

Compensation & The Agreement in Principle

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As stated in the new Agreement in Principle, changes to the ADR process have been made. It is now called the Independent Assessment Process. It is still an out of court process, which will take 9-10 months and survivors may or may not receive compensation. But the application may be shortened to 14 pages and other harms have been added to this new process. Like the ADR process, the compensation is determined by a point system. The compensation amount has also been changed to ensure that all survivors are treated fairly. Survivors could receive up to \$275,000 for abuses suffered. As well, up to \$250,000 could also be awarded for loss of opportunity which means that if you were unable to hold down a job or even get a job due to your experiences at the Indian Residential school, you could fight for compensation. An amount of up to

\$15,000 could also be awarded to survivors for future care for medical treatment, counseling or psychiatric treatment. This new process addresses more harms than the current ADR process, such as severe psychological abuse, pregnancies that took place in the Residential school, abortions, physical and sexual abuse by other employees at the school such as a gardener or a janitor, abuses by other students and also having to witness abuses of other students by the Priests and the nuns. Survivors who participate in the Independent Assessment Process will have their legal fees paid. Any money that survivors could receive under this process will be theirs completely. Mental health supports are also available in this new process.

The APC is currently looking into First Nation lawyers and other lawyers who could help survivors who wish to participate in

this process. These lawyers could help by explaining the process to survivors and possibly represent them in the Independent Assessment Process, which is up to the survivor. These lawyers could also help survivors fill out will kits so that if the survivor passes away, they could leave any money that they receive from the Government under the Residential school to whoever they wish. If a survivor does not have a will in place, any money that they own could go back to the Federal Government. The APC wants to make sure that survivors and their rights are protected from those who wish to take advantage of them by having the proper legal supports in place. The IAP, as stated in the Agreement in Principle still needs the approval of the courts and the former students in Canada. The Agreement in Principle is not a done deal and therefore does not require a survivor to hire a

lawyer at this time. Hiring a lawyer is a choice of the survivor and the lawyer that a survivor chooses is their right, too. Please remember that when you hire a lawyer, that lawyer works for you and not the other way around. The lawyer's role is to ensure that you are fully aware of what is going on

and should always keep in close contact with you.

For more information on the Agreement in Principle and other issues related to the Indian Residential School, or if survivors in communities would like more information on the Alternative Dispute Resolution process and how to

participate in it, you can contact Georgianna Barlow with the Atlantic Policy Congress toll free at (877)667-4007 or through email at georgianna.barlow@apcfn.ca. You can also visit our website at www.apcfn.ca.

Kmitkinu aq Maqmikewminu

Our Birthright & Our Land

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The judges looked behind the treaty, not just at what was written on the face of it, but looked at the record of negotiations and the parties' intentions. The Court repeated the need for government and First Nations to negotiate acceptable solutions to detailed implementation of the constitutional Rights. Two months later, in November of 1999, the Supreme Court of Canada released the Marshall (No.2) decision which clarified that the governments had the authority to regulate for conservation or other grounds.

In the aftermath of Marshall, exploratory talks continued regarding a long-term Rights-based process. In January 2001, the 13 Nova Scotia Chiefs, Minister Michael Baker (Aboriginal Affairs) and Minister Robert Nault (Indian Affairs) met in

Truro and agreed to negotiate an Umbrella Agreement to begin the long-term Rights-based negotiation process to deal with outstanding Treaty, Title and Aboriginal Rights questions in Nova Scotia and protect the Mi'kmaq constitutional position in any discussions with government.

On June 7, 2002 the thirteen Nova Scotia Chiefs signed the Umbrella Agreement on behalf of their communities. The Umbrella Agreement is a political commitment by all 13 Mi'kmaq Chiefs, Nova Scotia, and Canada to enter into a negotiation process, and to develop a Terms of Reference for a proper Consultation Process. However, substantive negotiations concerning Treaty, Title and Aboriginal Rights will not begin until a Framework Agreement is accepted and signed by all three parties.

The Framework Agreement

is a document in which the parties agree about how and what they will negotiate. The Agreement does not deal with the actual Rights and Title of the Mi'kmaq in Nova Scotia or how those Rights are to be exercised. It does not commit the parties to agree, and certainly does not commit the Mi'kmaq of Nova Scotia to give anything up. It commits the Mi'kmaq of Nova Scotia, Canada, and Nova Scotia to talk and negotiate in good faith about the definition, recognition and implementation of Mi'kmaq Rights and Title. We as Mi'kmaq can now participate in the definition and future implementation of Mi'kmaq Rights and Title.

For further information, contact Diana Campbell at the Kwikwuk Maw-klusuaq Negotiation Office at 1-888-803-3880 or visit our website: www.mikmaqrights.com.

Fishery Plays Part in Membertou Progress

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up the harvesting and business plan: what to fish, where, and how, along with budget and other recommendations. The Chief and Council give final approval. Profits, if any, go into general funds for Band purposes.

"We have about 40 trained fishermen, who have all taken Marine Emergency Duties and other courses, with an emphasis on safety," Lance Paul says. "The Chief and Council, with input from management, assign the crews to the different boats and fisheries. Some fishermen stick to the inshore, some move up to the bigger boats when they're ready.

"Most of our crews are Native. Most of the six captains are still non-Native, but we're developing more Native captains, especially with the At-Sea Mentoring Initiative."

That DFO-sponsored program provides mentors, both Native and non-Native, who

know the fishery and have been certified for training. "We've used non-Native mentors, but it's easier for our guys to work with Native ones," Lance Paul says. "They share the same culture, same language, same Mi'kmaq outlook on the resource and how everything ties together.

"The mentor goes aboard and he becomes like a shadow for the first mate. He shows him how to keep track of what everyone's doing on deck, how to operate behind the wheel, everything to do with fishing."

Membertou belongs to several fishermen's organizations, and takes part in fishery management through DFO's many advisory committees. "You have to keep up with new developments all the time," Lance Paul says, "to plan what's best for the fishery and the Band."

On the business side, Membertou struck an early deal with Clearwater, a seafood giant. Membertou lands all its

snow crab at Clearwater's Glace Bay plant. Ten to twenty Band members work at the plant during the crab processing season. The packaged crab products bear Membertou's name as well as Clearwater's, and the Band gets a share of any profits.

Chief Terrance Paul and chief executive officer Bernd Christmas have both won wide recognition for promoting the Band's commercial growth. Business ventures include the Membertou Trade and Commerce Centre, a convention facility in the Band's commercial park. And the fishery, Canada's oldest industry, is playing its part in the new build-up.

"Fishing produces total revenues close to \$1.8 million," Lance Paul says. "Snow crab quotas and prices have gone down, but we're trying to do better with what we have, and we're always looking at expanding. Overall, we're pretty happy." ☺



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