

# Disability Rights Coalition and Province of Nova Scotia Interim Consent Order: Plain Language Summary

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## **Glossary**

**CCD** - Community Capacity Developers. They will make sure communities have what they need to help people with disabilities.

**Discrimination** - in this document ‘discrimination’ means legally wrong treatment that is unequal or unfair *or* which does not make sure that people with disabilities are completely included in their communities.

**DRC** – Disability Rights Coalition

**ERT** - Emergency Response Teams. These workers will support people in the community who need emergency help. These people will get help instead of going into institutions or LTC.

**IF** - Individualised Funding (IF). This is a new way the Disability Supports Program will give people with disabilities money to help them live. The money will be assigned to the person. It will follow and move with them no matter where they live.

### **Institutions for people with disabilities**

ARC – Adult Residential Centres

RRC – Regional Rehabilitation Centres

RCF – Residential Care Facilities

Group Homes

Developmental Residences

**IPSC** - Intensive Planning and Support Coordination workers. They will help new people get on the Disability Supports program. They will support people who need extra help.

**LAC** - Local Area Coordination workers. They will help people with regular Disability Support Program needs.

**LTC** – Long term care – sometimes these places are called nursing homes or retirement homes or homes for seniors.

**Young people** – In this case, ‘young people’ means people aged under 65.

In this document we will refer to the Disability Rights Coalition as the DRC. We will refer to the Province of Nova Scotia as “the Province”.

## Introduction

This document is a plain language summary. It is about a court order in Nova Scotia. The court made an order because of a human rights claim.

The claim was made by the Disability Rights Coalition (DRC) against the Province of Nova Scotia to the Nova Scotia Human Rights Commission (NSHRC). These are the three groups involved in this legal case. They agreed on this order.

This order is temporary and will run for 5 years until March 28, 2028.

The order was made by a human rights Board of Inquiry. This Board of Inquiry makes legal decisions for human rights claims like a court.

The order says in a lot of detail what the Province must do each year for 5 years in order to end the discriminatory treatment of persons with disabilities.

The Nova Scotia Court of Appeal decided that the Province's treatment of persons with disabilities was discriminatory because **it** is unfair and legally wrong and does not treat people equally by making sure they are included in their communities.

**Appendix "A"** is a plan that lists all the actions the Province must take over the next 5 years. The plan includes targets and timeframes.

- A **target** is a goal or an action.
- A **timeframe** describes the amount of time the Province has to take or complete the action.

**Appendix "B" and "C"** lists all the information the Province must share with the public and the DRC over the next 5 years.

**Appendix "D"** lists all the **outcomes** the Province must meet for the discriminatory treatment of persons with disabilities to end.

- An **outcome** is the final result or effect of the Province's many actions over the next 5 years.

**Here are some examples of important goals in the Plan for the Province to do Year 1 (in other words, before the end of March 2024)**

- Make rules that say 'no new institutions will be opened'

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- Make rules that say no more people with disabilities will go into institutions and announce them to the public. Both of these things will happen by the end of March, 2024-
- Close the Harbourside Institution in Yarmouth, NS.
- Move everyone from Harbourside to the community in Nova Scotia where they want to live.
- Move 25 young people with disabilities from Long Term Care to homes in the community;
- Offer 50 people a place where they can share a home in “Homeshare” in the communities where they want to live.
- Make sure that people with disabilities who ask for help from the Disability Supports Program get the help they need to make a plan to live in the community.
- Make sure that people with disabilities who need help to live in the community get the help they need and are not turned away because of their disability.
- Make plans to help people who need supports to make decisions get the help they need.

## **The Complaint**

In 2014, a group called Disability Rights Coalition (DRC) said the Province of Nova Scotia was treating people with disabilities unfairly in a way that was legally wrong and not helping people with disabilities enough when it comes to social assistance.

The complaint was about discrimination. In this complaint the Province's treatment of persons with disabilities was discriminatory because it was unfair and legally wrong and did not treat people equally by making sure that they were included in their communities.

The DRC said the Province did not follow the Human Rights Act. The DRC said that there was discrimination. They said that the system of social assistance the Province used discriminated against people with disabilities.

A human rights Board of Inquiry listened to both sides. In 2019, the Board rejected the DRC's complaint.

