

HUMAN RIGHTS REVIEW AND REMEDY FOR THE FINDINGS OF SYSTEMIC DISCRIMINATION AGAINST NOVA SCOTIANS WITH DISABILITIES: Technical Report of the Independent Experts to the Disability Rights Coalition and the Province of Nova Scotia

Submitted to: The Province of Nova Scotia and the Disability Rights Coalition.

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Executive Summary in Plain Language

Background

In 2014, three people with disabilities and the Disability Rights Coalition (DRC) sued the province of Nova Scotia over their right to live in the community. The legal case has taken a long time and will not be over until the problem is fixed.

In 2021, the Nova Scotia Court of Appeal said that people with disabilities were being treated unfairly by the Government of Nova Scotia – what we call in this report “the Province”. The Court said the Province was not supporting people to live in the community in a way that respects their human rights. This is called systemic discrimination. Systemic discrimination is when a wider group of people is treated unfairly not just one person. The Court told the Province it must change how it supports people with disabilities.

The Court found 4 main problems in how people with disabilities were being supported:

1. People with disabilities are living in institutions instead of their community.
2. People with disabilities who should be getting support are being told they can't have it.
3. People with disabilities don't get to choose where they live – they are often “placed” in a setting that might not be where they want to be or close to their family and friends.

4. People with disabilities who are able to get support are being told they have to wait (being put on a waitlist) for that support when the law says they should have access to support quickly.

To fix these problems, the Disability Rights Coalition (DRC) and the Province agreed to work together on a Human Rights Remedy. A Human Rights Remedy is a way to solve problems like the one we talked about above that is based on human rights.

As a first step in creating a Human Rights Remedy, the DRC and the Province hired two independent experts to look at the problems in Nova Scotia. The experts were Mr. Eddie Bartnik and Dr. Tim Stainton. They were asked to come up with suggestions on how to stop the discrimination and change how the Province supports people with disabilities so their human rights would be respected.

Review Process

To do this, Mr. Bartnik and Dr Stainton had to learn about what was working and what was not. They talked to people with disabilities and their families from across Nova Scotia.

They learned about all the programs, supports and services that are offered to people with disabilities in Nova Scotia.

They met on-line and in-person with over 150 people. They made sure to speak to leaders from groups like the African Nova Scotians, First Nations peoples, and francophone communities. They worked with people who work in government. They visited places where people live, and they met with service providers.

They made sure their ideas would line up with:

- The UN Convention on the Rights of Persons with Disabilities
- Best examples from around the world
- Suggestions from two big reports that the Government of NS already has. These are The Kendrick Report (2001) and the Roadmap (2013).

They point out that any changes must be led by the voice of people with disabilities and their families. And that changes must address racism and prejudice.

Key Directions

Through the review process, the experts came up with Six Key Directions. Each Key Direction contains main ideas. These main ideas are called recommendations (see full Report or Summary of recommendations).

Key Direction 1: Individual Planning and Support Coordination

The Report proposes a new way called Local Area Coordination and Intensive Planning and Supports Coordination. These mean that:

- Getting to know you and your community (your local area) is the starting point for supporting people to plan where and how they want to live.
- A team that helps close institutions is in place.
- Divides the people who decide if someone can access support from the people who put their effort into getting people the support they need.

Key Direction 2: Closing Institutions

The Report is clear that institutions must close. This means:

- Having a team that puts their efforts into closing institutions across Nova Scotia. The teams will be in the regions of Nova Scotia and connected to communities.
- Creating a special Emergency Response Team to make sure people don't get sent back to an institution.
- Creating a "No New Admissions" policy. This is a policy that no one can be put in an institution.

Key Direction 3: Community-based supports and services

This Key Direction is about what is needed to build local community-based supports and services. This means:

- Making it easier for people with disabilities to live with individuals or families. This is called Homeshare.
- Improving the amount of money available to a person and being flexible in how to help a person build a life in community.

- A system that is based on the person and helping the person live the way they want – not a system that gives people only a few things to choose from.
- Create new local pathways for people leaving school.

Key Direction 4: A program that works in all regions of Nova Scotia and where many professionals work together to support local choices.

Professional supports – like a psychiatrist, behavioral therapist or occupational therapist – are often attached to institutional settings, rather than in home communities.

All parts of the Province that provide care to people must work together to make sure people can get the help they need in their local community.

Key Direction 5: Individualized Funding

Individualized Funding (IF) is when money for supports and services are tied directly to a person. IF will give people more choice and control in their lives. For IF to work well:

- There should only be one IF program, rather than lots of smaller programs. The Province should join the small programs together.
- Individuals need to have help with managing their money.
- Individuals need the right and support to make their own decisions.

Key Direction 6: Disability System capacity

To make all the changes happen, the way that the Province works needs to change. The whole system must be made better and stronger. Using a human rights approach is not simply a project or a program. It is a new way of thinking and working. This means having:

- Strong ways of working together to put these new ideas into action.
- Checking and testing the plans to make sure the Province is doing what it has promised to do.
- Leadership and capacity.
- All government departments working together.
- Stronger laws and policy.
- Staff that know and understand human rights.
- Housing choices so people can choose where they live.

- Ways for groups to work together and come up with new ideas.
- Money from the government to make it happen.

How to do this?

The Key Directions cannot make all the change on their own. Many things need to happen together. Things like:

- A promise to involve first voice leadership,
- Strong ways of working together with service providers
- A Government Disability Roundtable. This is a group where many Government Departments will work together on making these changes happen.
- Supports for Service Providers to make sure that new programs that are being planned are in line with the Report.

The biggest change is in how supports are delivered. The system must work together.

The Report advises the best way to do this is to work in each region of Nova Scotia.

- The Report advises that the Province should create a network of four Regional Hubs. The Regional Hubs will help build services and support at a local community level.

The Regional Hubs will work closely with Local Area Coordinators based in more local community settings.

Impact

The Report has key steps, timelines, goals, signs of success and results.

The plans in the Report will happen over a 5-year period.

Next Steps

The Province and the DRC must agree to what parts of the Report they will use in the Remedy. This will take time.

While that is happening, the Report has some steps they can take right now.

When the Province and the DRC have agreed, the Remedy will be made public.