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TRANSCRIPT OF PROCEEDINGS

PRODUCTIVITY COMMISSION

INQUIRY INTO THE DISABILITY DISCRIMINATION ACT

MRS H.J. OWENS, Presiding Commissioner
MS C. McKENZIE, Associate Commissioner

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON THURSDAY, 24 JULY 2003, AT 9.09 AM

Continued from 23/7/03

MRS OWENS: Good morning, and welcome to the public hearing for the Productivity Commission inquiry into the Disability Discrimination Act 1992, which we will refer to as the DDA. My name is Helen Owens and I am the presiding commissioner on this inquiry and on my left is my associate commissioner, Cate McKenzie. The hearing will have breaks for morning tea and we finish at lunchtime today. We will need to stick fairly closely to the timetable.

On 5 February this year the government asked the commission to review the DDA and the Disability Discrimination Regulations 1996. The terms of reference for the inquiry ask us to examine the social impacts of the DDA on people with disabilities and on the community as a whole. Among other things the commission is required to assess the costs and benefits of the DDA and its effectiveness in achieving its objectives. We have already talked informally to a range of organisations and individuals with an interest in these issues and submissions have been coming into the inquiry following the release of the issues paper in March. The purpose of this hearing is to provide the opportunity for interested parties to discuss their submissions and their views on the public record. We have been holding hearings in all capital cities and this is our final week of hearings here in Melbourne.

We will then be preparing a draft report for public comment which we will release in October this year and there will be another round of hearings after interested parties have had time to look at the draft report. We like to conduct all hearings in a reasonably informal manner, but I remind participants that a full transcript is being taken. For this reason, and to assist people using the hearing loop, comments from the floor cannot be taken because they won't be heard by the microphones. If anyone in the audience does want to speak I allow time at the end of the proceedings each day for you to do so. Participants are not required to take an oath, but are required under the Productivity Commission Act to be truthful in their remarks.

You are welcome to comment on the issues raised in submissions. The transcript will be available on the commission's web site in Word format following the hearings. I now invite our first participant today, Margaret Ryan, to appear and I'd like you just to repeat your name and the capacity in which you're appearing for the - - -

MS RYAN: Thank you, commissioner.

MRS OWENS: You can call me Helen you can call Cate, Cate.

MS RYAN: Than you. My name is Margaret Ryan. I am here at this hearing today as an individual, although I'm an active member of the disability network. My involvement in disability arises from my sister's second child being born with profound disabilities some 13 years ago now and I have a close relationship with my sister and I have tried to help where I can. In terms of this inquiry into the Disability Discrimination Act I was interested to read in the issues paper on page 13 that:

> Direct discrimination exists where a person is treated less favourably because of his or her disability than a person without the disability would be treated in similar circumstances.

I think I was interested in that because that kind of general definition is something that accords with my understanding of what discrimination is. On page 9 the commission notes that:

> It is not reviewing the provision of disability services but is interested in the interaction between disability services and the DDA, for example -

and they give this example:

> The lack of support services such as funding for a particular therapy or device such as a wheelchair may prevent access to employment or education effectively discriminating against a person with a disability.

I'd just like to say I think being able to make that kind of connection with disability and discrimination is very important. It's the effect that something can have. On page 10 the commission indicated that it was -

> interested in individuals' experiences with the complaints system where these experiences illustrate the strengths or weakness of the system or suggest possible reforms.

I have provided the commission with some background material which I believe is relevant to what I have to say today and perhaps covers in much more detail than we would have time to go into today. I would like to refer to the decision made by the president of the Human Rights and Equal Opportunity Commission to a complaint which I brought back in - I think it was 1994 actually - within the Disability Discrimination Act. I brought this complaint because non-disabled children are funded to attend kindergarten for however many sessions their parents choose but disabled children who need an integration aide are treated less favourably. They do not receive enough funding to attend on that same basis.

This was the situation back in 1994 or was it 1993. December 94 I lodged the complaint and in Victoria this situation still exists today. There have been questions put on notice in parliament and the answers to that indicate that the funding which the children are getting - again you have to extrapolate from this - but the funding which the children are getting does not allow them to attend the full number of sessions. What the president was said was - he wrote to Mark Nicholls - this was

Sir Ron Wilson:

> Dear Mark, in December 1994 Margaret Ryan lodged a complaint on behalf of her nephew Benjamin born in 1990. She had applied to the respondent department of the Victorian government for funding to supplement that already available from the Commonwealth to enable her nephew to attend preschool. In order to do so he required the assistance of an integration aide.

I will just stop there and explain that. Perhaps one of the nice things about my nephew is that there are no grey areas about his disability. He has very visible disabilities and he also has some invisible disabilities - but that he is totally dependent on people.

> The extra funding was necessary to enable Benjamin to attend the kindergarten in 1995 on the same basis as a non-disabled child. The respondent does not provide funding for such a purpose.

Of course Benjamin is now attending primary school and the commissioners might want to note that because this was in 1994 when the president provided his decision.

> The complaint is being pursued on a question of principle.

Actually, it wasn't being pursued on a question of principle. I got to the stage where I just thought, "Well, I'll sit back and see how long this all takes."

> On 22 January 1997 the delegate of the DDC declined to continue to inquire into the complaint because in her opinion, "Your complaint lacks substance and refers to a policy that is not unlawful."

MS McKENZIE: So that took two years and two months to do that.

