

Oversight Committee Minutes
July 27 and 28, 2010
Quebec City, Quebec

Mayo Moran	Chairperson
David Iverson	Church Representative
Les Carpenter	Inuit Representative
Kerry O'Shea	Claimant Counsel Representative
Alison Molloy	Government of Canada Representative
Paul Favel	Assembly of First Nations Representative
Mitch Holash	Church Representative
David Paterson	Claimant Counsel Representative
Luc Dumont	Government of Canada Representative
Jeffery Hutchinson	Executive Director, IRSAS (Day one)
Dan Ish	Chief Adjudicator
Irene Fraser	IRSAS

Guests: Dan Shapiro; Kerry Eaton; Randy Bennett.

Day One

1. Technical Sub-Committee

Dan Shapiro reported for the Committee.

- Student on student admissions

Decision: Dan Shapiro will draft a guidance paper.

- Unadmit claims

If the Admissions Unit is uncertain as to whether a case is admissible into the IAP, largely for jurisdictional reasons, the case will go to an adjudicator. The adjudicator will write a decision. Following the decision, a letter will go to the claimant indicating that the decision of the adjudicator may be appealed to the Chief Adjudicator who may confirm or reverse that decision.

- Interim decisions

There are not to be interim decisions.

Decision: The Chief Adjudicator will include a reminder to adjudicators in his regular update to them.

- Joint submissions

There are situations where claimant counsel and Canada's representative agree on what they feel the outcome of the hearing should be but the adjudicator is not in agreement.

Decision: The Chief Adjudicator will encourage adjudicators to give the parties the opportunity to address situations prior to the decision where the adjudicator is not in agreement with Canada and claimant counsel.

- Legal fee rulings

Decision: The Chief Adjudicator was asked to remind adjudicators to ask claimants, and others at the hearing who are to receive confidential information, for their current address.

- Short form decisions

Thirty-eight percent of decisions are now short form decisions.

Decision: Canada is asking for a reminder to adjudicators that there is a need to indicate whether the claimant has asked for a letter of apology. Canada also expressed concern about the brevity of some short form decisions.

- There will be a call for agenda items for the Technical Sub-Committee two weeks prior to the OC. They will meet only if there are new items which may require subsequent attention from the Oversight Committee.

Decision: The chair of the Technical Sub-Committee will inform the church representatives when an item is relevant to them.

2. Approval of Minutes

- a) June 1, 2010 approved with change.
- b) June 1, 2010 in-camera minutes approved.

3. Matters for Decision

- a) Strategy for meeting the SA Time Frame:

A multi-part strategy is developing.

- Staff has increased to approximately two hundred and another thirty are anticipated shortly. This will put the Secretariat at its full complement.
- Document production continues to be problematic. The management team has committed to improving document through-put by 25%.
- There is a common commitment to the September 19, 2012 deadline.
- The phone call strategy on outstanding claims will begin mid-August. The first focus will be ADR files.

- The RFP regarding assessments is to be out within two weeks. It is expected that this will reduce assessment report wait times.
- The website is being reviewed.
- The target of one thousand cases per quarter will begin in November.
- Up to six community information sessions are planned for this fall.
- Memorandums of understanding are being negotiated with organizations with the aim of decreasing time frames for producing documents.

Decision: The Oversight Committee is in agreement with developing a framework that will enable the Chief Adjudicator to summons an organization or claimant counsel to explain the delay in producing documents.

b) Confidentiality of Claimant Information

This issue is still being considered.

c) Framework for Complaints Against Counsel

A position paper is still in draft form.

4. Meeting with the TRC

Justice Sinclair has asked for a meeting with the Oversight Committee. This may take place at the September OC meeting.

Decision: Jeff will confirm the meeting with Tom McMahon.

5. Performance Indicators

The material from Jeff Hutchinson which was provided by email prior to the meeting was reviewed.

6. Executive Director's Report

- Training of staff and adjudicators for the EDI project is beginning immediately.
- The response at the TRC event for information was not overwhelming.
- There will be a minimum of two and up to five information sessions in the NWT "before the snow flies."

