



**Australian Government**  
**Productivity Commission**

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**PRODUCTIVITY COMMISSION**

**COMPENSATION AND REHABILITATION FOR VETERANS**

**MR R FITZGERALD Commissioner**  
**MR R SPENCER, Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT HILTON DARWIN, 32 MITCHELL ST, DARWIN**  
**ON THURSDAY, 7 FEBRUARY 2019 AT 9.06 AM**

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**COMMISSIONER FITZGERALD:** Okay, we might just start. Thanks. Okay, might start.

**MR TELLAM:** Yes.

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**COMMISSIONER FITZGERALD:** And Dan if you want to grab a seat in the middle there somewhere.

**MR TELLAM:** I feel so special.

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**COMMISSIONER FITZGERALD:** You are very special.

**UNIDENTIFIED SPEAKER:** You are.

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**COMMISSIONER FITZGERALD:** Everyone in the Territory is special. Unique and different I think are the two words that everybody says all the time. Anyway, ladies and gentlemen, just thanks for participating this morning. This is our return visit to Darwin. As you know we had a really successful forum here in the lead up to the draft and thank you for those that participated in that, and that was very valuable indeed. Today is very different, it's a bit more formal and it's the opportunity for those that wish to put their views on the record in a public way. So this is the third day of our public hearings of the Productivity Commission's inquiry into veterans' compensation and rehabilitation, following the release of our draft report in December last year.

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I'm Robert Fitzgerald, I'm the presiding commissioner. And my colleague is Richard Spencer, the other commissioner on this inquiry. So the purpose of the hearings, as I say, is to give people the opportunity to put their views publicly on the record, but it's also an opportunity to publicly scrutinise the work of the Commission and to get feedback on our draft report. We have so far held hearings in Adelaide and Perth this week and we had full days there, quite a lot of participants. Today's a much shorter and compact session. Following this hearing in Darwin, we will be in Wagga Wagga, Canberra, Melbourne, Hobart, Sydney, Brisbane and Townsville in the next few weeks.

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We'll then work towards completing the final report, which will go to the government at the end of June. That report will be released by the government and it has to release the report within 25 parliamentary sitting days of its completion. The draft report is produced by and published by the Productivity Commission but the final report is actually released by the government. But the good thing is that they have to release it.

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5 We will conduct the hearings in a reasonably informal manner, although I don't think you think this it'd be very informal, but nevertheless. But I remind participants that a full transcript is being taken. For this reason comments from the floor can't be taken during the sessions but at the end of the proceedings, I will provide an opportunity for anybody else who hasn't participated to come up and make a brief comment if they'd like to do so. Participants are not required to take an oath but should be truthful in their remarks. Participants are welcome to comment on the issues raised by other people.

10 A transcript will be made available to participants and will be available from the Commission's website following the hearings, and as you know we are currently seeking written submissions. They need to be in this month, and they go up on the website when they are received. If there's any media representation, they have to see Imogen and she'll give them some instructions about how they can conduct themselves. Just to comply with the occupational health and safety legislation prior to - I draw your attention to fire exits and evacuation procedures and though you'll be directed by the hotel staff should that be required.

20 Otherwise, again I'd just like to thank you. The draft report is very substantial. It's the largest, deepest, widest inquiry that's been held into Veterans' Affairs ever. So it looks at a multitude of issues, including a whole lot of issues in relation to Defence and a very substantial number in relation to Veterans' Affairs. So, we expect people will take some time to consider all of the recommendations. Submissions, some people are concentrating on one or two issues, others are obviously looking at a much broader range of issues.

30 But we hope that the work that we've done at least raises the concerns that we've heard in all of our consultations, and at least puts forward our initial thoughts about what could be done to improve the system. But it is the draft report, we will listen carefully to the views the people put and the final report is likely to have variations on those recommendations should we believe that they are warranted. So, we might just start, and the first participant is Dan Tellam.

**MR TELLAM:** Thank you, sir.

40 **COMMISSIONER FITZGERALD:** So, what you need to do is just give me your full name and any organisation that you officially represent today.

45 **MR TELLAM:** Daniel John Tellam. I'm a welfare officer for the RAAF – sorry, for RSL Sub Branch Darwin.

**COMMISSIONER FITZGERALD:** Good, and you're representing that organisation today?

5 **MR TELLAM:** No, representing myself.

**COMMISSIONER FITZGERALD:** Good, thank you very much for that. So, Dan, the way we do this is if you can just make a short statement and - about any issues relating to the report and then we'll ask some  
10 questions.

**MR TELLAM:** Okay. When I first enlisted and I was - under the compensation Act I was under VEA, and was of the impression that that was the compensation Act that I had for life. However, things change and in some ways I'm grateful, however, I'm getting on in age and under the  
15 VEA I was entitled - I would be entitled to TPI at this current stage. I've got enough points. I'm on 100 per cent Gold Card with the VEA, and I'm on incapacity payments under the MRC Act. I've since applied to have - be TPI under VEA or intermediate under the VE Act, however, I've been  
20 told because of the other Acts which I've also got enough points to equal TPI I'm not entitled to it.

I just feel that I'm - through no fault of my own, I'm financially disadvantaged because of the MRCA and SCRA Act and not being VEA  
25 through my entire career.

**COMMISSIONER FITZGERALD:** In relation - sorry, do you have any other comments that you want to make?

30 **MR TELLAM:** No, that's about it, sir.

**COMMISSIONER FITZGERALD:** So, I'll raise a couple of questions. You said that you were originally in the VEA for injuries that arose at a particular part in your career.  
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**MR TELLAM:** Yes.

**COMMISSIONER FITZGERALD:** And then I presume you've then had subsequent claims in relation to additional injuries that have occurred at a later stage or at a later set of circumstances.  
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**MR TELLAM:** Yes, mental and physical.

**COMMISSIONER FITZGERALD:** And they brought you in under the, what's called DRCA or MRCA or both?  
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**MR TELLAM:** SRCA and MRCA, which I had no choice of which I was applying for. It should have been all VEA as far as I was concerned, however. I didn't understand the legislation.

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**COMMISSIONER FITZGERALD:** And at the time that you put in the claims, did you have an advocate?

**MR TELLAM:** No.

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**COMMISSIONER FITZGERALD:** And if you had had an advocate, do you think the results would have been different?

**MR TELLAM:** Unsure, because I put my claims in '97 through DVA. I don't wish to drop names, but I can. He was very, very helpful, who actually got me a Gold Card with my - after my injuries had been accepted at 100 per cent.

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**COMMISSIONER FITZGERALD:** So, when you say you've got a 100 points for the Gold Card, do you have any other benefits under VEA? Did you receive a part pension or anything at all?

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**MR TELLAM:** Only what you get with the - that comes with the Gold Card.

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**COMMISSIONER FITZGERALD:** Which was?

**MR TELLAM:** I kept - - -

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**COMMISSIONER FITZGERALD:** Which is?

**MR TELLAM:** It's \$545 - - -

**COMMISSIONER FITZGERALD:** Yes.

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**MR TELLAM:** - - - a fortnight.

**COMMISSIONER FITZGERALD:** Yes.

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**MR TELLAM:** - - - tax free, and hasn't affected the MRCA or SRCA claims that was I was under, hence I was the belief that TPI would come in and act as a TPI payment, and what I'm also concerned about is that come 67, when I turn 67 and the MRCA and incapacity payments cut out, I'll still keep the Gold Card and the 100 per cent on that but will I be

entitled to TPI or intermediate or should intermediate between now and 65.

**COMMISSIONER FITZGERALD:** And what's the answer to that?

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**MR TELLAM:** I don't know, I've got a claim in at the moment asking for that.

**COMMISSIONER FITZGERALD:** So, your preferred position would have been to be dealt with under one Act, just the VEA?

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**MR TELLAM:** Yes, sir.

**COMMISSIONER FITZGERALD:** Yes. As you know in our recommendations we've recommended to keep the VEA, largely for older veterans and you fit into that category.

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**MR TELLAM:** Thank you.

**COMMISSIONER FITZGERALD:** And then we were looking at MRCA and DRCA being combined for younger veterans going forward. But our aim is that people would be under one Act.

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**MR TELLAM:** (Indistinct).

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**COMMISSIONER FITZGERALD:** Eventually, and that's our aim. So, how far - how financially disadvantaged are you do you believe by the way the current system operates?

**MR TELLAM:** Approximately \$700 a fortnight.

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**COMMISSIONER FITZGERALD:** Worse off?

**MR TELLAM:** Worse off.

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**COMMISSIONER FITZGERALD:** And the actual processing of the claims and the way in which they have been dealt with, what's been your experience in more recent times?

**MR TELLAM:** I found under the VEA and the doctors and the DVA specialist that diagnosed me and confirmed my injuries, was very, very simple. It was like two appointments, one with a GP, one with a DVA specialist, and the claim straight in through DVA. I didn't have a setback at all. I got backdated, back pay and tax free. With the MRCA and SRCA, it seemed to really, really muddle the waters, and it was just a

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5 matter of the terminology used within the claim. For example, I was diagnosed with adjustment disorder, but the psychologist specialist had diagnosed me as a major adjustment disorder and my claim got rejected because what I claimed for and what DVA accepted was not the same, and because that words "major" was in it, I had to wait another six months before that claim was accepted.

10 **COMMISSIONER FITZGERALD:** And can I just ask, is that because you didn't use the right terminology when you put in the claim? I mean not as a criticism, but you weren't aware that you had to use a particular - - -

15 **MR TELLAM:** When I submitted the claim, I submitted the psychologist's diagnosis with that claim.

**COMMISSIONER FITZGERALD:** Right.

**MR TELLAM:** Whether I didn't write it in my actual claim form or not.

20 **COMMISSIONER FITZGERALD:** Right.

**MR TELLAM:** Not knowing - - -

25 **COMMISSIONER FITZGERALD:** Sure.

**MR TELLAM:** But because of the - the specialist had actually written it, and then I got an apology back from DVA saying, okay, the person that had a look at my claim didn't read it properly, and I've still got that letter.

30 **COMMISSIONER FITZGERALD:** And when was that claim processed, Dan?

**MR TELLAM:** 2012.

35 **COMMISSIONER FITZGERALD:** 2012, and so where are you up to at the moment? You said that you've got another claim in at the moment. What's that for?

40 **MR TELLAM:** The claim is for intermediate or TPI under VEA. I've actually got an advocate helping with that one as well.

45 **COMMISSIONER FITZGERALD:** Right. Can I just ask this question? With this particular claim, without going into the details because that's not of relevance, but is it because you've - there's been additional impacts - adverse impacts arising from those injuries that



occurred early in your career - early in your military career? So, you're still under VEA if that's the case.

5 **MR TELLAM:** Yes, I have been diagnosed needing two new hips and two new knees.

**COMMISSIONER FITZGERALD:** Right and so as a consequence, you're saying they are related to service that put you at a particular time and that's - would bring you back within the VEA?

10 **MR TELLAM:** Yes, sir.

**COMMISSIONER FITZGERALD:** Right, yes, yes. Well, it's a very confused system, and we are determined to try to simplify it but only to a point. It's not possible to simplify the system completely and one of the things as I said we've done is we've tried to recommend the VEA stay for older veterans with some modifications, and then a second scheme be established, basically a MRCA DRCA brought together, for another cohort. But ultimately people are in one or the other, and we're just looking at the benefits of that as well.

**MR TELLAM:** I wouldn't have a problem if the MRCA claim was able like VEA for life, but because it cuts out at 67 that's what - - -

25 **COMMISSIONER FITZGERALD:** That's incapacity.

**MR TELLAM:** That's impacting me now, and I'm sort of like thinking ahead.

30 **COMMISSIONER FITZGERALD:** Okay, Dan, we were having a conversation prior to this and I'm aware from the forum that we held up here in Darwin that you've been very active with the veteran's community. I wondering if I could ask some questions just in relation to that?

35 **MR TELLAM:** Yes, sir.

**COMMISSIONER FITZGERALD:** (Indistinct) Richard would have some questions. What do you believe needs to change in the system to better support veterans once they've left the service? When you look back on your own career, your own time out of the service and you've been actively involved in the RSL and others, and you're about to establish a veterans' centre which you might want to comment. What do you think best is needed to change in the system to best meet the needs of veterans?

**MR TELLAM:** I believe you need a one stop shop. As soon as a veteran steps out, and steps out with injuries or steps out altogether, to go have a medical done GP, then go to DVA and talk to a professional advocate that's up to date with all the legislations involved with the member's service, and to give the members their entitlement and not to apply for something they may not even be entitled to and then get the disappointment. So, the veteran is set straight. Straightforward. So, okay, you've had knee problems, you've had ankle problems, you're entitled to that. You've have war like service, you may be entitled to that, so let's apply for it. Let's see what your entitlements are. Let's see what the diagnoses are, and you don't have to go backwards and forwards.

**COMMISSIONER FITZGERALD:** There's been a report on advocacy by Robert Cornell, and I'm not sure whether you participated in any of his forums.

**MR TELLAM:** I can't (indistinct words).

**COMMISSIONER FITZGERALD:** But that's okay. And he's – and that report has not yet been released by the government, but when we get hold of that report and can look at it, we'll have a look at advocacy and what have you. Some people have said to us the system shouldn't require advocates, it should be up to the department to assist you in putting in the appropriate claim. Your experience has been that the department doesn't necessarily do that and you would still need a - in your terms, a professional advocate?

**MR TELLAM:** In the middle part of my service, DVA really helped me. I went to DVA and there virtually weren't any advocates that I was aware then because I was still serving, and DVA got me my entitlements. I went in there with a history of my medical conditions and diagnosis, and like I said, here you go, Dan, you need to do this, this, this and that. I apologise but you have to do one form for this, one form for this, and (indistinct) for that, and I did it and it was an absolute nightmare but I had all the evidence, evidence there and I didn't have to do anything else until the DVA sent up a specialist, who went through – who went over me with a fine-tooth comb and I couldn't walk when I went - when I left him.

He sort of got a protractor out, went all over my body and the conditions that I was applying for and the claims was put through. I've since seen three DVA visiting specialists, a Dr Hobson. I'll drop his name. Saw me three times. Said, "Are you back again?" Said, "I thought I'd sorted that out the first time." And I've got the claims recognised but not for the - under the VEA.

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**COMMISSIONER FITZGERALD:** Yes.

5 **MR TELLAM:** I've got my incapacity payments and that through, which I'm very, very grateful for and if I get incapacity for life, don't worry about the TPI but – yes.

10 **COMMISSIONER FITZGERALD:** Just on the incapacity, I mean the incapacity payments are paid for loss of income that you would otherwise get from work.

**MR TELLAM:** Yes.

15 **COMMISSIONER FITZGERALD:** So they do cut off at a particular point where the natural working life would come to an end. Whereas impairment payments go on because of recognition of the pain and suffering and the injury itself.

**MR TELLAM:** Yes.

20 **COMMISSIONER FITZGERALD:** But your view is that either you go under VEA or you would like to see those incapacity payments go on - - -

**MR TELLAM:** Yes.

25 **COMMISSIONER FITZGERALD:** - - - (indistinct) that age.

30 **MR TELLAM:** And the other unfair – sorry, the disadvantage of incapacity payments is they also reduce by 25 per cent after 45 weeks payment.

**COMMISSIONER FITZGERALD:** Yes.

35 **MR TELLAM:** But my costs of living didn't decrease by 25 per cent. I still have house payments.

**COMMISSIONER FITZGERALD:** Sure.

40 **MR TELLAM:** I still have the family and sort of things like that. So that's another thing I'd like you to look at too. I understand when you (indistinct) discharged, your pay goes down like that because you've got incapacity payments. That also cuts down by 75 – to 75 per cent.

45 **COMMISSIONER FITZGERALD:** Yes, we are looking at that, although I might say that's a - that's a feature of workers' compensation schemes and what have you.

**MR TELLAM:** Yes.

5 **COMMISSIONER FITZGERALD:** It drops over a period of time in order to encourage people back into work.

**MR TELLAM:** Yes.

10 **COMMISSIONER FITZGERALD:** So, it's a design feature across most compensation schemes (indistinct words).

**MR TELLAM:** It's just that when you can't go back to work it's a (indistinct).

15 **COMMISSIONER FITZGERALD:** So, did you get a diagnosis, Dan, that said that you are incapable of working?

**MR TELLAM:** Many times.

20 **COMMISSIONER FITZGERALD:** Okay.

**COMMISSIONER SPENCER:** Dan, just to clarify, what was the period of your service? When did you first join the ADF and your first date of discharge?

25 **MR TELLAM:** First joined the ADF in 1980.

**COMMISSIONER SPENCER:** Yes.

30 **MR TELLAM:** In the Army.

**COMMISSIONER SPENCER:** Right.

35 **MR TELLAM:** Transferred to the Air Force in '85, and then was medically discharged in 2015.

**COMMISSIONER SPENCER:** Right. Okay. So, that period of time just covers obviously the three Acts, which is why you've ended up in this, you know, very confusing situation.

40 **MR TELLAM:** Yes.

**COMMISSIONER SPENCER:** Have you engaged with the Veterans' Review Board at any stage through all of these claims.

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**MR TELLAM:** Yes, yes. I've had a lot of phone conversations with the Veterans' Review Board and I've had a lot of claims rejected.

5 **COMMISSIONER SPENCER:** Yes. Is this recently or is it over long period?

**MR TELLAM:** This is from probably 2012.

10 **COMMISSIONER SPENCER:** Yes.

**MR TELLAM:** When I knew I was sort of coming to the – my use by date.

15 **COMMISSIONER SPENCER:** Right.

**MR TELLAM:** Because I really, really wanted to stay working. If I had the chance, I'd still be serving now.

20 **COMMISSIONER SPENCER:** And what's your - what's been the experience of dealing with the VRB when you (indistinct words).

25 **MR TELLAM:** A bit like this, a bit daunting because they come back and they stipulate the GARP statement of principles and meeting points, and because of this date, after this date you've claimed this and that and you can't now claim it under - you can't have that injury associated with that injury because they both stopped me from working. The stand-alone, which I was still and dumbfounded why the claims don't get up because it doesn't stand-alone, when as far as I'm concerned you can't work, you can't work. If you're hurt, you're hurt and you've got to accept it. It's  
30 black and white, it's accepted why have a stand-alone?

**COMMISSIONER SPENCER:** And during that period when there was this debate, for want of a better term, going on about, you know, the - and trying to understand what they were getting at, did you have an advocate assisting you at that time?  
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**MR TELLAM:** Only after 2012.