MS RYAN: Yes. There was a certain amount of time when they had asked me for me to respond to some information that the department had provided and for various reasons it wasn't high in my priorities by this stage because I think this was about 1996.

MRS OWENS: Yes, but I mean, this started off in about 1994 when the need for kindergarten was there.

MS RYAN: December 94, yes, and was in - - -

MRS OWENS: They didn't request that information back in 1994; rather the end.

MS RYAN: One of the things - in the Promises and Illusions I actually refer to this - I'm a little sarcastic, I think. It was interesting to read what you wrote back in 1995. Let me just see if I can quickly find it. I'm sorry for this delay.

MRS OWENS: It's not a problem.

MS RYAN: Here we go:

> A complaint about the lack of state funding was made in December 1994 to the federal Human Rights and Equal Opportunity Commission Disability Discrimination Commissioner. The complaint was referred to the Victorian Equal Opportunity Commission which administers the Commonwealth Disability Discrimination Act on behalf of the Commonwealth. In April 1995 advice was received that the Department of Health and Community Services would be notified shortly about the complaint and asked for a response. The same advice was received early August 1995 that the department would be notified shortly, provided with a copy of the complaint and asked for a response.
>
> The delays experienced with disability discrimination complaints are considerably longer than those in other areas covered by the Human Rights and Equal Opportunity Commission.

I do laugh about this bit now:

> A complaint was made to the Commonwealth Ombudsman about the delay. However, the Human Rights and Equal Opportunity Commission is one of the few bodies not within the jurisdiction of the Commonwealth Ombudsman.

I was outraged by that at the time. I just thought, "This is so disgraceful." There's a bit more - this is where I got sarcastic, but I still think it's worthwhile saying:

> The Human Rights and Equal Opportunity Commission is involved with work to develop a charter of rights for children and young people in Australia, thus contributing to the promise that there is meaning in Australia's international commitments regarding children. When a child with disabilities cannot have a disability discrimination complaint heard before his kindergarten days are nearly over, the illusory nature of human rights and the equalisation of opportunities for children with disabilities are exposed.

This particular paper was called Promises and Illusions.

MRS OWENS: We have got copies of those papers which I will take as being tabled.

MS RYAN: Thank you. I mean, even at the time when I brought this I made some strong representations to - Elizabeth Hastings was then the commissioner - about having this complaint heard and I basically got told, "Stay in line." I eventually with this complaint made a Freedom of Information request because I just couldn't believe what had gone on and I was quite astounded. I was then sorry that I hadn't made a Freedom of Information request earlier to see what was on the file because what was on the file - and I never actually got to talk to anyone in person about this complaint. There were various telephone calls made asking me for information. But, yes, at the time - and when I say about the delays in the end - I will go on with what the commission said.

MRS OWENS: I'd like to find out the outcome of your FOI request too.

MS RYAN: I had no problem with that, I got the whole file.

MRS OWENS: You got the file.

MS RYAN: Yes.

> By letter dated 29 January the complainant requested a referral to the president.

So I got a decision 22 January 1997.

> In the letter she challenged one of the propositions advanced in the letter of decline but this was not answered by the delegate.

That was the bit that probably disturbed me the most because in my letter when I asked for the referral - because I knew you could ask and in some ways have an appeal against it - I'd asked to be advised of what happened and I never received that advice either. Given the amount of time that had been taken, I wasn't perturbed that come March, April I hadn't heard anything, that fitted, but they never ever got in touch with me. The first I knew that anything had happened was the decision of the president. I learnt from that to though.

MS McKENZIE: Did they not explain to you how the review would be conducted?

MS RYAN: No.

MS McKENZIE: My understanding is that - and this understanding may not be quite correct - but my understanding is that in those days at least that reviews were just done on the papers. The president would look at the material which had been put into the Disability Discrimination Commissioner and the decision of that commissioner and then refer it from there. But no-one actually explained that to you that that was how the process was.

MS RYAN: No. I had been asked to have that explained to me and certainly if that had been explained to me then I would have done a Freedom of Information then. Because when I got the papers which was some time after, there was a report that had been done and I was really quite horrified with what was in that report, what I would consider several errors in fact or errors of interpretation in terms of my intention. It basically said I had an ideological bias towards who should be funding this and I truly nearly - unbelievable. I still find the whole thing unbelievable and this situation continues today, that children with disabilities can't even attend kindergarten properly.

MRS OWENS: Margaret, have you got any idea what happens in the others states? You said that's still continuing in Victoria. Do you know whether the kids get a better deal in the other states?

MS RYAN: No, I don't know and also even within the kindergarten area is fraught - there are so many differences about preschool, how it's run, how it's operated in other states that it's very difficult to make comparisons. At the time I did quite a bit to try and get information about what happened in other states, but I really wasn't able to because you run up against these differences of how they tackle it. Some of them do it through their Education Department, some do it through Community Services, there's different ages when children start, it really is - it's a political minefield.

MRS OWENS: Another problem of federalism.

MS McKENZIE: So in Victoria, at least at that time, the state through its Department of Health and Human Services or Health or whatever - - -

MS RYAN: Community Services.

MS McKENZIE: - - - it happened to be called at the time, funds non-disabled children to attend kindergartens. Is that - - -

MS RYAN: Yes. It's the Department of Community Services, so it's not the Education Department and that's how it's been done in Victoria for a long time.

