



OFFICE OF THE YUKON CHILD & YOUTH ADVOCATE
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January 13, 2025

The Honourable Sandy Silver
Minister of Finance
Yukon Government
Box 2703
Whitehorse, Yukon, Y1A 2C6

Re: Government Interference with Independence of the Child and Youth Advocate

Dear Minister Sandy Silver,

I write to address a matter of critical importance regarding the independence of my Office and the broader implications for governance in the Yukon. This follows correspondence I initiated on November 27, 2024, with the Chair of the Members' Services Board (MSB), expressing significant concerns about Management Board's interference in the budget process for independent House Officers. I emphasized the risks this poses to the independence and effectiveness of the Yukon Child and Youth Advocate Office, as established by the *Child and Youth Advocate Act*, SY 2009, c. 1.

On December 19, 2024, the Chair of MSB formally communicated these concerns to your office, highlighting the erosion of MSB's authority and the implications for governance. The letter underscored the risks of political interference in the work of independent House Officers, which raises a danger that fundamentally undermines the public's trust in our democratic institutions.

However, your response dated December 27, 2024, disagrees with the assertion that MSB has the final say in approving the budgets of House Officers, yet it fails to identify any specific legislative authority permitting the Minister of Finance or Management Board to alter budgets approved by MSB. This position stands in stark contrast to my legal analysis and the statutory framework established to protect the independence of my Office.

The *Child and Youth Advocate Act* explicitly safeguards the operational and financial independence of my Office. *Child and Youth Advocate Act* s. 4(2) establishes that "The Advocate is an officer of the Legislative Assembly and is not subject to the direction or control of the Members of the Legislative Assembly, the Executive Council, or the public service." Further, *Child and Youth Advocate Act* s. 22 assigns responsibility for reviewing and approving my budget to MSB, with no authority granted to Management Board or the Minister of Finance to alter this process. This legislative framework aligns with practices across Canada, ensuring the independence of oversight bodies is maintained free from political interference.

The *Financial Administration Act*, RSY 2002, c. 87 (*FAA*), does not grant the Minister of Finance or Management Board authority to interfere in the budget process for independent House Officers. *FAA* s. 2(1) holds that in the event of a conflict between laws, the *FAA* prevails over any other legislation unless

that legislation contains an express provision that it applies despite the *FAA*. However, if there is no conflict between laws, the *FAA* does not trump the other legislation.

From my review, it is clear that *FAA* s. 4(c) grants Management Board authority for “government financial management and control of revenue, disbursements, and assets”, and *FAA* s. 4(2) provides Management Board with the responsibility of preparing the estimates of revenue and expenditure for the government for presentation to the Legislative Assembly. However, the responsibility assigned to Management Board for financial management and preparing estimates does not extend to a power to interfere in the budgeting process controlled by MSB. It also does not conflict with MSB’s specified power to review and approve the budget for my Office as set out in the *Child and Youth Advocate Act*. In the absence of a conflict between the *FAA* and the *Child and Youth Advocate Act* in this respect, the *FAA* is not paramount to the *Child and Youth Advocate Act* in regards to the review and approval of the budget for my Office.

Moreover, there is no other language in the *FAA* that would grant the Minister of Finance or Management Board with the authority to interfere in MSB’s budget process. Specifically, *FAA* s.6(1)(d) designates the Minister of Finance as responsible for “the direction of the financial affairs of the government that are not assigned by this or any other Act to the Commissioner in Executive Council, the Management Board, or any other person.” This provision does not apply to the budgets of House Officers as they are not “government” within the meaning of *FAA* s. 6(1). Further, the management of the financial affairs of House Officers are already assigned by specific legislation to MSB and, therefore, are outside the scope of the Minister’s residual authority granted in this provision. Lastly, *FAA* s. 21 permits Management Board to regulate “expenditures among allotments, programs, and projects,” none of which apply to House Officers as they are not an allotment, program or project.

Despite this clear statutory mandate, the interference by the Minister of Finance and Management Board in the budget process represents an unprecedented and troubling development. It creates operational uncertainty, erodes public confidence, and raises serious concerns about the integrity of independent oversight in the Yukon. Such actions threaten to compromise the ability of my Office to fulfill its mandate to protect the rights and interests of Yukon’s children and youth.

I acknowledge that extraordinary financial constraints or public emergencies, such as the Covid-19 pandemic, may, in rare cases, justify interference in the budget of a House Officer. In these scenarios, governments must demonstrate that the interference serves a pressing public purpose and does not undermine the core independence of the affected office. While it is accepted that the present economic forecast requires Yukon Government to exercise significant fiscal restraint, it is highly unlikely to meet the threshold of justifying the extraordinary measure of Management Board’s unlawful interference in the budget of an independent House Officer.

I, therefore, respectfully request a written commitment from you that you will recommend my 2025-2026 budget estimates, as reviewed and approved by MSB, to the Legislative Assembly for debate and vote without alteration. This commitment is essential to preserve the independence of my Office and to uphold the statutory framework established by the Legislative Assembly.

Should I not receive such a commitment by January 20, 2025, I will have no alternative but to commence litigation to ensure compliance with the *Child and Youth Advocate Act*, to protect the independence of my Office, and to uphold the rights of the public, as intended by the Legislative Assembly.

It is my hope that we can resolve this issue collaboratively and without recourse to the courts. However, the stakes are too high to allow the independence of my Office to be compromised.

Thank you for your attention to this urgent matter. I look forward to your response.

Respectfully,

A handwritten signature in black ink, appearing to read "Annette King". The signature is written in a cursive, flowing style with a large loop at the end of the last name.

Annette King
Yukon Child and Youth Advocate

- cc. Jason Pedlar, Ombudsman, Information and Privacy Commissioner and Public Interest Disclosure Commissioner
Maxwell Harvey, Chief Electoral Officer
Premier Ranj Pillai
Honourable Jeremy Harper, Speaker, Legislative Assembly