

**CANADIAN HUMAN RIGHTS TRIBUNAL**

**BETWEEN:**

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and  
ASSEMBLY OF FIRST NATIONS**

**Complainants**

**-and-**

**CANADIAN HUMAN RIGHTS COMMISSION**

**Commission**

**-and-**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

**-and-**

**CHIEFS OF ONTARIO,  
AMNESTY INTERNATIONAL CANADA and  
NISHNAWBE ASKI NATION**

**Interested Parties**

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**AFFIDAVIT OF SHELBY PERCIVAL**

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**I, Shelby Percival, of the City of Cambridge, in the Province of Ontario, MAKE OATH  
AND SAY:**

1. I am an articling student at Falconers LLP, lawyers of record for the interested party Nishnawbe Aski Nation (“NAN”), and as such have knowledge of the information contained herein.
2. This affidavit is prepared in support of NAN’s position on a motion brought by Chiefs of Ontario (“COO”) regarding capital expenses for Band Representative Services (“BRS”), and is prepared in response to Canada’s recent announcement about changes to the First Nations Child and Family Services Program’s Terms and Conditions (“the Terms and Conditions”), specifically in response to the aspect of those changes regarding BRS and capital. This affidavit is also in support of NAN’s submissions responding to this Tribunal’s request for submissions on the relationship between the *Financial Administration Act* (“FAA”), Treasury Board policies and the systemic racial discrimination found in this case.
3. Attached as Exhibits to this my affidavit are excerpts from the final Records of Decision of several meetings of the Consultation Committee on Child Welfare (“CCCW”), as follows:
  - **Exhibit “A”**: Excerpt of CCCW Record of Decisions of August 2, 2018;
  - **Exhibit “B”**: Excerpt of CCCW Record of Decisions of September 5, 2018;
  - **Exhibit “C”**: Excerpt of CCCW Record of Decisions of October 23, 2018;
  - **Exhibit “D”**: Excerpt of CCCW Record of Decisions of June 17, 2019; and
  - **Exhibit “E”**: Excerpt of CCCW Record of Decisions of November 8, 2019.

4. Attached as **Exhibit “F”** to this my affidavit is a copy of a map published by the province of Ontario showing the road and winter road network in northern Ontario. The map includes the entirety of NAN territory, as well as some neighbouring territory to the south.
5. I have discussed the issue of capital and BRS with Nichole Kinzel (“Ms. Kinzel”), a social services policy analyst at NAN, and with Jamie Saunders (“Mr. Saunders”), Infrastructure Advisor at NAN.
6. Ms. Kinzel informs me, and I verily believe it to be true, that she is aware of a specific NAN First Nation who, in a previous fiscal year, had a BRS advance claim for two modular homes approved by ISC. Ms. Kinzel informs me, and I verily believe it to be true, that this NAN First Nation, one that *does* have year-round road access, subsequently realized they had not submitted a claim for the necessary site preparation work for the modular homes. Ms. Kinzel informs me, and I verily believe it to be true, that the current estimated cost for the site preparation work is approximately \$226,000, not including Hydro One and Bell Canada/Cable costs.
7. Ms. Kinzel informs me, and I verily believe it to be true, that she is aware of another NAN First Nation, this one a fly-in First Nation north-east of Sioux Lookout, who made a BRS claim in December 2019 that included a claim for an office building, as well as a claim of \$95,000 for site preparation work.
8. Ms. Kinzel informs me, and I verily believe it to be true, that given the recent experience with site preparation work with the NAN First Nation discussed at paragraph 6 of my affidavit, she believes the advance claim of \$95,000 significantly underestimates what the actual cost of site preparation will be, particularly because this First Nation is a fly-in First

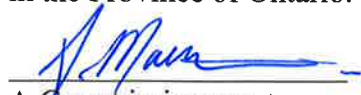
Nation. Mr. Saunders informs me that, based on his experience, he believes the advance claim of \$95,000 for site preparation work for this First Nation significantly underestimates what the actual cost of site preparation will be.

