

DRC Comments on Selected Indicators: Year 1 (April 1, 2023-March 30, 2024)
(June 2025)

INDICATOR	COMMENT
1. Update as to status and work of Government Roundtable.	<p>Province claims <i>exact</i> compliance.</p> <ul style="list-style-type: none"> • The DRC comments will be presented in conjunction the DRC’s Year 2 Compliance Comments.
6. Recruit and train 25 new LACs and 40 new IPSCs (including 15 transferred from Care Coordinators).	<p>Province claims <i>substantial compliance</i>;</p> <ul style="list-style-type: none"> • The DRC comments on this obligation will be presented in conjunction with the LAC & IPSC-recruitment related obligations in the DRC’s Year 2 Compliance Comments.
17. Work with SLTC and review and revise the policy on admissions to LTC (for young people) and ensure no admissions to LTC occur due to DSP failure to provide appropriate community supports.	<p>Province claims its obligations are now <i>complete</i>:</p> <ul style="list-style-type: none"> • The Province cites rescission of DSP Policies 9.3 and 9.4 to demonstrate compliance with this obligation. • Broadly, however, there are two related failures in the Province’s discharge of its obligations: <ul style="list-style-type: none"> I. The failure to introduce <i>any</i> formal Policy protections for ‘adults under 65’ to ensure that they are not admitted into LTCs as a result of DSP failures to provide community supports, and II. The resulting dramatic spike in cases of ‘young adults’ having been admitted to LTCs. At baseline in January 2023, there were 424

persons in LTC under the age of 65, by March 2025, there were **476**—an increase of 12% from baseline.¹

(Despite this alarming increase, the *DSP Caseload Dashboard* states that, as of April 2025, there were **zero** IPSCs working with those living in LTCs to assist in their planning and transition to community.²)

Re Failure to introduce into Policy prohibitions on admissions of ‘young adults’ to LTCs as a result of DSP failures.

- This obligation (#17) requires the introduction of revised Policies to effectively block admissions into LTCs of ‘adults under 65’ arising from DSP failures to provide community-based supports—akin to the May 2024 DSP Policy changes which ‘ceased admissions’ to RRCs, ARCs and RCFs.³ In the absence of such a Policy, inappropriate & discriminatory admissions into LTCs will continue & increase (see ‘admission spike’ immediately above).
- The Province’s submissions—and publicly accessible Policies—make clear that there have, in fact, been *no* formal Policies introduced—either by DSP, SLTC or NS Health—to “**ensure**” that “no admissions to LTC occur due to DSP failure to provide appropriate community supports.”
- Therefore, the fact that the DSP has removed two DSP ineligibility provisions (former DSP Policies 9.3 and 9.4) is largely irrelevant.⁴ The obligation on the

¹ See [Appendix B, Metrics Report](#) (March 31, 2025), section 4 “Long Term Care Residents under the age of 65”

² Document #192, page 2

³ See amendments in [DSP Policies 5.3, 5.4.1 and 5.4.2](#)

⁴ In fact, it is to be noted that the finding of systemic discrimination in the [Interim Settlement Agreement Part A, para. 3](#) will not end until all the “Outcomes” in [Appendix D](#) have been met. In the present context, that would include App. D, para. 1: “Develop and implement an explicit policy and practice that all persons in need with disabilities residing in in L TC facilities or nursing homes are given the option of community-based supports and services under the SAA.”

