expense for PGT fees includes commissions, asset management fees, administration fees, heir tracing fees, cost recoveries and applicable sales tax. Most of the applicable fees are calculated, charged, and collected automatically by the trust accounting system. PGT fees applicable to the BIF and BGF, are charged directly to, and collected from, these pooled funds.

PUBLIC GUARDIAN AND TRUSTEE OF BRITISH COLUMBIA

Notes to Financial Statements of Trusts and Estates Administered
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Year ended March 31, 2020

12. Expenses (continued):

(c) Professional services:

Professional fees are expenses incurred on behalf of clients for services such as accounting, legal, investment management, custodial, funeral and property management.

(d) Estate settlement:

Estate settlement represents expenses incurred to settle estates for deceased and missing persons such as probate fees, asset disposition fees and claims against the estates.

13. Unclaimed assets transferred to the British Columbia Unclaimed Property Society:

Unclaimed assets are transferred periodically to the British Columbia Unclaimed Property Society when they are deemed inactive by the PGT under Section 27.1 of the Act.

14. Fair values:

The PMMF, BIF, BGF, other investments and securities and real property are reflected in the Statement of Net Assets at fair value. In management's opinion, the fair values of other financial assets and accounts payable, mortgages and loans payable, and amounts payable to the PGT Operating Account are not materially different from the carrying value.

Fair Value Hierarchy:

The three levels of the fair value hierarchy are as follows:

Level 1 - Unadjusted prices in active markets for identical assets or liabilities.

Level 2 - Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets with insufficient volume or infrequent transactions (less active markets), or model-derived valuations in which all significant inputs are observable or can be derived principally from or corroborated with observable market data for substantially the full term of the assets or liabilities.

Level 3 - Inputs that are unobservable: there is little, if any, market activity. Inputs into the determination of fair value require significant management judgment or estimation.

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Notes to Financial Statements of Trusts and Estates Administered
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Year ended March 31, 2020

14. Fair values (continued):

As at March 31, 2020 and 2019, the PMMF investments were fair valued using Level 1 inputs, based on the daily closing net asset value of the underlying fund.

As at March 31, 2020 and 2019, the BIF and BGF investments were fair valued using Level 2 inputs, based on the respective net asset value of each of the underlying funds.

As at March 31, 2020 and 2019, Real Property was fair valued using Level 2 inputs, based on the most recent appraisal carried out by a qualified independent appraiser contracted by the PGT.

Fair value information has not been provided for other investments and securities as management believes it would not provide additional meaningful information. The fair values of other financial assets and liabilities, which are carried at amortized cost in the financial statements, are also based on Level 2 inputs as while price quotations are available, the instruments are not traded in an active market. For each of the years ended March 31, 2020, and 2019, there were no significant transfers between the levels in the hierarchy.





Public Guardian and Trustee of British Columbia

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**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
BRIEFING NOTE**

PURPOSE: For DECISION of David Eby, QC
Attorney General

ISSUE:

In accordance with the *Treasury Board Directive 1/20 – Remuneration Guidelines for Appointees to Administrative Tribunals and Regulatory Boards*, each tribunal must have an approved remuneration plan to guide the administration of consistent remuneration.

DECISION REQUIRED/ RECOMMENDATION:

- Approve the Ministry of Attorney General's Tribunal Performance Framework and Remuneration Plan (Remuneration Plan) attached as Appendix A and sign Ministerial correspondence to tribunal chairs, attached as Appendix B.

SUMMARY:

- The Ministry of Attorney General (MAG) has responsibility for 19 of the 31 tribunals/regulatory boards in BC, including some of the largest full-time tribunals such as the Labour Relations Board, Civil Resolution Tribunal, Human Rights Tribunal, and BC Utilities Commission.
- The Treasury Board Directive (TBD) 1/20 came into effect May 1, 2020. The most significant proposed change in the revised directive is to implement "remuneration plans" similar in concept to the minister-approved compensation plans that govern compensation structures (salary ranges, policies, performance criteria) for management and excluded employees across the broader B.C. public sector.
- In January 2020, the Attorney General provided approval for the Tribunals, Transformation, and Independent Offices Division (TTIOD) to draft one ministry specific Remuneration Plan to prevent the submission of multiple plans being set before the Attorney General for approval.
- The Remuneration Plan outlines how remuneration is set and managed, establishes minimum and maximum remuneration rates (within the limits set by the TBD), sets criteria for how and when appointees move through the remuneration ranges, documents any processes or criteria for additional remuneration for extraordinary circumstances, and any other relevant policies.
- The TTIOD submitted the Remuneration Plan to the Public Sector Employers' Council (PSEC) Secretariat and the Appointee Remuneration Committee (ARC). The Remuneration Plan has been approved by both PSEC and ARC.

- The Remuneration Plan, once approved by the Attorney General, will be made publicly accessible. In consultation with the Government Communications & Public Engagement staff, it has been determined that the plan will be posted online here: <https://www2.gov.bc.ca/gov/content/governments/organizational-structure/ministries-organizations/boards-commissions-tribunals>.

BACKGROUND:

- Subsequent to the 2016 Triennial Review, issues were raised by tribunal chairs (including the potential for litigation) due to the inconsistency between the then Government's direction on phasing in the remuneration rates, and the plain reading of TBD 1/17.
- While the matter was subsequently resolved, it gave rise to questions on how to best manage remuneration decisions and led the MAG to develop their Tribunal Chair and Member Remuneration Framework (Framework), approved and signed by the Attorney General in July 2018.
- In 2019 PSEC conducted a Triennial Review to achieve the following objectives:
 - Improve transparency, administration and operational flexibility;
 - Clarify roles and responsibilities;
 - Support recruitment and retention; and
 - Support the initiatives of the Ministry of Attorney General's TTIOD, formerly known as Tribunal Transformation Supports Office.
- The 2019 Triennial Review entailed:
 - A review of issues identified by PSEC Secretariat and TTIOD staff since the 2016 Triennial Review;
 - A canvassing of administrative tribunals and ministries responsible, including direct engagement with tribunals/regulatory board chairs;
 - Minister of Finance, Deputy Attorney General, Deputy Minister Public Service Agency, Associate Deputy Minister & Secretary to Treasury Board.
 - Consultations with the Crown Agency and Board Resourcing Office and canvassing of all ministries with boards classified under TBD 2/17 – Remuneration Guidelines for Appointees to Crown Agency and Ministry Boards; and,
 - A review of remuneration rates in other Canadian jurisdictions.
- In response to the review, the following proposed improvements for the new TBD 1/20 include:
 - no adjustment to the remuneration maximums, but reconsider the matter periodically, prior to the 2022 Tri-annual review,
 - flexibility beyond the basic full day or half day “per diems” to other forms of remuneration calculation such as hourly,
 - clarifying the opportunity to support recruitment and retention by implementing part-time regular appointee positions that are remunerated for service on an “as and when required” basis through an hourly rate, a full- or

- half-day per diem rate, or as a flat rate per file or case assigned, or a combination of such measures,
- addressing extraordinary circumstances where tribunal members are expected to contribute an inordinate amount of time to maximum daily rate, and
- implementing remuneration plans for tribunals.

DISCUSSION:

- In May 2019, TTIOD used the 2018 Framework as a foundational template, incorporated principals, expanded on the performance appraisal section and drafted the Remuneration Plan, in consultation with PSEC.
- In June 2020, the PSEC Secretariat formally engaged with tribunals through the Circle of Chairs and outlined changes set out in TBD 1/20. Subsequently, TTIOD shared the consultative draft of the Performance Framework and Remuneration Plan with the tribunal chairs reporting to the Attorney General.
- During consultation, some tribunals chairs raised questions as to whether TTIOD possesses the legal delegated authority to action TBD 1/20 and remuneration plan across all tribunals reporting to the Attorney General.
- In September 2020, consultation was considered complete after MAG's Legal Services Branch, confirmed that TTIOD can proceed with the development of the final Remuneration Plan, approval was received from the Deputy Attorney General and ARC.
- The Performance Framework and Remuneration Plan is now ready for review and approval by the Attorney General. Upon approval, TTIOD requests that letters attached as Appendix B which provide clear direction to tribunal chairs outlining implementation of the Remuneration Plan be signed and sent to the tribunal chairs reporting to the Attorney General.

OPTIONS:

- Option 1: Approve the remuneration plan and ministerial correspondence to provide clear direction to tribunal chairs to apply the remuneration plan. (Recommended Option)

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s.13

OTHER MINISTRIES IMPACTED/CONSULTED:

- Ministry of Finance, Public Sector Employers' Council Secretariat



Richard J. M. Fyfe, QC
Deputy Attorney General

DATE:

December 7, 2020

RECOMMENDED OPTION APPROVED

or **OPTION APPROVED**
(whichever fits best for the options presented)



David Eby, QC
Attorney General

DATE:

December 8, 2020

Prepared by:

Alanna Valentine Pickett
Director, Strategic Transformation
TTIOD
778-698-8896

Approved by:

Kurt Sandstrom, QC
Assistant Deputy Minister
Justice Services Branch
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Prepared by:

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TTIOD
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Approved by:

Carmen Zabarauckas
Executive Director
TTIOD
778-698-3196

Attachment(s)

Appendix A - Remuneration Plan
Appendix B - Ministerial Correspondence



Tribunal Performance Framework and Remuneration Plan

THIS DOCUMENT PROVIDES GUIDANCE FOR PERFORMANCE APPRAISALS AND THE
IMPLEMENTATION OF REMUNERATION FOR APPOINTEES TO
ADMINISTRATIVE TRIBUNALS AND REGULATORY BOARDS
VERSION 2.1 - FINAL

Tribunal Performance Framework and Remuneration Plan

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Tribunal Performance Framework and Remuneration Plan

Section 1.0 - Versioning

Version	Review Date	Reviewers
2.0	March 3,2020	Carmen Zabarauckas, Executive Director, TTSO
2.0	July 9, 2020	AG Tribunal Chairs
2.0	August 12, 2020	Carmen Zabarauckas, A/ADM Justice Services Branch
2.0	August 13,2020	Richard Fyfe, Deputy Attorney General
2.0	August 14, 2020	Natalie Barnes, Legal Counsel, LSB
2.1	October 27, 2020	ARC Committee – Edits requested
2.1	November 9, 2020	Carmen Zabarauckas, Executive Director, TTIOD
2.1	November 10, 2020	Kurt Sandstrom, ADM Justice Services Branch
2.1	November 10, 2020	Richard Fyfe, Deputy Attorney General
2.1	November 17, 2020	ARC Committee
2.1	December 18, 2020	David Eby, QC, Attorney General

Tribunal Performance Framework and Remuneration Plan

Section 2.0 - Performance Framework and Remuneration Plan Background

Tribunals perform adjudicative or regulatory functions in the public justice system. Tribunals are designed specifically to address the day-to-day needs of citizens seeking to resolve disputes or clarify their rights and entitlements within a legislative framework. Because of the design and the type of issues they deal with, tribunals offer alternatives to the court system in a manner that is timely, suitable and affordable to the public.

Tribunals are part of the broader “government” but operate independently when performing their decision-making function. Tribunal independence means that they do not take direction from the minister on the substantive issues before them. However, to ensure public accountability, tribunals must submit a report to the minister responsible on such topics as the nature and number of applications or other matters they have dealt with and the tribunal’s timeliness in dealing with them. Tribunals are also accountable for their budgets and organizational operations and must disclose appointee remuneration every year to ensure the information is accessible and transparent to the public. Each tribunal employs a varying number of staff most relevant for their operations, with some exceptions¹. This Performance Framework and Remuneration Plan applies only to the appointees of the tribunals and not staff.

Treasury Board Directive ([Directive 1/20](#)) sets out the maximum rates, principles, and general policies for the administration of appointee remuneration. Directive 1/20 also specifies numerous policy objectives, one of which is to support a comprehensive framework for appropriate and consistent appointee remuneration and expense reimbursement.

This Performance Framework and Remuneration Plan applies to all appointees to those tribunals which report to government through the Ministry of Attorney General (see table 2.0.1). It guides the performance appraisal process, sets out criteria by which appointee performance can be assessed and provides the framework for the implementation of initial and incremental remuneration.

Tribunal appointments vary by role and type to ensure that the appropriate complement of appointees is available to a tribunal to achieve its mandate. For some tribunals, legislation limits the number of appointees to the organization, while others are not subject to restrictions. In both cases the tribunal chairs are responsible to ensure that they meet their fiscal responsibilities of a balanced budget while achieving their mandate.

Different types of appointments, consistent with a tribunal’s enabling legislation are made either by an Order in Council (OIC) or a Ministerial Order (MO). Full-time (FT) appointees and Regular Part Time (RPT) appointees are classified as Category C appointees under the definition of “Order in Council Appointees” and receive remuneration in the form of salary and are also eligible for benefits.

¹ Smaller tribunals rely on shared staff of other tribunals or administrative support from their host ministry or TTIOD.

Tribunal Performance Framework and Remuneration Plan

Part Time (PT) appointees (other than RPT) are remunerated for service on an “as and when required” basis. Some tribunals have a complement of only FT appointees, some have both FT and PT appointees and others have only PT appointees. In addition, there are a small set of tribunals which utilize an appointment across two or more tribunals, referred to as cross appointments (CA).

The table below outlines the appointment types applicable to each existing tribunal for chair, vice chair and member positions, it also provides a short descriptor of the tribunal’s oversight. A full description elaborating on jurisdiction, practices and procedures and complaint and appeal processes are available on the individual tribunal websites.