7. Reconciliation in Cases of SOS Abuse

There is an ongoing concern regarding the effect of a claim where the claimant and the alleged perpetrator live in the same community. The AFN recently raised this asking that a healing process be considered.

8. Transcript Policy

The Secretariat is producing transcripts for every hearing. There is no obligation in the SA to do this. Requests to the Chief Adjudicator for transcripts from Canada and claimant counsel followed by a request for an extension to a review have increased. The Secretariat will cease having transcripts produced for every hearing.

Decision: Dan Ish will review the current transcript policy.

Day Two

9. Chief Adjudicator's Report

- Executive Director Jeff Hutchinson will be leaving his position at the end of September. There will be a two week overlap between Jeff and his replacement who will start on Sept 20th.
- A new report is assisting with monitoring and decreasing adjudicator delays with decisions.
- Adjudicator Paul Lorden is preparing guidelines on conflict of interest and bias issues for adjudicators.
- Decision reviews and appeals are increasing. Zero awards, which are more frequent of late, are frequently appealed.
- If an adjudicator changes the legal fees of claimant counsel the decision is often reviewed. Additional guidelines for fee reviews may be provided to adjudicators.

There is a need for more adjudicators to assist with reviews. Dan Ish distributed the current list of review adjudicators as well as a second more extensive list.

Decision: The previous list of review adjudicators is rescinded and the second list approved by the Oversight Committee.

10. Psychologist from Whitehorse

The resume for Nicole Bringsli was distributed. Current psychological assessments require bringing a psychologist into Whitehorse from another region or having claimants travel to another region.

Decision: References to be checked.

11. SOS Abuse

Luc Dumont presented a proposal regarding student-on-student admissions. There were four main points:

- 1) Canada would share a master list of all admissions with the Chief Adjudicator which will be provided to adjudicators by the Chief Adjudicator.

- 2) Adjudicators would not share the list.
- 3) Acceptance that no admissions from other schools are relevant or that allegations that post-date a claimant's attendance are irrelevant.
- 4) If a relevant admission has not been provided, Canada will immediately undertake to provide it.

Decision: The wording will be clarified. Further discussion is to be between Canada and claimant counsel. The Chief Adjudicator will distribute the final product to adjudicators. The master list can be posted on the website exclusive to adjudicators when that website is operational.

12. Outreach Strategy

Where claimants in remote locations do not have ready access to counsel it was recommended by claimant counsel that names be posted on a website and minimum standards be set for counsel:

- 1) Counsel expressly adhere to the guidelines of CBA;
- 2) Counsel agree to meet the claimant within their own community within 60 days;
- 3) Counsel agree, at election of claimant, to meet in the claimant's community.

The proposal could be distributed among the counsel community for approval and distribution. There was general agreement among OC members with the three suggestions.

Kerry O'Shea, Alison Molloy, David Iverson and David Paterson are interested in a teleconference with Jeff Hutchinson to give input into the outreach strategy.

13. Governance

There was discussion on:

- Further follow-up on Kerry Eaton's report to OC;
- An action grid being distributed one week after each meeting;
- Tightening of the agenda;
- The December agenda to include a grid of commitments for members;
- The next agenda including a comprehensive update of the outreach strategy;
- The adjudicator RFP, screening process and training plan being on the next agenda.

The Chief Adjudicator reminded members of the unique role of the Oversight Committee as advisory to the Chief Adjudicator rather than of a board of directors.

14. Future Meeting Dates

Tuesday, September 21, 2010 - Toronto
Tuesday, October 19, 2010 – Toronto
Tuesday, December 14, 2010 – Vancouver
Tuesday, January 25, 2011 – Toronto
Tuesday, March 22, 2011 – Vancouver
Tuesday, May 10, 2011 – Toronto
Tuesday, June 21, 2011 – Vancouver

There is a possibility that the June meeting may coincide with one of the major TRC sessions in the North. If so, the location of the June meeting may change.

Decision: Members are to let Irene Fraser know within two weeks if there is a conflict with their calendars.