	<p>Province in this particular requirement is to have in place formal written Policies (whether coming from DSP, SLTC or, indeed, NS Health) to “ensure” that younger adults are <i>not</i> admitted to LTCs/Nursing Homes as a result of DSP failure to make available appropriate community-based supports.</p> <ul style="list-style-type: none"> • Given the historic roles of NS Health and SLTC in working with younger adults needing supports who have unnecessarily and harmfully ended up in nursing homes,⁵ it would appear that there may well be Departmental silo problems involved in the failure to introduce the required Policies. • The needed Policy revision has manifestly not happened and, as a result, far from being ‘complete’ compliance, it must be concluded that there remains <i>no</i> compliance in the required Policies’ introduction and implementation.
<p>19. Commence and complete new Individual Funding (IF) policy development and administrative infrastructure planning (including IT and data capability for new IF system.)</p>	<p>Province claims its obligations are now <i>complete</i>:</p> <ul style="list-style-type: none"> • The DRC comments Individualized Funding (“IF”) will be presented in conjunction with the DRC’s Year 2 Compliance Comments re IF.
<p>21. Develop needs assessment that includes supported decision-making supports.</p>	<p>Province claims its obligations are now <i>complete</i>:</p> <ul style="list-style-type: none"> • The DRC comments regarding the DSP practice and use of supported decision-making will be presented in conjunction with the DRC’s Year 2 Compliance Comments re supported decision-making.
<p>33. Allocate 200 new ILS plus/Flex Independent places.</p>	<p>Province claims its obligations are now <i>complete</i>:</p>

⁵ See also: Doc. #3: Remedy Roundtable Presentation (January 2024) at page 18

	<ul style="list-style-type: none"> In the interests of convenience and to avoid duplication, the DRC comments regarding the allocation of new ILS+ and Flex Independent places will be presented in conjunction with the DRC’s Year 2 Compliance Comments.
36. Implement discretionary Funding for DSP Waitlist (SRL) Baseline of 589 “eligible but not receiving support” n=208 (needs slight deduction for TSA).	<p>Province claims its obligations are now <i>complete</i>:</p> <ul style="list-style-type: none"> The DRC comments regarding the implementation of discretionary funding will be presented in conjunction with the DRC’s Year 2 Compliance Comments.
38. Young Persons in LTC: Shared services program: increase of 25 new Shared Services spaces in community of choice by March 2024 for a total of 29 Shared Services spaces.	<p>Province claims <i>substantial progress</i>:</p> <ul style="list-style-type: none"> In the interests of convenience and to avoid duplication, the DRC comments regarding the required increase in Shared Services for young persons in LTC will be presented in conjunction with the DRC’s Year 2 Compliance Comments.
44. Complete review and update of DSP eligibility policy in accordance with the <i>Social Assistance Act</i> , including rescinding Eligibility policy sections 9.3 and 9.4 (a) Review and address situation of individuals previously denied (n=8).	<p>Province claims its obligations are now “<i>complete</i>”:</p> <ul style="list-style-type: none"> It will be appreciated that this obligation follows on from numbers 15 and 16 in the February-June 2023 period. The DRC’s goal is to present comments that might have been made in either or both #s15 and 16 of the February-June 2023 period here in order for convenience and to avoid duplication. A crucial part of the obligation is that the update to DSP eligibility policy be “in accordance with the <i>Social Assistance Act</i>”. Apart from rescinding Policies 9.3 and 9.4 and replacing them with new Policy 9.0 regarding ‘Collaboration’⁶, <u>none</u> of the current DSP Policy Manuals

⁶ See Document #46

	<p>regarding eligibility have been revised in alignment with the SAA and/the requirements of the Remedy.⁷</p> <ul style="list-style-type: none"> • In particular, Remedy and SAA compliant DSP Policies must: <ol style="list-style-type: none"> 1. Expressly state that all persons with disabilities who need supports—regardless of diagnosis—are eligible for DSP⁸ (i.e., there can be no disabilities which, <i>per se</i>, make a person ineligible for DSP).⁹ 2. Expressly state that persons with disabilities who meet the qualifying conditions <i>shall</i> (not ‘may’) be eligible for DSP assistance.¹⁰ 3. Expressly state that eligible persons for disabilities shall be entitled to <i>accommodative</i> assistance which “means social assistance, including supports and services, that meet the different needs of persons with disabilities.”¹¹ 4. Expressly state that eligible persons with disabilities shall be entitled to the provision of assistance without delay.¹²
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⁷ The historic/current DSP eligibility Policies are found in the [DSP Policy Manual](#) at section 4.1 “General Eligibility Requirements: Disability Requirement”.