Table 2.0.1 – Tribunal Classification and Appointment Type Summary					
Tribunal Name	Classification Level	Chair	Vice Chair	Members	Descriptor
BC Human Rights Tribunal	4	FT		FT	Responsible for accepting, screening, mediating, and adjudicating human rights complaints in B.C.
BC Review Board	4	FT		PT	Established under the Criminal Code of Canada, and has ongoing jurisdiction to hold hearings to make and review orders where individuals charged with criminal offences have been given verdicts of not criminally responsible on account of mental disorder or unfit to stand trial on account of mental disorder, by a court.
BC Utilities Commission	5	FT		FT/PT	Responsible for regulating BC’s energy utilities, the Insurance Corporation of BC’s compulsory automobile insurance rates, intra-provincial pipelines and the reliability of the electrical transmission grid. In March 2020, the BCUC was also named as the Administrator of the Fuel Price Transparency Act.

Tribunal Performance Framework and Remuneration Plan

Table 2.0.1 – Tribunal Classification and Appointment Type Summary					
Tribunal Name	Classification Level	Chair	Vice Chair	Members	Descriptor
Building Code Appeal Board	1	PT		PT	Hears appeals of decisions of a local authority on whether a matter conforms to a building regulation under the British Columbia Building Code.
Civil Resolution Tribunal	4	FT	FT	FT/PT	Jurisdiction over strata (condominium) property disputes, small claims disputes \$5,000.00 or under, motor vehicle minor injury disputes \$50,000 or under, and some disputes under the Societies Act and the Cooperative Associations Act.
Community Care and Assisted Living Appeal Board	2	PT		PT	Hears appeals regarding community care and assisted living facilities (both adult and child care) and early childhood educators.
Employment Standards Tribunal	3	CA LRB		PT	Exclusive jurisdiction to hear and determine appeals and reconsiderations of appeal decisions arising from determinations issued by the Director of Employment Standards under the <i>Employment Standards Act</i> and the <i>Temporary Foreign Worker Protection Act</i> .
Environmental Appeal Board	4	CA FAC & OGAT	FT	PT	Conducts appeals regarding administrative decisions related to environmental and natural resource matters

Tribunal Performance Framework and Remuneration Plan

Table 2.0.1 – Tribunal Classification and Appointment Type Summary					
Tribunal Name	Classification Level	Chair	Vice Chair	Members	Descriptor
Financial Services Tribunal	3	PT	PT	PT	Hears appeals from individuals and institutions who want to contest enforcement decisions made by the Insurance Council of British Columbia, Real Estate Council of British Columbia, Superintendent of Real Estate, Superintendent of Pensions, Registrar of Mortgage Brokers and Superintendent of Financial Institutions.
Forest Appeals Commission	3	CA EAB & OGAT	PT	PT	Hears appeals of certain government decisions on environmental matters and natural resource stewardship affecting forests and rangeland.
Health Professions Review Board	3	PT		PT	The majority of the Review Board's work is driven by applications for review of certain key functions of health professions regulatory bodies (Colleges). Hears appeals filed by medical practitioners, dentists registered under the Dentists Act, midwives, or any person registered as a member of a prescribed health profession.
Hospital Appeal Board	2	PT		PT	Provides medical practitioners with an avenue of appeal from hospital board of management decisions affecting hospital privileges.

Tribunal Performance Framework and Remuneration Plan

Table 2.0.1 – Tribunal Classification and Appointment Type Summary					
Tribunal Name	Classification Level	Chair	Vice Chair	Members	Descriptor
Industry Training Appeal Board	2	PT		PT	Hears appeals from decisions of the Industry Training Authority regarding apprentices, trainees and industry training credentials.
Labour Relations Board	5	CA EST	FT	FT	Interprets, applies, and administers the <i>Labour Relations Code</i> , which governs all aspects of collective bargaining for provincially regulated employers, employees, and trade unions. Includes administration of the acquisition and termination of bargaining rights, as well as, adjudication, mediation in response to a wide range of application and complaints. Board also exercise reconsideration power over original decisions.
Mental Health Review Board	3	RPT		PT	Conducts hearings to determine if persons detained in or through a designated mental health facility in the province should continue to be detained.
Oil and Gas Appeal Tribunal	2	CA EAB&FAC		PT	Hears appeals from decisions of the Oil and Gas Commission.
Property Assessment Appeal Board	3	FT	FT	FT/PT	Hears appeals from the Property Assessment Review Panels to determine whether property is assessed at actual value, whether property is properly classified in accordance with regulations, whether

Tribunal Performance Framework and Remuneration Plan

Table 2.0.1 – Tribunal Classification and Appointment Type Summary					
Tribunal Name	Classification Level	Chair	Vice Chair	Members	Descriptor
					assessments are equitable, whether the subject qualifies as “dwelling property” in accordance with the <i>School Act</i> and general errors or omissions of land and improvements on the assessment roll and whether property is entitled to an exemption from taxation.
Safety Standards Appeal Board	3	PT		PT	Resolve appeals from decisions made under the Safety Standards Act, the Homeowner Protection Act, and Part 5 of the Building Act to determine if the decisions were fairly made in accordance with the provisions of the legislation and the principles of natural justice.
Surface Rights Board	3	PT	PT	PT	Mediates and arbitrates disputes between landowners and resource companies or free miners respecting access to private land and compensation for access to private land to explore for, develop or produce sub-surface resources.

This Performance Framework and Remuneration Plan was developed by the Tribunals, Transformation, and Independent Offices Division (TTIOD) in consultation with the Public Sector Employers’ Council Secretariat (PSEC), the administrative tribunal chairs reporting to government through the Ministry of Attorney General, and the Crown Agencies and Boards Resourcing Office (CABRO).

Tribunal Performance Framework and Remuneration Plan

The Performance Framework and Remuneration Plan serves two key functions:

- 1) It provides a mechanism and set of principles for determining the appropriate placement of each tribunal member² within the remuneration range established by TB 1/20; and,
- 2) It guides the application of initial remuneration and incremental increases based on established performance criteria.

Section 3.0 - Principles

- Remuneration increases for tribunal appointees must be managed within the tribunal's existing budget/funding and in accordance with this remuneration plan.
- Remuneration and performance appraisal decisions must not be contingent upon or related to the outcome of tribunal decisions.
- Minimum rate is automatically applied to any temporary member appointed under section 6 of the *Administrative Tribunals Act* or applicable Acts. "Temporary member" means any member appointed for a term that does not exceed 6 months.
- A tribunal chair may recommend remuneration adjustments that differ from the remuneration plan, and the Minister may make changes to this remuneration plan that are consistent with Directive 1/20 or may request an exemption to Directive 1/20 from either Treasury Board or the Appointee Remuneration Committee.
 - A tribunal chair who seeks a remuneration increase in excess of these guidelines must meet the following requirements:
 - a. recommended remuneration must not create a risk of a tribunal budget deficit;
 - b. the benefits of the proposed remuneration increase must outweigh the additional cost to the tribunal;
 - c. the guideline remuneration increase must demonstrably and significantly impede the tribunal's ability to deliver on its legislated mandate;
 - d. there must be no other reasonable alternative to the remuneration increase capable of achieving a similar outcome;

Section 4.0 - Performance Appraisals

A performance appraisal is required as part of any reappointment process and should also be conducted annually for a tribunal chair, vice chair and each member. Performance appraisals should consider an individual's effectiveness and contribution to the tribunal, its mandate, and overall success. Performance appraisals for a tribunal chair are conducted by the Deputy Attorney General, or their designate. Similarly, the chair or their designate conducts tribunal members' performance appraisals.

Annual performance appraisals also provide an opportunity to assess whether the responsibilities and accountabilities outlined in the Notice of Position, as well as the duties and commitments as set out in the code of conduct, budget delegation letters and Memorandum of Understanding, as applicable, are being met by the individual being assessed. Performance appraisals are integral to support objective and

² All tribunal appointees are considered members, whether they are appointed as chair or vice chair.

Tribunal Performance Framework and Remuneration Plan

transparent changes in remuneration for tribunal chairs, vice chairs and members.

For the purposes of tribunal chair performance appraisal, questions should be provided in advance to ensure a transparent discussion, and where appropriate, in consultation with the tribunal chair, stakeholders may be identified to provide feedback. Stakeholders could include, vice chairs, members, tribunal staff, policy ministry staff, and others, where appropriate.

1. Performance appraisal for vice chairs and members should include the following factors, as applied by the tribunal chair in the context of their tribunal and the specific role of that member:
 - a. Levels of skills;
 - b. Knowledge;
 - c. Experience;
 - d. Level of responsibility;
 - e. Effectiveness;
 - f. Efficiency;
 - g. Compliance with the ethical guidelines created by government specifically for their particular board or tribunal, including as set out in the Candidate Profile and Declaration (code of conduct, conflict of interest, charter of expectations, and integrity and public accountability), as well as the General Conduct Principles for Public Appointees;
 - h. If appropriate and requested by the chair, engaged in strategic planning, performance monitoring and reporting, organizational leadership, risk assessment, public policy, and governance; and other factors specific to the tribunal, and;
 - i. Any other factors the Chair considers appropriate.
2. Performance appraisals for tribunal chairs will be conducted by the Deputy Attorney General or their designate, and will include the following factors, as they relate to the context of the specific tribunal and the specific role of the chair:
 - a. Levels of skills;
 - b. Knowledge;
 - c. Experience;
 - d. Level of responsibility;
 - e. Effectiveness;
 - f. Efficiency;
 - g. Compliance, with the ethical guidelines created by government specifically for their particular board or tribunal, including, as set out in the Candidate Profile and Declaration (code of conduct, conflict of interest, charter of

Tribunal Performance Framework and Remuneration Plan

expectations, and integrity and public accountability), as well as the General Conduct Principles for Public Appointees;

- h. If appropriate and requested by the TTIOD staff, engaged in strategic planning, performance monitoring and reporting, organizational leadership, risk assessment, public policy, and governance;
- i. Other factors specific to the tribunal; and
- j. The tribunal chair must provide the following information to TTIOD, which will be considered by the Minister or designate in the decision making:
 - i. Budget management – balanced budget/on track to address the deficit;
 - ii. Timely reporting, including annual reports;
 - iii. Operational performance and progression (tribunal chair to establish the baseline, which must be realistic and reflecting the reality) including:
 - Time to resolution
 - Cost per case
 - User experience, as it relates to operational process, timeliness, etc. but not the outcome of decisions.
 - iv. The most recent Work Environment Survey result (if applicable);
 - v. Annual performance meeting with the Minister, Deputy Minister or other ministry executive where appropriate; and
 - vi. Achievements of operational efficiency.
 - vii. If any of the above information (except budget management) is not available or under development, a plan for development and implementation must be provided and approved.

Tribunal Performance Framework and Remuneration Plan

Section 5.0 - Remuneration Plan

An appointee's remuneration must not exceed the maximum rate set for the position within the classification level for their tribunal. Increases to remuneration are subject to satisfactory performance appraisals, as outlined in the framework. There is no requirement that the maximum remuneration rate be paid. The remuneration plan must be applied in a manner respectful of the established fiscal budget and discretion must be applied to avoid operating in a deficit position.

Section 5.1 - Remuneration Placement and Adjustments

1. Initial Appointment – Subject to the qualifications below, minimum rate is applied automatically for initial appointments for chairs, vice chairs and members.
 - a. If a higher rate is more appropriate for an appointee at the time of an initial appointment due to specific circumstances, this is permitted with approval from the Minister. The request for a higher rate, with details, must be included in the appointment request package.
 - b. If a lower rate is more appropriate for an initial part time appointment due to specific circumstances such as a developmental position, the chair has the authority to make that decision without the approval from the Minister or their delegate.
2. Cross Appointment (Multiple Tribunals) – an appointee cannot hold two full-time appointments concurrently. An individual who holds a full-time appointment cannot receive additional remuneration for work performed in a separate part-time appointment, unless the appointment is considered a cross appointment and is approved by the Minister. If a new full-time appointment is approved for an individual who already holds a part-time appointment with a different tribunal, then the following applies:
 - a. If the cross appointment is for a chair appointment and the existing appointment is also a chair appointment, the conditions outlined in section 5.4 (Appointment to Multiple Tribunals) apply.
 - b. If the cross appointment is for a vice chair appointment and the existing appointment is also a vice chair appointment, the conditions outlined in section 5.4 (Appointment to Multiple Tribunals) apply.
 - c. If the new full-time appointment is to a tribunal with the same classification level as that of the part-time appointment, the new full-time appointment is considered 'lateral' and the remuneration rate starts at the mid-point of the range or the previous rate in the same classification level, whichever is higher.
 - d. If the new appointment is to a tribunal that is one or more classification levels above that of the part-time appointment, the minimum rate of the higher classification level applies.
3. Remuneration increases must be applied in a progressive manner, subject to satisfactory performance appraisals as discussed above in section 4.0.
4. For a vice chair or member, after an initial 18 month period, the tribunal chair has the authority to increase the appointee's remuneration to the mid-point of the range, provided

Tribunal Performance Framework and Remuneration Plan

that a performance appraisal is satisfactory, and any and all training is complete (excluding ongoing professional development). The rate increase applies at the time of the approval and is not retroactive.

