

April 17th 2025

To:

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Ministry of Children, Community and Social Services
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By Email: julie.shouldice@ontario.ca

Re: Submissions regarding the challenges of 16 and 17 year olds receiving Ontario Works and Emergency Assistance

Please accept the following submissions by Justice for Children and Youth with assistance from the Income Security Advocacy Centre regarding the challenges 16 and 17 year olds face when applying for Ontario Works and Emergency Assistance. It was a pleasure to present these issues to the Ministry at the Legal Steering Committee meeting on January 24, 2025. We thank the Ministry of Children, Community and Social Services (MCSS) for the opportunity to provide further information on these issues in writing.

We would welcome the opportunity to meet with you about the below concerns in a focussed meeting at your earliest convenience.

1) Overview

Ontario Works (OW) and Emergency Assistance (EA) are intended to help vulnerable individuals at their most challenging moments. However, 16 to 17 years olds experience unnecessary barriers when applying for these benefits.

Justice for Children and Youth solely provides legal assistance to children and youth below 18 and those with precarious immigration status or housing up until the age of 25. By nature of our mandate, we know and understand the unique vulnerabilities children face in advocating for services to which they are lawfully entitled. JFCY has extensive experience providing legal advice to young people leaving their homes including about their rights to access OW and EA.

Both the Income Security Advocacy Center and Justice for Children and Youth are concerned about the OW policies affecting 16 and 17 year olds and believe that now is a critical time for policy amendments and law reform that will best protect their income security. While MCCSS is finalizing the new model for service delivery through the Centralized Intake process, the rights and interests of this population must be properly considered to ensure they do not face new hurdles for access and systems navigation. **Young people are exceptionally vulnerable and need expedited, streamlined access to social assistance.**

Because of the present directives related to OW and EA, young people already frequently require our expert legal services to access OW and EA. It should not be necessary for vulnerable youth to have a lawyer in order to access these last-resort benefits. The Centralized Intake model can address these challenges and improve the service experience of 16 and 17 year olds. Ontario and Municipal employees tasked with speaking to young people must have child-friendly language and scripts to meaningfully safeguard the rights of young people requesting OW.

Our submissions focus on two issues that 16 and 17 year olds (young people) face:

- i. **Trustee Requirement:** Young people encounter issues receiving OW because they cannot find a trustee. Frequently, local offices do not have a suitable agency to act in this capacity, which causes confusion and delay that disadvantages this highly vulnerable population. Additionally, young people are ineligible to have a MyBenefit account due to the trustee requirement.
- ii. **Emergency Assistance:** Young people cannot apply for EA. This is problematic because this population is seeing a longer processing time for their OW applications. Young people must apply to the centralized intake but encounter delay because their application must be processed by the local office.

There are added legal issues that exist for this population we would be happy to discuss but will focus on these two primary issues for these submissions.

2) Who We Are: Justice for Children and Youth (JFCY) and the Income Security Advocacy Centre (ISAC)

JFCY is a specialty legal clinic funded by Legal Aid Ontario. We are a child rights organization. For over 40 years, our practice has focused exclusively on the legal issues facing children and youth. We are the only such organization in Canada. JFCY is regularly consults with governments, youth-serving agencies, lawyers and other professionals, and academics from across the country with respect to child and youth rights issues, including their human and equity rights.

One of the core populations we provide legal advice and representation to are young people leaving their homes and withdrawing from parental control. We have assisted 84 young people in 2024, 106 young people in 2023, and 119 young people in 2022 with issues related to OW eligibility and disbursement for 16 and 17 year olds. We are experts in the significant barriers 16 and 17 year olds face when applying for OW and EA. We have successfully appealed the denial of a young person's application for OW, partly due to a lack of a trustee, to the Social Benefits

Tribunal.¹ We have also attended the Social Benefits Tribunal related to the special circumstances threshold for 16 and 17 year olds.²

The Income Security Advocacy Centre (ISAC) is a specialty legal clinic funded by Legal Aid Ontario. ISAC's mandate is to advance the rights and interests of low-income Ontarians with respect to income security and employment. We carry out our mandate through test case litigation, policy advocacy, community development and public education. We have extensive experience in social assistance policy and meet regularly with the Ministry as part of the Legal Steering Committee on Social Assistance.

Our joint submissions and recommendations in this letter are based on our unique perspective and extensive experience in social assistance law and policy and in providing services, education, and advocacy for children and youth, particularly those experiencing poverty or homelessness.

