

# Manitoba Ombudsman

750 – 500 Portage Avenue  
Winnipeg, Manitoba R3C 3X1  
Telephone: (204) 982-9130  
Toll Free in Manitoba:  
1-800-665-0531  
Fax: (204) 942-7803  
500 av. Portage, Pièce 750  
Winnipeg (MB) R3C 3X1  
Téléphone : (204) 982-9130  
Sans frais au Manitoba :  
1 800 665-0531  
Télécopieur : (204) 942-7803

January 4, 2012

The Honourable Ken Champagne  
Chief Judge  
Provincial Court of Manitoba  
5<sup>th</sup> Floor - 408 York Avenue  
Winnipeg, MB R3C 0P9

Dear Chief Judge Champagne:

## **INQUEST INTO THE DEATH OF KEYANNA MARIE SNOWDON OUR FILES: 2006-0433 AND 2011-0095**

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I am writing to advise of the results of the inquiries made by my office concerning the inquest report recommendations dated July 27, 2006, issued by the Honourable Judge Heather Pullan into the death of Keyanna Marie Snowdon.

On May 12, 2004, Keyanna Marie Snowdon drowned in the hot tub in her foster home in the City of Winnipeg in the Province of Manitoba. A medico-legal autopsy confirmed that Keyanna had drowned. The medical examiner ruled the death an accident.

The Chief Medical Examiner called for an inquest on November 23, 2004 pursuant to Section 19(1) and 19(2) of *The Fatality Inquiries Act*. The inquest report was released on August 1, 2006.

As you are aware, it is the practice of my office to follow up on inquest recommendations when they relate to a provincial department, agency or municipality. In this case, Judge Pullan made twelve recommendations directed at the Department of Family Services and Consumer Affairs (FSCA) and the Department of Labour and Immigration. The following are the recommendations and the responses received:

### **RECOMMENDATION ONE**

THAT foster care social workers receive training concerning water safety in general, and the specific dangers presented by bodies of water in the home specifically.

## **RECOMMENDATION TWO**

THAT all social workers in the area of child protection and children in care receive water safety training.

## **RECOMMENDATION THREE**

THAT all foster parents receive mandatory training in connection with water safety.

## **RESPONSE FROM FSCA**

*In summary, the Child Protection Branch (Branch) and Authorities undertook a complete response to this recommendation, arranging for the preparation and mass distribution of information on water safety and available training, with agencies required to provide this information directly to all foster parents at that time. The Child and Family Services Standing Committee prepared a water safety package which, was subsequently approved by all four Authorities for distribution to all foster parents and alternate caregivers.*

*In July 2007, the First Nations of Northern Manitoba Child and Family Services Authority distributed 2,500 copies of the educational materials package to their agencies for their foster parents and alternate caregivers. The First Nations of Southern Manitoba Child and Family Services Authority also distributed 2,500 copies of an educational package, while the General Child and Family Services Authority distributed 1,400 copies, and the Metis Child and Family Services Authority distributed 500 copies of an educational package. Resources on water safety and healthy living were distributed to agencies, foster parents, residential child care facilities and communities. All foster parents at that time received this mandatory information. Thus, the Department believes that our response has met the intent of the "mandatory training" Judge Pullan recommended.*

*In July 2008, Water Safety Training was offered by the Joint Training Unit and each Authority has been given a package of materials to be provided to caregivers on a regular and ongoing basis. Each package includes: information from Safe Kids Canada, description of Safe Kids Week, the Lifesaving Society pamphlets "Within Arm's Reach" and Beach Safety information, Swim to Survive Program information, personal flotation device loaner programs and sizing information.*

*The Branch and Authorities did not cease their efforts to improve water safety for children even after implementing Judge Pullan's recommendation. As you know, child welfare in our province requires a considerable level of collaboration and consensus. New initiatives, such as training for foster parents, require the collaboration and consensus of the four Authorities and the Branch.*

*Although the Department considered this recommendation to be complete, further improvements were planned and developed beyond our 2009 response, due to the recognition of the seriousness of the issue of drowning and the recognition of a need for continued attention. Drowning is the second leading cause of unintentional injury death for Canadian children and youth 0-19 years of age. In Manitoba, unintentional drowning and submersion is the leading cause of death for children 1 to 4 years of age and the second leading cause of death for individuals 5 to 34 years of age.*

*In his letter of June 12, 2009, Deputy Minister Billinkoff also described the related revisions to the Provincial Standards Manual which began in 2008. The Agency Standard Section 1.5.4 was revised to include pool and hot tub security as part of ensuring the safety of children under Foster Child Health and Safety in Section 35 of the Foster Homes Licensing Regulation. As the Standards provide core information for the mandatory orientation and training provided by the Authorities to all foster parents, this information is required to be presented to all foster parents as part of the mandatory training provided related to licensing of foster homes by agencies.*

