

**From:** Gover, Aubrey  
**Sent:** Tuesday, March 31, 2020 9:28 AM  
**To:** Hunter, Karen  
**Subject:** FW: MOU between MIFN and Province on essential child protection services  
**Attachments:** CSSDMIFNMOU v2.docx

Please trim

*Aubrey Gover*  
 Deputy Minister  
 Indigenous Affairs

T. 709-729-4776, F. 709-729-2129  
 PO Box 8700, St. John's, NL  
 A1B4J6

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**From:** Judith Rae <jrae@oktlaw.com>  
**Sent:** Monday, March 30, 2020 1:06 PM  
**To:** Gover, Aubrey <aubreygover@gov.nl.ca>  
**Cc:** Lyla Andrew <lylaandrew@irtsec.ca>; Germaine Benuen (gbenuen@irtsec.ca) <gbenuen@irtsec.ca>; Chief John Nui - Mushuau Innu First Nation (john.nui@mifn.ca) <john.nui@mifn.ca>; Nick Paradisis (nick.paradisis@mifn.ca) <nick.paradisis@mifn.ca>  
**Subject:** RE: MOU between MIFN and Province on essential child protection services

Good afternoon Aubrey,

Please find attached my preliminary comments on the draft MOU. In the interests of time, I am sending these comments back to you right away and I have not yet had the chance to discuss them with my clients. I anticipate I may not have the chance to discuss it with them in advance of the call at 2pm Labrador time, but we'll see.

All the best,  
 Judith

Judith Rae  
 Partner, Olthuis Kleer Townshend LLP  
 250 University Ave, 8<sup>th</sup> floor, Toronto, ON, M5H 3E5  
 T: 416-981-9407 C: 416-998-0995 F: 416-981-9350  
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**From:** Judith Rae  
**Sent:** March 30, 2020 11:13 AM  
**To:** Gover, Aubrey <[aubreygover@gov.nl.ca](mailto:aubreygover@gov.nl.ca)>  
**Subject:** RE: MOU between MIFN and Province on essential child protection services

Thanks got it.

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Judith Rae  
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**From:** Gover, Aubrey <[aubreygover@gov.nl.ca](mailto:aubreygover@gov.nl.ca)>  
**Sent:** March 30, 2020 11:09 AM  
**To:** Judith Rae <[jrae@oktlaw.com](mailto:jrae@oktlaw.com)>  
**Subject:** Re: MOU between MIFN and Province on essential child protection services

There is. I will.

Aubrey Gover  
Deputy Minister  
Indigenous Affairs

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**From:** Judith Rae  
**Sent:** Monday, March 30, 2020 12:38 PM  
**To:** Gover, Aubrey  
**Subject:** RE: MOU between MIFN and Province on essential child protection services

Thank you Aubrey, I will review today.

Is there a call today on this and if so could you please send me call-in details? Much appreciated.

Thanks  
Judith

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**From:** Gover, Aubrey <[aubreygover@gov.nl.ca](mailto:aubreygover@gov.nl.ca)>  
**Sent:** March 30, 2020 10:29 AM  
**To:** Judith Rae <[jrae@oktlaw.com](mailto:jrae@oktlaw.com)>  
**Subject:** RE: MOU between MIFN and Province on essential child protection services  
**Importance:** High

Attached is our confidential without prejudice suggestion for the MOU.

*Aubrey Gover*  
 Deputy Minister  
 Indigenous Affairs

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 PO Box 8700, St. John's, NL  
 A1B4J6

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**From:** Judith Rae <[jrae@oktlaw.com](mailto:jrae@oktlaw.com)>  
**Sent:** Friday, March 27, 2020 4:54 PM  
**To:** Gover, Aubrey <[aubreygover@gov.nl.ca](mailto:aubreygover@gov.nl.ca)>  
**Cc:** McLennan, Kimberley <[kimberleymclennan@gov.nl.ca](mailto:kimberleymclennan@gov.nl.ca)>; Lyla Andrew <[lylaandrew@irtsec.ca](mailto:lylaandrew@irtsec.ca)>; Germaine Benuen <[gbenuen@irtsec.ca](mailto:gbenuen@irtsec.ca)> <[gbenuen@irtsec.ca](mailto:gbenuen@irtsec.ca)>; Chief John Nui - Mushuau Innu First Nation ([john.nui@mifn.ca](mailto:john.nui@mifn.ca)) <[john.nui@mifn.ca](mailto:john.nui@mifn.ca)>; Nick Paradisis ([nick.paradisis@mifn.ca](mailto:nick.paradisis@mifn.ca)) <[nick.paradisis@mifn.ca](mailto:nick.paradisis@mifn.ca)>  
**Subject:** MOU between MIFN and Province on essential child protection services

Hi Aubrey,

I was filled in about the call you had on the CSSD / Natuashish issue earlier today and I have been asked to provide technical assistance with this MOU. Please loop me in. I can be reached at 416-998-0995, and by email.

Kim I am copying you on this, with the guess that you may be involved at some level. If that's the wrong guess, my apologies.

All the best, hope you are all doing alright.

Judith

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**MEMORANDUM OF UNDERSTANDING CONCERNING THE DELIVERY OF CHILD,  
YOUTH AND FAMILY SERVICES TO THE MUSHUAU INNU FIRST NATION**

**Between:** Her Majesty the Queen in Right of Newfoundland and Labrador as represented by the Ministers of Indigenous Affairs and Children, Seniors, and Social Development

(hereinafter called the NL Government);

-of the one part-

**And:** The Mushuau Innu First Nation, having the status and capacity of a band under the **Indian Act**, as represented by the Chief and Council thereof

(hereinafter called the Mushuau Innu).

