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CABINET DIRECTIVE

*The following is a Copy of a Directive
passed by Cabinet at a Meeting held on
2003/05/15*

MC2003-0174

HCS/DM
LAA/DM
TB/DM
R. Roome
S. MacDonald
AG
Deputy Clerk
File

HCS2003-018; LAA2003-012; SPC2003-020.

The joint submission of the Ministers of Health and Community Services and Labrador and Aboriginal Affairs respecting Establishment of a Provincial/Innu Child, Youth and Family Services Board to Oversee the Development and Operations of an Innu Child, Youth and Family Services Agency was considered.

The following direction was provided:

- 1) Approval was given to the Ministers of Health and Community Services and Labrador and Aboriginal Affairs to negotiate the establishment of a Provincial/Innu Child, Youth and Family Services Board with the Innu Nation to oversee the development and operation of an Innu Child, Youth and Family Services Agency;
- 2) The Departments of Health and Community Services and Labrador and Aboriginal Affairs were directed to consult with:
 - i) the Women's Policy Office on the role of women in the broader capacity-building process; and,
 - ii) Treasury Board Secretariat on the negotiation of the financial arrangements for the establishment of the Board.

Clerk of the Executive Council



CABINET DIRECTIVE

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HCS 2003-018

LAA 2003-012

CONFIDENTIAL**MEMORANDUM TO THE EXECUTIVE COUNCIL****TITLE :**

Establishment of a Provincial/Innu Child, Youth and Family Services Board to oversee the development and operations of an Innu Child, Youth and Family Services Agency.

ISSUE:

Approval to negotiate the establishment of a Provincial/Innu Child, Youth and Family Services Board to facilitate the delegation of responsibility for Child, Youth and Family Services to the Innu and to address the need for increased services in the communities of Sheshatshiu and Natuashish.

RECOMMENDATION:

The Ministers of Health and Community Services (HCS) and Labrador and Aboriginal Affairs (DLAA) be authorized to:

- negotiate the establishment of a Provincial/Innu Child, Youth and Family Services Board with the Innu to oversee the development and operation of an Innu Child, Youth and Family Services Agency.

BACKGROUND:

In September 2000, the federal government agreed to register the Innu of Labrador under the *Indian Act* and to create Reserves at Sheshatshiu and Natuashish (Sango Bay). The federal government has accepted financial responsibility for funding child and family services on the Reserves and agreed to begin paying for this service prior to reserve creation. The Province, through the *Child, Youth and Family Services Act* and the *Adoption of Children Act*, continues to have jurisdiction for child, youth and family services. Registration and reserve creation will not change the Province's jurisdiction.

Indian and Northern Affairs Canada (INAC) asserts it does not have the expertise to deliver Child, Youth and Family Services directly on Reserves. INAC and the Province do not believe the Innu have the capacity to run these programs at this time. As a result, INAC requested the Province, through Health Labrador Corporation (HLC), continue to deliver the programs until the Innu have the capacity. In other jurisdictions, INAC provides funding to Aboriginal Child, Youth and Family Services Agencies that are recognized by the respective Provinces.

In September 2002, a one-year Bilateral Agreement was signed between the Province and INAC. INAC agreed to provide funding for HLC to deliver, on its behalf, child, youth and family services to Sheshatshiu and Davis Inlet /Natuashish (OC 2002-296 refers). Under this agreement the Province received \$750,000 for operational costs and up to a maximum of \$4.6 million for maintenance costs of Innu children in care from June 1, 2002 to March 31, 2003. This Agreement has been extended until March 31, 2004 with \$970,000 allotted for operational costs while the allocation for maintenance costs remains the same at \$4.6million for 2003-04 (OC 2003-146 refers).

Operational funds cover salaries and benefits, travel, investigations and assessment, prevention services, adoptions services, referrals, and other services provided to children living in their own home, such as counseling. INAC operational funding is a fixed amount based on a formula. This amount has been insufficient to cover HLC's operational expenditures.