MS McKENZIE: Does it fund all children irrespective of disability?

MS RYAN: Yes, and there's been a very big move to increase the participation rate of all children at preschool, in some way as a recognition of how important preschool is, these early years, that all children have at least a year of preschool. The funding does get a bit complicated for disabled children because there are two ways they do it. There's a bucket of money - and I think people do talk in terms of buckets of money - a bucket of money which provides an indirect service. They fund preschool field officers to assist preschools to provide access for children with disabilities.

MS McKENZIE: But that's not like an aim. That's just like a visiting service.

MS RYAN: That's not an aid, yes, a kind of a visiting service, and they're a support, a resource person for preschool teachers or preschool communities of kindergarten or whatever. Then there's the children who need basically an integration aid. They have to have another pair of hands for them to attend preschool and the only funding which is available, or the bucket of money, is this Commonwealth program and it's almost a historical thing because there's not even a lot of money and there's not even a lot of children. The last question that the department answered fully on notice - and there are about four or five hundred children who actually access this preschool funding, but it doesn't provide enough.

MS McKENZIE: So that the money that the Commonwealth provides for an integration aid for preschool for a child with a disability is not enough, doesn't represent the full cost of - - -

MS RYAN: No. If someone wanted their child - I think it allows for four sessions a week. Say 10 to 12 hours a week is what most - and most children do attend for those four sessions a week.

MRS OWENS: How many sessions, how many hours a week, would - - -

MS RYAN: 10 to 12 hours is four sessions a week.

MRS OWENS: That's four sessions for these kids with disabilities?

MS RYAN: No.

MRS OWENS: For everybody?

MS RYAN: For everybody, yes.

MRS OWENS: How many hours a week would a child with a disability be able to do with an integration aid?

MS RYAN: Well, the last lot of funding I saw, it would probably give them about five or six hours, about half time.

MRS OWENS: About half the sessions?

MS RYAN: Yes. I'm not sure what the rates of pay are now and things like that. But that's kind of good enough; you could be a half-time.

MRS OWENS: The argument that you would run is that you need that preschool education as a means of equipping those children to go into primary school and ultimately secondary school. I mean, there's an educational argument for children to do at least one year.

MS RYAN: Very definitely.

MRS OWENS: Pre-prep.

MS RYAN: Yes, it's a strong argument.

MRS OWENS: And there was the argument in here - we can't really revisit this case in detail obviously.

MS RYAN: No, I don't want you to.

MRS OWENS: But there was an argument that, well, it's not compulsory education and I have to say I couldn't quite see the relevance of that.

MS RYAN: Yes. Perhaps if I just go on with - - -

MS McKENZIE: That argument I simply cannot understand.

MRS OWENS: But we're not reaping, you know - that case doesn't make sense.

MS McKENZIE: No, but if that were to be applied generally it's extremely difficult to understand, yes, because it would apply also to tertiary education which is not compulsory either.

MRS OWENS: And you look at all the other elements of the Disability Discrimination Act and what it covers, and people don't - it's not compulsory for people to attend cinemas or have other goods and services - - -

MS McKENZIE: Or use public transport.

MRS OWENS: Or use public transport, or anything. So I can't see what compulsion has really got to do with anything.

MS McKENZIE: I mean, the real trick - putting that to one side and assuming that in fact is not the case, it's difficult because it is true to say that the DDA doesn't have a specific section that deals with discrimination in funding, but it does deal with discrimination in service provision. But if you were going to go to someone for service provision you would have to go against the actual provider of the kindergarten, where of course in a way that's very artificial because it's not the provider of the kindergarten who funds any of the children to attend; it's someone else.

MS RYAN: And that is what makes it very difficult.

MS McKENZIE: Yes.

MS RYAN: To bring this kind of complaint, because you would have to go through a totally artificial situation.

MS McKENZIE: Yes.

MS RYAN: It's not something - kindergarten is one year. The parents who I know, they think, "No, we're not going to upset everything. We'll settle for what we can get," and that is what happens so often and they move on. But it still concerns me that whole generations of children are missing out on something as basic as their kindergarten and if I can just again bring the personal into it, why this one was brought, Benjamin actually had two years of kindergarten and so I had the advantage - I was very closely involved in all his programs, activities. I was only working part-time until he went to school. So he went part-time the first year and then we thought, you know, "Why is this so?" - and that's when I started to investigate and find out and think, "No, we have to do something," and actually for the second year the funding was less than what he got the first year.

So his attendance was going to be even less and when that happened my sister said there was a definite difference in his attendance at kindergarten because he was so part-time. The other children didn't get as involved with him. He wasn't so much a part of the whole preschool experience and the way I could relate to that a little bit, like because I work in an office full-time, that people who work in your office part-time, they don't have the same work experience as you do with the full-time people. They come in and they go out and, yes, they miss out so much and unfortunately that experience, because of the funding, does continue then into primary school. For someone who needs an integration aid there's never enough funding. They can't go away on school camps. There's so much that they miss out on.

MS McKENZIE: And also you're starting, in a way, behind the eight ball anyway because you haven't had that total kindergarten experience that the other children come with.

MS RYAN: Yes, and the same goes - you know, you can extrapolate across to the child care area and this is the point about what the lack of funding does in terms of access to - not goods or services - the opportunities that the children have or the opportunities that any people with disabilities have. But I'll just finish on this bit.

MS McKENZIE: Yes, sure.

MS RYAN:

> Another fact that may be material is that Mrs Ryan had been offered a fundraising effort but had declined it because she felt Benjamin had a right to the funding and did not want to accept charity -

and that was true. I mean, it was kind of very nice of the preschool to say, "Well, we can do some fundraising." But I was just really kind of appalled at the same time that Benjamin was, like, four and how can we go through life rattling cans for him? And you don't have to do that for children. There's certainly plenty of fundraising which goes on for kindergartens but to single out a child with disabilities is just so awful and so regressive.

MRS OWENS: It actually just misses the point totally.

MS RYAN: Well, I think it deliberately missed the point.

> However, preschool and kindergarten schooling is not compulsory and I'm therefore inclined to agree with the not unlawful opinion of the delegate -

and I thought, "Wow."

> I am not so sure of the "lacking substance" ground -

well, I actually thought the president got that bit right -

> and suggest we stick to the one ground, not unlawful.

Now, the whole thing to me is quite awful and, Helen and Cate, you seem to be fairly sympathetic to my point of view. What you have to say accords with how I saw the situation.

The very positive thing for me that has come out of this is in terms of, to me in the legislation - and this is state legislation as well as federal legislation - what I call the rights rhetoric and we have a review of disability legislation in Victoria at the moment and I'm putting forward very strong views and some other people have taken them up as well, that it's not rights that we need. What we need is entitlements, whether it's entitlements to funding or entitlements to services, and until entitlements are enshrined in legislation we can whistle Dixie about improving the lot of people with disabilities and their associates because in some ways, even from my business experience, what gets done? "Do we have to do it?" "Yes, you have to do it. It's the law" - and there's no out.

People somewhere or other, if they have to do something, they will do it. If businesses didn't have to provide financial reports and all the different, you know, regulations and things that they have to give ASIC, that wouldn't happen and that to me is just kind of a reality of life. I don't know anyone who hasn't got too many things to do and what do you end up doing? You end up doing the things that you have to do and if it's, "Is it the law? Yes, it's the law" - then it happens. Even in terms of - and this thing about it being compulsory, although there's a lot that could be improved with the funding for primary and secondary education in Victoria, because children have to go to school, it's a hell of a lot better than almost any other area of service provision in Victoria and one of the reasons why they - I'm not sure what year it was, but the government said, "All disabled children have to leave school when they're 18." They go into a Futures for Young Adults and there's a whole lot of - - -

MS McKENZIE: That's what the Berridale case - - -

MS RYAN: Yes, the Berridale case. But the real reason for that - and certainly it was welcomed that there was something going to be in place - well, I still call them children but they're not children, are they, they're young adults at age 18 - for them to go to. But really it was a funding issue because it costs so much more to fund them through the education system than it did when they went into the Futures for Young Adults Program and that would still - I haven't got the up-to-date figures but the top level of funding for the Futures for Young Adults is sort of round about 17 to 20 thousand dollars. Well, the top level of funding in schools, I'm just going to say it's much more than that, but it is much more than that, and of course the Department of Education was more than happy to make a financial contribution to community services - and I will use the language - to offload these people.

Even within the Department of Human Services they're now only going to continue - that funding is basically only guaranteed for three years. So, you know, it's just again one of these kind of outrageous situations. But about the compulsion and whether it's compulsion or whether it's children are entitled to an education - and that's enshrined in legislation however you want to look at it. But in terms of if you're making recommendations about what should happen with the Disability Discrimination Act, I would urge you strongly to keep the word "entitlement" in mind and just in terms of what has gone on the disability area now, the federal government's move to change - and I would say in my opinion to downgrade - their financial support of the disability pension, they've had a hard job doing that because the entitlement is in legislation and they have to change the legislation, and there has been a huge amount of lobbying and community support even, given for not making those changes, to think again about what they're actually doing, and it does come across to me very much as saving money, or if it was the unintended consequences effect - and I do think that that happens an awful lot in policy changes.

But I get very cross about that because people making policy changes often are so far removed from reality that things then blow up in their face. This is the unintended consequences effect, but if they really knew what they were doing they would know that that was going to happen. So I don't know how you get competent people in the policy making area.

MS McKENZIE: So by entitlement you really mean a legislative entitlement to whatever it is.

MS RYAN: Yes.

MS McKENZIE: To the sort of equality of educational outcomes or benefits.

MS RYAN: Or even just attendance, if they make it compulsory to go to preschool, make it compulsory that children get X number of hours of child care, if their parents want it and things like that. I just don't see any other way around it, otherwise we'll constantly be fighting against things being degraded and I can only use that word, being degraded. So that's the kindergarten side of things and I do think it's kind of interesting and relevant, my experience with that, in terms of maybe what it means for what we do in the future. It's only by bringing cases that we get people turning their mind to how something is working, to see what works and to see what doesn't, and maybe perhaps even, you know, the more interesting cases of complaints into disability and the discrimination of those which were declined, rather than those which weren't declined - is that the right language?

MRS OWENS: I think it's also interesting, the timing issue that you raised is also - the nature of the case is interesting but also just the extended process is an interesting point that you've made too.

MS McKENZIE: The most serious thing about that process is that it made any remedy for the child futile because by that stage everything had moved on.

