

Federal Court



Cour fédérale

**Date: 20240926**

**Docket: T-2169-16**

**Ottawa, Ontario, September 26, 2024**

**PRESENT: Mr. Justice Sébastien Grammond**

**CLASS PROCEEDING**

**BETWEEN:**

**GARRY LESLIE MCLEAN,  
ROGER AUGUSTINE,  
CLAUDETTE COMMANDA,  
ANGELA ELIZABETH SAMPSON,  
MARGARET ANNE SWAN AND  
MARIETTE LUCILLE BUCKSHOT**

**Plaintiffs**

**and**

**HIS MAJESTY THE KING IN RIGHT OF  
CANADA  
as represented by THE ATTORNEY GENERAL  
OF CANADA**

**Defendant**

**ORDER  
(Approval of the Missing Information Protocol)**

**WHEREAS** this Court has exclusive and continuing jurisdiction over the  
implementation, enforcement, and administration of the Settlement Agreement, as outlined in

s. 9 of the Settlement Approval Order dated August 19, 2019 (*McLean et al v Canada*, 2019 FC 1074);

**UPON READING** the motion record of the Defendant, on consent and in writing;

**THIS COURT ORDERS that:**

1. The Missing Information Protocol agreed to by the parties and attached as Appendix A to this Order is approved;
2. The communications plan attached as Appendix B to this Order is approved;
3. June 27, 2025, is set as the deadline by which information must be received in accordance with the Missing Information Protocol, unless otherwise specified by the Missing Information Protocol (the Missing Information Deadline”);
4. The parties shall return to seek approval of an order establishing a protocol for claims that are only missing address information by 30 days after the Missing Information Deadline; and,
5. Travis Henderson is appointed as Canada’s Member of the Exceptions Committee in place of Catharine Moore.

“Sébastien Grammond”

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Judge

## APPENDIX A - Missing Information Protocol

This Missing Information Protocol ("**Protocol**") is a directive to the Claims Administrator, made pursuant to section 10.01(h) of the Indian Day Schools Settlement Agreement ("**IDSSA**").

To the extent this Protocol directs the Defendant and/or the Plaintiffs, it is a direction made pursuant to the Court's supervisory jurisdiction over the IDSSA.

Except where otherwise expressly specified, this Protocol adopts the definitions provided in section 1.01 of the IDSSA. In addition, in this Protocol, the following definitions apply:

"**Claim Form**" means the form approved as Appendix B to the August 19, 2019 Order of Phelan J reported at *McLean v. Canada*, 2019 FC 1074;

"**Final Deadline**" means the date on which a Claimant had to submit a Request for Deadline Extension, being January 13, 2023.

"**Missing Information Deadline**" means the deadline set in the Order of the Federal Court to which this Protocol is appended.

"**Representative Claim**" means a Claim submitted on behalf of a Claimant by a Representative, as provided for in Part 7 of the Claim Form, including those Claims originally submitted personally by a Claimant but which, following a Claimant's incapacity or death, were continued by a Representative.

This Protocol directs the manner by which the Claims Administrator shall process Claims it received before the Final Deadline but that are missing information and therefore remain incomplete ("**Incomplete Claims**").

For greater certainty, except where otherwise expressly stated in this Protocol, the Claims Administrator shall continue to follow the Claims Process (being Schedule B to the IDSSA), which remains in effect.

Also for greater certainty, and except where otherwise expressly stated in this Protocol, references to a Claimant include a Claimant's Representative, as identified in Part 7 of the Claim Form.

The Claims Administrator shall process the various types of Incomplete Claims as follows:

### 1. Missing School Name

These are Claims that have not listed a school name at Part 2 of the Claim Form.

The Claims Administrator shall not process these Claims until the earlier of (i) the date on which the school name is received or (ii) the Missing Information Deadline.

Where a Claimant provides the school name on or before the Missing Information Deadline, the Claims Administrator shall process the Claim in accordance with the Claims Process.

Where a Claimant fails to provide the school name on or before the Missing Information Deadline, the Claims Administrator shall process and deny the Claim.