*In addition, the Foster Parent Curriculum Design sub-committee of Child and Family Services Standing Committee continues the development of a foundational competency-based training package for foster parents. This sub-committee has discussed that water safety be included as part of Level 1 of this training and has proposed making this recommendation to Standing Committee. More recently, the Joint Training Team (JTT) developed a water safety curriculum in partnership with the Lifesaving Society of Canada. This training was piloted on July 27, 2011 and received positive feedback. The JTT is recommending that this curriculum be the standardized training on water safety for foster parents.*

*As an additional note, the Foster Family Manual, which was published by Manitoba Family Services and Housing in 2002, is available on-line through the Manitoba Foster Family Network website (<http://www.mffn.ca>). This resource covers a wide range of information of relevance to foster care providers. Section 20 of this manual covers Child Safety, including information on preventing drowning and how to access more information on water safety. The Alternate Care Network has plans to revise this resource and is currently looking into a variety of formats to effectively present the material.*

#### **RECOMMENDATION FOUR**

THAT annual foster home reviews be conducted on time.

#### **RESPONSE FROM FSCA**

*In a progress letter provided to your office on January 25, 2007, the Child Protection Branch advised that child and family services agencies had engaged in*

*the process of ensuring that all licenses for current foster homes were up to date. Through this process, agencies were also reminded of the provincial standard outlining the expectation that foster home licenses be reviewed on an annual basis. Additionally, in August 2008 the Child Protection Branch sent out a letter to the four Authorities requesting that each Authority ensure all foster care and place of safety requirements are complete and up to date.*

#### **RECOMMENDATION FIVE**

That foster homes be subject to unscheduled inspections as a regular rather than extraordinary occurrence.

#### **RECOMMENDATION SIX**

That foster care social workers' work hours be subject to sufficient flexibility to accommodate after hours unplanned inspections and accommodate foster parents' work hours.

#### **RESPONSE FROM FSCA**

*These recommendations continue to be accommodated under the current practices of child and family services agencies as there are no restrictions preventing unscheduled inspections of foster homes or flexible work hours of social workers to provide services outside of regular business hours.*

#### **RECOMMENDATION SEVEN**

That all foster parents in the home should be present for annual inspections, and sign the foster home report.

#### **RESPONSE FROM FSCA**

*It is preferable that all foster parents in the home be present for annual inspections, this can be further accommodated by the worker's ability to have flexible work hours to attend foster homes outside of regular business hours to complete annual inspections. Although the standards do not indicate that foster parents are required to sign the annual license renewal, Section 1.5.2 of the Child and Family Services Provincial Standards Manual does indicate that: When an agency renews a license pursuant to Section 13 of the Foster Homes Licensing Regulation, the agency ensures that the foster home receives the license renewal and places a copy of the renewal on the agency foster home file.*

#### **RECOMMENDATION EIGHT**

That the foster home review check sheet includes the section relating to "safety/health factors", the existence of a hot tub and confirmation that safety of the environment has been checked.

## **RESPONSE FROM FSCA**

*Revisions to the Provincial Standards Manual began in 2008. The Agency Standard Section 1.5.4 was revised to include pool and hot tub security as part of ensuring the safety of children under Foster Child Health and Safety in Section 35 of the Foster Homes Licensing Regulation. As the Standards provide core information for the mandatory orientation and training provided by the Authorities to all foster parents, this information is required to be presented to all foster parents as part of the mandatory training provided related to licensing of foster homes by agencies.*

*Further improvements related to these provincial Standards include the publication of the revised Children's Foster Home Requirements Checklist, which was published on Child and Family Services Applications (CFSA) on June 10, 2011. Upon opening CFSA, a bulletin appeared to alert staff to the location of this revised form (see attached bulletin from June 13, 2011). This revised form includes items on hot tubs and safety and swimming pools and safety (items # 28 and # 29, Children's Foster Home Requirements Checklist, attached). As this checklist is a prescribed form (per Standard 1.5.2 Licensing Forms and Guidelines), completion is mandatory whenever a child is placed and upon the renewal of foster home licensing. This provides regular opportunities for child and family services workers to address water safety with foster parents.*

## **RECOMMENDATION NINE**

That the Child and Family Services Program Standards manual, in its discussion of the physical structure of the home, include the existence of a hot tub. The importance of the hot tub environment being in a locked room and inaccessible to children without adult supervision should be highlighted. The standards should also include that the hot tub environment is devoid of apparent hazards.

## **RECOMMENDATION TEN**

That every hot tub in a foster home be secured by a locking hard cover when the hot tub is not in use and that the hard cover be removed from the hot tub for use and replaced only by an adult.