9. Ms. Kinzel informs me, and I verily believe it to be true, that this NAN First Nation's advance BRS claim was sent to ISC in or around early December of 2019. Ms. Kinzel informs me, and I verily believe it to be true, that the portion of the BRS claim involving capital was not processed by ISC in time for the First Nation to avail itself of the winter road network. Ms. Kinzel informs me, and I verily believe it to be true, that many NAN First Nations rely on the short winter road season to reduce transportation costs of construction material. Ms. Kinzel informs me, and I verily believe it to be true, that if a claim is not processed in time for the First Nation to take advantage of the winter road network for transportation, this can lead to project costs increasing dramatically, or to the First Nation having to delay the start of the project for another year when the winter road system is again available to them.
10. Attached as **Exhibit "G"** to this my affidavit is a Table that Mr. Saunders informs me, and I verily believe to be true, was prepared by Springhill Lumber for NAN. It contains estimates of shipping costs to NAN First Nations of material for a 2100 square foot multi-use building, comparing road costs to air costs. Mr. Saunders informs me, and I verily believe it to be true, that NAN's Housing and Infrastructure Department often engages Springhill Lumber, which is based in Winnipeg.
11. Mr. Saunders explained to me, and I verily believe it to be true, that engineers and other personnel are required for site preparation work – including work relating to hydro,

communications, sewage, heating/cooling, and foundations. He explained to me, and I verily believe it to be true, that in many remote First Nations, land that is already cleared, graded, and serviced is rarely available, which increases the costs associated with site preparation. In addition to the costs faced by remote First Nations associated with transporting materials, there can be significant costs associated with transporting the needed personnel to make this site preparation work possible.

12. Mr. Saunders informs me, and I verily believe it to be true, that staff in NAN’s Housing and Infrastructure Department sometimes refer to INAC’s Cost Reference Manual, adjusting for inflation, to develop estimates for capital projects. Mr. Saunders informs me, and I verily believe it to be true, that the Cost Reference Manual can be used to generate cost estimates, per square metre, of constructing buildings. Mr. Saunders informs me, and I verily believe it to be true, that the Cost Reference Manual uses geographic indices and site-specific indicators to inform the estimate.

13. I make this affidavit: (1) in support of NAN’s position on a motion brought by COO relating to BRS and capital and in response to Canada’s recent update to the FNCFS Program’s Terms and Conditions regarding BRS and capital; and (2) in support of NAN’s submissions on the *FAA*. I make this affidavit for no other or improper purpose.

**AFFIRMED BEFORE ME** this )  
2nd day of October, 2020 )  
in the City of Toronto )  
in the Province of Ontario. )  
 )  
A Commissioner etc. )  
LSO # 65621V

  
Shelby Percival



This is Exhibit "A" referred to in the  
Affidavit of Shelby Percival sworn  
before me, on this 2<sup>nd</sup> day of October, 2020.

  
\_\_\_\_\_  
A Commissioner for taking affidavits, etc.  
Akosua Matthews



**Consultation Committee on Child Welfare  
Assembly of First Nations (AFN)  
16<sup>th</sup> Floor Large Boardroom  
August 2, 2018 (9:00 –12:00)**

**RECORD OF DECISIONS**

**In Attendance:**

Ms. Josée Whiteduck, Elder  
Ms. Cindy Blackstock, Caring Society, Co-Chair  
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair  
Ms. Margaret Buist, Director General, Children and Families Branch (DISC)  
Ms. Johanna Hove, Indigenous Services Canada (DISC)  
Mr. Keith Conn, Acting Assistant Deputy Minister (FNIHB-DISC)  
Ms. Lisa Nafziger, Social Policy Analyst (DISC)  
Ms. Paula Isaak, Assistant Deputy Minister, Education & Social Development Programs  
Mr. Martin Orr, Assembly of First Nations  
Mr. Rob Frater, Department of Justice  
Mr. Brian Smith, Canadian Human Rights Commission  
Ms. Maggie Wenthe, Chiefs of Ontario  
Mr. David Taylor, Legal Counsel, Caring Society  
Ms. Akosua Matthews, Legal Counsel, Nishnawbe Aski Nation (NAN)  
Mr. Stuart Wuttke, Legal Counsel, Assembly of First Nations

**Via Teleconference:**

Ms. Nichole Kinzel, Nishnawbe Aski Nation (NAN)  
Ms. Natalie Hansen, Nishnawbe Aski Nation (NAN)  
Ms. Sara Clarke, Child and Family Law

**Regrets:**

Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)

**1. Opening Remarks and Introductions**

Mr. Thompson welcomed committee members to the 4<sup>th</sup> CCCW meeting and extended a special welcome to Elder Josée Whiteduck. Before opening the meeting, participants and guests took part in a smudging ceremony. Elder Whiteduck first explained the traditional



not incurred. From the Caring Society's perspective, in light of the agencies having been at a disadvantage and subject to having funds being capped by a discriminatory measure impact invoked by Canada and leading to lacking funds to outlay for key components, full reimbursement should apply as of January 26. Ms. Isaak indicated this may be related to a compensatory issue rather than payment of an actual cost. This may entail a twofold approach in light of the difference between applying the downward adjustment and assessing its impact.

**Decisions:** *INAC will examine the available data on the downward adjustment and come up with a solution. INAC will also collaborate with small agencies in gathering data to better understand the impact while focusing on the compensatory component. As a first step, Ms. Buist confirmed that INAC will look into the salary beyond provincial workers, identify the salary to address any financial issues quickly and report back to this table*

Seeing that the Jordan's Principle Appeals Process may be divergent, INAC is looking at developing an independent body to create some efficiency and to review the appeals for these claims. As a work in progress, INAC has yet to integrate any thinking into the current draft around the Jordan's Principle Appeals Process and is seeking the Committee's input on the recommendation to include it in a similar context related to Jordan's Principle, being cognizant that it will be different.

**Decision:** *Committee members were requested to reflect on the recommendation and apprise Ms. Isaak on the preferred option in order for INAC to develop a scheme proportional to the current number of appeals. Any questions can be submitted to Ms. Isaak's attention*

Dr. Blackstock requested clarification on the methodology used to advise recipients of the process to appeal in the event a payment is held in advance or denied. Ms. Isaak responded that at this time, INAC does not have a formal appeals process in place; however there is an informal escalation process which alerts of any claims denials. In the interim, Dr. Blackstock recommended keeping a record of these different groups to ensure this is extended to them in order that they not be penalized since the process did not exist previously. In response to a question on how the threshold of \$1.5M was established, Ms. Isaak explained this was the default amount used in the Terms and Conditions and presumably based on industry standard.


**Decision:** *INAC will confirm how this amount was derived and if feasible will look into updating the amount so it is commensurate with inflation*

On the subject of the CRA clawing back funds from the provinces, INAC held initial conversation with CRA on ways to assist provinces in providing further clarifications. Various litigations in Manitoba are currently underway, which may also provide more clarity once it unfolds; however this may be a protracted timeframe.

**Decision:** *INAC to confirm whether Canada is named in the litigation*



This is Exhibit "B" referred to in the  
Affidavit of Shelby Percival sworn  
before me, on this 2<sup>nd</sup> day of October, 2020.

  
A Commissioner for taking affidavits, etc.  
Akosua Matthews



**Consultation Committee on Child Welfare  
Assembly of First Nations (AFN)  
16<sup>th</sup> Floor Large Boardroom  
September 5, 2018 (9:00am –4:00pm EDT)**

**RECORD OF DECISIONS**

**In Attendance:**

Ms. Irene Lindsay, Elder  
Ms. Cindy Blackstock, Caring Society, Co-Chair  
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair  
Ms. Margaret Buist, Director General, Children and Families Branch (ISC)  
Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)  
Ms. Lisa Nafziger, Social Policy Analyst (ISC)  
Ms. Paula Isaak, Assistant Deputy Minister, Education & Social Development Programs  
Ms. Kelly Peck, Justice Canada  
Mr. Martin Orr, Assembly of First Nations  
Mr. Brian Smith, Canadian Human Rights Commission  
Ms. Maggie Wenthe, Chiefs of Ontario  
Mr. David Taylor, Legal Counsel, Caring Society  
Ms. Akosua Matthews, Legal Counsel, Nishnawbe Aski Nation (NAN)  
Ms. Natalie Hansen, Nishnawbe Aski Nation (NAN)  
Mr. Stuart Wuttke, Legal Counsel, Assembly of First Nations

**Via Teleconference:**

Ms. Sarah Clarke, Legal Counsel (Clarke Child & Family Law)  
Ms. Linda Sandy, Chiefs of Ontario

**Regrets:**

Mr. Keith Conn, Acting Assistant Deputy Minister (FNIHB-ISC)

**1. Opening Prayer and Introductions**

Mr. Thompson welcomed committee members to the 5<sup>th</sup> CCCW meeting and Elder Irene Lindsay opened the meeting with a Morning Prayer. A roundtable of introductions was subsequently performed.