40 **COMMISSIONER SPENCER:** Okay.

**MR TELLAM:** When I knew my use by date was coming up. I was – yes, because I - I did most of my claims myself or went through the person at DVA, who is still there now.

45 **COMMISSIONER SPENCER:** Yes.

**MR TELLAM:** And then I went because I needed help,

**COMMISSIONER SPENCER:** Right.

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**MR TELLAM:** And not only that but also wanted to belong to somewhere again. So, I approached the RSL here at the sub branch in Darwin.

10 **COMMISSIONER SPENCER:** Yes.

**MR TELLAM:** And I got help, and then since then we've had numerous VRBs and recommendations. Some are good. Some put us at ease saying, well that's it, you can't go any further. And they were for all different types of things, mental and physical.

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**COMMISSIONER SPENCER:** And in terms of the communication from that both the – well, just talking about the Department. You indicated earlier that it was pretty good in the early days - - -

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**MR TELLAM:** Yes.

**COMMISSIONER SPENCER:** - - - you felt that you were getting good feedback, (indistinct).

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**MR TELLAM:** I did.

**COMMISSIONER SPENCER:** But in more recent times has that been - has it been clear to you - have you been given clear explanations about why certain claims are rejected or is it just, here's the decision?

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**MR TELLAM:** I was given clearance and I got sent statement of principle forms with the rejections, and I met most of the statement of principles but with the stand-alone I couldn't go any further because there was more than one injury that stopped me from working and under different Acts. So, I've got enough points under the MRCA, i.e. getting the incapacity payments, and the Gold Card on the VEA.

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**COMMISSIONER SPENCER:** Right.

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**MR TELLAM:** Which I'm very grateful for.

**COMMISSIONER SPENCER:** Okay, and with the Gold Card, just to ask a more general question about here in Darwin, have you had any issues accessing the services you need with the Gold Card?

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5 **MR TELLAM:** Only when I first - I was lucky, Dr Emery Burrell from the RAAF base, she put in place medical practitioners, GPs and specialists that were serving me through my service. So, helping me through my service and we carried on and they accepted the Gold Card without fail. That could be another avenue to help other veterans too to have a help line in place with respect to their medical conditions, dental, mental and physical.

10 **COMMISSIONER SPENCER:** Right. So from your point of view it's fairly seamless once you discharged from service in terms of your providers?

15 **MR TELLAM:** If you can find someone to - I've since had - been going in for anaesthetic and the guy said, "Ah, another bloody Defence person. I'm taking a pay cut because of you blokes." And you go (indistinct words).

20 **COMMISSIONER SPENCER:** Well, we've heard commentary about that and we've also referenced that in our draft report. There is this issue of about schedule of fees and whether it's adequate so - as we're going round in the different areas we're very interested to hear as to whether people can actually - you've got a Gold Card, terrific, but can you actually access the service and will providers provide the service (indistinct words).

**MR TELLAM:** In my case I've been - I'm okay, I've got mine in place.

30 **COMMISSIONER SPENCER:** Right.

**MR TELLAM:** All my support in place and other people who'll accept it, and I also tell my welfare recipients who to go and see that they will accept that card as well.

35 **COMMISSIONER SPENCER:** Yes.

**MR TELLAM:** Which is part of being in advocacy, I believe.

40 **COMMISSIONER SPENCER:** Right - no, thanks, Dan.

45 **COMMISSIONER FITZGERALD:** So, Dan, I just want to go back to this Veterans Centre that you're about to establish where the RSL is. What was - why did the RSL come to a view that a veterans' centre was needed, and secondly what do you think benefits it's going to provide to the veteran community here in Darwin?

5 **MR TELLAM:** I'll tell you from my personal point of view, if it wasn't for the drop in centre when I first went to the RSL I wouldn't be here now. I was in a bad space and I've had a few mates that have been in bad spaces and I don't want it to happen to anyone again. It's somewhere for a veteran and his family, her family, will be feeling comfortable, alcohol free, pokie free, smoke free, where you're under no pressure whatsoever, you go and talk to like-minded people and you can belong.

10 **COMMISSIONER FITZGERALD:** And the services that will be available at that centre or the – yes, the activities, you were mentioning previously when we were chatting that advocates may be present there?

15 **MR TELLAM:** They will be present there. I've offered up two rooms to the Palmerston RSL that have just been without a home and I've – they've got two rooms. As soon as I get wifi and the NBN on, they'll be moving in. However, there will be a welfare officer there all the time and they will have contact details of welfare advocates, DVA, Open Arms, Anglicare, Red Cross, a one stop shop that you come in there, you've got a  
20 problem, you go see this doctor; you got a problem in accommodation, you go see Vinnies or Salvation Army.

**COMMISSIONER FITZGERALD:** Can I just talk about the funding for that, you mentioned to me previously that it has a couple of sources of  
25 funding. Can you just tell me what that'll be?

**MR TELLAM:** The RSL paid upfront for the furniture that's currently in there, \$6,000 which was supposed to be delivered two days after we had  
30 the fire. The federal member has given us \$12,500. I've got - I had to have a grant raised for a lift chair for disabled people, not just veterans.

**COMMISSIONER FITZGERALD:** And that came through the Department of Veterans' Affairs?

35 **MR TELLAM:** No, that come through our local member.

**COMMISSIONER FITZGERALD:** Yes, but - - -

40 **MR TELLAM:** I don't – (indistinct words) - - -

**COMMISSIONER FITZGERALD:** You don't know where it came from.

45 **MR TELLAM:** I don't care where he got the money from.



**COMMISSIONER FITZGERALD:** That's all right.

5 **MR TELLAM:** I just know I got the money to spend on a chair and I'm setting up a community garden there, also for when people come there if they want to do a bit of gardening and - - -

**COMMISSIONER FITZGERALD:** And the modest running costs of that centre will be borne by?

10 **MR TELLAM:** The RSL.

**COMMISSIONER FITZGERALD:** The RSL.

15 **MR TELLAM:** Yes.

**COMMISSIONER FITZGERALD:** One of the things we're looking at in this next few months before we finalise is the role of ESOs going forward. It isn't up to governments to decide how the veteran community wants to organise itself. That's up to you, and Australia is a very diverse, rich, civil society in terms of lots of non-government organisations. But do you believe that the government - the Commonwealth government, DVA in particular, has a role in better utilising the work of the ESOs? Not advocacy, putting that on the side, do you - is there a view that the ESOs could be better utilised and supported than currently, and if so how?

25 **MR TELLAM:** Up here in Darwin, we come under a community of practice where every ESO submits support to a community of practice, and is run by all the ESOs under one umbrella, so that we're not doubling up. So, someone can't go to the RSL and say get \$150 food voucher.

30 **COMMISSIONER FITZGERALD:** Sure.

**MR TELLAM:** And then go out to Veterans Australia and get another \$150 food voucher. Under our community of practice, we support one another. Myself as welfare, I will send someone that comes to me with a pension problem, to a pension advocate. And like today I was utilised to look after welfare of a veteran, and I'll get - under the same umbrella. So that we cover everybody, I and other people in the community practice will send the details up the chain so to speak. That'll come under the umbrella, and then it will be distributed to the best person available, i.e. me in the northern suburbs and Sue McCallum or Bob Wood in Palmerston and the Darwin City area. It's working really well at the moment.

**COMMISSIONER FITZGERALD:** And this is a – when you say a community of practice, this is just simply like-minded organisations coming together.

5 **MR TELLAM:** Hundred per cent.

**COMMISSIONER FITZGERALD:** And it's funded by those individual agencies.

10 **MR TELLAM:** Yes.

**COMMISSIONER FITZGERALD:** Do you receive any Territory government funding? To your knowledge?

15 **MR TELLAM:** No.

**COMMISSIONER FITZGERALD:** Okay. Is there any other comments you might like to make in conclusion, Dan?

20 **MR TELLAM:** No, just thank you for listening to me.

**COMMISSIONER FITZGERALD:** That's good.

25 **MR TELLAM:** And hopefully I can get a win.

**COMMISSIONER FITZGERALD:** All right. Thanks very much, Dan, thanks also for participating in the forum last year as well. So, that's good.

30 **MR TELLAM:** (Indistinct words). Thank you, sir.

**COMMISSIONER FITZGERALD:** Okay, and if we could have John Kennedy please. That's good. Thanks (indistinct).

35 **MR TELLAM:** Thank you, sir.

**COMMISSIONER SPENCER:** Thanks, Dan.

**MR TELLAM:** Thank you very much, sir.

40 **COMMISSIONER FITZGERALD:** Good, thank you. John Kennedy? No John Kennedy? That's all right. Then can I have Peter Garton and Pam Garton. Are they here yet? So they're a bit late. And is David Coffey here?

45 **MR COFFEY:** Yes.

**COMMISSIONER FITZGERALD:** David, do you want go up now, or would you like to wait?

5 **MR COFFEY:** (Indistinct words).

**COMMISSIONER FITZGERALD:** All right, thanks.

**MR COFFEY:** Hello.

10

**COMMISSIONER FITZGERALD:** Hi David. David, can you give us your full name and any organization that you represent.

15 **MR COFFEY:** My name is David John Coffey. I'm just representing myself.

**COMMISSIONER FITZGERALD:** Good.

20 **MR COFFEY:** My - I went into the military at 17 and came out at 39. My opinions are based on 22-odd years of service in RAN and the RAAF, and then 27 years in dealings with the DVA and VRB and VVCS.

25 **COMMISSIONER FITZGERALD:** Thank you very much. David, if you just want to make a statement on any of those issues then we will have some questions.

30 **MR COFFEY:** Yes, I do. Thanks for the opportunity for appearing, it's good to be able to speak. My - I just wrote some rough points down last night, so I'm a little bit unprepared but - - -

**COMMISSIONER FITZGERALD:** You'll be fine.

35 **MR COFFEY:** I've got about six-odd points and they're just general statements. If you want to ask me any questions about that then I can tell you, otherwise I could be here for hours. Through my observations and that in the - in both the military and after the military, I've come to the belief that there's systemic methods of uncooperation and denial that have been witnessed over the last 27-odd years with my dealings in DVA.

40 Intimidation is used frequently in hearings with Veterans' Review Board. There's a heavy reliance with DVA on Defence details and information, and there's a lack of substance given by DVA. In other words it's like the blind following the blind. You know, if they get a little bit of information and not enough information then they form an opinion without asking for  
45 further information, and all the time and all the documents they say, you

know, give us a brief statement, further information will be requested. In all my dealings, I've only ever once been asked for further information and then they just dismiss that.

5 Defence, frustrating DVA's process (indistinct) when details are given and not complete, like dates, because you can imagine, you know, I joined 50-odd - nearly 50 years ago. So, something that you believe is related to something that happened some time ago, you can't back that up with information or the records. So, you're reliant on Defence backing you up.  
10 So DVA say, "Oh yeah, well, you know, we need details" and either they go or you go to Defence, and Defence say, "No, we've got nothing, no record of it".

15 There's a selective examination of details provided with claims, and there's a lack of specialist consultation against internal - based against internal opinion and also heavily relied on the delegate's experience. An example, is instead of them coming back and asking you for more material, or even consulting a specialist and sending you off to a specialist, I've not once been sent to a specialist by DVA, and yet when I have gone out on my  
20 own through my doctor, because everything is done via a doctor, who's sent us onto a specialist, then they pooh hoo or dismiss the opinion of the specialist and come back to their "oh well, in our experience" and so on. When claimant's details are first questioned but later proven, proven to be correct, very little acknowledgement, if any, is given on those particulars  
25 being presented.

And finally, I - it's just almost annoying, but I find it ludicrous that here we are further down the track, I don't know how many years since DVA was formed and since the end of the Second World War and all these other  
30 problems that we've had with serving and ex-serving members' health, that here we are - we have - we now have a separate organisation, namely, the VVCS and the majority of VVCS' clients, or customers, like myself, have problems or issues or we are there or in that situation either from problems associated with Defence and then our dealings with DVA. So,  
35 to me it's like going to church to deal with a monster. So DVA in my opinion has become a monster.

And one of their - I pointed out to them that one of their emblems that they've got (indistinct words) to put on the bottom of the papers "serving  
40 those who've served". They're not serving us at all. Anyway, a couple of other things I'd like to point out to you, which you may want to ask about, is on discharge in 1991 through my only claim that was accepted at the time, I was given - which we're all encouraged to do and even in those days I was - you know, you were encouraged to do, to put in a claim with

the DVA. In my case I'd had an accident 12 years - ten years beforehand on going home, all right, from work.

5 And so I was awarded a White Card which, you know, is as a specific injuries card. So, I was only on 10 per cent. By the time I've got to 2012, I'm on a Gold Card and I'm at 100 per cent and it's a general rate disability. Right. So at that time, and that's based on - that's based on points that, you know, Dan was speaking on and so on, you get points awarded for this and that and so on. A little bit similar to a civilian  
10 situation. I had 60 points.

I've since been accepted, several conditions and had many operations and so on and I'm still at 60 per cent. There's been no change in that even though they've accepted. I've been to the VRB on a couple of occasions  
15 for a couple of conditions and had a decision made by DVA reversed. To then be told there's no change in your points, which meant that I didn't creep up towards getting either an intermediate rate, which is double the general rate, and/or the TPI or special rate, which is treble of the general rate. So, in all that time I was still working, even though I stopped full-  
20 time work in 2010.

And in all my dealings with DVA and the VRB where when you put in for an increase, and every time you put in a claim, I don't know if you're aware but every time you put in a claim for a new claim you're asked "is  
25 there any change in your accepted conditions?" So, in my case ever since about 2010 and as I get older each time I've said "yes". So, then you're put through the mill again, oh, well how's it changed or whatever, and they should - the way the system is set up, they should re-examine your conditions but they don't, they just come back to that.

30 So in my case there's been four or five occasions where I've put in a claim since 2010 and there's been no change whatsoever to my - to the points. I forget what it is, but (indistinct) it'll be available to you. It's called a combined something or other, something or other rate, and you get points  
35 allocated for this, that and the other.

The advocacy set up has been a real hit and miss. In Darwin, when I first put in my claim in 2010, my first claim in quite a few years, there was two  
40 advocacies, both volunteers, both elderly people and they had 400-odd cases each. One of them, my advocate, he lived in Humpty Doo. Every time he came into town to the RSL to his office, he's paying for that out of his own money. Didn't even get travelling money. And I lived 110 kilometres south, and every time I came up to see him I couldn't put in a claim either. The only time you could put in a claim is if you're coming

up - a travel claim, that is, is if you're coming up to DVA for an appointment or something like that, or putting in paperwork, you know.

5 So, on that I think there's been – well, there's been a change in that over the last couple of years. So I must add, there has been a change on that whereby the DVA and I think the government are getting together and picking an ex-serviceman, who is already on a pension, a 20 year pension. So, he's financially capable and giving him an allowance which brings him up to a wage. But once again here in Darwin we only have one, and  
10 that's for the whole of the Northern Territory. As far as I know there's no one in Alice Springs, for example, and there's certainly no one in Katherine, where there's now a lot of serving people and a lot of ex-serving people that get out there and are living there.

15 One other point I'd like to make and then, you know, you can ask me question about whatever you like. The VRB, that's - if you put in a claim, and your claim is rejected, you can appeal and you appeal to the Veterans' Review Board, and that's a process where you really need the advocate. If you don't have an advocate, you're lost. It's like – it's like a toddler going  
20 for a swim that can't swim without floaties. Right. If you aren't prepared and you don't have an advocate, it's like – and it's also like lambs to the slaughter. Right. If you get knocked back at that, then they say to you "oh, you can go to the arbitration commission".

25 Up until that date, it's purely medical. So it's – you're arguing about medical or you're appealing about a medical decision and a better medical condition. If you go to the arbitration commission whereby you're not happy with the Veterans' Review Board decision, the veteran has to have a legal representative, cannot do it on himself, cannot represent himself and  
30 cannot have an advocate. And not only that, it gets worse. It then changes from a medical problem or medical situation to a legal situation, purely legal.

35 Now - so therefore if you're arguing about this, that and the other about your medical condition or how bad it is or how good it is or how it affects you or how it affects your income, earning capacity or whatever, it doesn't matter because it all becomes legal. So you might as well just walk out, you know.

40 **COMMISSIONER FITZGERALD:** Yes, good. Any other comments? We'll ask some questions. Thank you very much for that. David, can I just go back a couple of things. When you first put in your claims, when was the first time you put in the claim?

45 **MR COFFEY:** 1991.

**COMMISSIONER FITZGERALD:** And you received, you said, a White Card, I think 10 per cent.

5 **MR COFFEY:** Yes.

**COMMISSIONER FITZGERALD:** Then you eventually transitioned to a Gold Card with a general rate pension. This is all under the VEA, I presume.

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**MR COFFEY:** Yes.

**COMMISSIONER FITZGERALD:** And all of your claims been under the VEA?

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**MR COFFEY:** Some have, some haven't. Give you an example, I had my first accident, which they accepted and so on, in 1969.

**COMMISSIONER FITZGERALD:** (Indistinct).

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**MR COFFEY:** The statute of limitations doesn't start until 1972. So, in all my documents on time served and all that, it says 1972 onwards to '78. Even though I joined in '69.

25 **COMMISSIONER FITZGERALD:** Right.

**MR COFFEY:** And when I questioned that, they said, "Oh yes, that's insignificant, it doesn't matter", and I said, "Well it does to me." And I said, it just so happens that I had this accident where I fell down a flight of stairs on a ship and landed on a mopping bucket on my back and that's

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**COMMISSIONER FITZGERALD:** (Indistinct words) - - -

35 **MR COFFEY:** So it all got complicated and they said "oh, yes, well – okay, well we'll accept it anyway" but, you know, as far as dates went three years were just cancelled out.

**COMMISSIONER FITZGERALD:** But they did actually acknowledge the - that there was an injury and that it had led to adverse consequences for you.

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**MR COFFEY:** Yes.

45 **COMMISSIONER FITZGERALD:** Eventually.

**MR COFFEY:** Yes.

5 **COMMISSIONER FITZGERALD:** And that's it. So, if I can just –  
and given that you've been dealing with these, have you got a current  
claim with DVA at the moment?

**MR COFFEY:** No.

10 **COMMISSIONER FITZGERALD:** No. So, when was the last claim  
you put in or had dealt with? Roughly.

