

OVERSIGHT COMMITTEE

Feb 3, 2009

Montreal, Quebec

Chair: Mayo Moran

David Iverson	Church Representative
James Ehmann	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
Dan Ish	Chief Adjudicator
Jeffery Hutchinson	IAP Adjudication Secretariat
Irene Fraser	IAP Adjudication Secretariat (Recorder)

Absent: Rosemarie Kuptana

1. Additions and Approval of the Agenda

Add the following items to the Agenda:

- Alleged Perpetrator Hearings – In-camera
- Claimant Counsel Representing both Claimant and Alleged Perpetrator
- Church Notifications
- Application Error

2. Technical Sub-Committee Report – Deputy Chief Daniel Shapiro

The Committee met the previous day.

a) Student on Student (SOS) Reopener Document – DCA Kaye Dunlop is incorporating final changes to the document and it is anticipated that it will be ready very soon as a Chief Adjudicator Directive (CAD) so that it can be distributed to other than just the adjudicators.

During preparation of the SOS material an error was noted in the IAP and Student-on-Student application forms. Health Canada is listed rather than Indian and Northern Affairs Canada as an accepted body with whom information can be shared for the purpose of research.

Decision: Canada is seeking legal advice on this and there is no need for this to come back to the Oversight Committee (OC).

- b) The loss of opportunity reopeners are going well.
- c) A draft directive on redaction of decisions was discussed and approved for distribution subject to inclusion of slight changes.

Decision: The final copy is to be posted on the website.

- d) Alleged perpetrator hearings are delaying decisions. It was proposed that, where an alleged perpetrator has provided a witness statement prior to the claimant's hearing, an alleged perpetrator hearing take place within six weeks after the claimant hearing.
- e) The timeliness of the release of decisions is an issue. It was suggested that a maximum standard of sixty days following the final submissions of a hearings be implemented.
- f) Transcripts of hearings also seem to be causing delays. There was a discussion regarding preparation and retention of transcripts, and an unresolved question as to whether transcripts have to be prepared in every case. Rather, could the digital chip be downloaded to a CD? If claimants want a copy of the transcript, the request should come forward within sixty days. Participants in Quebec have expressed concern about the confidentiality of their evidence.

Decision: Jeff Hutchinson will explore this further and provide the feedback to the Technical Sub-Committee.

- g) There is a complaint that decisions are not getting to Canada as quickly as they are to claimant counsel.
- h) A claimant counsel recently represented both the claimant and the alleged perpetrator.

Decision: A reminder is to go to adjudicators that this practice is not to be allowed.

- i) Expert assessments have also been a source of delays. Contract issues with the assessors are being resolved. However, there is a perception that Canada is requiring expert assessments unnecessarily.

### 3. Approval of the Minutes

#### a) January 6, 2008

- i) The term POI is to be changed to alleged perpetrator throughout the minutes.
- ii) On list of attendees note in brackets behind the names James Ward and Luc Dumont that they are representatives of Canada.
- iii) Item 3 a), first sentence to read, “Rob Carson, an economist, was contracted to put together information for “a basket of defaults” to assist in assessment of income loss claims based on educational attainment.”
- iv) Item 3 a), last sentence, the word loss is to be preceded by “actual income”.
- v) Item 3 c) Delete the introduction to numbers 1-3 and insert, “The Oversight Committee recognized that although serious practical impediments may come forward there are no legal impediments to filing a claim on behalf of deceased claimants.” Add, “Decisions” prior to numbers 1-3.
- vi) Item 5, 2<sup>nd</sup> bullet, end of sentence, add “Around 4000 are expected to go forward to a hearing stage.”
- vii) Item 6, 3<sup>rd</sup> bullet, to read, “Counsel has been retained for the Chief Adjudicator to take issues regarding legal fee assessments before the Court.”
- viii) Item 6, 4<sup>th</sup> bullet, remove the first “and” which follows the comma in the third sentence.
- ix) Item 14, change the word frozen to “being delayed”. Change “have” to “are”.

Approved subject to the above revisions.

#### b) January 6, 2008 In-Camera Minutes

- i) On list of attendees note in brackets behind the names James Ward and Luc Dumont that they are representatives of Canada.
- ii) Item 1, reverse the order of Gagne Gilles.
- iii) Item 1, add the word discuss in front of the word future.

Minutes approved subject to changes.

### 4. Matters Arising from the Minutes

#### a. Deceased Claimants

Jeff Hutchinson reported that this is an internal policy which is still undergoing revisions.

b. Expert Roster

The Secretariat is still exploring options. Criteria for a Request for Interest will be circulated prior to the next meeting.

c. RFP for Adjudicators

Jeff Hutchinson submitted an *Information Note for the Oversight Committee*. The purpose is to provide options for a third recruitment campaign to hire additional adjudicators. The number of working adjudicators and claims to be processed easily suggest that there is a need to contract up to twenty more adjudicators. A broad RFP is the only option. A time line and experience show that from posting an RFP to the training is about six months. Jeff Hutchinson will report back on progress of the RFP.

d. RFP for Bilingual Adjudicator

Dan Ish will make the changes to the draft as discussed and the RFP will proceed.

e. DR Claims on Hold

There are 860 DR claims outstanding. 241 are active. Luc is to report at the next meeting on the strategy for moving all of the claims to conclusion.

5. Executive Director's Report

- Jeff Hutchinson distributed copies of the IRSAS Dashboard, the IRSAS Statistics Summary, the IAP Forms returned and by Month and by Province.
- The projected number of claims to be set for hearing was met for the last quarter of the fiscal year. Therefore, hearings in March will be limited to expedited.
- The scheduling horizon is being pushed out.

6. Chief Adjudicator's Report

- The Quarterly Report to the Courts will be circulated electronically at the end of this week. OC members can use the information but not quote from it directly.
- The Annual Report to the OC will be presented at the next meeting.

7. New Business

a. Church Notification

James Ehmann reported that some hearings involving the Catholic Church entities went ahead without the church receiving notice. Jeff Hutchinson replied that this just came to the attention of the Secretariat and the Secretariat is in the process of correcting the communication issue.

b. Listed Schools/Operating Dates

.There is dissimilarity between the listing of the schools in Schedules E and F and Article 12 of the Settlement Agreement. The CEP followed the dates the schools operated. It is believed that there was no intention to do otherwise but it is not clear in the SA. One case has been adjourned pending resolution.

Decision: Jeff Hutchinson will draft a letter to NAC for Mayo's review and Dan Ish will raise the issue with Randy Bennett.

8. Next Meeting

The June meeting will be over two days, June 15 and 16, one day for a regular meeting and another to addresses other issues.

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Chairperson Mayo Moran

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Date