

OVERSIGHT COMMITTEE
December 4, 2007
Greenwood Hotel, Winnipeg, MN

Attendance:

Chair: Jim Ehmann	Church Representative
William Wuttunee	AFN Representative
Dave Iverson	Church Representative
Bill Percy	Claimant's Counsel Representative
David Paterson	Claimant's Counsel Representative
Len Marchand (via conference call)	Claimant's Counsel Representative
Alison Molloy	Government of Canada Representative
Brian Harris	IAP Secretariat
Monique Bond (via conference call)	IAP Secretariat
Luc Dumont (via conference call)	Government of Canada Representative
Rosemarie Kutana	Inuit Representative
Dan Ish	Chief Adjudicator, IAP
Ted Hughes	Chief Adjudicator, ADR
Irene Fraser	Chief Adjudicator's Office (Recorder)

Regrets: Laura Cabott – Weather did not permit her to continue travel to the meeting.

Item 1: Additions and Approval of the Agenda

Approved.

Item 2: Approval of the Minutes of Nov. 5, 2007

3 e) Change to read, Contracts for form fillers expired Sept 30 and will not be renewed. The report on the evaluation of the form filler program will be shared with the Oversight Committee. The IAP-S will be responsible for supporting self-represented claimants. A proposal will be presented at a future meeting.

3 f) Change to read: Applications for leave to go to the court must come in the form of a letter to the IAP Chief Adjudicator. No special application form will be developed.

4 b) vi) SL should be SL1. The first sentence is to read: Seventy-five percent of the cases that have come forward are income loss claims. After the first sentence add: These are complex track cases that will require the proof of causation standard.

Item 3: Matters Arising from the Minutes

a) Report from the Chair

An independent chair has not been appointed yet.

b) Adoption of CARG Policies and Decisions

Deputy Chief Peggy Blair has been asked to go through previous CARG minutes and Chief Adjudicator Updates and identify items relevant to IAP and those that are relevant but need adjustment.

Decision: The report will be brought to the Oversight Committee for discussion and approval.

Production of an annotated IAP, Schedule D, is underway. It will be widely available.

The report on policies and the annotated IAP will be posted on the Adjudication Secretariat website in English and French.

c) Form Filler Contracts

Decision: Deferred to the next meeting.

d) Negotiated Settlement

Canada has a working group on this topic. A report from the working group will be delivered before Christmas. Given that negotiated settlements are party driven and independence from government is a consideration, it was suggested that the working group consult with PCAN, and that the Technical Sub-committee of Oversight give input. The Technical Sub-committee could invite participants outside of Oversight members. If other participants are to be reimbursed it will require procurement instruments to be in place. Monique would need to be informed.

Decision: Members of the Technical Sub-committee and any invitees are to exchange ideas in writing. This is to be followed by a brainstorming session, possibly January 14. Common ground issues are to be presented at the next Oversight meeting on January 15.

e) Plain Language Application, Guide and Application for Reopeners

The revised versions are at translation. Deputy Chief Kaye Dunlop reviewed and commented on the documents. Consensus could not be reached on a definition for income loss. As the default position, the same words used in the IAP are in the Guide. The Guide is not intended as a substitute legal manual.

Decision: Copies of the documents will be available to members at the next meeting.

f) IAP On-line Applications

The on-line application (fillable) form prepared by Crawford is restricted to legal counsel and to those with Adobe. Monique Bond has been assured that all of the issues brought to her attention were corrected by Crawford.

Decisions:

- 1) Monique will ask the people at the Secretariat to do a test run.
- 2) The on-line form will be tested by claimant's counsel on CARG/Oversight.
- 3) The application form, not the on-line fillable form, is available on Crawford and IRSRC web sites and available to anyone. Monique will see to distribution of the official form to members.

g) Documentation Destination for IAP Claims

The address is P.O. Box 1575, Station B, Ottawa On K1P 0A9.

h) Si Halyk Appointment

Dan Ish received a letter from Si Halyk. Si Halyk's work with the law firm he is employed with will cease Jan 31, 2008.

Former residential school students who are adjudicators are not to be restricted in adjudicating on their own former schools but are expected to declare if there is reasonable apprehension of conflict.

Decision: Ted Hughes will give Dan Ish a copy of the draft Code of Ethics policy.

i) & j) Response to POI Statements & Redaction of Names of POIs

Decisions:

- 1) The directives are approved. "Response to POI Statements" and "Redaction of Names of POIs" to adjudicators will be posted on the website.
- 2) A redacted copy of the decision will go to claimant's counsel for claimants and unrepresented claimants.
- 3) The question of distribution of the unredacted copies of the decision is to be considered again at the next meeting. The cover letter which goes with the decision to claimant's counsel should be revised indicating the change in policy regarding redaction.

