

TALKING TOGETHER PROTOCOL

PREAMBLE

Native history teaches that prior to contact the Native people practiced a unique culture. Through the process of colonization, people have undergone great loss, resulting in the deterioration of the family unit today.

Kunuwanimano and Nishnawbe-Aski Legal Services are committed to providing services to families that will ensure the safety of the child, the well being of the family, and as a result, strengthen the community.

It is recognized that success in the provision of these services will be enhanced if carried out in a manner that takes care of our own and is in keeping with the values and beliefs of Native people.

In keeping with these beliefs, the Talking Together process is an innovative kind of dispute resolution practiced as an alternative to the present family law court system.

KUNUWANIMANO CHILD AND FAMILY SERVICES

Kunuwanimano Child and Family Services is a non-profit Child and Family Services organization serving 11 First Nations in the eastern portion of Nishnawbe Aski Nation.

Kunuwanimano Child and Family Services provide services including:

- Intake Services
- Supportive Counselling/Referral Services
- Advocacy Services
- Customary/Foster Care Services
- Family Services and Prevention Programs

NISHNAWBE-ASKI LEGAL SERVICES

Nishnawbe-Aski Legal Services is a unique and innovative organization belonging to Nishnawbe-Aski Nation and is managed by a board of directors who are members of First Nations within NAN. The organization delivers a wide range of services to the members of Nishnawbe-Aski Nation including legal, public legal education, and law reform services. Services are delivered in the languages of the communities wherever possible. Restorative Justice is a priority of Nishnawbe-Aski Legal Services.

MISSION STATEMENT

Kunuwanimano Child and Family Services and Nishnawbe-Aski Legal Services agree that working jointly to develop and deliver an Alternative Dispute Resolution process is a positive step in addressing the needs of the children, families and communities.

DEFINITION AND PURPOSE

Kunuwanimano Child and Family Services (hereinafter referred to as Kunuwanimano) holds a mandate to provide services to strengthen our children, our families and our communities, as well as promote the best interests, protection and well-being of our children, families and communities. Nishnawbe-Aski Legal Services (hereinafter referred to as NAN Legal Services) holds a unique and innovative mandate to deliver legal services including the administration of Legal Aid Ontario in the Treaty # No. 9 area and to deliver a Restorative Justice Program in 15 of the 48 NAN communities.

In keeping with these mandates, Kunuwanimano and NAN Legal Services recognize the importance of continuing to develop appropriate programs in order to meet the diverse needs of the Native people, in as comprehensive and coordinated a manner as possible.

The Talking Together Protocol is an innovative kind of dispute resolution practised as an alternative to the Family Court system, and is based on traditional circles held in the communities. It is conducted in the form of a circle, where the child, family members, service providers, community members and Talking Together Facilitator meet. The rules of the traditional circle apply. Everyone is equal. Everyone is given a chance to speak, and be listened to respectfully. Comments are framed in a non-judgmental way. The aim of the circle is to arrive by consensus, at an effective plan to bring about resolution of outstanding child welfare concerns. The term Talking Together is used to describe a process that starts with a referral, moves to a circle, develops planning and involves monitoring and evaluation.

The successful implementation of this framework is the shared responsibility of all employees of Kunuwanimano and NAN Legal Services. The Board of Directors of Kunuwanimano and NAN Legal Services sanction this framework, with each representing their involved First Nation constituents.

Through the application of this protocol, all employees of Kunuwanimano and NAN Legal Services responsible for the referral, planning and coordination and implementation of Talking Circle service to clients shall conduct their activities in a manner that is client focused and that is professionally, and ethically congruent to this protocol.

RELATIONSHIPS

Kunuwanimano and NAN Legal Services agree to cooperate with each other with respect to the Talking Together Projects as follows:

- a) NAN Legal Services will allow their two facilitators to take the Risk Assessment training as offered by Kunuwanimano and contribute to the training on a pro rata basis.
- b) Both organizations will partake in regular consultation with respect to referrals so that any referral to Talking Together will be shared with Kunuwanimano and they will be invited to participate in the circles and informed as the matter proceeds of progress with respect to agreements, follow up circles and ultimate resolutions of each case.
- c) NAN Legal Services agrees to support Kunuwanimano in its application to become a mandated Child Protection Agency.

Kunuwanimano and NAN Legal Services shall maintain an open, cooperative relationship and regular contact regarding the Talking Together service in order to facilitate the process, and work toward success of this initiative. Family participants shall be advised of this sharing of information at the referral stage, and the agreement of the family participants shall be obtained through the signing of Release of Information forms. Kunuwanimano and NAN Legal Services shall undertake to inform the involved communities of this service.