## **2. Missing School Years**

These are Claims that have not listed the years of the Claimant's attendance at Part 2 of the Claim Form.

The Claims Administrator shall not process these Claims until the earlier of (i) the date on which the years of attendance are received or (ii) the Missing Information Deadline.

Where the Claims Administrator receives the years of attendance on or before the Missing Information Deadline, the Claims Administrator shall process the Claim in accordance with the Claims Process.

Where a Claimant fails to provide the years of attendance on or before the Missing Information Deadline, the Claims Administrator shall process and deny the Claim.

## **3. Missing Representative Information**

These are Representative Claims that are otherwise complete but provide insufficient information to identify and validate a Claimant's Representative, per Part 7 of the Claim Form.

For these Claims, Claimants have until the later of the following dates to provide the Claims Administrator sufficient information to identify and validate a Representative:

- Two (2) years after the date of the Claimant's death or incapacity, only where the Claimant's date of death or incapacity is on or prior to Missing Information Deadline; OR
- The Missing Information Deadline.

These Claims will be processed as follows:

- If sufficient information to validate the Representative is provided on or before the later of the two dates above, the Claims Administrator shall process the Claim in accordance with the Claims Process; and
- If sufficient information to validate the Representative is not provided on or before the later of the two dates above, the Claims Administrator shall process and deny the Claim.

## **4. Missing Claimant or Witness Signature (Part 3)**

These are Claims that are missing either the Claimant's or witness' signature at Part 3 of the Claim Form.

The Claims Administrator shall process Claims missing a witness signature, in accordance with the Claims Process.

Claims missing a Claimant's signature are subject to the Missing Information Deadline. If the Claimant's signature is not provided on or before the Missing Information Deadline, the Claims Administrator shall process and deny the Claim.

## **5. Missing Supporting Documents for Levels 2-5**

These are Claims that are missing or include incomplete supporting documentation under sections 5C, 5D, or 5E of the Claim Form. The Claims Administrator shall process the Claims, in accordance with the

Claims Process, on the basis of the materials and information received on or before the Missing Information Deadline.

#### **6. Missing Identification**

These are Claims that have not attached a photocopy of government-issued identification.

The Claims Administrator will process such Claims, in accordance with the Claims Process, if Part 6 of the Claim Form (sworn declaration) is completed.

The Claims Administrator shall process and deny such Claims if Part 6 of the Claim Form is not completed and the Claimant has not provided the photocopy of government-issued identification on or before the Missing Information Deadline.

#### **7. Missing Narrative**

These are Claims that do not include a Narrative in Part 5A of the Claim Form.

If no Narrative is provided by the Missing Information Deadline, the Claims Administrator shall assess the Claim in accordance with the Claims Process.

#### **8. Missing Sworn Declaration**

These are Claims in which Part 6 of the Claim Form is not complete.

The Claims Administrator shall process these Claims in accordance with the Claims Process, on the basis of the information provided as of the Missing Information Deadline.

#### **9. Missing Level Selection**

These are Claims that did not select either Level 1 or Levels 2-5 at Part 4 of the Claim Form.

If no level selection is provided by the Missing Information Deadline, the Claims Administrator shall assume a selection of Level 5 and process the Claim in accordance with the Claims Process.

#### **10. Missing Mailing Address**

These are Claims that do not include a current mailing address.

The Claims Administrator shall process these Claims as far as possible, in accordance with the Claims Process and this Protocol.

Missing address information is not considered missing information which must be provided by the Missing Information Deadline pursuant to this protocol.

The protocol for the processing of claims where only address information is missing will be the subject of a further motion and Order.

For greater certainty, and subject to the terms of the further Order, no Claim shall be denied pursuant to this Protocol on the basis that it is only missing a current mailing address.

#### **11. Missing Date of Birth**

These are Claims that did not identify the Claimant's date of birth.

These Claims will not be processed by the Claims Administrator until the earlier of: (i) the date on which the Claimant's date of birth is received or (ii) the Missing Information Deadline.