3) A 2024 JFCY Client Example

The following example illustrates the two issues we highlighted above.

Kelly is 16 and has made the difficult decision to leave home. Her dad is an alcoholic. His mood is unpredictable based on how many drinks he's had and he seems to prefer buying alcohol over meeting her basic needs. Her friend Brandon's mom has told her that she can come stay while she gets on her feet. She expects Kelly to pay rent and buy her own groceries. Kelly does not have a job and wants to focus on school.

She calls the Central Intake Office to apply for OW and the intake worker is not confident about whether she is eligible to apply for OW. The intake worker eventually completes the application and Kelly is told the wait time for processing her application may be up to 6 weeks.

Kelly is directed to apply for EA if that wait time is an issue. However, when Kelly attempts to apply for EA online, she is denied because she is under 18. She calls Central Intake again and is told that they cannot process an application for EA for someone under 18.

Kelly finally receives a call from her local OW office and is told to bring a trustee with her for their intake meeting. Kelly does not have an adult who could act as a trustee. She is unsure whether there is any point to attending her intake appointment.

4) OW for 16 and 17 year olds

A. The trustee requirement for 16 & 17 year old OW applicants is not child rights respecting and leads to delays, confusion, vulnerabilities, and denial of benefits.

¹ 1502-01050 (Re), [2015 ONSBT 4164](#) (CanLII). This is the only legal decision on this topic.

² 1701-00507 (Re), [2017 ONSBT 5754](#) (CanLII)

i. Present legal and policy framework:

The *Ontario Works Act* makes appointment of a trustee mandatory for a 16 or 17 year old recipient.³ However, the legislation is permissive about whether assistance needs to be paid to the trustee instead of the young person.⁴ The General Regulation 134/98 under the *Ontario Works Act* requires that assistance be paid to a young person's trustee or a person appointed by OW.⁵ The OWA and Regulations are silent on what to do when there is delay in payment of income assistance when a trustee cannot be located.

Policy Directive 3.6, Trusteeship states:

Financial assistance cannot be paid directly to a participant under the age of 18 who qualifies for assistance in his/her own right or who qualifies for assistance on behalf of his/her own dependent child. **The Administrator must appoint a trustee to act for him/her. Assistance is paid to the trustee on behalf of the participant.**⁶ [emphasis added]

Under the Trustee Appointment Criteria, the Policy goes on to state:

In selecting a trustee, the Administrator should seek a person/organization who:

- is willing to assume the responsibility
- will not have a conflict of interest (e.g., a landlord)
- has the best interests of the participant in mind
- has a good relationship with the participant

The policy directive provides that the provincial Office of the Public Guardian and Trustee (OPGT) may be used as a last resort.

The OPGT cannot be appointed as a trustee for a 16 or 17 year old because it only has jurisdiction over adults 18 years and over, under s. 5 of the *Substitute Decisions Act*.⁷ JFCY has confirmed with the OPGT that there are no other policies granting them jurisdiction over property management of young people.

ii. The Struggle to Locate a Trustee

Justice for Children and Youth is very concerned that the policy requiring young people to have a trustee leaves them more vulnerable. The policy directive must be amended to state that:

- young people must not encounter any delay in their eligibility or receipt of their benefits due to the trustee requirement;*
- the OW office bears the responsibility to locate a trustee; and*

³ *Ontario Works Act*, 1997, S.O. 1997, c. 25, Sched. A at s. 17 (2).

⁴ *Ontario Works Act*, 1997, S.O. 1997, c. 25, Sched. A at s. 17 (3).

⁵ *General*, O Reg 134/98, s. 10(8).

⁶ *Ontario Works Policy Directive 3.6*, online: <www.ontario.ca/document/ontario-works-policy-directives/36-trusteeship>

⁷ *Substitute Decisions Act*, 1992, S.O. 1992, c. 30 at s. 5

iii. *the trustee requirement must be waived until the administrator locates a trustee.*

Young people who are forced to leave home often do not have any trusted adults in their lives who are suitable to act as trustees, and when they do, they are usually excluded due to a potential conflict of interest. For example, informal landlords or service providers are unable to act in the capacity of trustee due to the constraints of their role.

OW offices across the province do not take a uniform approach when assisting young people trying to access benefits when they do not have a trustee. JFCY sees two common problems arise. First, even though the OW Administrator bears the burden of locating a suitable trustee,⁸ some OW offices struggle to find community agencies who will accept this role. Given these struggles, we have seen numerous social assistance offices that have waived the trustee requirement entirely if they cannot find an appropriate community agency.