STATEMENT OF PRINCIPLES

This protocol adheres to and is guided by a clear set of principles. These constitute the foundation on which all service delivery shall be based. These principles are:

Community Orientation:

In serving individuals within a community, the strengths and needs of the community must be simultaneously considered. This principle also refers to the helping resources being community-based or otherwise easily accessible.

Service in the Native Way:

The provision of all services will incorporate, encourage and support Native values and traditions. This embodies the principles of community and client self-direction. A focus of services provided will be on meeting child and family needs in a culturally appropriate/sensitive manner.

Confidentiality:

Talking Together information and records are confidential, and as such, information shared within the Talking Together process will not be released to unauthorized persons. All involved persons shall maintain the highest standards in safeguarding all confidential matters and information pertaining to children and families involved in this service.

Code of Conduct:

Kunuwanimano and NAN Legal Services are dedicated to the delivery of service that encompasses the teachings of our Native people:

Together there will be **TRUTH**
Together there will be **RESPECT**
Together there will be **LOVE**
Together there will be **HUMILITY**
Together there will be **HONESTY**
Together we will be **BRAVE**
Together we will gain **WISDOM**

At all times, participants shall conduct themselves in a professional manner, encompassing these teachings.

Kunuwanimano and NAN Legal Services also agree to participate fully in a proactive problem solving. Decision-making and conflict resolution that is required to ensure appropriate service provision to protect the identified, child and address the outstanding child welfare concerns.

ROLES AND RESPONSIBILITIES

Coordinator:

- To oversee and supervise the activities of the facilitators;
- To facilitate the Talking Together process where required including drafting of final agreements arising from the circles;
- To assist in developing and delivering of training programs to the facilitators and agencies;
- To report to the joint management committee (board of directors) overseeing the project;
- To develop the necessary filing system, forms, reports and evaluations needed for the pilot project;
- To pursue funding for the furtherance of the project once the pilot projects are completed.

Facilitator:

- To receive and confirm the referral;
- To meet with child welfare to identify potential family participation;
- Make referrals to the Coordinator;
- Obtain all release of information documentation;
- To organize the Talking Together including briefing of all participants about the circle process and what will be expected of them;
- Facilitation of the Talking Together process including drafting of final agreements arising from the circles;
- Follow up of adherence to the agreements;
- To liaise with the community members
- To liaise with the Coordinator on an ongoing basis and the partnering agencies as required;
- Monitor two-path system;
- Maintain file system;
- Community coordination;
- Community education/awareness;
- Agency education/awareness;
- Participate in evaluation process;
- Participate in/statistical/report writing.

Parent(s)/Caregivers:

- To care for and protect their child;
- To raise a healthy child;
- To contribute to their community;
- To work cooperatively within the Talking Together model to assist in addressing the child welfare concerns.

Community:

- To ensure a safe community for children;
- To sanction and support the Talking Together project;
- To work cooperatively within the Talking Together model to assist in addressing the child welfare concerns.

Child Protection Worker:

- To ensure the safety of the child;
- To work cooperatively within the Talking Together model to assist in addressing the child welfare concerns.

KUNUWANIMANO:

- Duty to protect children;
- Provide client access to Talking Together service option;
- Monitor and evaluate the service;
- Education of involved community

NAN Legal Services:

- Sponsor the project;
- Provide training of staff & agencies;
- Provide Talking Together Coordinator;
- Provide Talking Together Facilitator;
- Education of community;
- Justice personnel education;
- Monitor and evaluate the service.

CASE IDENTIFICATION CRITERIA

Cases appropriate for the Talking Together service shall be selected using a consultation process between the worker and supervisor and Talking Together Facilitator. This process shall begin prior to the filing of a Protection Application (day 5) or as soon as possible after the filing of the Protection Application.

A case may be appropriate for referral if a Protection Application has been filed with the court or a decision has been made that there are grounds to file a Protection Application.

Cases identified for protection using the Eligibility Spectrum of the Risk Assessment Model may be appropriate for this pilot. Cases not appropriate for this process shall include sexual abuse cases.

In identifying appropriate referrals, the family shall clearly understand that involvement in the Talking Together process as an alternative dispute resolution process is voluntary, and refusal of this option is without prejudice to the family, and does not affect their rights within the court system.

Where a legal representative has been appointed or retained, cases referred to the Talking Together process must obtain the agreement of the child, the family, and the First Nation; each in consultation with legal representative.

