

OVERSIGHT COMMITTEE
May 5, 2009
Marriott Hotel, Toronto, ON

Chair: Mayo Moran

David Iverson	Church Representative
Mitch Holash	Church Representative
Len Marchand	Claimant's Counsel
David Paterson	Claimant's Counsel
Luc Dumont	Government of Canada Representative
William Wuttunee	AFN Representative
Les Carpenter	Inuit Representative
Alison Molloy	Government of Canada Representative
Dan Ish	Chief Adjudicator
Jeffery Hutchinson	IAP Adjudication Secretariat
Irene Fraser	IAP Adjudication Secretariat – Recorder

1. Additions and Approval of the Agenda

- a) Articling students
- b) In-Camera Session
- c) Listing of Schools
- d) Church Participation

2. Approval of the Minutes

- a) February 3, 2009 In-Camera Minutes

Approved.

- b) March 24, 2009 Minutes

Approved with changes.

- c) March 24, In-Camera Minutes

Approved with changes.

Decision: Irene Fraser is to send out the final minutes to date, regular and in-camera, of the Oversight Committee via e-mail.

3. Technical Sub-Committee (TSC)

Deputy Chief Dan Shapiro reported for the sub-committee on the TSC discussion.

- Dan Shapiro will draft a guideline on OWA claims for comment by TSC.

- Claims with mixed allegations are streaming into standard track. Early intervention may save time. To be discussed with Jeff Hutchinson.
- Medical and psychological assessments are taking an inordinate amount of time and cost. Amendments to current policies are being discussed.
- Options are being sought on how to streamline the process between the release of the decision and the actual award to the claimant.
- More ways to improve the timeliness of the release of decisions from the Chief Adjudicator's Office are necessary.
- Dan Shapiro will draw up a direction for TSC for presentation to OC on cases where incarceration is a factor in assessment of opportunity loss.
- A complaint of incomplete distribution of the student-on-student reopener document to all parties will be looked into by Dan Shapiro.
- The Chief Adjudicator's Update to adjudicators is to ask for timely decisions on legal fee reviews.

The next OC agenda is to include an item on distribution of guidance papers for adjudicators.

4. Matters Arising from the Minutes

a) Status of Negotiated Settlement Process

Luc Dumont provided a handout, *NSP National Stats*.

- 2057 NSP cases reviewed; 1223 rejected.
- 170 ADR files are resolved and 120 NSP cases settled.
- Canada's representatives do not have the authority to settle cases at the hearings.
- Staff resources are limited. It is difficult to balance attendance at hearings and focus on settlements. An increase in staff is expected but likely not until the fall.

Luc Dumont asked to have the topic, "Enhancing the NSP Process and Outreach", on the June 15th agenda.

b) Completion of ADR Files

Luc Dumont provided a handout *Proposal to Conclude Alternative Dispute Resolution (ADR) Process*. The proposal suggests three steps and a broad communication strategy prior to closing the file.

- Many applications are held up because of lack of success in locating the claimant. Jeff Hutchinson offered to work jointly with Luc Dumont on DR cases and there is a similar problem in IAP.
- To achieve a suggested end date of March 31, 2010 the Secretariat will have to schedule in September, 2009.
- A grace period will be required for hearings in progress. Soft closure is recommended.

Further comments are to be to Luc by May 15.

c) Dates of Future Meetings

- June 15 and 16, Regina
- August 5, Vancouver
- Sept 22, Toronto
- Nov 3, Winnipeg
- Dec 15, Ottawa

5. Executive Director's Report – Jeffery Hutchinson

- Collection of mandatory documents is a problem. There are 5000 files in the document collection stage. This will soon begin to affect the number of hearings which can be scheduled. Jeff Hutchinson welcomed suggestions.

A phone call to claimant's counsel was suggested. Another possibility is to request a court order to clarify the Secretariat's position with Canada so IAP information can be treated as an extension of the Court rather than the government. Also, it may be necessary to shift back to staff taking more of a role pursuing counsel for documents.

- Assessments are causing delays in completing files. They are numerous and the current procurement process for contracts with assessors is not helpful. This will be included in the court order being considered.
- Independent counsel is important. Currently the Department of Justice appoints counsel to the Secretariat but such an appointment takes time and presents a conflict of interest. This will be part of a court order.
- Statistical summaries up to April 26th, 2009 were distributed. Nine hundred files are targeted for the second quarter of the fiscal year. 832 hearings have been scheduled, the remaining are open for expedited cases.
- The Requests for Proposal for the Francophone deputy chief and more adjudicators will overlap the summer months. Interviews could take place in October.
- A substantive report on form fillers will be ready in June.
- The potential negative impact of student-on-student allegations on communities, particularly those with block or group hearings, is being discussed.
- A claimant counsel website may be included in a court order.

6. Listing of Schools

It is noted that the Settlement Agreement, Schedules E and F, do not identify which church is related to which school. Sometimes material goes to the wrong church entity or if there are two churches involved, only one gets the material.

Decision: Dave Iverson and Luc Dumont will discuss a solution for this.

7. Chief Adjudicator's Report

- Written non-admit decisions continue.
- Dan Ish is preparing a draft guide setting out the applicable legal law and principles that govern internal mechanisms to promote quality, coherence and consistency in decisions. The current processes utilized in the CAO will be assessed taking these principles into account. Access to decisions by Claimant's Counsel is part of that.
- Dan Ish will be asking the Courts for an interpretation of Article 13 re legal fees.
- The role of Resolution Health Support Workers needs clarification. Their role does not include direct advocacy with the Chief Adjudicator's Office, which has been happening.
- The target of 900 scheduled hearings presents some concern about adjudicator burn out or complacency.

8. New Business

a) Summer Holidays

Jeff Hutchinson will communicate with Luc Dumont on an estimate of anticipated hearings over the summer months.

b) 2010 Vancouver Olympics

Noted that it will be difficult to book travel and accommodation in the Vancouver area for hearing participants during that time.

c) Relationship with National Administration Committee (NAC)

Mayo Moran and Dan Ish met with Randy Bennet and Allen Farrer, chair of NAC, to clarify the nature of the OC relationship with NAC. There is to be ongoing chair-to-chair communication. Allen Farrer will also take back to NAC the idea of Dan Ish and Jeff Hutchinson meeting to brief NAC occasionally.

d) June 15th Planning Session

Suggested topics:

- i. Streamlining the process
- ii. New outreach strategy
- iii. Mitch Holash's four ideas
- iv. Effectiveness, efficiency and responsiveness to all parties.
- v. Solutions for impediments to the system
- vi. Technical Sub-Committee topics
- vii. Role of the OC

Decision: Dan will attempt to prepare an agenda for the June 15th OC.

e) Roster of Experts

Irene Fraser passed out a summary of the resumes of psychologists and psychiatrists who have expressed an interest in being added to the Roster of Experts.

Decision: OC Members are to review the list and be prepared to speak to it at the next meeting.

Note: Number 12 on the list is already on the Roster so there is no need to comment on it.

f) Articling Students

Decision: The OC interprets provisions of the Settlement Agreement, Legal Fees section, such that the claimant's representative must be a member of a Law Society. If Claimant Counsel send an articling student to a hearing, there will be no reimbursement for the legal fee of the articling student.

g) Church Participation

The Protestant churches will be putting a notice on the Secretariat website which will include talking points on what they believe their role to be within the process in an effort to address the drop in requests for church participation at hearings. Hopefully this will stimulate a return to nearer the forty percent participation under ADR. The notice will also be delivered through the Secretariat's network of claimant counsel.