Second, some OW offices mistake the trustee requirement for an eligibility requirement rather than a disbursement issue. Put another way, young people without a trustee **are** eligible to receive income assistance under the *Ontario Works Act*. The issue is to whom OW should direct payment of that assistance.

When and if a trustee is appointed for young people, young people experience added hardship accessing their case worker because they do not have access to MyBenefits. As such, young people must mail documents to their case worker or provide them in person and attempt to reach their worker by phone instead of using the message system in MyBenefits.

iii. The OW Trustee Requirement Fails to Recognize the Decision Making Capacities and Independence of 16 and 17 year olds

JFCY's position is that young people should not require a trustee to receive OW. It is trite law in Ontario that young people can withdraw from parental control at the age of 16 and become their own legal guardian.⁹ As such, the trustee requirement places an undue burden and oversight on a population that is accepted as being independent and in charge of all their decisions.

From the age of 16, young people in Ontario can open bank accounts, work part-time,¹⁰ appoint a power of attorney for personal care,¹¹ control the privacy of their personal information,¹² and apply for a passport if they are a Canadian citizen,¹³ can no longer be apprehended by a child protection agency,¹⁴ and can engage in a consensual sexual relationship with someone any number of years older than them.¹⁵ At the age of 16, young people who have withdrawn from

⁸ [Ontario Works Act](#), 1997, S.O. 1997, c. 25, Sched. A at [s. 17 \(2\)](#).

⁹ [Children's Law Reform Act](#), R.S.O. 1990, c. C.12, c. 14, Sched. 1 at [s. 65](#).

¹⁰ [R.R.O. 1990, Reg. 851: INDUSTRIAL ESTABLISHMENTS](#) at [s. 4 \(1\)](#).

¹¹ [Health Care Consent Act](#), 1996, S.O. 1996, c. 2, Sched. A at [s. 21](#)

¹² [Municipal Freedom of Information and Protection of Privacy Act](#), R.S.O. 1990, c. M.56 at [s. 54\(c\)](#).

¹³ [Canadian Passport Order](#) (SI/81-86) at [s. 2](#).

¹⁴ [Child, Youth and Family Services Act](#), 2017, S.O. 2017, c. 14, Sched. 1 at [s. 74](#).

¹⁵ [Criminal Code](#) (R.S.C., 1985, c. C-46) at [s. 150.1](#)

parental control can manage all their education decisions¹⁶ and can change their name without parental consent.¹⁷

Additionally, since 2017, child protection agencies have entered into contracts for service directly with 16 and 17 year olds.¹⁸ This program is called a Voluntary Youth Services Agreement (VYSA) and makes monthly payments to a young person to help them support themselves independently.¹⁹ Child protection agencies recognize that young people have autonomy over their lives, including their spending, and do not require a trustee for the disbursement of funds. They provide funds that are greater than income assistance under OW.

B. The Appropriate Solution: Allow 16 and 17 year olds to receive OW income assistance without a trustee

Young people should be treated as adults for the purposes of the disbursement of their OW funds. The assessment of the need for a trustee ought to be uniform beginning at the age of 16 when a child has withdrawn from parental control because this population is treated like adults and are in charge of all of their major decisions as stipulated above.

The trustee requirement adds to the already significant delays in approval for young peoples' OW applications. Our experience, is that it takes significantly longer for 16 and 17 year olds to receive OW than adults because they have to satisfy the special circumstances threshold and then to receive a trustee.

Young people applying for OW are vulnerable and need income assistance as soon as possible to meet their critical needs, including food and shelter. Waiving the trustee requirement would enable young people to meet those needs more quickly and streamline the disbursement process.

Being 16 or 17 is not a *disability* that renders young people incapable of managing aspects or all of their financial affairs nor is it an indication that they will misuse their assistance. These are the factors stipulated in Policy Directive 3.6 for why the appointment of a trustee is necessary for a recipient above the age of 18.

When looking at the rights of young people in Ontario, there is a strong presumption of capacity for making important decisions and specifically financial decisions. Young people are able to work part time and receive those earnings directly.²⁰ The VYSA program disburses funds directly to highly vulnerable independent young people and does not contemplate the need for a

¹⁶ [Education Act](#), RSO 1990, c E.2, see for example: s. [21\(5\)](#), [21\(7\)](#), [36\(1.a\)](#), [300.3\(2\)](#), [308](#) and [O. Reg. 181/98: IDENTIFICATION AND PLACEMENT OF EXCEPTIONAL PUPILS](#) at [s.5\(1\)-5\(5\)](#) and [s.6\(2\)](#)

¹⁷ [Change of Name Act](#), R.S.O. 1990, c. C.7 at [s. 4](#). See also [K.A.B. v. Ontario Registrar General](#), 2013 ONCJ 684.

