

OVERSIGHT COMMITTEE

Vancouver
December 14, 2010

Mayo Moran	Chair
David Iverson	Church Representative
Mitch Holash	Church Representative
David Paterson	Claimant Counsel Representative
Alison Molloy	Government of Canada Representative
Les Carpenter	Inuit Representative
Paul Favel	AFN Representative
Akivah Starkman	IRSAS
Dan Ish	Chief Adjudicator
Irene Fraser	IRSAS (Recorder)

Regrets: Kerry O'Shea; Luc Dumont

Guests: Kerry Eaton

1. Approval of Minutes

a) Oct 19, 2010 Minutes

Approved.

b) Oct 19, 2010 In-Camera Minutes

Approved.

2. Matters for Decision

a) Short Form Decisions (SFDs)

Dan Ish elaborated on his memorandum to the Oversight Committee dated Nov. 16, 2010. The memorandum highlighted directions given to adjudicators on SFDs in an Adjudicator Update of Nov. 15, 2010.

- Adjudicators are, on the request of either party, to provide oral reasons on the record in support of the SFD.
- David Paterson feels there is a conflict regarding admissions between Practice Direction 2, the memorandum from the Chief Adjudicator and page 30 of the Settlement Agreement, Appendix 111, last paragraph.

Practice Direction 2: A 3. Short form decisions shall not be used as a basis to support possible admissions with respect to Student on Student abuse allegations in future cases.

Pg. 30, Appendix V111: Government Document Disclosure.

With respect to student-on-student abuse allegations, the government will work with the parties to develop admissions from completed examinations for discovery, witness or alleged perpetrator interviews, or previous DR or IAP decisions relevant to the Claimant's allegations.

Memorandum: II Canada's New Policies – Restriction of cases in which Canada will Support Short Form Decisions:

(b) Claims where a witness statement has been submitted on behalf of an Alleged Perpetrator (AP).

Although SFDs are explicitly not permitted where there is an AP who wishes to participate, the parties have in some cases agreed to a withdrawal of allegations in order to proceed to a SFD. CAD-6 Rev 1 requires that where allegations are withdrawn, the adjudicator must provide this information to the AP who has submitted a statement and advise them that the allegations have been withdrawn. It is Canada's position that notification cannot take place post decision and that a full decision is required to provide justification for withdrawal of allegations.

Decisions:

- The importance and usefulness of SFDs is accepted. SFDs are now part of the continuing practice of the IAP; the tentative nature of the SFDs is lifted.
- The issue regarding SFD decisions and admissions will be referenced to the Technical Sub-Committee.

Carried.

b) Candidate Interviews

The RFP for adjudicators may be posted in January. The timeline for interviews will be adjusted accordingly.

3. Matters for Discussion

a) Truth and Reconciliation Commission (TRC)

Following the meeting on October 18th with the TRC, Justice Murray Sinclair sent a letter to Chair Mayo Moran outlining his perspective on the discussion, his expectations and several questions. The letter was circulated to OC members. Mayo Moran replied to the letter saying that a detailed response would follow shortly. There was discussion on the possible content of the response.

Decisions:

- Dan Ish and Mayo Moran will collaborate on a response to Justice Sinclair's letter.
- A legal opinion will be sought on the issue of confidentiality of claimant information.
- Dan Ish will meet with Justice Sinclair following the subsequent reply from Justice Sinclair to the detailed response from Mayo Moran.

b) Adding Psychologists to the Roster

The roster for Quebec did not have a psychiatrist on it. Two resumes were submitted. Irene Fraser was unable to connect with one of two. However, Dr. Pierre Gagne was contacted and confirmed his interest. His resume and reference were distributed to members at an earlier date for review.

Decision: Dr. Gagne's name will be added to the Roster of Experts

4. Review of Key Performance Indicators

Executive Director Akivah Starkman reviewed the package of statistics distributed on an earlier date by email.

- The process for addressing the number of claims on hold has begun.

- Even is we can schedule 4000 first claimant hearings per year, the current and anticipated volume of cases mean that it will not be possible to have all cases processed within a one-year time frame after the September 2012 deadline for the receipt of applications.
- In excess of 26,000 applications are predicted.
- The Secretariat is still understaffed.

5. Chief Adjudicator's Report- Dan Ish

- Dan Ish spoke at an Assembly of First Nations conference, along with Akivah Starkman and others, on December 13.
- The regional meetings of adjudicators went very well, had notably less complaints than in previous ones.
- As requested, a summary of court actions was distributed via email at an earlier date.
- The Secretariat has agreed to release Schedule 1 legal fee reviews.
- The Technical Sub-Committee has been asked to consider the following: in cases where counsel is not able to make the case of knowledge but it could be made later, rather than close the case, the options are: 1) to allow for the cases to be reopened, 2) to have the claimant withdraw the case and reapply or, 3) adjourn sine die pending subsequent submission.

6. Executive Director's Report – Akivah Starkman

- Outreach is ramping up.
- Some people have expressed that they want people in the community to be working with them, rather than legal counsel.
- Akivah met with the TRC person in the Yellowknife office. The Yellowknife office has the capacity to work in several languages.
- A form filler option is not formalized but AFN is still interested. This is in process. Akivah welcomes comments on the statement of work for form fillers. The posting would be through an ACAN process which is faster than an RFP.

Decision: Akivah will send out the statement of work to all members.

7. Next Meeting

January 25th in Toronto.