

Jay Chalke: BC's Client-Focused Public Guardian and Trustee



In Conversation with Val Wilson

Jay Chalke's words about his father—his mentor and role model—inspired the theme for this issue of *The Scrivener*.

To set the tone for this piece, I asked PGT staff member Tralene Gammer to tell us about her boss.

“Working with Jay on a day-to-day basis is never dull! This is a man who is highly motivated—a positive thinker who is extremely enthusiastic about his work and his staff. He never loses sight of his vision or what is most important—the people he is responsible to protect.

“Jay is an open, welcoming leader. He always takes the time to talk with staff and visitors to the office. He loves problem-solving and considering ALL (!) the options. Jay definitely fosters a client-focused environment.”

Born in Ottawa, Jay likes to coach kids' basketball, snowboard, sail, and swim.

The Scrivener: *What were your ideals, Jay, going into law school?*

Jay: At the time, my ideals were less about law and more about public service. My family, particularly my father, devoted themselves one way or another to public service. My dad was a psychiatrist who felt one of the highest things a person could do was public service. Once I got to law school, I came to love the law. I enjoy the challenge of applying the law as an instrument of protecting and serving people who need help.

The Scrivener: *How did you begin your career in public service?*

Jay: I started out as an investigator at the Ombudsman's office in Ontario. I was on a specialized team that investigated complaints regarding the prison and psychiatric hospital system. I then worked as legal counsel to the Ministry of Corrections in Ontario, particularly with regard to youth custody law. Later, I headed up an independent review of certain civil right protections and discipline practices in the New Brunswick correctional system for that province's Solicitor General.

I provided justice policy advice to the Ontario Cabinet and in 1993, went to the Ontario Public Trustee's office. While there I was involved in implementing Ontario's version of adult guardianship laws. After holding the office of Deputy Public Guardian and Trustee of Ontario for a few years, I moved out here to beautiful British Columbia.

The Scrivener: *Let's set the background for the position you hold in British Columbia. Does each province in Canada have a Public Guardian and Trustee (PGT)?*

Jay: There isn't an exact counterpart in every province, but every province does have someone who carries out at least part of what our office does. This is true particularly of the traditional estate-management functions that are long-practised duties of public fiduciaries throughout Canada.

The role of our office has ancient roots. The British Columbia Public Guardian and Trustee only dates from 1963, but the roots of what we do go back hundreds of years in English law. Originally, this role lay with the King,

who was seen as the “father” of his subjects and who bore the responsibility of seeing that all citizens were treated fairly. Over the centuries, this responsibility was transferred to the high courts of Britain. The courts slowly developed a number of measures to protect vulnerable individuals. The first public trustee was established in New Zealand in 1873, followed a few years later by England.

Really our office represents a modern articulation of the traditional doctrine of *parens patriae*, reflecting the state’s obligation to look out for people who can’t protect their own interest.

The Scrivener: *Is it required that the Public Guardian and Trustee be a lawyer?*

Jay: In some jurisdictions, yes, but not in British Columbia. In BC, the job requirements are a matter of law set out in a regulation under the *Public Guardian and Trustee Act*. They require executive ability and commitment to the principles underlying the major statutes affecting the office. I certainly find my legal background is useful. The job really covers a tremendous range of duties; a variety of skills are beneficial—an understanding of health care questions, administration of \$600 million of trust assets, and the like.

Whatever his or her professional background, the Public Guardian and Trustee must have curiosity, a willingness to learn, a love of people, integrity, and tons of energy. The other thing that’s very important with such a broad range of responsibility is to hire great people, get lots of advice, and listen to what they have to say.

The Scrivener: *What are the duties and responsibilities of your office?*

Jay: We perform about 40 different statutory functions but they generally fall under two major themes: fiduciary and protector. In total we serve some 23,000 clients in our various capacities.