**MR COFFEY:** I put in a claim for - I put in a claim in 2015 because  
I was diagnosed with severe anxiety and major depression.  
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**COMMISSIONER FITZGERALD:** Right.

**MR COFFEY:** All Defence related. So that dragged on for quite some  
time until about 2016, the end of 2016, where they came back and said –  
do you want the details or - do you want the details?  
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**COMMISSIONER FITZGERALD:** Sorry.

**MR COFFEY:** Where they came back and said – what did they say?  
25 "We have no record of" – because the claim was based on two incidents,  
one in 1973 and one in 1983. So, one in the Navy and one in the Air  
Force and on both occasions they came back and - because they've  
consulted Defence, and they've come back and said to me, "Defence has  
no record of naval fatalities at HMAS Cerberus in 1973." So that was that  
30 incident, and at the same time - - -

**COMMISSIONER FITZGERALD:** Sorry, just stop at that point and  
you were - you were claiming that the mental health conditions to which  
you've referred had their basis from a fatal injury - - -  
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**MR COFFEY:** Yes.

**COMMISSIONER FITZGERALD:** Sorry, a fatality that had occurred  
at that time.  
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**MR COFFEY:** Yes, yes.

**COMMISSIONER FITZGERALD:** Okay, yes.



**MR COFFEY:** One of the - you heard Dan mention a statement of principles.

**COMMISSIONER FITZGERALD:** Yes.

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**MR COFFEY:** Well, your claim has to be within one of the statement of principles.

**COMMISSIONER FITZGERALD:** Sure.

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**MR COFFEY:** Right. So, one of the statements of principles was dealing with dead bodies. All right, and then you have to give the dates and the times and so on and so on. Now, that was what was questioned by DVA to Defence. Defence have come back and said, "We have no record of naval fatalities from HMAS Cerberus in 1973 or 1974." That was later proven to be incorrect, and in fact there were seven naval fatalities from that base in 1973 and four in the first six months of 1974. Because that was one of those situations I wasn't 100 per cent certain of when it was, but I knew where I was because the documents - my documents said I was at the hospital at Cerberus as an ambulance driver at that time.

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So, I had to ring around different departments and everyone said, "We've got no records of that, that goes back too far". I said, "What do you do with records?" "Oh well, they go to archives". Ring archives, "Oh no, we've got no record of that".

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**COMMISSIONER FITZGERALD:** Right.

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**MR COFFEY:** And the Air Force was exactly the same. The Air Force came back to Defence and said that Mr Coffey's details that he has provided of that incident - it was a Roulette crash where two Air Force pilots were killed. Right. We - I was a fireman by then, we've had to deal with the bodies and the parts and so on and Defence come back and say, "We've only got one person named on that", who was my fire controller and I was the fire controller's driver. How did the fire controller get there? In a fire truck. Who was the driver? LAC Coffey.

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And so they said, well we can neither deny nor accept Mr Coffey's details, even though they are concurrent with a report by the fire controller on that day. So it wasn't until 2016, when I happened to accidentally run into a former Air Force site fireman, because the previous one who was the fire controller was dead, like a lot of them are, and he said, "Oh yeah, I remember. I was on the afternoon shift and Trevor Gillow, who was the

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sergeant during the day time, he was" – and I said, "Well, can you give me a stat dec?"

5 So anyway, I get the stat dec. I hired an investigator in Canberra to dig up the details about the Navy. I provide all that back to Defence and I appealed the decision, and you know what they said? They come back and they said, oh but Mr Coffey didn't – he didn't put in a claim within two years of the incident happening. So two years after the accident, the first accident which is 1973, so 1975 I was supposed to have been aware  
10 that I was going to get anxiety in 2015.

**COMMISSIONER FITZGERALD:** Did you appeal that decision?

15 **MR COFFEY:** Well you can't because you've got to go to the arbitration commission. I've already appealed. I've appealed - - -

**COMMISSIONER FITZGERALD:** (Indistinct) VRB?

20 **MR COFFEY:** Yes, I've already – this is VRB. So VRB have made this decision. So if I want to appeal that, I have to go to the arbitration commission and then it becomes a legal thing.

**COMMISSIONER FITZGERALD:** The AAT.

25 **MR COFFEY:** H'mm.

30 **COMMISSIONER FITZGERALD:** In relation to a couple of things you've mentioned. The advocacy area, you'd be aware or maybe aware the Commonwealth Government has got a review of advocacy services by Robert Cornell and we're - and that report we have but it hasn't been made public at this stage, and that will look at some of those issues. But your experience in relation to advocacy, you've talked about the fact that they were only volunteers, they weren't remunerated for travel and so on and so forth. How do you think that service should have been changed or could  
35 be changed to better serve the needs of people like yourself?

40 **MR COFFEY:** Well, I had a thought about that while Dan was talking and I think the only answer to that is to make it a professional position. There should be at least one person, if not an office, in every state to deal with veterans' claims whereby when - if DVA are going to carry on - continue carrying on or be allowed to continue to carry on the way they are, then the servicemen or ex-servicemen in - because in both case you can put in a claim if you're serving, they need a representative that's got a bit of authority. At the moment we've got – we're like a duck out of water,

we've got no place to be, we've got no representation at all that has any strength that can stand up to DVA. That's where I see the problem.

5 You know, like, initially and as Dan alluded to as well, most of us serving people, especially longer term serving people like ourselves, you know, when we go in young, you don't know anything, all you know is Defence but you're backed up by a team, an organisation or group. We've got this - we've got this pyramid of people doing their job and we're all team and I mean there's no difference to outside really, the way, you know,  
10 departments are run and organisations are run. But you expect everyone else to do their part. We all play a part. But when you come up against DVA, it's, no, it's our money and we're not going to give it to you.

15 It all seems to be about money, and a lot of the time you ask most of the Defence people, it's not about money, it's about recognition of their condition that they've got that they didn't have, like in my case, no health problems, no nothing when I went into the military, and you come out 20 or 30 years later and you've got a heap of conditions. And they turn around and say, "Oh yeah, but there's the age factor."

20 **COMMISSIONER FITZGERALD:** You referred to the fact that at no stage in recent times have you been fully reassessed. I presume when you said that, when you've put new claims in you have to advise whether or not they've been changes in those previous conditions and you've  
25 indicated that on each occasion you've identified that there were changes but you were never sent for a medical reassessment. Is that right?

**MR COFFEY:** That's right.

30 **COMMISSIONER FITZGERALD:** Could you have asked to have that done or - - -

**MR COFFEY:** I did. I did and they said not necessary, not necessary. We have a specialist here. This is in Adelaide because South Australia  
35 and NT claims are all run through Adelaide and they have a - what they call a specialist doctor on their board, on DVA's board.

**COMMISSIONER FITZGERALD:** Yes.

40 **MR COFFEY:** And you know what he is? He's an epidemiologist, in my case and he'd been there for years. So you have an epidemiologist making - making like paediatric or orthopaedic decisions.

45 **COMMISSIONER FITZGERALD:** Did he review the file or did he actually examine you?

**MR COFFEY:** On the case when the condition, which was cervical spondylosis, was accepted, a delegate within DVA, or clerk or whatever you'd like to call them, asked the specialist, "Is" – "In view of Mr Coffey's decision or DVA's decision, should Mr Coffey be reassessed?" And you know what he came back and said - across – he wrote across the bottom of the file, which I have a copy "not necessary". So, in other words all those years, 10 years that we knew that I had cervical spondylosis - this is in 2012, I think it was, and in 2002 I put it in the first claim and they came back and said "no". No, it's not service related, and it was service related. It all went back to the condition - the accident that I had in 1981.

And so when that was proven, all of a sudden - and I'd already had the Gold Card. So I'd had the Gold Card for other injuries, for the – for the arm that was injured in that accident.

**COMMISSIONER FITZGERALD:** Sure.

**MR COFFEY:** And so the neck has finally been connected to that same accident. Right. And so all of a sudden the neck is worth nothing, and has never been recognised since. I've had no points whatsoever given to me for the – for the accepted condition of cervical spondylosis and yet it's been proven that it's got worse and worse and worse, and of course Defence only have to look at the money that they've spent on it to see that.

**COMMISSIONER FITZGERALD:** In relation to that claim relating to your anxiety and other mental health issues, was that ultimately - was that claim successful?

**MR COFFEY:** No. No, they - - -

**COMMISSIONER FITZGERALD:** Because of the time? Because you hadn't reported something within two years.

**MR COFFEY:** Yes, yes. That's what it came down to.

**COMMISSIONER FITZGERALD:** I will have – we'll have another look – not at your own specific case, but just generally because it's well known that mental health conditions are – don't necessarily evidence themselves until many years later. I would have thought that was well understood in the veterans' area.

**MR COFFEY:** If I'd served in a - an active zone, and there weren't many active zones around after - between Vietnam and Timor whereby members

went overseas to active zones apart from Somalia and Mogadishu, I think. So if I'd gone to any of those, that two years gets waived.

5 **COMMISSIONER FITZGERALD:** So – okay.

**MR COFFEY:** Any of the people these days that go to Afghanistan and Iraq - - -

10 **COMMISSIONER FITZGERALD:** Sure.

**MR COFFEY:** - - - which have been, you know, big problems as you know, there's no time (indistinct).

15 **COMMISSIONER FITZGERALD:** So the reason - that requirement applies to - does not apply to those that have what's so-called qualifying service.

**MR COFFEY:** Yes.

20 **COMMISSIONER FITZGERALD:** Yes, okay.

**MR COFFEY:** Yes, I think that's what they're called, yes.

25 **COMMISSIONER SPENCER:** Thanks, David. So just a couple of quick questions. You mentioned at the beginning that you had gone out and got various specialist reports but they were dismissed by DVA. Were they at their request or did you do that through your GP or - - -

30 **MR COFFEY:** No. No, they weren't. My GP's idea, it wasn't my idea.

**COMMISSIONER SPENCER:** Okay.

35 **MR COFFEY:** It was GP's idea and he sent me off to a - what's called an occupational physician, and he was a musculoskeletal specialist. So the word musculoskeletal – well, problems had been used by a couple of doctors, GPs in the early days and they never made a comment at all about it. And then so I got a new GP from down where I live, and he came up with a brainwave of sending me off to this musculoskeletal specialist. So we sent that off and he gave an extensive report, and in that report he said,  
40 "In view of Mr Coffey's multiple musculoskeletal problems, I feel he could not work more than" – "more than 20 hours a week."

45 Their comment to that was – they come back and they said, "We note Dr (Indistinct)'s reports and we see that Mr Coffey can work 20 hours a week. So they turned from up to, to he can work 20 or more. If you can

5 work 20 or more, well you're right. And then they said, "We note that Mr Coffey hasn't applied for an intermediate rate pension", and the intermediate rate pension you can work up to 20 hours a week. So, they've turned it around and said "well, no, we notice that Mr Coffey hasn't asked for a intermediate rate pension, so therefore we're not going to accept the claim".

10 **COMMISSIONER SPENCER:** So, David, during all of that are you aware if the Department ever made contact with the specialist?

**MR COFFEY:** No.

15 **COMMISSIONER SPENCER:** Did they contact you discuss it? (Indistinct words).

20 **MR COFFEY:** No. I checked with him on several occasions. I said, "Have you had any" - and he put on the bottom, he said, "I'm more than happy to be consulted on this", which quite often they don't because they want to be paid extra money.

**COMMISSIONER SPENCER:** Yes.

25 **MR COFFEY:** And he said well you know they don't pay, they have their own - DVA have their own rates for everything. You might pay \$85 for a physiotherapist, DVA will pay them \$62, and that's current.

30 **COMMISSIONER SPENCER:** Just coming back to the role of the delegates, I mean, you know, your experience as you said at the beginning with DVA is pretty uniformly - to use a mild term, perhaps, unsatisfactory. But the particular delegates, did you find if you were dealing with particular delegates then that really changed the nature of your interaction with the Department? If you had an experienced delegate who seemed to be on top of what was needed or - did that make a difference?

35 **MR COFFEY:** Well, yes, looking back now, it does and I can remember I was at the time in Melbourne and my GP was an ex-Navy and a Vietnam Vet doctor, and a specialist, and he was the one that helped me with my claim on cervical spondylosis or I'd put in a claim or something or other, and he said to me at the time, he said "Oh, did you have an advocate?" I goes, "Oh, what do I need an advocate for, DVA are looking after me. They look after us, that's what they're there for". And that wasn't the case at all and he laughed. He said, "Oh you" - he said, "you'll be lost without an advocate." He said, "They'll just tear you apart", because he said, "You need to say the right things, you need to ask the right questions, you need

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to look up the right detail." I didn't even know the word statement of principles up until then.

5 **COMMISSIONER SPENCER:** But the delegate within the Department who was handling the particular claims, did that make a difference according to that person's experience how they dealt with you? Or was your experience uniformly that they kept their distance and didn't engage with you?

10 **MR COFFEY:** No, I think they paid more attention for a start. They – once you have a delegate, they don't contact you.

**COMMISSIONER SPENCER:** (Indistinct).

15 **MR COFFEY:** Rarely do they contact you. It's all through the – it's all through the delegate only, and that's another thing I wasn't aware of. Once you have a delegate - sorry an advocate - - -

20 **COMMISSIONER SPENCER:** Advocate, yeah.

**MR COFFEY:** - - - they are not supposed to contact you directly. They're supposed to contact the advocate. But, quite often they'll just ring you up out of the blue, and ask you several questions before you know it. And you think you're talking to a friendly person, you might as well be  
25 talking to the enemy.

**COMMISSIONER SPENCER:** And David, just in relation to Open Arms, you know that VVCS now has changed its name recently to Open Arms, as you're probably aware. Have you accessed their services over a long  
30 period of time?

**MR COFFEY:** Since 2012.

35 **COMMISSIONER SPENCER:** Yes. And could you just comment on that experience, and also what, additionally, Open Arms could be doing, perhaps, to better support veterans. Do you have any thoughts or comments on that?

40 **MR COFFEY:** Well, I think they've done a fantastic job. But I've noted, over the - over a couple of years, like, I've had the VVCSs services, in Adelaide and here. And here, quite frequently, you get palmed off to, you know, to private organisations. Psychiatry. Psychologists. And of course, here there's usually only one model or one group of psychiatrists. And one of the things that was first said to me was, in 2012, was, "Oh, you  
45 have a mental issue." And I said, "Oh, I don't think so." And they said,

"Yeah, we think you do. You have a mental issue. Have you thought about going to a psychiatrist?" And I said, "No way."

5 I said, "I don't want to go to a psychiatrist." I said, "There's nothing the matter with me mentally." I said, "I just need someone to talk to, about just personal issues." And, of course, not knowing at the time that I had anxiety and depression, and I was having major - I think at that time, as well, just after I'd started those consultations - those counselling, I was diagnosed with cancer in a couple places of body, and kidney problems,  
10 and so on.

So it wasn't an - you know, it wouldn't have mattered where I was mentally, having that thrown in, and that was altogether. It's not like it crept up on me. It was just a simple test that proved positive. And it went  
15 from there. I was like, you know, winning TattsLotto, basically, you know. You've got this, this, and this. So it became even more important. But in saying that, in three - I think, three times since 2012, I've got to the point where I think, "Well, I don't need VVCS anymore." And then something else has happened, or you get the - you get a bad decision, or  
20 an unexpected decision from DVA, and before you know it, you're sort of falling apart and you're back - you're back to them.

And I'd never really studied depression for myself, or even anyone else at that time. Up until then, yes, I was quite surprised when I was diagnosed  
25 with depression. I thought, "Oh my god, I'm gonna have to go back to them for more counselling." You know? Which I did.

**COMMISSIONER SPENCER:** So from your point of view, it's been a very valuable service and continues to be?  
30

**MR COFFEY:** Yeah I hate to think where I'd be without it, yes.

**COMMISSIONER SPENCER:** Thank you, David.

35 **COMMISSIONER FITZGERALD:** Yeah. Just a final question in relation to the VRB. The VRB, as you know, has introduced a dispute resolution - alternative dispute resolution procedures, in more recent times. When you dealt with the VRB, were you - did you access those alternative dispute procedures?  
40

**MR COFFEY:** Only once, when they reversed the decision on the cervical spondylosis, did I feel comfortable with VRB, because I'd already been up - up before them on another occasion. No, actually, that was the first occasion. The first occasion that I put in for a review of this decision  
45 made, and I thought, "Oh, what a great mob. They were my friends," you



know? But then thereafter, I've had - on three occasions after that, yes, it was - it was like the enemy.

5 **COMMISSIONER FITZGERALD:** Can I just ask this question: people's views about processes that are often coloured by whether or not they're successful or unsuccessful in the claim. But in the way the actual processes themselves - not the decisions that were made, the processes - did you think those processes were appropriate to deal with the issues that you were putting forward?

10 **MR COFFEY:** Well, no. No I wasn't. And, yes, I'm pleased you asked that question, because on the occasion - I'll give you an example. When you're applying for an increase in pension, so regardless of what you are on - you could be on 10 per cent, or 40 per cent, in my case I was on 100  
15 per cent. And you think 100 per cent is the best rate of pension - it's not. There's the intermediate rate, which is worse. So, you can be on a 100 per cent and you can still work eight hours a day, 40 hours a week, or whatever.

20 So that pension is in recognition of your accepted injuries. To get an increase on that, you have to prove that you can't work the work that you were doing, at the time that you put in the claim. And the wording in the legislation says "remunerative work," meaning "work for money". There's no other reference, no other word used, and they use that quite often.  
25 When all went up before the VRB to - appealing a decision made by VRB, on - sorry by DVA, on an increase in pension, the judge, or whatever you call it, she's a legal person who was heading the case, she came back to me and she said, in fact she didn't say to me. But in the documents afterwards said, "Work-like activities."

30 They were the words she used and that was the question, it was in relation to what I was doing and she said, "Your work-like activities consist of this and this and this and this." So they asked me all these personal questions about, well, "So, what do you do with your time David?" I said, "Oh, well  
35 I'm doing this, and I'm doing that." You know, I was doing a renovation on my house at the time, with the assistance of other people. So she came back and said, "Oh, well if you can do all of that, why can't you work?" No reference whatsoever to the work that I was doing at the time, which in the legislation, that's what it is.

40 It's when you are in a position where you are incapable, or you can prove that you don't have the ability to do the work that you were doing at the time of the claim, which I couldn't do at the time, of remunerative work. Nothing about "work-like activities." And we even checked that back  
45 with someone else that reviews decisions, and the way VRB - VRB

operate with - with DVA, and he said, "Well, that was totally inappropriate for her to ask those questions."

