

OVERSIGHT COMMITTEE (OC) MEETING
January 15, 2008
Vancouver, B.C.

Participants:

Mayo Moran	Chairperson
Dave Iverson	Church Representative
James Ehman	Church Representative
James Ward	IRSRC Representative
Luc Dumont	IRSRC Representative
Bill Wuttunee	AFN Representative
David Paterson	Claimant Counsel Representative
Len Marchand	Claimant Counsel Representative
Dan Ish	Chief Adjudicator, IAP
Ted Hughes	Chief Adjudicator, ADR
Irene Fraser	IAP Secretariat (Recorder)

Guests:

Laura Cabott	Claimant Counsel, CARG
Dan Shapiro	Deputy Chief Adjudicator, IAP
Brian Harris	Director, Operations IAP Secretariat
Monique Bond	Acting Director, IAP Secretariat
Bill Percy	Claimant Counsel, CARG
Carol Brzezicki	Aboriginal Representative, CARG
Grant Brittan	IAP Secretariat
Alison Molloy	Senior Resolution Manager, IRSRC

Regrets: Rosemarie Kuptana, Inuit Representative

1. Item 3 a) Introduction of Chair

Dan Ish opened the meeting with an introduction of newly appointed chair to the Oversight Committee, Mayo Moran. In accord with the Settlement Agreement, Mayo Moran was appointed as Chair by Justice Frank Iacobucci. She is the Dean of Law at Toronto University.

2. Item 1. Approval & Additions to the Agenda

Additions to the Agenda:

Next Steps Letter – Len Marchand
Electronic Submission of Applications – Len Marchand
Fee schedule for CARG and Oversight members

The following items were prioritized.

- 3 l) Preliminary Case Assessment
- 3 e) Report from the Technical Sub-Committee
- 4 g & h) RFPs for Deputy Chief Adjudicator & Adjudicators
- 4 j) Interview Committee

3. Item 2. Approval of the Minutes of Dec. 4, 2007

Decision: Deferred to next meeting.

4. Item 3. Matters Arising from the Minutes

3 l) Discussion of Preliminary Case Assessments

This item received prior approval from the Oversight Committee. Dan Ish presented the document for final editing. The document will be a Practice Direction for adjudicators. In keeping with Schedule D of IAP, III r. iii, the document and rationale for the Practice Direction will go to the National Administration Committee for approval on January 17, 2008. If approved it will be implemented immediately.

Decision: The document is to be translated to French.

It is recommended that a pre-hearing case management conference call take place prior to the pre-assessment hearing to ensure the administrative requirements are considered, that the process is understood and that the information supports a complex track claim. This is particularly important if the claimant is self-represented.

Suggested changes:

- The words of the second bullet under Section C, Proposal for a Practice Direction, be changed from “will proceed” to “will continue.”
- The 3rd bullet from the end of Section C is to include the last bullet “On the receipt of the expert...” from Schedule D IAP, Section III b, viii.
- Include the fact that if a prima facie basis does not support a claim for OWA it cannot go further as there is no track for it at all.
- Ordering an assessment prior to the POI hearing could be seen as pre-judging and therefore, if there is to be a POI hearing, the decision of ordering the assessment will follow.

Decision: The Practice Direction document is approved with consideration of the above. Dan Ish will send the revised document to Catherine Coughlin, secretary to NAC.

5. 4 j) Interview Committee

A DR adjudicator interviewed for IAP but not given a new contract appealed the decision of the interviewing committee on the grounds that the interviewing committee did not include a church representative. Schedule D, Appendix XIII, states that the selection board must include one representative of each of former students, plaintiff's counsel, church entities, and government. PWGSC directed that the candidate be re-interviewed. The new interviewing committee must not include any person who sat on the previous committee.

Decision: Bill Wuttunee will be the Aboriginal representative. James Ward will represent Canada. Claimant counsel and the Church representatives will each forward a name to Dan Ish.

Decision: Should an interview committee be incomplete at future adjudicator interviews, the candidate will be asked if he/she objects to proceeding. If so, then the candidate will have to be given another interview opportunity. If not, a signed statement will be necessary.

6. 4 g and h) RFPs for Deputy Chief Adjudicator and Adjudicators

The RFP for the Aboriginal Deputy Chief Adjudicator will go out shortly.

Decisions:

- It will be posted for 40 days.
- MT1 - the criteria will be reduced to 8 years from 10 years.
- Both competitions will be run by IRSRC.
- Dan and Monique Bond will see about broader advertising than the previous competition.
- RT3, 6th line, the word significant should be followed by the word exposure.
- RT4, take out the words "a session of" in the third bullet.
- Move the score threshold from 70 to 60 points.

The RFP for Adjudicators will follow the Aboriginal Deputy Chief Adjudicator posting.

