

OVERSIGHT COMMITTEE

July 29, 2008

Listel Hotel, Vancouver

Chair: Mayo Moran

David Iverson	Church Representative
Len Marchand	Claimant's Counsel
David Paterson	Claimant's Counsel
Luc Dumont	Government of Canada Representative
William Wuttunee	AFN Representative
Dan Ish	Chief Adjudicator
Jeffery Hutchinson	IAP Adjudication Secretariat
James Ward	Department of Justice
Irene Fraser	IAP Adjudication Secretariat (Recorder)

Regrets: James Ehmann

Luc Dumont left at 2:30. Alison Molloy sat in for Luc.

1. Additions and Approval of the Agenda

- a) Remove 9 h).
- b) 9 c) will be discussed in item 8.
- c) Add reopener process.
- d) Add the website.
- e) Add Negotiated Settlement.
- f) Add DR transfers
- g) Item 4 will follow item 8.

2. Approval of Minutes

May 21, 2008

- a) Page 2, Item 3 c. From the first sentence, remove the words, "directly in writing to the Chief Adjudicator."
- b) Page 2, Item 3 b. To the last bullet add, "under the Settlement Agreement."
- c) Page 2, Item 3 c. Take out the last sentence.
- d) Page 3, Item 3 d. Take out, "has already begun" and put in, "should have been completed".
- e) Page 4, 5th bullet. Replace the word "individual" with "claimant".

- f) Page 6, Item 10. Remove the paragraph headed Discussion and replace it with, "If any of the parties find a 9:00 start time a problem then by consent the start time will be adjusted."
- g) Page 7, Item 17. Change the spelling of Isle a Crosse to Ille a la Crosse. The last sentence should be removed and replaced with, "Appeals can be made by the requestor, first to Crawford, second to NAC or the supervising judges."
- h) Page 7, Item 19. Remove the item.
- i) Page 4, Item 3e., last bullet, is to read, "Recognition of the need for making it easier for the parties to communicate with the Secretariat."
- j) Page 4, Item 4, last bullet. Change the word the to "IAP".
- k) Page 5, Item 6, first bullet. Capitalize "paper". Delete "government reps and claimant counsel on the data base" and insert, "the parties."
- l) Page 5, Item 6. Change "income predictability" to "life time earnings".
- m) Page 6, Item 7. Have the sentence read, "Canada has instructed and provided guidelines to its staff regarding the discretion to waive."
- n) Page 6, Item 9. Delete the sentence and replace it with, "There was discussion on an interpersonal issue."
- o) Page 6, Item 12. Have the sentence read, "The topic was introduced and put over to the next agenda."
- p) Page 6, Item 13. Have the sentence read, "Dealt with in Item 10."

Approved with changes.

Decision: In-camera sessions are not to be included in the general minutes but recorded and kept separate and confidential. However, if there is a decision from the in-camera session it must be documented in the general minutes.

Decision: If OC members have suggestions for changes to the draft minutes they are to send them to Irene Fraser prior to the day of the meeting.

May 13, 2008

Remove Item 3 Ratification of New Adjudicators to in-camera minutes.

Approved with change.

June 13, 20, 27, 2008

Decision: Mayo Moran will produce the in-camera minutes of June 20 and 27. Irene Fraser will produce minutes from the general portion of the June 20 conference call.

The meeting tentatively scheduled for June 13 did not proceed.

3. Approval of Adjudicator Training Agenda and Manual for September 14 – 21, 2008

- The agenda and manual was received as information.

Discussion: The training agenda is a draft, with changes anticipated. Eric Lepine was invited to present on the French agenda. The French portion of the agenda needs to reflect more clearly the role of Myriam Girard as chair.

- We are still waiting for the Minister to sign off on the hotel hospitality costs.
- Jeff Hutchinson would like a list of who will be attending on each day of the training.
- Oversight members can be reimbursed for a maximum of three days per month. If attending the training as a presenter they cannot be reimbursed for more than two days because the Oversight Committee will meet for one day on Sept 9th.

William Wuttunee offered to lead a Healing Circle on one of the evenings. The session will be optional for adjudicators.