If a Protection Application has not yet been filed, or legal representation has not been appointed, or obtained, cases referred to the Talking Together process must obtain the agreement of the child, the family. The First Nation must also be consulted and kept informed.

The referral process will be the beginning of a two-path process. The Child Protection Worker shall continue on with the Protection Application in order to ensure the protection of the child. The Coordinator and Facilitator will begin the process of Talking Together.

TIME LINES

Kunuwanimano and NAN Legal Services recognize the importance of ensuring service provision occurs in a timely fashion. In order to support children and families and minimize delay, referrals to the Talking Together shall be initiated with the apprehension of a child, and prior to the filing of a Protection Application/Day 5, or as soon as possible after filing a Protection Application.

The Child Protection Worker shall initiate a referral meeting, involving the supervisor and the Talking Together Facilitator, to discuss the appropriateness of the referral.

Once the case has been identified for referral to the Talking Together process, the worker and the Talking Together Facilitator shall meet with the child (age appropriate) and/or the family to discuss the service. The engagement of the family in this process is critical for the success of the Talking Together model. The family must recognize this avenue as a positive step, and be open to this alternative.

PROTECTION APPLICATION IN COURT

The agreement from the family to access the Talking Together process, as a means of addressing outstanding child welfare concerns, and the coordination of a Talking Together process by the Talking Together Coordinator and/or Facilitator, with the commitment of all parties, shall take place before the Day 25 Temporary Care and Custody Hearing.

The Child Protection Worker shall proceed to follow the usual steps of court to the Temporary Care and Custody Hearing/Day 25. At the Temporary Care and Custody Hearing, the Child Protection Worker shall attempt to obtain an Interim Order, if the child is in care, or a customary care agreement. If the child is not in care, the Child Protection Worker will not seek an interim order. In either case, the Child Protection Worker shall request of the Ontario Court of Justice (Family) that the case be adjourned with judicial cooperation for a period of three (3) months while the Talking Together process is in place to address the child welfare concerns.

If appropriate, a protection finding may be made in court on consent, while allowing the Talking Together process to continue.

NON-PROTECTION APPLICATION REFERRAL

Upon agreement from the family to access Talking Together as a means of addressing outstanding child welfare concerns, the Talking Together Coordinator shall begin the

process of coordinating a Talking Together circle. The Child Protection Worker shall maintain an open protection file.

In either child protection or non-protection situation, following agreement to this process from the family, the Facilitator inviting some/all of the following shall arrange a Talking Together circle:

- Child
- Parent(s)
- Relevant support persons identified by family
- Family Support Worker
- Child Protection Worker
- Other involved service providers
- Involved extended family members
- Other appropriate community members, e.g. Elder
- Representatives of the Chief and Council
- Parties to the Child Welfare proceeding.

As a condition precedent to the Family attending Talking Together, they must agree that there are protection issues that need to be addressed. This Circle shall ensure that all applicable facts are discussed regarding the child welfare concerns.

The participants, assisted by the Facilitator that will address the outstanding child welfare concerns, shall develop an agreement. An Agreed Statement of Facts will be included.

Upon the completion of the development of the Agreement to address the child welfare concerns, the Child Protection Worker will present the plan to court at the Protection Hearing (Day 120) to obtain the agreement of the court. The Protection Hearing (Day 120) shall result in the granting of one of the following options:

- a) Withdraw from court based on the Agreement signed by all parties;
- b) Continued participation of the court system through the granting of a court order supporting the agreement;
- c) No agreement by parties, proceed to trial

The Talking Together participants shall meet as required to monitor the planning and evaluate the outcomes of the implementation of the Agreement.

GOVERNANCE / ACCOUNTABILITY

The Talking Together project has a steering committee comprised of one representative of each from Tikinagan Child & Family Services, NAN Legal Services and affiliated First Nations, to which Kunuwanimano Child and Family Services shall appoint one member.

For purposes of accountability, this group shall jointly oversee this program.

EVALUATION

All participants in the Talking Together model shall be given the opportunity to provide feedback through an evaluation at the conclusion of the Talking Together relationship. Kunuwanimano and NAN Legal Services shall conduct an evaluation of the project, taking into account comments of participants.

SIGNATURES

Kunuwanimano and NAN Legal Services agree to the terms of this protocol to ensure that the Talking Together service is jointly coordinated and delivered. This protocol shall be reviewed in its entirety on an annual basis.

On behalf of Kunuwanimano Child and Date Family Services