

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and
ASSEMBLY OF FIRST NATIONS**

Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

ATTORNEY GENERAL OF CANADA
(representing the Minister of Indigenous Services Canada)

Respondent

- and -

**CHIEFS OF ONTARIO and
AMNESTY INTERNATIONAL CANADA and NISHNAWBE ASKI NATION**

Interested Parties

**JOINT REPLY OF THE FIRST NATIONS CHILD AND FAMILY CARING SOCIETY,
ASSEMBLY OF FIRST NATIONS, CHIEFS OF ONTARIO and
NISHNAWBE ASKI NATION**

Jordan's Principle Compliance and Implementation of 2025 CHRT 6

THIS IS THE REPLY OF the First Nations Child and Family Caring Society of Canada (the “**Caring Society**”), the Assembly of First Nations (the “**AFN**”), and the interested parties, Chiefs of Ontario (“**COO**”) and Nishnawbe Aski Nation (“**NAN**”) (collectively, the “**First Nations Parties**”), to the Attorney General of Canada’s (“**Canada**”) response dated September 22, 2026 (“**Canada’s Response**”).

1. This Reply focuses on the consequences of Canada’s positions for First Nations children and families seeking timely access to services, supports and products under Jordan’s Principle. The First Nations Parties reject the positions, statements and arguments in Canada’s Response that would delay or limit the effective implementation of the Tribunal’s orders. Rather than respond to every disputed assertion, this Reply addresses the central issues requiring determination.

2. The First Nations Parties submit that each order sought in their September 9, 2026 Joint Notice of Motion (the “**Joint Motion**”) falls within the scope of this proceeding, including the issues addressed in 2025 CHRT 6 and this interim motion. Each order is also consistent with the Canadian Human Rights Tribunal’s (the “**Tribunal**”) August 21, 2026 direction (the “**Direction**”).

A. Scope of the Joint Motion

3. Canada incorrectly asserts that consultation-related orders are unavailable because of the Caring Society’s consultation motion (the “**Consultation Motion**”). That motion concerns long-term reform; the consultation required by 2025 CHRT 6 concerns interim Jordan’s Principle implementation. The Consultation Motion pre-dated the Tribunal’s detailed reasons, and Canada did not seek to challenge or limit the consultation required by 2025 CHRT 6 on that basis. Canada and the First Nations Parties then participated in months of mediation without reaching consensus.

That result does not make the outstanding issues duplicative or remove them from the Tribunal's jurisdiction; it is why adjudication is now required. The consultation orders sought in the Joint Motion therefore remain within the scope of this proceeding.

4. Canada incorrectly asserts that a number of the orders sought by the First Nations Parties are outside the scope of this motion because they do not directly correspond to the outstanding items set out in 2025 CHRT 6. As the Tribunal made clear in the Direction, issues connected to the implementation of the Jordan's Principle Orders remain within the Tribunal's retained jurisdiction:

The Tribunal originally intended to deal only with the orders made in 2025 CHRT 6. However, given the time that has elapsed since that decision, this may not be effective if the Tribunal does not understand what Canada has implemented since then, how it has been implemented, and the reasons for doing so.

The Tribunal needs to ensure that its orders are effective, and updates on developments since the ruling, supported by evidence, may be necessary to make that determination. However, at this time in the proceeding, the Tribunal does not wish to embark on a full-scale long-term reform and reminds the parties to remain focused. This should be reflected in the scope of the motion(s) and response(s). The Parties' objections should be articulated in their response and replies to avoid delays. (p.2)

5. At paragraph 43 of Canada's Response, Canada incorrectly suggests that the order sought by the First Nations Parties in relation to an independent appeals process is out of scope. At paragraph 143 of 2025 CHRT 6, the Tribunal states:

The Tribunal found that the evidence supported an order for an **Independent Appeals** process for Jordan's Principle with an Independent Committee composed of health professionals and other professionals that can review denials of Jordan's Principle requests (see 2019 CHRT 7 at paras. 55 and 75) [Emphasis added].

6. Since the hearing that led to 2025 CHRT 6, Canada has significantly changed its approach to appeals, and the independent appeals process is defunct. That change bears directly on whether

the Tribunal's existing orders remain effective. If Canada maintains that its current process provides equivalent independence, expertise and review of denied requests, it must establish that proposition through evidence at the hearing. Orders directed to an effective independent appeals process are therefore within the Tribunal's retained jurisdiction and the scope of the Direction.

B. The Joint Notice Provides Adequate Notice

7. Canada's submission that the Joint Notice of Motion fails to identify the orders allegedly not complied with should be rejected. The Notice does not leave Canada to surmise or speculate. Canada may dispute the merits of the alleged non-compliance and the necessity of the proposed remedies, but those disputes do not establish a lack of notice or procedural unfairness. Nor does procedural fairness require the moving parties to plead their evidence or legal submissions in full in a notice of motion, particularly where the Tribunal has established a further process for evidence and submissions.