Decision: Suggestions for changes to the manual or the agenda are to be sent to Irene Fraser by August 11, 2008.

4. Chief Adjudicator's Report

- The Chief Adjudicator's Office now has nine staff, not including the schedulers.
- A portion of Chief Adjudicator Dan Ish's time is taken up with reviews of decisions.
- Flow of files is still an issue. It is complex to move a file from zero to finality. Every effort is being made to ensure the organization is capable of meeting the obligations set out in the Settlement Agreement.
- Reopeners will take some of our resources, especially student on student files.
- The last quarter projection is the most important as it will demonstrate what can be accomplished in 2009/10.
- A delegation from National Residential School Survivor's Society visited to promote hiring form fillers.
- Irene Fraser has been attending the first hearing of the new adjudicators. Two still need to adjudicate their first hearing.
- Financial issues still take up some time.

5. Next Meeting

The next meeting will be on Sept 9th in Toronto.

6. Executive Director's Report

- Transition to Indian and Northern Affairs has gone fairly smoothly. There is more autonomy over Finance. A communications person is now available to the Secretariat.
- The Secretariat staff complement is 160.
- Tina Eberts is acting director in Regina.
- There was a recent security breach on the website. IT services reacted immediately. There was no leak of information.
- Letters from case management will go out this week notifying counsel of the changes to the process. In the future when a new claim is admitted, claimants and claimant counsel will be asked to begin document collection immediately. Claimant counsel will be provided with checklists and forms necessary to move the claim to a hearing. When all the documents are submitted, including claimant preferences, case management will confirm with Canada that the research is done. If so, the claim will be ready to move to scheduling for a hearing. This should speed up the movement of files.
- Luc Dumont is leading a discussion on safety issues at hearings. One of the concerns is whether the right balance has been struck in giving claimants choice of location?
- Requests for the use of form fillers come in almost daily. Two law societies consulted expressed that it is not an unauthorized practice of law if form fillers assist only with filling out applications as directed by the claimants. To date 18.7% of claimants choose to be self-represented and this figure is expected to increase. The Secretariat is considering issuing an RFP seeking an Aboriginal organization to develop a training program and an accreditation program for form fillers.

Discussion:

- The evaluation report on the form fillers has still not been made available to the Oversight Committee.
- An opportunity to bring together all parties is desired so that objections regarding the use of form fillers can be discussed.
- Form fillers did not only go into remote areas.
- How does a form filler address questions on loss of opportunity or actual income loss without getting into legal areas?

Decision: Jeff Hutchinson will get the Evaluation Report to the Oversight Committee.

- Jeff Hutchinson presented a document, “IRSAS Caseload Modeling”. It shows an overview of the caseload analysis for year one of implementation. It anticipates that the Secretariat will meet or be very close to meeting the target of 2500. Re-openers, Negotiated Settlements, IAP and DR hearings will be included in the overall number. There are variables such as delays in research, claimant counsel availability or fewer negotiated settlements which could affect the outcome. 320 cases have already had an examination for discovery and, therefore, could go through the NSP.

Discussion: Why have so few IAP hearings been held when there are files submitted that are ready to go?

- The potential for “resolution conferences” is being considered as an option for cases already submitted. Either case management would put forward several claims by a particular counsel or a claimant counsel would put forward a portion of their claims, particularly ones that are past or near the nine month date.

A conference call, chaired by a Deputy Chief, with the parties as well as a representative from hearings management and scheduling units would decide which of the claims among those pulled could go ahead and when. This would make it possible to block book hearings. Care would need to be taken to ensure that the claimant preferences are still honoured.

Decision: Jeff will write up the notes from his report for distribution. It must be clear whether they will be for public distribution.

- The opening of the Winnipeg Hearing Centre is now scheduled for September or October. It is also possible that space will be allocated for hearings in Edmonton.
 - The website will be launched August 15th.
7. Items not addressed at this meeting will be carried over to the meeting of September 9th.

Note: Mayo Moran had to leave at 3:45. David Iverson assumed the chair.

Chairperson Mayo Moran

Date