## **RESPONSE FROM FSCA**

*A standards development team was put into place in February 2008 to recommend revisions to standards related to the Provincial Standards Manual. Thirty foundation standards have been developed and comprehensively reviewed by agencies and the Authorities. Section 1.5.4 of the Child and Family Services Provincial Standards Manual was one of the standards developed and reviewed by this team. This particular standard was approved in July 2008 and states that licensing agencies have a primary responsibility to ensure compliance with section 34 to 36 of the Foster Homes Licensing Regulation pertaining to health*

*and safety practices, firearms and hunting devices. Section 35 in the standards states that all reasonable steps must be taken to ensure the safety of children including the following:*

- *Hot tubs have a locked hard cover. Children using a hot tub must be appropriately supervised at all times based on their age and level of maturity.*
- *Children in the home are not exposed to second hand smoke. Children under 16 years of age are not allowed to smoke.*
- *Swimming pools are locked. Once in the pool, children must be supervised at all times.*

*Furthermore, Section 1.5.4 of the Child and Family Services Provincial Standards Manual indicates that the child's health and safety is to be reviewed not only at the point of the child's placement but also during contacts as required under Standard 3 in Section 1.1.4, Service Provision. This section indicates that when a child is in the care of an agency the case manager must have face-to-face contact, at least once a month, with the child in the child's place of residence.*

*Authorities have received hard copies (in English) of the newly developed standards and were to distribute the copies to their respective agencies. All standards were translated into French in December 2008 and the online prototype developed in January 2009. The Joint Training Unit subsequently developed a new standards training package for Authorities on October 15, 2008, and the Authorities commenced training the new standards in November 2008.*

#### **RECOMMENDATION ELEVEN**

That the Province enact regulations with respect to safety standards for residential hot tubs, addressing issues of installation, maintenance and user safety.

#### **RECOMMENDATION TWELVE**

That a consultative committee comprised of interested community partners be struck to assist the Province in the design and implementation of the recommended regulatory scheme.

#### **RESPONSE FROM LABOUR AND IMMIGRATION**

*We are pleased to inform Judge Pullan that the Province of Manitoba has been consulting and collaborating with community partners in the design and implementation of regulatory changes since 1975. The Manitoba Building Standards Board (the Board) provides advice to the Minister of Labour and Immigration on matters pertaining to building construction codes or building construction standards, including the Manitoba Building, Plumbing and Fire*

*Codes. The Board is comprised of 14 members, appointed by the Lieutenant Governor of Manitoba, representing key stakeholder groups concerned with building construction, building standards and fire safety in buildings. Currently, members of the Board represent:*

- *The Association of Manitoba Municipalities*
- *The Association of Professional Engineers & Geoscientists of the Province of Manitoba*
- *The Insurance Industry*
- *The Manitoba Association of Architects*
- *The Manitoba Association of Fire Chiefs*
- *The Manitoba Building Officials Association*
- *The Energy Efficiency and Green Building Community*
- *The Manitoba Federation of Labour*
- *The Manitoba Home Builders' Association*
- *The Manitoba League of Persons with Disabilities*
- *The New Home Warranty Program of Manitoba*
- *The Association of Professional Interior Designers Institute of Manitoba Inc.*
- *The Winnipeg Construction Association*
- *The Agricultural Producers*

*In view of the tragic events surrounding Ms. Snowdon's death, the Board recognized the importance of the inquest, Judge Pullan's subsequent recommendations, and the building codes and standards involved therein. As such, the Board has engaged in a thorough review of the matter and carefully responded to each of the recommendations listed above. Public safety continues to be the Board's first priority in issues related to building codes and standards in Manitoba.*

*On June 20, 2006, government amended Part 10 of the Manitoba Building Code to include safety standards for private pools and hot tubs to address issues of installation, maintenance, and user safety. Part 10 applies to all outdoor hot tubs and requires that at all times when use is not supervised by an adult, the hot tub be covered by a cover that has the structural strength to support the weight of an adult when closed, and is locked in the covered position to prevent access to the water by unauthorized persons. These regulations are not retroactive nor do they apply to indoor hot tubs.*

*In October of this year, the Board reviewed the building code related issues contained in the Snowdon Inquest. After considerable discussion, the Board agreed that the existing building code sufficiently and reasonably addresses issues of installation, maintenance and user safety for residential indoor hot tubs. Currently, hot tub vendors by and large fit all new installations with covers at no extra cost. These covers may act to prevent use by unsupervised children. The Board therefore concluded that a requirement relating to standards for indoor hot tubs would unfortunately not have prevented the death of Ms. Snowdon. However,*

*while the Board has not suggested further inquiry into the matter, the Office of the Fire Commission will submit a request to the National Research Council (NRC) or the Canadian Commission on Building and Fire Codes for further research, and consideration on behalf of the Province for consideration in the new code cycle, presently underway.*

Based on our review of this matter, it would appear that Manitoba Family Services and Consumer Affairs, and Manitoba Labour and Immigration have given reasonable consideration to the inquest report recommendations. As such, our files concerning the Keyanna Marie Snowdon inquest have been closed.

Yours truly,

Original signed by

Irene A. Hamilton  
Manitoba Ombudsman

cc: Mr. Grant Doak, Deputy Minister, Family Services and Consumer Affairs  
Mr. Jeff Parr, Deputy Minister of Labour and Immigration  
Dr. Thambirajah Balachandra, Chief Medical Examiner