

From: [Gover, Aubrey](#)
To: [Hunter, Karen](#)
Subject: FW: MOU signed by MIFN
Date: Wednesday, April 15, 2020 10:03:04 PM
Attachments: [MIFN-CSSD MOU Apr 12 signed by MIFN.pdf](#)

Please trim

Aubrey Gover
 Deputy Minister
 Indigenous Affairs

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 A1B4J6

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From: Judith Rae <jrae@oktlaw.com>
Sent: Wednesday, April 15, 2020 11:09 AM
To: Gover, Aubrey <aubreygover@gov.nl.ca>
Cc: Walsh, Susan (CSSD) <SWalsh@gov.nl.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: MOU signed by MIFN

Good morning Aubrey,

Please see attached.

All the best,
 Judith

Judith Rae
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MEMORANDUM OF UNDERSTANDING**CONCERNING THE DELIVERY OF CHILD, YOUTH AND FAMILY SERVICES TO THE MUSHUAU INNU FIRST NATION DURING A PUBLIC HEALTH EMERGENCY**

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: 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 delivery 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: as a result of the above noted concerns, the Mushuau Innu have generally closed Natuashish to entry during the noted pandemic, with very limited exceptions and as a result CSSD will not have social workers available in the community as of April 13, 2020;

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 13, 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) by the agreement of the Parties to terminate this MOU; or
- (d) by the Minister of Children, Seniors and Social Development revoking any two Section 5 Letters of Authorization under the **Children, Youth and Families Act** issued further to section 3.1 of this MOU, such that four or fewer authorized workers would have been remaining in Natuashish.

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 recommended by the Mushuau Innu and others, all of whom must be authorized 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 Authorization to the individual.
- 3.2 An individual authorized, as described in 3.1 of this MOU, has the protection provided by section 7 of the **Children, Youth and Families Act**, while acting in good faith in accordance with their Letter of Authorization.
- 3.3 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 that are necessary during this emergency period.
- 3.4 The NL Government shall pay the individuals recommended by the Mushuau Innu and authorized under section 3.1 for their work pursuant to their Letter of Authorization on the following basis:
- a. Authorized workers will perform the duties under the Letter of Authorization in pairs of two on 48 shifts.
 - b. The shift schedule will be provided by the authorized workers to the CSSD supervisor, and the CSSD supervisor will be notified of any changes in the schedule.
 - c. It is understood that the authorized workers will continue to receive their base salary from MIFN and IRT respectively.
 - d. An authorized worker will be paid by CSSD \$600.00 per 48-shift. This includes time on the phone.
 - e. An authorized worker will also be paid by CSSD for call-outs where the worker is expected to leave his/her home. These call-outs will be paid at a rate of \$30 per hour, with a minimum of three hours compensation per call-out.
- 3.5 The Mushuau Innu will advocate to the federal government for federal reimbursement of provincial costs incurred under this MOU.
- 3.6 The parties recognize that the Department of Children, Seniors and Social Development requires specific records checks of all parties delivering

services under the **Children, Youth and Families Act**. It is anticipated that full records check and screening processes will be completed prior to the implementation of this MOU, and both parties will make such efforts accordingly. In addition, the Mushuau Innu, in recommending an individual under section 3.1, states that this individual is, to the knowledge of the Mushuau Innu First Nation as represented by its Chief & Council, an upstanding member of the community, and capable of serving in this role with skill and integrity.

- 3.7 The parties understand and agree that only functions assigned to the authorized individual by a Department of Children, Seniors and Social Development manager and/or supervisor, and performed as directed by the Department of Children, Seniors and Social Development manager and/or supervisor are enabled under the section 5 Letter of Authorization and this MOU.
- 3.8 The parties agree that if a matter requiring action under the **Children, Youth and Families Act** is identified directly to an authorized individual the authorized individual must contact the Department of Children, Seniors and Social Development manager and/or supervisor prior to taking any action under the **Children, Youth and Families Act**, this MOU, or the Section 5 Letter of Authorization under the **Children, Youth and Families Act**.
- 3.9 The parties agree nothing contained in this MOU, including the negotiations leading to its creation, its terms, and its implementation, including any section 5 authorization under the **Children, Youth and Families Act** is:
- (a) a delegation of services under section 105 of the **Children, Youth and Families Act**; or
 - (b) is acknowledgement of, action under or pursuant to the federal enactment being **An Act respecting First Nations, Inuit and Métis children, youth and families** (S.C. 2019, c. 24);
- and the parties agree to not take a contrary view at any future time.

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

Date:

Date:

Mushuau Innu First Nation, having the status and capacity of a band within the meaning of the **Indian Act**, as represented by a majority of a quorum of the Chief and Council thereof on April 14, 2020

Electronic signatures have been applied with approval:



Chief

Chief John Nui

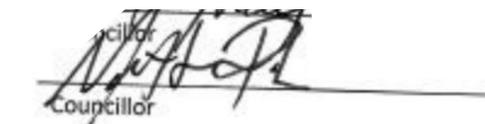


Councillor Mary-Lucy Dicker



Councillor

Councillor Simon Pokue



Councillor

Councillor Mathias Rich