Research Ethics Code along with an OCAP policy implementation. In an effort to keep the Tribunal fully informed, Dr. Blackstock requested that some type of letter stating that a review of the Mental Health Gap Analysis was undertaken be developed. The letter should outline that this is not viewed as a satisfactory document and following a review and discussions, the alternative plan discussed earlier will be put forth.

**Action Item:** *Dr. Gideon will set up a conference call with FNIGC and inviting Dr. Blackstock to further discuss the matter. Failing that, Dr. Gideon will contact Dr. Carrie Bourassa*

### **6.5 Training:**

A draft TORs was developed for an Advisory Committee for the CCCW's consideration. The list of experts and those who have expressed interest was circulated and Dr. Gideon provided a brief update on the progress report and mentioned that individuals that have not responded by the end of the week will be re-contacted. Dr. Amy Bombay has a contract in place to begin the webinar process. Dr. Karen Isaac was contacted and Dr. Gideon will follow up on whether a response was received. Following a conference call held yesterday, Charlene Bearhead has expressed interest in sitting on the Advisory Committee contingent on her schedule. She expressed interest in assisting with some of the content development. Dr. Margaret Kovach has agreed to become part of the Advisory Committee. While Dr. Kent Saylor expressed great interest, his schedule does not permit it. As an additional resource, it was recommended contacting Mr. James Heckman (*from the University of Chicago and awarded the Nobel Prize in Economics*) to act as an advisor to the Committee in light of his core expertise on the economics of child development. The objective will be to set up an introductory call by the end of September to initiate the development of a workplan and timelines.

**Decision Items:** *CCCW members were requested to forward any comments on the draft TORs to Dr. Gideon's attention. It was also agreed sharing the draft with the experts contacted to obtain their insights. A revised draft will be provided to the CCCW at the next meeting*

## **HEALTH BREAK**

### **7. ISC Updates**

#### **7.1 FNCFS Capital Needs:**

In response to some of the questions raised on Capital Needs at the last meeting, it was determined there is a gap in the existing infrastructure authorities, which can be addressed by simply amending the Terms and Conditions. Although FNIHB has authority for major capital reserves, they have been narrowed down over the years and are specific to health centres, thereby failing to include a social service agency infrastructure, as well as the fairly onerous process around infrastructure. ISC continues to map its work to identify which agencies are owned and those leasing space, which can be either on or off-reserve where a series of different scenarios exist and different arrangements made.

**With respect to the minor capital, that specific authority was rescinded in 2007 during which time Treasury Board stated that every program must create their respective**

authority. The former INAC simply adopted the \$1.5M as a minor capital threshold, with a few programs having increased it. It's not clear as to exactly when that amount came into force. It was unanimously agreed this amount will not meet the actual needs for new facility and was strongly recommended for ISC to look into the Land Management approach as a guideline. It was reminded that there are 2 kinds of capital needs: space requirements and life of the building (e.g.: need for engineers, facility condition etc.)

As an interim step, Ms. Isaak raised the possibility of developing new authorities and subsequently setting an assessment process to determine what fits within minor or major capital, and ascertain which agency requires significant and imminent work to be undertaken. In the near future, she also urged the need that a capital needs assessment of all agencies be performed to have a better understanding and comprehensive picture of current and projected costs. In the longer term, more intervention and concrete information as to what the actual needs of agencies are will be required, thus the need to consult with IFSD.

**Decision Items:** Once ISC has obtained final verification and upon the Minister's approval, Ms. Isaak will propose new language that accounts for these new provisions on capital for inclusion in the Terms and Conditions and circulate them to the group. ISC will also determine whether an inflation adjustment using the Bank of Canada Inflation calculator can be applied, which would assist in restoring the purchasing power

## 7.2 CWJI:


A draft of the guidelines, along with the state of advancement on regional discussions at the local level around CWJI funding allocation within the regions was submitted. The objective was to keep the guidelines quite general and avoid a proposal-based process and communities are welcome to use the template. ISC is attempting to provide enhanced flexibility by emphasizing the need for regional tables to become the driving force in identifying the focus and targeted areas of this funding. As a multi-year proposal, it is not intended to replace current funding but rather to support new initiatives, promote innovation, community interventions and ultimately increase the level of service for children. To avoid any confusion, it was requested the Department's position be clearly articulated. To ensure alignment, the terminology in the Terms and Conditions will be amended accordingly.