The DRC didn't agree, so they asked a higher court, called the Court of Appeal, to look at it.

In 2021, the Court of Appeal said the DRC was right and that the Province did discriminate against people with disabilities.

The Court of Appeal sent the case back to the Board of Inquiry to figure out what to do next.

In July 2022, the Province said they wouldn't argue about it anymore. The next step was to find a solution to end the discrimination. This solution is called a "remedy."

## **The Remedy**

The case then went to the remedy stage. The remedy is about finding a solution to the discrimination. The remedy has actions. These actions are meant to fix the situation that caused the complaint.

At this point, both the DRC and the Province are worked together to find a solution. They both want to stop the system from discriminating against people with disabilities.

They agreed to put together a Review Team. This Team would look at ways to fix the system of Supports for Persons with Disabilities. The Team would make a report. They would give options and actions to fix the situation.

The Review Team gave their report on February 6, 2023. The report had a 5 year plan. It would start on July 1, 2023. The plan would make the changes needed to fix the discrimination in the system.

Both the DRC and the Province have agreed to follow the report and the plan. They agree that it will help to fix the situation.

The DRC and the Province have agreed that the Board of Inquiry can make a temporary order to make sure the plan is followed. The Board of Inquiry can also keep making decisions about any problems that come up related to the temporary order. They can also give more orders if needed.

### **Understanding This Order**

All the involved groups—DRC, NSHRC, and the Province—agree to the terms of this temporary order. The Board of Inquiry used the agreement in making the temporary order that they must follow.

When this temporary order talks about "the discrimination," it means the unequal and unfair treatment against people with disabilities that the Court of Appeal decided was wrong and hurt people with disabilities by not making sure they were included in their communities. The Court of Appeal made this decision in October 2021.

The Board of Inquiry later made another decision about the discrimination agreeing with the Court of Appeal in April 2022. If there's a question about what the discrimination is, they will look at these legal decisions, not just this temporary order and agreement.

### **Human Rights Act Violations**

Since 1998, the Province of Nova Scotia has been treating people with disabilities in a discriminatory way in its social assistance programs. The Province has broken the rules of the Human Rights Act.

Here's how:

- a. Institutionalization: Instead of helping people with disabilities in their communities, the Province often puts them in institutions.
- b. Assistance as of Right: People with disabilities have a legal right to assistance under the Social Assistance Act, but the Province hasn't been respecting that right.
- c. Community of Choice: The Province frequently gives assistance to people with disabilities far from where they want to live.
- d. Delays: Instead of helping people with disabilities right away, the Province often puts them on waitlists. This happened even tho they qualified for support and assistance.

In this agreement, the involved groups, the Province, the DRC and the NSHRC agreed to a plan (Appendix A) to fix these problems.

They also agreed:

- a. The Province doesn't have to meet every specific goal or timeline as long as they're making substantial progress.
- b. If something major changes, the Province can use different methods as long as they work as well or better than the original plan, and they're still making good progress.
- c. The main goal of this agreement is to fix the discriminatory treatment, focusing on achieving overall results rather than meeting specific goals in Appendix A.

### **Indicators, targets, outcomes and timelines**

Both the Province and the DRC have agreed to a year-by-year plan with outcomes, targets and timeframes. This was recommended by the Review Team. This will help them follow the actions of the agreement. They have also agreed on a way to make sure that things are changing. They have agreed to use the following ways to track their progress. These include indicators, targets, outcomes and timelines. These are described below.

- **Indicators:** An indicator is a sign of progress. It shows how much progress is made towards the outcome.
- **Targets:** A target is a way of showing the actions that have been taken towards the outcome.
- **Outcomes:** The outcomes are the final steps in the plan.
- **Timelines:** The timeline is the period of time that the indicators, targets and outcomes need to be done.

Both groups also agree that progress does not have to be perfect. It does not have to follow everything exactly. But if the plan is not followed exactly, the new actions that are done should be just as good or better. If there is any disagreement on the meaning of the indicators, targets, outcomes and timelines, then the Review Teams report should be used to help figure it out.

Both groups also agree that some recommendations can't be included in the order. These include items that need changes to laws or rules to be completed. They also include items that relate to the structure of government offices and departments.

