

Independent Assessment Process Oversight Committee

Meeting of December 10, 2013

Toronto, ON

Minutes

Members present

Mayo Moran	Chair
Mitch Holash	Church representative
David Iverson	Church representative
David Paterson	Claimant counsel representative
Diane Soroka	Claimant counsel representative
Line Paré	Government of Canada representative
Caroline Clark	Government of Canada representative

Present by teleconference

Paul Favel	Assembly of First Nations representative
------------	--

Also present

Karen Cuddy	Government of Canada representative designate
Kaye Dunlop	Deputy Chief Adjudicator; Chair, Technical Subcommittee <i>present for items 1 and 2 only</i>
Michael Mooney	Court monitor, Crawford Class Action Services
Daniel Shapiro	Chief Adjudicator
Shelley Trevethan	Executive Director, IRSAS
John Trueman	Senior Policy and Strategic Advisor, IRSAS (recorder)

Regrets

Les Carpenter	Inuit representative
---------------	----------------------

1. Introductions

Mayo Moran welcomed Karen Cuddy, who will be replacing Caroline Clark as a representative of Canada.

2. Report of the Technical Subcommittee

Kaye Dunlop reported on a meeting of the Technical Subcommittee held December 9, 2013.

The subcommittee considered the management of student on student claims. Prior to the November meeting, Canada had identified all the pre-hearing student on student claims in the system, and reviewed the application forms to determine which ones alleged staff knowledge and which did not. The subcommittee then asked the Adjudication Secretariat to develop proposals to accelerate the knowledge-alleged cases. The decisions in these cases might lead to new admissions of staff knowledge which could assist other cases where staff knowledge is not alleged.

The Secretariat proposed a comprehensive, phased approach to dealing with approximately 650 claims where knowledge is alleged. An active case management process would use pre-hearing teleconferences conducted by 'lead adjudicators,' who would help move these cases forward to hearings in the normal course, and then monitor their progress. The approach is focussed towards producing decisions, not just hearings, so that admissions can be made that will assist other cases.

In cases where the claimant does not have evidence of staff knowledge, and no admissions presently exist, the process established by Chief Adjudicator Ish can be followed: the adjudicator may put the case on hold for a year to wait for other admissions.

With some comments and clarifications from the Technical Subcommittee (e.g., adding prioritization status), the Secretariat will prepare to implement the proposed approach early in the new year. A final copy of the paper will be circulated to the Oversight Committee and quarterly updates will be provided to the Technical Subcommittee.

The National Administration Committee returned with a letter and a record of decision regarding the Incomplete File Resolution procedure. The NAC agreed with all the principles in the IFR except section 22.6, which was the power of the Special Resolution Adjudicator to remove a claimants' counsel from a file. This provision had been included to deal with situations where dismissing counsel was preferable to dismissing the claimant's claim. Such situations might include counsel who have more cases than they can handle, or who are not working in their clients' interests.

The Subcommittee considered the issue carefully and came to consensus that it would be acceptable to delete this clause from the IFR. Some members felt that the issue of "bad counsel" was not as serious as when the IFR was written. It was also pointed out that nothing in this decision affects the Chief Adjudicator's authority to bring a request for direction to the supervising courts if the circumstances warranted.

- Decision: The Oversight Committee deleted section 22.6 from the Incomplete File Resolution procedure.

3. Presentation and discussion – IAP Reflections

Dr. Akivah Starkman, former Executive Director of the Adjudication Secretariat, discussed his paper entitled “Independent Assessment Process [Reflections]” and answered questions.

4. Approval of minutes

The committee approved the minutes of the November 5, 2013 meeting with minor amendments.

5. Key performance indicators

Shelley Trevethan discussed some key statistical indicators as of November 10, 2013:

- About 37,900 applications have been received, including 21 from Mistassini Hostels, where the application deadline was extended by court order to September 2, 2013. Approximately 400 applications have been received since the deadline.
- 32,623 claims have been admitted and 3,442 not admitted. The non-admit rate is increasing (currently 9.5%), and possibly about one-half of those claims still in the admissions process will not be admitted. The remaining claims are taking much longer to reach a final decision on admissibility (more complex, little information, lost contacts) – the final number of admitted claims will likely not be available until fall 2014.
- About 6,300 cases are awaiting submission of mandatory documents from claimant counsel. This process is now going really well, with more intensive pro-active work from the Secretariat with claimants’ counsel to bring mandatory documents forward. Currently only 25% of Canada’s document disclosure are completed within the 165 day standard.
- Over 19,000 hearings have been held to date. About 521 hearing-ready cases are waiting for scheduling – enough to meet the hearing targets for the remaining of the fiscal year. A large proportion of these are in Saskatchewan. Canada is making provisions to have staff available to attend these hearings.
- In April-June, 855 hearings were held; July-September, 1043 hearings; for October-December, 1,168 hearings have been scheduled, which will likely

work out to about 1,050 after postponements. This fiscal year, it is projected that about 4,150 hearings will be held, and about 4,800 cases will be resolved including negotiated settlements.

- About 1,930 cases are in the post-hearing stages. There have been some delays in the release of decisions, an area impacted by staff shortages. There continues to be long waits for assessments where required.
- 24,516 claims have been resolved – almost 65% of all claims received.
- The number of self-represented claimants, which reached almost 2,700 in June, is now down to 1,626.

Line Paré reported on her discussions with Corrections Canada, aimed at expediting the production of corrections records for claimants. They are putting together a proposal to attack the backlog, which will be considered for possible financial support. She also noted that she is working with Service Canada regarding the backlog in CPP records.

Shelley Trevethan said that the Adjudication Secretariat has a memorandum of understanding in place with Alberta Corrections to address the backlog of documents, which is going well. Her staff are also in monthly contact with Saskatchewan Corrections, and the backlog is decreasing.

David Paterson asked if future reports could indicate the number of claims with reviews and re-reviews underway.

In response to a question, Line Paré said that 507 negotiated settlements had been concluded as of November 13, which is 72% of the fiscal year target of 708 settlements.

6. Executive Director's report

Shelley Trevethan reported that the Adjudication Secretariat is moving forward to obtain blanket travel authority to more easily arrange claimant travel. After many years of work, the Chief Financial Officer of Aboriginal Affairs and Northern Development Canada has approved a process that should generate significant efficiencies for the Secretariat.

The Secretariat is struggling to get similar authority for hospitality, which would need to be approved by the Minister. This is moving forward with the CFO's support.

In response to a question, Shelley Trevethan said that the blanket travel authority greatly simplifies the procedure and should allow cancelled hearing slots to be filled more quickly.

The policy on claimant substitution for postponed hearings, which was approved in September, will be communicated and implemented shortly.

The Secretariat has been working on mechanisms to improve the quality of interpretation services at hearings. A dedicated staff position for liaison with interpreters is now in place, along with an agreement with the Translation Bureau to provide professional interpretation services at no cost. The Secretariat will be able to add interpreters to the Bureau's roster based on feedback from adjudicators. Finally, work is underway to develop guidance and training for interpreters, and for adjudicators in working with interpreters.

7. Chief Adjudicator's report

Dan Shapiro reported that the office move in Regina had caused some delays but things were more or less up and running by now. He also mentioned a move of Ottawa staff planned for June 2014. Shelley Trevethan added that the new Ottawa location is in the same building complex as the headquarters of Aboriginal Affairs, but in a completely separate facility at a different address. This is important to ensure the independence of the Adjudication Secretariat.

A group of adjudicators have prepared a 'gesture of reconciliation' to present at the Truth and Reconciliation Commission's final national event scheduled for March 2014 in Edmonton.

Deputy Chief Adjudicator Susan Ross, who was appointed at the November meeting, is now under contract and will be attending her first Deputy Chief Adjudicators meeting the next day. Her appointment is welcomed by all the DCAs.

With the NAC's approval of the Incomplete File Resolution procedure, the Chief Adjudicator will be able to file his court application on Completion of the IAP. Dan Shapiro distributed some minor amendments to his paper, *Bringing closure, enabling reconciliation: a plan for resolving the remaining IAP caseload*, which bring the paper up to date in these areas.

8. Future meeting dates

- Decision: The Oversight Committee approved the following meeting dates and locations, subject to confirmation by email:

Tuesday, September 9, 2014	Toronto
Tuesday, October 28, 2014	Vancouver
Tuesday, December 9, 2014	Toronto
Tuesday, January 20, 2015	Vancouver

Tuesday, March 3, 2015

Toronto

9. Next meeting

The next Oversight Committee meeting is scheduled for Tuesday, January 14, 2014, in Vancouver.