Where the Claims Administrator receives the Claimant's date of birth on or before the Missing Information Deadline, the Claims Administrator shall process the Claim in accordance with the Claims Process, as modified by this Protocol where applicable.

If no date of birth is provided on or before the Missing Information Deadline, the Claims Administrator shall process and deny the Claim.

#### **12. Missing name**

These are Claims that did not identify the Claimant's name.

These Claims will not be processed until the earlier of: (i) the date on which the Claimant's name is received or (ii) the Missing Information Deadline.

Where the Claims Administrator receives the Claimant's name on or before the Missing Information Deadline, the Claims Administrator shall process the Claim in accordance with the Claims Process, as modified by this Protocol where applicable.

If the Claimant's name is not provided by the Missing Information Deadline, the Claim's Administrator shall process and deny the Claim.



APPENDIX B

**argyle:** — July 2024

# Federal Indian Day School Missing Information Deadline Communications



FEDERAL  
INDIAN DAY  
SCHOOL  
CLASS ACTION



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Krista Robertson, AEP, Chair, FCPRS  
Executive Vice President, Settlements  
Believeco:Partners (DBA as Argyle)

July 19, 2024

## Communications support for 2024-25, Federal Indian Day School missing information claims deadline

We appreciate the opportunity to submit this proposal for communications to ensure claimant awareness of the missing information deadline and how to contact the Administrator to complete their claim, as well as provide monitoring and issues management support for Class Counsel and the Government of Canada. Based on our understanding, this is a nine-month campaign, which with planning, reporting and close-out communications, would start in July-August 2024 and run for approximately nine months with ongoing issues management and communications support for a short period afterwards. Thank you for your consideration as we continue to work together to support class members on their journey.

Robertson,  
Krista L

Digitally signed by  
Robertson, Krista L  
Date: 2024.07.22  
13:20:22 -04'00'

Krista Robertson  
Director, Litigation and Resolution  
CIRNAC, Canada

Date: \_\_\_\_\_



## Background

- As of May 2024, approximately 21,874 claim forms have not been processed due to missing information. This is down from 30,501 prior to the 2023-24 missing information campaigns.
  - In addition, there are approximately 600 Claimants who are able to submit Claim Forms following the February 2024 Court Decision regarding filed extension request forms (which were submitted without Claim Forms).
  - While each campaign saw active engagement with Settlement social channels and website resources, a deadline was recommended to provide a time sensitive call to action so class members complete their claim.
  - There is a need to raise awareness among class members to ensure they are aware their claims may have missing information and how to contact the Administrator to provide the necessary information before the deadline
  - At the same time, it is important class members understand this does not represent a 'reopening' of the claims period.
-



## Results

- The Missing Information campaign resulted in:
  - 8,627 reduction in the amount of missing information claims
  - 263,973 website visits
  - 6,417 FAQ views
  - 541,666 individuals reached via digital ads and over 15 million impressions
  - Over 8,000 radio ads in community
  - 230 posters/billboards in communities



# Approach



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## Our Approach

- Should the Court approve a deadline, we recommend supporting the Administrator's direct notice with an awareness campaign that reinforces the call to action and sense of urgency to submit missing information.
- The campaign would kick off with a news release to garner earned media attention, prioritizing outlets serving areas with higher concentrations of incomplete claims.
- Three campaign waves would take a mixed media approach to target regions with a high concentration of incomplete claims. Messaging will be clear that this campaign is neither a reopening of the claims period nor an opportunity to edit a completed claim.



# Incomplete claims breakdown

Using postal codes with the highest number of claims with missing information, we can develop a highly targeted approach to raise awareness and encourage action among specific audiences.