Overall, the main goal is to fix the situation of discrimination. And to make sure it doesn't happen again.

Year by year the Province's actions will be measured to see what is being done. This work will be done by the Expert monitor. They will use a scale to rate how well the Province is doing.

Terms used in the Agreement:

- a. "Exact compliance": The Province follows Appendix A exactly.
- b. "Compliance in substance": The Province achieves the main goal of Appendix A using effective alternative methods, even if not meeting the exact requirements.
- c. "Substantial progress": The Province is making enough progress overall to expect the discrimination to be fixed in the time outlined in Appendix A.
- d. "Outside the control of the Province": The Province couldn't comply or make substantial progress due to circumstances beyond its control, despite trying reasonable alternative methods.
- e. Factors "outside the control": This doesn't include situations that are just for administrative convenience or predictable costs of providing assistance for people with disabilities.

Both the DRC and the Province have agreed to continue to work together. Both groups have agreed to have an expert to track, or monitor, what is being done. Both groups agree to have the Board of Inquiry as the overall power in the agreement.

### **Monitoring**

An Expert Monitor will be appointed. The position is just called the 'monitor' in this summary. The monitor will be qualified. They will have the knowledge and skills to do the job. If the Province and DRC agree on a person to do the job, the Commission will appoint that person. If they don't agree then the Commission can select a qualified person. The Commission will get input from the Province and DRC on the selected person.

The monitor will be independent. The monitor will be fair to both the DRC and the Province. The monitor will be fair and equal when contacting the different groups involved in the agreement.

The Province will pay the costs for the monitor. This includes the cost of hiring. It also includes any reasonable cost that the monitor or the DRC may have as they monitor this agreement.

### **Progress Reports**

Starting in January 2024 the Province will provide information updates in January and May to the Expert Monitor and the DRC that will be available to the public. Once per year the Province



will provide a report on their progress in meeting the targets, outcomes and timeframes in the Order that will be made available to the public.

The progress reports will include the following information.

- The reports will have information that is correct and true. This will be about how the agreement is being followed and the progress that is being made in reaching the outcomes, targets and timeframes as set out in the plan attached to the order (see below). The report will also include any changes to previous reports, or the way things are being done.
- The reports will share any documents needed to show how the Province is following the agreement and the progress made.
- The reports will identify any areas where the Province might not be following the Agreement exactly. The Province will have to explain why this happened in the report. The Province must also share what steps are being taken to fix this and follow the agreement.

After the first year, progress reports will need to have an assessment. An assessment is like a rating. This will show how well the Province is doing in following and progressing on the outcomes and timeframes in the agreement. This includes any changes that were made to the targets and timeframes in the agreement in reports that came before.

If the Province is not following the agreement exactly, it must give reasons why. It must also give the following information:

- The Province must show different things that may have been done that were just as good or better at meeting the outcomes.
- The Province must show whether or not the essential items in the agreement are being followed. The Province must show if and how it has made progress to fix the discrimination.
- The Province must show any other actions taken or intended to make sure that good progress is being made.
- The Province must give the reasons why an action is outside of its control if this is why it is not following the agreement.

The progress reports will include an updated report on recommendations. This includes recommendations that are binding and non-binding. Binding recommendations can be enforced through law. Non-binding recommendations cannot be enforced through law.

Any party to the complaint can give comments in response to progress reports. The comments are given to the Province and the monitor. This can be done within 30 days. Comments can also be given after the first 30 days.

### **Monitoring Reports**

The monitor will make a report. It will be called the Monitoring Report. It will be done within 60 days of the monitor getting any Progress Report.

The Monitoring Report will be given to all parties. The report will have the following parts.

- It will review the information given by the Province.
- It will comment about how truthful and correct the information is.
- It will comment about how useful the information and actions taken are.
- It will recommend that more information is made available, if needed.

The Monitoring Report will also review and comment on items in the agreement. These include the indicators, targets, outcomes and timelines. The review will state whether or not the Province is following the agreement exactly.