8. Nonetheless, to forestall arguments of procedural unfairness, the First Nations Parties have mapped the allegations of non-compliance in the Notice to the relevant paragraphs of 2025 CHRT 6 in the table below:

Topic	2025 CHRT 6 paragraph	Grounds paragraph(s) in Notice	Order(s) sought in Notice
Backlog	Para. 566	Grounds paras. 16(a)-(d), 18(h), 19, 22	Orders 31-33
Urgent request categories	Para. 555	Grounds para. 17(a)	Orders 13-21
Objective criteria for urgent requests	Para. 552	Grounds paras. 18(a), 19	Orders 13-16

Topic	2025 CHRT 6 paragraph	Grounds paragraph(s) in Notice	Order(s) sought in Notice
No access to basic necessities	Para. 557	Grounds paras. 18(b), 19	Orders 17-18
Domestic violence criteria and guidelines	Para. 556	Grounds paras. 18(c), 19	Orders 20-21
Coordination with emergency services	Para. 558	Grounds paras. 18(d), 19	Orders 22-24
Objective criteria for qualified professionals	Para. 561	Grounds paras. 18(e), 19	Order 25
Determination clock	Para. 579	Grounds paras. 18(f), 19	Order 26
Practical solutions to payment and reimbursement delays	Para. 580	Grounds paras. 17(d), 18(g), 19	Orders 27-30
Non-urgent request timelines	Para. 577	Grounds paras. 18(i), 19	Order 26
Referrals to First Nations	Para. 570	Grounds paras. 17(c), 19	Orders 34-36

9. Canada's submission overlooks the structure of 2025 CHRT 6. The Tribunal's directions were not uniform: some required immediate action by Canada, while others directed the parties to engage in a dialogic process. The Notice reflects that structure by identifying both the Tribunal's immediate directions and the issues subject to the dialogic process. As pleaded at paragraph 19 of the Notice, negotiations did not result in consensus and the issues remain unresolved. The Motion therefore seeks the Tribunal's determination of those outstanding matters and such further relief as may be required to ensure effective implementation of the Jordan's Principle Orders.

10. Read as a whole, the Notice identifies the relevant provisions of 2025 CHRT 6, the implementation issues in dispute and the corresponding relief sought. Canada may dispute the

allegations, evidence or proposed remedies, but those disputes do not establish inadequate notice. Canada knows the case it must meet and will have a full opportunity to test the evidence, file responding evidence and make submissions on each proposed order.

C. Canada's Internal Processes Cannot Limit the Tribunal's Authority to Ensure Effective Implementation

11. In reply to paragraph 20 of Canada's Response, the legal reach of the Tribunal's orders cannot be determined solely by reference to the administrative design of Canada's response to the Jordan's Principle orders. While this Tribunal has held that "it is not interested in drafting policies, choosing between policies, supervising policy-drafting or unnecessarily embarking in the specifics of the reform", it has also held that it will ensure "that concrete measures to remedy discrimination are taken" (2018 CHRT 4 at para 48). Contrary to Canada's assertion that funding decisions and policy design and administration are "unpermitted areas", quasi-constitutional legislation like the CHRA requires Canada to ensure its "funding policies, programs and formulas are designed from the outset based on a substantive equality analysis and are regularly monitored and updated" (2021 CHRT 41 at para 45). Rather than focusing on administrative labels, this Tribunal's analysis must focus on the substance of government conduct and its effects.

12. In reply to Canada's pleas throughout its Response that orders sought by the First Nations Parties are impractical or would delay Canada's implementation of Jordan's Principle, any such assertions must be supported by particularized facts and evidence, as general objections cannot displace Canada's obligation to comply with the Tribunal's existing binding legal orders, including via further orders that are necessary to ensure that existing orders are effective.

13. In reply to Canada's assertion at paragraph 23 of its response that the Attorney General of Canada's Directive on Civil Litigation Involving Indigenous Peoples ("**Litigation Directive**"),

while the First Nations Parties acknowledge that the Litigation Directive is not an independent source of rights or federal liability, policy guidelines remain relevant indicators of the reasonable exercise of public authority, including by counsel representing the Crown. The Tribunal is entitled to test Crown counsel's conduct against the Litigation Directive to determine whether that conduct is consistent with the standard of constructive, expeditious and effective assistance that it sets out.

D. Conclusion

14. Finally, in reply to Canada's Response as a whole, Canada's internal allocation of mandates, authorities, and responsibilities cannot narrow the legal force of orders that are binding on it as the Respondent in this proceeding under the *CHRA*. Nor can generalized assertions of operational difficulty justify further delay. Canada's position, expressed throughout its response, would make effective implementation of binding Tribunal Orders depend on internal processes of Canada's own design, prolonging uncertainty for the victims in this case: First Nations children and families. The Tribunal should reject that approach and determine the outstanding issues so that its Jordan's Principle orders operate effectively and without further delay.

Dated: September 29, 2026



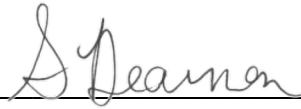
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