MS RYAN: Maybe if I can just pick on that a little bit - and again I get a sense that people don't want legislation to be prescriptive. But in the Victorian legislation - I went through a stage where I complained to everybody and everywhere, but that's all right.

MS McKENZIE: There are the time limits.

MS RYAN: It’s the way it becomes so protracted and drags out, and one of them, the Intellectually Disabled Persons Services Act, does have some time lines in it when things must be done by and that’s worthwhile looking at in terms of how the bureaucracy responds to it. I don't want to go into the detail now, but there wasn’t an audit done on aspects of that act, and the auditor - I should say consultants - but did comment kind of unfavourably about how they were interpreting those time lines, because it had that something must be done within 30 days and the department had interpreted that with a huge amount of leeway for themselves. But the thing that's good about that is at least it provides a benchmark for people. To me, within 30 days, which is kind of like four weeks, things should be able to happen then.

MRS OWENS: You could make provision if there's some exceptional circumstances that it can be extended, but you have to make a case as to why there's exceptional circumstances.

MS McKENZIE: And there might be a limit on the extension as well.

MRS OWENS: Yes. In Victoria - I don't know whether you know, under the Equal Opportunity Act, there are certainly time limits for what the commission has to do. They've got to decide whether or not to decline the complaint within 60 days of receiving it. I have this vague feeling there might be a possibility of a tender extension, but that's it.

MS RYAN: I'd be very much in favour of things like that, and I think 60 days is a huge amount of time to give because it's very - when people bring complaints, it's a very difficult process that you go through. I mean, it becomes one of the kind of, you know, terribly important things in the world to you.

MRS OWENS: But the other thing under the Equal Opportunity Act which might, if it had been in the DDA, have helped you, is there's a process to actually expedite a complaint if it's an urgent matter or, you know, there are exceptional circumstances to it, and if you do that, then that period of 60 days turns into 30. Everything gets shortened, and it gets shortened before the tribunal as well. We must begin to hear the matter in 30 days after receiving it. So it's a much shorter process and given that this was about a kindergarten where of course the time is short, that would have been a procedure you could have adopted.

MS RYAN: The only one - this is meant to be slightly humorous - in Victoria under the IDPS Act, if you've got a complaint, you must make it within 30 days of receiving the decision that you're going to complain about, and to my knowledge they do enforce that.

MRS OWENS: They don't regard that as a kind of easy-going time frame.

MS RYAN: I'd just like to touch on one other point, and I think this is something which maybe hasn't been taken up or to me doesn't seem to be, and that's the effect of discrimination on associates of people with disabilities, and I want to approach this very much from a personal point of view of my sister as the mother of a child with a disability, and her eldest child told her, "Mum, you don't have a life," and I think it's very discriminatory for a mother not to have a life.

That's very harsh, but I think sometimes out of the mouths of babes, because if you look at her life - caring for a totally disabled child - employment is really out of the question. He also has very high medical needs, and that certainly doesn't help in terms of the demands on her time, but it truly is, you know, seven days a week - 24-7-365 I think is the language that people use - and the total lack of services in Victoria even for a situation where you have such a profoundly disabled child. That's a thing that really really scares me, that this is what is happening for services and for families who are the associates of children born with disabilities.

There's no way that they have anything that you might consider to be a normal life, and I make the comparison with my brother and his wife and their children who are kind of - they've got three - and their three children and my younger sister with the disabled child, and their family life, and that family life. It's chalk and cheese and it's more noticeable now when you've got a 13-year-old, and so many women have gone back to work or have gone back to work part-time, and a number of her friends, they've actually gone back to work full-time now that their children are in secondary school, and you have all the benefits, not only of working, but you also have the benefits of the income coming in.

MRS OWENS: And just the social interaction.

MS RYAN: Totally, and I think if you wanted to get - I wanted to get a measure of what disabilities does to associates. My sister and her husband are still together, but my understanding is - and I actually haven't been able to source this one. It's a figure which gets floated around that it's an extremely high number of marriages which break up when there's a child with a disability that in effect they become that component of the single parent family. I don't want to go into kind of all - no, let me just tell you this story because I think it's quite relevant.

MRS OWENS: We'll have to move on actually, Margaret, because our next participant is here.

MS RYAN: Yes. But can I just make that point, that I think we need to look a lot more at the discrimination and the effects of disability on the associates of people with a disability, and in particularly their families. This is why I provided the home truths, the Crock of Services article, about what’s happening in Victoria, because if you’re really going to have policy discussions about disability and services that are provided and what’s discrimination and what’s not, you need some facts, and the kind of facts about services - well, Victoria tells lies - the state of Victoria - and there’s been a series of questions asked in parliament and which will continue to be asked in parliament. There are some members of parliament who are very sympathetic towards disability issues that have a history of involvement in disability issues.

When you know that there’s over 3000 people - I think it’s 4200 - actually on the waiting list for some kind of accommodation support, to me that’s 4000 families where their lives - maybe it’s discrimination, maybe it’s not, but their lives are being made so much harder than other families, and the government will say, "But we’ve provided 1100 places," when in fact they’ve provided 281. I mean, there’s a huge difference there.

MS McKENZIE: Can I just ask a couple of questions. One is, in the material that you supplied, when they’re talking about early intervention services and their withdrawal, what services are they speaking of?

