

## OVERSIGHT COMMITTEE

August 5, 2009

Listel Hotel, Vancouver

Chair – Mayo Moran

David Iverson	Church Representative
Mitch Holash	Church Representative
Luc Dumont	Government of Canada Representative
Alison Molloy	Government of Canada Representative
Len Marchand	Claimant Counsel Representative
David Paterson	Claimant Counsel Representative
William Wuttunee	AFN Representative
Les Carpenter	Inuit Representative
Jeffery Hutchinson	Adjudication Secretariat
Dan Ish	Chief Adjudicator
Irene Fraser	Adjudication Secretariat, Recorder

Dan Shapiro was present only for the report from the Technical Sub-Committee.

### 1. Additions and Approval of the Agenda

- a) Remove Sharing of Information with the TRC.
- b) Qualifications for Adjudicators
- c) Form Fillers
- d) Student on Student Admissions
- e) Best Practices for RHSWs

Agenda approved.

### 2. Approval of the Minutes

Approved with changes.

- a) In-Camera Minutes of June 16, 2009

Approved.

### 3. Technical Sub-Committee (TSC)

Dan Shapiro reported for the TSC.

- The latest draft of the *Guidance Paper on Preparation for Other Wrongful Acts (OWA)* was discussed. There was consensus except for paragraph eight which refers to the complex track and application of court standards on all aspects of the claim.

Decision: OC members will have two weeks to send comments to Dan Ish after which it will be moved forward internally.

- Recent suggestions for the guidance papers on reopeners will be discussed with the Deputy Chief Adjudicators and Chief Adjudicator, resolution to be reached possibly by the end of August.
- The draft guidance paper on opportunity loss in cases where the claimant is or was incarcerated is still under discussion.
- Short form for IAP decisions is still under discussion.

Decision: Dan Shapiro will prepare a discussion paper on short form decisions.

- The Chief Adjudicator will consider getting legal advice to see what authority the adjudicator has to declare a conflict in cases where there are allegations of conflict of interest involving counsel, most often brought to attention in student-on-student claims.

Decision: The Chief Adjudicator will include a note on this in his update to adjudicators. Claimant counsel will be advised electronically. It will also be added to the legal fees paper and is to go up on the website.

#### 4. Matters Arising from the Minutes

##### a) Student-on-Student Reopener Guidance Paper

See above.

##### b) OC Planning Session Follow-up

A summary from the facilitator, Glen Gardiner, was distributed.

##### c) Appointment of CA Designates for Reviews

CA Dan Ish presented a list of proposed designates.

Decision: Others can be added to the list later. Approved.

##### d) Adjudicator Performance Assessment Document

The document was discussed and suggestions given to the Chief Adjudicator. The Oversight Committee recognizes that the evaluation process is under the jurisdiction of the Chief Adjudicator and supports the document and process.

Decisions:

- Comments will be passed on to Deputy Chief Adjudicator Delia Opekokew.
- The Chief Adjudicator and Deputy Chiefs will be determining the framework for carrying out the evaluation.
- The document is to be translated to French and then posted on the website.

#### 5. Update on Procurement of Experts

The process is delayed.

Decision: The OC fully supports all efforts to move the procurement issue along. Ideas put on the table will be explored. Jeff Hutchinson will report at the next meeting.

#### 6. Update on ADR Files

- Alison Molloy reported a decrease in remaining files to 153.
- Letters went out to all.
- Canada are working to identify harm levels so that the higher end ones can be given scheduling priority as they will take more time.
- Canada is waiting for the assignment of a liaison person from Hearings Management so that these files can be fast tracked for scheduling.

#### 7. Report on Research Activities

Seven charts were presented showing different aspects of the caseload including timelines, compensation paid, the status of research for alleged perpetrators and Canada's outstanding documentation.

- Staff numbers will increase in September. The goal is to increase capacity by 30%.
- Client Services is assisting with research.
- Claimant counsel who are late in sending in documents is an issue.

Updated reports will be forthcoming each quarter.

#### 8. IAP Compensation Improvement Project

Canada is looking at options. Consideration is being given to a letter for claimants following the decision. Luc Dumont will come forward with a proposal for the Chief Adjudicator and Executive Director. Luc asks that adjudicators consider a script at the end of the hearing which moves away from leaving claimants with the expectation that as soon as the decision is rendered compensation will follow regardless of other delays such as the review period.

Two toll free lines are being set up to take calls from claimants who are inquiring on the whereabouts of their cheques. One will be in Vancouver and another in Ottawa.

#### 9. Best Practices for Regional Health Support Workers

This is ongoing.

#### 10. Executive Director's Report

The regular update of statistics was distributed.

- Long term funding to support the necessary administration for an increased caseload must be considered. The original projection of CEP and IAP claims was in the 12,000 range but now the top end is looking more like 21,000. Currently, total intake is still within the original projections.
- To analyze gaps, a series of maps have been developed and were distributed showing the communities where IAP claims have been admitted.
- The impact and an approach to H1N1 is being considered.
- The DCA competition closes on August 14<sup>th</sup>, 2009.
- The RFP for adjudicators has not yet been issued.

#### 11. Qualifications for New Adjudicators

William Wuttunee proposed on behalf of the AFN that the five years of experience practicing law is too high a requirement for adjudicators. There is a possibility that the RFP as worded is in breach of Appendix 5, Schedule D.

Decision: The RFP requirement for years of experience will be reduced from five years to four years for new adjudicators.

#### 12. Form Fillers

A consultant for IRSAS is working with AFN and an IRSAS director to prepare specifications.

#### 13. Chief Adjudicator's Report

- Dan Ish attended a meeting with the new commissioners of the TRC the purpose of which was to talk about the structure of the TRC.
- Dan Ish released a legal fee review about an assignment of monies to a third party. The review is being distributed to applicable organizations.
- There have been admission appeals on reopening IAP decisions. They cannot be reopened once it has been signed off.

- An adjudicator has been served in a Quebec court action in relation to the rights of the perpetrator to have access to all documents, including access to the transcript. Luc Dumont is waiting for advice on this. The adjudicator may need legal representation.

14. In-Camera Session

The written report of Comments by Canada on Adjudicator Awards or Issues to August 09 was received.

15. Attendance of a Guest at OC

Decision: It was agreed that Randy Bennet attend the September 22 meeting of OC in Toronto.