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# Audiences



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## Audiences

| Audience                                                                                          | Why                                                                                                          | What we're trying to communicate                                                               |
|---------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| Claimants who have filed a claim or extension form and have not yet heard from the Administrator. | May not be aware that information is missing (especially if full contact information has not been provided). | Contact the Administrator to check status of claim and provide information.                    |
| Claimants who have not responded to a request for additional information.                         | May have moved or may not have received the information.                                                     | Contact the Administrator to check status of claim and provide information.                    |
| Communities, PTOs and other partners.                                                             | Have known and trusted communications networks to support awareness.                                         | Help share information with class members to ensure they can complete their claim information. |

# Goals and objectives



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**Goal – Class Members who have submitted incomplete claims are aware of the need to contact the Administrator to complete the process.**

**Objectives:**

**Awareness and Action:** Raise awareness of the missing information deadline and have Class Members contact the Administrator and complete their claim before **DATE**.

**Understanding:** Remove as many barriers as possible to Class Member awareness and understanding regarding how missing information might impact their current claim.

**Engagement:** Support Class Members in accessing information about their claim and submitting missing information before **DATE**.

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**This calls for a campaign with a distinct and clear CTA through direct outreach, community relationships, targeted digital and OOH, all supported by proactive issues management.**



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## Communications approach

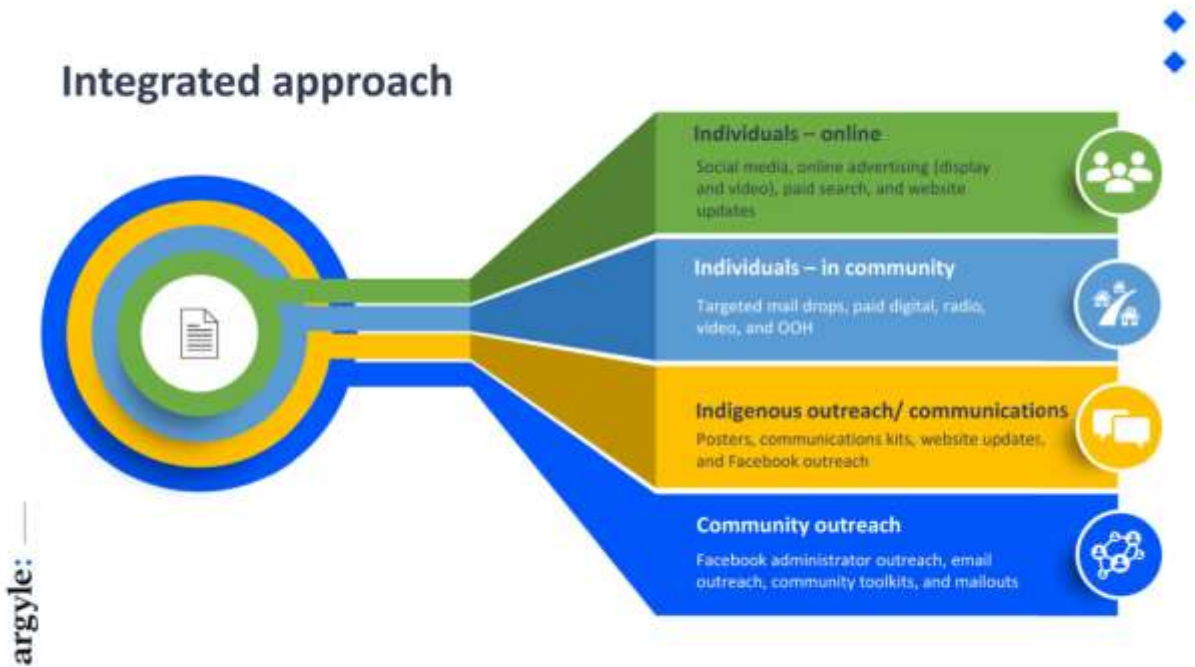


# Tactical overview



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## Strategy and planning

- Media planning and tactics are informed by the list of postal codes provided by Deloitte that show areas with the most claims with missing information.
- Tactics will be primarily targeted to these regions to ensure the most effective spend of campaign budget while ensuring national coverage.
- Additional information related to the type of missing information per postal code will help refine the messaging for each area, leveraging existing communications assets.
  - For example, a CTA about missing or out-of-date mailing addresses can be directed to geographical areas with high rates of that missing information type.