MS RYAN: In Victoria, the early intervention services - and that part that I referred the information I provided - it’s services for children aged nought to six years, and they have what they call specialist children’s services teams, and they’re the government direct service providers, and then there’s a whole range of non-government organisations and they’re called early intervention agencies. They started being set up around - well, before, but sort of 1980, and at that time early intervention was applied to children. Now early intervention has come to mean really any age group almost that you tackle a problem early, that you intervene early or tackle a situation.

MS McKENZIE: So it’s really services provided in the homes to these children?

MS RYAN: No. There’s centres that they go to as well, and some of it will be home based.

MS McKENZIE: Is it these services that have been withdrawn by the government? The material that you’ve supplied talks about the withdrawal of certain early intervention services. I just wasn’t clear what had actually been withdrawn or is it the funding that's been withdrawn?

MS RYAN: No. It's the provision of these services within the structure of the legislation. So all the things which are required to happen under that Intellectually Disabled Persons Services legislation, there is quite a lot about a system of services that’s, you know, reasonably prescriptive, were meant to apply for the nought to six-year-olds, and the government said, "No, we’re not going to do it under that legislation. That doesn’t apply to us. We’ll just write ourselves out of it," and that in itself is quite fascinating if you think they could do the same - "Well, the Disability Discrimination Act doesn’t apply to us. We’re going to set up our own system of services."

MS McKENZIE: This might be matters that - - -

MRS OWENS: I think they’re matters beyond the scope of this inquiry really.

MS McKENZIE: I just didn’t understand what the service - my last question is just related to the ombudsman. Is it your view that the Human Rights Commission should be a body about which you could go to the ombudsman?

MS RYAN: It certainly is. You have to have some easy kind of appeal other than the Federal Court, but that was about a procedural thing. It was a kind of thing that seemed to me that you should be able to go and complain to someone about and have something happen, but maybe it’s not the right way. You know, maybe this is where some kind of - I’m quite keen on parliamentary committees oversighting legislation.

MRS OWENS: Thank you very much for your time. Thank you for coming.

MS RYAN: Thank you very much indeed.

MRS OWENS: I hope you’re not too late for work. We’ll just break for a minute.

MRS OWENS: We will now resume. The next participant this morning is Albert Hopkins. Welcome, and could you please repeat your name and the capacity in which you're appearing for the transcript.

MR HOPKINS: My name is Albert Hopkins, Shirley deVeres. I'm 52. I'm representing myself as my boys and family. I have a son who's spina bifida and asthmatic, and we've been through the mill over the years, but I really must say that - I thank this organisation to have a bit of a say because I believe things are getting wrong. It's getting worse. It's not getting better. The commonsense is getting out of the system. I'm a union shop steward, occupational health and safety officer for a company that employs over 300 people. I can honestly say that I've made a unit which is transported milk that goes into your coffees and teas and wine - whatever. We're the largest road tanker manufacturing company in Australia, and we are - well, an American engineer came over and said we're 20 years in front of the American market in technology and attitudes.

I really - I stayed up all night trying to work out what to say, to be quite honest. I only had one hour's sleep, but just to give you an idea on my background, I'm a - I think I need to say this so that you can have a bit of an understanding of my mannerisms and whatever.

MRS OWENS: Where you're coming from, yes.

MS McKENZIE: Yes.

MR HOPKINS: At any rate, my father was a farmer in England. I did a trade at my cousin's factory called JCB Excavators. He started off with a one-pound welder. My father lent him 500 pounds to start off his first factory. He employs now almost 6000 people worldwide because he was given a chance. Banks wouldn't give Joe a chance. My father gave him a chance. That's basically the - and I did my trade there. At any rate, I came out here and got to know a few people, and I - well, I actually pushed to get the integration act into the system here in Victoria. I wrote the rough draft of law which was polished up by my solicitor, Mr John Cain, who became premier.

MS McKENZIE: Big solicitor.

MR HOPKINS: The first school in the world is Tyler Street Primary School that integrated - a lot of people said, "You don't know what you're on about." Just get in contact with John Nelson, the headmaster. At any rate, a few people who have known me over the years because I get to a point and I jack up. Just to give you an understanding, Mr Harry Jenkins MP; his father, senator, when he was speaker of the house; Mr Peter Batchelor; John Cain, premier; Chris Spindler; Don Chipp; Lynn Allison, democrat today; Maggie Gorton saved my house. She was the niece of John

Gorton; Mr Alan Ingram, senior manager, General Motors; Laurie Ryan, Skyroad Engineering; Mr Neil Tieman who has actually been to my house in England, because that's the respect that he has for me. My cousin is a lord high steward of the House of Lords, Earl Ferris. I've seen him a fair few times at my grandma's place.

That just gives you a bit of an idea where I come from. Basically I'm just a mister nobody. I just keep my head down, try to hang things around, but when I get annoyed with things, then look out, I'm afraid to say. Can I ask a question in this regard: this commission - this comes under the jurisdiction of the crown, doesn't it?

MRS OWENS: Yes. It's a Commonwealth - - -

MS McKENZIE: Yes, it's a body that's set up by an act of parliament.

MR HOPKINS: That answers the question.

MS McKENZIE: It's not government. It's an independent body.

MR HOPKINS: Okay.

MS McKENZIE: The way this inquiry comes to us is that a minister has referred to us, as the act of parliament enables the minister to do, this whole question of the Disability Discrimination Act and what our task is then is to make a report to government about that.