4) The POI data base is to be on the next agenda.

k) Notice to Claimants regarding Re-openers

Decisions:

- 1) The directive to adjudicators regarding moving from DR to IAP is to go on the website. However, this information is unlikely to reach self-represented claimants with any potential IAP claims.
- 2) Canada will take this under advisement and provide follow up at the next meeting.
- 3) Agreement was reached that an explanation regarding any potential IAP claims will go in all decisions.

Item 4: New Business

a) Training

- i) The adjudicator training in Calgary received positive feedback. All successful IAP adjudicators were present. The venue was good. The training covered a lot of topics, was informative and intense.
- ii) Another RFP for adjudicators will go out in 2008. It will require another training session. As well, follow-up training for new adjudicators has been helpful in the past. This will be considered again, but perhaps on a regional basis.

b) Report on Implementation, Infrastructure, Administration

- The Winnipeg hearing centre is to be completed at the end of the next week. Some staff may be in place on Dec 17.
- Increased staffing is an ongoing priority. Regina staff now number 50.
- The Regina office is working out of four different locations. By February the hope is that it will be two.
- The infrastructure remains a significant issue. For example, there needs to be an expansion of the capacity to pay bills.
- The Chief Adjudicator, IAP, finds progress slow despite the very good work done to date. He is concerned about the ability of the organization to meet the goals of IAP.
- Monique will provide regular reports to the Oversight Committee on the number of applications, the number screened out, the number set for hearing, where they are at in the process, etc. The current data shows 512 new applications for IAP. Three expedited IAP files are ready to be scheduled.
- There are 1307 responses (72%) to the letter regarding the option to claimants of staying in DR or moving to IAP. 603 want to stay in DR, 699 want to transfer to IAP. 474 did not respond and therefore move

into IAP. A letter is going out from the Secretariat-IAP asking those moving into IAP if they want to add anything to their application. A letter of confirmation is also letter going to those who stayed in DR.

c) RFPs for Adjudicators

The RFPs for Deputy Chief Adjudicators and Adjudicators were discussed.

Decision: Dan Ish will work with Monique Bond to incorporate the suggestions into new drafts.

Page 48 of the IAP Settlement Agreement says that the government shall issue the RFPs. Any proposed changes to the RFPs are to be discussed with NAC.

Decision: Monique will check with Penny Levesque to see if the next RFP can go through the department rather than PWGSC.

d) Directives and Updates to Adjudicators

Decision: Directives will be posted on the website so that they are available to all parties. They will be numbered, including directives relevant to IAP from CARG policies. If revised, a system to indicate that it is a revision will be developed. For now the four directives which have been issued are to go onto the website not numbered. They will be incorporated into the numbering system later.

e) Preliminary Case Assessments

A paper was presented for discussion. The paper expresses several concerns about the approach in the IAP Agreement. Among them:

- Lack of a record from the preliminary hearing, legally and on behalf of claimants who would have to tell their story at least twice.
- The adjudicator cannot question conflicting evidence between the preliminary case assessment and the hearing.
- Based on the preliminary hearing there is unlikely to be sufficient evidence to present to the expert.
- The rights of claimants and defendants must not be jeopardized.

Decision: Dan Ish will send the paper to James Ward for informal feedback. Following, he will circulate a draft practice directive to members.

f) Actual Income Loss under IAP

Decision: The technical committee, Luc Dumont, James Ward, Len Marchand and David Paterson will meet with Adjudicator Dan Shapiro. The Ken Cooper-Stephenson paper presented at the training will be a resource. Dan Shapiro is also

preparing a background paper to be circulated. The group will meet in Vancouver on Jan 14th and report to Oversight on the 15th.

g) Transition and Top-up Issues

Three teams of people are working on top-ups. The bulk of the task will be completed before Christmas. There are two separate packages, one requiring holding the cheque until the signed release comes in and a second to claimant's counsel with an undertaking and cheque. As soon as the undertaking is signed the cheque can be released and the signed undertaking faxed to Canada.

Decision: An update will be given at the next meeting.

h) Len Marchand

Fillable application form – see 3 f).

Items ii) through vii) are to be on the next agenda.

i) Application forms for re-openers for OL4&5 and Student-on-Student Abuse

Decision: Monique will e-mail the application to members. Members can give written feedback. If it is not clear then it will come to the next meeting.

j) Adjudicator Approval of Legal Fees

Decision: Move to the next meeting.

Item 5: Date of Next Meeting

Decision: Jan 15, 2008 in Vancouver