

## DISTRIBUTION PLAN

1. The following definitions apply:
  - a) **Abuse Compensation Payment ("ACP"):** means a payment pursuant to Schedule 1 herein, paid to an eligible Survivor Class Member.
  - b) **Academic Year:** means a year commencing August 1 of each year and ending on July 31 of the following year.
  - c) **Action:** means the following consolidated actions:
    - i. Anderson et al v. The Attorney General of Canada et al – Action 2007 01T4955 CP
    - ii. Asivak et al v. The Attorney General of Canada et al – Action 2008 01T 0845 CP
    - iii. Holwell et al v. The Attorney General of Canada et al – Action 2008 01T 0844 CP
    - iv. Lucy at al v. The Attorney General of Canada et al – Action 2008 01T 0846 CP
    - v. Obed v. The Attorney General of Canada et al – Action 2007 01T 5423 CP
  - d) **Approval Order:** means the order approving the settlement of the Action and this Distribution Plan.
  - e) **Claim Form:** means a sworn written claim from a Survivor Class Member or his or her lawful representative seeking compensation from the Compensation Fund.
  - f) **Claims Administrator:** means a person or entity hired to administer the claims made pursuant to this Distribution Plan.
  - g) **Claims Deadline:** means six-months after the Court Approval Date.
  - h) **Class Counsel:** means Koskie Minsky, Ahlstrom Wright Oliver & Cooper LLP, and Ches Crosbie Barristers now trading as Patient Injury Law.
  - i) **Class Period:** means for Facilities in:
    - i. Makkovik - April 1, 1949 to June 30, 1960
    - ii. Cartwright - April 1, 1949 to June 30, 1964
    - iii. Nain - April 1, 1949 to June 30, 1973
    - iv. St. Anthony - April 1, 1949 to June 30, 1979
    - v. Northwest River - April 1, 1949 to June 30, 1980
  - j) **Compensable Abuse:** means abuse as defined by Schedule 1 herein, of a Survivor Class Member, that occurred during the Class Period:
    - i. in the case of a Residential Student, at any time during the term of his or her Residence in one of the Facilities, whether or not the abuse occurred on the premises of one or more of the Facilities;
    - ii. in the case of a Non-Residential Student, on the premises of one or more of the Facilities

- k) **Compensation Fund:** means funds to be paid to the Claims Administrator pursuant to the settlement of the Action less amounts ordered payable to Class Counsel, compensation for the Claims Administrator (including all expenses and taxes) and any expenses and taxes relating to the Notice of Court Approval and Notice of Approval Hearing.
- l) **Court Approval Date:** means the later of:
  - i. thirty days after the approval order is issued; or
  - ii. the disposition of any appeals from the Approval Order.
- m) **Facilities:** means any of the five residential premises, by whatever name they existed during the Class Period as located in North West River, Makkovik, Nain, Cartwright and St. Anthony, operated by the International Grenville Association or the Moravian Church, in the province of Newfoundland and Labrador.
- n) **General Compensation Payment (“GCP”):** means a payment pursuant to paragraphs 10-13 herein to an eligible Residential Student.
- o) **Hearing Officer:** means a person retained by the Claims Administrator to adjudicate compensation claims independent of and from the Claims Administrator.
- p) **Hearing:** includes telephone and personal attendance in any combination as reasonably determined by the Hearing Officer.
- q) **Late Claim:** means any Claim Form submitted after the Claims Deadline.
- r) **Non-Residential Student:** means a Survivor who is not a Residential student at the time of the abuse, but was attending grade school (Pre K-12 or upgrading).
- s) **Notice of Court Approval:** means the court-approved notice advising of the approval of the settlement and advising of the claims process.
- t) **Notice of Court Approval Hearing:** means the court-approved notice advising of the hearing to approve the settlement of the Action.
- u) **Resided:** means was living at a Facility and is not intended to cover non-residential overnight stays (example: sleepovers, community events).
- v) **Residential Student:** means a Survivor Class Member who Resided at a Facility for the purpose of attending grade school (Pre K-12 or upgrading) regardless of any other purpose (for example: as a ward of the Province).
- w) **Survivor Class Member (“Survivor”):** means
  - i. Any member of the survivor class as defined in the within Action who Resided at one or more of the Facilities at any time during the Class Period; and

- ii. For ACP purposes only, shall include any Non-Residential Student who suffered Compensable Abuse at one of the Facilities whether or not that person was a Resident of that Facility at the time of the abuse; and
- iii. Was alive at November 23, 2006; and
- iv. Was under the age of 21 years at the time he or she Resided at a Facility or at the time of the Compensable Abuse, as the case may be; and