⁸ Leaving aside financial eligibility conditions.

⁹ [SAA](#) (esp. section 4(d) which imposes no restrictions whatsoever on the scope of disabilities eligible for assistance under the *Act*) and *DRC* para 219. Also, last year’s [Monitor’s Report stated at page 50](#):

“On Disability Support Program eligibility policy, I will be looking for the Province to provide public documentation in subsequent progress reports, which demonstrates the DSP policy, application process, operational procedures, and related screening tool(s) are in accordance with the *Social Assistance Act*. Furthermore, to add greater clarity on the DSP eligibility policy, the Province should establish a program pathway that treats all applicants with disabilities fairly and equitably, regardless of the nature of their condition or impairment.”

⁹ Obligation #19 speaks of the ‘eligibility of Shared Services participants’.

¹⁰ DSP assistance is both authorized by and must conform to the legislative requirements of the [Social Assistance Act](#), including section 9; the Province ‘shall furnish assistance to all persons in need’.

¹¹ Remedy Interim Consent Order, Appendix A ([February-June 2023 period](#)), para. 15

¹² [SAA regulations](#), s. 2(1)(k) and *DRC* case at the Court of Appeal, [paras. 142,170](#), and, for example the Province’s Document #196, “Regional Closure Specialist Facility Closure Guidebook” at page 15.

5. Expressly state that eligible persons with disabilities shall be entitled to the provision of assistance in their community of choice.

The Province’s failures to comply with each of the above requirements—as they relate to DSP Policies will be reviewed in turn:

1. Comprehensiveness (i.e., non-discrimination between disabilities) of the scope of DSP eligibility

- Last year, the DRC’s submissions to the Monitor, had flagged a concern that future DSP eligibility Policies were already indicating that certain diagnosis-based exclusions appeared to becoming re-entrenched going forward.¹³ Now, the Province’s Year 2 submissions regarding eligibility are more troubling and appear to be non-compliant with the SAA and the Remedy.
- As an illustration, persons with Autism and Dementia (as stand-alone diagnoses) as well as other diagnoses are treated as ineligible for DSP but eligible for the ‘collaborative pathway’—i.e., a path different and separate from Individualized Funding under the DSP.¹⁴
- Indeed, the current DSP Policy Manual maintains explicit diagnosis-based restrictions/exclusions:
 - the decades old ‘General Eligibility Requirements’ continue to impose restrictive, anachronistic diagnosis-based restrictions¹⁵ on eligibility, and
 - within the DSP Policy itself, there are several references to an applicant needing to have an “eligible diagnosis”.¹⁶ (There is no

¹³ See [DRC Submissions to the Expert Monitor](#) (June 2024) at pp. 10-12, paras. 54-70

¹⁴ See Doc. #117, ‘*Collaborative Eligibility Pathway information*’, pp. 6 *et seq.*

¹⁵ DSP Policy Manual [at section 4.0](#) and also DSP [Level of Support Policy 4.2](#)

¹⁶ See [DSP Policy Manual](#) (Updated February 18, 2025) at ss. [4.7.1\(a\)](#), [6.1.6](#) and [5.1.3](#) (re ‘Functional Assessment, Eligibility and Determining Level of Support’)