- a. If paragraph 2 (c) above applies, then after a term of 18-months in the new position, the appointee's remuneration will be increased to the maximum rate, provided that the performance appraisal is satisfactory and any and all training is complete (excluding ongoing professional development).
5. For a chair, after an initial 18 month period , the remuneration will be increased to the mid-point of the range, unless: (a) there are documented performance issues; (b) training is incomplete (excluding ongoing professional development); or (c) the Minister determines, in the absolute and unfettered discretion of the Minister, to establish remuneration at a different rate.
 - a. If paragraph 2 (c) above applies, then after a term of 18 months in the new position, the chair's remuneration will be increased to the maximum rate, provided that the performance appraisal is satisfactory and any and all training is complete (excluding ongoing professional development).
6. Re-appointment - Either upon 1st and subsequent reappointments, or after two years, whichever occurs sooner, the maximum rate of the Directive 1/20 (or other formal Government direction) that was in force at the time of the previous appointment will be applied, provided that the performance appraisal is satisfactory and any and all training is complete (excluding ongoing professional development).
 - a. The tribunal chair may set a lower rate or maintain the current rate if the chair considers it appropriate for a member due to specific circumstances such as incomplete training or not yet meeting satisfactory performance.
 - b. If a new Treasury Board Directive (or other formal Government direction) comes into force, this framework and remuneration plan will be updated to reflect those changes.

Section 5.2 - Category C Appointees – Full and Part-time Regular Positions

1. Minimum and maximum annual remuneration rates for full-time appointees:

Table 5.2.1 - Category C Appointee – Full-Time Remuneration Rates						
Classification	Chair		Vice Chair		Member	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Level 1	\$124,000	\$137,00	\$105,000	\$116,000	\$87,000	\$96,000
Level 2	\$137,000	\$147,000	\$116,000	\$125,000	\$96,000	\$103,000
Level 3	\$147,000	\$168,000	\$125,000	\$143,000	\$103,000	\$118,000
Level 4	\$168,000	\$190,000	\$143,000	\$161,000	\$118,000	\$132,000
Level 5	\$190,000	\$210,000	\$161,000	\$179,000	\$132,000	\$147,000

2. Regular full-time and regular part-time appointee remuneration is paid on a bi-weekly basis. Regular full-time and regular part-time appointees receive those benefits as set out in part 10 of the British Columbia Government's Terms and Conditions of Employment for Excluded

Tribunal Performance Framework and Remuneration Plan

Employees and Appointees, Category C.

3. In consultation with TTIOD, a chair may recommend an individual to be appointed to a tribunal to serve as a regular part-time appointee provided:
 - a. The recommendation is consistent with all requirements of the tribunal's enabling legislation in relation to membership and the chair clearly articulates the benefits of implementing a part-time position.
 - b. The recommendation is made in consultation with TTIOD, CABRO and the Public Service Agency, and is approved by the Minister.
 - c. Remuneration and benefits for regular part-time appointments will be prorated to the required time commitment and be consistent with the approved minimum and maximum rates set out in Table 5.2.1 of the remuneration plan. The key distinguishing feature of a regular part-time appointee from "part-time" category D appointees under section 6.1 of the Directive 1/20 is that there must be a clear and predictable commitment of hours of service per pay period.

Section 5.3 - Category D Appointees – "As and When Required" Service

1. Category D appointees are part-time appointees remunerated for their service on an "as and when required basis," and are responsible for submitting to the tribunal invoices for work performed.
2. Approved remuneration rates are set out as full-day or half-day per diems in Table 5.3.1 and 5.3.2 below and are based on an eight-hour day. For the purposes of invoicing, alternate calculations of the approved per diem rates by partial hour, hour, flat rate per file or other appropriate calculation may be applied at the discretion of the chair, and upon approval of the Executive Director of TTIOD.
3. Remuneration for each 24-hour period should not exceed the maximum daily rate, unless previously approved in writing from TTIOD as 'extraordinary circumstances.'
 - a) Approval from the Executive Director of TTIOD must be sought prior to the application of any 'extraordinary circumstance' rate.
 - b) Each application for approval will be considered on a case by case basis. Examples of 'extraordinary circumstances' include occasionally working a compressed schedule to achieve operational efficiencies, or extraordinarily complex hearings that require an extraordinary amount of time to prepare for, hear and provide a written decision.
4. The Executive Director of TTIOD must approve access to the rates permitted under Directive 1/20, section 6.4 for appointees that hold a medical professional accreditation.

Tribunal Performance Framework and Remuneration Plan

5. Minimum and Maximum Part-Time appointee full day rates are set below:

Table 5.3.1 – Category D Appointee - Part-Time – Minimum – Maximum Full Day Rates						
Classification	Chair		Vice Chair		Member	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Level 1	\$550	\$600	\$450	\$500	\$400	\$425
Level 2	\$600	\$650	\$500	\$550	\$425	\$450
Level 3	\$650	\$725	\$550	\$625	\$450	\$500
Level 4	\$725	\$800	\$625	\$700	\$500	\$575
Level 5	\$800	\$900	\$700	\$800	\$575	\$650

6. Minimum and Maximum Part-Time appointee half day rates are set below:

Table 5.3.2 – Category D Appointee - Part-Time– Minimum - Maximum Half Day Rates						
Classification	Chair		Vice Chair		Member	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Level 1	\$275	\$300	\$225	\$250	\$200	\$213
Level 2	\$300	\$325	\$250	\$275	\$213	\$225
Level 3	\$325	\$363	\$275	\$313	\$225	\$250
Level 4	\$363	\$400	\$313	\$350	\$250	\$288
Level 5	\$400	\$450	\$700	\$400	\$288	\$325

7. Part-Time appointees may be reimbursed at the chair's discretion by partial hour, hourly, full or half-day per diem rates for:
- attending required professional development or training;
 - undertaking recruitment or outreach activities;
 - mentoring and/or onboarding staff or members; and
 - performing administrative and other duties for the purpose of achieving the tribunal's statutory objectives and improving access to justice.
8. Appointees may not be remunerated more than one half of the applicable daily rate for attending a tribunal hearing or in-person meeting that lasts four hours or less.
9. At the chair's discretion, a part-time appointee who must travel to and from a hearing or meeting where the location of the hearing or meeting is more than 32kms from the appointee's residence, outside of regular business hours, may receive reimbursement for travel and chair approved meal expenses within the approved Group II Rates, as set out in Core Policy and Procedures Manual.
10. If a part-time appointee is assigned a hearing which is cancelled on short notice (less than 48 business hours in advance of scheduled hearing), the chair may remunerate by assigning other duties, in lieu of the hearing. If 48 business hours' notice is insufficient based upon the business model for a tribunal then the chair must seek an exemption from the Executive Director of TTIOD prior to providing compensation.

Tribunal Performance Framework and Remuneration Plan

Section 5.4 - Appointment to Multiple Tribunals

1. If a full-time chair or full-time vice chair is cross appointed to two or more tribunals, the full-time remuneration is set at the top of the range for the tribunal with the highest classification level at the time of the cross appointment and until the cross appointment is concluded, at which time the remuneration rate reverts to the applicable remuneration rate for the current tribunal.
2. The Minister may approve additional remuneration for cross appointments consistent with Directive 1/20.

Section 6.0 – Payroll Deductions

Employment Insurance (EI)

The service of appointees to which this remuneration plan applies is not insurable and therefore remuneration is not subject to EI deductions.

Canada Pension Plan (CPP)

The service of Category C appointees is considered pensionable work and remuneration is subject to CPP deductions.

The service of Category D appointees (“as and when required”) is not pensionable work and therefore remuneration is not subject to CPP deductions.

Income Tax

Appointee remuneration is taxable income and income tax may be payable in accordance with the federal *Income Tax Act* unless the total remuneration for the tax year for the appointee (from all sources) is less than the basic personal amount (see CRA website for the applicable amounts each year).

GST/HST

Appointees to tribunals are considered to be “office holders” under the *Excise Tax Act*, not employees or contractors, and therefore appointee remuneration is not subject to GST/HST.

Appointees with complicated tax situations should seek tax advice from a qualified tax specialist, at their own expense.

More information regarding Excluded Terms and Conditions for Appointees can be found online: at <https://www2.gov.bc.ca/gov/content/careers-myhr/managers-supervisors/employee-labour-relations/conditions-agreements/excluded-employees-appointees>

First Name, Last Name, Chair
Tribunal
Address
City, BC Postal Code

Dear Chair:

I am writing to inform you that the Ministry of Attorney has finalized its Tribunal Performance Framework and Remuneration Plan (Remuneration Plan).

As you are aware, the Public Sector Employers' Council Secretariat (PSEC) completed Treasury Board Directive 1/20 (Remuneration Guidelines for Appointees to Administrative Tribunals and Regulatory Boards) which was ratified by Treasury Board and made effective May 1, 2020.

The Directive required each ministry to produce a remuneration plan outlining how remuneration is set and managed, establish minimum and maximum remuneration rates (within the limits set by the Treasury Board Directive), set criteria for how and when appointees move through the remuneration ranges, document any processes or criteria for additional remuneration for extraordinary circumstances, and any other relevant policies.

With the feedback provided by you and other tribunals chairs and management during the engagement period, the Tribunals, Transformation, and Independent Offices Division (TTIOD) composed a Remuneration Plan that addresses the tribunal sector's needs.

Attached is the Remuneration Plan for your reference. I trust that you will continue to apply the criteria in the Remuneration Plan moving forward to ensure a successful tribunal sector.

Yours truly,

David Eby, QC
Attorney General

pc: Carmen Zabarauckas, Executive Director, Tribunals Transformation and Independent
Offices Division

Cliff number: XXXXXX

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Withheld pursuant to/removed as

s.13 ; s.16

**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
INFORMATION BRIEFING NOTE**

PURPOSE: **INFORMATION** for David Eby, QC
Attorney General

ISSUE: Proclaiming January 24-30, 2020 as Access to Justice Week in B.C.

SUMMARY:

- Access to Justice Week (A2J Week) is intended to:
 - raise awareness and interest among law students in making access to justice a meaningful part of their future careers;
 - showcase what faculty and students are already doing to help address access to justice problems; and
 - engage the wider justice sector and acknowledge efforts to support access to justice.
- A2J Week is led by BC's three law schools (Allard Law School at the University of British Columbia, Thompson Rivers University Faculty of Law, and the University of Victoria Faculty of Law), with support from a number of legal organizations and associations.
- Each year, the Attorney General is asked to proclaim A2J Week. This year's proclamation is attached for review and approval prior to initiating the proclamation process by the OIC office.

BACKGROUND:

- The pandemic has significantly changed the way that Access to Justice Week will be celebrated in British Columbia in 2021.
- Law schools are still developing their A2J Week plans; however, neither the Justice Hack nor the Provincial Court Twitter Town Hall will occur this year.
- Confirmed plans to date include an event on January 27, 2021 for the legal profession and law students, which will involve a panel discussion. The panel members will comprise:
 - Rebecca Sandefur, an American sociologist who is recognized for her evidence-based approach to increasing access to civil justice for low-income communities. Sandefur is a professor in the School of Social and Family Dynamics at Arizona State University and a faculty fellow of the American Bar Foundation, where she founded the access to justice research initiative in 2010.
 - BC lawyers who have successfully changed their practices to achieve one of the Triple Aims of A2J.

- Members of the A2J Week planning committee have also indicated that, in the absence of an announcement in the Legislature, if the Attorney General would be amenable to a virtual announcement at the start of A2J Week with students and others onscreen remotely, that can be facilitated by the committee.
- The Attorney General may also be invited to participate virtually in one or more of the events organized by the law schools; acceptance will be at his discretion, depending on his interest and availability.

INDIGENOUS PEOPLES CONSIDERATIONS:

- Indigenous peoples' encounters with the justice system have been historically and systemically characterized by negative experiences and adverse impacts. Indigenous peoples are significantly over-represented as accused, offenders and victims while simultaneously under-represented in administrative and leadership roles within the justice system or as jurors. For Indigenous people, access to justice remains largely aspirational rather than material.
- While Access to Justice Week 2021 does not pertain specifically to the issues faced by Indigenous peoples, evidence-based approaches to increasing access to justice for low-income communities and examples of efforts to achieve the A2JBC triple aim (a single goal with three elements: improved experience for the users of the justice system, improved population access to justice and improved costs) can positively inform and guide Indigenous justice initiatives currently underway or planned by the ministry.

OTHER MINISTRIES IMPACTED/CONSULTED:

- N/A

Prepared by:

Cris Forrest
Managing Director
Justice Services Branch
778 974-3683

Approved by:

Kurt Sandstrom, QC
Assistant Deputy Minister
Justice Services Branch
250 889-6920

Attachment(s)

DRAFT Access to Justice Week 2021 Proclamation

DRAFT Access to Justice Week 2021 Proclamation

WHEREAS the government of British Columbia is committed to fair and meaningful access to justice that enables people to manage and resolve their legal problems and disputes and to identify and prevent potential legal problems and disputes, and

WHEREAS lawyers are vital partners and leaders in improving access to justice, and law schools are central to educating future lawyers in their responsibility to support access to justice, and

WHEREAS judges, lawyers, notaries, paralegals, mediators, community legal advocates, public policy makers, non-profit staff, and members of the public are actively involved in addressing access to justice challenges, and

WHEREAS this year's virtual celebration of Access to Justice Week is sponsored by Access to Justice BC, the Allard School of Law, the University of British Columbia, the BC Branch of the Canadian Bar Association, the Continuing Legal Education Society of British Columbia, the Courthouse Libraries of British Columbia, the Thompson Rivers University's Faculty of Law, the University of Victoria's Faculty of Law, the Law Foundation of British Columbia, the Law Society of British Columbia and the Ministry of Attorney General, and

WHEREAS the government of British Columbia wishes to support efforts to raise awareness of, and interest in, access to justice issues and to promote events showcasing solutions to access to justice problems;

NOW KNOW YE THAT We do by these presents proclaim and declare that January 24 to 30, 2021, shall be known as

“Access to Justice Week”

in the Province of British Columbia.