¹⁸ [Child, Youth and Family Services Act](#), 2017, S.O. 2017, c. 14, Sched. 1 at [s. 77](#).

¹⁹ Policy directive: CW 004-21 – Protection services for 16-17 year olds, online: <www.ontario.ca/document/child-protection-service-directives-forms-and-guidelines/policy-directive-cw-004-21-protection-services-16-17-year-olds>

²⁰ [R.R.O. 1990, Reg. 851: INDUSTRIAL ESTABLISHMENTS](#) at [s. 4 \(1\)](#).

trustee.²¹ Additionally, young people are *presumed* capable of making their medical decisions²² and instructing legal counsel.²³

It is discriminatory to say that by nature of their age, for the sole purposes of OW they are presumed incapable of managing their funds. There should not be an age based distinction.

To resolve this issue, amend the OWA and O Reg 134/98:

Amendments Required: OW should no longer require trustees for 16 and 17 year olds. This requirement is unjustified and runs contrary to countless areas of law outlined in the previous section. This would require an amendment to s 17(1) and the removal of 17(2), and 17(3) of the OWA and s. 10(8) of O Reg 134/98.

Present Version of 17(1)

17 (1) An administrator may appoint a person to act for a recipient 18 years of age or older if there is no guardian of property or trustee for the recipient and the administrator is satisfied that the recipient is using or is likely to use his or her assistance in a way that is not for the benefit of a member of the benefit unit.

Suggested Amendment (see bold and underlined edit):

*17 (1) An administrator may appoint a person to act for a recipient **16 years** of age or older if there is no guardian of property or trustee for the recipient and the administrator is satisfied that the recipient is using or is likely to use his or her assistance in a way that is not for the benefit of a member of the benefit unit.*

Note: this amendment would need to be reflected in Policy Directive 3.5 and 3.6

The removal of 17(2), and 17(3) of the OWA and s. 10(8) of O Reg 134/98 would eliminate all references to a mandatory requirement for a trustee for 16 and 17 year olds.

C. The Interim Solution: Allow 16 and 17 year olds to receive OW income assistance directly until a trustee is located and ensure their proper access to MyBenefits

As a short-term and immediate solution: OW Policy Directives 3.5 and 3.6 should amended to include the following statements:

- i. young people must not encounter any delay in their eligibility or receipt of their benefits due to the trustee requirement;*

²¹ Policy directive: CW 004-21 – Protection services for 16-17 year olds, online: <www.ontario.ca/document/child-protection-service-directives-forms-and-guidelines/policy-directive-cw-004-21-protection-services-16-17-year-olds>

²² [Health Care Consent Act, 1996, SO 1996, c 2, Sch A, s 10](#)

²³ [Law Society of Ontario, Rules of Professional Conduct, s. 3.2-9](#)

- ii. the OW office bears the responsibility to locate a trustee; and
- iii. the trustee requirement must be waived until the administrator locates a trustee.

This approach aligns with s. 17 of the OWA, which is permissive about assistance being paid directly to a young person as discussed above.²⁴ This also addresses the significant concern about delays that this highly vulnerable population encounters in accessing OW.

Ensure access to MyBenefits:

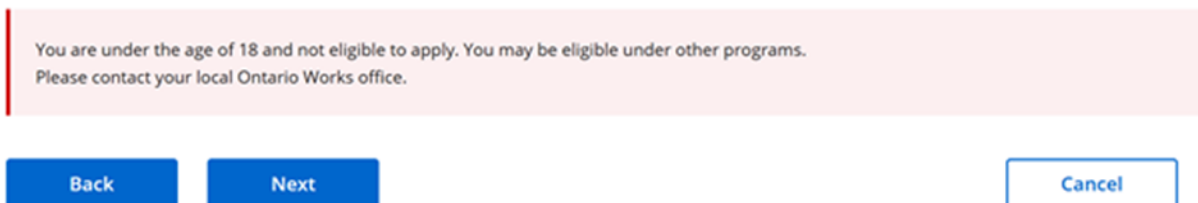
Currently, 16 and 17 year olds are unable to access MyBenefits, although their trustee can do so, if they have one. If OW is going to continue to mandate a trustee, young people should not be denied a MyBenefits Account. The trustee requirement is presently “age based” and not due to disability or potential or actual mismanagement of funds. As such, there is no reasonable basis to deny young people access to the MyBenefits Portal. This account is essential for young people who are required to attend school full time to be eligible for OW. Their school attendance during business hours makes calling their case worker and/or dropping off documents nearly impossible without interrupting their school day. Young people should not be burdened with an added complication of mailing documents. MyBenefits was created to streamline communication and make transfer of documents more organized and efficient. This is equally important for vulnerable sixteen and seventeen year olds who have withdrawn from parental control.