	<p>publicly available list of ‘eligible diagnoses’ that the DRC is aware of.)</p> <ul style="list-style-type: none"> • The Province’s unsatisfactory approach to DSP eligibility was addressed in last year’s Monitor’s report which confirmed that the Province’s continued restrictive view to eligibility is inconsistent with the Remedy’s requirements and the SAA.¹⁷ • Despite these ‘scope of eligibility’ problems having been the subject of criticism, the Province is stating that “...no further changes to eligibility policy were required”.¹⁸ • In fact, the <i>Collaborative Eligibility Pathway</i> is explicit that certain diagnoses will mean ineligibility for DSP Individualized Funding and result in a referral to the Collaborative Pathway.¹⁹ In its submissions, the Province states: <p style="margin-left: 40px;">“The Collaborative Eligibility Pathway was approved in December 2024. This provides options for people who previously would have been denied DSP services under policy sections 9.3 and 9.4 <u>with avenues to receiving appropriate supports</u>. DSP will work with individuals, their support network and other government agencies to develop support plans that better meet people’s needs.”</p> • The Province has also now formalized a DSP Policy at section <u>9.0: “Collaboration”</u>. However, it, too, continues to contain diagnostically
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¹⁷ The [Monitor stated at page 50](#): “On Disability Support Program eligibility policy, I will be looking for the Province to provide public documentation in subsequent progress reports, which demonstrates the DSP policy, application process, operational procedures, and related screening tool(s) are in accordance with the Social Assistance Act. Furthermore, to add greater clarity on the DSP eligibility policy, the Province should establish a program pathway that treats all applicants with disabilities fairly and equitably, regardless of the nature of their condition or impairment.”

¹⁸ Doc. #117, ‘*Collaborative Eligibility Pathway information*’, page 2

¹⁹ See Doc 117, pp. 6-10

	<p>exclusionary provisions. In fact, this new section of the DSP Policy manual simply replaces one which had formerly been called “Ineligibility”²⁰—both the old and the new Policies result in ineligibility for Individualized Funding in the DSP.</p> <ul style="list-style-type: none"> • The Province’s reliance on an ambiguous approach called ‘Collaborative Pathway’ falls well short of the present obligation because it fails to expressly state that <u>all</u> persons in need with disabilities—regardless of diagnosis—are to be eligible under the <i>Social Assistance Act/DSP</i>.²¹ • Should there be a suggestion that the actual provision of support is ‘all that matters’, being supported via other non-DSP ‘Collaborative avenues’ referenced by the Province presents at least two human rights problems: <ol style="list-style-type: none"> 1. It is not what the parties agreed to in the Remedy for the systemic human right violations;²² and 2. The prospect of somehow being supported <i>outside</i> the DSP means being <i>outside</i> the protections of the <i>Social Assistance Act/DSP</i> and the Human Rights Remedy and, thus, a deprivation of the crucial statutory rights & protections enjoyed by those within the <i>SAA/DSP</i> umbrella—including statutory appeal rights.
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²⁰ “Collaboration” has replaced “Ineligibility” as section 9 of the DSP Manual.

²¹ In addition to the footnoted reference above to section 4(d) of the [SAA](#) re eligibility for all ‘persons in need’, it is also noted that in order for there to be a formal end of the declaration of Systemic Discrimination against the Province, the Province must meet a list of ‘[Outcomes](#)’, two of which state:

Assistance as of Right

- a. Province to develop and implement explicit policy and practice that all relevant policies under the *SAA* make explicit that accommodative assistance is provided 'as an entitlement' or 'as of right.'
- b. Such policies and practices will ensure that all persons in need with disabilities requiring supports and services are eligible for assistance.

²² Obligation #19, for example, speaks of the ‘eligibility of Shared Services participants’. See also “Outcomes” in [Appendix D](#), para. 1, which states: “Develop and implement an explicit policy and practice that all persons in need with disabilities residing in in LTC facilities or nursing homes are given the option of community-based supports and services under the *SAA*.”

	<ul style="list-style-type: none"> • The Province’s failure here is not having formally updated its DSP eligibility policies in compliance with the <i>SAA</i> and the Remedy to expressly state that <u>all</u> persons in need with disabilities—regardless of diagnosis—are to be eligible under the <i>Social Assistance Act/DSP</i>. This is not even substantial compliance. <p>2. DSP Policies fail to state that all eligible persons in need “shall” be assisted.</p> <ul style="list-style-type: none"> • The obligation here is for the DSP Policies to align with the statutory entitlement or right to assistance under section 9 of the <i>SAA</i> (the Province “<u>shall</u> furnish assistance to all persons in need”). • Several DSP program Policies currently in place, including the main ones, still explicitly state that even where persons with disabilities meet all eligibility conditions, they only “may” be provided with assistance—depending on “the availability of Departmental resources.”²³
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²³ DSP Policy nowhere explicitly states that eligibility for qualified applicants is i) as of right and ii) *is not* subject to the availability of Departmental resources. In fact, they still state the opposite:

“A person in need *may* be eligible for financial assistance from the Department of Opportunities and Social Development based on their assessed needs, their eligibility amount calculation, and the availability of Departmental resources.”

