

**Oversight Committee
March 1 & 2, 2010
Winnipeg, Manitoba**

In Attendance:

Mayo Moran	Chairperson
David Iverson	Church Representative
Mitch Holash	Church Representative
Luc Dumont	Government Representative
Alison Molloy	Government Representative
David Paterson	Claimant Counsel
Kerry O'Shea	Claimant Counsel
Les Carpenter	Inuit Representative
William Wuttunee	FSIN Representative
Jeff Hutchinson	Adjudication Secretariat
Dan Ish	Chief Adjudicator
Irene Fraser	Adjudication Secretariat

Guests: Randy Bennett, Counsel for NAC; Kerry Eaton, Crawford Class Action Services

1. Additions and Approval of the Agenda:

- a) Dates for the Next Meetings
- b) New Organizational Structure within Indian Affairs

2. Matters for Decision

a) Protocol for Adding and Deleting to the Roster

Decision: This item is to be moved to the Technical Sub-Committee.

b) Decisions Database Policy

Dan Ish submitted a draft policy.

Jeff Hutchinson recapped the two options regarding redaction of decisions for the database as emailed to members. Examples of the options were distributed.

- 1) Sedona Approach: Blacking out the words to be redacted and burning that into the document. Words are expunged.
- 2) Replacement Approach: Replacing words with a word which generalizes the specific. E.g. Claimant Joe Smith is replaced with "Claimant's name".

The differences in risk between the two options were discussed.

Decision: OC members are to review the two approaches and give comment to Jeff Hutchinson.

The database will be accessible via individual user passwords. A bilingual abstract of each decision will be available. Up to 5000 decisions are to be posted. The Deputy Chief Adjudicators and Chief Adjudicator will flag significant decisions for full translation in both languages.

Decision: Dan Ish will adjust the document to reflect the decisions and provide a final draft at the next meeting.

3. Key Performance Indicators

Jeff Hutchinson distributed statistical updates. Almost 5000 hearings, IAP and ADR, have been held.

Sept 18, 2012 is the wind-up date for IAP. A plan needs to be developed for moving the IAP process forward more quickly as there are many hearings pending and claims continue to come in at a fairly consistent rate.

Decision: Jeff Hutchinson will present scenarios of how to wind-up the IAP. It is to be considered in two ways: 1) within the mandate given and 2) by providing the Chair with information which can be given to stakeholders.

4. Executive Director's Report

The court order for the EDI package is to be finalized this week. The court order for the database project will follow. Another court order on clarification of the IAP government information framework will have a longer time frame.

The expert assessment process will not require a court order.

The staffing projected for this quarter did not occur as planned and as a result, hearings are modest in the first quarter, April 1 to June 30, 2010. HR at INAC is insufficiently staffed. Unless staffing surges ahead the Secretariat will not make its target of 3000 to 4000 hearings in the next fiscal year. Only two hundred hearings per month are anticipated to be held in March, April and May.

Decision: A detailed discussion is to be held on an approach to claimant counsel whose claims are on hold due to lack of mandatory documents as this represents the majority of hearings on hold.

5. Chief Adjudicator's Report

Individual claimants must be in agreement with the use of a short form decision. To date, ninety-three have been written.

Court actions:

- 1) Charter challenges in Quebec: The Secretariat has counsel but Canada will be making the arguments. Luc Dumont has been examined on discovery. This action was brought forward in the regular courts but the preference would be to have challenges such as this in front of the supervising judges and a motion is being made to that effect.
- 2) The Supervising Court in B.C. has ruled that legal fee reviews apply to negotiated settlements (NSP). A backlog of NSP cases has accumulated awaiting this decision. The CAO is developing a process to deal with the backlog.
- 3) A request has been put forward to the supervising judges for an interpretation on Article 13 regarding legal fees paid to counsel.
- 4) The Chief Adjudicator's decision on the question of whether GST and PST on counsel accounts rendered to the client can be considered as disbursements was negative; they are not disbursements.

Options for approaches to conduct issues of claimant counsel were discussed. The Chief Adjudicator has had good results when approaching counsel about issues. The Law Society is an option but the process is lengthy and, therefore, not effective for IAP claimants. In the past courts have dealt with issues where individuals are not well represented but all efforts were to be exhausted first.

6. Training

The training in Saskatoon of twenty-two new adjudicators went well. The Deputy Chief Adjudicators and the Chief Adjudicator carried the weight of the training and did an excellent job.

7. Approval of Minutes

Jan 26, 2010 minutes approved with changes.

Jan 26, 2010 in-camera minutes approved with changes.

Sept 9, 2009 minutes approved.

8. Meeting with TRC

Mayo Moran, Jeff Hutchinson, Dan Ish, Irene Fraser, Randy Bennett and William Wuttunee will meet with the Tom McMahon from the TRC following the reception of the opening of the Winnipeg Hearing Centre tomorrow. The Commissioners are not available to meet at this time.

The OC focus for the meeting is to be on how we can work together particularly as the TRC begins its national events; that the TRC has accurate information regarding our process so that informed discussions can take place.

The Secretariat's communication personnel are preparing an information package for the TRC. The Secretariat has an outreach program for disseminating information.

The OC/Secretariat is part of the narrative of reconciliation. The TRC gatherings will invariably bring forward issues related to the IAP. We must be prepared to manage the public/media views as a result of negative presentations.

The TRC request of asking claimants whether they want to release the decision and transcript to the TRC could only happen after the decision is released to the parties. If a claimant agreed to the release it would be necessary to know if the wish is for the release to be redacted or unredacted.

Decision: This topic is to be on the next agenda.

9. Future Meeting Dates

- i) April 7 – Vancouver
- ii) June 1 – Calgary
- iii) July 27 – Quebec City
- iv) Sept 21 – Toronto

10. Expert Assessment Process

The latest version of the document on the Expert Assessment Process dated Feb 22, 2010 was distributed.

Decision: Members are to submit comments by email by end of next week after which it will be submitted to the INAC Chief Financial Officer.

11. Oversight Committee Report

Kerry Eaton presented his report dated Feb 26, 2010 on his observations and recommendations on governance of the OC. He also distributed an OSC Governance Self Assessment Form.

Decision: The Self Assessment Form is to be filled out by members and returned to Kerry Eaton.

12. Opening of the Winnipeg Hearing Centre

Members of the OC were present for the opening ceremony on March 2nd. The Hearing Centre has two culturally sensitive hearing rooms.