

OVERSIGHT COMMITTEE

March 24, 2009

Calgary, Alberta

Chair: Mayo Moran

David Iverson	Church Representative
Mitch Holash	Church Representative
Len Marchand	Claimant's Counsel
David Paterson	Claimant's Counsel
Luc Dumont	Government of Canada Representative
William Wuttunee	AFN Representative
Alison Molloy	Government of Canada Representative
James Ward	Government of Canada Representative
Dan Ish	Chief Adjudicator
Jeffery Hutchinson	IAP Adjudication Secretariat
Randy Bennett	Court counsel to Justice Winkler – Observer
Peggy Martin-McGuire	IAP Adjudication Secretariat – Recorder

Absent: Rosemarie Kuptana

Caroline Davis, Assistant Deputy Minister for Resolution and Individual Affairs, was present for lunch and an observer for part of the agenda

1. James Ehmann resigned as representative of the Catholic Church entities, with regret, at the February 3, 2009 meeting because of heavy workload commitments. The OC was appreciative of the contribution of Mr. Ehmann. They welcomed Mitchell Holash to the meeting as the new appointment from the Catholic Church entities.
2. The sad passing and outstanding contributions of adjudicator Jean Dutil were noted by Chief Adjudicator Dan Ish. Michel Landry represented the Committee at Mr. Dutil's funeral.

3. Additions and Approval of the Agenda

Add the following items to the Agenda:

- Issue of the engagement of private investigators
- NSP
- Completion of ADR cases
- Update on form filler process
- Website issue and publication of decisions
- Expert assessment contracting
- Transcripts

4. Approval of Minutes (in-camera meetings for Feb. 3, 2009 not available and not approved)

Feb. 3, 2009

Item 2, first para: change 'materials' to 'document'

Item 2, second para: change existing text to 'an error was noted in the IAP and Student-on-Student application forms. Change existing text to "Health Canada is listed rather than Indian and Northern Affairs Canada."

Item 2, third para., point c), add 'For distribution' to "approved" regarding redaction directive.

Item 2, fourth para, point f, add after first sentence, "There was a discussion regarding preparation and retention of transcripts." Remove "A transcript copy should be kept on file for the duration of the Agreement."

Item 5, first bullet, text to be changed to read "the IAP Forms returned by Month and by Province."

Item 5, first bullet, change "framework" to "horizon."

The Minutes for the Feb. 3, 2009, meeting were approved subject to revision and distribution to members. The in-camera minutes to be distributed.

5. Matters Arising from the Minutes

- a) Protocol for establishing and maintaining the Experts' Roster was discussed and approved in principle subject to review and editing by Dan Ish. The need to solicit experts based on specific geographic and gender demands was discussed, as was the need to distribute work more evenly within the existing roster. Jeff Hutchinson to pursue RFI and other means of distribution to solicit interest by qualified individuals on appointment to the roster.
- b) The Request for Proposals for new adjudicators was addressed by Jeff Hutchinson, who verified that the time frames previously established of heading to competition in the spring were still viable, with the objective of having new adjudicators in the two streams – general and Aboriginal – contracted in the fall of 2009.
- c) The late delivery of decisions by the Secretariat to Canada was being monitored, and Canada reported few instances of receiving decisions late.
- d) Luc Dumont is to report at the next meeting on the status of NSP negotiations.
- e) Luc Dumont is to report on the status of the completion of ADR files at the next meeting, with materials circulated in advance.
- f) The status of a proposed form filler contract with AFN was reported by Jeff Hutchinson, who gave an overview of the history of engagement in this area. There is a need for more work with AFN on the strategic context of the planning document, so that the program will not be rolled

out April 1, 2009, as originally hoped. Jeff will provide an update at the next meeting.