**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
DECISION BRIEFING NOTE**

PURPOSE: For DECISION of Richard J. M. Fyfe, QC
Deputy Attorney General

ISSUE: Ministry of Attorney General Tribunal Sector budget pressures for fiscal 20/21

DECISION REQUIRED/ RECOMMENDATION:

Option 2 (Recommended): Instruct all tribunals forecasting budget overages for fiscal 20/21 to reduce spending to align with delegated budget and requested 1.5% savings target; this would exclude tribunals with legislated timelines (i.e. LRB, BCRB, and HPRB). Any budget overages that persist through to the end of the fiscal year will be included in the Ministry's year end contingency request.

SUMMARY:

- In April 2017, the Ministry of Attorney General's (the Ministry) oversight of tribunals grew from 7 to 19 tribunals. Since this time, several tribunals in the newly formed AG Tribunal Sector have struggled to operate within their delegated budget and ended successive fiscal years in an overbudget position.
- Significant efforts have been made to minimize the impact to tribunal budgets and over the past few years, overages have been covered through contingencies or risk-managed from within the Ministry.
- As of December 7, 2020, the sector was forecasted to end the fiscal year in an overbudget position of \$2.299 million.
- Given these pressures, several tribunals have requested more direction for how they are to manage expenditures for fiscal 20/21. Some tribunal chairs have also requested that their current budget overages be covered by the Ministry.
- With Treasury Board's structural budget reduction target and the announcement of a \$12.5 billion government deficit resulting from the COVID-19 recovery, Tribunal Sector overages cannot be covered within the Ministry's budget. In addition, the Ministry is forecasting to be \$65 million overbudget for fiscal 20/21.

BACKGROUND:

Pre-existing Budget Pressures in the Tribunal Sector

- In April 2017, the Ministry's oversight of tribunals grew from 7 to 19. Many of the newly transferred tribunals came from their home ministries with increasing caseloads and insufficient budget to cover share services, information technology, and facilities. Given these pressures, the newly formed AG Tribunal Sector concluded fiscal 17/18 in an overbudget position (Details for the Tribunal Sector 17/18 Budget and Actuals in Appendix A, Table 1).
- In fiscal 18/19, the Ministry received a budget lift of \$1 million to address pre-existing budget pressures in the Tribunal Sector. These funds were held centrally in a Tribunal Support Office (TSO) clearing account and used to balance the sector's budget at the conclusion of the fiscal year.

2019/20 Tribunal Sector Budget Pressures

- In 19/20, \$21.062 million was allocated to the Tribunal Sector; this included the \$1 million lift provided in the previous fiscal year. A portion of these funds were allocated to some tribunal budgets and approximately \$320K was held as a 'cushion' in the TSO clearing account to assist with sector overages.
- In September 2019, Treasury Board issued a government-wide directive to identify budget savings for fiscal 19/20. Following this announcement, significant cost reduction measures were implemented across the Ministry to identify \$28.3 million in savings.
- This exercise was completed without making formal reductions to tribunal operating budgets. However, steps were taken to limit discretionary spending in the areas of hiring, travel, procurement, and facilities.
- Apart from CRT who was underspent by \$1.2 million at the conclusion of 2019/20, several tribunals ended the fiscal year in an overbudget position; this included the following:

Tribunal	19/20 Budget	19/20 Actuals	Variance
	(\$ millions)		
BC Human Rights Tribunal	3.148	3.622	(0.474)
Labour Relations Board	4.235	4.704	(0.469)
Health Professions Review Board	1.241	1.491	(0.250)
Mental Health Review Board	2.348	2.516	(0.168)
Hospital Appeal Board	0.023	0.131	(0.108)
BC Review Board	1.533	1.612	(0.079)
Employment Standards Tribunal	0.547	0.599	(0.052)
*Complete details for the Tribunal Sector 2019/20 Budget and Actuals in Appendix A, Table 2.			

- With CRT's surplus and the funds held centrally in the TSO clearing account, the Tribunal Sector (as a whole) was able to conclude the fiscal year within its delegated budget.
- However, the costs associated with increasing caseloads, the implementation of a new case management system, and several legislative changes created persistent pressures and several tribunals were expecting to carry these pressures into the next fiscal year.

2020/21 Tribunal Sector Budget Pressures

- In February 2020, the Ministry received its budget delegation for fiscal 20/21. \$25.324 million of the Ministry's budget was allocated to the Tribunal Sector; this included \$5 million in new funding for the Civil Resolution Tribunal (CRT) Accident Claims Transformation (ACT) ¹.
- Excluding the new funding for CRT-ACT, Treasury Board provided the Ministry and the Tribunal Sector with a structural budget reduction target of 3.72%; the Tribunal Sector's portion of this reduction was \$0.784 million.
- On March 18, 2020, a provincial state of emergency was declared in response to the COVID-19 pandemic. Although the true impacts of the pandemic were unknown at the start of the fiscal year, each tribunal submitted a forecast based on prior year actuals and upcoming activity. This forecast also included an estimate of COVID-19 related pressures and savings, but the impacts were negligible².
- Drawing upon this analysis, in May 2020, the Tribunal Sector's forecast for 20/21 included estimated overages of \$2.094 million; this estimate did not include the sector's portion of the structural budget reduction target (\$0.784 million).
- With pre-existing budget pressures and the unknown impacts of the pandemic, the Justice Services Branch (JSB) examined options to mitigate the impact of the structural budget reduction target on tribunal budgets. This included identifying the following sources to allocate towards this target:

Source	Value
Remaining funds held centrally in TSO clearing account for Tribunal Sector overages to be applied against reduction target ³	\$222k

¹ CRT was also provided access to up to \$4 million for expenditures related to Accident Claims Transformation through the Justice Services Branch contingency funds.

² Estimated cost pressures of \$88k for office supply needs (cleaning and sanitation equipment, etc.), IT costs to facilitate working from home, and perform electronic hearings. Estimated savings of \$55k primarily from COVID-19 related travel restrictions.

³ \$98k has already been drawn from this account to cover the Tribunal Sector's contribution to the Public Service Innovation Fund and LEAN.

Source	Value
Sustainable Services Negotiating Mandate (SSNM) budget lift received for BCGEU wage increases were not passed along to Tribunals; these funds to be applied against reduction target	\$174k
Building Occupancy Costs for the Property Assessment Appeal Board tenancy at 605 Robson to be recovered from BC Assessments and applied against reduction target	\$120k
Total	\$516k
<i>Remaining budget reduction target for Tribunal Sector (\$784k less \$516k)</i>	-\$268k

- In order to achieve the budget reduction target, a decision was made to pass the remaining \$268k along to each tribunal as a savings target. Instructions regarding this target were shared in the budget delegation letter issued to each tribunal chair in August 2020. This letter outlined the following:
 - Working budgets would remain status quo for fiscal 2020/21
 - Each tribunal would need to provide a forecast savings target of 1.5% in light of the COVID-19 pandemic and a potential government deficit of \$12.5 billion
 - No forecasted or actualized budget overages were permitted
- Due to pre-existing pressures, well documented in Treasury Board submissions from the previous two fiscal years, LRB was not asked to provide a forecast savings target. Instead, they received the following acknowledgement in their budget delegation letter:
 - “The ministry recognizes that in addition to your working budget, you anticipate a pressure and thus a deficit of up to \$1.970 million in 2020/21.”
- As of December 7, 2020, LRB’s was forecasting \$1.192 million in overages for 2020/21; approximately \$780k less than originally forecasted.

Current Budget positions for Tribunal Sector Budget Forecast 2020/21

- Following the distribution of budget delegation letters, meetings were held with each tribunal chair to discuss their current financial position and address any questions they might have with the instructions outlined within their letter.
- While some tribunals were well positioned to end the fiscal year within budget, several raised significant concerns regarding their ability to stay within budget and achieve the requested savings targets.
- As a follow up to these meetings, JSB received an email from the Chair of EAB and formal letters from the Chair’s of ITAB, HPRB, CCALAB and HAB. In this correspondence each chair restated their concerns with their delegated budget and requested that their overages be covered by the Ministry. Requests were also made

for the Ministry to approach Treasury Board for a Tribunal Sector budget lift (Email correspondence and letters included in Appendix B).

- In response to this correspondence, the Ministry has issued letters to the Chair's of ITAB, HPRB, CCALAB and HAB thanking them for summarizing their concerns and specifying that the ministry would follow up after a complete review of options (Letters included in Appendix C).
- Subsequent to these engagements, each tribunal has continued to submit monthly forecasts. As of December 7, 2020, the sector is forecasted to end the fiscal year in an overbudget position of \$2.299 million.
- These values exclude the current forecast for CRT (Accident Claims Transformation) While this program is forecasted to end the fiscal year in an overbudget position, CRT has been provided with access to contingency funds for additional expenditures⁴.

DISCUSSION:

- Over the last few years, the Ministry has taken active steps to support access to justice, protect Tribunal Sector budgets, and ensure funding was maintained for the ongoing function of the sector through a period of significant transformation. This period included:
 - Expansion of CRT's mandate to include jurisdiction to hear motor vehicle injury disputes up to \$50,000
 - Co-location of 6 tribunals at 605 Robson St
 - Implementation of a new case management system for several tribunals across the sector
 - Recent legislative changes in the Labour Relations Code, the BC Human Rights Code, and Employment Standards Act
- During this period, Tribunal Sector budgets were monitored, but with pre-existing budget pressures within most of the newly transferred tribunals, chairs were not asked to adjust their operations or reduce service levels; particularly as many tribunals were experiencing increasing caseload pressures.
- Instead, overages have been covered through contingencies or risk-managed from within the Ministry's budget. In fact, up until the expenditure savings exercise in September 2019, tribunals had not been asked to limit discretionary spending or make any significant reductions to their expenditures.
- In recent years, the Ministry has prepared budget papers and several Treasury Board submissions to address increasing caseload pressures across the sector, however, these requests have not been approved.

⁴ As of December 7, 2020 CRT-ACT was forecasting overages of approx. \$2.465 million. The Ministry has been delegated notional contingencies for these additional expenditures.

- Based on the December budget forecasts, the following tribunals are expected to end the fiscal year in an overbudget position (Appendix D provides a detailed account of the current pressures for each tribunal, including the source and legislative requirements):

Tribunal	Working Budget	Budget Forecast (Dec 2020)	Overages	Savings Target	Total Overages
	(\$ millions)				
Labour Relations Board	4.235	5.427	(1.192)	n/a*	(1.192)
BC Human Rights Tribunal	3.148	3.527	(0.379)	(0.047)	(0.426)
Employment Standards Tribunal	0.547	0.750	(0.203)	(0.008)	(0.211)
Health Professions Review Board	1.241	1.458	(0.217)	(0.019)	(0.235)
BC Review Board	1.533	1.581	(0.048)	(0.023)	(0.071)
Hospital Appeal Board	0.023	0.136	(0.113)	(0.000**)	(0.113)
Community Care & Assisted Living Appeal Board	0.027	0.040	(0.013)	(0.000**)	(0.014)
Industry Training Appeal Board	0.016	0.026	(0.013)	(0.000**)	(0.014)
Total					(2.276)
* Due to historical budget pressures, LRB was not provided with a savings target					
**Saving target less than \$1,000 for HAB, CCALAB, and ITAB					

- The forecast for these tribunals has remained relatively unchanged since the start of the fiscal year and even with the pandemic, there has been no reduction in demands for services and for some tribunal this demand has only grown.
- A common theme amongst these tribunals are forecasted salary pressures for staff and appointees as they work to respond to caseload pressures. In addition, several tribunals are paying fixed costs for their case management system and web hosting services; for some, these costs represent more than half of their delegated budget.
- In addition, three of the above-mentioned tribunals have legislated timelines that limit their ability to reduce service levels (i.e. LRB, HPRB, and BCRB). The remaining tribunals have established internal service standards, but these timelines are not defined in legislation.
- Unlike fiscal 19/20, CRT is forecasting to end the year in an overbudget position (for Accident Claims Transformation) and will be accessing contingences to fund these overages. As such, CRT will not have a surplus to apply against sector overages. In addition, the surplus expected from other tribunals (estimated at approx. \$200k) will not cover forecasted overages across the sector.
- Although most of the above-mentioned tribunals are expected to end the fiscal year in an overbudget position, based on prior year actuals, it is anticipated that the current budget forecast for the sector may decrease slightly during the last quarter of the fiscal year.

- The meetings held with each tribunal chair along with the correspondence received from the Chairs of EAB, ITAB, HPRB, CCALAB, and HAB indicate that the sector needs clearer direction for expenditures management in fiscal 20/21. More specifically several tribunal chairs are requesting their current budget overages be covered by the Ministry.
- However, with Treasury Board's structural budget reduction target and a forecasted deficit of \$65 million for the Ministry, Tribunal Sector overages cannot be covered within the Ministry's budget.