—[DSP Financial Eligibility Policies](#) (February 2025) section “Eligibility” [sections 4.1 & 4.3](#)

Indeed, the Province’s recent [Individualized Funding Policy](#) (January 2025) states that an applicant’s Support Plan will be reviewed with an LAC or IPSC “within the parameters of available DSP resources and DSP and IF policies.”

Similar wording which fails to make assistance available: i) as of right and ii) *not* contingent on the availability of sufficient Departmental resources can be found in other DSP Program Policies. Thus, DSP’s [Flex Policy](#) contains wording indicating that the provision of assistance is discretionary (“may” be eligible) and, in any event, is “subject to the availability of DSP financial resources” (sections 1.8 , 10.7, 15.1 & 15.7). See also the [Direct Family Support for Children Program Policy](#) at sections: 13.1.2 & 18.1.1.

	<ul style="list-style-type: none"> • The NS Court of Appeal based its findings of systemic discrimination, in part, on the fact that DSP assistance under the SAA was not being made available ‘as of right’ upon a finding of eligibility—despite the mandatory wording of the obligation in the SAA.²⁴ • The core principle is that entitlement to assistance under the SAA is not discretionary and is not conditional upon the ‘availability of resources’ and, therefore, anything that states otherwise cannot be in DSP Policies. • Even though the Province’s documents filed with the Monitor are replete with principled statements that, for example, the systemic discrimination included the: “Right to assistance when in need denied to eligible persons with disabilities”²⁵, the Province has failed to formally amend the wording of its core eligibility Policies to rectify this aspect of the human rights violation. • All DSP Policies must clearly state that upon a determination of eligibility, assistance “shall” be provided, as of right. <p style="text-align: center;">3. DSP Policies fail to state that all eligible persons in need are entitled to accommodative assistance</p> <ul style="list-style-type: none"> • In the Remedy Order, the Province agreed that persons found eligible would be entitled to “accommodative” assistance. That is, persons with disabilities are entitled to “supports and services, that meet the different needs of persons with disabilities”.²⁶ This is an ‘adequacy’ protection; a fundamental right that the supports provided will fully meet the person’s needs. • None of the DSP Policies expressly set out this important entitlement.
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²⁴ See *DRC v. Province of Nova Scotia* at paras. 170 and 220-222 and Interim Settlement Agreement, para. 3(b)

²⁵ This particular reference is found in Doc. #196, “Regional Closure Specialist Facility Closure Guidebook” at page 15. (emphasis in original)

²⁶ See: i) Remedy Interim Consent Order, Appendix A ([February-June 2023 period](#)), para. 15; ii) [Year 1](#), obligation#41; and iii) Interim Consent Order, [Appendix D](#), para. 3(a)

	<ul style="list-style-type: none"> • In particular, the Province’s recent 24-page ‘Funding Bands’ methodology, including ‘Funding Caps’—essentially setting the Individualized Funding dollar amounts of assistance for persons with disabilities—make no reference to the overarching legal requirement in the Remedy that assistance must be “accommodative”, i.e., that it will meet the support needs of persons with disabilities.²⁷ • Similarly, there is no reference anywhere in the Province’s recent <i>Individualized Funding Policy</i> (January 2025)²⁸ which makes funding levels subject to the overriding requirement that they must be adequate to meet the person’s needs.²⁹ • The inclusion of the accommodative/adequacy principle is not just a vitally important right & protection for persons with disabilities but also serves as a crucial directive and guardrail for those setting policy and funding levels. <p>4. DSP Policies fail to state that all eligible persons in need are entitled to assistance without delay</p> <ul style="list-style-type: none"> • Even though, the delayed provision of assistance was a finding of the Court of Appeal in its systemic discrimination ruling, the Province has failed to update its DSP Policies incorporating wording that DSP assistance will be provided without delay.³⁰ • An illustration of the failure to update the Policies with respect to delays in the provision of assistance can be found in DSP Policy 7.1.1 regarding ‘service request management’; it continues to provide frustrating direction to staff as well as anxious applicants or their families: “DSP cannot provide case specific timelines or position numbering for requested services.”
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²⁷ See: Doc #187 Funding Band Methodology (29 January 2025)