## Creative

- Building on previously approved creative direction, visuals will be consistent with previous branding but updated to differentiate this new phase.
- Updated messaging will provide a sense of urgency by highlighting the upcoming deadline.
- Leveraging assets and tools to support Claimants in completing their claims such as infographics and videos.





## Website

- Website content will be updated to reflect the deadline, help create a sense of urgency among claimants, and provide clear information on missing information type and specific actions to take.
- A media centre will be added to the website with a dedicated email and content to help reporters understand this next phase.





## Videos

- Existing videos include what to do when you receive a missing information letter as well as videos on common issues, such as missing a school name or finding and completing your representative of claimant form.
- We will add videos covering additional issues, such as:
  - Copy of ID missing, unreadable, or ID name does not match claim form name.
  - Address incomplete, missing, or out of date.
  - Level of harm not selected.



## Paid social media advertising

- Highly targeted advertising (with some national focus) on Meta (Facebook and Instagram) will be a central tactic for paid digital, offering considerable reach and penetration for our key audience. Location targeting will allow us to focus on communities with high volumes of incomplete claims. Audience targeting within these locations will focus on previous page engagers and remarketing. Ads will include newsfeed, marketplace, and story placements.
- Pre-roll advertising on YouTube provides high-quality impressions to drive awareness and message reach with excellent coverage across various age demographics, particularly 40+. We will use 15 sec non-skippable videos to raise awareness and use a call to action for claimants to check their claim status and submit missing information. Targeting will use remarketing exclusively to focus on active Claimants.
  - Wave 1 – TBD, Meta + YouTube
  - Wave 2 – TBD, Meta + YouTube
  - Wave 3 – TBD, Meta + YouTube



## Paid display and search advertising

- Google Display will use FSA location data to reach communities with high volumes of unresolved claims. Remarketing will focus on audiences with open claims and previous site visitors. Ad placements will include standard display banners with call to action for claimants to check their claim status and submit missing information.
- Paid Search will be used to capture search traffic for IDS claim updates and missing information. Search targeting will be Canada-wide with a focus on relevant keywords and steer users toward the missing information page and call line.
  - Wave 1 – TBD, Google Display + Paid Search
  - Wave 2 – TBD, Google Display + Paid Search
  - Wave 3 – TBD, Google Display + Paid Search



## Community OOH – Poster distribution

- C-store posters: Place posters in convenience stores and gas stations in areas with high instances of missing information.
  - Wave 1
- Band Council Offices: Distribute posters to impacted Band Council Offices to ensure they are visible to community members seeking assistance.
  - Wave 1: all Band Councils
  - Wave 3: remaining Band Councils with incomplete claims



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## Mail drop

- Mail drop of post card (with QR code) to specific postal codes based on levels of missing information.
- Targeting postal codes with 50-100+ instances of missing information based on conversations with Class Counsel and the Administrator

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## Community OOH – Paid radio

- Radio: mix of Indigenous radio stations (e.g. CFWE, CJWE, CFNR in BC, MBC in SK, NCI in MB, Wawatay in ON) in combination with stations (e.g. Vista, Pattison) reaching our targeted communities.
- Audio spot on audio streaming options reaching Indigenous communities for both on and off-reserve (e.g. Spotify, CBC streaming Indigenous content podcasts).
- PSAs pitched to community radio stations.
- Targets based on # of Claims with missing information based on conversations with Class Counsel and the Administrator

**One campaign in each wave**





## Community OOH – Paid digital display

- Digital display premium digital on Indigenous owned/Indigenous content (CBC, APTN, etc.) geo-targeted to areas with high rates of missing information.



## Organic Social Media

Using existing organic social media strategy, we will reboot the IDS Facebook page. Organic content will be supported by monthly content calendars, community management, and issues management. Content and creative will be informed by search data and analysis to support in-platform success and higher engagement.