It was also suggested for the Government of Canada to consult with the Circle of Philanthropy with regard to systems of funding due to their ability to use effective practices without creating bureaucratic arrangements, while still ensuring financial accountability. Ms. Isaak noted that CFS is shifting its funding from the provincially delegated model towards the First Nations created jurisdictional model.

**Decision Item:** Committee members were requested to provide comments by September 7<sup>th</sup>; however should additional time to consult with communities be required, please inform Ms. Isaak. The guidelines will be officially released once comments have been received and incorporated



This is Exhibit "C" referred to in the  
Affidavit of Shelby Percival sworn  
before me, on this 2<sup>nd</sup> day of October, 2020.

  
A Commissioner for taking affidavits, etc.  
Akosua Matthews





**Consultation Committee on Child Welfare  
Assembly of First Nations (AFN)  
Jeanne Mance Building  
200 Eglantine Driveway, 21<sup>st</sup> Floor, ADMO boardroom, Ottawa, Ontario  
October 23, 2018 (9:00am –4:00pm EDT)**

**RECORD OF DECISIONS**

**In Attendance:**

Ms. Irene Lindsay, Elder  
Ms. Cindy Blackstock, Caring Society, Co-Chair  
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair  
Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)  
Ms. Joanne Wilkinson, ADM Reform of Indigenous Child and Family Services (INAC)  
Ms. Lisa Nafziger, Social Policy Analyst (ISC)  
Mr. Martin Orr, Assembly of First Nations  
Mr. David Taylor, Legal Counsel, Caring Society  
Ms. Akosua Matthews, Legal Counsel, Nishnawbe Aski Nation (NAN)  
Ms. Sarah Clarke, Legal Counsel, Caring Society  
Mr. Bobby Narcisse, Nishnawbe Aski Nation (NAN)  
Mr. Robert Frater, Q.C., Chief General Counsel, Department of Justice  
Ms. Jessica Walsh, Canadian Human Rights Commission  
Ms. Sinéad Dearman, Legal Counsel, Chiefs of Ontario  
Ms. Annick Roberge, Policy Analyst, (ISC)  
Ms. Helaina Gaspard, IFSD

**Via Teleconference:**

Ms. Stephanie Wellman, Senior Policy Analyst, AFN

**1. Opening Prayer and Introductions**

Dr. Blackstock welcomed committee members to the CCCW meeting and Elder Irene Lindsay opened the meeting with a Morning Prayer. A roundtable of introductions was subsequently performed. It was acknowledged that yesterday would have marked Jordan River Anderson's 19<sup>th</sup> birthday and was celebrated by the community. It is the hope to celebrate his 20<sup>th</sup> birthday in conjunction with a full compliance of Jordan's Principle.

As of October 5<sup>th</sup>, more than \$2.6M has been paid towards building repairs, representing just under 6% of total claims. There is an uptake since October 5<sup>th</sup> of \$1M to \$1.5M that may have already been paid. Agencies are encouraged to continue submit claims.

A question was posed as to where on the website is it available to see how much the capital is so that the 1.5% budget increased for inflation figure can be cited for their reimbursement. ADM Wilkinson indicated that this will have to be looked regarding the website and look at increasing awareness. An interim document was requested.

***Action Item:** ISC to send interim document reflecting 1.5% increase for inflation figures*

## **6.2 Terms and Conditions:**

Interim Terms and Conditions will no longer be one liner description in the Terms and Conditions and the cap is being updated. Based on input, it will be increased on the minor capital project from \$1.5M to \$2.5M to account for inflation. This will be included in a directive for capital in order that any changes in the future do not require a Treasury Board process. There is no longer reference to major or minor capital; it is simply referred to as capital.

An example was provided in which housing was bought and staffed for a special needs case. If this is determined to be a preventative service or maintenance cost, can that be billed under maintenance and prevention? ADM Wilkinson stated that this example will have to be researched to provide an answer.

A question was posed as to whether the directive on capital's \$2.5M limit will take into account cost escalations for remote areas. In response, it was explained that work is still ongoing for remoteness quotient and will be looked at once information is available, however \$2.5M may have been augmented above inflation to account for this. A draft record will come to this table, at which time it can be discussed further. As part of the ongoing work, agencies have not been advised of the \$2.5M. It is part of the update to the Terms and Conditions; a directive will be drafted and come to this table. This can be formalized upon confirmation of the Terms and Conditions.

It was asked if there is any possibility that this upward adjustment to \$2.5M will be next. The current \$1.5M is already in the current Terms and Conditions and it's been upgraded for inflation within other ISC programs. Because that's not conditional on renewing any authority, there could be a quick relay to these agencies and NAN territories to indicate this is coming and materials can be ordered now so the window of opportunity isn't wasted before winter roads are closed. It was explained that the Terms and Conditions must be approved. The directive would come to this table and that discussion would be held.

***Action Item:** ADM Wilkinson will verify that the current Terms and Conditions include the \$1.5M, which means approval to dispense with the \$1.5M, but as of today \$1.5M can be spent. This can be subsequently communicated to the CCCW*



This is Exhibit "D" referred to in the  
Affidavit of Shelby Percival sworn  
before me, on this 2<sup>nd</sup> day of October 2020.

  
A Commissioner for taking affidavits, etc.  
Akosua Matthews



**Consultation Committee on Child Welfare  
Assembly of First Nations (AFN)  
55 Metcalfe, Ottawa, ON (16<sup>th</sup> Floor Boardroom)  
June 17, 2019 (1:00pm –4:00pm)**

**RECORD OF DECISIONS**

**In Attendance:**

Mr. Elder Vince Kicknosway  
Dr. Cindy Blackstock, Caring Society, Co-Chair  
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair  
Mr. Martin Orr, Assembly of First Nations  
Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)  
Ms. Joanne Wilkinson, Assistant Deputy Minister, Children & Families Branch (ISC)  
Ms. Julie McGregor, Sr. Legal Counsel, AFN  
Mr. Bobby Narcisse, Director of Social Services, Nishnawbe Aski Nation (NAN)  
Ms. Molly Churchill, Legal Counsel, Nishnawbe Aski Nation (NAN)  
Ms. Leila Gillis, Senior Director for Jordan's Principle (ISC)  
Mr. John McLean, Children & Families Branch (ISC)  
Ms. Pamela Burr, (FNIHB)  
Mr. Max Binnie, Attorney General of Canada  
Ms. Nathalie Nepton, Director General, Children & Families Branch (ISC)  
Ms. Megan Robinson (ISC)  
Mr. David Taylor, Legal Counsel, Caring Society  
Mr. Brian Smith, Canadian Human Rights Commission  
Ms. Jessica Walsh, Canadian Human Rights Commission  
Ms. Stephanie Wellman, Assembly of First Nations  
Ms. Kara Kennedy, Assembly of First Nations

**Via Teleconference:**

Ms. Judith Rae, Legal Counsel (COO)

**1. Opening Remarks and Introductions**

Before officially calling the meeting to order, Elder Vince Kicknosway offered an opening prayer. Co-Chair Thompson welcomed members and ISC observers in attendance to the CCCW meeting, followed by a roundtable of introductions.

**Action Items:** *CCCW members were requested to forward comments to Nathalie Neptoe's attention by June 28<sup>th</sup>. ISC was requested to identify the individual(s) responsible for developing this document to ascertain the expertise within the Department*

The table expressed concern in sharing this document due to rudimentary and entry level content that fails to reflect an informed perspective on prevention and lacks fundamental components (*i.e.: individual risk factors not nuanced within the structural considerations*). As experts in the area of prevention, several CCCW members deemed this Directive irrelevant for agencies but applicable to the Department. A recommendation was put forth to consider striking a Working Group to assist the Department with the decision-making around the acceptance or denials under prevention requests, examining the criteria being relied upon to adjudicate prevention complaints and allowing agencies the opportunity to provide input.

**Decision Item:** *The CCCW was in agreement to establish a Working Group (in collaboration with the NAC) comprised of experts in the prerequisite area tasked to develop criteria around effective strategies for assessing prevention requests submitted to the Department*

**2019-2020 National and Ontario Recipient Guides:** Draft of the Recipient Guides were forwarded to the CCCW at the end of March and shared with the NAC in May. Thus far, only comments from COO have been received.

**Action Item:** *CCCW members were requested to forward comments to Nathalie Nepton's attention by June 28<sup>th</sup>*

**IFSD Proposal (Next Steps):** Canada has received the IFSD proposal and approval for funding has been granted by the ADM as of this morning. Subsequent steps will be to convene discussions at the CCCW table to determine strategies for integrating the TORs, Special Study by COO as well as the NAN Remote Quotient research.

