



**Department of Justice
Canada**

National Litigation Sector
500-50 O'Connor Street
Ottawa ON K1A 0H8

**Ministère de la Justice
Canada**

Secteur national du contentieux
500-50, rue O'Connor
Ottawa ON K1A 0H8

Telephone: (613) 670-6289
Facsimile: (613) 954-1920
E-Mail: Robert.Frater@justice.gc.ca

Via Email

November 9, 2020

Judy Dubois
Registry Officer
Canadian Human Rights Tribunal
160 Elgin Street, 11th Floor
Ottawa, ON
K1A 1J4

Dear Ms. Dubois:

**Re: First Nations Child and Family Caring Society, et al. v Attorney General of
Canada (Tribunal File: T1340/7008)**

With respect to the four questions posed by the Panel on the Compensation Framework, Canada wishes to respond to all 4 questions. This letter contains our answer to the first question; on questions 2-4, we are providing a joint response on behalf of the Assembly of First Nations, the Caring Society and Canada. Those responses are in a separate letter.

Sections 10.3-10.5

The Attorney General acknowledges that the management of child or youth beneficiaries raises concerns. However, as pointed out in our submission, federal and provincial law does provide legally binding mechanisms of dealing with the concerns.

The Panel appears inclined to impose a different method of dealing with compensation, and states at page 2 that it

generally agrees that governments should not manage the beneficiaries' funds in a case of racial systemic discrimination in government services.

As pointed out in para. 4 of our submissions, ss. 52, 52.1 and 52.2 give the Minister the power to deal with funds in certain circumstances, and contemplates a significant role for Band Councils. The relevant provisions of the *CHRA* do not suggest that different procedures can be employed whenever Canada has been found to have discriminated. Provincial property law must also be respected.

Canada

Yours truly,

A handwritten signature in black ink, appearing to read "Robert Frater, Q.C.", written in a cursive style.

Robert Frater, Q.C.
Counsel for the Attorney General of Canada

cc. Jonathan Tarlton, Patricia MacPhee, Kelly Peck, Max Binnie and Meg Jones
Co-counsel for the respondent Attorney General of Canada

Stuart Wuttke
Co-counsel for the complainant Assembly of First Nations

David Taylor and Sarah Clarke
Counsel for the complainant First Nations Child and Family Caring Society

Brian Smith and Jessica Walsh
Co-counsel for the Canadian Human Rights Commission

Maggie Wenté and Sinéad Dearman
Co-counsel for the interested party Chiefs of Ontario

Molly Churchill and Julian Falconer
Co-counsel for the interested party Nishnawbe Aski Nation

Justin Safayeni
Co-counsel for the interested party Amnesty International