-of the other part-

**Whereas:** the Parties recognize the challenges facing the delivery of child, youth and family services to the Mushuau Innu during the Covid-19 pandemic;

**And Whereas:** the Minister of Children, Seniors and Social Development has a duty to deliver services under the **Children, Youth and Families Act**, including on reserve;

**And Whereas:** the Mushuau Innu have certain responsibilities to protect the health and safety of their members and have certain powers with respect to the management of their reserve being a reserve under the **Indian Act**;

**And Whereas:** On March 18, 2020, the Minister of Health and Community Services, on the advice of the Chief Medical Officer of Health, declared a public health emergency as a result of the COVID-19 pandemic in the entire province of Newfoundland and Labrador;

**And Whereas:** the Mushuau Innu have expressed to the NL Government its critical concern regarding the risks that the entry of persons into Nataushish during the noted pandemic may pose to the residents of Natuashish;

- And Whereas:** as a result of the above noted concern, the Mushuau Innu have advised the NL Government that the Mushuau Innu do not wish to have anyone entering Natuashish during the noted pandemic, unless the person goes through a 14-day isolation, including staff from the Department of Children, Seniors and Social Development;
- And Whereas:** the NL Government and the Mushuau Innu have consulted on the above noted matters;
- And Whereas:** given the expressed concerns and wishes on the Mushuau Innu, the NL Government is willing to engage in a service model in accordance with the terms of this MOU to accommodate the concerns and choices of the Mushuau Innu, while still recognizing the noted statutory responsibilities of the Minister of Children, Seniors and Social Development;
- And Whereas:** the Parties wish to reduce their understanding on these matters to writing by means of this MOU;
- Now Therefore:** the Parties agree to enter into this MOU for the delivery of child, youth and family services during the current public health emergency under the **Children, Youth and Families Act** to the Mushuau Innu.

### **TERM OF THIS MOU**

- 1.1 Notwithstanding the date on which this MOU may be executed, this MOU shall come into force on April 1, 2020 and shall continue in force until terminated in accordance with this MOU.

### **TERMINATION OF THIS MOU**

- 2.1 This MOU will terminate upon the earliest of
- (a) the termination of the above noted public health emergency;
  - (b) upon the giving of one month's notice of termination by one Party to the other Party;
  - (c) upon the revocation of all Letters of Designation, which are described in 3.1 below; or
  - (d) by the agreement of the Parties to terminate this MOU.
- 2.2 For clarification, where there are multiple Letters of Designation, the revocation of one or more such Letters does not terminate this MOU, unless the revocation of a Letter leaves no remaining Letters of Designation in effect.

### SERVICE DELIVERY FOR THE TERM OF THE MOU

- 3.1 For the Term of this MOU, services under the **Children, Youth and Families Act** to residents of Natuashish will be delivered by individuals designated by the Minister of Children, Seniors and Social Development under section 5 of the **Children, Youth and Families Act**, and in accordance with the Minister's Letter of Designation to the individual.
- 3.2 An individual designated as described in 3.1 of this MOU has the protection from personal liability for anything done or omitted in good faith as set out in section 7 of the **Children, Youth and Families Act**.
- 3.2 The Parties both understand and expect that a full range of usual services is not feasible during the course of this public health emergency, and they plan to focus service delivery under the **Children, Youth and Families Act** under this MOU on essential services.

### General Provisions

- 4.1 Nothing contained in this MOU, including the negotiations leading to its creation, its terms, and its implementation, is an admission of fact, law or liability, or
- (a) shall be construed as conferring on, recognizing, denying or derogating from any Aboriginal, treaty or constitutional rights and obligations of any of the Parties or which may be claimed by the Parties;
- (b) may be used as an interpretative aid in defining the nature or scope of any Aboriginal treaty or other rights;
- (c) creates any prejudice to the positions that any Party may have taken or may take with respect to any Aboriginal or treaty rights, benefits, claims or privileges before any court, or other tribunal, in any forum, or in any negotiation, including the negotiation of a treaty or land claim or otherwise.
- 4.2 This MOU is not and will not be deemed, construed or interpreted to be a treaty or a land claims agreement within the meaning of sections 25 or 35 of the **Constitution Act, 1982**.
- 4.3 This MOU does not create legally binding obligations on the Parties but is a written record of the understanding reached by the Parties for the delivery of the subject services in light of the public health emergency.

4.4 This MOU may only be amended in writing by mutual consent of the Parties.

4.5 This MOU may be executed in counterparts and electronically.

4.6 A waiver of the strict performance of any provision of this MOU is not valid unless it is in writing and signed by a duly authorized representative of the Party giving the waiver, and a valid waiver on any one occasion shall not itself constitute a waiver of any subsequent breach. The failure of a Party to require the fulfilment of any obligation, or to exercise any rights contained in this MOU shall not constitute a waiver or surrender of those obligations or rights

4.7 This MOU shall be interpreted in accordance with the laws in force in the province of Newfoundland and Labrador, as amended from time to time, and the Parties to this MOU agree that the law will be interpreted by the Supreme Court of Newfoundland and Labrador or any appellate court therefrom in accordance with the laws in force in Newfoundland and Labrador.

4.8 This MOU is binding on the heirs, successors, and assigns of the Parties.

4.9 This MOU constitutes the entire agreement between the Parties. There are no other written or verbal agreements, representations, warranties, or undertakings between the Parties concerning the subject matter of this MOU.

**Executed by the Parties:**

Her Majesty the Queen in right of Newfoundland and Labrador,  
as represented by the Ministers of Indigenous Affairs and  
Children, Seniors, and Social Development

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Date:

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Date:

Mushuau Innu First Nation, having the status and capacity of a band within the meaning  
of the **Indian Act**,

as represented by the Chief and Council thereof,

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Date:

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Date:

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Date:

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Date:

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Date: