29th ANNUAL AUSTRALIAN AND NEW ZEALAND ASSOCIATION OF PSYCHIATRY, PSYCHOLOGY AND LAW (Western Australia) CONGRESS

FAMILIES IN LAW: INVESTIGATION, INTERVENTION AND PROTECTION
Fremantle Western Australia
27 November 2009

LOOKING BACK: LOOKING FORWARD – LESSONS LEARNT FROM REDRESS

Pauline Bagdonavicius, Public Advocate Western Australia

In identifying the topic for my address many months ago – *Looking back: looking forward – Lessons Learnt from Redress* I did not know that the Prime Minister and the Leader of the Opposition would give the historic national apology to the Forgotten Australians in the week before this conference on the 16 November 2009.

The Australian contended "there wasn't a dry eye in the House" on this historic occasion. This moving apology was significant to so many Australians who experienced abuse and neglect in institutional care and for whom the hurt continues.

In recent days in the lead up to the apology and since, we have heard so many stories from "the homies", the children who grew up in institutional care, as well as stories from former child migrants and Aboriginal peoples who were part of the Stolen Generation.

My focus today is about people with decision-making disabilities who experienced abuse as children in the care of the State and for whom I, the Public Advocate, made applications to Redress WA, a scheme to assess people's eligibility for ex gratia payments in recognition of their pain and suffering where that abuse occurred before 1 March 2006 in Western Australia.

My address today also highlights a range of implications for people with decision-making disabilities that need to be considered, and in particular, the need for sound planning for young people with decision-making disabilities who transition from care in the Department for Child Protection to a guardianship order which appoints the Public Advocate when they turn 18 years of age.

1 March 2006, the cut-off date regarding allegations of abuse was a significant date for the Redress process because this was the day on which the *Children and Community Services Act 2004* was fully proclaimed, replacing outdated child welfare legislation more than 50 years old.

What makes this story different to the others you have heard in recent days?

Sadly, the older people's stories I reflect on today depict tragic outcomes for people who I believe have been haunted by their lost childhood throughout their lives. For the majority of this group, they have literally "drowned their sorrows" in alcohol and as a consequence these people now have diminished capacity. Hence the Public Advocate has been appointed as the guardian of last resort to make decisions on their behalf, in accordance with the authority given in the State Administrative Tribunal's guardianship order.

However, the ages of the people for whom applications were made by the Public Advocate to Redress WA varied from 18 through to 78 years of age with a significant number having left the care of the Department for Child Protection in recent years.

Forty-nine applications were made to Redress WA for adults under the guardianship of the Public Advocate, and of these 46 were prepared jointly with the Public Trustee. Under a plenary administration order the Public Trustee had the statutory authority to sign the applications on behalf of the represented persons. The identification of potential applicants for Redress proved a challenge as people for whom the Public Advocate is appointed guardian have decision-making disabilities and there is limited access to information about their past.

The *Guardianship and Administration Act 1990* establishes the legislative framework for the appointment of substitute decision-makers for people who, due to a decision-making disability are unable to mange their own affairs or make decisions in their own best interests. The State Administrative Tribunal is an independent, statutory Tribunal which is responsible for determining whether the appointment of a guardian or administrator is required.

Where service providers such as those from disability, aged care or mental health sectors identify that decisions need to be made in the person's best interests an application may be made to the Tribunal for the appointment of a guardian and/or administrator. The preference is for a family member or friend to be appointed, with the appointment of the Public Advocate as guardian only when there is no one else willing, suitable or available.

When there is no other person suitable or available to manage the financial affairs of a person for whom an application for administration has been made, the State Administrative Tribunal may appoint the Public Trustee.

In accordance with the Act the Tribunal makes a declaration about a person's capacity which in most instances is informed by medical evidence. In doing so the Tribunal must observe the principle set out in Part 2, section 4(2)(b) which states that:

every person shall be presumed to be capable of

- *(i) looking after his own health and safety;*
- *(ii) making reasonable judgements in respect of matters relating to his person;*
- *(iii) managing his own affairs; and*
- *(iv) making reasonable judgements in respect of matters relating to his estate*

until the contrary is proved to the satisfaction of the State Administrative Tribunal.

The principle of the 'presumption of competence' means that every person is presumed competent by the Tribunal, and capable of managing their own lives, unless conclusively proved otherwise. This principle ensures that assumptions are not made about a person's ability to make reasoned decisions for themselves. Therefore it is vital that their right to make decisions is not taken away from them unless absolutely necessary.

A guardian or administrator will only be appointed if the Tribunal considers it is necessary to safeguard the best interests of the person whose decision-making ability is impaired and if other "less restrictive" options are not available.