Each year the Expert Monitor will look at what the Province is doing and if the Province is not following the agreement exactly the Expert Monitor will answer the follow questions:

- Whether the Province is following the purpose of the agreement.
- What the Province's reasons are for not following the agreement are.
- Whether the Province considered any and all different options or measures.
- Whether those different options were just as good or better to reach the same outcomes.
- What the Province's reasons are for not trying different options.
- Whether or not these reasons were outside the control of the Province.
- Whether the Province is making good progress towards fixing the discrimination.
- Make recommendations to steps that will ensure that progress towards ending the discrimination continues to be made.

### **Clear and Open Process**

This is about making sure people can access all the documents and reports related to this case. The Human Rights Commission will be responsible for this. The Commission will make sure all documents and reports are available on their website.

### **Following the Agreement (Compliance) and Enforcement**

There are actions that can be taken if the agreement is not being followed.

Any party can ask the Board of Inquiry to make a decision about a Progress Report if it is not good enough. The Board can look into it. If it is not good enough, the Board can order the Province to do it better. Or the Board can tell the Province to take other steps to fix the problem.

The DRC, Commission, or the Province can apply to the Board of Inquiry for a decision if there has not been enough progress in fixing the discrimination. The Board will listen to all sides and make a decision. It is up to the Province to show that it has made good progress.

The Board will determine how well the Province has followed the actions in the agreement. The Board will determine if a failure to follow was due to factors outside the control of the Province.

If the application is found to be true, the Board may order the Province to follow the actions in the agreement. Or the Board may make other orders that may be appropriate.

If the Board determines that the Province couldn't follow the plan in the temporary order or make substantial progress due to circumstances beyond its control, the Board of Inquiry will keep its authority to ensure everyone follows this agreement and to make a final decision on fixing the unfair treatment.

### **Decision that the Province has ended the discriminatory treatment**

At any time during the agreement, the Province may apply to the Board to declare that they have done all parts of the agreement and has fixed the discrimination.

The Board will hold a hearing. The Province has to prove that the discrimination has been totally fixed. All items from the agreement and the outcomes must be completed as set out or as changed during the agreement.

If the Province shows that it has fixed the discrimination, the Board will issue an order that the Province has met the terms of the order and ended the discriminatory treatment.

If the province does not show that it has fixed the discrimination, the Board will dismiss the application and may issue any orders that are appropriate and allowed under the Board's power.

## **The Outcomes**

The agreement has certain outcomes to fix the discrimination. These outcomes are related to what the Province needs to do to fix the discrimination. There were four big issues for people with disabilities. These were noted in the Review Team report. These areas and the outcomes of the plan are described below.

### **Institutions**

Many people with disabilities had to live in institutions. These are places where many people with disabilities live together. These include the following places.

- Regional Rehabilitation Centres (RRC)
- Adult Residential Centres (ARC)
- Residential Care Facilities (RCF)
- Group Homes (GH)
- Developmental Residences (DR)

Some people with disabilities were told they had to live there. The Province would not help them if they did not go to an institution. The plan says these institutions will be closed. No more will be opened. People with disabilities will be given better places to live. They will get help in choosing the places where they want to live.

Some people with disabilities had to live in hospitals. Some young people with disabilities had to live in Long Term Care homes or nursing homes. They lived there because they needed extra help. They could not get that help in their community.

All people with disabilities who live in these places will be given places to live in their community. They will be able to get the help they need in that community.

### **Community of Choice**

Many people with disabilities could not get help in their own community. They had to go somewhere else to get help. They had to leave their family and friends.

The plan says people with disabilities should get help in the place they live. They can stay in their community.

### **Right to Assistance**

The Province only gave some people with disabilities the help they needed. Some other people who needed help did not get it.

The plan says all people with disabilities who need help from the Province will get it.

### **Assistance without Delay**

Some people with disabilities had to wait a long time to get help. They had to wait for money to help them live. They had to wait for other kinds of help. There was a long waiting list for some kinds of help.

The plan says people with disabilities should get help right away. If they need money to live, they should get it right away.

### **Following the plan**

Many people who work for the Province will work on the plan. This includes people who work for Disability Support Programs. It includes people who work in other parts of the government.

The Province will create a Disability Sector Workforce Plan. This is a plan to hire and train more workers to help people with disabilities. New workers will be hired and trained every year.

The Province will set up some new groups to make sure the plan is successful.

