
News Release

New Dispute Resolution Process Launched For Abuse Claims At Indian Residential Schools

OTTAWA (November 6, 2003) – Applications are now available for a new Alternative Dispute Resolution (ADR) process for thousands of former students of Indian residential schools seeking compensation for physical and sexual abuse suffered as children. The Minister responsible for Indian Residential Schools Resolution Canada, Ralph Goodale, today launched the formal ADR option, designed as a humane approach to settling outstanding claims in a fair, timely and effective fashion.

“Since December 2002, we have been refining the details of a comprehensive policy framework to resolve physical and sexual abuse claims in a successful and respectful way,” said Minister Goodale. “Over the past months, we have built an Alternative Dispute Resolution process in partnership with former students, plaintiffs’ lawyers and the churches.”

According to the Minister, consultations with stakeholders revealed profound concerns about the scope of a proposed “release form” to be used in ADR proceedings which would have shielded the Government of Canada from any future litigation. This would have meant that a former student with a valid claim for sexual and physical abuse could not pursue further legal action against the government and a participating church with respect to language and culture. For many stakeholders, including the AFN, some claimants and plaintiffs’ counsel, including the loss of language and culture in the scope of the release was a very serious issue.

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“After careful consideration of all of the factors, two contentious “release” requirements were changed,” said Minister Goodale. “As well as addressing the scope of the release, claimants will not be required to sign the release until after the adjudicator has rendered a decision. With respect to the scope issue, claimants who accept compensation awards or settle litigation will not be precluded from the possibility of pursuing future litigation for loss of language and culture, if and when the courts create a basis for such suits.”

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The scars left by the 130 schools run by the Government of Canada and the Catholic, Anglican, United and Presbyterian churches continue to be felt in Aboriginal communities, and are reflected in an unprecedented number of claims by former students for compensation relating to their experiences at these schools. The issues are varied ranging from physical and sexual abuse (both minor and severe) to emotional trauma and loss of language and culture.

Today, there are nearly 12,000 individuals seeking compensation from the courts for abuses dating back over a period of 50 years, and it could take another 50 years for all those cases to work their way through the courts. To date, there have been 12 court judgements while close to 1,000 cases have been settled out of court. It is estimated that with the additional option of ADR, a majority of claims could be resolved in seven years.

“We have created a broad process that allows people to make informed choices about redress, about healing and reconciliation. We are one step closer to helping people to bring closure to these issues and find new directions or beginnings in their lives,” said Minister Goodale.

Alternative Dispute Resolution is voluntary. It is offered as an alternative to litigation and out-of-court settlements. It must be stressed that the choice to go the ADR route belongs to the claimant, not the government. The overall process also provides specific and dedicated funding for counselling, health and safety supports and commemorations.

The ADR process will offer timely settlements and payments for validated claims of sexual and physical abuse and wrongful confinement. Compensation amounts will be equivalent to those paid in courts in each province or territory. Hearings are private and confidential out of respect for the victims. To provide as much support as possible, claimants will have access to a telephone help and information line and to counselling. In addition to this, payment will be made for reasonable travel costs to bring the claimant and a support person (such as a family member or friend) to a hearing and there will be a contribution to reasonable legal costs and out-of-pocket expenses.

Hearings will be conducted by totally independent adjudicators who have been selected by a committee of representatives of former students, plaintiffs’ lawyers, the churches and the Government of Canada. The adjudicators report to, and are guided by, the Chief Adjudicator, the Honourable Ted Hughes of Victoria, British Columbia. The Chief Adjudicator answers to a Reference Group made up of representatives of residential schools stakeholders. Adjudicators are trained and informed about Aboriginal cultures, the residential schools system and about child abuse and its effects.

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The trend of litigation to date has suggested a 70/30 split between the Government of Canada and the churches with respect to the sharing of compensation awards to claimants. Both the Anglican Church and the Presbyterian Church are fully committed to the ADR process (and all other forms of properly validating claims) through their signed agreements with the government. The Catholic institutions and the United Church are without such agreements but they can, and in many cases, do participate and contribute their share of compensation. The Government of Canada is continuing discussions with both the United Church and the Roman Catholics to determine whether formal agreements can be reached which would guarantee that all claimants would receive one hundred per cent of the compensation to which they are entitled.

During its first six months, the ADR system will give priority to processing the applications of former students over the age of 70 years and former students in ill health.

Forms and the accompanying guide are publically available on the Internet at www.irsr.gc.ca and through the Indian Residential Schools Help Desk at 1-800-816-7293.

For further information, contact:

Office of the Minister
Pat Breton
Press Secretary
Ph: 613-996-4893

Indian Residential Schools Resolution Canada
Nicole Daut
Senior Communications Officer
Ph: 613-996-2609