MR HOPKINS: Okay. Thanks, Cate. At any rate, I think I'll go through - a lot of people have a misunderstanding to the word "discrimination", and it's a subtle word. I've just taken this out of the Collins Dictionary, and strangely it's above the word called discrown, and if you understand that, there's a lot of discrimination there in itself. "Discrown" meaning "to deprive of a crown", "discrimination" meaning "Faculty of drawing nice distinctions perceptions and differences" - in my wording, dividing and non-equal. That's my words. I found this out over, well, 40 or so odd years.

As I say, I come from a place called Alton in Staffordshire. It's one of the nicest areas of Staffordshire, so a bit of a plug for the area; go there on a holiday because if you go there, you can come back here and say you've been to Camelot. I don't muck around with anyone. It is Camelot. The roundhouse is still there where the temple was, and the tomb of Joseph of Arimathaea is underneath Alton, and the Camelot walls was built by the white stone of Alton. Go there and have a look. Neil thought I was joking when he went, not so much now.

The house I come from is called Whitehouse which is also the surnames of the Dukes of Norfolk, my grandparents. I'm a farmer, farmer's son, as I said before.

Whitehouse is also the house of Buckingham, Dukes of Buckingham who built Buckingham Palace, another grandfather. JCB Excavators is Shirley - cousins - and when I was working there - it's now controlled by Sir Anthony - there I learnt to treat everyone as equal as many men had disabilities from the Second World War. They worked as good as anyone. They found a position which suited their disabilities. I have had that attitude of equal ever since and wherever I have worked, and because of this I stand up for people who need help, which is why people trust me in the position of shop steward and OHS officer, retired - but I'm still there - from that position, but still look out for the people I work for and with, and also my son who is spina bifida - fully qualified tradesman, first in the field. His twin brother was trained as heavy stream diesel mechanic for Bunbury Engineering, agency in Australia for JCBs.

A lot of the disabled put forward ideas to change its designs to JCB's which has helped the company to be fourth, fifth-largest excavator company in the world, and one of the top three technology advance companies in Europe. It makes you think; it started in 1948 with a one-pound welder just to earn an extra quid for his family.

From being a farmer's son and my training at JCB, it has helped me here in Australia. I emigrated in 1970. The first friends I made were Hans and Ziggy Voss. They passed away now, but I always remember then, and Sir Henry Bolte, premier of Victoria. I also had a car accident four months after I came here, and my solicitor was Mr John Cain who later became my MP, and then premier, and he helped a lot. Because of those contacts, it has helped me with my knowledge of working with disabled people to helping get some laws into Victoria and Australia, then follow it up in other countries; such as seat belt legislation laws, drink driving, Medibank.

My most proud piece of law is getting integration law for physically handicapped children, but physically, not mentally, as that is a highly specialised field, and a great deal of teachers are not trained for the area of training and is a great disturbance for other classroom children. This is not discrimination; this is just cold facts. But even that is slowly changing. If you think I don't know what I'm talking about, speak to Mr John Cain, as I wrote the rough draft of the law. He cleared it up and I read it and said yes. He put it to parliament - and also Mr John Nelson, headmaster of Tyler Street Primary School, Preston, being Plenty Road and High Street. He has documents to prove it.

Also when law came in, headmaster was Mr English. Mr Nelson has these documents and others. When Kennett tried to sell off the small school, these documents stopped his illegal sale of the lands to developers. It was already sold - already sold. This was a little school where the little kids go to. They call it the little school and the big school. You go there for two, three years, nice big playing field and everything and not being bullied, and then they go to the big school. So they've got a grounding in life in the school structure, and Kennett couldn't give two hoots.

At any rate, Kennett then spent a lot of money on needed repairs. Up to that time, you couldn't get a penny, new school equipment; nothing. That's to keep things quiet as he knew he had no rights to sell. Also PANCH Hospital, Keon Park Tech and Primary, the same. This cost my son one year of learning, and others with conditions like my sons have - used laws to try to stop Anthony to go to Merrilands; stated, "Should be at special school." Like I said - and I may repeat myself a few times, but it gives you an understanding. I have a family of four boys; Mark, Justin, Anthony and Si. One is asthmatic, Justin; Anthony has spina bifida; Simon has a rare bowel infection. I have had the three of them blue in my hands and very near death - well, Anthony and Simon did die, but a smack on the backside started their hearts again while in hospital - Royal Children's and PANCH.

Justin has stopped breathing while waiting to be seen in a queue. After anger release stirring the pot with registrars, Mr Cain and a few others, that was stopped. It became first priority with all asthmatics. When they went there, they were straight in; no mucking around.

Disabilities - I know you may think I am rambling, but I have felt the pain, have seen the pain with my boys, and especially my wife's pain. Her maiden name is Belzer of Poland. King John the second was her great great grandfather, and she is head of her family. Eldest back to John the Second of Lanzer, Belzer; cousin to the pope of today, and Stuart of Poland. I am Stuart of Britain, head of the house of Stuart, not bloody Michael of Albany.

Well, when my son started primary school, some teachers didn't want to concern themselves with Justin's asthma; couldn't let him have his spray et cetera, as disruptive to the class. When he had a major attack one day and hospitalised, I blasted the teacher who stopped him from his spray, changed her attitude very quickly, and never had trouble with his asthma at school again. When Anthony's time came to going to primary, the teachers and school council said he couldn't go to Tyler Street as needs special school for his condition. How do you treat a child who has got a twin brother who runs around like a bat out of hell? Can you imagine the pain of that, of going to a specialist school? We brought that up, they couldn't give two hoots. As far as they were concerned, they had the Education Department on their side and they could do what the hell they liked.