- **Disability Roundtable:** This is a group of people from different parts of the government. They will meet and work together to help the Province follow the plan. Every year, the Province will give an update on what the Disability Roundtable has done.
- **Leadership and Capability Panel:** This group will make a plan to train people in the government and in the community. The training will help them make changes to support people with disabilities. The training will include people with disabilities. The Leadership and Capability panel will work every year to train more people.
- **External Evaluation Team:** This group will watch how the Province follows the plan. They will look at what the Province does every year. They will make a report on how well the Province is following the plan.

## **The Plan – Appendix A**

This section shows the outcomes and timeframes for the Province for every year of the plan.

### **Year 1 - February 2023 to March 2024**

Find out how many people with disabilities will need help from the Disability Support Program. Find out what resources the Province needs to be able to help them. Set up a team and hire new people to work on the plan. Make plans to hire and train more people to help people with disabilities.

Move staff who help people with disabilities from the Department of Community Services to the Disability Support Program.

Make rules that say no new institutions will be opened. Make rules that say no more people with disabilities will go into institutions. Set a date for when this will happen.

Make a plan to close all the institutions:

- Create teams to close the institutions.
- Decide which ones to close first.
- Decide when they will close.
- Decide how to support the people who live there.
- Decide where to send the staff who work at institutions.

Close the Harbourside Institution. Move everyone from Harbourside to the community where they want to live.

Change the way people on the Disability Support Program get support. Put workers in each region to help people on the program in their community:

- Hire and train 25 new Local Area Coordination (LAC) workers. They will help people with regular Disability Support Program needs.
- Hire and train 40 new Intensive Planning and Support Coordination (IPSC) workers. They will help new people get on the program. They will support people who need extra help.
- Hire and train 4 Community Capacity Developers (CCD). They will make sure communities have what they need to help people with disabilities.
- Create Emergency Response Teams (ERT). These workers will support people in the community who need emergency help. These people will get help instead of going into institutions or LTC. At least half of the ERTs will start working by March 2024.

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Create more spaces for people to get help in their community:

- Create 29 Shared Services spaces for young people living in LTC.
- Create 50 more Homeshare spaces.
- Create 200 more Independent Living Support Plus (ILS Plus) and Flex spaces.

Start giving help to people who are on the waiting list. Make plans to give people with disabilities the help they need right away in the following areas:

- Money
- Medical care
- Places to live
- Other supports

Change the rules to make sure all people with disabilities who need help can get it from the Disability Support Program. Remove rules that said some people with disabilities were not eligible. Look for people who were told they could not get help in the past. Give them the help they need now.

Start work on Individualised Funding (IF). This is a new way to give people with disabilities money to help them live. The money will be assigned to the person. It will follow them no matter where they live.

Hire and train 4 IF coaches. They will help Disability Support Program workers with difficult cases. This will let them help people with disabilities more quickly.

Look at how the Disability Support Program helps children with disabilities. Make sure new programs to help them follow this plan. Make plans for 100 young people who will be leaving school and going into the community.

Help with the review of the Adult Capacity and Decision-making Act (ACDMA). Make sure the Disability Support Program is part of the review. Make sure the law says everyone has legal capacity. Make sure the law includes Supported Decision Making. Make plans to help people who need Supported Decision Making.

Create a team to look at mental health and addictions. The team will include the Disability Support Program and other groups who help people with mental health and addictions. This team will make sure people with disabilities get help with mental health and addictions if they need it.

**YEAR 2: April 2024 to March 2025**

There are 870 people with disabilities living in ARC, RRC, and RCF institutions. This year, move 261 of them into their community.

There are 83 people with disabilities in Temporary Shelter Arrangements (TSA). This year, move 20 of them into their community.

There are 76 people with disabilities living in hospitals. This year, move 16 of them into their community.

There are 200 young people with disabilities living in LTC. In 2023, 29 of them moved to Shared Services spaces in the community. This year, move 81 more into Shared Services.

There are 589 people with disabilities on the waiting list for support. Take 289 of them off the waiting list and give them IF support.

Create the system to provide IF for people with disabilities.

Create 200 more ILS plus and Flex spaces

Create 50 more Homeshare spaces in each region.

Create Mental Health support teams in each region.

All Emergency Response Teams will be working this year.