Why was it a challenge for my office to identify people for whom applications to Redress should be made?

Figure 1: Profile of guardianship orders appointing the Public Advocate by type of decision-making disability as at 30 June 2009.

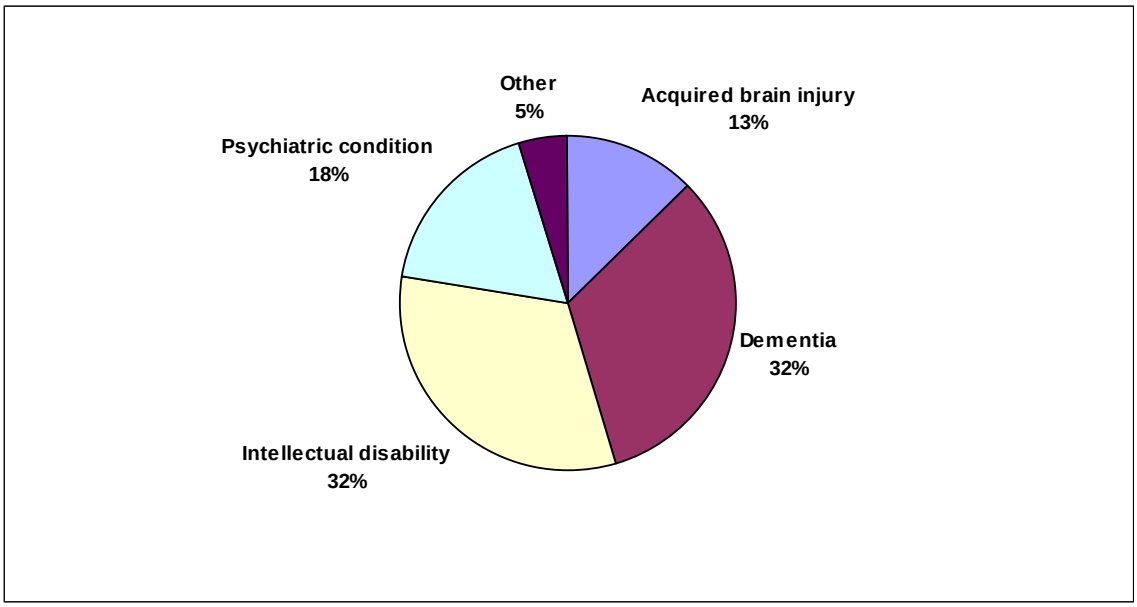


Figure 1 gives you a picture of the types of decision-making disability of represented persons where the Public Advocate is the guardian. People have been assessed as being unable to make reasoned decisions because of dementia, intellectual disability, acquired brain injury, psychiatric conditions or other reasons. In view of these conditions, it was unlikely that this office could rely on the represented persons for detailed information.

When I commenced in the office in 2008 I was advised that a couple of people had been identified as people for whom an application should be made to Redress. It was not easy to identify those represented persons for whom the Public Advocate should apply to Redress for a range of reasons including:

- represented persons may not have other family members who can provide their life story to this office;
- we receive limited information about a person's life history at the time of appointment;
- the focus of a guardian is to address the issues for which a decision-maker has been appointed;
- the Office does not have the resources to physically interview each represented person to see what they may tell us about their past;

- and as noted earlier, the decision-making disability of many represented persons does not allow them to recall information in sufficient detail to support their application.

My appointment as the Public Advocate last year was timely as I brought knowledge of the *Children and Community Services Act 2004*, having previously worked for 17 years in the Department for Child Protection. Within this reforming legislation there is a significant provision that enables the sharing of information where Ministerial consent has been obtained under section 241(2)(f) of the *Children and Community Services Act 2004*. This is an important provision for service providers to be aware of, as we all know there are often blocks to the sharing of information that can benefit the people with whom we work.

With the knowledge of this provision, I approached the Director General of the Department for Child Protection to establish if the Department would assist my office in two ways:

Firstly, by cross-checking the names of people currently under the guardianship of the Public Advocate with the records of children in care held by the Department for Child Protection.

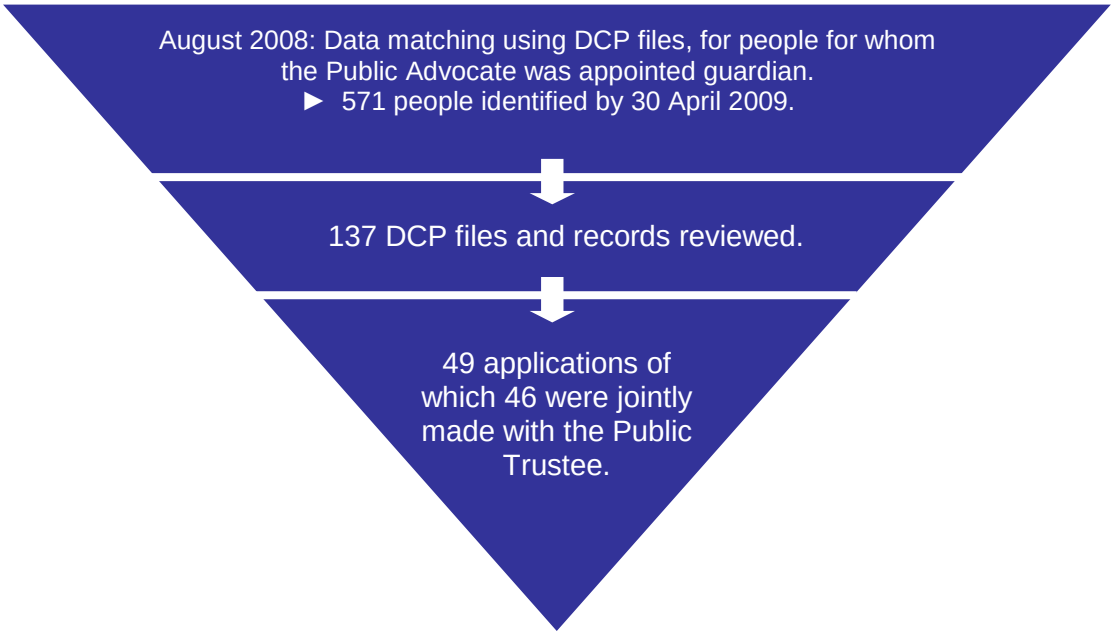
Secondly, where there was a match which indicated there were records in the Department, I also sought agreement for my Office to view the Department's files to establish whether an application should be made and to identify relevant information.

Of course, it was important to give the Minister and Department for Child Protection an assurance that the information provided by the Department would be treated confidentially. And clearly, it was in the best interests of the represented persons for the Public Advocate to act on their behalf – with consideration of "best interests" being a fundamental principle informing the work of my Office every day. Strict confidentiality provisions also apply to the *Guardianship and Administration Act 1990*, however within the Act, section 113(1) (a) allows the Public Advocate to share information in the course of duty.

The Ministerial consent also allowed me to share information for Redress with the Public Trustee and significant others.

When the agreement was put in place for the sharing of information in August 2008, we commenced the data matching of the names and dates of birth of all people under the guardianship of the Public Advocate. We continued with regular checks of the names of new appointments right up until the closing date of 30 April 2009.

Figure 2: OPA's role in Redress applications.



This resulted in checks occurring for a total of 571 people. This process tagged 137 people whose historical records were then reviewed to determine if they were placed in care, and to identify any abuse for which a claim to Redress should be made. In some cases, information was obtained from other sources to support an application.

The Department for Communities assisted my office with the support of an independent person to read the Department for Child Protection files to identify if an application for Redress was warranted and to pull out the relevant history from the Department for Child Protection's records in relation to a good proportion of the files for the 137 people. This involved her accessing and reading a much larger number of client files.

As a result of this review and research process, 49 applications were made.

As well as locating the details around the alleged abuse, additional information to support the application was also provided. The application needed to identify where and when the person had been in State care and relevant information about their family and/or carers; as well as provide the details of abuse and/or neglect, and a statement on the impact of abuse, specifically "How has the abuse and/or neglect affected you?"

As the case summaries were finalised, my Office double-checked our records for any additional information that would assist with an application, or confirm that there was no information available to support an application. This information was shared with the Public Trustee and that office also scanned its records. BUT record searching did not stop there!

In a couple of instances, my Office identified that we believed the represented person had been in care, even though we did not have a data match with the

Department's records. This occurred with some Aboriginal people who were part of the Stolen Generation, and with some older people with intellectual disabilities. One of the difficulties we faced was that the Department's historical records were not always reliable, in particular those before 1975, although significant improvements have been made by the Department since the eighties to improve its record keeping.

In a few cases I sought the agreement of the Director General of the Disability Services Commission to review their client files, where my staff were aware that people had been cared for by the disability sector throughout their lives because of their significant disabilities.

In reading all the files held by my Office for the applicants, we found some excellent material that had been provided by other Departments – particularly the Department of Health, from doctors, psychiatrists, psychologists and social workers, as well as psychological reports from the Disability Services Commission; Department of Corrective Services, and in one instance, the records of a non government provider. We followed up where necessary to seek the agreement of those Departments for the release of those reports where they would be used to support the Redress applications.

The following example I will share with you shows how important this additional material proved to be in developing the basis for one of our Redress applications. His life story also shows how this man's care experience left him ill-prepared for life beyond the Mission – in the words of the Prime Minister, he was left to fend for himself, unable to read or write, to struggle alone with no friends and no family.

In 2004, the Public Advocate was appointed limited guardian for this Aboriginal man now in his seventies. He has schizophrenia and a cognitive impairment due to chronic alcohol abuse.

I personally reviewed the files still held by the Department for Child Protection which only related to his adult years. The Native Welfare files from his childhood have been destroyed.

Fortunately back in 2004, the social worker and clinical psychologist from Mental Health Services had recorded details about his life on the mission where he allegedly suffered an abusive childhood. They also included comments about his adverse reactions when attempts were made to place him back on the mission land in an accommodation service which now operates there.

Without the comments in their reports - which are on his files in my Office - we would not have identified that he was a potential applicant to Redress.

We followed up with an interview and when the Guardian asked him about his life on the mission, he was able to provide us with a small amount of information. He told us he was knocked down and hit as a child, he never

went to school, and he did not get paid for work until he was 14 years old, although he started working when he was ten.

As an adult, this man appears to have been a loner during his life – he remained illiterate, he never married nor had children. He only reconnected with his extended family in his later years. Before he was placed in a nursing home, his self care was very poor with his money being spent on alcohol and cigarettes, and he was physically vulnerable to being attacked and taunted when he was on the streets while under the influence of alcohol and /or experiencing psychotic episodes.

The reports from the Department of Health made a significant difference to our consideration of his eligibility for Redress and added significant weight to our otherwise limited application.

To those Departments and professionals let me say thank you today. In particular I want to acknowledge the partnership with the Public Trustee's Office and their work with us in the preparation of the joint applications, in which they took the lead role in preparing many of the submissions. I note too the importance of historical information being documented as in the fullness of time, such historical records may be the only source of supporting information.

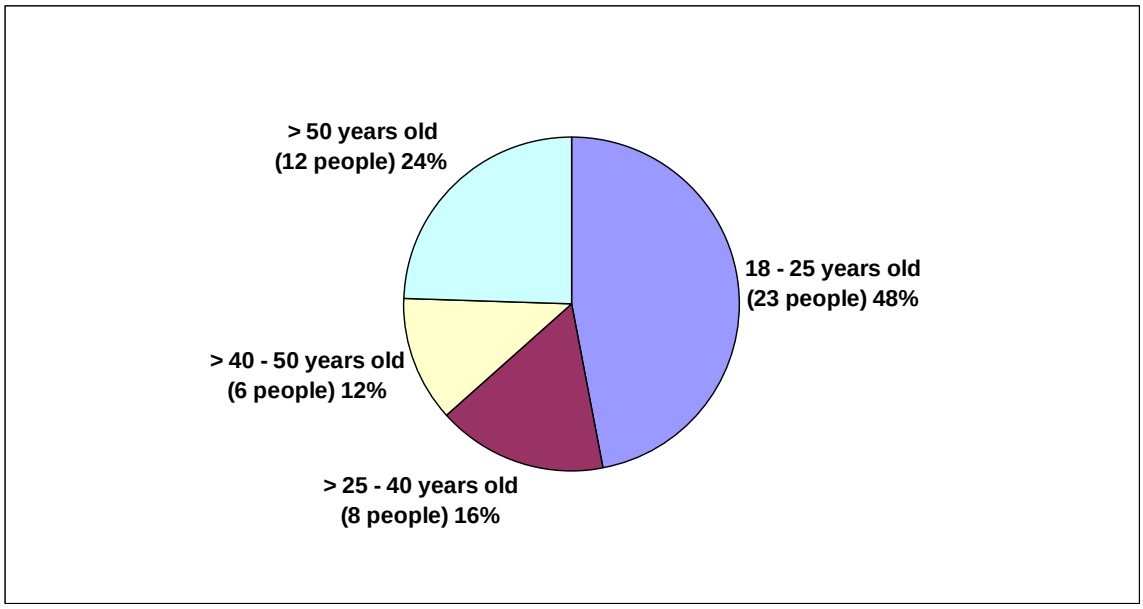
For eight of the 49 applications, neither the Public Advocate nor the Public Trustee had the authority on the existing orders from the State Administrative Tribunal to make an application on behalf of the represented person. A guardian or administrator will only be appointed if the State Administrative Tribunal considers it is necessary to safeguard the best interests of the person whose decision-making is impaired and if other "less restrictive" options are not available or appropriate.

In these cases a guardian had been appointed for a specific purpose such as medical decision-making, but an administration order had not been made by the Tribunal as there was no need for financial decisions to be made. Commonly this was the case for the older Redress applicants who are on a limited income, are now living in nursing homes and where living arrangements are stable. The Tribunal scheduled these hearings as a priority, and the Public Trustee was appointed to enable the joint application to be signed, and in one case, the Public Advocate was given the authority to sign the application and the Public Trustee has since been appointed as that person's administrator.

During 2010, the Public Trustee will take the lead in negotiating the settlement of Redress WA claims in partnership with the Public Advocate and represented persons.

I will now highlight key observations in relation to the different age groups of Redress applicants. Figure 3 shows the breakdown of the numbers for different ages. What is striking is the high proportion of applicants who are 25 years old or younger, some 48 per cent.

Figure 3: Breakdown of Redress applicants by age.



Redress Applicants over 50 years old

Twenty four percent of our Redress applicants were over 50 years of age. Of these 12 people, two are former child migrants, five are Aboriginal people from the Stolen Generation, and the others were placed in institutional care, consistent with the practice of the time.

The predominant picture for nine of the twelve is their history of horrific physical abuse and their disconnection from their families. Three of the twelve have remained in institutional/group home care all of their lives. The five Aboriginal people went to various Missions. The information available to this Office shows that the later years of these nine people were marked by alcohol abuse, mental illness, and dementia as well as the side effects of alcohol with such illnesses as cirrhosis or Korsakoffs Syndrome. In addition, many have had itinerant lifestyles and a history of homelessness, and have experienced further abuse.

Fortunately, one of the men who was a child migrant, documented his story and experiences with the Christian Brothers when he was a much younger man. Even more fortunately, his current accommodation provider had a copy of his account so we were able to attach this to his application.

Redress Applicants in their 40s

Of the six Redress applicants who are in their forties, five are Aboriginal people and half of them have lived in high level disability support hostels for many years. As we looked at the life histories of two of these three people with significant intellectual disabilities, we were saddened to see that in their very early years their families tried to care for them but their disabilities were too severe. In the late sixties and early 70's there was a lack of services to support children with significant disabilities to remain in their own home.

Once these Aboriginal children entered care, there did not appear to be significant attempts by the institutions or medical settings to engage their families. Instead the expectation appeared to be that the families would visit the institutions. It's not surprising that in these circumstances the family was lost to the child forever.

It is interesting to observe that foster care was emerging as a care response at that time. Four of the six went into foster care for various lengths of time. Three experienced neglect in foster care, and one with intellectual disabilities showed signs of sexual abuse after a foster care placement broke down. The scant information on the file for that particular person would suggest that, at that time, potential foster carers were accepted at face value as being good citizens and hence suitable to provide care.

Redress Applicants 25-40 Years Old

Of the eight people aged between 25 and 40, five are registered with the Disability Services Commission, including one Aboriginal man. Those of you who remember the late 70s and early 80s will know that placing children and adults with disabilities in institutional care was the usual approach to care at that time. The records show that one of our applicants was "deserted" at eight years of age by his parents who were not able to cope. Sadly, little effort to reconnect him with his family was evident in his childhood and teenage years and this man remains in group home care today.

Redress Applicants 18-25 Years Old

What is striking about the 23 young people who were 25 or younger is that they made up almost half of the Redress applications made jointly by the Public Advocate and the Public Trustee. This included six Aboriginal young people. The abuse pattern for this age group is dominated by physical or emotional abuse in foster care with some instances of abuse in group home or hostel care provided by the Department or non government.

Why are the numbers higher for this age group?

I suggest a significant factor has been the improved recording of abuse in care by the Department for Child Protection in recent years, as well as improvements in record keeping overall. However, it also highlights that ensuring a child or young person is safe in care, must always be a priority for the Department for Child Protection and its equivalents across Australia.

Dr Dorothy Scott, a leader in child protection and the Director of the Australian Centre for Child Protection in South Australia highlighted the issues confronting the current out of home system in her letter to *The Australian* on 17 November 2009 in which she commended the Prime Minister for the moving apology and noted "with 30,000 children now in state care across Australia, more than double that of a decade ago, we must tackle the underlying causes as the out-of-home care system exposes children to multiple foster placements, often inflicting as much harm as the institutional care of the past."

She goes on to highlight how neglect rather than physical or sexual abuse is the main reason children are placed in care, with parental alcohol abuse a major factor in 50 per cent of cases. She calls on the Australian community to be serious about preventing child neglect through a range of preventative strategies to avoid apologising in years to come to another generation of forgotten Australians.