6. Executive Director's Report

Jeff Hutchinson made an oral report, with these highlights:

- The Secretariat is expecting that 678 hearings will have been held at the conclusion of Q4 on March 31, and 532 hearings have been set up for Q1 (April-June).
- The Secretariat is working with Luc Dumont and his team (Canada) to make effective use of resources in scheduling and getting people to hearings. Block hearings are going well, and he is monitoring logistics against a two week service standard of having arrangements in place two weeks prior to hearing.
- The Secretariat will have a management review next quarter to ensure robust and reliable practices.
- A costing study is underway to refine the data needed for budget estimation and monitoring, and to provide insight in to the ratio of administration process to compensation dollars. There is no pressure at this time to reduce costs, but it is necessary to request resources from Canada at the appropriate level.
- The Secretariat is initiating review of the post-hearing period and the processes involved. Four key areas were identified where flexibility needs to be married with accountability: expert assessments, mandatory documents, document transmission, and availability of experts. There was general discussion of each of these areas. Jeff is to report on progress in these areas in future meetings.
- The scheduling of POI hearings was raised at a previous meeting, and is still outstanding to be addressed in the next quarter.
- Some statistical reports (IRSAS Dashboard, IRSAS Statistics Summary) were introduced and discussed in relation to the anticipated rate of admissions and the resulting file load, as well as the tracking of compensation awards in various categories. Luc Dumont agreed to look into the statistics on award amounts for NSP settlements.
- There was a recent canvas of the file inventory in Case Management in regard to file readiness; only 44 files of 2300 were ready to go and rest were in various states of readiness which Secretariat can now describe and address.

7. Chief Adjudicator's Report

- Dan Ish distributed copies of his Annual Report for 2008. The report covers the period September 19, 2007 to December 31, 2008, and is to be shared with stakeholders via the website once it is translated.

- The regional meetings with adjudicators have successfully occurred and there is agreement to repeat these with some process modifications.
- One day of the June “Big Think” meeting is to be facilitated.
- Transcripts are still an outstanding issue. We do need a copy to put to every file for various reasons, but we can create a policy on priorities for this service.
- The website for adjudicators is active. There was general discussion about the possibility of a general website containing redacted decisions that counsel could also access.

8. Communications with NAC – Mayo Moran

- a) Issues have arisen at NAC that should be directed to Oversight. These should be communicated chair to chair, not through other means. Similarly, issues to be placed at each table should be kept distinct.
- b) Time delays in the Chief Adjudicator’s Office. The Secretariat reported that some tracking measures are in place for decisions, and that more will be implemented for other aspects of the post-year process.
- c) Dan Ish addressed the issue of the role of the CA and DCAs in adjudicator decisions, and stressed that the role of the DCA is to look for errors and consistency of application. These errors might be in mathematical calculations, in grammar, and in interpretation, and DCA’s role is only to point these out to adjudicator. There was general discussion regarding the parties’ expectations of adjudicators and the role of the DCAs, as well as the effects on timing of release of decisions, performance management, and the policy bases within and contextualizing decisions. If any adjudicators have concerns that their independence is being infringed upon, this should be raised with the Chief Adjudicator. If the concern is with the Chief Adjudicator, this should be raised with the Oversight Committee.

9. Schedule “P” and impact on CEP claims

Jeff Hutchinson reported that the issue of purported conflict between the schedule and CEP eligibility has been resolved; these documents serve different purposes. There was some general discussion about these purposes, and Jeff agreed to prepare something on this for further clarity.

10. New Item: Hiring of Private Investigators by Canada

Luc Dumont reported that contracts have been in place with private investigators since 2005. These are being renewed, and this was the information that the media have acted upon. He clarified that their only role is to locate alleged perpetrators, not to research or interview them.

11. Future Meetings

- a) Next meeting is May 5, 2009, in Toronto
- b) June meeting in Regina is set for June 15 and 16. One day will be a facilitated discussion, and the components of this discussion will be an item for the May 5 meeting.
- c) Future dates for meetings will be set in May. It was proposed that a meeting be set for Vancouver at the end of July or early August.