Hire and train 25 more LAC workers and 25 new IPSC workers. This will mean there are 50 LAC workers and 65 IPSC workers this year. The LAC workers will start helping people on the waiting list.

Start teaching people about supported decision making:

- People with disabilities
- Families
- People who help people with disabilities
- DSP staff

Make plans for 100 young people who will be leaving school and going into the community.



**YEAR 3: April 2025 to March 2026**

There are 609 people with disabilities still living in ARC, RRC, and RCF institutions. This year, move 391 of them into their community.

There are 63 people with disabilities still living in TSA. This year, move 20 of them into their community.

There are 60 people with disabilities still living in hospitals. This year, move 16 of them into their community.

There are 100 young people with disabilities still living in LTC. This year, move all of them into Shared Services. There will be no more young people with disabilities in LTC after this year.

There are 300 people with disabilities still on the waiting list for support. Take all of them off the waiting list and give them IF support. There will be no people with disabilities on the waiting list after this year.

The system to provide IF for people with disabilities will be complete this year.

Create 200 more ILS plus and Flex spaces.

Create 100 more Homeshare spaces.

Create Mental Health support teams in each region.

All Emergency Response Teams will be working this year.

Hire and train 30 more LAC workers and 15 new IPSC workers. This will mean there are 80 LAC workers and 80 IPSC workers this year. This is all the LAC and IPSC workers that will be hired.

Make plans for 100 young people who will be leaving school and going into the community.

**YEAR 4: April 2026 to March 2027**

There are 218 people with disabilities still living in ARC, RRC, and RCF institutions. This year, move 105 of them into their community.

There are 43 people with disabilities still living in TSA. This year, move 20 of them into their community.

There are 44 people with disabilities still living in hospitals. This year, move 30 of them into their community.

Start to close GH and DR institutions. There are 535 people with disabilities living in GH and DR. This year, move half of them into their community.

Create 200 more ILS plus and Flex spaces

Create 100 more Homeshare spaces.

Make plans for 100 young people who will be leaving school and going into the community.

Move some IPSC workers to LAC. This might be needed after the institutions are closed.

**YEAR 5: April 2027 to March 2028**

There are 113 people with disabilities still living in ARC, RRC, and RCF institutions. This year, move all of them into their community. There will be no more people with disabilities in these institutions after this year.

There are 23 people with disabilities still living in TSA. This year, move all of them into their community. There will be no more people with disabilities in TSA after this year.

There are 14 people with disabilities still living in hospitals. This year, move all of them into their community. There will be no more people with disabilities in hospitals after this year.

There are 267 people with disabilities still living in GH and DR. This year, move all of them into their community. There will be no more people with disabilities in these institutions after this year.

Create 200 more ILS plus and Flex spaces.

Create 60 more Homeshare spaces.

Make plans for 100 young people who will be leaving school and going into the community.

The plan will be complete this year. The Province will do a full review. They will make sure that they have done everything they agreed to and that:

- People with disabilities have a right to support.
- Support is based on IF. Each person gets the help they need.
- People with disabilities can get support wherever they choose to live.
- There is more support for people with disabilities in every community.
- There are more places for people with disabilities to live in every community.
- There are more workers to support people with disabilities.
- Everyone who applies to DSP gets help right away. There is no waiting list.
- All the institutions are closed.
- No one has to leave their community to get help. No one has to go into a hospital or LTC to get help.

## **Documents and Data**

### **Documents**

With each Annual Progress Report, the Province will disclose updated Disability Supports Program policy, practices, and procedures with any changes during the period highlighted. All documents that go with the Annual Progress Report or that are linked to activities in the agreement will be shared with all parties.

### **Data**

Data is information. It is facts and statistics. A lot of information will come out of the actions of the agreement. All of this information will be made available to the parties.

The original court order can be found at these links.

<https://www.disabilityrightscoalitionns.ca/wp-content/uploads/2023/07/Interim-Consent-Order-Settlement-Agreement-June-28-2023-43-pp.pdf>

The Disability Rights Coalition's website is at this link.

<https://www.disabilityrightscoalitionns.ca/>

The Nova Scotia Human Rights Commission is at this link. <https://humanrights.novascotia.ca/>