Let me now spend some time in highlighting the ongoing work between the Office of the Public Advocate and the Department for Child Protection to improve outcomes for young people with decision-making disabilities when they leave the Department's care at 18 years of age.

From 2006, the Public Advocate was being appointed guardian for an increasing number of young people leaving State care. As I mentioned earlier, 2006 was the year of the commencement of the *Children and Community Services Act 2004* resulting in significant changes for children and young people coming into and leaving care.

As a result the Public Advocate approached the Department for Child Protection to put in place a memorandum of understanding for a collaborative approach to guardianship and administration issues for young people leaving State care.

The development of a memorandum of understanding was seen to be the best way to ensure the best interests of young people with decision-making disabilities were considered and to ensure that the staff from both agencies would have a good working knowledge of each other's roles and responsibilities.

Why was this important?

Applications were being made by case managers in the Department with the expectation that the Public Advocate as guardian would have the same role as the Chief Executive Officer of the Department. In engaging with case workers it was clear that there was a limited understanding of the role of a guardian under the *Guardianship and Administration Act 1990*, or the concept of the need for a decision-maker to be appointed.

Interested parties, in particular carers and foster parents, were frustrated when they found out that a guardian's primary function was as a legal decision maker and not to provide case management, and that the Office of the Public Advocate had no service delivery function or funding to provide services or support.

These interested parties frequently expected the guardian to be providing care and support in a similar way to services provided by the Department for Child Protection, which takes on full parental responsibility, funding and case management.

While care and protection orders could not be extended, a major reform under the new Act was that young people leaving State care could be provided with various forms of support by the Department until they reached 25 years of age. This could include access to services and funding if required.

Reflecting on the legislation also confirmed the importance of the Department for Child Protection developing a leaving care plan for each young person to ensure that all the services were in place to provide a smooth transition from the care of the Department to alternative care settings or to independent living.

There were four main aspects to the development of the memorandum of understanding with the Department for Child Protection.

- **Firstly the need to ensure knowledge of the legislative responsibility of the Department to continue providing support to a young person up to the age of 25 years even though the protection order had expired**

In relation to the significant reforms for leaving care, the requirements of sound planning are contained in the legislation. Section 89(5) states

> *"(5) Without limiting subsection (4), the CEO must, in the case of a child who is about to leave the CEO's care, modify the care plan for the child so that it –*
> *(a) identifies the needs of the child in preparing to leave the CEO's care and in his or her transition to other living arrangements after leaving the CEO's care; and*
> *(b) outlines steps or measures designed to assist the child to meet those needs."*

Section 96 of Division 6 identifies provision of assistance for young people leaving care as follows:

" 96. People who qualify for assistance
For the purposes of this Division a person qualifies for assistance if —
(a) the person has left the CEO's care;
(b) the person is under 25 years of age; and
(c) the person at any time after the person reached 15 years of age —
(i) was the subject of a protection order (time-limited) or a protection order (until 18);
(ii) was the subject of a negotiated placement agreement in force for a continuous period of at least 6 months; or
(iii) Was provided with placement services under section 32(1) (a) for a continuous period of at least 6 months."

The legislation is quite specific in identifying the role of the Department for Child Protection in relation to young people leaving care up to the age of 25. This was a new responsibility within the Act which had not been included in previous legislation which was over 50 years old.

There is also a “must” provision in the Act for the Department to provide any appropriate social services ‘as identified in the care plan’ and ensuring the young person has access to a range of information and advisory services to assist in relation to health, legal and other services. It is important to note that in relation to provision of financial assistance by the Department, it is however a “may” provision rather than a “must” provision.

- **Secondly, the need to ensure that Departmental caseworkers are aware of the role of a guardian or administrator under the *Guardianship and Administration Act 1990***

While awareness and knowledge was gradually developing, it was apparent that the Department’s case workers who were submitting applications to the State Administrative Tribunal were not fully aware of the role of a guardian or administrator. As I mentioned earlier, the expectation of case workers was that the responsibilities of a guardian would be the same as in their legislation, i.e. that a guardian will assume full parental responsibility. In addition, turnover of staff meant some case workers did not have an awareness of the issues to be considered in developing leaving care plans and making an application to the State Administrative Tribunal.

- **Thirdly, the need to ensure that staff within the Office of the Public Advocate are aware of the key aspects of the new legislation, and the role of the Department for Child Protection, to apply within their own work.**

Having had little previous contact with the Department for Child Protection the guardians and investigators were not familiar with the provisions of the *Children and Community Services Act 2004* or how the Department for Child Protection worked at an operational level. To be able to negotiate effectively in the best interests of proposed and represented Persons it was essential that the Office of the Public Advocate staff were familiar with the role and responsibility of the Department for Child Protection, and the role of the Office of the Public Advocate, in relation to young people leaving care.

- **Fourthly, the need to continuously improve the process of the Department for Child Protection and the Office of the Public Advocate working collaboratively prior to a young person turning 18, and to ensure the Public Advocate is involved in discussions about the need for a guardian or administrator to be appointed.**

The development of a collaborative approach where the Department for Child Protection as a matter of routine process involves the Office of the Public Advocate in discussions about leaving care was seen to be critical for effective planning, and to ensure appropriate applications were submitted for guardianship and administration.

Since the memorandum of understanding was put in place in 2007, the *Guardianship and Administration Act 1990* has been amended to enable the State Administrative Tribunal to make an order for a young person who has

turned 17 years of age, so that it can come into effect on the day the young person turns 18 years of age. When staff from my Office attend leaving care planning meetings staff are able to discuss the timing for submitting applications for a person who is 17 years of age.

Raising awareness continues to remain a challenge as the memorandum of understanding relates to a small number of young people who are leaving the Department's care.

At 30 June 2009 there were 3195 children under 18 years of age in State care. The number of children in care has doubled since 2004.

The Annual Report for the Department for Child Protection indicates that 87 young people aged 18 years or older left the Department's care in 2008/09. This was 13.4 per cent of all children and young people leaving care. The records of my Office show that eleven of these young people were placed on guardianship orders by the State Administrative Tribunal, with the Department's caseworkers being the applicants for nine of the eleven young people.

The Public Advocate is in a unique position to monitor the utilisation of the memorandum of understanding by tracking the number of young people with decision-making disabilities leaving State care and the number of new guardianship appointments.

The insights into the care histories of the young people for whom joint applications to Redress have been made has prompted me to review in greater depth the applications by the Department for Child Protection for the appointment of the Public Advocate as a guardian for the last financial year.

This review revealed:

- the Department was not providing all the relevant information to the State Administrative Tribunal at the time of making the applications,
- the funding needs of these young people with decision-making disabilities were not being fully addressed in advance of them leaving care; and
- the leaving care planning for this special group of young people with high support requirements, needed to be strengthened in spite of the memorandum of understanding that had been put in place.

The CREATE Report Card for 2009 was released just last week with its focus on "Transitioning from Care: Tracking Progress" – The CREATE Foundation is a national voice for children and young people in care. Its first recommendation highlighted the urgent need to improve the planning process for young people exiting care. Their report found that only one third of young people leaving state care know about their leaving care plan. While Western Australia reported having leaving care plans in place for 73 per cent of young people leaving care in 2007/08, and although this is well above the average, the need for improvements in the timeliness and documentation of leaving care plans is evident from the file examination.

In order to examine the emerging issues more closely, my Office has examined our records for these nine young people. As Redress applications were made in relation to five of them, we became aware of other relevant information that ideally should have been included in the information made available to the Tribunal.

A key issue is that there is not an accumulation of knowledge amongst caseworkers. The nine young people were case managed by seven District Offices. Three of the District offices were outside the metropolitan area. It is of note that only one caseworker was involved in the application process for two cases and one District Office had two applications but from different caseworkers.

In relation to the nine cases, my Office was invited to participate in almost half of the leaving care planning meetings. It would also appear that many case workers do not understand the eligibility criteria for funding from the Disabilities Services Commission and make the assumption that a young person would be eligible for the same amount of service provision that they received in the child protection system. This is not the case.

Of the nine, two are young people with decision-making disabilities who are **not** eligible for funding from the Disability Services Commission. The identification of alternative sources of funding for these two young people needs much better recognition as a significant priority for leaving care planning as funding options to support them after care are very limited.

Our file examination has revealed there is room for improvement in a number of areas including the involvement of the Office of the Public Advocate in leaving care planning meetings, improving the quality of information provided to the State Administrative Tribunal and ensuring that applications are made well in advance to the Tribunal.

The key and challenging question for the two agencies is how can we improve the memorandum of understanding to achieve a more systematic approach to the planning process for young people with decision-making disabilities leaving care? I suggest the pivotal question is – How can we maximise support to the caseworkers in making their application to the State Administrative Tribunal?

As well as reinforcing the memorandum of understanding within the Department for Child Protection, part of the solution must be in the Office of the Public Advocate providing greater detail on the issues individual case-workers need to address in both their planning processes and in their applications to the State Administrative Tribunal. This could take the form of a checklist that is built into the memorandum of understanding.