Maintenance funds cover the costs associated with children out of the parental home in foster care, in group homes or other arrangements. The federal maintenance funding is more than sufficient to cover HLC's current expenditures in the program area.

The 2002 Social Work Workload Review, prepared in response to an illegal walkout by provincial social workers, for the Province and the Newfoundland Association of Public Employees, described the situation in Labrador as requiring immediate attention due to high caseload numbers and social problems in many Aboriginal communities. Further, in January 2003, a technical working group with membership from the Province, INAC and the Innu reviewed staffing levels in Sheshatshiu and Davis Inlet after an illegal walkout of the social workers in Sheshatshiu in November 2002. The group recommended an increase in staffing resources for both Innu communities. There is significant pressure from the Innu for the Province and the federal government to immediately enhance staffing levels in this program.

Both governments agreed to work with the Innu to develop a plan for an Innu Child, Youth and Family Services Agency and to assist the Innu to develop capacity to operate this Agency. As in other provinces, the federal government will be fully responsible for funding the Agency once complete delegation by the Province has occurred. The Province has a number of goals in this process:

- to increase services to meet the high demand in this program area;
- to assist the Innu to develop capacity to deliver more culturally sensitive programs;
- to ensure provincial programs and standards are maintained;
- to save money or at least have the program be cost neutral;
- to avoid a situation where the Province is funding an Innu Agency or is accountable to the federal government for spending by an Innu Agency, and
- to ensure the federal government is fully responsible for funding the Innu Agency and any incremental costs.

ALTERNATIVES:

1. This is the recommended option. Negotiate the establishment of a Provincial/Innu Child, Youth and Family Services Board to oversee the development of an Innu Child, Youth and Family Services Agency. HCS and HLC would work cooperatively with the Innu to develop the Innu Child, Youth and Family Services Agency. A key component in the establishment of a Bilateral Board is utilization of the federal operational monies received by the Province through the *Canada/Newfoundland and Labrador Child and Family Services Agreement* to fund the Innu Agency. HLC will continue to provide services during the development of an Innu Child, Youth and Family Services Agency resulting in a duplication of services for an interim period. As the Innu develop capacity on the Board and in the Agency, provincial representation would be phased out and full delegation to an Innu controlled Board and Agency could occur. The Innu Agency would then be funded directly by INAC and INAC would be responsible for addressing an Innu request for increased funding or services.

Advantages:

- the federal government, through INAC Directive 20-1, will provide the Innu Agency funds for preplanning, planning and start up costs;
- a possible increase in resources as federal monies are allotted to the Bilateral Board;
- a planned process to assist the Innu to develop capacity to deliver more culturally sensitive programs;
- the Province will be represented on the Board to ensure accountability for federal funding and adherence to provincial guidelines and standard;
- when the Innu have developed capacity to deliver these programs and services, the Province can delegate full authority and the federal government can assume a direct funding relation with the Innu;
- INAC will provide maintenance funding for Innu children in provincial care;
- over time, HLC should be able to reduce services as caseloads are assumed by the Innu Agency and problems in the Innu communities are addressed; and
- this option is cost neutral to the Province in that it will only be required to provide HLC with the operational funding it was provided prior to the signing of the Agreement.

Disadvantages:

- the Province will have to maintain existing operational funding for HLC until the Bilateral Board is established and an Innu Child, Youth and Family Services Agency is operating;

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- the Minister of Health and Community Services maintains legislative responsibility for the welfare of Innu children during the transition and after full delegation to an Innu Agency; and
 - HLC will have to retain some capacity to respond if the Innu Agency does not have the resources to cope with all the children in need or if there is a breakdown in service provided by that Agency.
2. Status Quo. Continue to renew the *Canada/Newfoundland and Labrador Child and Family Services Agreement*. HLC would continue to provide current level of services in the Innu communities. The Province would continue to pay the difference in the operational costs of running Child, Youth and Family Services. The Province would participate on the working group with INAC and the Innu to establish an Innu Child, Youth and Family Services Agency in accordance with a plan developed by the Innu. The Province would delegate full authority when the Innu have demonstrated capacity in the program area. This is not recommended.

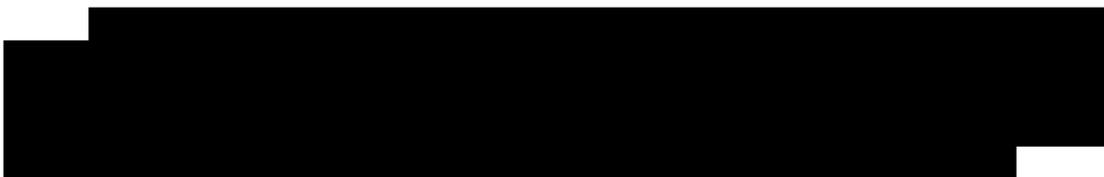
Advantages:

- the Province would continue to receive operational funds to assist with HLC deficit in operations for this program area;
- through INAC Directive 20-1, the federal government will provide the Innu Agency funds for preplanning, planning and start up costs;
- INAC will provide maintenance funding for Innu children in provincial care; and
- the Province will be able to ensure adherence to provincial policies and standards.

Disadvantages:

- no foreseeable increase in services to address the needs in the two Innu communities;
- the Province becomes accountable to the federal government for an Innu managed program;
- the Innu do not support this arrangement continuing for an extended period of time; and
- INAC will not fund an independent Innu Child, Youth and Family Services until it has full authority delegated by the Province. The move towards full delegation would be farther away under this alternative than that suggested by alternative number one.

LEGISLATIVE/REGULATORY CONSIDERATIONS:



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

FINANCIAL CONSIDERATIONS

HLC estimates its annual operating/administrative costs to provide Child, Youth and Family Services to these two communities is \$1.3 million whereas it allocates \$571,000 for this purpose for a resultant deficit of \$729,000. Under the agreement with INAC, HLC was provided with \$750,000 in 2002-2003 and will be provided \$970,000 in 2003-2004 to address operational costs. When the Agreement was signed last year, Government did not make a corresponding reduction to the HLC grant. This allowed the Board to offset the administrative deficit (MC 2002-0270 refers).

There are no *new* funding requirements associated with this proposal relative to the level of grant funding currently provided to HLC by Government. Under the recommended alternative the operational/administrative funding currently provided by INAC to HLC will be advanced to the new Agency. Government will continue to provide HLC with its traditional level of funding (\$571,000) until the Innu Agency is fully operational. HCS will determine the most efficient way to flow the operational funding to HLC and the new Agency during the developmental process.

The experience of other jurisdictions in similar processes has indicated a time frame between 3 to 5 years for full delegation. HCS hopes the Innu Agency will be fully operational as quickly as possible. Government will realize savings during that time because HLC will continue to receive maintenance for Innu children in provincial care. Once the Innu communities are

capable to assume full responsibility for this service, it may be possible to reduce HLC services to the Innu communities.

In 2000, Premier Tobin agreed to “leave on the table” and invest in the Innu communities any legitimate savings the Province accrued from the Registration on the Innu. A separate cabinet paper will seek direction on how to fulfill this commitment.

A comprehensive operational review of HLC by the consultant group, Deloitte and Touche, has identified major fiscal and staff resource issues which need to be addressed in the Child, Youth and Family Service program area.

INTERDEPARTMENTAL CONSIDERATIONS:

The Department of Justice advises the option to negotiate the establishment of a Bilateral Board is permissible under the *Health and Community Services Act*, Section 4 (1) and 4 (3) for the purpose of delivering child, youth and family services, similar to other health boards in the Province.

Cabinet Secretariat and Treasury Board Secretariat have been consulted on this paper.

INTERGOVERNMENTAL CONSIDERATIONS:

INAC is not prepared to fund an Innu Agency directly until the Province is prepared to delegate full authority under the legislation. HCS is not prepared to consider full delegation until the Innu can demonstrate they have the capacity to deliver the mandated programs. The recommended option provides a process to meet both requirements with the ultimate goal of an Innu controlled Child, Youth and Family Services Agency in that: HCS would work with the Innu to develop capacity in a planned organized process, and once achieved, full delegation of authority could occur giving Innu control and direct funding by INAC.

Intergovernmental Affairs Secretariat has been consulted on this paper.

OTHER JURISDICTIONS:

The federal government funds First Nations to deliver Child, Youth and Family Services on Reserves in Canada. Each province is required to recognize the Aboriginal Agency for the purposes of relevant Child, Youth and Family Services legislation before INAC will fully fund the Aboriginal Agency.

Other jurisdictions, such as Nova Scotia, New Brunswick, Saskatchewan and Alberta, have followed a staged process to establish First Nations Aboriginal Agencies beginning with bilateral agreements with a Committee/Board represented by all parties jointly overseeing the establishment of an Agency before full delegation to the First Nation. Experiences in other

jurisdictions have varied depending on the capacity of the First Nation, the provincial legislative requirements, and social conditions in the communities.

OTHER CONSULTATIONS:

INAC, the Province and the Innu have been working together to develop a plan for the devolution of Child, Youth and Family Services. The proposed approach is consistent with the options under review in that process.

The Innu have not been consulted on the establishment of a Bilateral Board. The Province has indicated to the Innu that it has difficulties with the current funding arrangements and that other options are being explored. The Province is committed to continue to work towards the devolution of Child, Youth and Family Services to the Innu.

It is anticipated that the Innu may be resistant to the concept of a Bilateral Board initially. However, once it is fully understood, it will lead to an increase in resources, and funding will flow directly to the Board and that the Innu will be an equal party to this process, it should be accepted.

HCS will continue to collaborate with HLC on this issue, as it does with other operational issues affecting the day-to-day activities of the HLC Board.

ENVIRONMENTAL CONSIDERATIONS:

Not applicable

COMMUNICATIONS AND CONSULTATIONS SYNOPSIS

Attached as Annex B.

ANNEXES:

Annex A	Relevant Legislation
Annex B	Communication and Consultation Synopsis

Gerald Smith, M.H.A.
Minister of Health and Community Services

Wally Andersen, M.H.A.
Minister of Labrador and Aboriginal Affairs

May 5, 2003

Annex A - Relevant Legislation

Health and Community Services Act

- Section 4**
- (1) The Lieutenant-Governor in Council may, by order, establish regional health and community services boards.
 - (4) A board established under subsection (1) is responsible for and has the authority to provide those health, continuing care and community services, including services to children, youth and families other than hospital services, that the Lieutenant-Governor in Council may direct.

Human Rights Code

- Section 6**
- (1) A person shall not deny to or discriminate against a person or class of persons with respect to accommodation, services, facilities or goods to which members of the public customarily have access or which are customarily offered to the public because of the race, religion, religious creed, political opinion, colour or ethnic, national or social origin, sex, sexual orientation, marital status, physical disability or mental disability of that person or class of persons.
 - (2) Notwithstanding subsection (1), a limitation, specification, exclusion, denial or preference because of physical disability or mental disability shall be permitted if that limitation, specification, exclusion, denial or preference is based upon a good faith qualification.

- (3) Subsection (1) does not apply
 - (a) to accommodation in a private residence;
 - (b) to the exclusion of a person because of that person's sex from accommodation, services or facilities upon the ground of public decency;
 - (c) to accommodation where sex is a reasonable criterion for admission to the accommodation;
 - (d) to a restriction on membership on the basis of a prohibited ground of discrimination, in a religious, philanthropic, educational, fraternal, sororal or social organization that is primarily engaged in serving the interests of a group of persons identified by that prohibited ground of discrimination; or
 - (e) to other situations where a good faith reason exists for the denial of or discrimination with respect to accommodation, services, facilities or goods.
- (4) Notwithstanding paragraph (3)(a), subsection (1) shall apply to a private residence that offers a bed and breakfast accommodation for pay.
- (5) For the purposes of this section "accommodation, services, facilities or goods to which members of the public customarily have access or which are customarily offered to the public" shall include accommodation, services, facilities or goods which are restricted to a certain segment of the public.

