

## Independent Assessment Process Oversight Committee

Meeting of January 14, 2014

Vancouver, BC

### Minutes

#### Members present

Mayo Moran	Chair
Les Carpenter	Inuit representative
Karen Cuddy	Government of Canada representative
Paul Favel	Assembly of First Nations representative
Mitch Holash	Church representative
David Iverson	Church representative
Line Paré	Government of Canada representative
David Paterson	Claimant counsel representative
Diane Soroka	Claimant counsel representative

#### Also present

Kaye Dunlop	Deputy Chief Adjudicator; Chair, Technical Subcommittee <i>present for item 1 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)

#### 1. Report of the Technical Subcommittee

Kaye Dunlop reported on a meeting of the Technical Subcommittee held January 13, 2014.

She distributed the final approved copy of the paper on management of student on student claims. Work is underway to commence phase 1: three lead adjudicators have been selected, along with a staff support person. The first pre-hearing teleconferences are expected to begin in March. She thanked the parties for their cooperation.

Two other issues were discussed by the subcommittee but no decisions were made.

## **2. Approval of minutes**

The committee approved the minutes of the December 10, 2013 meeting as presented.

## **3. Key performance indicators**

Shelley Trevethan discussed some key statistical indicators as of December 29, 2013:

- An increasing number of applications are not being admitted – it is estimated that about 45% of claims remaining in the admissions process will ultimately not be admitted, an indicator of the quality of applications received in the last months before the application deadline.
- Just under 6,000 cases are awaiting mandatory documents, and the number continues to drop.
- Over 19,600 hearings have been held. The postponement rate for 2013-14 to date is 11.5%, which is lower than the year before. It has crept up a bit during the winter months.
- Based on hearings held and scheduled to date, it is anticipated that about 4,150 hearings will be held in the fiscal year ending March 31, 2014.
- About 2,000 cases are in the post-hearing phase. 189 reviews and 48 re-reviews are currently in progress.
- Over 25,000 claims have been resolved – 66.4% of all claims received. About 12,700 claims are still in progress. About \$2.2 billion in compensation has been paid.

Line Paré presented statistical reports on document disclosure by Canada and negotiated settlements concluded by Canada:

- In 61% of cases Canada provides its documents before the claimant does. In no cases does Canada provide its documents more than 165 days after the claimant does.
- Currently, Canada has 1,748 admitted cases on which it must provide documents.
- About 580 negotiated settlements have been concluded this fiscal year, which is on track to reach the goal of 700 settlements.

#### **4. Executive Director's report**

Shelley Trevethan reported that the Adjudication Secretariat is moving forward to implement Step One of the Incomplete File Resolution procedure, while waiting for court approval of Step 2. The Secretariat anticipates that 1,200-1,500 files may be dealt with in IFR. The first files will be referred to the Case Analysis and Resolution unit in April to begin work.

The policy on claimant substitution for postponed hearings, which was approved at the September 2013 meeting, will be implemented this month. Notice has gone to claimant counsel, adjudicators, and staff.

Further analysis has been undertaken on the needs of self-represented claimants. Of the almost 1,400 self-represented cases as of November 2013, 15% were lost contact, 9% were estate claims, 20% were requests for more information at the admissions stage, 7% were inactive and unable to represent themselves. Only about 570 self-represented claims (41%) were active. More work is underway to encourage these claimants to retain qualified legal counsel.

The Adjudication Secretariat provides funding to support Group IAP processes where claimants identify activities to support healing and reconciliation while participating in the process. In 2012-13, the full \$400,000 was spent; in 2013-14, additional funds were found and \$650,000 will be provided. The demand for funding now exceeds the available resources, and a call for proposals process will be implemented going forward.

The DVD on the IAP hearing process is nearing completion. The English version has been finished, with changes requested by Oversight Committee members. The French version is moving along quickly, with filming scheduled for the week of January 20. The hope is to have both ready for the Edmonton Truth and Reconciliation Commission event in March.

#### **5. Chief Adjudicator's report**

Dan Shapiro reported that adjudicators have attended a series of mandatory one-hour teleconference training sessions on security, with a focus on reducing risk when travelling with sensitive records. Work is underway to produce a more comprehensive package for adjudicators on all aspects of their security responsibilities.

There is a provision in the Settlement Agreement requiring the National Administration Committee to maintain a list of claimant counsel. The current list, on the court web site, is badly out of date. This presents a problem for Secretariat staff working with self-represented claimants who wish to hire lawyers. The Chief Adjudicator referred requests from two lawyers to the NAC,

who has added them to the list. He has also spoken with Peter Grant, Chair of the NAC, about looking at the list in a more comprehensive way.

The Chief Adjudicator always monitors adjudicative capacity and conducted a survey in fall 2013, which found there was sufficient capacity to conclude the IAP, although without much of a cushion. Since then, adjudicator Firoz Dossa passed away in December, another adjudicator has announced their retirement, and a third has advised that she will take a 6-month leave of absence; others may curtail their work more than expected. As well, the requests for female adjudicators exceed the current supply.

The Chief Adjudicator is considering whether to recommend a further RFP for adjudicators. This would be a last resort, in part because it takes over a year between the launch of an RFP and the new adjudicators being able to work at full capacity.

In response to a question, Dan Shapiro said he would look into whether any retired adjudicators might still be able to hear the occasional case.

Regional adjudicator meetings are planned for April 2014 in Vancouver and Montreal. A focus this year will be on assisting adjudicators in gathering evidence in a way that is more sensitive to Aboriginal cultural perspectives. This year's meetings will run for two full days, to provide an opportunity to explore issues in more depth.

## **6. Completion Strategy**

Dan Shapiro reported that he has received a further communication from the National Administration Committee, which advises that its approval of the Incomplete File Resolution procedure, as amended, is unanimous. There had previously been an abstention because one of the representatives needed instructions.

The Chief Adjudicator's request for directions will be filed with the court shortly.

## **7. Next meeting**

The next Oversight Committee meeting is scheduled for Tuesday, February 25, 2014, in Toronto.