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### Organic Content

- Ensure steady flow of relevant, engaging posts, strategically boosted.
- Diverse content types (e.g., visual assets, infographics, videos) to keep audience engaged and catering to preferences.
- Analyze engagement data to spot trends and preferences to refine future content.

### Community Management

- Address relevant notifications/ comments within 24 hrs, excluding weekends and stat holidays.
- Monitor sentiment and identify trends and emerging issues within online community.
- Provide weekly reports on sentiment, emerging issues, and engagement metrics.
- Highlight insights and actionable recommendations.
- Send alerts about critical issues or significant sentiment changes.

### Issues Management

- Monitor online issues emerging from claimant community.
- Provide consistent, clear and accessible information that helps claimants feel heard and respected.
- Follow protocols for issue escalation.
- Maintain messages for common issues to ensure consistent communication across all channels.
- Ensure online claimant community is provided privacy, safety and security.

## Media relations

- Proactive media relations to build awareness of the deadline.
  - First news release to kick off campaign with quote from lead counsel, pitched to reporters from Indigenous outlets/cover Indigenous stories
    - Canadian Press interview for lead counsel for nation-wide syndication. Other inquiries will be assessed/responded to administratively.
    - Story and PSA pitch to Indigenous subject matter reporters/radio stations.
  - Second news release for final countdown to deadline in wave 3
    - Story and PSA pitch to Indigenous subject matter reporters/radio stations.
- Add media centre to website with dedicated media email and content for media consumption.
- Develop FAQs and reactive messages on deadline, missing information types, and support and resources available.

## Issues management

- Comprehensive traditional and social monitoring.
  - Daily monitoring when in-market; alerts and weekly monitoring when out of market.
- Daily monitoring and community management responses.
- Establish issues management protocol to work effectively with Class Counsel, Government of Canada, and the Administrator on any media inquiries.
- On-call counsel for issues and inquiries.

## Community outreach

- Relationship-based communications and outreach
  - Community leadership: provide update and resource toolkit to community leadership (Chiefs and Council, mayors, SAOs, PTOs, Tribal Councils, National Representative Bodies, etc.) via email, phone calls, and mail.
  - Community members: proactive organic posts and dialogue with community via community Facebook groups. Mail drops to targeted postal codes.
  - Partners: outreach via direct email, phone calls, and mail to provide community-serving organizations who help promote key messages with resource toolkit.

# Key messages



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Individuals who have missing information on their claim for the Federal Indian Day School Settlement have until **DATE** to submit missing information.

|                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                         |                                                                                                                                                                                                            |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Claims with missing information cannot be assessed. If you submitted a Claim Form and have not heard from the Administrator, your claim may have missing information or an out-of-date mailing address. The Administrator needs this information to assess your claim and to issue compensation.</p> | <p><b>Some Claim Forms submitted by Class Member were incomplete, and the Administrator cannot assess the claim. Class Members have until <b>DATE</b> to submit missing information so claims can be assessed for eligibility and compensation.</b></p> | <p>Contact the Administrator to check the status of your claim and submit any missing information before <b>DATE</b>.<br/>Learn more at <a href="http://indiandayschools.com">indiandayschools.com</a></p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Information on how to submit your missing information is available at [indiandayschools.com](http://indiandayschools.com). Contact the Administrator at 1-888-221-2898 to find out the status of your claim and what information is missing.  
Wellness supports are available at Hope for Wellness at 1-855-242-3310 or [hopeforwellness.ca](http://hopeforwellness.ca)

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# Budget



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# Budget

| Item                                                               | Fees | Expenses |
|--------------------------------------------------------------------|------|----------|
| Planning, strategy and creative                                    |      |          |
| Wave 1                                                             |      |          |
| Wave 2                                                             |      |          |
| Wave 3                                                             |      |          |
| Mail drop and community posters                                    |      |          |
| Ongoing communications management & reporting (assuming 16 months) |      |          |
| Closure – archive website, social, etc.                            |      |          |
| Subtotal                                                           |      |          |
| BIS fee                                                            |      |          |
| Total                                                              |      |          |

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# Thank you.



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