### **Submitting Claims**

- 2. A Survivor may not submit more than one Claim Form. In particular, a Survivor shall submit one Claim Form that comprises all claims that he or she may have individually relating to all Facilities attended. If more than one Claim Form is submitted within the time specified herein, the Claims Administrator will treat them as one Claim Form.
- 3. Each Claim Form must be submitted by the Claims Deadline.
- 4. The Claims Administrator shall, in its own discretion, determine whether any Late Claim should be considered for compensation if:
  - a. it can be determined that the Survivor formed an intention to submit a Claim Form prior to the Claims Deadline but was unable to do so because of the fault of carelessness of a third party, or
  - b. exceptional circumstances can be shown that would warrant the consideration of the Claim.
- 5. The Claims Administrator shall investigate a Late Claim and make determinations on its acceptance by no later than sixty days after the Claims Deadline and only if funds remain in the Compensation Fund pursuant to paragraph 30 herein available for disbursement towards a Late Claim.

### **Processing Claims**

- 6. The Claims Administrator shall review each Claim Form and verify:
  - a. For a Survivor claiming on his or her own behalf, that the Survivor did not opt out of the Action, or opted into the Action, each as the law or order of the Court allows.
  - b. For any other person claiming on behalf of a Survivor or a Survivor's estate, that:
    - i. the person has authority to act on behalf of the Survivor or the Survivor's estate in respect of financial affairs; and
    - ii. the person or estate on whose behalf the claim was submitted is a Survivor who did not opt out of the Action, or was opted into the Action as the law or order of the court allows.

7. The Claims Administrator shall review the Claim Form and identify the correct level of compensation.
8. In consultation with Class Counsel, the Claims Administrator shall establish procedures, if necessary, to review and examine the veracity of claims.

#### **Compensation Cheques**

9. The Claims Administrator shall mail the compensation cheques to each Survivor at his or her last known postal address. If, for any reason, a Survivor does not cash a cheque within six months after the date of the cheque, the Survivor shall forfeit the right to compensation. The Claims Administrator shall advise Class Counsel of all Survivors who have not cashed their cheques one month before the six month period to cash cheques expires.

#### **General Compensation Payment ("GCP")**

10. Payment shall be made to each Residential Student who Resided at a Facility for any length of time during the Class Period.
11. No GCP shall be made to any Non-Residential Student.
12. Payments shall be made in the sum of \$15,000 for any Residential Student who Resided at one or more of the Facilities during the Class Period for less than five Academic Years or parts thereof.
13. Payments shall be made in the sum of \$20,000 for any Residential Student who Resided at one or more of the Facilities during the Class Period for five or more Academic Years or parts thereof.
14. Within sixty days after the Claims Deadline has passed:
  - a. The Claims Administrator shall complete the assessment of all GCP claims and shall determine whether there will be sufficient funds in the Compensation Fund to satisfy all GCP Payments if all GCP claims are deemed eligible.
  - b. If the Claims Administrator determines that there are sufficient funds, then the Claims Administrator shall make the GCP payments without delay.
  - c. If the Claims Administrator determines that there are insufficient funds then it shall not make any GCP payments until a determination is made, in consultation with Class Counsel, as to how the distribution of such funds shall proceed. In that case, the primary intention shall be to pay GCP eligible claimants on a pro-rata basis, unless there are circumstances which would warrant a departure from that intention.

### **Abuse Compensation Payment ("ACP")**

15. This process shall be primarily based on the Claim Form of an eligible Survivor submitted to the Claims Administrator.
16. The Claim Form shall be assessed by the Claims Administrator who will determine the compensation pursuant to Schedule 1, which most appropriately and accurately reflects the abuse suffered by the Survivor.
17. No Claim Form for ACP shall be accepted, in whole or in part, where the Survivor is not alive at the date that the Claim Form is sworn.
18. The Claim Form may be accepted in whole, in part or rejected by the Claims Administrator. If the Claim Form is rejected, in whole or in part, after notice thereof, the Survivor may request a Hearing before a Hearing Officer. The Survivor may be questioned under oath by the Hearing Officer to better determine credibility and the nature of the claim made. The Survivor may request a Hearing for any claim where their ACP application is rejected in whole or in part by the Claims Administrator.
19. The Hearing Officer may request documents or other evidence where appropriate to better clarify or validate a claim made, but such requests shall not be extensive or put the Survivor to unreasonable efforts in view of the nature of the claim made, the credibility and the reliability of the Survivor and the spirit and intent of the settlement including the need for a system that is respectful, reconciliatory and simple.
20. The decision of the Hearing Officer is final without any recourse to the court or other tribunal.
21. ACP payments shall be paid:
  - a) Upon the final determination of all of the ACP claims;
  - b) In full, if there are sufficient funds remaining in the Compensation Fund; and
  - c) In the event that there are insufficient funds remaining in the Compensation Fund, pro rata as between each eligible ACP survivor based upon the amount of the ACP award and the amount remaining in the Compensation Fund.