**Action Item:** *ADM Wilkinson will follow up on Dr. Blackstock's request to sit as an observer on the Appeals Committee*

### **5. Choose Life (NAN)**

Although the program has been renewed for an additional 3 years, Bobby Narcisse alluded to several challenges, mainly related to the application process and use of templates provided. Re-profiling and carry-over requests are not being responded to in a timely manner. With respect to the remoteness issue, due to limited road access, communities are experiencing challenges in acquiring equipment and larger items. Freight costs are being questioned necessitating communities to disburse via other administrative coffers. Various viable options to enable access to resources are being explored (*e.g.: by performing cost-benefit analyses, getting acquainted with suppliers etc.*)



This is Exhibit "E" referred to in the  
Affidavit of Shelby Percival sworn  
before me, on this 2<sup>nd</sup> day of October 2020.

  
A Commissioner for taking affidavits, etc.  
Akosua Matthews





**Consultation Committee on Child Welfare  
Assembly of First Nations (AFN)  
55 Metcalfe, Ottawa, ON (16<sup>th</sup> Floor Boardroom)  
November 8, 2019 (1:00pm –4:00pm)**

**RECORD OF DECISIONS**

**In Attendance:**

Mr. Elder Thomas Louttit  
Dr. Cindy Blackstock, Caring Society, Co-Chair  
Mr. Jonathan Thompson, Assembly of First Nations, Co-Chair  
Mr. Martin Orr, Assembly of First Nations  
Dr. Valerie Gideon, PhD, Senior Assistant Deputy Minister (FNIHB-ISC)  
Ms. Pamela Burr, Support to the ADM, First Nations and Inuit Health Branch (FNIHB)  
Ms. Joanne Wilkinson, Assistant Deputy Minister, Children & Families Branch (ISC)  
Ms. Nathalie Nepton, Director General, Indigenous Services Canada (ISC)  
Ms. Christina Reid, Executive Director at Jordan's Principle (ISC)  
Ms. Robyn Abernethy-Gillis, Children & Families Branch (ISC)  
Ms. Leah Riendeau, Children & Families Branch (ISC)  
Mr. Daniel Poulin, Canadian Human Rights Commission (CHRC)  
Mr. Bernard Hansen (Department of Justice)  
Ms. Molly Churchill, Legal Counsel, Nishnawbe Aski Nation (NAN)  
Ms. Maggie Wente, Counsel for Chiefs of Ontario (COO)  
Mr. David Taylor, Legal Counsel, Caring Society  
Ms. Ms. Sarah Clarke, Legal Counsel, Caring Society  
Ms. Kara Kennedy, Assembly of First Nations  
Ms. Stephanie Wellman, Assembly of First Nations  
Ms. Lorna Martin, Assembly of First Nations

**Via Teleconference:**

Andy Fallon, Chiefs of Ontario (COO)

**Regrets:**

Ms. Ruby Miller, Director of Social Services, Chiefs of Ontario (COO)  
Ms. Sinéad Dearman, Chiefs of Ontario (COO)  
Brian Smith, Canadian Human Rights Commission (CHRC)  
Jessica Walsh, Legal Counsel, Canadian Human Rights Commission (CHRC)

**Action Items:** ISC to develop a set of criteria associated with Dr. Wong's oversight, and to consider providing service requestors with a fairness letter in cases where the CMSO intends to overturn the appeal panel's recommendations, as well as the possibility of the service requestor making submissions to the CMSO before the appeal panel's decision is overturned, and will report back to the CCCW. In addition, to address the lack of clarity around past decisions, ISC was encouraged to consider having consultants undergo training that instructs methods for writing decisions and reviews in a simplified and straightforward manner

The CCCW strongly urged for Canada (CFS) to pursue a more arm's length process on this matter and employ a strategy similar to Jordan's Principle in order to provide due process considerations for CFS approvals. Despite the different scope of CFS appeals, (ADM Wilkinson has committed to keep the conversation open and provide a written explanation identifying where the demarcations apply, along with Canada's rationale for reverting to adjudicating claims based on terms and conditions as opposed to the paramourcy of the orders.

A concern related to the Terms and Conditions and CFS process arose whereby the disconnect between departments' expertise and the execution of the Orders in the community has become apparent, therefore reinforcing the need to understand the notion of substantive equality coupled with the need for better expertise in interpreting 'prevention' as a scientific-based approach contextualized for Canadian First Nations.