Canadian Charter of Rights and Freedoms

Section 15 (1) *Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.*

- (6) Subsection (1) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Indian Act

Section 88 *Subject to the terms of any treaty and any other Act of Parliament, all laws of general application from time to time in force in any province are applicable to and in respect of Indians in the province, except to the extent that those laws are inconsistent with this Act or any order, rule, regulation or by-law made thereunder, and except to the extent that those laws make provision for any matter for which provision is made by or under this Act.*

Intergovernmental Affairs Act

Section 7 Notwithstanding another Act or law, every intergovernmental agreement shall, before it is executed, be submitted to the minister and shall be signed by the minister or his or her designate as well as the minister of the government of the province administering the department to which it relates, and an intergovernmental agreement which is not executed in accordance with this section is not binding on the province or an agency or official of the province.

Executive Council Act

Section 10 *Subject to the Intergovernmental Affairs Act, a minister may enter into agreements with the Government of Canada or of a province of Canada or an agency of the Government of Canada or of the government of a province providing for*

- (a) *the joint undertaking by the government of the province or an agency of the government with those governments,*

or an agency of those governments, of projects relating to an aspect of the powers, functions or duties of the minister; and

- (b) the payment by or to the province of contributions in respect of the cost of projects referred to in paragraph (a).

**Communications Plan
Establishment of a Provincial/Innu
Child and Family Services Board**

Consulted with: D. Keough	Date Drafted: April 29, 2003	Anticipated Announcement date: No announcement at this time; news release to be issued when approval for negotiations is granted.
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A. COMMUNICATIONS ANALYSIS

Public Environment

Many events over the last few years have generated media attention around the availability of health and community services in Innu communities. This has resulted in an increase in public awareness. Some of the issues that have captured media attention are:

- In the Fall of 2000 the Sheshatshui Band Council requested that Innu children in the community, deemed to be at risk due to high rates of solvent abuse, be placed in a safe environment. Since that time, the general public has been more aware of the issues facing Innu communities in the province. At that time, Tom Rideout, Opposition Justice critic urged government to enforce laws that would allow authorities to apprehend people for gas sniffing. Media attention was high at the time of Sheshatshui Band Council request, and continued to be high throughout government's response to this issue.
- Government's action plan to respond to solvent abuse issues by placing Innu children at the Grace Hospital for treatment was received positively and media attention peaked. However, many people voiced their concerns about what would happen once the children returned to their communities.
- One of the major challenges Health Labrador Corporation has faced in providing services to Innu communities is the recruitment and retention of social workers to these areas. A walkout by social work staff in Sheshatshui in November 2002 generated media attention and public awareness of recruitment and retention issues is high. Following the walkout, two social workers in the area resigned and questions were raised in the House of Assembly asking what government has done to address the staffing/workload issues in the Labrador region.
- The Social Worker Workload Measurement Study, a joint initiative between government, NAPE and the community health sector was commissioned to look at issues facing social workers in the province and the final report, officially released in November 2002 indicated an urgent need to increase staffing levels in Labrador.

- In March 2003, after the Innu community of Davis Inlet had relocated to the new community of Natuashish, media attention around the issue of solvent abuse increased again when police in the area were quoted as saying that residents suspect that “kids are sniffing gas” in the new community.

There has been a high level of interest expressed from the public on open line programs and in newspaper letters to the editor, which indicates that any new developments linked to Innu communities would generate public interest as well as high media coverage.

While this is not a concern at the present moment, as the creation of a Provincial/Innu Family Services Board is not yet in the negotiation stages, these issues will come up once an announcement is made regarding the formation of such a board. An in-depth communications plan will be drafted upon conclusion of negotiations to develop a Provincial/Innu Family Services Board.