### **Validation**

22. The claims process is intended to be expeditious, cost effective and "user friendly" and to minimize the burden on the Survivor. The Claims Administrator shall, in the absence of reasonable grounds to the contrary, assume the Survivor to be acting honestly and in good faith.

23. Where a Claim Form contains minor omissions or errors, the Claims Administrator shall correct such omissions or errors if the information necessary to correct the error or omission is readily available to the Claims Administrator.
24. The claims process is also intended to prevent fraud and abuse. If, after reviewing any Claim Form, the Claims Administrator believes, on reasonable grounds, that the claim contains unintentional errors which would materially affect the compensation to be awarded to the Survivor, then the Claims Administrator may disallow the claim in its entirety or make adjustments so that an appropriate compensation is awarded to the Survivor. If the Claims Administrator believes that the claim is fraudulent or contains intentional errors which would materially affect the compensation to be awarded to the Survivor, then the Claims Administrator may disallow the claim in its entirety.
25. Where the Claims Administrator intends to reject a claim in whole or in part, he or she shall contact the Survivor by telephone or in writing to advise of that intention and to invite the survivor to provide additional information to support that portion of the claim that otherwise the Claims Administrator intends to reject. The process is meant to be informative, informal and to promote, where reasonably possible, payment in full for the claimed years of attendance.
26. Where the Claims Administrator disallows a claim in whole or in part, the Claims Administrator shall send to the Survivor at the Survivor's last known postal address, a notice advising the Survivor.
27. The decision of the Claims Administrator is final without any recourse to the court or other tribunal.

#### **Limit on Payments**

28. No Survivor shall receive more than one payment for GCP and one payment for ACP. For the sake of clarity, abuse that occurred at more than one Facility shall be treated as ongoing abuse for purposes of calculating appropriate ACP compensation. For Residential Students, GCP shall be calculated on the basis of the cumulative number of years of residence at any of the Facilities. For example:
  - a. A Survivor residing for two-years at one Facility followed by another two years at another Facility shall be considered eligible for payment of \$15,000.00 total as being a cumulative total residence under five years.
  - b. A Survivor residing for two-years at one Facility and three years at another Facility shall be considered eligible for a payment of \$20,000.00 total as being a cumulative total Residence of five years or more.

### **Surplus Funds**

29. Any surplus in the Compensation Fund after all other payments (GCP, ACP, eligible Late Claims), costs and expenses have been made shall be divided equally amongst the GCP recipients.
30. For the sake of clarity, the Compensation Fund shall be distributed generally in the following order:
  - a) GCP to all eligible Survivors;
  - b) ACP to all eligible Survivors;
  - c) Late Claims;
  - d) Surplus funds payable to GCP recipients.

## SCHEDULE 1

### Levels of Abuse

Level	Description	Compensation Amount
1	<ul style="list-style-type: none"> <li>• One or more incidents of fondling or kissing.</li> <li>• Nude photographs taken of the Survivor.</li> <li>• The act of an adult exposing themselves.</li> <li>• Any touching of a student, including touching with an object, by an adult which exceeds recognized parental contact and which subjectively violates the sexual integrity of the Survivor.</li> <li>• One or more incidents of simulated intercourse.</li> <li>• One to three incidents of masturbation.</li> </ul>	\$50,000.00
2	<ul style="list-style-type: none"> <li>• One to three incidents of oral intercourse.</li> <li>• One to three incidents of digital anal or vaginal penetration.</li> <li>• One to three incidents of attempted anal or vaginal penetration.</li> <li>• Four or more incidents of masturbation.</li> <li>• One or more physical assaults causing a physical injury that:               <ul style="list-style-type: none"> <li>○ led to or should have led to hospitalization or serious medical treatment by a physician</li> <li>○ caused permanent or demonstrated long-term physical injury</li> <li>○ impaired or disfigured</li> <li>○ caused loss of consciousness</li> <li>○ broken bones</li> <li>○ caused serious but temporary incapacitation requiring bed rest or infirmary care for several days. Examples include severe beating, whipping, and second-degree burning.</li> </ul> </li> </ul>	\$100,000.00
3	<ul style="list-style-type: none"> <li>• One to three incidents of anal or vaginal intercourse.</li> <li>• Four or more incidents of oral intercourse.</li> <li>• One to three incidents of anal or vaginal penetration with an object.</li> </ul>	\$150,000.00
4	<ul style="list-style-type: none"> <li>• Four or more incidents of anal or vaginal intercourse.</li> <li>• Four or more incidents of anal or vaginal penetration with an object.</li> </ul>	\$200,000.00