INDIGENOUS PEOPLES CONSIDERATIONS:

- Several of the tribunals that are facing budget pressures for this fiscal year provide access to justice for Indigenous Peoples and communities in BC. As such a decision to restrict funding or reduce service levels as a part of expenditure management may have negative implications.
- In particular, the BCHRT is spearheading efforts in the administrative justice sector to respond to government's Commitment to Principles and Reconciliation Efforts in British Columbia, Access to Justice Initiative and the Truth and Reconciliation Action Items.
- In addition, BCHRT established an Indigenous Action Plan and is moving forward with the implementation. However, BCHRT cannot realize the next phase of their efforts to explore innovative mediation services for Indigenous communities in British Columbia, within the existing operational budget.

OPTIONS:

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Option 2 (Recommended): Instruct all tribunals forecasting budget overages for fiscal 20/21 to reduce spending to align with delegated budget and requested 1.5% savings target; this would exclude tribunals with legislated timelines (i.e. LRB, BCRB, and HPRB). Any budget overages that persist through to the end of the fiscal year will be included in the Ministry's year end contingency request.

This would also include the following actions:

- It has already been determined that LRB will be overbudget for fiscal 20/21 (currently estimated at \$1.192 million); this acknowledgement was also noted in their budget delegation letter. This option would extend this acknowledgement to BCRB (currently estimated at \$71k in overages) and HPRB (currently estimated at \$235k in overages).
- Issue a written response under the Deputy Attorney General's signature to the letter's received from the Chair's of CCALAB, HAB, and ITAB restating their delegated budget, restating the 1.5% savings target, and that "No forecasted or actualized budget overages are permitted". This response will also indicate that active steps should be taken to bring expenditures into alignment with delegated budgets.

- Issue a written response to the letter received from the Chair of HPRB restating delegated budget and requested 1.5% savings target. This letter will also instruct them to fully examine opportunities where service levels can be adjusted to reduce expenditures while ensuring they maintain the services that have legislated timelines.
- Issue a letter to all remaining tribunals that are currently forecasting significant budget overages (BCAB, HRT, EST). This letter will restate delegated budgets, requested 1.5% savings target, and that "No forecasted or actualized budget overages are permitted". This response will also indicate that active steps should be taken to bring expenditures into alignment with delegated budgets.
- TTIOD will schedule follow up meetings with tribunals that have legislated timelines (BCRB, LRB, HPRB). Chairs will be asked to maintain activities that align with their statutory requirements, but to also examine opportunities to reduce expenditures (where appropriate).

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OTHER MINISTRIES IMPACTED/CONSULTED:

- No other ministries are impacted from a budget perspective; however, the following ministries have policy linkages to one or more tribunals: Ministry of Health, Ministry of Housing, Ministry of Labour, Ministry of Finance, and the Natural Resource Sector.

OPTION 2 APPROVED



Richard J. M. Fyfe, QC
Deputy Attorney General

DATE:

December 16, 2020

Prepared by:

Tania Betiku
Director, Transformation Implementation
Tribunals, Transformation, and Independent
Offices Division
Justice Services Branch
778-698-3886

Approved by:

Carmen L. Zabarauckas, PhD
Executive Director
Tribunals, Transformation, and
Independent Offices Division
Justice Services Branch
250 893-6401

Attachment(s)

Appendix A: Tribunal Sector Working Budgets vs Actual Budgets (17/18 and 19/20)

Appendix B: Correspondence and Letters from Tribunal Chairs

Appendix C: Initial response to letters from the Chairs of ITAB, HPRB, CCALAB and HAB

Appendix D: Tribunal Sector Budget Pressures in Detail

Appendix A: Tribunal Sector Working Budget vs Actual Budget (17/18 –19/20)

Table 1. 2017/18 Budget and Actuals for Tribunal Sector

Tribunal	17/18 Budget	17/18 Actuals	Variance
Labour Relations Board (LRB)	\$4,138,000	\$4,507,212	-\$369,212
Mental Health Review Board (MHRB)	\$1,748,000	\$2,021,567	-\$273,567
Health Professions Review Board (HPRB)*	\$1,273,000	\$1,477,003	-\$204,003
BC Review Board (BCRB)	\$1,378,000	\$1,526,359	-\$148,359
Safety Standards Appeal Board (SSAB)	\$163,000	\$196,028	-\$33,028
Hospital Appeal Board (HAB)*	\$22,000	\$38,582	-\$16,582
Employment Standards Tribunal (EST)	\$475,000	\$484,330	-\$9,330
Industry Training Appeal Board (ITAB)*	\$15,000	\$20,481	-\$5,481
Building Code Appeal Board (BCAB)	\$25,000	\$29,161	-\$4,161
Community Care & Assisted Living Appeal Board (CCALAB)*	\$26,000	\$14,884	\$11,116
Surface Rights Board (SRB)	\$108,000	\$76,331	\$31,669
BC Human Rights Tribunal (BCHRT)	\$3,004,000	\$2,934,512	\$69,488
Environmental Appeal Board (EAB)*	\$1,783,000	\$1,645,060	\$137,940
Forest Appeals Commission (FAC)	\$310,000	\$85,558	\$224,442
Totals	\$14,468,000	\$15,057,068	-\$589,068,36
<p>Please Note: This table excludes tribunals that are funded through cost recovery: Oil and Gas Appeal Tribunal, BC Utilities Commission, Property Assessment Appeal Board, and Financial Services Tribunal. The Civil Resolution Tribunal (SS—Small Claims/Strata) did not receive a base budget until Fiscal 19/20.</p> <p>*Tribunals within EAB Cluster</p>			

Table 2. 2019/20 Budget and Actuals for Tribunal Sector

Tribunal	19/20 Budget	19/20 Actuals	Variance
BC Human Rights Tribunal (BCHRT)	\$3,148,000	\$3,622,362	-\$474,362
Labour Relations Board (LRB)	\$4,235,000	\$4,704,397	-\$469,397
Health Professions Review Board (HPRB)*	\$1,241,000	\$1,490,679	-\$249,679
Mental Health Review Board (MHRB)	\$2,348,000	\$2,516,128	-\$168,128
Hospital Appeal Board (HAB)*	\$23,000	\$131,159.05	-\$108,159.05
BC Review Board (BCRB)	\$1,533,000	\$1,611,705	-\$78,705
Employment Standards Tribunal (EST)	\$547,000	\$598,803	-\$51,803
Building Code Appeal Board (BCAB)	\$26,000	\$35,031	-\$9,031
Industry Training Appeal Board (ITAB)*	\$16,000	\$24,665	-\$8,665
Community Care & Assisted Living Appeal Board (CCALAB)*	\$27,000	\$19,645	\$7,355
Environmental Appeal Board (EAB)*	\$1,692,000	\$1,676,032	\$15,968
Safety Standards Appeal Board (SSAB)	\$164,000	\$145,924	\$18,076
Surface Rights Board (SRB)	\$108,000	\$82,739	\$25,261
Forest Appeals Commission (FAC)	\$310,000	\$126,988	\$183,012
Civil Resolution Tribunal (CRT) Small Claims & Strata	\$5,173,000	\$3,934,905	\$1,238,095
<i>Subtotal</i>	\$20,591,000	\$20,721,163	-\$130,163
Tribunal Support Office (TSO) Clearing Account	\$320,000	**-\$111,524	\$431,163
Subtotal less outstanding funds in TSO Clearing Account			\$301,361
<p>Please Note: This table excludes tribunals that are funded through cost recovery: Oil and Gas Appeal Tribunal, BC Utilities Commission, Property Assessment Appeal Board, and Financial Services Tribunal. The Civil Resolution Tribunal (ACT—Accident Claims Transformation) did not receive a base budget until Fiscal 19/20.</p> <p>*Tribunals within EAB Cluster</p> <p>** The actuals for the TSO Clearing Account include \$320k held for sector overages plus \$187k in building occupancy costs recovered for PAAB for fiscal 18/19 and 19/20 less \$75k in charges for the PSIF, LEAN, and other centralized charges</p>			



Community Care and Assisted Living Appeal Board

Fourth Floor, 747 Fort Street
Victoria BC V8W 3E9
Telephone: (250) 387-3464
Facsimile: (250) 356-9923

Mailing Address:
PO Box 9425 Stn Prov Govt
Victoria BC V8W 9V1

Website:
www.ccalab.gov.bc.ca
Email: ccalab@gov.bc.ca

October 13, 2020

Via Email

Kurt Sandstrom, QC
Assistant Deputy Minister
Justice Services Branch

Dear Mr. Sandstrom:

Re: Community Care and Assisted Living Appeal Board Budget Delegation

Myself, Shannon Beckett, Director of the Community Care and Assisted Living Appeal Board (CCALAB), and Vivia DeWolfe, Director of Operations for the Environmental Appeal Board Cluster, spoke by phone with Carmen Zabarauckas and Tania Betiku on Thursday, October 01, 2020, to discuss the budget delegation letter of August 21, 2020 which was sent under your signature.

During the discussion, I emphasised that the CCALAB's ability to honour a budget is impaired by factors we do not control such as volume and complexity of the appeals we receive, our statutory obligations, and any judicial reviews that our appeals might give rise to. I advised during our meeting that the only way we can lower appeal costs at this time is to down tools and stop all appeal work. We have not held an annual meeting since June of 2018, and we do not otherwise have a discretionary budget. Currently, our line items other than appeal and judicial review related expenses consist of a set contribution to the cluster's case management system and a minimal website hosting cost.

During this meeting I also expressed my position that the CCALAB is (and has been for some time) misclassified as a "Level 2" Board. This is so due to the complexity of the *de novo* style hearings and the requirement that we have legally trained adjudicators as well as industry experts in panels of three to hear each appeal. Recruitment and retention on this Board has been difficult for a number of years due to the low remuneration, and because the hearings on this Board are at the more complex end of the legal and technical spectrum. I am concerned that without more reasonable remuneration the Board will lose members and will be unable to replace them with sufficiently qualified and experienced individuals, which would, itself, lead to greater costs being incurred on this Board (for example, longer appeal, hearing, and writing times, greater number of judicial reviews, etc).

I am very aware of the fiscal realities that government faces in this unprecedented time. This Board will do its utmost to assist government in meeting its financial targets by working efficiently and effectively. However, based on the number of appeals currently before the Board it is likely there will be an overage

in the area of \$14K for this fiscal period. I have forwarded the CCALAB's current budget forecast to the AG budget team as of this morning.

I understand that there are regular budget forecast meetings at which the numbers are presented, so any revision to forecast figures will be communicated to you in a timely way. I say this so you are aware of our situation as requested in the August 21, 2020 letter.

Although Ms. Zabarauckas advised the Board was not at this time being asked to 'down tools' before incurring an overage, in order to meet the Board's statutory mandate and in order to ensure the Board is not put in a position of not having funds to pay its members or honour its contracts, I request confirmation, as soon as possible, that the overage outlined above will be covered by the Ministry.

As discussed, the Board will continue to fulfil its statutory mandate by continuing to hear and decide appeals and respond to any judicial review applications despite incurring a budget overage. On this basis and because of the historical volatility of the work of the Board (e.g. few appeals one year and many appeals the next) I believe it is time to pursue a request to the treasury board for a more realistic budget for this Board.

I look forward to the opportunity to meet with you in future to discuss how to move forward on getting the Board the budget lift it requires in order to be able to continue to fulfil its statutory mandate.

Yours truly,

A handwritten signature in cursive script that reads "Alison H. Narod".

Alison Narod,
Chair, Community Care and Assisted Living Appeal Board

Cc: Carmen Zabarauckas, TTSO
Sean Grills, JSB
Darrell LeHouillier, Chair Environmental Appeal Board



Hospital Appeal Board

Fourth Floor, 747 Fort Street
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Website: www.hab.gov.bc.ca
Email: hab@gov.bc.ca

October 13, 2020

Via Email

Kurt Sandstrom, QC
Assistant Deputy Minister
Justice Services Branch

Dear Mr. Sandstrom:

Re: Hospital Appeal Board Budget Delegation

Myself and Shannon Beckett, the Director of the Hospital Appeal Board (HAB), spoke by phone with Tania Betiku on Tuesday, September 22, 2020, to discuss the budget delegation letter of August 21, 2020 which was sent under your signature.

During the discussion, I emphasised that the HAB's ability to honour a budget is impaired by factors we do not control such as volume and complexity of the appeals we receive, our statutory obligations, and the judicial reviews that our appeals might give rise to. I advised during our meeting that the only way we can lower appeal costs at this time is to down tools and stop all appeal work. We have not held an AGM since March of 2019, and we do not otherwise have a discretionary budget. Our line items other than appeals and judicial reviews consist of set contributions to the cluster's case management system and a minimal website hosting cost.

I am very aware of the fiscal realities that government faces in this unprecedented time. This board will do its utmost to assist government in meeting its financial targets by working efficiently and effectively. However, based on the number of appeals currently before the Board it is likely there will be an overage in the area of \$112K for this fiscal period. I have forwarded the HAB's current budget forecast to the AG budget team as of this morning.

I understand that there are regular budget forecast meetings at which the numbers are presented, so any revision to forecast figures will be communicated to you in a timely way. I say this so you are aware of our situation as requested in the August 21, 2020 letter.

Although Ms. Betiku advised the board was not being asked to cease all work before incurring an overage, in order to meet the board's statutory mandate and in order to ensure the board is not put in a position of not having funds to pay its members or honour its contracts, I request confirmation that the overage outlined above will be covered by the Ministry.

As discussed, the Board will continue to fulfil its statutory mandate by continuing to hear and decide appeals and respond to any judicial review applications despite incurring a budget overage. On this basis and because of the historical volatility of the work of the Board (e.g. few appeals one year and many appeals the next) I believe it is time to pursue a request to treasury board for a more realistic budget for this Board.

I look forward to the opportunity to meet with you in future to discuss how to move forward on getting the Board the budget lift it requires in order to be able to continue to fulfil its statutory mandate.

Yours truly,

A handwritten signature in black ink, appearing to be 'DP' or similar initials, followed by a large loop.

David Perry
Chair, Hospital Appeal Board

Cc: Carmen Zabarauckas, TTSO
Sean Grilles, JSB
Darrell LeHouillier, Chair Environmental Appeal Board

September 24, 2020

Attention: Carmen Zabarauckas, Executive Director
Tribunals, Transformation, and Independent Offices Division
Ministry of Attorney General
Via email

Dear Ms. Zabarauckas:

RE: Health Professions Review Board (HPRB) Budget Delegation Letter

I spoke by phone with Tania Betiku on Tuesday, September 22, 2020, to discuss the budget delegation letter of August 21, 2020. Executive Director Evon Soong took part in the call.

I made two main points during our discussion. The first being that our ability to honour a budget is impaired by factors we do not control such as volume and complexity of the applications we receive, our statutory obligations, the need to respond to health professions regulatory sector demands, and the judicial reviews that our reviews might give rise to. The second being my considered assessment that shared in-house counsel is not a practical solution to controlling legal costs or meeting the demands of this tribunal's legal work, applications, judicial reviews and appellate work.

I am very aware of the fiscal realities that government faces in this unprecedented time. This board will do its utmost to assist government in meeting its financial targets by working within the budget allocation, and we are considering a number of options for reducing cost. However, if historical trends continue, it is likely there will be an overage in the area of \$150K for this fiscal period. I understand that there are regular budget forecast meetings at which the numbers are presented, so any revision to forecast figures will be communicated to you in a timely way. I say this so you are aware of our situation as requested in the August 21, 2020 letter.

I wish to emphasize that the HPRB requires efficient and expert counsel practising in this niche area of health professions regulation and administrative law to both advise members on request, and to defend appeals and judicial reviews. Our members are, for the most part, very senior counsel who require sophisticated advice as an adjunct to their decision writing. I used the expression with Tania to not be "penny wise but, pound foolish" in the area of our Board continuing to have access to a sophisticated administrative law practitioner to obtain legal advice when needed on short notice and not in competition with other demands of counsel.

I believe it is time to pursue a request to treasury board for a more realistic budget for this, and other boards. I say other boards only in the context of attending meetings of the Circle of Chairs and hearing budget concerns from many other tribunal chairs. In the meantime, the HPRB will do our best to meet budget targets in light of our statutory duties but, cannot control what we do not control.

On the bright side I would point out that historical annual numbers demonstrate that the HPRB has consistently operated at a cost of under \$1.5 million over the years. I am informed this was the benchmark when the Board was under the Ministry of Health and I will recommend this to you as an achievable budget target going forward.

Yours truly,

A handwritten signature in black ink, appearing to read "David Hobbs". The signature is fluid and cursive, with the first name "David" and last name "Hobbs" clearly distinguishable.

David Hobbs
Chair, Health Professions Review Board

cc. Tania Betiku, Director, Transformation and Implementation, Ministry of Attorney General
Darrell LeHouillier, Chair, Environmental Appeals Board
Vivia DeWolfe, Director, Finance and Operations, Environmental Appeals Board Tribunal
Cluster



Industry Training Appeal Board

Fourth Floor, 747 Fort Street
Victoria BC V8W 3E9
Telephone: (250) 387-3464
Facsimile: (250) 356-9923

Mailing Address:
PO Box 9425 Stn Prov Govt
Victoria BC V8W 9V1

Website: www.itab.gov.bc.ca
Email: itabinfo@gov.bc.ca

October 13, 2020

Via Email

Kurt Sandstrom, QC
Assistant Deputy Minister
Justice Services Branch

Dear Mr. Sandstrom:

Re: Industry Training Appeal Board Budget Delegation

I spoke by phone with representatives of the Tribunal Transformation Office (TTO) on September 24, 2020, to discuss the budget delegation letter of August 21, 2020 which was sent under your signature.

During the discussion, I emphasised that the ITAB's ability to honour a budget is impaired by factors we do not control such as volume and complexity of the appeals we receive, our statutory obligations, and any judicial reviews that our appeals might give rise to. I advised that although we haven't had an appeal in two years, we could get one at any time and we need to have the funds to assign a panel to hear and decide the appeal in accordance with the board's statutory mandate.

I also advised that we have not held an annual meeting since October of 2017, and we do not otherwise have a discretionary budget. Currently, our line items other than appeal and judicial review related expenses consist of a set contribution to the cluster's case management system, a minimal website hosting cost, and minimal professional costs incurred in the course of investigating the lack of appeals to the board.

I am very aware of the fiscal realities that government faces in this unprecedented time. This board will do its utmost to assist government in meeting its financial targets by working efficiently and effectively. However, based on the number of appeals currently before the board it is likely there will be an overage in the area of \$13K for this fiscal period. I have forwarded the ITAB's current budget forecast to the AG budget team as of this morning.

I understand that there are regular budget forecast meetings at which the numbers are presented, so any revision to forecast figures will be communicated to you in a timely way. I say this so you are aware of our situation as requested in the August 21, 2020 letter.

Although the TTO group advised the board was not at this time being asked to 'down tools' before incurring an overage, in order to meet the board's statutory mandate and in order to ensure the board

is not put in a position of not having funds to pay its members or honour its contracts, I request confirmation, as soon as possible, that the overage outlined above will be covered by the Ministry.

As discussed, at this time the Board will continue to fulfil its statutory mandate despite incurring a budget overage. On this basis and because of the historical volatility of the work of the Board (e.g. no appeals one year and one or more appeals the next) I believe it is time to pursue a request to treasury board for a more realistic and stable budget for this Board.

I look forward to the opportunity to meet with you in future to discuss how to move forward on getting the board the budget lift it requires in order to be able to continue to fulfil its statutory mandate.

Yours truly,

A handwritten signature in black ink, appearing to read 'G. Armour', written in a cursive style.

Gordon Armour,
Chair, Industry Training Appeal Board

Cc: Carmen Zabarauckas, TTSO
Sean Grilles, JSB
Darrell LeHouillier, Chair Environmental Appeal Board

From: [LeHouillier, Darrell EAB:EX](#)
To: [Betiku, Tania AG:EX](#)
Subject: RE: Budget Discussions with EAB Cluster
Date: Monday, September 28, 2020 2:27:04 PM

Hi Tania,

It was an interesting week to be sure! I have gotten to do a much deeper dive into the budget and there are quite a few moving parts.

I have heard some information from Vivia about the meetings she was part of, and was told that a cluster-wide meeting might be arranged. I am happy to be part of that and think it's a good idea.

In the interest of fully informing you what's going on (and please feel free to loop Carmen in – I don't know if she wants the day-to-day level of detail), I think the best way forward is to argue for a cluster-level budget increase. This would allow us to more flexibly meet the year-to-year variability in needs by the member tribunals. I think this would be a good opportunity to refresh the MOUs between the various bodies/ministries (if needed) and to formalize the relationship between the groups so far.

Here is a brief summary of the key points of my budget assessment last week:

- EAB is one of the large budgets, but handles the vast majority of administrative costs. If those costs were apportioned between the Boards, EAB's budget would be sufficient or perhaps even a little high.
- FAC looks well-positioned, but if its share of the administrative costs were attributed to it, it would need to be limited in service delivery.
- OGAT is cost recovered and is not an issue.
- CCALAB seems to face minor budget pressures but does not seem to be a relatively major concern.
- HAB has insufficient funds to conduct an appeal over the course of a year. They are most desperately in need of a budget increase.
- HPRB runs short of the "handshake agreement" budget level, as I am sure Vivia has described, but seems to predictably fall within the \$1.4M range, or so. I am uncertain how many gains in efficiency they could make – I made one significant recommendation, at least, but there was little interest.
- FST is cost recovered and is not an issue.
- ITAB seems to run overages year-to-year, and may warrant some further assessment.

I asked for cooperation on trying to arrive at a balanced budget across the cluster, and did not receive any interest from several Chairs. I do not think it will be possible to do this, given current leadership. I expressed a willingness to share some of any excess capacity I could generate through mine, with the understanding that this might mean cooperative budget assessments in other boards, but did not generate any interest.

I am able to balance between EAB, FAC, and OGAT, but this would mean: no AGM for the second consecutive year, little to no ongoing training for staff and members, and scheduling appeals out

toward the next fiscal. I understand from Vivia that these are not solutions that are preferred, so EAB and/or FAC may need budget lifts to handle projected workflow for this year.

It may be that EAB and FAC's budget crunch is short term. Certainly with our retirements of Alan and Colleen (who got an unexpected raise and is now paid more than she ever was while working) create short term pressures that will be over by the end of the calendar year. COVID has significantly increased our pressure for this year as well. That said, we are working toward making our processes more efficient and we are seeing apparent gains – we are just not far enough in yet to gauge how that will impact the financials; for the better, I think, just not sure how much.

In the absence of a budget lift (and, even if one is granted, until then) I will also need guidance on how to move forward; as I understand the wording of the budget letters to signal that no budget excesses can be forecasted or incurred (although later it seems to suggest that excesses must be accompanied with descriptions of why the excess exists). I understand there may have been some "continue business as usual" understood in the meetings Vivia was part of, but it is important for me to clarify what expectations are around budget so that we can govern ourselves accordingly.

I need to provide instructions to Vivia, who handles most EA tasks for the cluster. For HAB, not approving anything that projects them over budget would mean an immediate stop to appeals. For HPRB, it would mean likely something similar, given they are coming near their budget amount in expenditures already. CCALAB would likely not do their planned AGM. I am not sure what the legal fees for ITAB are, but those would likely be cut, if possible. As I mentioned, EAB and FAC would mean no AGM for the second straight year, no training not already approved, and pushing hearings into next fiscal – so reduced service.

I am of course open to doing things as required, but hopefully we can get some good action items out of the meeting, so that we can prepare our case for a budget increase and, if need be, figure out how exactly to meet the budget challenge we're (almost) all facing.

Thanks,

Darrell

From: Betiku, Tania AG:EX <Tania.Betiku@gov.bc.ca>
Sent: Friday, September 25, 2020 3:32 PM
To: LeHouillier, Darrell EAB:EX <Darrell.LeHouillier@gov.bc.ca>
Cc: Zabarauckas, Carmen AG:EX <Carmen.Zabarauckas@gov.bc.ca>
Subject: Budget Discussions with EAB Cluster

Hi Darrell,

I hope you have had a great week! I wanted to touch base with you regarding our budget discussions with each of the Tribunals in the EAB cluster. We have had the opportunity to meet with most of the chairs and our conversations have been productive. Vivia and Shannon were asked to join our

meetings with FAC and HAB and there were some questions and comments shared that I think would be best addressed through a larger conversation about budgeting across the cluster. Based on what I heard, I think it would be helpful for the five of us to meet, but wanted to check in to hear your thoughts before I schedule anything.

Do you feel it would be helpful for me to set this up?

Let me know what you think!

Tania Betiku, BA, MPA, CEC

She/her/hers

Director, Transformation Implementation | Tribunals, Transformation, and Independent Offices Division

Justice Services Branch | Ministry of Attorney General

Office: 778-698-3886 | Cell: 250-208-7194



Where ideas work





November 25, 2020

David Perry
Chair
Hospital Appeal Board
Email: HAB@gov.bc.ca

Dear David Perry:

I am writing in response to the letter you sent to my office on October 13, 2020 regarding the 2020/21 budget delegation letter for the Hospital Appeal Board.

I want to thank you for taking the time to summarize your concerns about the Board's ability to operate within its delegated budget for this fiscal year. I understand that the Board has already surpassed its delegated budget by \$15,000 (based on the October 2020 budget forecast) and that the Board is managing an increasingly complex caseload during a period of fiscal restraint.

We have taken all the information shared in your letter under advisement and will follow up with you once we have completed a review of options.

Regards,

Kurt J.W. Sandstrom QC
Assistant Deputy Minister
Justice Services Branch

Cc: Carmen Zabarauckas
Sean Grills

576456



November 26, 2020

David Hobbs
Chair
Health Professions Review Board
Email: dhobbs@hobbsgiroday.com

Response to 20/21 budget delegation letter for the Health Professions Review Board

Dear David Hobbs:

I am writing in response to the letter you sent on September 24, 2020 regarding the 20/21 budget delegation letter for the Health Professions Review Board.

I want to thank you for taking the time to summarise your concerns about the Board's ability to operate within its delegated budget for this fiscal year. I understand that the Board is managing an increasingly complex caseload during a period of fiscal restraint and the pressures associated with this challenge have not gone unnoticed.

We have taken all the information shared in your letter under advisement and will follow up with you once we have completed a review of options.

Sincerely,

Carmen Zabarauckas
Executive Director, Tribunals, Transformation, and Independent Offices Division
Justice Services Branch

576459



November 26, 2020

Alison Narod
Chair
Community Care and Assisted Living Appeal Board
Email: alison_narod@telus.net

Dear Alison Narod:

I am replying to your letter of October 13, 2020, regarding the 2020/21 budget delegation letter for the Community Care and Assisted Living Appeal Board.

I want to thank you for taking the time to summarize your concerns about the Board's ability to operate within its delegated budget for this fiscal year. I understand that the Board does not have control over the number and complexity of the appeals that it receives and can also appreciate that this creates significant pressure during a period of fiscal restraint.

We have taken all the information shared in your letter under advisement and will follow up with you once we have completed a review of options.

Regards,

Kurt J.W. Sandstrom QC
Assistant Deputy Minister
Justice Services Branch

576457



November 26, 2020

Gordon Armour
Chair
Industry Training Appeal Board
Email: garmour@xplornet.ca

Dear Gordon Armour:

I am replying to your letter of October 13, 2020, regarding the 2020/21 budget delegation letter for Industry Training Appeal Board.

I want to thank you for taking the time to summarize your concerns about the Board's ability to operate within its delegated budget for this fiscal year. I understand that the Board does not have control over the number and complexity of the appeals that it receives and can also appreciate that this creates significant pressure during a period of fiscal restraint.

We have taken all the information shared in your letter under advisement and will follow up with you once we have completed a review of options.

Regards,

Kurt J.W. Sandstrom QC
Assistant Deputy Minister
Justice Services Branch

576458

Appendix D: Tribunal Sector Budget Pressures in Detail (17/18 –20/21)

Labour Relations Board (LRB)

Budget and Actuals for Tribunal Sector Fiscal 17/18—present

Fiscal Year	Working Budget	Actual Budget	Variance
2017/18	\$4,138,000	\$4,507,212	-\$369,212
2018/19	\$4,175,000	\$4,203,385	-\$28,385
2019/20	\$4,235,000	\$4,704,397	-\$469,397
2020/21	\$4,235,000*	\$5,426,734**	-\$1,191,734

*Given historical budget pressures, LRB was not provided with a savings target

**Budget forecast for 20/21 as of Nov 1, 2020

Forecasted Budget Pressures for Fiscal 20/21

- Since 17/18, LRB has ended each fiscal year in an overbudget position. Based on current caseload pressures, the Board is forecasting overages of \$1.2 million for fiscal 20/21.
- As of December 7, 2020, LRB's year to date expenditures were approximately \$531k higher than what they were at this time last year. The Board is also \$683k over their current year's calendarized budget.
- There are two primary sources for LRB's overbudget position: Salaries/benefits and additional operating costs for IM/IT related requirements:
 - approx. \$1 million overbudget for 9 additional FTEs (salaries/benefits) and wage increases for bargaining unit staff/legal counsel
 - approx. \$200k overbudget for fixed operating costs for the Dispute Resolution Suite, new COVID-19 expenses, hardware/software to support remote work, and the costs for website redesign

Additional Notes:

- LRB is one of 3 AG tribunals with strict legislated timelines for how they administer the Labour Relations Code (the Code). The Board also has no control over the number and complexity of applications they receive each year.
- Under the amendments to the Code (Bill 30), LRB has also received an expanded mandate to appoint mediators to assist parties in the negotiation of collective agreements, appoint settlement officers to resolve grievances referred to arbitration, facilitate in-person votes for certification in a reduced timeframe, and support public education. To support the requirement for 'in-person votes' during the pandemic, LRB has acquired specialized software to facilitate the required processes online.
- Due to pre-existing pressures and several attempts to request additional funding from Treasury Board, LRB was not asked to provide a forecast savings target. Instead, they received the following acknowledgement in their budget delegation letter:
 - "The ministry recognizes that in addition to your working budget, you anticipate a pressure and thus a deficit of up to \$1.970 million in 2020/21."
- Since July 2020, LRB's forecasted overages have decreased slightly (small reductions in travel costs), caseload pressures have remained since the start of the pandemic.

Appendix D: Tribunal Sector Budget Pressures in Detail (17/18 –20/21)

BC Human Rights Tribunal (BCHRT)

Budget and Actuals for Tribunal Sector Fiscal 17/18—present

Fiscal Year	Working Budget	Actual Budget	Variance
2017/18	\$3,004,000	\$2,934,512	\$69,488
2018/19	\$3,112,000	\$3,205,731	-\$93,731
2019/20	\$3,148,000	\$3,622,362	-\$474,362
2020/21	\$3,100,780*	\$3,526,622**	-\$425,842
*This value includes a 1.5% savings target of \$47k for fiscal 20/21			
**Budget forecast for 20/21 as of Dec 7, 2020			

Forecasted Budget Pressures for Fiscal 20/21

- On August 4, 2017, the Premier along with the Attorney General announced the re-establishment of BC's Human Rights Commission. Subsequent to this announcement, Ravi Kahlon was appointed to lead a public engagement process and provide recommendations to inform the direction of the new commission.
- As the only body that operates at the frontlines to accept, screen, mediate, and adjudicate human rights complaints, this announcement along with the initiation of public engagement and the increased media attention on human rights issues raised BCHRT's profile.
- This increased exposure has not only been evident in BCHRT's rising caseload volumes, but also in the budget pressures faced after these events. Following the August 2017 announcement, BCHRT reported a 25% increase in filed complaints and a 30% increase in accepted complaints.
- Since 18/19, BCHRT has ended each fiscal year in an overbudget position. Based on current caseload pressures, the Board is forecasting overages of \$426k for fiscal 20/21.
- There are two primary sources for BCHRT's overbudget position: Salaries/benefits for staff and members and additional operating costs for IM/IT related requirements:
 - approx. \$272k overbudget for legal counsel salary increases, additional admin support for video hearings, two part-time members on s.6, ATA appointments, and additional expenditures for contracted mediators
 - approx. \$90k overbudget for fixed operating costs for the new Dispute Resolution Suite

Additional Notes:

- During the last two budget cycles, the Ministry requested a budget lift to address caseload pressures for BCHRT, but these requests were not approved.
- Although BCHRT does not have legislated timelines for their services, any decision to reduce service levels may have political implications. Any reduction to the Tribunal's activities would also impact the work done by other bodies in the larger Human Rights System (i.e. BC Human Rights Clinic and the Office of the Human Rights Commissioner).
- Based on the sources for BCHRT's overbudget position, any decisions to reduce expenditures would also require the Tribunal to layoff staff and/or full-time members.

Appendix D: Tribunal Sector Budget Pressures in Detail (17/18 –20/21)

Employment Standards Tribunal (EST)

Budget and Actuals for Tribunal Sector Fiscal 17/18—present

Fiscal Year	Working Budget	Actual Budget	Variance
2017/18	\$475,000	\$484,330	-\$9,330
2018/19	\$475,000	\$552,016	-\$77,016
2019/20	\$547,000	\$598,803	-\$51,803
2020/21	\$538,795*	\$749,789**	-\$210,994
*This value includes a 1.5% savings target of \$8k for fiscal 20/21			
**Budget forecast for 20/21 as of Dec 7, 2020			

Forecasted Budget Pressures for Fiscal 20/21

- Since 17/18, EST has ended each fiscal year in an overbudget position. Based on current caseload pressures, the Tribunal is forecasting overages of \$211k for fiscal 20/21.
- As of December 7, 2020, EST's year to date expenditures were approximately \$44k higher than what they were at the same time last year.
- There are two primary sources for EST's overbudget position: Salaries/benefits for staff and members and additional operating costs for IM/IT related requirements:
 - approx. \$155k overbudget for 1 additional FTE (Registry Administrator) to support the Tribunal's appeal and reconsideration process, along with additional per diems for part-time members
 - approx. \$48k overbudget for COVID-19 related expenses and fixed operating costs for the new Dispute Resolution Suite

Additional Notes:

- Over the last few years, EST has experienced a steady increase in caseload volumes; this includes an increasing backlog resulting from COVID-19 related amendments made under the Employment Standards Act in March 2020.
- These amendments introduced a number of changes that not only protect COVID-19-related leave but require employers to re-employ those who were dismissed on or after January 27, 2020 because of COVID-19-related circumstances. The amendments also prohibit employers from requesting COVID-19 medical notes, although employers may request employees to provide other "sufficient proof" of COVID-19 circumstances.
- Although EST does not have legislated timelines, the Tribunal plays a key role in protecting an employee's right to unpaid level and ensuring the re-employment of citizens that may have lost their employment for COVID-19 related reasons. As such a decision to reduce service levels and slow down the response to EST's caseload may negatively impact the most vulnerable citizens in BC.
- In the past, EST has been able to disclose submissions within 2 days; with the current backlog, this action is taking an average of 2 weeks. In addition, the time from the filing of an appeal to disclosure has typically been completed in 2 days, but this timeframe is currently taking between 2 to 3 weeks.

Appendix D: Tribunal Sector Budget Pressures in Detail (17/18 –20/21)

Health Professions Review Board (HPRB)

Budget and Actuals for Tribunal Sector Fiscal 17/18—present

Fiscal Year	Working Budget	Actual Budget	Variance
2017/18	\$1,273,000	\$1,477,003	-\$204,003
2018/19	\$1,277,000	\$1,292,967	-\$15,967
2019/20	\$1,241,000	\$1,490,679	-\$249,679
2020/21	\$1,222,385*	\$ 1,457,723**	-\$235,338

*This value includes a 1.5% savings target of \$19k for fiscal 20/21
**Budget forecast for 20/21 as of Dec 7, 2020

Forecasted Budget Pressures for Fiscal 20/21

- Since 17/18, HPRB has ended each fiscal year in an overbudget position. Based on current caseload pressures, the Tribunal is forecasting overages of \$235k for fiscal 20/21.
- As of December 7, 2020, HPRB's year to date expenditures were approximately \$182k higher than what they were at the same time last year.
- There are two primary sources for HPRB's overbudget position: Member compensation and contracts for supplementary legal counsel:
 - approx. \$104k overbudget for Board members to manage increasingly complex applications. The Board has also recently appointed 6 new members who are required to participate in a series of orientation/training sessions
 - approx. \$125k overbudget for supplementary counsel to review decisions (Judicial Review proofing) and provide training for new members

Additional Notes:

- HPRB is one of 3 AG tribunals with strict legislated timelines that govern their review of applications and completion of mandated adjudicative procedures. The Board also has no control over the number and complexity of the applications they receive each year. Unlike many tribunals, HPRB does not conduct oral hearing, so expenditures are spent primarily on the review of applications and drafting of written decisions.
- The decisions issued by HPRB are highly vulnerable to Judicial Reviews (JR); If once initiated, JRs create additional capacity challenges for the Board. In recent years, the Board has taken steps to lower JRs by having supplementary counsel review decisions that are most contentious. This up-front investment has saved a significant amount of resources. In the past, the Board regularly received JRs from the colleges but with this strategy the Board has had no JRs since 2018.
- In addition, HPRB's current legal counsel of 10 years is preparing to retire and new counsel will be selected to fulfill this function. There will be a period during which the contracts for outgoing and incoming counsel will overlap to support a smooth transition.
- Over the last few years, the Board's membership has been quite stable, but this year they are bringing in 6 new members to replace 7 that are departing. Given the niche areas of health professions regulation and administrative law that the Board must apply in their adjudication, new members are required to participate in orientation sessions and specialized training; the Board must pay them for their time as well as cover the costs for the delivery of this training.

Appendix D: Tribunal Sector Budget Pressures in Detail (17/18 –20/21)

BC Review Board (BCRB)

Budget and Actuals for Tribunal Sector Fiscal 17/18—present

Fiscal Year	Working Budget	Actual Budget	Variance
2017/18	\$1,378,000	\$1,526,359	-\$148,359
2018/19	\$1,381,000	\$1,558,287	-\$177,287
2019/20	\$1,533,000	\$1,611,705	-\$78,705
2020/21	\$1,510,005*	\$1,581,242**	-\$71,237
*This value includes a 1.5% savings target of \$23k for fiscal 20/21			
**Budget forecast for 20/21 as of Dec 7, 2020			

Forecasted Budget Pressures for Fiscal 20/21

- Since 17/18, BCRB has ended each fiscal year in an overbudget position. Based on current caseload pressures, the Tribunal is forecasting overages of \$71k for fiscal 20/21.
- Member compensation is the primary source for BCRB's overbudget position.

Additional Notes:

- BCRB is one of 3 AG tribunals with strict legislated timelines that govern their review of applications and completion of mandated adjudicative procedures. The Board also has no control over the number and complexity of the applications they receive and in recent years their caseload volume has increased.
- Given these pressures, the Tribunals, Transformation, and Independent Offices Division (TTIOD) completed a Business Process Review (BPR) for BCRB in July 2020 to identify opportunities for improving efficiencies within the Board.
- Through this review, it was determined that the Board and its staff were experiencing increasing workload pressures and that steps should be taken to do the following:
 - An additional role should be created to complete policy work and special projects that current staff did not have the capacity to complete
 - Invest additional resources for staff training and development
- Under current budgetary constraints, BCRB is unable to implement the above recommendations and others detailed in the Board's BPR Report.