5 And my advocate at the time said that in all the years he'd been an advocate, he had never come across a situation where a claimant, which is myself, had been asked questions relating to their personal activities, their day-to-day activities at home, or even at night, and use that evidence against them in the claim. And yet it was not - not thrown out.

10 **COMMISSIONER SPENCER:** Yes, thank you very much.

**MR COFFEY:** So that stood.

15 **COMMISSIONER SPENCER:** All right. Thank you very much for that David, and thank you for giving some personal experiences of those processes. And that's been very helpful. So thank you very much.

**MR COFFEY:** Thank you for the opportunity.

20 **COMMISSIONER SPENCER:** Thank you David. Okay.

25 **COMMISSIONER FITZGERALD:** Thank you, very much. Yes, no, that's fine. Okay, thank you. Can we have Peter and Pam Garton, please. Good, thank you very much. Could you please give me your full name and the organisation you represent, if any.

**MS GARTON:** I'm Pamela Lorraine Garton. I'm managing director for Abilita Services.

30 **MR GARTON:** Peter Leonard Garton. I'm a director of Abilita Services.

**COMMISSIONER FITZGERALD:** Good, thank you very much. So if you could just make a brief opening statement.

35 **COMMISSIONER SPENCER:** We have a submission, I think, of the program. But as I understand it you want to talk about the best practice in relation to some of the rehabilitation approaches and that might inform our thinking in relation to rehabilitation services being offered, both within Defence and within the DVA. Is that correct?

40 **MS GARTON:** Yes that's correct.

45 **COMMISSIONER FITZGERALD:** So if you want to make some statements that'd be great.

**MS GARTON:** We were prompted to - we were prompted to put forward a submission after reading your draft report, because in your draft report you've come through with best practice recommendations, which we've been, actually, promoting to DVA and MCRS for over 10 years.

5

**COMMISSIONER FITZGERALD:** Sorry, just one moment. Mr. Kennedy, you just can't have talking in the background. Because you can't hear, in this room, if we do. That's okay. Thank you. Sorry about that. Please.

10

**MS GARTON:** Yes. So, having read your draft report we - we want to let you know that, in fact, we've been promoting many recommendations for a long time. The program that that we have developed is called the Abilita Program, and basically it is a system of early triage, early intervention, assisting people to develop self-help skills, and it can be integrated into a worker's compensation rehabilitation program, as a system for assisting individuals.

15

**COMMISSIONER FITZGERALD:** Um do you want to make any other comments in relation to the program, or we'll ask some questions?

20

**MR GARTON:** Not at this stage.

**COMMISSIONER FITZGERALD:** So can I just ask this: this particular program, as I understand it, is a program that has been applied to general workers compensation arrangements, but has the program itself been applied in relation to veterans?

25

**MS GARTON:** Yes. In fact, the program was developed here, in Darwin, beginning in 2003. And from between 2003 and 2008, military members were referred to - sorry. Our organisation, at that stage, that they developed the program was a rehabilitation provider called IM Concepts. We ran a restorative pain management program, and the military referred people to that program, if they had pain. So that helped us develop up the self-help coaching process, and the assessment component of what became Abilita. So, military, actually, helped develop the program, yes.

30

35

**COMMISSIONER FITZGERALD:** So could you identify what you believe to be the unique, sort of, characteristics, if there are any, of military and veteran personnel, when they present for rehabilitation? Is it exactly the same as other workers, or do you think there are defining or unique features, that you've seen in your practice?

40

5 **MS GARTON:** What we saw as unique features, I guess, was particularly a more narrow experience, in terms of their work experience. They were living in a contained environment, as it were, so not socially as broad as - as other workers comp people that we were working with. And there, they saw their opportunities as much more limited than - than others. In terms of - we ran group programs, so we were we were also very aware of the hierarchy, and people's positions when they came into our groups, and we were cognisant of that when we were selecting who was a part of which group.

10 **COMMISSIONER FITZGERALD:** And given the very broad range of rehabilitation services provided and funded by both Defence and DVA, have you got any insights as to how you think the service system, the rehabilitation service system itself, is responding to military and veteran's needs, generally? Have you got any observations? And I put that in the context that we are looking at rehabilitation, generally.

**MS GARTON:** Yes.

20 **COMMISSIONER FITZGERALD:** And it's not an in-depth analysis, but we think there are significant improvements that need to be made to the way in which the rehabilitation services are commissioned, and oversighted. But have you got a view about rehabilitation services generally?

25 **MS GARTON:** Well the reason we've presented our program many times to MCRS and, DVA, and we've got, you know, a list of meetings that we've had with senior people over the past 10 years, is because we didn't believe that they were doing good triage, that they were identifying the needs of individuals, in terms of their being able to assist in developing tailored rehabilitation, and empower individuals to manage their lives. So I think that's a big gap, there. What I do see DVA doing now is goal attainment, to scale in the life skills inventory, which - they're a measure, but they're not valuable in terms of actually assisting to develop an intervention plan, in my opinion.

30  
35  
40  
45 Because what they don't do is identify, as our Abilita assessment does, identify what are the drivers for that individual? What are their beliefs, what are their expectations? What are their attitudes, how they seem in managing their pain. Are they fearful that, in fact, if they're hurting, then it's harm? Because unless you understand those components of the individual, you can't assist them to achieve those goals. So having a goal attainment scale is all very well, but unless you know what's actually driving behaviour underneath, you're not going to help the individual persist.

5 So, we think that there's a big gap missing, and we've been frustrated by the fact that we've had, you know, receptions in - from management at various times, in terms of putting in place using this approach, and yet it's not being accepted overall.

10 **COMMISSIONER FITZGERALD:** Okay. Here's a question: why do you think that's the case? Because one of the things that struck us, in various forms around Australia, is that if you look at contemporary workers compensation schemes, as you're saying, at best practice, the features of what you're talking about are evident in other approaches as well. It's very much about early intervention, about really identifying what the needs are about getting the individual involved in their own care plan.

15 And you've had a lot of experience of trying to convince the Defence and DVA of the merits of that. Why do you think the - that there's either resistance or a failure to understand that? Your frustration that you talked about before, why do you think that's happening that this isn't embraced, when it's much more a feature of other schemes around Australia.

**MS GARTON:** I think we say it's largely individual - - -

25 **MR GARTON:** Yes.

30 **MS GARTON:** Individual driven in that, for example, Joint Health Command, Jane Hayter, is a senior person who's been exposed to this program a lot, but rejected it. And I think that was largely because she was a psychologist, and I was an occupational therapist. The initial resistance, I'm not sure. But I think there are individual resistances that have caused this. Whereas, for example, when we were working with the Department of Defence, the civilian component in Canberra, Bev Tyler was overseeing a section there, they embraced this. "Yes, this is exactly the sort of thing that we need," and put in place a pilot project.

35 So, I don't know, I think we'd say that individual responses were driven by other (indistinct).

40 **COMMISSIONER SPENCER:** You mentioned the pilot project. That was back in 2009, is that right?

**MS GARTON:** 2014.

45 **COMMISSIONER SPENCER:** 2014, it's a more recent on. I just - - -

**MS GARTON:** That's the Defence one, we did for Defence, was 2009.

5 **COMMISSIONER SPENCER:** So, what's resulted from those pilots. Is it becoming more mainstream, if I can use that expression? Or is it - or is nothing happening? What's been the consequences there?

10 **MS GARTON:** Again there were complications involved in that, and there was a major rehabilitation provider involved in that project. And it was basically their - their desire not to have a full run of any future biopsychosocial process. So, in fact, while although they had - taken on Abilita and Comcare were very keen on Abilita, and that's why the program actually happened, this major company actually copied some of what we were doing and - and went off in a different direction and marketed in terms of what they were able to offer without using Abilita.

15 **COMMISSIONER SPENCER:** So, is that the - flowing on from the outsourcing to one major provider. (Indistinct) services?

20 **MS GARTON:** Well, that's part of the problem, that there has been a lot of outsourcing to a single national providers rather than - that's a different - yes.

25 **COMMISSIONER SPENCER:** And they haven't - if I can use that term, they haven't subcontracted to you or they haven't generally - - -

**MS GARTON:** So, we have a system. We don't actually deliver rehabilitation

30 **COMMISSIONER SPENCER:** Yes, right.

**MS GARTON:** We provide - and rehab providers actually take a licence to use our resources.

35 **COMMISSIONER SPENCER:** Okay. Right.

40 **COMMISSIONER FITZGERALD:** So, just so that I can understand this. You've got a particular approach, in relation to rehabilitation. As you say it's a program that is licensed to others to use, and you've defined it as a biopsychosocial rehabilitation system. Yes?

**MS GARTON:** Yes.

45 **COMMISSIONER FITZGERALD:** The question I've got is: when DVA, for example, or the Defence, actually commissions or funds services, does it actually - is it prescriptive as to the program that has to be delivered, or

5 the way in which has to be delivered? Or is it simply concerned about, as you say, some certain goal attainments, which are reasonably recent, I might think. Because there's been no goal focus at all. So, they say we want these goals achieved, and they go to - and they fund services from an occupational therapist, or a physiotherapist, or a rehabilitation consultant or whatever it is.

10 Are they actually prescriptive as to what takes place in those sessions, so that a person could apply your approach, or do they actually say we want these particular - we want this service and we wanted it delivered in this way. So why can't your program be provided to rehabilitation consultants, or whatever the allied health professional is, and still meet the goal attainments, or the goal requirements of the department?

15 **MS GARTON:** Rehabilitation providers have used our service with DVA in that manner. However, DVA doesn't want to know the results of the Abilita assessment, which provides a domain report and breaks down the person's responses in six psychosocial - biopsychosocial domains. That's very useful, as I said, in terms of planning your intervention. DVA  
20 doesn't want to know that. All they want to the goal attainment scale, the life satisfaction index.

25 **COMMISSIONER FITZGERALD:** Does your program provide those - those goal attainments and additional information, or does it provide - Does it provide a different set of information? So, if DVA says, "Look, we want these," whatever they are, "10 indicators," does your program deliver the 10 but additional information which they say they don't want or is your program providing quite different information and therefore they see it as incompatible?

30 **MS GARTON:** It's different information. What I'm actually doing PhD research at the moment on the benefits and challenges of implementing a structured biopsychosocial approach. And part of that has been a qualitative study where I've interviewed a lot of rehab consultants who  
35 apply a more structured approach. And what I've found is those who are working with DVA are telling me that they're encouraged to apply a psychosocial approach - so they're encouraged to help individuals return to activities that they value in the community, and in their homes, and their life et cetera.

40 But there is absolutely no recognition from anything written from DVA that biopsychosocial actually also means the individual understanding what's going on in their body when they're experiencing pain. Whereas a basic part of our program is to, first of all, help the person understand the  
45 physiology of what's happening, because it's only when you've got that

knowledge that you can actually, "Okay, so I'm doing something enjoyable, why is it making me feel better?" Well this is the chemicals you're pumping out, and this is what it's doing to your pain.

5 So there's a big chunk of the science of biopsychosocial that's not included in the DVA model. Does that make sense?

**COMMISSIONER FITZGERALD:** Richard?

10 **COMMISSIONER SPENCER:** Given that, at the end of the day, it's the well-being of the individual - - -

**MS GARTON:** Yes.

15 **COMMISSIONER SPENCER:** - - - that this is all about, presumably you have a body of evidence, or a body of research, to show you will achieve better outcome for the individual.

**MS GARTON:** Yes. Yes.

20 **COMMISSIONER SPENCER:** So has that evidence been - that's been presented as part of your argument, as to why this should be - - -

**MS GARTON:** Yes.

25 **COMMISSIONER SPENCER:** But it hasn't persuaded them to change, by the sounds of it.

**MS GARTON:** There's always enthusiasm when we first speak to people.

30 **COMMISSIONER SPENCER:** Yes, yes.

**COMMISSIONER FITZGERALD:** It's getting people to change that's always (indistinct).

**MS GARTON:** Getting behaviour changed within the organisation is hard.

40 **COMMISSIONER FITZGERALD:** I think cost implications to your approach. I mean it's - it's, as an additional element to taking into account, would there be cost implications for an entity that's really taking that that approach that your - - -



**MR GARTON:** Well, ironically the - the one that we - the pilot we did with Defence came up with the conclusion that it reduced cost of individual claim. It wasn't a very well managed study, but that was part one of the outcomes.

5

**COMMISSIONER SPENCER:** Presumably the argument being that because the individual's more involved in their own - - -

**MS GARTON:** And it's more tailored to their needs. It's quicker. Targeted, and therefore you get a quicker outcome.

**COMMISSIONER SPENCER:** And so, how comprehensively is your approach used, to your knowledge, around Australia? You've mentioned to us (indistinct).

15

**MS GARTON:** It's varied a lot over the years, and that's been largely because of encouraging the take up, and the change that's probably been involved from insurers and, those who are purchasers of the services. So, many providers were taking it up and not continued because they haven't had enough support from the purchasers as a group. Those who are still continuing to use it, are generally boutique providers who say this is the way we do business, we get good results and that's what we do, and we do it all the time.

**COMMISSIONER SPENCER:** And is your PhD research around this issue, I assume, will that add to that body of evidence, about the better outcomes it achieved?

**MS GARTON:** It certainly will. Yes

30

**COMMISSIONER SPENCER:** Yes, right.

**COMMISSIONER FITZGERALD:** Broadly, obviously this is an approach that you've - you're committed to, and you've evaluated and believe it's appropriate. Do you have any other broader comments in relation to rehabilitation services or systems, generally? I talked about that right in the beginning, but just trying to inform us all more effectively, either in terms of the way in which DVA commissions rehabilitation services generally. I understand, for example the RAP program is about to go through some sort of transformation which brings the doctor back into the loop.

40

So have you got any broader comments about the rehabilitation system?

**MS GARTON:** Because we're not actually delivering the rehab services, so no, I wouldn't like to make a comment, I don't think.

5 **COMMISSIONER FITZGERALD:** No, I know. I'm aware of that. But you're an observer of that.

**MR GARTON:** One of the major things we have experienced over time is the lack of data.

10 **MS GARTON:** Yes.

**MR GARTON:** When we started this program back in 2009, there was - what was the name of that comprehensive reporting system that the - - -

15 **COMMISSIONER SPENCER:** (Indistinct).

20 **MR GARTON:** (Indistinct) compared every jurisdiction in Australia, whether it's got jurisdiction, including Comcare, Seaman's Compensation and New Zealand. And there was data available, and we could measure our outcomes against the data in the various jurisdictions in which we have data. But that all disappeared, people stopped producing data. And where they still do, it's not comparable with data that was published earlier. So that's been the major issue in our view, because we can from our - pulling our data together we've done comparisons, and shown that  
25 compared to other - other jurisdictions we're getting 30-35 per cent reduction in costs or time off work.

**COMMISSIONER FITZGERALD:** So - - -

30 **MR GARTON:** So, data is the big issue. And the important thing about the Abilita program is it collects a lot of information about not only the individual's psychosocial issues, but all about the performance of the case, through its process, timing and client evaluation of what's being done for them. So we think it's a clear and comprehensive approach to  
35 management.

**COMMISSIONER FITZGERALD:** And if you were to get comprehensive data, who collects that? I mean what's the - because you're talking about, as you say there, various workers compensation and other  
40 compensation schemes. So, who was collecting the comparative data?

**MS GARTON:** SafeWork Australia is now collecting what's available.

45 **COMMISSIONER FITZGERALD:** SafeWork, and that's no longer available.

**MS GARTON:** Well there is there is a report that they put out, but it is limited in terms of - yes.

5 **COMMISSIONER FITZGERALD:** Okay. But that was the body that was putting all this together. All right. We can have a look at that.

**MR GARTON:** And it was called something else as well.

10 **COMMISSIONER FITZGERALD:** No, that's fine. Because one of the problems we've had is in the rehabilitation area, and I might say some others, the paucity of data, the paucity of outcome focused approaches, the lack of ability to actually determine whether or not we're achieving anything is - is frighteningly clear in this space. But we might go back  
15 and just see what was previously available. Any final comments that you have for us?

**MR GARTON:** No, I don't think so. I think we - well, just simply, a marketing bit about being ahead of the game. We were ahead of the game  
20 10 years ago, and the approach we're adopting now seems to be creeping in around the country in various jurisdictions.

**COMMISSIONER FITZGERALD:** Good. Thank you very much.

25 **MR GARTON:** Thank you.

**COMMISSIONER FITZGERALD:** Thank you for that.

**COMMISSIONER SPENCER:** Thank you.

30 **COMMISSIONER FITZGERALD:** And could I have Mr John Kennedy. Thank you. Good, thank you very much. Just, after Mr Kennedy is finished, we will have an opportunity if anybody from the floor wants to come and make a short presentation. So that's available to you, because  
35 we've got a little bit of time. Thank you, Mr. Kennedy. If you could just give me your full name.

**MR KENNEDY:** John Edward Kennedy.

40 **COMMISSIONER FITZGERALD:** Thank you. And are you representing yourself, or any other organisation?

**MR KENNEDY:** Just myself.

**COMMISSIONER FITZGERALD:** That's terrific. Thank you very much.

5 **MR KENNEDY:** I do have an advocate, but he's not able to be here today.

**COMMISSIONER FITZGERALD:** That's fine. So ,if you could make just an opening statement, then we'll have some questions and if you can speak up as loudly as you can, that would be terrific.

10 **MR KENNEDY:** Okay. My biggest problem is that I was going to have a whole pile of information here and my advocate told me that my information, no longer exists because it was part of the RSL fire (indistinct), and all of it burned away. But I do have recollections, and  
15 knowledge, and experience - - -

**COMMISSIONER FITZGERALD:** That's fine.

**MR KENNEDY:** - - - over a quite a large period of time, where I've  
20 never danced the dance. I've never been able to get into to the competition. The information I have at the present time, is a - is a note from my doctor, saying that my situation will continue to the day I die. DVA, in early stages - and I'm talking about, my situation is - I'm not a - I wasn't in the armed services, I was part of the government department in  
25 Adelaide which maintained the Maralinga barrier. And we were involved with the maintenance and the security of the site.

Very, very interesting, in so much as that for years I try to get information that no one would tell me, no one would do anything, then nothing would  
30 happen. Then all of a sudden I made an application in - I think it was about 2006, to see if there was anything they could do to assist me with the medical side, because it had been ongoing and ongoing and ongoing, and I was getting paid for medical benefits. It was just never stopping. And then all of a sudden they, obviously, checked up through government  
35 departments et cetera, and they gave me a White Card.

Then when they had the article in the paper in, I think it was, 2017, they were going to give people like myself and contractors and all that sorts of people a Gold Card, and look at their compensation. And I didn't get the  
40 Gold Card, but I didn't get to November last year. I've had ongoing massive surgeries and the likes, and they've been painful. But the minute I apply for compensation they just, went, (indistinct). DVA didn't want to know anymore, and I became part of Comcare.

Comcare, well you might as well talk to the back of your toilet door, because you get more common sense out of it, than the person you speak to. We'll just say, if you do speak to my team leader, and then the team leader - they both fob you off. I've been hours and hours and hours, and end up from where I started, back exactly where I started from. No matter what state, wherever I go, what Department I go to. Even to the extent that when they said - they said, "Give us some information." So I got information and that, but they said, "We need information of when you actually worked and the paperwork from when you worked there."

5

10 I said, "Do you realise that's over 50-odd years ago? Where do you think I'm gonna get that from?" I said, "Also, weapons research, where I work, has now had five or six, at least, different names." So I said, "What I can do, is I can get information," because my direct pay master and also my records officer, and I do have a lot of work with them, and the wife of my direct boss and I do have communication with, like, two engineers. One of them has since passed away. The other one, I haven't been able to get hold of.

15

20 The fellow I directly worked for, his wife gave me a stat dec, saying that she knew all about it when I worked there, and all that the same again, and so did my pay master, the records for officer - fellows I worked with, all did stat decs. Sent them back, without the information they wanted, and they said, "Well, this is no good. We haven't got the information from the department." I said, "I've already told you that, when you told me to get this information, I already told you that I didn't have it because it's gone through five different departments, and they have no further records."

25

30 So I chased up the records with the Taxation Department, and the Taxation Department said, "Oh, no, we don't have records like that." They don't go back that far. I said, "Taxation Department doesn't go back that far?" I said, "I thought they went back to when Moses was here." But they said, "Well, you don't need to be like that."

35

40 So, they did everything I went there, was fob you off, fob you off, fob you off, fob you off. So I have got coming from them, because I got on to someone yesterday at Comcare, and he said he would send me back all my information. I'm more than happy if you think it'll be any benefit to you, to pass it on to you, and get copied of it for you. But it's interesting reading, and the reason I'm here is that if you come across it, I don't know how you'll get around finding out anything, because you don't - you can only get as far as the team leader, and they just completely fob you off, block you off, tell you when they want to tell you.

I said, "I've got a Gold Card. You must have some records to give me that. Doesn't just give me that because you like me. No answers. No further answers, just the doors closed slam.

5 **COMISSIONER FITZGERALD:** Could I ask a number of questions?  
So just to put this in context, you were involved in the British nuclear tests carried out at Maralinga?

**MR KENNEDY:** Yes.

10

**COMISSIONER FITZGERALD:** And the Government established a Royal Commission in relation to those nuclear tests in 1984

**MR KENNEDY:** M'hmm.

15

**COMISSIONER FITZGERALD:** Yes. And the Royal Commission recommended that the reverse onus of proof aspects of SRCA be extended to cover civilians and Aborigines who were in the area at that time, which the government did in 1989.

20

**MR KENNEDY:** M'hmm.

**COMISSIONER FITZGERALD:** Yes. And then there was a special administrative scheme which was created and then, eventually, the nuclear tests were initially classified as peacetime service, and you would have had access under SRCA? SRCA, the compensation scheme that DVA administers? You haven't had that - - -

25

**MR KENNEDY:** They told me nothing. Absolutely nothing.

30

**COMISSIONER FITZGERALD:** And then there was a review called the Clarke Review that said that it was now deemed to be non-war-like, hazardous service which meant that - and recognising people - the high incidence of cancers and PTSD, and they made some recommendations. And then I understand DVA, at some stage, developed a set of standard statements of principles guidance in relation to radiation dosages, and stuff like that. Were you aware of any of that?

35

**MR KENNEDY:** No.

40

**COMISSIONER FITZGERALD:** No, that's okay. And then finally, in 2017-2018, the Government extended the Gold Card to all Australian nuclear test participants. And you received your Gold Card as a consequence of that.

45

**MR KENNEDY:** Yes.

5 **COMMISSIONER FITZGERALD:** And 650 Gold Card holders who were either nuclear test participants, or members of the British Commonwealth Occupation Force received those cards. So right at the moment, you've got the Gold Card because of that change, that recognition.

10 **MR KENNEDY:** Yes.

**COMMISSIONER FITZGERALD:** But, in relation to benefits, you're now dealing directly and only with Comcare not with DVA. Is that correct, or both?

15 **MR KENNEDY:** No, DVA, they just don't want know about it.

20 **COMMISSIONER FITZGERALD:** Do they acknowledge that your circumstances, those that were involved in the Maralinga and Emu Fields nuclear tests, actually have been recognized as being non-war-likes. Do they talk to you about these issues?

25 **MR KENNEDY:** After I got to my question, I asked him on the phone, was - how did they put it - they said that - can you run it through that again, please (indistinct).

30 **COMMISSIONER FITZGERALD:** That one of the reviews, the Clarke Review, said, according to the notes that I have, that it should now be classified as "non-war-like hazardous service," which means you're entitled to a different set of benefits that had it been regarded as "peace time" .

35 **MR KENNEDY:** No, they never gave it - I haven't received any (indistinct) information and the likes. I never received anything, other than to tell them that I'm not - don't' qualify for them.

**COMMISSIONER FITZGERALD:** So can I ask this question. Are you - has any claim, either through Comcare or DVA, been accepted?

40 **MR KENNEDY:** No.

**COMMISSIONER FITZGERALD:** You indicated that your health needs are being funded. Is that correct.

45 **MR KENNEDY:** Yes.

**COMMISSIONER FITZGERALD:** And can you tell me who funds those, to the best of your knowledge?

**MR KENNEDY:** The DVA.

5

**COMMISSIONER FITZGERALD:** So, DVA has you as a client.

**MR KENNEDY:** Yes.

10 **COMMISSIONER FITZGERALD:** In relation to services. In other words, to treat your - - -

**MR KENNEDY:** To treat something which is ongoing and will be to the day I die.

15

**COMMISSIONER FITZGERALD:** So they recognize that you have these illnesses?

20 **MR KENNEDY:** They've got information that doctors says is that it is there, it is pertinent to the radioactivity and - - -

**COMMISSIONER FITZGERALD:** So they recognize that it arose as a consequence of the nuclear tests?

25 **MR KENNEDY:** Well, they haven't said it in those words, they just said - their exact words, I think is that they give you the health card but they take no responsibility.

30 **COMMISSIONER FITZGERALD:** Right. So, they've - but whilst they give you the health card, because of the government decision, they don't give you any pensions or benefits attached to that?

35 **MR KENNEDY:** No. I didn't ask for a consideration of pain and suffering, which is that was never going to end. And I've got it, and I've had it for years.

**COMMISSIONER FITZGERALD:** Sure.

40 **MR KENNEDY:** I've got more patchwork that made from plastic surgery than anybody would wish to have, but I'm very fortunate. The people that I feel dreadfully sad for, are the people that were in the services and actually were there when the when the bombs went off. They would have been monstrously treated. I feel absolutely, totally ashamed to be an Australian, and I continue to be with the way they treat their  
45 servicemen.



5 I was always a very proud Australian, and I am very proud Australian, but I'm not very proud of our governments and how they treated the men of this country that have given their lives and done the things they've done, (indistinct) and generate who they are and what they are. And to me, that that burns more than the pain of these, because I came from big families, company families, and I always respected everybody and thought I would get respect in return. And I thought that, you know, if I did the right thing in life that life would take care of you.

10

I will never be a negative person. I will persist through. And if I don't get something well, I'll just say to myself, "Well, you did pretty well, boy. You don't see those people that got nothing, and their families today have congenital anomalies, and God knows what else, and have still never been (indistinct).

15

**COMMISSIONER FITZGERALD:** John have you had need of services in relation to mental health issues, depression or anxiety, or things like that as a consequence of what happened?

20

**MR KENNEDY:** Well, I guess that there probably would have been times when they would have been fairly handy, especially when this all occurred. It was supposed to be a three hour operation, in at 8 and out at 11. And I got out at quarter to seven at night. It isn't much fun, but I survived and I'm here to talk to you today, and there's a lot of people worse off than I am. So I'm grateful for the opportunities I've had, and I'll pursue the hell I'm in today, just to see if I can benefit somebody by being here. That's why I'm here.

25

**COMMISSIONER FITZGERALD:** Sure. So my reason for asking this question was, were you aware, if you had needed it, were you offered any counselling services?

30

**MR KENNEDY:** No.

35

**COMMISSIONER FITZGERALD:** And do you receive - sorry. The Gold Card covers many services, and health services, mental health services and those sorts of things. Are you aware of the sorts of services you can acquire - - -

40

**MR KENNEDY:** No, I'm never looked into what it does cover. I've just submitted it when I've had the likes of this to happen. Which, I wouldn't know what that bill was, but that would mean pretty serious, I can assure you.

45

**COMMISSIONER FITZGERALD:** John, my last question. Are you supported by any organisation. There are many ex-service organisations that you've heard of.

5 **MR KENNEDY:** I have had some services from an advocate, Mr Joseph. He was with the Darwin RSL, unfortunately that's not there at the moment. It's going to get rebuilt from what I can gather. But he's been the only help I've had. Tried very hard, but the bottom line of it is, is that you just can make so many phone calls and contact so many areas, and as  
10 as soon as you mention Maralinga or weapons research, they go "Nope."  
And just get knocked all around the place, day after day, week after week, month after month, year after year.

15 **COMMISSIONER FITZGERALD:** So can I just ask - my last question is just a question, just out of curiosity. The condition that you have is it - what was the nature of the condition that you have?

**MR KENNEDY:** It's continual basal cell carcinomas into the bone, into the brain area, et cetera.

20 **COMMISSIONER FITZGERALD:** There was a scheme that was established, it was available to people where they developed cancer within 25 years of the tests. Were you aware of that?

25 **MR KENNEDY:** No.

**COMMISSIONER FITZGERALD:** And you were able to claim compensation from the British Government.

30 **MR KENNEDY:** No, that was signed off and I got told nothing.

**COMMISSIONER FITZGERALD:** You missed the claim - you missed the end of the scheme.

35 **MR KENNEDY:** Never even got out about it, to know there was a scheme.

**COMMISSIONER FITZGERALD:** All right.

40 **MR KENNEDY:** At that stage, I was being operated on, the fellows that were previously - just operated me, just recently, they were being - the fellows that trained them were operating on me in Calvary Hospital in Adelaide. And they knew about what the situation was but, I didn't have any knowhow or background to be able to question the situation, because I  
45 didn't - - -

5 **COMMISSIONER FITZGERALD:** Nobody had advised you about all of these changes and possibilities? I'm not suggesting that you would have been, necessary, eligible for any of those matters that I've referred to - - -

**MR KENNEDY:** No, and I don't take it that way, either. In my experience - - -

10 **COMMISSIONER FITZGERALD:** But you weren't advised about those sorts of things?

**MR KENNEDY:** No, none whatsoever. No.

15 **COMMISSIONER SPENCER:** John, just additional question. You mentioned the - your advocate may have been here today, and there were records that had been destroyed.

**MR KENNEDY:** Yes.

20 **COMMISSIONER SPENCER:** So, are those all historical or is there any current - is there any current activity or claim you're engaged with DVA on?

25 **MR KENNEDY:** As I said it is not - it's DVA, I've gone all with Comcare.

**COMMISSIONER SPENCER:** So, did your advocate ever think of going to the Veterans' Review Board, to challenge - did you discuss that?

30 **MR KENNEDY:** No he hadn't, because he was going through this Comcare process, and that's fairly comprehensive information that they want and we actually had a solicitor, someone that he knew that knew someone, could get government information, supposedly, from Dubbo in New South Wales, in the archives there. But when I was speaking to him  
35 yesterday, again, he said, "John, I wouldn't hold my breath," and now saying that they don't keep them that old, but you and I both know they do, but that's the answer you're going to get.

40 **COMMISSIONER FITZGERALD:** Sorry. But there's no doubt that you were there? You've been accepted, you've been given a Gold Card. The Gold Cards were given to those who were, using layman's terms, part of the nuclear test program.

45 **MR KENNEDY:** Yes.

**COMMISSIONER FITZGERALD:** So, they don't doubt that you - - -

5 **MR KENNEDY:** (Indistinct) Commonwealth release to the fellows that I mentioned to you, I have got the paperwork where they've sent me the - sorry, I'm a bit slow thinking.

**COMMISSIONER FITZGERALD:** That's okay.

10 **MR KENNEDY:** Stat decs. They've got copies of that, or well, I believe it. And I've asked for a copy of that to be sent to me, so that if you gentlemen, it's going to be of any benefit, I can just forward it on to you.

15 **COMMISSIONER FITZGERALD:** We're interested in the issues that you've raised, John, and that's very important. But I don't need the actual details, at this stage.

**MR KENNEDY:** All it does is it shows you a process. That's all.

20 **COMMISSIONER FITZGERALD:** Yes, that's fine Richard?

**COMMISSIONER SPENCER:** No, that's fine.

25 **COMMISSIONER FITZGERALD:** In relation to - there are a number of groups that have served their country in different ways, like you have, and have been affected by it, and they fall between the cracks. But in relation to your own area, this - this whole area was subject to a Royal Commission and I am surprised that you've had such difficulty in having these matters dealt with over that time.

30 **MR KENNEDY:** If you do an exercise with any Government department, and you mention Maralinga, that is the worst word you can mention because they would say, "No, I don't have" (indistinct), and so-and-so, I don't know (indistinct) to so-and-so. And that goes on, and on, and on, and on. I just got to a stage where I was saturated in the brain  
35 with all the things that I tried to do, and people I tried to contact and got fobbed off, that I then spoke to Mr Joseph, who has been doing his best but unfortunately the RSL got burned down and stopped us in the middle of our tracks.

40 And that area, it seems like that I'm still chasing the wild goose that's never going to be there, by the look of it. But, as I say, I'm here today purely to - if I can be a benefit to somebody else, with someone like yourselves that are trying to their damndest to make something happen  
45 for them, then I hope in some small way I might have added to that situation for them.

**COMMISSIONER FITZGERALD:** Thank you very much, and we appreciate you appearing. So, thank you very much.

5 **MR KENNEDY:** Thank you.

**COMMISSIONER FITZGERALD:** That's good. Thank you, John. Just get through it.

10 **UNIDENTIFIED SPEAKER:** (Indistinct).

**COMMISSIONER FITZGERALD:** Yes, we have. So, look, we've got Phillip Sutherland, is that right? And then Terry and Diane, is that right? So what we might do is just take a five minute break. Some of you may need to do that. There is tea and coffee out there, I say with expectation.  
15 And then we'll come back and have any final presentations. Thank you.

**SHORT ADJOURNMENT** [10.55 am]  
20

**RESUMED** [11.20 am]

25 **COMMISSIONER FITZGERALD:** Okay. Good. So can we have Mr Sutherland? Phillip Sutherland, please? You know the drill?

**MR SUTHERLAND:** Yeah. Know the drill.

30 **COMMISSIONER SPENCER:** Grab your seat.

**COMMISSIONER FITZGERALD:** No, that's good. Are we set? Good to go? No, that's fine. Phillip, if you can give your full name and any organization you're representing, if you are.  
35

**MR SUTHERLAND:** Phillip Sutherland. And I'm just representing myself. No organisation.

**COMMISSIONER FITZGERALD:** Terrific. And Phillip, if you can just give us a brief statement and then we'll have a chat.  
40

**MR SUTHERLAND:** Yeah, I served in the military from 1981 through to 2012 as an infantryman, as well as operations in East Timor, Iraq, Afghanistan and a few others. And I've been in the DVA system,  
45 probably since about 1989.

5 I, during my service suffered a number of injuries and I have a number of  
accepted claims to Gold Card level. And within my service, I've not only  
dealt with DVA personally, but I've also assisted serving and ex-serving  
members in their claims. And a couple of things that through my opinion  
- is DVA is like an insurance company. You put in a claim and, unless  
you have a clear advocate that they see on the documentation, they will try  
and immediately knock back as many claims as possible, so as they get  
the rule of percentages where how many will reapply. Okay.

10 And I've seen – that's through the experience of seeing people who I've  
dealt with who put a claim in, did not have an advocate, and their claims  
were, seemed to be fairly immediately knocked back. So that's – that's  
one of the issues. So the other – so, you know, my advice has always  
15 been to have an advocate. Now, the - the issues with the advocates - and  
you know, God bless them for what they do - is the limited experience.  
For instance, the fellow that we just heard with the weapons testing, he  
falls in the middle of the non-war service and war service, so that's a bit of  
a grey area to a lot of advocates as well.

20 So depending on your advocate it can really represent the outcome that  
you get from DVA. DVA has a lot of good people working for them.  
However, the system itself is convoluted and absolutely ridiculous. You  
know, when you've got a fellow who has problems using a mobile phone  
25 that has to go to an online system, that's not a good system. When you  
have to wait on the phone for sometimes up to an hour to get through to a  
person in DVA, that's not a good system. When you get - when you ring  
up a number of times asking the same question and you get a number of  
different responses, that's not a good system.

30 The other thing is, is I've got accepted conditions because I go through the  
range of Acts from 1981 through to, you know, present day. Under one  
Act they'll accept a condition. However, while the Acts have supposedly  
improved for the benefit that condition is accepted under, that's  
35 supposedly not good enough back in the back in the past Act - but you  
cannot – you - your – it does - your case does not progress with the Acts.

40 And a perfect example of this is I had to go for major surgery, and so I  
contacted DVA in relation to work coverage. So, when you're in uniform,  
if you have an injury, you are not only entitled to free medical treatment,  
but you are also covered for your income, if you're off work. However,  
when you leave Defence or the military, you become less of a person  
because that doesn't occur. You do not get - you do not have an  
entitlement for the same coverage, even though it's the same injury.

45

5 So I contacted DVA because I had to go in for major surgery and I knew that it would be quite a bit of time off work. The first response I got was, "Yes, you're entitled to income coverage." Then, after about six more phone calls to DVA, it was discovered no, no I wasn't. If I was under one of the more current Acts then I may have been, but because I wasn't, there wasn't entitlement. So, that's fine, so - and you know - and people only know what they know. But there is that issue where you do get different information from the DVA employees.

10 One of the issues that I have, as well, is because under the Act I was entitled to a token payment for my time off work, so it wasn't worth coverage. So it's not in line with any government's policy of keeping all the people in the workforce and supporting veterans in the workforce, because what happened was, is I've had - I had to take my sick leave and I  
15 had to take my recreation leave to cover the operation and the recovery from that operation. So that was effectively the Federal Government passing the buck on to my employer. So where - and if I was self-employed, you know, unless I had WorkCover, you know, you don't get full income coverage. So, you know, to me that is absolutely ridiculous.

20 Now, we see that there's a range in the workplace of all this paid leave that you can get. So there's maternity leave, there's cultural leave, there's all sorts of leaves that you could be entitled to. So why doesn't DVA have a veterans medical paid leave? And it could be a six week allowance a year, where if it's used, it's used; if it's not, it's not, you know, but for specific  
25 treatment and recovery from accepted conditions.

I suppose the other issue in line with that is, I contacted the Prime Minister, I contacted the Opposition Leader, I contacted the Minister for  
30 Veterans' Affairs to articulate that this was wrong and it was an issue. Zero response.

Now, we talked about all these bodies and everything that, you know, that's available to veterans. One of the things that I think was just  
35 highlighted by someone who was previously up here is you can only know what you know. So this idea of "Oh, we've got these great websites and we've got all this information and everything else"? That's DVA being reactive, not proactive. You know, I have never received a phone call from DVA to say, "How's everything going?"

40 You know, there's also the fears that are put out there. And these are, while I've been dealing with other ex-serving or serving members; there's a few out there, that they've, you know, they've got this wonderful White Card for a specific treatment. However, if they try to get other injuries  
45 acknowledged, they could lose it altogether. So they can lose access to

5 what they've already got and somehow that was coming through some of the advocates. They'd say, "Look, be careful." You know, if you put in claims they could always turn around and say, "Look, you magically got better," even though you've got a degenerative disorder that will never get any better.

10 So there's a lot of fallacies out there and I think the old "just go to the website and magically find everything in there, find your entitlements and everything else", doesn't work.

**COMMISSIONER FITZGERALD:** Okay.

15 **MR SUTHERLAND:** So there – you know, it's just a convoluted system. These Acts: how can the Acts change but leave the person behind? You know, if the Acts are changed to improve then the person's benefits and rights should improve along with the Acts.

20 **COMMISSIONER FITZGERALD:** Could I ask a question, Phillip? Do you – you've put in multiple claims over a period time?

**MR SUTHERLAND:** Yes.

25 **COMMISSIONER FITZGERALD:** And you've indicated that you've been a client of the system since 1989?

**MR SUTHERLAND:** Yes.

30 **COMMISSIONER FITZGERALD:** Or thereabouts. So a long way. One of the previous gentleman was - we were talking about whether or not they were assessed at any stage. Now, the Acts vary as to how you deal with disability, and we agree with you. They completely – they're complex Acts. Anyway, we've made some recommendations about that. But do you ever get assessed as a whole, so that they actually - have you had a medical assessment, which has looked at you in totality and said,  
35 you know - - -

40 **MR SUTHERLAND:** No, not at all. Not really. What they'll do is the only whole type of assessment that I got was relating to two specific injuries. So, you know, it may be you've had your, you know, your knees reconstructed, your shoulders reconstructed, but it's not - it doesn't take into account how all of those injuries together affects you on a day-to-day basis.

45 **COMMISSIONER FITZGERALD:** Correct.



**MR SUTHERLAND:** Like, I can come to work and I can sit down, you know, do what I need to do, but then go home and collapse because all those things are, you know - - -

5 **COMMISSIONER FITZGERALD:** Sure. So you've not had a whole of, sort of, a whole person sort of assessment.

**MR SUTHERLAND:** No, no.

10 **COMMISSIONER FITZGERALD:** I just should be clear. One of the Acts requires you to look at individual injuries and others – and one of them doesn't. Just coming back. The issue about not knowing what you don't know.

15 **MR SUTHERLAND:** Yes.

**COMMISSIONER FITZGERALD:** It's a very important one. Have you had recent dealings with DVA as a client?

20 **MR SUTHERLAND:** Yes, yes. In fact my dealings was late last – mid to late last year.

**COMMISSIONER FITZGERALD:** So you were aware that this transformation program or veteran centric reform is being rolled out and part of that is My Service.

25

**MR SUTHERLAND:** Yes, yes.

**COMMISSIONER FITZGERALD:** And there's a new way that you'll enter the system and you indicated that people that are not literate in relation to, you know, modern IT, would find that a bit of a problem?

30

**MR SUTHERLAND:** Yes.

35 **COMMISSIONER FITZGERALD:** But was your experience that those changes were beneficial to you, or not?

**MR SUTHERLAND:** Well, the thing is, is the system being rolled out hasn't really engaged with the people who are using it. So they're, you know, they're rolling out the service and everything else but the reason I found out about it is because I went in one day, opened it up - I went, "Oh, what's all this? It's all changed?" You know, so the rollout hasn't been, you know, I don't think it's been a great rollout. And, you know, you've got to look at – when I – it's a negative term – but you've got to look at the

40

people who are using it, you know, you've got people with eyesight issues  
- you've got - - -

5 **COMMISSIONER FITZGERALD:** Sure. So can I ask, sir, did you  
actually use it?

10 **MR SUTHERLAND:** Yes. I – well, I started to use it, so I've used it as  
far as the vehicle booking system. But however, for other - because some  
of the policies and some of the, what is it, quick fact sheets and everything  
else, there's still areas of interpretation. So there's still areas of  
15 interpretation where you sit there and go, well, what does that really  
mean?

15 **COMMISSIONER FITZGERALD:** Sure.

**MR SUTHERLAND:** And then you ring up DVA and then that's when  
you get, "Well, I've" - and this is exactly what I got: I got the  
interpretation from one person at DVA saying "I interpret it this way."  
But then I got another one who was saying, "I interpret it that way". So  
20 even the people who work in that system have problems understanding it.

**COMMISSIONER FITZGERALD:** Because one of the - one of the  
aims of the system is to reduce the need for advocates, not to zero, but to  
reduce the needs. But what we've heard this morning and many times is it  
25 all depends on the information you put in, you the claimant. And so  
without good advice and clear understanding, you may well input  
information or terms that have consequences.

30 So I suppose we are struggling with, yes, we want an improved system.  
There are early signs that My Service is improving, but there is still the  
issue about, you know, having enough knowledge to be able to put in a  
claim which is beneficial to your interests.

35 **MR SUTHERLAND:** In all honesty, through my experience and seeing  
the experiences of other people, they can put whatever electronic system  
they want on there. I would still go for a physical advocate because the  
trust in the system is not there. So - the trust in the system is not there.

40 **COMMISSIONER FITZGERALD:** You indicated that you are under  
multiple Acts?

**MR SUTHERLAND:** Yes.

45 **COMMISSIONER FITZGERALD:** Are you under three Acts?

**MR SUTHERLAND:** Yes.

**COMMISSIONER FITZGERALD:** And as you may have heard earlier, one of our intentions is to try to get to a situation where there are two schemes and you're in one or the other. Now, that will take some time and it's not easy to achieve. You may not have an answer to this, but does one scheme work better for you than the other? Does one Act work better for you than the other?

**MR SUTHERLAND:** You can't tell.

**COMMISSIONER FITZGERALD:** Yes, fair enough.

**MR SUTHERLAND:** Honestly, you can't tell because you don't know which scheme is working on what because it is so convoluted.

**COMMISSIONER FITZGERALD:** Complex. No, I think that's a very fair answer, so thank you for that.

**COMMISSIONER SPENCER:** Phillip, have you engaged with the Veterans Review Board at all, as part of your claim?

**MR SUTHERLAND:** No.

**COMMISSIONER SPENCER:** Okay.

**MR SUTHERLAND:** I've written directly to - so I tried to engage with the RSL with which it - sorry - issues to do with DVA.

**COMMISSIONER SPENCER:** Yes.

**MR SUTHERLAND:** I have spoken previously to Ministers of Veterans' Affairs in Canberra. And no, engaged with the politicians, so both sides including local and it just seems to be, you know, you get the old, "We acknowledge receipt of this," and then you don't hear nothing back.

**COMMISSIONER SPENCER:** And through all your claims, you always use an advocate?

**MR SUTHERLAND:** Yes, yes.

**COMMISSIONER SPENCER:** And that worked well for you?

**MR SUTHERLAND:** Depending on the advocate, you know.

**COMMISSIONER SPENCER:** Yes.

5 **MR SUTHERLAND:** It is depending on the advocate. Because of my  
military experience and as I said look, you know, I think the people who  
do those jobs, because they're not doing it, you know, a lot of them are  
just part-time. And from their experience from, you know, many moons  
ago, type of thing. And, you know, some of them - some of them don't  
10 have relevant information. You know, so it depends on the quality of the  
advocate.

**COMMISSIONER SPENCER:** And look, I suppose a general question.  
You're describing the whole range of frustrating circumstances and  
dealing with the Department. So if you step back and said well what are  
15 the couple of things I would want to see changed?

**MR SUTHERLAND:** Yes.

**COMMISSIONER SPENCER:** What would have made that journey for  
20 me easier; what would those look like? What would your expectations  
be?

**MR SUTHERLAND:** Well, the expectation is, if, you know, more trust  
25 in the organisation to start off with. So, I trust that they actually are -  
because, you know, I trust that DVA are the advocates for you to, you  
know, get your entitlements or get the support you need or whatever. So  
that is one change I'd love to see. I'd love to see veterans and ex-veterans  
be able to turn around and say, well, "DVA is there for me". Not, "I need  
30 an advocate and then DVA may be there for me". So I'd like to see that  
trust change.

The communication: I'd like to see the communication change and the  
accessibility for communication. If there's any, you know, in these fact  
35 sheets and in the policies and everything else, if it's open to interpretation,  
then that's an issue.

And especially when the DVA people do not, you know, they have their  
own interpretation on the same – on the same document or policy. So,  
probably – I don't know what the training's like for the people in DVA that  
40 you actually contact, but, you know, do they have sessions where they all  
get together and say, "Well, this is a fact sheet and this is exactly what it  
would say"? So more clear?

And as I said, if there's any change to DVA, bring the person – sorry –  
45 any changes to the Acts or whatever: bring everybody along, you know?

5 Don't leave the people back there in 1980/81, under something that is not up to standard today. Because if I was under a different Act, I wouldn't have had to use my sick leave and I wouldn't have had to use my recreation leave to cover something that should be effectively covered by (indistinct).

10 **COMMISSIONER SPENCER:** No. Thanks, Phillip. And on communication. We've heard this several times. So, I think, to be fair to DVA they're trying to address this issue but we've sometimes heard from veterans who have lodged claims and they've gone to the VRB and VRB has this outreach program where they phone or make contact with the veteran and then have a conversation. Sometimes we've heard the comment, "That's the first conversation I've had with somebody who's really been listening or engaging with me."

15

**MR SUTHERLAND:** Yeah.

20 **COMMISSIONER SPENCER:** So, some of our recommendations go to trying to bring those processes much earlier and upfront to avoid confusion, to avoid some of the issues you're talking about. So more of that would be helpful, I'm assuming? In your experience?

25 **MR SUTHERLAND:** We're - because I had a number of soldiers come up to me and go, you know - or I've said to them, "Come to me with your records. We'll sit down and we'll go through them." That's what DVA should be providing. They should be providing where you can go in with your records and sit down and they will go through and say, "Well, this is what, you know, these are what your claims should be."

30 Because currently advocates do that, you know, or individuals, like there's so many individuals that say, "Oh, you know, I had this injury back in this day" and then you sit here and you go, "Well, have you got a claim in for it?" "Oh, no, I did it doing this" or, you know, whatever. And they just don't know.

35

40 So if DVA wants to put their face forward as an organization that is out there to help, that's what they should be doing. They should have, where - you know, where veterans walk in and say, "Okay, you know, it's now been 10 years since you last, you know, since I last put it in, you know, my knees are getting worse, my shoulder's getting worse, my neck's getting worse, my back's getting worse. What should I do? You know, but there's not really that. You know.

45 **COMMISSIONER SPENCER:** No. Thanks, Phillip.

**MR SUTHERLAND:** No worries.

5 **COMMISSIONER FITZGERALD:** Just going back to this paid leave issue. You've made the point. But you just said then when you were talking to Richard, do some Acts provide for paid leave?

**MR SUTHERLAND:** My advice, so - - -

10 **COMMISSIONER FITZGERALD:** Pay income support is the real term.

**MR SUTHERLAND:** My advice was yes.

15 **COMMISSIONER FITZGERALD:** Right.

**MR SUTHERLAND:** So my advice is (indistinct words) and, as I said, I think it was about - I think it was about six phone calls. So, first of all, I rang up and they said, "Yes, no worries," you know, "If you're off work, we have income coverage."

20 **COMMISSIONER FITZGERALD:** Yes.

**MR SUTHERLAND:** Then when I rang up to reconfirm something, they said, "Oh no, you're under this Act, so you're not entitled to income coverage. You're entitled to an income payment, which was, you know, it's nowhere near your income. So, and I responded, saying, "Well, that's great. Who's going to pay the rest of my mortgage (indistinct)?" But then I was told that if you apply under this Act, you know, if you apply to have this under this Act, you may be entitled to income coverage. And I said, "Well, how do I do that? And they said, "Oh well, we don't really know. We'll get back to you." And never got back to me. So my understanding from the advice from DVA is if I was under a more modern Act that there's income coverage.

35 **COMMISSIONER FITZGERALD:** All right. Well, we're trying to harmonize some of those provisions. But they're not easy. But, yes, I understand that. Can I ask one last question? Were you an active user of ex-service organizations in supporting you through, you know, post-service activities?

40 **MR SUTHERLAND:** No, no.

**COMMISSIONER FITZGERALD:** And do you have any views about whether or not ex-service organizations can be used by governments to leverage better service or support for ex-service personnel?

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**MR SUTHERLAND:** Yes. I, look, I never used them personally. I did have engagements with them and I believe the - those sorts of organizations: yes. Definitely. You know, depending on the organization, and depending on what they could have as a, you know, what their charter is and what they want to produce, you know. If they're in it for themselves in some way, maybe not as much. But if they're in it for the right reasons, yeah. But I'm a bigger advocate for organizations like Soldier On, and yes, other organizations like that. I think they have a definite place and governments should be listening to them as well.

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**COMMISSIONER FITZGERALD:** Well, just lastly on that last point. Just my last question and it's not something you've raised, but I'll just raise it and you may or may not have a view on it. Moving into employment within the territory itself, you're working within the territory?

**MR SUTHERLAND:** Yes.

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**COMMISSIONER FITZGERALD:** Were you in the Army when you left the territory?

**MR SUTHERLAND:** Yes.

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**COMMISSIONER FITZGERALD:** You were in the Territory. How easy is it for people to transition into employment within the Northern Territory environment from your experience? And the second part of that is, are there specific things you think we need to be looking at? We have made some references to employment.

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**MR SUTHERLAND:** Okay. I'm actually really glad you brought up that point. I used to – look, Defence has a transition. Okay. Transition seminars. That is basically where they sit down Defence and they say, right, when you go, you're entitled to this. You're entitled to that, you know, you're entitled to this. That is not reintegration. Okay. And what I think is the thing that's missing and I tried to help instigate within the Territory is reintegration.

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So getting people to have, like, a period where they can actually go to private industries or government or whatever, and do a transition period. And there was a number of companies, locally, that were very keen to assist on that. So it was a way that an assessment can be provided back to Defence saying, you know, this guy, you know, or this girl, integrates really well - all these issues.

Then it would also give the industries the opportunity to say, well, you know, this person is definitely someone that we may want in our system. So that was something. I think the Northern Territory Government is extremely active in trying to capture ex-serving personnel. Look, it's the same anywhere in the state. A lot of service personnel, after being in for many years, like, as I said you know, I was in since I was 17. You walk out the door and you go, "Geez, what can I do?" Okay.

So the problem is the soldiers still do the same thing. They have problems when they walk out and they go, well, I've served overseas, you know, and I've, you know, done this, done that. But they don't realize what the value is - what their values are for private industry or for employment. I think the Territory does it a lot better than some of the other states or territories. And I definitely think, though, there's a lot of room for improvement nationally on that, you know, and capturing - you know, we have some of the most qualified people that have some of the most sought after skills. And when they go out, they just have no direction. They have no real assistance about, you know, they go - well, you know, I've used some of the most modern communications equipment in the world. You know, I've turned up for work every day, you know, on time. But there's just no one there to catch them.

**COMMISSIONER FITZGERALD:** In relation to that - you indicated - did you actually try to promote the program where people would spend some time with an employer.

**MR SUTHERLAND:** I tried to.

**COMMISSIONER FITZGERALD:** And what happened to that?

**MR SUTHERLAND:** Well, I went through, and this is where I had a conversation down in Canberra, many years ago, because at that stage I was working for the Defence Reserve Support, so Federal Government. And I spoke to a number of organisations, and some of them it was all too hard. "Oh no, no, no, we can't." Because you've got to be careful because I tried to instigate that with people being medically discharged. Because you've got to watch the whole idea about being poached. Because, you know, the military does not like their people being poached for obvious reasons.

So that's why I tried to instigate it with people who were medically discharged. However, I got this - you know, it was all too hard. You know. It was all too hard. All too difficult. Even though we had a number of industries and industry bodies that thought it's - - -

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**COMMISSIONER FITZGERALD:** That's a good idea. Okay. Thank you.

5 **MR SUTHERLAND:** But, you know, and that's something that DVA should be very, very - very focused on, is, you know, forget about transitioning. Okay. Because that's what the military do to kick them out the door. And I mean that in the nicest way. But reintegration. You know, if we help our, you know, our ex-serving members reintegrate, then we would assist on a lot of other problems. Because when you get out and  
10 you think, "Well, I've never been unemployed; now I'm unemployed."

**COMMISSIONER FITZGERALD:** Sure.

15 **MR SUTHERLAND:** You know, the scare factor, the fear factor.

**COMMISSIONER FITZGERALD:** Okay. Thank you very much. That's been very helpful. Thank you. Thanks, so much.

20 **COMMISSIONER SPENCER:** That's good. Thanks. Thank you very much for that.

**MR SUTHERLAND:** Thank you.

25 **COMMISSIONER FITZGERALD:** Yes, that's all right. So, could we have Terry Sirianni and Diane Leven, is it?

**MS LAWRIE:** Lawrie.

30 **COMMISSIONER FITZGERALD:** Lawrie, okay. Sorry. Good. Grab a seat. You know the drill by now? So that's good. Terry and Diane, if you could both give your individual names and any organization you represent, if any.

35 **MR SIRIANNI:** So, my name's Terry Sirianni. I don't represent any organization. I did 25 years full time service Army.

40 **MS LEVEN:** Diane Lawrie. I'm just here as a veteran so I don't represent anyone either. Joined in 1981. So, I've done 34 years continuous full time service, until I was medically discharged.

**COMMISSIONER FITZGERALD:** Okay. Thank you. Please, just an opening statement. Are both of you giving different statements?

45 **MR SIRIANNI:** In some respects.

**COMMISSIONER FITZGERALD:** That's up to you. Anyway, please.

**MR SIRIANNI:** I'd just like cover - you did mention the Gold Card and using the Gold Card. I did notice on the report that one of the RSL's  
5 actually recommended not to have the Gold Card in the future, to remove it, because it's hampering rehabilitation. I don't know if that's a good or bad thing. I noticed with the Gold Card, in using it, that if you go to an organization, you're not paying the full rate. For example, a physio  
10 basically said when using the Gold Card, they were happy for it, but the amount of time that they spent talking to DVA in reference to trying to get an item such as a Swiss ball for you or another item - that took up a lot of their time and they weren't paid for it. So, that was one of the reasons that he said he would not take any more Gold Card holders. And I basically  
15 had to leave that physio to go to another one that did - was a bigger organisation.

Yes, I was just interested to see what and where the Gold Card was going in that respect and I noticed My Service, when you open it up and you go to the Gold Card area, it's got what specific injuries are on that card and  
20 whether the Gold Card is going to go to a - if you do go to a provider - they will only have a look at what's on your Gold Card and only treat you for what's on your Gold Card. So I'll be interested to see where they're going with the development of that.

25 You were also touching on advocates. I noticed, whether you use an advocate or not on DVA. I did speak to a lawyer in Melbourne. He said that DVA do use a lot of lawyers in their organisation and advocates get muddled up with the three Acts. So, sometimes the advocates are overwhelmed with the situation and basically the lawyer's comments were  
30 that when you do put in a claim, it does go through their lawyers and they do use a lot of lawyers and his recommendation was to start using more lawyers. Or whether that was a lawyer promoting to try and get money from our members, I'm not too sure.

35 I know it's in the report also, that you want to put a lot of onuses back on Defence, which I think is a good idea. I did do three years as a recruit instructor at Kapooka and I did notice that some of the recruits coming in were not up to the standard required to be there. For example, we had a beep test. You must pass a beep test to actually come to Kapooka. I don't  
40 know if you understand what a beep test is?

**COMMISSIONER FITZGERALD:** Yes, I do.

**MR SIRIANNI:** They were not up to the required standard because we  
45 run our beep test when they first get there. There would be at least five to

10 recruits at that stage that were not up to standard to pass the beep test. So, how they made it to that process and through that process; I'm unsure. So putting it back onto Defence at some stage, I feel would be actually a good idea; when you do get discharged, Defence will have to look after you. At the moment, I feel that once you are discharged from Defence, they just basically pass you off to DVA. It's a different organisation, and they sort of cut you off.

I noticed with using specialists - so if I was to use a specialist for a claim, if my doctor sent me to a specialist to get a report to (indistinct) to DVA. DVA, in some circumstances, will fly - especially up here in Darwin - will fly a specialist up for the same injury and try and get a - the same report or a different report. So, unsure if DVA is doctor shopping to get the report that they want? That's something. And there's a cost involved in that. If we do see a specialist or a psychologist, where does that report go, and why does DVA send up or redo the same claim with their doctor/specialists or psychologists?

When you do get medically discharged from Defence they don't issue you with an ID card. So basically once you are discharged medically, you can no longer get onto bases. So if you want to access transition cells or anything like that, anything on the base, you basically can't get back on. So we've raised that with our local member, our Federal Member to see what could happen; whether Defence is interested in issuing members that are medically discharged with an ID card.

The other point I have is VRBs. If we have a claim rejected by DVA and it goes to the VRB and the VRB accept that claim, why is not then, VRB going back to DVA and saying "Why was this rejected?" "Why is there not a follow up?" "Why is there not communications?" Would that stop more claims from being rejected? I just find there was not a lot of communications that was happening there.

The other big thing that stops a lot of claims, within my experience dealing with soldiers and stuff like that, is Defence doctors. They're fairly overwhelmed and they have a big workload. However, when you're submitting a claim, especially if you're a complex case, you've got to do multiple forms; you've got to see the doctor multiple times. Being in Defence, a lot of the soldiers cannot see the same doctor twice. And if they are posted, they have to restart the whole process again. So, explaining that each time you see a doctor and doing different things can hamper the claims process.

And that's about all I have so far.

**COMMISSIONER FITZGERALD:** That's terrific. I will come back to you with some questions. Diane?

5 **MS LAWRIE:** Okay. I'm complex. I'm over three Acts and I've got claims under different Acts. I've used advocates in the past. The advocates are very well-meaning, very passionate, but because of the complexity the three Acts, I have found, to my detriment, that the advocates were out of their depth. So I was advised to get a lawyer. I was advised that I was entitled to Legal Aid because I'm a veteran. So I reside  
10 in the Northern Territory, I applied to Legal Aid in the Northern Territory and got a letter back saying, "No, you're not entitled." Because my AAT case was in another State. So I was a veteran in the Northern Territory, my lawyer, who understands veterans and complexity was in Melbourne and my AAT case was in Queensland.

15 The lawyer did try to move the case to Melbourne or the Territory, but that didn't work. In the end, I pulled out of the AAT. I had a bit of a breakdown over it all. Because my journey through DVA has been over a few years, I've dealt with a couple of different advocates who I've said,  
20 are well meaning, out of their depth. I did speak to the advocacy review, when they came to Darwin, and they said we haven't thought of the complexity, so they noted that.

25 And what the gentleman said before is you don't know what you don't know. So I joined the military at 17, as a result of Cyclone Tracy. So I joined out of, "I'm going to give back to my country." When I was medically discharged 34 years after that, I was devastated. It's not the path. In fact, I fought for a good two years to stay in Defence, but I was so complex and so broken. And Defence were brilliant. But there I was  
30 out of the ADF after everything I've contributed. And I've done a lot of work for women in the ADF. I've done a lot of special stuff but there we were, so I was broken, and then I transitioned to DVA and I had an advocate.

35 I made the assumption that I would be treated with respect. I never felt that. I made the assumption that I would be believed. That hasn't been my understanding. When you – so Defence, when they transitioned me to DVA were very good and did what they could. Because some of my injuries went back - under VEA - went back a long time, proving specific  
40 incidences was almost impossible. And then it became traumatic, particularly when I thought - when I felt - when I realized I wasn't being believed. So, so much of it is on the veteran and where the veteran's at and what the veteran's support is and how they're travelling. So the advocates is a good system but not if you're complex. And DVA had  
45 lawyers and the veteran has advocates.

My husband mentioned when you're out of the military, you're out of the military. So you hand in your ID and you're off the base. I had to cancel my bank account that I've had for 25 years. I no longer could get access to my doctor that had - who knew me, having been so complex. It was a distressing situation. And then recently - I've been out 18 months now - I have to go back to the transition cell. All that's on the base. Well, to try and get access to the base, you know, it depends on who answers the phone. So it's just - I'm a big believer - someone mentioned before about - that we have a centre - I don't know what you call it. Dan's trying to set something up - where it's a one stop off the base. Advocates, pamphlets, because you also don't know what's out there. Just a place that people can go to. I'm not a person that can go to the RSL or go to Soldier On and places like that, but I think it's - there needs to be a place where, if you're so broken, even if you don't go in. My mother would have gone in to say, "What's available for this broken - that's been let - broken person who's been left with the families to deal with?"

You asked me for - you touched on it before about the Northern Territory, you know, and State and Territory supports. I know in South Australia they've got an amazing centre called the Jamie Larcombe Centre. Because I know the Larcombe family. I went to their son's funeral. I'm so jealous, it's such a great, great place for people with physical and mental issues. We don't have that in the Territory for reasons various.

I went to visit my daughter in Canberra recently, and they've got Soldier On, and they've got some fantastic things. We don't have that in the Territory. We have an RSL which is imploded. So as a veteran not only does it depend on your advocates and the strength of your family and how you transition, it also depends on what's available in that State or Territory.

My experience is DVA, going through the DVA process exacerbates every injury you have. If I, you know, I was a broken soul when I left, well, I fell even further. And I have never, DVA have never reached out to me. And as I've had claims put in where a word has been wrong or the - hasn't filed the SoP, I - you get a letter back to say no, your claim hasn't been accepted. And that's it. And I had one particular claim that said, no, it hasn't been accepted. And then I met another advocate who said, "Oh no, just fill in this spreadsheet to go with all your specialist reports." And it was accepted. I find that disgraceful and heartbreaking. And I was very lucky that I met the second advocate.

My preferred - I still don't understand the Acts. I understand they're starting to work against each other and luckily I have a lawyer who I pay

for to explain what my best options are and how that's going to work for me because I'm not in the space to work it out and I haven't had the advocates. I find an advocate (indistinct) explain that to me but from what I can see the VA is the best and I say that because the VA has you for life.  
5 It's my understanding that under MCRA and MRCA, at 65 (indistinct). I don't know how that's going to work when a veteran, at 66, walks into Centrelink or however it's set up to request assistance, because we tend to be proud. We've been trained differently.

10 Whereas, I'm very lucky - and I shouldn't come down to luck – that I'll be covered for life. And it's my perception - I can't remember if I said it before - if someone asked me what I think of DVA - it's insurance. They fight everything. And as my husband said, you'll go to a specialist, the specialist will give you tests, make a recommendation, it goes to DVA and  
15 then they'll bring someone else up. You know. I think - I'd like to think that through these sort of inquiries that DVA will be reminded that they're there for veterans.

**COMMISSIONER FITZGERALD:** Good. Thank you very much for both. If I could just perhaps start with you, Diane, if I might, just for a moment. You've recently come out of the service only 18 months ago, is that correct?

**MS LAWRIE:** That's correct.  
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**COMMISSIONER FITZGERALD:** And you said that you were fighting to stay in? Yet, am I correct that you were medically discharged in the end? With the streams for people that are being discharged voluntarily, they're just choosing to leave; or those that are being  
30 discharged because of medical conditions, or administratively discharged, are very different; notwithstanding the fact that you were fighting against that, did you find the Defence dealt with your discharge appropriately when you now look back on that? Do you believe that the systems inside Defence that led to the discharge, were appropriate?

**MS LAWRIE:** I do. And sorry, I - it was my personal view that I could stay in. But by the time I left it was quite clear – they'd spent - given me that - two years because of my service and what I've done, to give me that realistic – you – you need to get out. You cannot continue in this role and  
40 you need to heal.

**COMMISSIONER FITZGERALD:** And you ultimately accepted that as right?

**MS LAWRIE:** Yes. As I left, yes.  
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5 **COMMISSIONER FITZGERALD:** What was - to use the words being used before, reintegration or transition process, to providing you with the supports once you came out; so, given you were being discharged medically, was there a good handover? Or was there a good – what that process of putting you in touch with of rehabilitation, DVA, those sorts of things, how was that handled, just 18 months ago?

10 **MS LAWRIE:** Well, there was nothing, was there?

**COMMISSIONER FITZGERALD:** Not good at all?

15 **MS LAWRIE:** You're out, you're out. Hand in your ID – ID card out the – out the gate and off you go.

**COMMISSIONER FITZGERALD:** Right.

20 **MS LAWRIE:** Before I left, I was told, “You need to put in all your claims to DVA. And then you won't be discharged until DVA has made a decision on those claims.”

**COMMISSIONER FITZGERALD:** You were told that?

25 **MS LAWRIE:** Yes, that's right. So I put the paperwork in but if a decision comes back and DVA says no to that claim, that's the decision and you're out.

30 **COMMISSIONER FITZGERALD:** I see. So you were actually given that guarantee that you wouldn't be discharged until your claims were processed but a process could be, in fact, as you say, an adverse finding. I see. Right. And that's what happened to you, or?

**MS LAWRIE:** Yes. So some claims were accepted.

35 **COMMISSIONER FITZGERALD:** Right.

40 **MS LAWRIE:** A couple of major claims weren't. And the reason they weren't was because I put them under the wrong Act. But I didn't know that.

**COMMISSIONER FITZGERALD:** All right. You indicated that you needed to reaccess the transition cell.

45 **MS LAWRIE:** Yes.

**COMMISSIONER FITZGERALD:** But you couldn't get back on base because you don't have, as I think Terry indicated you didn't have an I.D. And we've heard that in different places. It's not across all three services, I've discovered, but nevertheless. Did you also need to access support  
5 services, counselling services, mental health services or things like that, once you'd come out of the service?

**MS LAWRIE:** I did.

10 **COMMISSIONER FITZGERALD:** And did you access Open Arms as it's now called or did you access privately provided supports?

**MS LAWRIE:** So, before I got out I was given some specialists. So I contended with those. The one thing I didn't have - and that I felt quite  
15 abandoned - was, I didn't have a GP. And the GP is the glue to it all.

**COMMISSIONER FITZGERALD:** Right.

**MS LAWRIE:** So you've got - I had so many specialists because I was  
20 so complex and I was in such a bad space that I didn't have a GP. So I found a GP but the GP is a 15 minute consultation. They don't understand Department of Veterans' Affairs and what their requirements are. And Department of Veterans' Affairs need a lot of paperwork and so then you've got to make long appointments for your GP, who doesn't know  
25 you/ understand you, and doesn't understand the paperwork.

**COMMISSIONER FITZGERALD:** Right.

**MS LAWRIE:** And so you're in this - that was my most traumatic.  
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**COMMISSIONER FITZGERALD:** And just finally and I'll just then ask Terry some questions and then Richard will ask some questions. At the present time, you've had successful claims?

35 **MS LAWRIE:** Yes.

**COMMISSIONER FITZGERALD:** And what - are you - have received the White Card?

40 **MS LAWRIE:** I've got the Gold Card.

**COMMISSIONER FITZGERALD:** You've got the Gold Card. Okay. And just to pick up on that, has - that Gold Card gives you, technically, the funding for those services, but you've still found - actually finding the



right individuals, being able to get that assessment, still very complex and difficult?

**MS LAWRIE:** Yes, yes.

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**COMMISSIONER FITZGERALD:** Okay.

**MS LAWRIE:** And as Terry alluded to before, people are getting – well, I - it seems that providers are getting more and more choosy about whether they take the DVA White or Gold Card, not just because of the rate but because that provider then has to deal with DVA and a lot of it they don't get paid for and they're just - you're over it. It seems to be becoming more and more complex for the providers as well.

**COMMISSIONER FITZGERALD:** Yes. We've heard that. Terry, could I just go back a little bit? We visited Kapooka and we're aware that there are people admitted to the Army with different fitness levels and skill levels. There are some special units, as I understand it now, where, you know, people that are not likely to meet that beep test go and see whether they can uplift their standards and skills. Was that there when you were there?

**MR SIRIANNI:** No, I was there in the early days. It was quite a different place, Kapooka, so I think I started there '97. So if I – it's probably changed by now.

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**COMMISSIONER FITZGERALD:** Changed, yes.

**MR SIRIANNI:** But, however, we were getting people that weren't suited for Army, and at the time I think they changed Defence Recruiting to a civilian organisation. And what we were told was the Government wanted numbers. So at this, if they joined back then, they would be sergeants, warrant officers now.

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**COMMISSIONER FITZGERALD:** Right. When you ultimately went through the Army, what age were you when you discharged?

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**MR SIRIANNI:** 2000 and what – when I was about 45.

**COMMISSIONER FITZGERALD:** Forty-five. And for you, what was that process like? Were you discharged voluntarily? Did you - was it your choice or was – or were you administratively or medically discharged?

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**MR SIRIANNI:** I was medically discharged.

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**COMMISSIONER FITZGERALD:** And was that against your will or did you accept that that was appropriate way to - - -

5 **MR SIRIANNI:** A bit of both. I was at a stage where the injuries were having a severe impact on myself. And the job I was in, I sort of was having trouble continuing. So, I did go across to another more suitable area. I got posted to where I could've continued on. There was a fairly good job. I felt dealing with Defence, they were - if you did more than 20  
10 years – they were quite good to you. If you needed more time, I actually put in for an extension for two years. And they were quite happy giving me extensions, until I had a lot of stuff sorted for me to discharge.

15 **COMMISSIONER FITZGERALD:** And so your - your experience and your discharge or transition, how would you describe it? Good bad or indifferent?

20 **MR SIRIANNI:** It was fairly average. I found the transition cell, I just disregarded. Basically, they had nothing for me. At the time, with medical discharge, they sort of didn't know what to do with you. There was two civilians in the discharge cell; they were hardly ever there. So, being proactive in my own discharge helped a lot, instead of relying on Defence to do it for me. So, basically did the majority of it myself.

25 **COMMISSIONER FITZGERALD:** And were you able to move to employment once you left the Army or were you unable to work for a period of time?

30 **MR SIRIANNI:** Being in the Northern Territory, there was a lot of work around at the time. So, it wasn't hard for me to get out and get a job.

**COMMISSIONER FITZGERALD:** And did you find that moving from military life to civilian life difficult or easy or okay?

35 **MR SIRIANNI:** Civilians were a bit – the first job I did I didn't know how to deal with them. Being the rank that I was and dealing with soldiers, it was completely different dealing with civilians.

40 **COMMISSIONER FITZGERALD:** Sure.

**MR SIRIANNI:** And the way I spoke to them sometimes came across as abrupt because I'm fairly straightforward – this is what I want you to do, you do it now. That got me into - not so much trouble but I had to dumb it down a bit.

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**COMMISSIONER FITZGERALD:** Right. Okay. And just, my last question here is, you mentioned the use of specialists that fly up here that are set up by DVA. Is that right. Yes. And were these specialists set up to do assessments?

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**MR SIRIANNI:** Yes.

**COMMISSIONER FITZGERALD:** And they differed from the local specialists that had previously assessed you, is that right?

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**MR SIRIANNI:** It's not - it wasn't just me that's - this is in general.

**COMMISSIONER FITZGERALD:** Yes.

15 **MR SIRIANNI:** This is dealing with soldiers and their cases and stuff. So they would have Northern Territory specialists. They'd go into Darwin and be assessed by a specialist. That report would get sent off to DVA. I don't know what DVA did with that report and why they sent another specialist up to examine the same injury and then take that  
20 specialist, whether it's a same report or a completely different report, whether they were doctor shopping to get the report that they wanted to knock back the claim. I was unsure of what that was about.

25 **COMMISSIONER FITZGERALD:** And did you have claims knocked back as a part of that process?

**MR SIRIANNI:** Yes, I did. And it did go to the VRB and then it did get accepted.

30 **COMMISSIONER FITZGERALD:** It got accepted.

**MR SIRIANNI:** Yes.

35 **COMMISSIONER FITZGERALD:** And why do you think it got accepted by the VRB but rejected by the DVA?

40 **MR SIRIANNI:** That was unsure. And that's why my point was, why does the VRB not speak to DVA? Why didn't they go back to them and say, "Why did you knock that back? Are your people not trained in that area? Do we need to give you more training?" And does that waste a lot of money within DVA?

45 **COMMISSIONER FITZGERALD:** Well, you'll be pleased with some of our recommendations around that, because we've been very strong of the view that the VRB and the AAT should be communicating back to the

DVA in order to inform improvement at the first – the initial decision making, which seems as I might say, hardly radical. It seems a very important part of the process.

5       **COMMISSIONER SPENCER:** Terry and Diane, look, thanks very much for sharing your experiences with us. It's very important that we hear that first hand. So I just want to say thank you. But I have follow up questions as well. Terry, you mentioned the onus on Defence and you picked up in our report that we, in our draft report, said that the duty of care of Defence should be significant and continue through the lifetime of the veteran. We sometimes hear the contrary argument which is - from 10 Defence - which is, "No, our duty is prepare people to go and fight on behalf of the nation. And that's our principal responsibility." They, of course, do acknowledge that they have responsibilities for safety under the Workplace Health and Safety Legislation which came in, in 2012. And 15 there have been significant improvements in injury rates, as a result of that.

20       But we - we did feel that there should be more of a duty of care. And from what you were saying earlier, you think that would be helpful to change behaviour. And the approach to safety and Defence. Did I hear you correctly on that or?

25       **MR SIRIANNI:** Yes.

30       **COMMISSIONER SPENCER:** How - can you explain that a little bit further? What kinds of things wouldn't happen or what kinds of things would get further consideration if there was more responsibility, you think, within Defence?

35       **MR SIRIANNI:** I think it would start directly from recruiting. When you go to Kapooka, I feel that doesn't really prepare you for what's going to happen to you in Defence. Like, for example, obstacle courses. They're very like - they treat recruits with kid gloves. I think if they weeded people out from recruiting itself, to use – you know, to make them a little bit more tougher, and that onus is on Defence.

40       By the time they get to a certain stage or going to discharge from Defence you wouldn't have so many injuries. We had, when I was at Kapooka, a lot of the COs come down because they were breaking people once they hit the infantry school. They weren't up to standard to get to the infantry school. So it's a flow on effect from there. So I think if you put the onus more on Defence they would start fixing some of these problems from the get go. And I think you would break less people and you would have less 45 claims in your hand, especially with mental toughness. They're just not

recruiting or they're basically recruiting anybody and sending them to Kapooka, and trying to get Kapooka to sort them out.

5 **COMMISSIONER SPENCER:** And you mentioned that that was an outsourced process. Were you there that during that period when it went from being recruitment by the ADF to outsourcing recruitment?

**MR SIRIANNI:** Yes.

10 **COMMISSIONER SPENCER:** And did you see a difference during that period?

15 **MR SIRIANNI:** Yeah, there was a big difference and that stage they were doing a lot of recruiting for reservists as well, so we went from 30 man platoons to 60 man platoons. And you just couldn't control a 60 man platoon. You couldn't see what - how the recruits were going. There was just too many of them. So a lot of them did filter through and they dropped it from a three month course to a six week course for a period of time, there. And the flow on effect from that was just horrendous.

20 **COMMISSIONER SPENCER:** Yes, yes.

25 **MR SIRIANNI:** So then they brought it back to a three month course, because just too many people were getting broken and that becomes a duty of care to Defence. I can only speak Army. But, you know, duty of care to Army.

30 I think if you did put it back on to Army, that they had to put money into the transition and looking after people once they transition out, I think they would change the whole attitude.

35 **COMMISSIONER SPENCER:** And, as you know, we're recommending what we call the Joint Transition Command and there being responsibility for Defence, so that that aligns with your suggestion. I just want come back to the advocacy issue, because I think you mentioned earlier that when Robert Cornell was here with his inquiry that you spoke then, so his report will be out soon, we hope, so, we'll be addressing that issue in more detail in our final report. But so I guess in terms of the complexity confusion which you've really commented on at  
40 length here this morning, we're trying to see how we can get to this two-scheme approach and what may, to your point, Diane, what may give a more consistent, if I can put it this way, quality of service by advocates' challenging role, complex information that's needed, but what can help there. And no doubt, Robert Cornell will have suggestions around that  
45 and we'll be looking at that in more detail.

5 Diane, I just want to come back to your experience, your recent  
experience over just the last 18 months. As you know there's the veteran  
centric reform underway within DVA and that's often referred to as a  
transformation of DVA. It's early days yet, but from your experience in  
recent times, did you see any change in some of the ways which you have  
reflected, perhaps the history of the past where you didn't feel respected,  
you didn't feel trusted. Do you see, in terms of behaviour, or did you see,  
any early - what I would describe as green shoots which give hope that  
10 perhaps things are starting to be addressed or changed for the future? So,  
just wondering what – your own experience.

**MS LAWRIE:** No. But, then, I haven't been contacted by anyone.

15 **COMMISSIONER SPENCER:** No. One of the things we've heard is -  
and I don't know whether you both have experienced this as well, that the  
outreach program with Veterans' Review Board, which is part of their  
alternative dispute resolution, a number of veterans have said to us, the  
first time we had a conversation with somebody about our claim more  
20 generally, in what's happening for us, is when the VRB contacted us. So  
did – was that – did you have an experience similar to that?

**MS LAWRIE:** Because I had the advocate and I'd put on the form to  
contact the advocate, after - or during the VRB and after the VRB, the  
25 advocate was contacted.

**COMMISSIONER SPENCER:** Was contacted, yes.

30 **MS LAWRIE:** But to answer your question, I haven't seen the  
difference, no.

**COMMISSIONER SPENCER:** Right. Okay. No, no. That's fine.  
Okay.

35 **COMMISSIONER FITZGERALD:** And just, if I could just ask this  
question. In relation to both of you, do you use the supports of the ex-  
service organizations? Some people do; some people don't. Do you see  
that as an important part of you or not?

40 **MR SIRIANNI:** I personally don't use it. I did join the Vietnam  
Veterans Services at one stage and looked into a couple others. I basically  
got sick of the infighting and the people within the services just, it was  
more about them and not the veterans, to me it sort of ended up. I think  
there's far too many services out there. They seem to be all fighting each  
45 other. So I think if we cut them down and just got people making it for

5 veterans and not about themselves. As you can see, you know, Australia wide with RSL clubs, the amount of infighting and corruption in them, is just phenomenal. So, I find that there are good – there's some of them are really good organisations. There's some good people in there but just the infighting that happens amongst them is terrible.

**COMMISSIONER SPENCER:** Okay. Diane? Anything?

10 **MS LAWRIE:** So I've reached out to a couple of organisations because I was in such a bad place. My experience has been similar to Terry's. But not territory-wide (indistinct), Australia wide. That there seems to be people fighting each other within those organisations. And they lose the focus. I think they've lost focus that it's about the veterans. So I'm a little  
15 bit cynical now as to, you know, why they're there. Is it about them and their relationships with governments and power? Or is it really about the veterans? And I may be being a little bit harsh, but I live in hope that with everything that's happening, it'll all start to come back to the veterans and what they clearly need. And that's where the money and the respect goes.

20 **COMMISSIONER FITZGERALD:** Okay. Thank you very much for that. We very much appreciate you both making that contribution. So thank you very much. And we have one other participant: Leonard Anderson. Yes.

25 **MR ANDERSON:** Yes. Thank you, sir.

**COMMISSIONER FITZGERALD:** Thank you very much. That was very helpful. Thank you very much. Leonard, if you can give your full name and the name of an organisation if you represent one.

30 **MR ANDERSON:** My name is Leonard James Anderson. Representing myself; no organisation.

**COMMISSIONER FITZGERALD:** Thank you. So, if you just make an opening statement and then we can have a chat.

35 **MR ANDERSON:** My problem is I just do not understand, for the life of me, as to why DVA is so confrontational, so damn devious. For an organization that was set up to assist ex-service personnel, I, for the life of  
40 me, I don't know if it's a budgetary thing, where they have instructions. I don't understand why there is such a need that we have to have an advocate who knows the system, how to feed the chooks and give them exactly what they want in a specific format, for your claim to get through. It should be DVA in themselves are the one assisting you, but it's so  
45 confrontational and I don't understand.

5 Well, I'd like to ask the question: do they have internal reviews? When someone is allocated to your case and they balls it up so horrendously, do they get counselled? Do they get asked to explain their actions? As a licensed tradesman, if I do a balls up, I'm dragged in front of a tribunal as to why I've done something. Do these people get overlooked?

10 I, for the life of me, I can't understand it. I initially - I got dragged into the National Service Scheme in 69. I ended up in Vietnam in 70. I was wounded in action. When I was discharged from the Army, I was discharged medically fit. After being discharged, my life was just falling apart. I couldn't readjust to civilian life. After about a two year period, I went back to DVA to seek assistance, and it was, "Bugger off. You were discharged medically fit. Don't want to know you. Bugger off."

15 So, from about 72, I lived in Sydney, went through job, after job, after job. I was lucky, I joined the fire service and that was a semi military-type organization, where you had a structure and you knew you had responsibilities and you knew what you're doing. I came to the Territory in 80. In 2001, I was diagnosed with Hodgkin's disease. I had my hand in my pocket for months and months, paying all these medical bills and, on the off chance, I went and saw one of the advocates at the RSL and I said, "Look, what assistance - am I entitled to any assistance or anything like that?" And his eyes lit up and he said, "Look," - anyway, he assisted me with my initial case for the Hodgkin's disease. That was accepted.

20 But the chemo treatment that I was on, left me with peripheral neuropathy in my hands and in my feet. The nerve doctor, here in Darwin, when we - when I, on my own bat, tried to put in a second claim for the peripheral neuropathy, the specialist here wrote a report and said, "Over a period of time, this condition will just diminish or disappear." Well, it's 18 years later, and I've still got it. So based on the report he did, that claim got knocked back. So as far as I was concerned, stick it up your rear end, and walked away.

35 It wasn't until I had a really good friend that I'd served with and was an advocate then, in Victoria - he slapped me around the ears and said, "No, this is what we do." And because he knew exactly what they wanted, how they wanted it presented, and the formats, everything just went straight through. So the peripheral neuropathy was accepted. Then I found out I was having extreme trouble at work hearing. Then, they've had my hearing tested and they've found out that the chemotherapy that I was on has affected bands of hearing. So that was accepted. Then my friend said to me, "Well, look, I think you've got more problems." And I'll - not (indistinct) I don't have any problems." So, anyway, through DVA, I was



5 sent down to a psychologist – psychiatrist in Adelaide and again, I said to him, “Look, I don’t have any problems.” He went back - they went back through when I was wounded in action. Piled me onto a chopper, and I was getting cold. I was freezing and as a kid you grow up, you see the old Western movie – it’s “I’m getting cold and you’re going to die.” And I was getting cold and that scared the shit out of me.

10 Then it was getting dark. And that also scared the shit out of me. But what I didn’t realise is that I was covered in sweat, went in the chopper, the doors are open, the wind’s blowing through, that makes you cold. The chopper and the way it was flowing, was – the angle of the sun. That’s why it was getting dark.

15 I woke up in Australia two weeks later. And then to have DVA say to me, “Bugger off, you were discharged medically fit.” It just compounds the problems that you’re going through. And I can’t understand why they have to be so confrontational. Anyway this psychologist, he said, “Boy”, he said, “How have you – how have you survived for so long?” You know, I – I just closed the book. That part of my life’s over. And get on with it. But you can’t. And this is where DVA has got a lot to answer for. We should not have the need for advocates to fight our cases for. That’s basically what I wanted to say.

25 **COMMISSIONER FITZGERALD:** Leonard, thank you very much for that. Can I ask just a couple of questions? Do you have a current claim in with DVA at the moment?

30 **MR ANDERSON:** No, all my all my claims have been settled. I’m a DVA, TPI Gold Card holder.

**COMMISSIONER FITZGERALD:** Okay. After you went to the psychiatrist in Adelaide, I presume there was a diagnosis? He gave you a diagnosis, or?

35 **MR ANDERSON:** Look, with his diagnosis and the advocate, everything just went straight through.

40 **COMMISSIONER FITZGERALD:** And so how long ago was that, roughly?

**MR ANDERSON:** That would have been about 2005.

45 **COMMISSIONER FITZGERALD:** 2005. When you were going through the various processes after you’d come out, and putting in claims, you’ve mentioned and raised the question, why are they so

confrontational? Why do you think that is? I mean, you've now had experiences both good and bad claims accepted and rejected, different processes. Was it – yes, so why do you think that's - - -

5 **MR ANDERSON:** Look, I could be very cynical but I believe it's a budgetary think. Yes. One hand is set up to provide these services but if they're getting strangled by the government and the government puts pressure on them and say, you know, you've got to cut your budgets down more, these sorts of things. Cynical. But I think that's what's - the main  
10 problem is.

**COMMISSIONER FITZGERALD:** The thing that made a difference for you was a good quality advocate, who could actually identify, you know, a range of avenues for claims and what have you.

15

**MR ANDERSON:** Without the advocate, I would have been lost.

**COMMISSIONER FITZGERALD:** Sure. And since your claim in 2005 has been resolved, you're now, as you say, a TPI Gold Card. I presume that's all under VEA, but anyway. It doesn't matter. Do you still  
20 continue to seek support, that's funded through those processes?

**MR ANDERSON:** After the initial appointment with a psychologist/psychiatrist in Adelaide, I was referred to a psychologist here in Darwin. Now, it got to the stage where she was so booked, there was no one else to take up the slack. And there was only one person. So that created gaps in appointments to get in and see her. But this is where the Veterans Counselling Service came in. I was seeing one of the psychologists there for many years. That assisted me greatly, because I was having extreme  
25 problems working, dealing with people. I was in a supervisory position and it was being pointed out to me that I was being abrupt and short with people. But my attitude was, well, look, you know, if you're a tradesman you were supposed to know your job. You stuff up, you're accountable for it.

35

And maybe it was the way I'd spoken to them, but if you're not up to the job, sorry, see you later; someone else will get the job. And people were interpreting that, that I was being confrontational. I was being overbearing or demanding of people. But I certainly didn't see it that  
40 way.

I had a job to do. It was up to me to make sure that work that I allocated to people was done and done to a tradesman-like standard. And if it wasn't, I told them.

45

**COMMISSIONER FITZGERALD:** But you've now – you've been using Open Arms as it's now called. The VCS - - -

5 **MR ANDERSON:** I had. But I've stopped. I've been retired for about five years now. And once that work pressure went off me, I – yeah, I didn't do anything.

10 **COMMISSIONER FITZGERALD:** Have you found that that a very valuable – is that a really valuable. - - -

**MR ANDERSON:** God, yes. Yes.

15 **COMMISSIONER FITZGERALD:** Yes, okay. That's fine. Thanks, Leonard. The - you mentioned early on about the - why is it so, in terms of their confrontational nature and the - what you experienced. And you raised that question: are there internal reviews? You know, where's the accountability? I think, just to – and you've looked at our report, but some of the things we're trying to bring about, is change. To bring back much more earlier engagement with the veteran about what are the issues.  
20 And how do they get dealt with right up front.

As I mentioned earlier in this session, sometimes we hear – often, we've heard in the past, the first time a veteran feels that they're listened to, is when they have a phone call as part of an outreach program from the  
25 VRB. So, and it struck us, well, it shouldn't need to get to that point until, you know finally, we are talking; there is a conversation about, you know, what is – what is the claim and how can the claim best be presented, rather than having to rely, just as you said, on an advocate who actually knows that.

30 So, I think, just to draw your attention to it, that there are a number of things we're suggesting, which hopefully will minimize the possibility of this happening in the future, by merely engaging earlier with the veteran and the advocate to talk about these issues and try and resolve them much  
35 earlier in the process. So we shall see. But that's a strong part of our recommendations to improve the process.

40 **MR ANDERSON:** Can I just also raise the point that this this friend of mine, he went through pretty much the same crap I went through. Every time he gets a new case and listens to what that – that brings back all his demons. And they have a high rate of burnout, these advocates. So it's a constant training to try and get people up to speed to handle these cases. Then they fall off the perch, too. And, again, I can't see the need – why  
45 DVA is not doing this themselves?

**COMMISSIONER FITZGERALD:** Well, we hear that and it's a question we've raised as well, I might say. We think that there will always be a need for some advocacy, but it's a very unusual system where it's almost an essential requirement to have an advocate to actually process a –  
5 now, in fairness, there are being changes to My Service which has been referred to as an attempt to reduce some of that. But, nevertheless, advocates are very important in this system, in a way that is unusual. Any other final comments?

10 **MR ANDERSON:** No, that was my main concern is that it's difficult to get people that want to step up to be advocates, then to train them through those levels, then for them to burn out themselves.

15 **COMMISSIONER FITZGERALD:** Yes. Good. Thank you very much. Not a part of this group. So, that brings to a conclusion this particular part of the public hearing process. And I just need to formally say that the matter is adjourned until we meet in Wagga Wagga on Monday. So thank you very much and thanks for your hospitality in Darwin as always. So that's it. We're finished. Thank you very much,  
20 everybody. It's nice to have some people here still. So that's good.

**MATTER ADJOURNED UNTIL  
MONDAY, 11 FEBRUARY 2019**