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From: Patricia Wright
Sent: Thursday, 5 February 2009 12:01 PM
To: Mark Healey
Cc: Anna Moynihan; Robyn Eltherington; Simon Dejoux
Subject: FW: Ombudsman jurisdiction - Redress Panel decisions

Dear Mark

I am forwarding this email I received from Paul Leo (Ombudsman's office) as it may be of interest to you.

Regards
Trish Wright

From: Paul Leo [mailto:PLEO@ombudsman.qld.gov.au]
Sent: Tuesday, 20 January 2009 12:19 PM
To: Patricia Wright
Cc: Gary Lambert; Peter Cantwell
Subject: FW: Ombudsman jurisdiction - Redress Panel decisions

Hi Trish

I'm just getting back to you regarding your enquiry about whether the Ombudsman will have jurisdiction over decisions of the Redress Panel. You advised us that the Redress Scheme is a non-statutory scheme.

I have looked at sections 8, 9 & 10 of the Ombudsman Act and the Department of Communities website on the Redress Scheme. Also, I have consulted Assistant Ombudsman, Administrative Improvement Unit, Mr Peter Cantwell.

Unfortunately, I am unable to give you a definite answer to your enquiry. All I can say that is on the information available we may have jurisdiction.

If we did receive a complaint concerning the decision/s of the Redress Panel, my understanding is that our first step would be assess the complaint as to whether we have jurisdiction and if so whether an investigation is necessary. If we started an investigation, we would advise the Redress Panel and/or the Department. The Redress Panel and/or department could make submissions on the question of jurisdiction for our consideration.

As you know, the Queensland Ombudsman has jurisdiction over the administrative actions (including decisions) of 'agencies'. Under the Ombudsman act, an agency is defined as a department, a local government, a public authority.

Department

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The Redress Panel is not a department. However, whether the panel is part of the Department of Communities is unclear to us on the available information. If the panel was considered to be part of the department then the Ombudsman would have jurisdiction.

Local Government

Clearly the Redress Panel is not a local government established under the Local Government Act.

Public Authority

If the Redress Panel is an entity created by the Governor in Council or a Minister, it would be a 'public authority' (s9(1)(b) Ombudsman Act refers). This point is not entirely clear to us on the available information. All the website says is that level 2 applications will be assessed on a case-by-case basis by a panel of experts who will be appointed by the Minister for Communities.

What is included in the meaning of administrative action of agency

Even if the Redress Panel is not an 'agency' as defined, its decisions may be within the jurisdiction of the Ombudsman because of s10(C) of the Ombudsman Act. That section provides that an administrative action of an agency includes an administrative action taken for, or in the performance of functions conferred on, an agency, by an entity that is not an agency.

So the question here is whether the administrative actions of the Redress Panel in assessing and deciding level 2 applications are taken for the Department of Communities or in performance of functions conferred on the Department of Communities. The website says that

- Department of Communities will administer the Redress Scheme
- The scheme will offer 2 levels of payment. A first level payment of \$7000 and a second level payment of up to \$33000 for those who believe that their experience of abuse or neglect was more serious.
- Level 2 applications will be assessed on a case-by-case basis by a panel of experts who will be appointed by the Minister for Communities

On the available information it is difficult for us to answer that question. The Redress Panel is to assess level 2 applications. However, the department is responsible for administering the Redress Scheme (which includes level 2 applications and payments). By being responsible for the administration of the Redress Scheme, it may be that all functions related to the scheme were conferred on the department with the Redress Panel performing only one of those functions for the department?

If it was considered that the Redress Panel's decisions are taken for, or in performance of functions conferred on, the department, then the decisions of the Redress Panel would be administrative actions of the department and therefore within the jurisdiction of the Ombudsman.

I hope this advice is of assistance. Please contact me if you wish to discuss.

Regards

Paul

From: Paul Leo
Sent: Thursday, 18 December 2008 1:37 PM
To: 'Patricia.Wright@communities.qld.gov.au'
Subject: Ombudsman jurisdiction - Redress Panel decisions

Hi Trish

Thanks for your email. I will raise the matter and let you know our opinion as soon as possible.

Regards

Paul

From: Patricia Wright [mailto:Patricia.Wright@communities.qld.gov.au]
Sent: Thursday, 18 December 2008 8:50 AM

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To: Mailbox Ombudsman
Subject: Attention Paul Leo

Dear Paul

I would very much appreciate it if you could let me know whether or not your office will have jurisdiction in relation to the decisions made by the Redress Panel.

Thanks

Trish Wright

Redress Panel Chair

Telephone: 3404 8094

Mobile: [Privacy](#)

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RTI REQUEST PLEASE

Harm Declared	Application Evidence 1 - application with Nothing Else			Application Evidence 2 - Application with particulars of the content			Application Evidence 3 - Application with detailed particulars of the injury			FINAL TOTAL
	Low	Medium	High	Low	Medium	High	Low	Medium	High	
Physical injury - During Placement	4	5	6	13	14	15	22	23	24	
Physical injury - Post Placement	1	2	3	10	11	12	19	20	21	
Physical illness - During Placement	1	2	3	10	11	12	19	20	21	
Physical illness - Post Placement	1	2	3	10	11	12	19	20	21	
Psychological Injury - During Placement	7	8	9	16	17	18	25	26	27	
Psychological Injury - Post Placement	4	5	6	13	14	15	22	23	24	
Loss of Opportunity	4	5	6	13	14	15	22	23	24	
Length of Time (years)	<6m = 1	6-12m = 2	1y = 3	2y=4	3y=5	4y=6	5y=7	6y=8	>6y=9	
TOTALS										