As well as more thought being given to future funding considerations for these vulnerable young people, it is crucial that caseworkers identify any abuse in care experienced by the young person and whether they are eligible for any criminal injuries compensation or civil litigation as a result of the reason they

entered care, or because they experienced abuse in care. Such information may be crucial in determining if there is a need for an administrator to represent the young person's interests to pursue appropriate compensation.

Another crucial question that needs greater attention is whether the young person requires a case manager when they leave the care of the Department. This is particularly important where they are not eligible for funding from the Disability Services Commission. Part of the solution for such cases would be to link these young people into the non government leaving care services funded by the Department.

Examples of other specific questions that need to be addressed include:

In terms of safety: Are there any issues that the Tribunal should be aware of when making the guardianship order, for example does the young person have challenging behaviours or sexualised behaviours? Is the young person vulnerable to exploitation or abuse? And has a risk assessment been completed?

In terms of accommodation: Are accommodation arrangements in place for when the young person leaves the Department's care? Is this accommodation secure in the long term? Has an application been made for the Commonwealth Transition to Independent Living Allowance?

In terms of their health: What is the young person's medical history? Does the young person have medical care arranged for when they leave the Department's care? Are there any impending medical issues that the Tribunal should be aware of?

In terms of their social and family relationships: Are there people that the young person should not have contact with to ensure their safety? Who is the young person to maintain contact with? Have arrangements been put in place for supervised contact and the funding arranged?

In terms of the identity and cultural issues for the young person, any insight the Department has obtained for young Aboriginal people and those from a non English speaking background would be advantageous. Important questions for consideration include - Who is important to the young person in maintaining their cultural connections? Has the Department undertaken any genogram mapping of significant cultural connections? I located an excellent genogram on the Department's file of one of the Redress applicants for a young Aboriginal man who had been in the care of the Department for many years. His patriarchal and matriarchal Aboriginal families are different tribal groups and have no contact. Such information has been extremely helpful to our understanding of his current situation.

Fortunately, the State Administrative Tribunal is aware of the memorandum of understanding between the Office of the Public Advocate and Department for Child Protection and so all applications have been referred to the Office of the Public Advocate for investigation. This safety net has enabled my Office to

engage with the Department to discuss all aspects of guardianship and administration prior to the Tribunal hearing. However, better involvement of my Office in leaving care planning meetings, consistent with the memorandum of understanding, would be more productive than these discussions occurring late in the day at the application phase.

I will be discussing our findings of this stocktake with the Department for Child Protection in the near future. As noted earlier, there are a range of strategies we can put in place to strengthen the memorandum of understanding to support caseworkers to identify information that is required for the State Administrative Tribunal to make a decision as to whether or not there is a need for a guardian or administrator and for what purpose, and for the appointed guardian to have sufficient information to fulfil the role of legal decision maker. Early leaving care planning for this particularly vulnerable group of young people is essential, as well as having clarity around the case management arrangements and their funding supports in place for their ongoing care.

By working collaboratively with the Department for Child Protection and putting in place more guidance to assist caseworkers to identify the types of information that will be important, applications which are based on need and submitted appropriately and in a timely fashion should result. Although in most cases leaving care plans are prepared prior to the young person turning 18 years old, more must be done to ensure funding for services and accommodation are in place prior to the young person leaving care.

While matters may still be complex when the Public Advocate is appointed, my Office will be better prepared for appointments and better able to make decisions in the young person's best interests from the start of our involvement. Such an approach will be less resource intensive for both agencies in the long run, and should translate to a smooth transition for the represented person.

As you can see, Redress has been both a unique and important opportunity for the Office of the Public Advocate to undertake systemic advocacy as well as individual advocacy for each of our Redress applicants. In preparing the Redress applications, we have looked back on previous practices and are committed more than ever to moving forward with improved practices for the transition of young people with decision-making disabilities in the care of the Department for Child Protection to the guardianship of the Public Advocate.

In closing, I want to acknowledge again the strong partnership between the Offices of the Public Advocate and Public Trustee in our approach to Redress WA. This has enabled us to maximise our efforts in advancing the best interests of represented persons and to fulfil our statutory obligations.

I want to also acknowledge again that our work on Redress would not have been possible without the extensive support provided by the Departments for Child Protection and Communities throughout the application process by facilitating our access to the historical records of people for whom applications

were being made. The assistance of the Disability Services Commission along with the many professionals and other service providers was also crucial to informing the applications made on behalf of represented persons.

Looking back: Looking forward - Lessons Learnt from Redress is not just concerned with the past. Like the Senate Committee's Report on the Forgotten Australians, Redress WA is very much about the present and about the future. In my view, the experiences documented through Redress will play a crucial role in shaping future policy and practice for children and young people in care and leaving care as young adults.