Appendix D: Tribunal Sector Budget Pressures in Detail (17/18 –20/21)

Hospital Appeal Board (HAB)

Budget and Actuals for Tribunal Sector Fiscal 17/18—present

Fiscal Year	Working Budget	Actual Budget	Variance
2017/18	\$22,000	\$38,582	-\$16,582
2018/19	\$22,000	\$55,283	-\$33,283
2019/20	\$23,000	\$131,159	-\$108,159
2020/21	\$22,655*	\$135,780**	-\$113,125
*This value includes a 1.5% savings target of \$354 for fiscal 20/21			
**Budget forecast for 20/21 as of Dec 7, 2020			

Forecasted Budget Pressures for Fiscal 20/21

- Since 17/18, HAB has ended each fiscal year in an overbudget position. Based on current caseload pressures, the Tribunal is forecasting overages of \$113k for fiscal 20/21.
- As of December 7, 2020, the Board surpassed its budget with expenditures at approx. \$38k; this is \$15k over its delegated budget. Based on actuals from last fiscal year, it is expected that the Board's expenditures will continue to rise.
- The primary source for HAB's overbudget position is the Board's compensation for members. More specifically, it is estimated that the Board will be approx. \$86k overbudget as Board members manage increasing caseload pressures.

Additional Notes:

- Although HAB does not have legislated timelines, the Board is already in an overbudget position. Any decision to reduce service levels to reduce current budget pressures would require the Board to completely seize its operations for the remainder of the fiscal year.
- HAB does not have control over the volume and complexity of appeals that are received. In addition, the Board is a part of the EAB cluster and does not have access to a budget for discretionary spending.

Appendix D: Tribunal Sector Budget Pressures in Detail (17/18 –20/21)

Community Care and Assisted Living Appeal Board (CCALAB)

Budget and Actuals for Tribunal Sector Fiscal 17/18—present

Fiscal Year	Working Budget	Actual Budget	Variance
2017/18	\$26,000	\$14,884	\$11,116
2018/19	\$26,000	\$38,620	-\$12,620
2019/20	\$27,000	\$19,645	\$7,355
2020/21	\$26,595*	\$40,250**	-\$13,655

*This value includes a 1.5% savings target of \$405 for fiscal 20/21
**Budget forecast for 20/21 as of Nov 1, 2020

Forecasted Budget Pressures for Fiscal 20/21

- Over the last few years, CCALAB's caseload volume has been unpredictable. Based on current caseload pressures, the Board is forecasting overages of \$14k for fiscal 20/21 (As of November 1, 2020).
- The primary source for CCALAB's overbudget position is the Board's compensation for members. More specifically, it is estimated that the Board will be approx. \$21k overbudget in order for Board members to run a small number of hearings this year.

Additional Notes:

- Although CCALAB does not have legislated timelines, the Board is expecting to hold three hearings this fiscal year. Any decision to reduce service levels to align with the delegated budget would require the Board to postpone hearings to the next fiscal year.
- CCALAB does not have control over the volume and complexity of appeals that are received. In addition, the Board is a part of the EAB cluster and does not have access to a budget for discretionary spending.
- In their written response to the Board's budget delegation letter, the Chair of CCALAB has also shared that they believe the Board has been 'misclassified' as a Level 2 tribunal under the TB Renumeration Framework. They have expressed that this classification level has impacted the Board's ability to recruit and retain members with the qualifications and expertise required to engage the complex appeals that come before the Board.

Appendix D: Tribunal Sector Budget Pressures in Detail (17/18 –20/21)

Industry Training Appeal Board (ITAB)

Budget and Actuals for Tribunal Sector Fiscal 17/18—present

Fiscal Year	Working Budget	Actual Budget	Variance
2017/18	\$15,000	\$20,481	-\$5,481
2018/19	\$15,000	\$9,687	\$5,313
2019/20	\$16,000	\$24,665	-\$8,665
2020/21	\$15,760*	\$29,550**	-\$13,655

*This value includes a 1.5% savings target of \$240 for fiscal 20/21
**Budget forecast for 20/21 as of Nov 1, 2020

Forecasted Budget Pressures for Fiscal 20/21

- Since Fiscal 18/19, ITAB has ended each year in an overbudget position. Based on current caseload pressures the Board is forecasting overages of \$14k for fiscal 20/21.
- The primary source for ITAB's overbudget position is the Board's compensation for members, however the Board's fixed operating costs for the new Dispute Resolution Suite are \$14k; this represents almost 90% of the Board's total budget.

Additional Notes:

- Although ITAB does not have legislated timelines, the Board is expecting that it will hold hearings this fiscal year. Any decision to reduce service levels to align with the delegated budget would require the Board to postpone hearings to the next fiscal year.
- ITAB does not have control over the number of appeals that are received and with fixed costs for the for the new Dispute Resolution Suite, the Board's current budget leave little room for members to facilitate any hearings. In addition, the Board is a part of the EAB cluster and does not have access to a budget for discretionary spending.

**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for Richard J. M. Fyfe, QC
Deputy Attorney General

ISSUE:

Staff emails lost by the Commission of Inquiry into Money Laundering in British Columbia (Cullen Commission) during an active Request for Proposals process for transcription services.

SUMMARY:

- In August 2020 a Request for Proposals (RFP) process was initiated to procure transcription services for the Cullen Commission hearings. The contract was awarded to Reportex after two proposals were received and evaluated.
- However, the staff member responsible for receiving proposal submissions lost most of their emails in August 2020 while the RFP was open for proposal submissions.
- One of the RFP proponents, Premier Verbatim Group (PRV), recently contacted the Cullen Commission staff member to follow up on their proposal submission. The staff member was unable to retrieve PRV's proposal from their emails as it was included in the emails that were lost.
- When asked for confirmation that they had submitted their proposal within the required time frames, PRV forwarded an email to the staff member that confirmed they submitted a proposal before the closing date. However, their proposal was not evaluated during the RFP process because the staff member did not know it was sent at the time and the proposal cannot be found in their emails.

BACKGROUND:

- A call for proposals was initiated for transcription services of the Cullen Commission hearings. The procurement process then changed into an RFP so that more information about requirements could be shared with proponents including the change in hearing format (i.e. Zoom).
- The Cullen Commission identified potential vendors who could deliver transcription services and notified them in advance that the RFP was going to be posted.
- Four proponents expressed interest in the RFP process but only two proposals were received by the September 8, 2020 closing date. Both proposals were evaluated and

the contract was awarded to Reportex.

- The staff member responsible for receiving proposal submissions lost most of their emails in August 2020 while the RFP was open for proposal submissions. The staff member chose not to recover the emails based on the \$1000 cost it would take to do so.
- One of the RFP proponents, Premier Verbatim Group (PRV), has recently contacted the staff member to follow up with their proposal submission. The staff member was unable to retrieve PRV's proposal as it was likely part of the lost emails.
- PRV sent an email to the staff member confirming that they did indeed submit a proposal before the closing date.

DISCUSSION:

- Corporate Management Services Branch has been notified of the issue and advised that the Cullen Commission's legal counsel should draft the response to PRV.
- A request has been submitted to Shared Services via iStore required to recover the emails in question.
- PRV could launch legal proceedings against the Province for loss of opportunity because the Province was most likely in Contract "A" (or Bid Contract) with them if their proposal was sent prior to the closing date and was compliant. The likely settlement about would be approximately \$100,000, or the amount of the contract.
- The likely settlement would be approximately \$100,000, or the amount of the contract Proposal. The total amount of the contract awarded was \$200,000.

INDIGENOUS PEOPLES CONSIDERATIONS:

- No specific issues relevant to Indigenous Peoples' considerations.

OTHER MINISTRIES IMPACTED/CONSULTED:

- None.

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Attachment(s)
N/A

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s.14

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s.12 ; s.14 ; s.16

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s.14

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s.13 ; s.14

**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
BRIEFING NOTE**

Legal Advice to Attorney General

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PURPOSE: For DECISION of David Eby, QC
Attorney General & Minister Responsible for Housing

ISSUE: s.14
s.14

DECISION REQUIRED/RECOMMENDATION:

Option 1 (Recommended): s.12; s.13
s.12; s.13

SUMMARY:

- The Ministry is currently engaged in a two year policy consultation process with ALL.
- As per the terms of the August 30, 2019 Agreement with ALL (Agreement), at the end of each year, the Ministry will bring agreed-upon policy recommendations to Cabinet to inform each year's budget cycle.
- Direction is required from the AG as to whether s.12; s.13
s.12; s.13

BACKGROUND:

- In order to avert job action by legal aid lawyers, the Ministry, Legal Aid BC (LABC), and ALL signed a Memorandum of Agreement on August 30, 2019. The Agreement was ratified by all parties and provides for:
 - phased increases to tariff rates paid to legal aid lawyers in British Columbia, beginning November 4, 2019 and culminating in a total 35% increase by April 1, 2021;
 - a commitment to, and a framework for, future exclusive negotiations between the Province and ALL regarding tariff rates and other compensation-related terms and conditions for all legal aid lawyers paid on the tariff model; and
 - a commitment to a two-year good faith policy consultation process that will result in submissions to Cabinet in each of the two years.
- During the course of the year one policy consultations with ALL, three areas were identified in which significant improvements in legal aid policy could be made:
 - an investment in the development of junior counsel;
 - enhanced availability of expert opinions; and
 - providing representation in cases where an initial investment has been made and access to justice remains an issue.

s.12; s.13

- Year two policy consultations began on October 16, 2020 and will mainly focus on legal aid for family law matters, including:
 - children's voices in family law matters;
 - coverage for family law matters;
 - mediation and alternative dispute resolution;
 - family maintenance and enforcement; and
 - child protection.

- It is anticipated that a number of additional policy proposals will emerge from these discussions, which are expected to conclude in June 2021.

DISCUSSION:

- As per the terms of the Agreement, the policy consultation process is to span two years and will inform recommendations to Cabinet at the end of each year's consultation meetings (Fall 2020 and Fall 2021).

s.14

- A Cabinet Submission based on the year one policy consultations did not proceed as the election was called shortly thereafter and a Cabinet Submission presented at this time would be outside the regular cycle for Budget 2020/21.

s.14

s.14

- As the date for submissions for budget cycle 2020/21 has now passed, instead, the Ministry could put forward recommendations to Cabinet, one time, for budget cycle 2021/22, with proposals based on the two years of consultations, after the year two consultations have concluded.

OPTIONS:

Option 1 (Recommended): s.12; s.13

s.12; s.13

Pros:

s.12

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s.12

INDIGENOUS PEOPLES CONSIDERATIONS:

Some policy proposals being contemplated as a result of consultation with ALL relate indirectly to the Articles of the United Nations Declaration on the Rights of Indigenous Peoples and the Calls to Action of the Truth and Reconciliation Commission but are not a direct response to either.

Indigenous people are uniquely and historically disadvantaged in many aspects of the society and the justice system, including:

- overrepresentation in criminal law, child protection, and family law matters;
- overrepresentation in custody¹;
- disproportionately high rates of poverty, particularly on reserve²; and
- disproportionately more likely to be the victim of crimes, especially indigenous women³.

The policy proposals contained herein also relate to government's endorsement of the First Nations Justice Strategy⁴, which focuses on:

- reducing the number of First Nations people who become involve with the criminal justice system;
- increasing the number of First Nations people working within the justice system;
- improving access to justice services by First Nations people; and

¹ <https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2019/may01.html>

² West Coast LEAF, "West Coast LEAF's Written Submissions: BC Poverty Reduction Strategy,"

³ <https://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2019/may01.html>

⁴ [https://news.gov.bc.ca/files/First Nations Justice Strategy Feb 2020.pdf](https://news.gov.bc.ca/files/First_Nations_Justice_Strategy_Feb_2020.pdf)

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s.12 ; s.13

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s.12 ; s.13 ; s.14

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s.12 ; s.13

**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
BRIEFING NOTE**

Advice to Attorney General

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Cabinet Confidentiality	[]
FOIPPA	[]
Other (please specify) <u>Section 6 appointment Administrative Tribunals Act</u>	[x]

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PURPOSE: For DECISION of David Eby, QC
Attorney General

ISSUE: In accordance with section 6 of the Administrative Tribunals Act (ATA) the Chair of the British Columbia Utilities Commission (BCUC) must consult with the minister before making a temporary 6-month term appointment.

DECISION REQUIRED/ RECOMMENDATION:

Agree to support the Tribunal Chair's request to appoint Karen Keilty for a 6-month term appointment.

SUMMARY:

- The Chair of the BCUC is currently in need of a Commissioner^{s.13}
s.13
- The need has arisen due to delays related to the recent call for an election and the COVID 19 pandemic.

BACKGROUND:

- Section 6 of the Administrative Tribunals Act authorizes the Chair to appoint a person on a temporary basis for up to 6 months, provided that the Chair consults with the Minister responsible.

- Karen Keilty is a BCUC Commissioner who's term expires on December 31, 2020. A formal request for reappointment for one year has been submitted and is with CABRO. ^{s.13}

s.13

By way of this appointment request, the Chair is fulfilling the consultation requirement.

- CABRO has no concerns with this appointment request and the ministry supports the appointment request.

DISCUSSION:

- If the Attorney General agrees with the request, the Chair will issue an appointment letter to Karen Keilty for a term of six months. No Order in Council or Ministerial Order is required in this case.

INDIGENOUS PEOPLES CONSIDERATIONS:

All tribunals are working towards better representation and diversity amongst appointments, this term is for six month, pending formal approval for a one year appointment.

OPTIONS:

- Option 1: Support the Chair's request (Recommended Option)

s.13

s.13

OTHER MINISTRIES IMPACTED/CONSULTED:

- Crown Agency and Board Resourcing Office consultation complete.



Peter Juk, QC
A/Deputy Attorney General

DATE:

December 29, 2020

Date

RECOMMENDED OPTION APPROVED



David Eby, QC
Attorney General

December 31, 2020

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Attachment(s)

None