The Innu are not yet aware of plans to develop a Board, although the Province has indicated to the Innu that it has difficulties with the current funding arrangements and that other options are being explored. It is expected that the Innu will not respond positively to the concept of a Bilateral Board, since it does not yet grant them full control over child, youth and family services in their communities. For that reason, once it is communicated to the Innu, steps should be taken to ensure the Innu understand the benefits of such an arrangement, including an increase in resources and a direct flow of funding to the Board. It should also be stressed that the Innu will be an equal party to this process.

Target Audiences

- Innu communities
- Indian and Northern Affairs Canada
- Health Labrador Corporation
- Health care providers in Northern Labrador
- Management and staff of Health Labrador Corporation
- Other provincial and territorial governments, and the federal government
- Opposition
- Media

Consultations

The Department of Health and Community Services has consulted with the Departments of Justice and Labrador and Aboriginal Affairs. The Innu have not yet been consulted on the development of the Board, however, once approval for negotiations is granted consultations will be held with representatives from Innu communities.

Communications Objectives (*Note: At this time communications will be limited to government and the parties directly involved in the creation of the Board. The communications objectives will change once the Innu are informed and the negotiations are announced to the general public.*)

- To communicate to key stakeholders that the Department of Health and Community Services is requesting approval to negotiate the establishment of a Provincial/Innu Child Youth and Family Services Board.
- To explain the benefits of such a Board, and why it is needed.
- To garner support for the development of a Provincial/Innu Child Youth and Family Services Board.

Messages

- The Department of Health and Community Services will be negotiating the establishment of a Provincial/Innu Child, Youth and Family Services Board.
- The role of the Board will be to facilitate the delegation of responsibility for Child and Family Services to the Innu.
- Provincial representation on the board will be phased out as the Innu demonstrates capacity on the board and full delegation will be granted to an Innu controlled board at that time.
- The Child, Youth and Family Services Board will address the need for increased services in the communities of Sheshatshiu and Natuashish since it will result in an increase in federal monies which will be used to hire additional staff. This will help address recruitment and retention issues in the area, specifically as it relates to social workers.
- The Government of Newfoundland and Labrador is committed to continue to work with the Innu toward the goal of devolution of child, youth and family services to the Innu. Until

COMMUNICATIONS ACTIVITIES

Strategic Considerations

Operational Review of Health Labrador Corporation - An operational review of Health Labrador Corporation has been completed but not yet released. Recommendations from the review may address issues of recruitment and retention of health professionals, as well as service provided to the Innu. When the review is released, it will generate media attention which could lead the opposition to question services provided to the Innu.

Relationship with the Innu - The Innu were not consulted prior to the negotiations. They may take this as an insult and it may overshadow the benefits accompanying this arrangement. Also, the Innu may respond negatively to the provincial representation on the Child Youth and Family Services Board which could make the relationship between the Innu and the Government of Newfoundland and Labrador suffer.

Interdepartmental Coordination

- The Department of Health and Community Services and the Department of Labrador and Aboriginal Affairs will work together on all communications

activities related to this issue. The Communications and Consultation Branch of Executive Council and the Premier's Office will be consulted as necessary.

The Announcement

- As this cabinet submission is seeking approval to negotiate the establishment of Provincial/Innu Child and Family Services Board, a public announcement is not needed at this time.
- Upon conclusion of negotiations a detailed communications plan will be developed outlining a public announcement regarding the development of the Child Youth and Family Services Board.

Minister's Involvement

- The Minister of Health and Community Services and the Minister of Labrador and Aboriginal Affairs will both be involved in communications activities as necessary.

Briefing of MHAs

- The Minister of Health and Community Services and the Minister of Labrador and Aboriginal Affairs will brief Cabinet and Caucus as required on this issue.

Follow-up Activities

- Monitor the media for reaction and respond accordingly.
- Continue to communicate our key messages when appropriate.
- Monitor and respond to any correspondence that comes forward regarding this issue.

Evaluation Criteria

- Monitor the media and correspondence of interest groups, and take action accordingly.

Drafted by: J. Fleming