Specifically, our services relate to three groups of individuals. They literally

cover the spectrum from cradle to grave. First, we have a bundle of duties that relate to protecting the property and legal rights of children. These include certain protective provisions such as ensuring that our office is notified when certain legal steps occur that may impact a child’s legal right to compensation or property. In addition, we carry out trust management functions as fiduciary for many types of children’s property. We manage it until they become adult and we make disbursement decisions along the way.

Our second major client group is adults who, by reason of mental disability, are unable to manage their affairs alone and who have not preplanned for their incapability by naming a substitute. This incapacity could arise as a result of developmental disability, mental illness, brain injury, or diseases of ageing.

The courts slowly developed a number of measures to protect vulnerable individuals.

For many of these clients, we manage property affairs including paying their bills, disbursing their money on their behalf to obtain services, and initiating or defending any legal claims they may have. In other words, we do all the things that need to be done to administer the financial and legal rights of an adult who can’t make his or her own decisions by reason of disability.

We also make personal care decisions including health care decisions for many clients. In recent years new laws have assigned new functions to us to protect adults who may need our help but on whose behalf we may not manage any property. We protect them through carrying out investigations, and have emergency intervention powers to protect their property.

The third major group of clients we serve are the estates of those individuals

who die *intestate* with no adult relatives willing and able to administer their estate. As an estate administrator, we wind up their affairs, locate their nearest relatives, and distribute the estate to them in accordance with the intestacy scheme in the *Estate Administration Act*.

The Scrivener: *Is the Public Guardian and Trustee a government department, agency, or corporation?*

Jay: Our organization is a corporation established by statute—*The Public Guardian and Trustee Act*. It’s a corporation sole, which means a corporation embodied in a person. That person—me—is the office holder of Public Guardian and Trustee. There are only a few corporations sole, and our office is one of them.

Corporation sole is an old form of corporation that assigns all the directorship functions to the office holder. As a result, we’re a corporation but don’t have a board of directors. The structure allows our office to hold property, and gives us a separate legal identity from the government, which is important.

The legally separate corporate form of our organization is important for reasons of independence. As a fiduciary I represent private interests. The private interests of my clients can be adverse in interest to others, including those of the provincial government. It is important I have a separate legal entity so I can protect and advance my clients’ rights against anyone, including the government. So although some people may think we have an anachronistic form of corporation, it does serve the useful modern purpose of ensuring the independence of our office.

The Scrivener: *What is your annual operating budget?*

Jay: About \$18 million dollars, most of which is dedicated to the salaries of our 210 staff members. They have a wide range of backgrounds including social workers, accountants, lawyers, and investigators. About two-thirds of the cost of the office is paid by clients

through fees established by the government in the *Public Guardian and Trustee Fees Regulation*. The balance comes in the form of a financial contribution by the provincial government.

The Scrivener: *What is the first action your office takes when a person passes away and doesn't seem to have family or friends to assist?*

Jay: We are typically contacted by the coroner's office, the police, or the hospital where the person has died. After determining there does not appear to be family or friends able to assist, our office will typically go to where the individual last lived to secure the premises, search for assets, search for a Will, and see if we can find any indications of family or friends.

The Scrivener: *Where do you get your referrals regarding people who are incapable and who need an intervention?*

Jay: They can arise from a wide variety of places. A referral may come from the police, a neighbour, the community mental health team, or a family member. Sometimes we hear from a utility worker who notices that something just isn't right at the house. Whenever anybody notices that a person is having difficulty managing his or her affairs and reports it to us, we will look into the situation.

We try to strike a balance between autonomy and protection. It is important that all of us have the dignity to live at risk if that is what we choose to do, so we try to interfere with an individual's autonomy as little as possible. On the other hand, some people are not capable of making decisions independently and truly require assistance and protection. We seek to uphold the principle of least possible interference while still ensuring the individual is receiving the support he or she needs. It can be a difficult balance, and I am very proud of the sensitivity our staff members demonstrate as they try every day to strike that balance.

The Scrivener: *What three major modifications or changes have you instigated since you assumed office?*

Jay: We have successfully made changes in mandate, service quality, and public reporting, each of which has been quite significant.

First, the office went through the biggest single change to its mandate since being established in 1963 with the partial proclamation of the Adult Guardianship legislation in 2000. While most of the public and professional attention has been on the incapability planning statute—the *Representation Agreement Act*—the biggest mandate change for the PGT has been as health care substitute decision-maker for incapable adults under the *Health Care (Consent) and Care Facility (Admission) Act*. In addition we have new responsibilities to investigate allegations of wrongdoing by representatives and new urgent intervention powers to protect the assets of incapable adults and children when those assets are at risk.

Whenever anybody notices that a person is having difficulty managing his or her affairs and reports it to us, we will look into the situation.

Second, we have made significant service improvements over the past couple of years, particularly with respect to timeliness. Historically, our office has had a reputation for being slow in delivering some of its services. We now have established strict standards regarding the timeliness of our service; a great deal of attention has been paid to achieving those standards.

Addressing these historic backlogs, given our limited resources, will take some time but we are already seeing improvements such as reduced turnaround time in child litigation settlement reviews and private committee account reviews. Some of the turnaround times for our services are still longer than my staff and I would like, but it is an

improvement over historic service levels; we will continue to address it.

Third, we have moved to an ultra-transparent model of performance reporting. Starting in 2001 we set public performance targets for every one of our services; then we set out to reach those targets. Last year we set 37 targets throughout the organization.

At the end of the year, we rated ourselves on the degree to which we achieved those targets. I am very proud that in the first year of such a public model of reporting, we were able to achieve virtually all of our targets. Then the Auditor General reviewed our performance report to ensure we met his office's standards of public performance reporting.

This is a new and developing area of public administration for public organizations and public auditors; it has been an interesting experiment. Our office is one of the leaders in British Columbia in performance reporting. I am very impressed with the way our staff leaped in with both feet because it can be a bit threatening to know that one's work performance is going to be a matter of public record. Everybody has risen to the challenge, and we continue to get better and better.

The Scrivener: *What are the benefits of transparency in your organization?*

Jay: I think it clarifies accountability. My job is to develop a service plan with specific targets and to determine the levels of funding necessary to deliver on those targets. We propose the plan to the government, then the government is accountable for the level of funding they provide to us. I am accountable to deliver on the performance promises that go with that level of funding. It is now much more clear about who is responsible for what than it used to be.

The Scrivener: *Please tell us more about your role in health care decision-making. How has the law changed?*

Jay: Until 2000 health care consent in British Columbia was governed by common law, notably the doctrine of

informed consent as set out in various court decisions. The only way to obtain a legal consent to health care for an individual who couldn't give consent because of incapability was through a court-appointed Committee of Person. A Supreme Court judge had to appoint someone to be a legally authorized decision-maker. That's an expensive, relatively slow process that doesn't work particularly well in the context of the timing imperatives in the health care system.

To address this, the legislature passed two laws—one to permit people to designate, when capable, a substitute if they should, in future, become incapable of making decisions regarding health care. That act is the *Representation Agreement Act*. The second statute is perhaps lesser known, the *Health Care (Consent) and Care Facility (Admission) Act*. That law says, in essence, that if there is a court-appointed committee of person or a representative pre-selected by the adult when capable, then that person is the decision-maker for health care.

If there is no committee or representative, the nearest relative who is available and willing can make a legally valid health care decision—either to consent or refuse—on the adult's behalf. No court authorization is required. If no near relative is available, our office can name another person, such as a friend, to be a legally authorized decision-maker or we can make a legally effective consent decision ourselves.

In that capacity we now make over 500 health care consent decisions a year, covering the full range of consent decisions that a doctor or other health care professional would require. We must make decisions in accordance with a legal test that requires we follow instructions or wishes the adult made when capable, his or her values and beliefs, or best interests. Decision-making must also be prompt, given the timing imperatives of health care.

The medical profession respects and appreciates the service we provide and the speed at which we do it. We often

attend a hospital within a couple of hours of receiving the first phone call. While implementing any new service often involves a few bumps in the road, this one has been extremely successful and well received.

The Scrivener: *How many people are involved in health care decisions of the nature you mentioned?*

Jay: A specific team of six people makes most of these decisions. Decisions that are irreversible or life dependent are made by senior staff including myself.

Some 70 percent of our adult clients have less than \$10,000 in the world.

The Scrivener: *Are the team members health care professionals?*

Jay: That's an interesting question and one we wrestled with. Our role is not to be a physician but rather a substitute decision-maker. In essence we are like family members or court-appointed committees. Only rarely are those individuals health care professionals themselves. We have decided that we are an informed, inquisitive, and indeed an aggressive health care consumer but we're not a physician and don't pretend to be one. We are an informed lay health care team. As a result we don't require that our staff members have a specific background in health care. Some do, but some members of our team have various kinds of background, including advocacy and social work.

The Scrivener: *You have a lot of involvement with various public agencies. Let's talk about a few of them. Do you work closely with the Ministry of Children and Family Development?*

Jay: Our office shares guardianship of all the children in continuing custody with the Ministry of Children and Family Development (MCFD). The Director of Child, Family, and Community Service is the Guardian of Person of those

children and I am their Guardian of Estate. In essence, MCFD carries out the personal care side of the parenting role; I carry out the estate and property protection aspects of parenting.

Interestingly, although we share a commitment to the well-being of the child, sometimes our interests are adverse. For example, if a child is injured while in care, our office investigates the ministry's conduct to determine whether the child has a potential legal claim against the state as parent.

We've both worked hard at the relationship between the two organizations and made great progress. In future, as MCFD devolves child protection to regional governance authorities, our office will be sharing guardianship of children in continuing care with a number of agencies. So this is a new challenge that we will face in the next few years.

We also work closely with the Adult Community Living Services program of MCFD with respect to adults with developmental disabilities. Again that is a relationship that is going to change as MCFD devolves that service to a not-for-profit society separate from government.

The Scrivener: *Do you work with the Ministry of Human Resources?*

Jay: That ministry is the social assistance authority and many of our adult clients receive social assistance. While we have clients from across the wealth spectrum, most of our adult clients are socio-economically disadvantaged. Some 70 percent of our adult clients have less than \$10,000 in the world. As a result we do a lot of work with MHR to make sure our clients receive the benefits to which they are entitled.

In addition, primarily for those over the age of 65, we work with the federal social assistance and pension authorities to ensure that individuals receive those federally administered benefits to which they're entitled, such as Canada Pension Plan, Old Age Security, Guaranteed Income Supplement, Veterans Benefits, and so on.

We also have a lot of interaction with MHR because that ministry is responsible for the burials of deceased British Columbians who have no money to pay for their own funeral and burial. We work closely with the ministry to ensure that individuals receive a respectful funeral, regardless of their financial means.

The Scrivener: *Please tell us more about your relationship with ICBC.*

Jay: Our most significant interaction with ICBC relates to our role under the *Infants Act* to review the settlement of any legal claim of a child for unliquidated damages. Most such claims relating to children arise from car accidents, and therefore ICBC is involved.

Usually, small claims involving children are settled with no professional legal involvement—the parents have not retained a lawyer. Therefore, independent legal advice typically has not been obtained in settling the claim of a child. In such cases our review of the details of the settlement is particularly important to make sure the settlement is in the child's best interests. In addition, we review larger settlements. In such cases, legal advice has typically been obtained but the financial stakes for the child are higher.

Our role is to provide a second look to ensure the proposed settlement is in the child's interests.

The Scrivener: *When parents make an out-of-court settlement with an insurance company regarding a child, can you overturn this settlement?*

Jay: The settlement is only binding on the child if the settlement is concluded in accordance with the *Infants Act*. That act requires that it be submitted to us for review. If the proposed settlement is less than \$50,000, our office can approve or reject the settlement. If we approve it, we sign and seal the agreement that terminates the child's legal rights in return for a sum of money—our act of approving the settlement makes it valid.

If we do not feel the proposed settlement is satisfactory, we suggest to the parties that they revisit the settlement with a view to addressing our concerns.

If they do so and we are then content, we can approve the settlement. If they are not prepared to address our concerns, however, the parties can go to court to have a judge review the settlement or they can proceed to a trial. So we're not directly representing the child; rather we carry out an independent review to ensure child's interests have been protected.

The Scrivener: *In what settlements other than car accidents would you become involved?*

Jay: We would review the settlement of any claim for unliquidated damages involving a child. Although car accidents are the most frequent type, there are others. For example, it may involve a child permanently scarred from a dog bite or a child injured when a store display collapses or a child injured as a result of medical malpractice. We review settlements for the whole range of injuries that can occur to a child.

Our role is to provide a second look to ensure the proposed settlement is in the child's interests.

The Scrivener: *How do you learn about a pending settlement?*

Jay: We learn because the parties entering into the settlement want to ensure that the settlement is legally effective. The parties, or the lawyers, will know that it is not a legally effective settlement unless it's entered into in accordance with the *Infants Act*.

The Scrivener: *How is your office remunerated for reviewing a proposed settlement?*

Jay: We charge a fee established by the government under the *Public Guardian and Trustee Fees Regulation*. That fee varies according to the amount of the proposed settlement. The fee pays about half the costs of the review. The government, in recognition of the public interest in protecting children's property rights, pays the other half.

The Scrivener: *What is your role in large settlements?*

Jay: If the proposed settlement is greater than \$50,000, it is up to a Supreme Court Judge to decide to approve the settlement. In such cases we prepare a report for the court to assist the judge in deciding whether or not to approve the settlement.

The Scrivener: *How often do you approve settlements?*

Jay: We review approximately 2,000 settlements a year and in most of the cases, we conclude the settlement is in the child's interest and approve the settlement that was submitted to us. In about one-quarter of the proposed settlements, however, our involvement results in an improvement to the child—the amount of the settlement increases or some term of the settlement changes for the betterment of the child's position. Typically, the parties are willing to accommodate our suggestions.

Indeed, while improvements were made at our instance to hundreds of proposed settlements, last year in only seven cases did we have to reject the settlement and require the parties to go to court for settlement review by a judge where we opposed. So, most of the benefit of our work in this area happens behind the scenes rather than in the court room.

Our involvement often helps resolve a number of issues on the settlement the court otherwise might have to handle. I'm confident that if our office did not carry out these settlement reviews, what are now routine settlements in court would turn into more extended court processes. We have a good relationship with the Supreme Court judiciary and I believe our views are well respected. It's important to me and to the Deputy Public Guardian and Trustee, Catherine Romanko, that we are seen to take positions that are consistent, reliable, and that are respected by the court.

The Scrivener: *Do you have mediators on staff?*

Jay: We don't have on-staff mediators *per se*, because of course, in the example of the lawsuit settlement reviews we perform, it's the parties who must enter into the

settlement. In those cases the PGT has no role until the settlement is reached.

Our role is to review the settlement once the parties are *ad idem*. In other capacities we do use outside mediators. For example, where appropriate we use mediators in the litigation we bring on behalf of individual clients. Alternative dispute resolution is more and more common across the board.

The Scrivener: *Do you have lawyers on staff?*

Jay: Yes, of our 210 staff, we have 10 lawyers who work in each of our three operating divisions—children, adults, and deceased estates. The legal work covers a wide range of issues such as litigation settlement reviews, workers compensation issues, *Wills Variation* claims, actions to recover property on behalf of clients who have been taken advantage of, complex estate administration issues, and personal injury claims.

The Scrivener: *What happens when a person for whom you are committee regains mental capacity?*

Jay: Some clients, sometimes through rehabilitation or medication, may be able to regain their capability to manage their property. In such cases we are able to terminate our involvement. These days, our intervention on behalf of adults who are not capable because of mental health issues tends to be shorter than it used to be. In the era of institutionalization of the mentally ill—even as recently as 20 years ago—many of our long-term clients lived in institutions for years.

Their property management needs were pretty straightforward. They may have needed money for some comforts. Today, most of our clients live in the community—perhaps living independently, perhaps in a supported living structure, or perhaps even without a permanent address. They are in a much more fluid environment than in the past; their needs are much more complicated and individualized.

The Scrivener: *Please give us an example of someone who might need special help as a preventative measure?*

Jay: Historically, if a vulnerable adult's assets required urgent protection, the law provided few remedies unless and until the person was formally declared to be incapable of managing his or her affairs. Sometimes that would take too long. Since 2000, our office has better statutory investigation powers and, significantly, an ability to protect at-risk assets of an adult pending further investigation. In short, we can freeze any real or personal property transaction for 7 days while further inquiries are made and capability determined. This can involve freezing brokerage or bank accounts or changing locks on a house. Due to its seriousness, we exercise this authority very carefully, but we do use it. In so doing, we are able to protect individuals who need urgent help pending further investigation.

Today, most of our clients live in the community—perhaps living independently, perhaps in a supported living structure, or perhaps even without a permanent address.

The Scrivener: *When you assumed the position of Public Trustee in 1999, did you hire new staff?*

Jay: There has not been a sudden increase in staff; public sector organizations rarely experience that these days. Rather, there has been a relatively slow, steady increase in our staffing over the past 15 years. Over that time there has been a gradual but consistent improvement in our service.

The transparent public reporting model we now use should ensure any service shortcomings that occur come to light quickly—not 10 or 20 years later. This should help avoid the “bust and boom” cycle that has plagued Public Trustee offices in other jurisdictions. I believe, however, that our organization suffers from *reputation lag*. I believe we

achieve more success and give better service than our reputation might indicate. I'd like to close that gap between perception and reality.

The Scrivener: *Does that involve public education?*

Jay: Yes. We are still a relatively unknown or poorly understood organization. Many people don't understand that the role of a public fiduciary is to protect *private* interests. It is that very act of protecting private interests that is in itself discharging a role that is in the public interest.

The Scrivener: *How are your fees set?*

Jay: Our fees are fixed by the provincial Cabinet in a regulation—the *Public Guardian and Trustee Fees Regulation*. Most of our client-based revenue comes from asset and income commissions—in a manner roughly similar to private trustees. About 10 percent of our client revenue comes from transactional service fees such as private committee review fees, review of children settlements, and limitation notices. Some services, such as health care decision-making, have no client-based fee. The cost of that service is entirely paid by the provincial government.

The Scrivener: *How much money do you handle each year, on average?*

Jay: At any given time, we are a fiduciary for about \$600 million. About \$150 million every year comes in and goes out of our clients' trust accounts. Typically, it comes and goes in small amounts—pension cheques, phone bills, caregiver allowances. It is a huge number of transactions—over 150,000 per year.

The Scrivener: *How do you invest the money? Who receives the interest earned on trust accounts?*

Jay: We are authorized by statute to invest the client funds we hold according to a *prudent investor* standard. Typically, we have our clients' liquid assets invested in one or more of three funds—a balanced growth fund, a balanced income fund, and a premium money market fund. Our higher net-worth clients typically have some money invested in one of the balanced funds, depending on

their anticipated investment horizon. For those clients who have less money, their money would typically be invested in the money market fund, due to their need for cash flow to pay their bills.

The Scrivener: *You must have to do a lot of tax filing?*

Jay: Absolutely. We file thousands of tax returns every year. Sometimes, when we become someone's committee, we find they haven't filed their tax returns for years. So we do a significant amount of work with the Canada Customs and Revenue Agency. Tax time is a very busy time for us and for the chartered accountant firms with whom we engage as service providers.

The Scrivener: *Let's talk a moment about the Representation Agreement Act. What's the current status of the Act?*

Jay: The Act allows individuals to make a legally effective plan for a time when they are no longer capable of making a decision about their property or personal care. Most of the Act, except for the

statutory registry, came into force in 2000 and was amended in 2001.

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Wills have been around for
hundreds of years but
most of us don't make one.*

The personal care planning aspects of the Act have been relatively uncontentious. These aspects permit an individual to name, for the first time in British Columbia, a person that the adult would like to make his or her personal care decisions, including health care decisions, in the event that the adult, at some point in the future, is no longer capable of making those decisions. This aspect of the Act has been relatively well received and has not been highly controversial.

The main focus of the public and professional attention has been on the property planning aspects of the Act and

the interaction between the *Representation Agreement Act's* version of incapability planning and that found in the *Power of Attorney Act*.

The Scrivener: *I understand Professor Albert McClean reviewed the Representation Agreement Act in 2001 and 2002.*

Jay: Yes, Professor McClean was appointed by the Attorney General to consult with a number of stakeholders, including The Society of Notaries Public, on the property management aspects of the *Representation Agreement Act* and the *Power of Attorney Act*. He submitted his report in early 2002. The Attorney General stated he accepted McClean's principal recommendation that the primary tool for financial incapacity planning be enduring Powers of Attorney.

The Attorney General invited comment on the balance of the recommendations, which dealt with a wide range of related issues. The Attorney General has indicated there will

be legislation introduced either later this year or next that addresses Professor McClean's recommendations.

The Scrivener: *Are legal professionals still drawing Representation Agreements today?*

Jay: Representation Agreements for personal and health care are being done because it is the only mechanism in which an individual can legally appoint another person as a decision-maker for health care. You can make a legally effective instruction without making a Representation Agreement, but you cannot legally appoint a decision-maker unless you make a Representation Agreement.

The public clearly wants access to incapability planning tools. This greater demand for the need for planning tools is widespread throughout North America. People in many jurisdictions are now expressing the view that it is important to them, as an expression of their autonomy, to be able to choose who is going to make their health care decisions. As a society we need to ensure there is a safe, accessible, and cost-effective mechanism to be able to express that autonomy.

The Scrivener: *What do you see for the future of your office?*

Jay: We need to address four things in the upcoming years.

First, we need to continue with the gradual, consistent services improvements that have been the feature of the office over the past number of years.

Second, we need to improve public and professional understanding of our role and the quality of our services, to ensure perception meets reality.

Third, we need to ensure our service is more accessible across British Columbia. As a step toward that, we will be opening a small client-service office in Victoria later this year for our adult clients.

Fourth, a modernization of the statutes that assign our duties needs to take place. There are still too many peaks and valleys in our role. Various statutes

are partially proclaimed. We can assist by providing reasoned, principled recommendations for statutory change.

The Scrivener: *With baby-boomers retiring, there will be an even greater need for your services?*

Jay: For our services, yes, but also a greater need for individuals to take responsibility for planning for their own future. As is often said by demographers, we are entering a period of the greatest intergenerational transfer of wealth in the history of the world, and it is important for everyone to prepare for that.

Surprisingly, most adult British Columbians die without making a Will—some 65 percent of us die each year *intestate*. Death is a certainty. Wills have been around for hundreds of years but most of us don't make one. Incapability planning tools are recent innovations; some people don't believe they will ever need one. As a result, they may well not make a plan.

Therefore, there is huge opportunity for increased use of planning tools. As this grows and occurs, it is possible that our office may move more to a protective and investigative role and carry out less direct management of people's affairs. The next few decades will be a pivotal time for our organization; we have to be ready for the challenges to come.

The Scrivener: *Please tell us about the morale and staff attitude within the office of the Public Guardian and Trustee.*

Jay: The staff are tremendous. They know why they come to work in the morning. Our staff are very committed to our mission and to helping individuals who need our assistance. Despite the public sector restructuring and change that is taking place, our staff members have managed to keep a clear focus on clients and client interests.

The work is fascinating and the staff here are great. And believe me, there is never any shortage of work. It's a great place! ▲

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