**Action Item:** ISC to forward the internet link to the Act and Terms and Conditions posted on the ISC and CFS website

**Prevention Directive/Recipient Guide:** The Prevention Directive is intended to be used in conjunction with the Recipient Guide and is effective this fiscal year. Delays in processing funding requests at actuals in the regions are attributable to a lack of clarity concerning eligible expenses for recipients and communities. As requested, ISC will consider including recommendations put forth by the Caring Society that failed to be incorporated in the Directive as appendices.

**Action Item:** ISC will get back the CCCW about providing the name of the drafter of the Prevention Directive document.

The discrepancy between the references, the document and the Tribunal's Orders, as well as between the stated objectives was highlighted. Although additional comments will be submitted by CCCW members, ISC was requested to provide an answer to the following matters:

- When referring to the definition of tertiary prevention, what is being prevented?



This is Exhibit "F" referred to in the  
Affidavit of Shelby Percival sworn  
before me, on this 2<sup>nd</sup> day of October 2020.



\_\_\_\_\_  
A Commissioner for taking affidavits, etc.  
Akosua Matthews



Base map information derived from the Land Information Ontario Warehouse, Land Information Ontario, Ministry of Natural Resources and Forestry with modifications by staff of the Ministry of Energy, Northern Development and Mines. Other sources are: Transport Canada

The winter roads map currently available on the ministry's website is intended to be a schematic overview generally reflective of the existing network; no substantive changes have been made to any of the corridors.

Please note - this map is for illustrative purposes only, and should not be used for navigation. It is important to reach out to the community(ies) to which you are traveling to obtain the most current status of the route(s) being used.



This is Exhibit "G" referred to in the  
Affidavit of Shelby Percival sworn  
before me, on this 2<sup>nd</sup> day of October 2020.

  
A Commissioner for taking affidavits, etc.  
Akosua Matthews

**NISHNAWBE ASKI NATION - MULTI-USE BUILDING -- SHIPPING EXPENSES**

September 21, 2020

COMMUNITY	151,644 Lbs ( 5 loads )	
	ROAD	TRUCK/AIR
AROLAND	\$20,700	N/A
BEARSKIN LAKE	\$34,644	\$176,135
CAT LAKE	\$37,087	\$88,939
DEER LAKE	\$27,025	\$95,915
EABAMETOONG	\$37,950	\$81,964
FORT ALBANY	TBA	TBA
FORT SEVERN	\$78,775	\$303,440
GINGOGAMING	\$20,700	N/A
KASABONIKA	\$35,075	\$137,769
KEEWAYWIN	\$38,525	\$109,866
KINGFISHER LAKE	\$27,025	\$99,403
KOOCHICHING	\$30,475	N/A
LAC SEUL	\$8,625	N/A
MCDONWELL LAKE	\$9,775	N/A
MARTEN FALLS	\$43,125	\$163,927
MISHKELGOGAMANG	\$14,950	N/A
MUSKRAT DAM	\$32,775	\$130,793
NESKANTAGA	\$35,650	\$97,659
NIBINAMIK	\$38,525	\$99,403
NORTH CARIBOU	\$29,325	N/A
NORTH SPIRIT LAKE	\$24,150	\$113,354
PRKANGIKUM	\$20,125	\$95,915
POPLAR HILL	\$21,850	\$104,634
SACHIGO LAKE	\$35,018	\$78,476
SANDY LAKE	\$29,900	\$120,330
SLATE FALLS NATION	\$18,400	N/A
WAPEKEKA	\$43,125	\$156,952
WAWAKAPEDMIN	\$38,525	\$137,769
WEBEQUIE	\$52,325	\$137,769
WEENUSK	\$96,025	\$287,744
WUNNUMIN LAKE	\$37,950	\$95,915



**FIRST NATIONS CHILD AND FAMILY  
CARING SOCIETY OF CANADA**

**Complainants**

**ATTORNEY GENERAL OF CANADA**

**Respondent  
Docket: T1340/7008**

**-and-**

**CANADIAN HUMAN RIGHTS  
TRIBUNAL**

**AFFIDAVIT OF SHELBY PERCIVAL**

**FALCONERS LLP  
Barristers-at-Law  
10 Alcorn Avenue, Suite 204  
Toronto, ON M4V 3A9**

**Julian N. Falconer (L.S.O.#29465R)  
Mary M.D. Churchill (L.S.O # 72510P)**

**Tel: (416) 964-0495  
Fax: (416) 929-8179**

**Lawyers for Nishnawbe Aski Nation**