²⁸ [Individualized Funding Policy](#) (January 2025), [Appendix A](#)

²⁹ It is, however, noteworthy that in a briefing note ahead of a January 2024 Government Roundtable, it was acknowledged that: “As participants transition into community, access to accommodative assistance to meet their needs will be required.” Doc. #3: Remedy Roundtable Presentation (January 2024) at page 18

³⁰ See: the [SAA regulations](#), s. 2(1)(k); the *DRC* case at the Court of Appeal, [paras. 142,170, 220-222](#), and the [Interim Settlement Agreement Part A, para. 3\(d\)](#)

	<ul style="list-style-type: none"> • The DRC urges the Monitor to take notice of all these failures and to strongly recommend that the Province amend its DSP Policies to include these vitally important rights as set out in the <i>SAA</i> and as agreed to in the Remedy.
<p>46. New DSP program policies developed and implemented for planning and coordination functions, including specific principles and requirements regarding support in community of choice.</p>	<p>The Province claims Complete Compliance:</p> <ul style="list-style-type: none"> • However, the LAC and IPSC functions and, as importantly, the “principles and requirements regarding support in community of choice” are so important that the Remedy authors and, from there, the parties, called for these foundational statements to be entrenched in DSP program “policies”—not <i>ad hoc</i> occupational descriptions—in large part so that they can be widely known publicly and be used as accountability and transparency tools by members of the public. • The DRC urges the Monitor to recommend amendments to actual DSP Policy accordingly. • In addition, the DRC references and repeats the Comment immediately above (re Requirement #44) with respect to the Province’s failure to include a DSP Policy that explicitly sets out that all persons eligible for the DSP are entitled to assistance in their community of choice. • There is <i>not</i> compliance in the absence of these required DSP Policies.
<p>54. New mental Health proposals out for tender or funded through Mental Health and Addictions.</p>	<p>Province claims ‘Substantial Progress’, but:</p> <ul style="list-style-type: none"> • The DRC’s position on the Province’s implementation of this obligation are found in our main narrative submission.
<p>55. Tender awarded for new programs delivery commencing April 2024.</p>	<p>Province claims ‘Substantial Progress’, but:</p>

	<ul style="list-style-type: none"> • The DRC’s position on the Province’s implementation of this obligation are found in our main narrative submission.
<p>58. Policy engagement in current review of ACDMA Act Review.</p>	<p>The Province claims Complete Compliance: However,</p> <ul style="list-style-type: none"> • The Province cites four documents to show its compliance. The first (#204) indicates that in the final month of Year 2, a restrictive DoJ consultation process was held to review three review recommendations included in a 2022 Report concerning reform of the ACDMA. Because all of the recommendations predated the Remedy, unsurprisingly, none of them make any attempt to explicitly ‘link the DSP to the review’—let alone the Remedy to the review. • Last year’s Expert Monitor’s Report, section 5.5.4.2 (pp. 42-3) placed significant emphasis on SDM and asked the question, “What is the status of this recommendation [to formally adopt supported decision making in legislation], and how does it fit with the Province’s policy and legislative agenda for the Remedy?” • The DRC submits that the terms of reference of the DoJ review be ought to be amended to explicitly include the DSP—and the crucially important requirements of the Remedy—to its workplan.