Decisions:

- It will be posted for 40 days.
- MT1 - the criteria will be reduced to 8 years from 10 years.
- RT3, 6th line, the word significant should be followed by the word exposure.
- RT3, take out the words "a session of" in the third bullet.

- There will be an Aboriginal set aside for adjudicator candidates but the criteria, possibly with the exception of French as an asset, will not change. The top 35 candidates of the Aboriginal group and of the non-Aboriginal will be interviewed.
- The RFPs for the non-Aboriginal candidates will include the statement that the ability to speak French is an asset.

7. 3 e) Technical Sub-Committee Report

The technical sub-committee of the Oversight Committee is a group mandated to discuss issues requiring interpretation of the IAP for adjudicators prior to consideration by the Chief Adjudicator and/or the Oversight Committee. Alison Molloy, James Ward, David Paterson and Len Marchand met January 14th. Deputy Chief Adjudicator Dan Shapiro chaired the sub-committee and reported to Oversight.

There were three main topics for discussion:

1. Actual Income Loss (AIL)
 - a) Choice of Law
 - b) Scope of Claims for AIL
 - c) Standard of Proof Required to Establish Claims for AIL
 - d) Methods/Tools/Standards for Assessment of Loss
2. Costs (Legal Counsel Out-of-Pocket Expenses)
3. Mediation

Further discussion is needed on all of the topics before proposals will come before the Oversight Committee. A teleconference is scheduled for January 28, 2008.

Note: the conference call has been rescheduled to Feb 11, 2008.

8. Item 3 b) Report on Implementation, Infrastructure & Administration

It is likely that the infrastructure necessary to meet the Court's direction of 2500 cases a year beginning March 19, will not be in place by March 19. The front end requirements are not ready. Much time is being spent on administration rather than implementation of IAP. IAP is vulnerable because of a lack of corporate resources such as procurement, IT, security and human resources management. Implementing IAP while still managing DR also makes the task more challenging.

The Secretariat in Regina is in four different locations due to renovations. Ultimately it will be in two. Fifty-eight of the projected 120 staff for Regina are in place. Selection processes are progressing slowly.

The 8th floor of the Vancouver office is to be ready by May 15th. The Winnipeg Hearing Centre is finished and ready to be staffed.

The Secretariat has to rely on IRSRC to supply the resources to meet the expanded role. Support from the department is not always forthcoming. Independence from IRSRC is an issue.

Decisions:

- Dan Ish is meeting with Deputy Minister Peter Harrison on January 28th.
- Decision: Dan Ish and Mayo Moran will write a report identifying the issues seen to be preventing faster progress. The report will be circulated to members, excepting the government representatives.

9. Item 5. Date and Location of Meeting Schedule

- The next meeting will be in Toronto on February 26th.
- The April 8th meeting will be in Calgary.
- May 13 meeting will be in Vancouver.

10. 4 d) Training of New Adjudicators

Decision: The week of June 22, 2008 in Calgary at the Delta Hotel is set aside for the next training session of new adjudicators.

11. 3 d) Adoption of CARG Policies and Decisions

Decision:

- Deputy Chief Adjudicator Peggy Blair can do the cuts and put forward items which need updating. Items which are not relevant anymore could eventually be placed in a separate document. The actual backup will need to be included.
- This will be worked on further and come forward to a future meeting.

12. 3 f) Plain Language Application, Guide and Application for Reopeners

Monique Bond distributed the latest versions following last meeting. Comments received have been incorporated.

Corrections are still needed to the Guide.

The reopener application is still in revision. Concern was raised about the length of the document and the possibility of a rehearing when there is already a finding of fact.

13. 3 j) Notice to Claimants Regarding Reopener Opportunity

Decision:

Brian Harris and Monique Bond will bring a proposal to the next meeting on how self-represented claimants in particular can be notified of the provision for claimants

to apply to have their hearing reopened for income loss or sexual abuse by a student at the SL4 or SL5 category.

14. 3 h) Distribution of Unredacted Copies of the Decision

A resolution was put forward:

The Oversight Committee resolves to rescind its decision regarding provision of unredacted decisions to counsel for the claimant and that henceforth, in accordance with the privacy clause contained in the IAP, unredacted decisions will be sent to the government and the relevant church entity, while neither the claimant nor counsel for the claimant shall be entitled to receive a copy of the decision which does not have the names of any abuser or alleged abuser redacted.

Decision: Deferred to the next meeting.

15. 3 i) POI Database

A memo from Dan Ish on this topic was distributed to members via email on December 31, 2007. The issue is retention of the adjudicator database which contains the names of persons of interest in previous DR or future IAP decisions.

Decision: The decision is left to Dan Ish as a policy matter for the Chief Adjudicator's Office.

Note: Mayo Moran had to leave the meeting at 2:00. She turned the Chair over to Dave Iverson. The meeting adjourned at 4:30.

Chairperson Mayo Moran

Date