Meeting 22 December 2008

Management of Redress Scheme Payments to Prisoners

Attendees:

Jo Searle – Department of Communities
Mark Healey – Department of Communities
Brent Manning – Crown Law
Andrew Gills – Department of Justice and Attorney-General
Kate Petrie – Queensland Corrective Services
Clinton Miles – Public Trustee
Tim Feely – Public Trustee
Peter Megson – Public Trustee
Alice Hancock – DPC
Kathryn Allan – DPC
Frank Negric – Dept of Communities .

1. **Background to current request for advice and policy intent**
 - a. Previous options considered
 - b. Status Quo recommended
 - c. Premier's position
2. **Questions for advice**
 - a. Discussion of draft instructions
 - b. Need for additions/ variations
3. **Next steps/ Timeframes**
 - a. Crown Law advice
 - b. OQPC to draft legislation
 - c. Crown Law to consider legislation
 - d. Cabinet submission — 9th Feb. 2009. - Policy ATP.

24/2/08 - next sitting

23 Feb 2009 - Cabinet ATP.

Mark Healey

From: Robyn Eltherington
Sent: Thursday, 11 December 2008 12:35 PM
To: Kathryn Allan
Cc: Mark Healey; Danny Field; Barbara Shaw
Subject: Redress information

Attachments: 3_Deed of Release_Attachemnt 2_UPDATED_March 08.doc; QLS Referral List - 13 November 08.pdf; 4_Response form_Attachment 3.doc; 6_Fact Sheet for lawyers_Attachment 5.doc; 2_Payment Offer Kit_Attachment 1.doc

Hi Kathryn

Please find attached the payment offer kit and the deed of release. I have just rechecked the information and the payment offer kit includes advice that it may take 4 weeks for a payment to be made once a signed deed of release has been received by Redress Services. Also please find below some background information on (1) prisoner characteristics, number of prisoner applications and (2) general operational information about the scheme.

Prisoner Characteristics

- Queensland Corrective Services (QCS) provided data on prisoners applying for redress payments, who were in prison as of **April 2008**. This data is indicative only.
 - of the 343 prisoners who had applied for redress payments in April 2008, 125 (36%) were on sentences of less than 3 years, and 184 (54%) were on sentences of three years or more. The remainder (11%) were on remand, and so did not have a formal sentence at the time of being considered for redress payments;
 - there were 94 victims registered on the Victim Registration List, associated with 77 of the 343 prisoners who applied for redress payments. Fourteen prisoners were associated with more than one victim. This list does not represent victims who may have a compensation order per se, but only those victims who have nominated to be on the list, in order to be advised of relevant details about a prisoner's sentence.
- Identification of applicants who are prisoners is through prisoner self-identification – there is a high possibility that some prisoners will not have self identified and have used a residential mailing address for a family member and as such all mail including letters or offer would go to this address.
- It is also important to note that the prisoner population is mobile. A person may not be a prisoner at the time of applying for a redress payment, but may be imprisoned by the time he or she is deemed eligible. Similarly, they may apply while in prison, but be released by the time they are deemed eligible. Redress Services are currently holding the payments of a number of prisoners who were offered a payment while in the community but have entered prison during the 6 week period allowed for the return of the offer of payment. There is also a distinct possibility that due to the 10 days required to process a payment in SAP that an applicant may be in prison when the payment is made into his/her bank account.

Prisoner numbers

As at **11/12/08** – Redress Services had received 555 applications from people identifying as having been in a Queensland correctional centre. Of these 128 had been deemed ineligible or their application had been closed leaving a total of **427 active applications** from Queensland prisoners. Of the 427 applications – **310 have been assessed as eligible for a level 1 payment with the remaining 117 still awaiting assessment**. As no payment offers have been made to prisoners, Redress Services cannot confirm the number of prisoners who have applied for a level 2 payment.

The number of prisoner applicants changes on a daily basis with prisoners being released or entering prison – Redress Services is dependent on advice from applicants as to changes in their status – such as release entry into prison.

General information

- Redress Services have been directed by the Director-General to finalise level 1 payment offers by the end of January 2009 so that level 2 payments offers can commence mid 2009. Any significant delay in the resolution of the prisoner/payment issue will delay the finalisation of level 2- particularly as Parliament does not sit again until 10 February 2009.
- Applicants have been advised that no level 2 payments will be made before June 2009 but there is an expectation that they will commence after that time
- As at 4 December :
 - 10,214 applications had been received by the closing date of 30 September

- 1,435 applicants had been assessed as eligible for the scheme
- 5,004 applicants had responded to an offer of payment of \$7,000
- Redress Services had made 4,171 payments to applicants
- 64% of all applicants had indicated an intention to seek a level 2 payment (approx 5,000-6,000)



3_Deed of
Release_Attachemnt 2



QLS Referral List -
13 November...



4_Response
Form_Attachment 3.d



6_Fact Sheet for
lawyers_Attac...



2_Payment Offer
Kit_Attachment...

Regards

Robyn

RTI RELEASE SE