NOTE: We would also welcome the opportunity to review the script Centralized Intake uses when providing services to 16 and 17 year old applicants to ensure that it is youth centered and rights respecting.

5. Emergency Assistance for 16 and 17 year olds

A. Young people are not able to apply for Emergency Assistance at all

When 16 and 17 year olds apply for OW by phone and explain that they need income urgently, they are sometimes told to apply for EA. When a 16 or 17 year old applies for EA online, they receive this error message:



²⁴ [Ontario Works Act](#), 1997, SO 1997, c 25, Sch A, s 17.

JFCY received the same message when young people attempt to apply by phone through the centralized intake line. Local OW offices have also informed JFCY that they cannot accept EA applications from young people.

No law, policy, or regulation prohibits 16 and 17 year olds from applying for and receiving EA,²⁵ making the current practical bar on a young person's application unlawful.

It is common for OW applicants to apply for EA while waiting for a decision on their OW application or while determining whether they would require assistance for longer than 48 days. However, this is not an option for young people.

Young people face the same emergencies as adults and are just as deserving if not more of EA than adults. Young people must continue to attend high school and they were often previously exclusively dependent on their parents and will not have any temporary funds to draw on while in a transition phase. Without this, young people may lose their access to a phone, their access to food and their ability to find safe and stable housing in the face of massive shelter shortages for young people. Any delay or denial in receiving EA often worsens a young person's situation.

Additionally, given the fact that young people can now consider applying for a VYSA from a child protection agency which would offer goal oriented support and financial support greater than OW, this is a specific circumstance where it would be beneficial for a young people to have the option of receiving EA while waiting for a determination of their eligibility for a VYSA. **This category of young people may only need assistance for less than 48 days until their VYSA is finalized and as such, may not need to apply for or receive OW.**

However, it remains important that it is fully within the discretion of the 16 or 17 year old to determine whether they want to consider applying for a VYSA. Many young people have historical traumatic relationships and experiences with a child protection agency and may not want a VYSA. Any amendments should not put pressure on young people to apply for a VYSA.

Presently, JFCY advises every young person who wants a VYSA to also apply for OW given that the standard for eligibility for a VYSA is harder to satisfy than the eligibility requirements for OW. Additionally, the timeline for determining eligibility for a VYSA is uncertain - there is no guarantee for how quickly their eligibility will be determined. While EA will not always resolve a determination of whether OW or a VYSA will be the primary source of financial support for a young person, access to EA can help a young person have the necessary financial security to assess this issue and make an informed decision.

B. The solution: Allow 16 and 17 year olds to apply for Emergency Assistance

It is unfair to prohibit 16 and 17 year olds from applying for EA without a legal justification. Permitting their EA applications will help young people with emergencies that are often similar to or worse than the emergencies that adults face.

²⁵ [O. Reg. 134/98: GENERAL at s. 56 \(2\), Policy Directive 2.3](#), Emergency assistance.

We recommend amending the eligibility criteria for EA in Policy Directive 2.3 to include “the applicant is 16 years of age or older” to expressly permit the EA application of a 16 or 17 year old. Further, SADA and SAMS must also be amended to ensure there are no barriers to young people’s eligibility for EA.

6. Conclusion

Young people encounter the same challenges in life as adults but experience greater hardship accessing OW and EA. OW and EA's administration and policies need to ensure that 16 and 17 year old applicants' rights and interests are safeguarded without ambiguity.

As short-term and immediate solutions, JFCY and ISAC recommend changes to the policy directives for OW and EA, the script that Centralized Intake uses, and the ability to access MyBenefits. As a permanent solution, we recommend that the trustee requirement for 16 and 17 year olds be removed as a mandatory requirement.

We welcome the opportunity to discuss these issues with you in a meeting at your earliest convenience.

Thank you for your consideration.



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