At any rate, Tyler Street was two doors from the house I and Barb had bought - my wife. We bought it because how close to school if any of the boys needed help. To them, wasn't their concern. Anthony only had physical handicap, not brain, but that didn't matter. As far as they were concerned, they were right and had the law on their side. I said that I will summons every one on the school council with civil action using Australian constitution and UN charters. John Cain helped me in that situation. Brother, you have never seen too many people's faces change from being so smarty pants to white that you've ever seen in this instant because they knew I'd do it. The summonses were already drawn up. It took me a year to pay up.

They rethought their attitude. I was helped with the sections to be used by Mr John Cain. He then said, "Why don't you write a rough draft of law so other children with physical disabilities could go to state school?" I did, and he got it through parliament with my help in the background. Because of this, thousands have been helped worldwide. So instead of being on government handouts, they have a chance to be human beings, and as equal in society, not looked down on, but because of the law, Anthony is a sheet metal tradesman. He has done a full apprenticeship and is slowly building a business up after hours - night time and weekends.

He works at Tieman Industries. When he went for an apprenticeship, there were two people who really tried to help in Mr Alan Turner and Mr Frank Micallef. Alan wanted to help as his own brother was spina. So he gave Anthony a chance job, and he took it. Both of these men talked and helped so much in one way or another. Sometimes they got frustrated with Anthony, but when they realised that he was going to pass, no matter what, they learned respect for him. Even today they have moved to another Tieman factory at Campbellfield, but still ask of him. They were factory managers at Keon Park, but when he went to trade school, excuses started again.

Just the same as primary, then Merrilands, with comments, "Oh, he will not handle the trade, no faculties." Just on and on even though the Discrimination Act had been passed because of the Integration Act being passed. It stopped when I phoned up the apprentice commission as even they had excuses such as, "If he has a position then he takes away a position from a person who will pass as a tradesman." Can you imagine my hurt? One idea I had at JCB - the company JCB had well over 200 million pounds. The money that Joe's factory gave to me paid for my first car which was three years old so it you an understanding of the value in today's terms and that's 34 years ago, at the age of 19. I was second in charge of a production line that produced half a million pounds worth of product a week.

MS McKENZIE: Just going back for a sec to the apprenticeship commission and the trade school - so eventually there was no problem, your son went to trade school.

MR HOPKINS: Oh, yes, believe you me.

MS McKENZIE: Okay.

MR HOPKINS: Excusing this frank terminology, but some people call it - and I - some people would use it as a sign of respect for me. Now, it sounds - the political correctness of today, it's not a sign of respect but a lot of people call me, "Yeah, Albert, you're a Pommy bastard," but I'll tell you something now, I prefer a person to call me that than some of the back-stabbing things that they do behind my back because at least the person who's said it to my face has had the guts to say it to my face.

MS OWENS: It's gone onto the transcript, Albert. That's all right.

MR HOPKINS: No, I don't give two hoots. You want, you know - - -

MS OWENS: It sometimes is a term of endearment too.

MR HOPKINS: Yes, it is. That's how they treat it because they know that if I go - it's like one bloke who's done his back. He got nowhere with all the other people. He come up to me and I said, "Look, I can't promise anything but I'll see what I can do." He knows when I go past that door, I'm in there fighting for him. All right? Now, with that comment I exploded, as without being accepted by the apprentice commission then Anthony wouldn't have a job and if they wouldn't give him a chance at Tieman, he wouldn't be given a chance as a tradesman anywhere else. I told the person, "If you don't accept him, I will take you to court under common law." He just laughed, which was a mistake, as common laws were set up by the kings of mercy of my grandparents before 1066 and they were great, et cetera, grandparents and my family signed the Magna Carter Declaration of American Independence and helped to finance Captain Cook's voyage to Australia, the Dukes of Norfolk and Buckingham, and George III King of England, the Hopkins side. So if you want to go to court, then so be it. Two days later he was accepted and he had a job.

I ask though, why did I have to do that? But why do you have to fight to give a person a chance? They can have a future on their own. We now have to look at the governments taking away people's rights under common law which have served the peoples under its jurisdiction for over 1000 years, the longest terminology of law that any country in the world has ever got. Look at common law rights over workers comp. Boy do I know that one, as I shattered my ankle, four pins in it, 15 months later still pain in me, even today. But I get laws rammed down my throat, comments like this, "I don't believe you," by so-called doctors and specialists and people who are supposed to know better but when you've got black bruising and redness and soreness, I know what I'm on about. "She'll be all right. Can it do that under law?" - comments - "no light duties" and other subtle comments.

But they forget one thing. Common law rights cannot be taken away from people because they have been accepted by three crowned heads of state, and when I state three crowned heads of state, most lawyers and the attorneys of today, or whatever you want to call them, are not taught that once a law has been accepted by three crowned heads of state, it takes 99.9 years for that law to be lost and then they can bring another law out to suit. That is why all parliament under the British

Westminster system read all acts of law three times. I've been heavily involved in politics. I've been on a senate ticket and the last election was the first time ever that I haven't been asked by Labour or Liberal to stand as an MP or a senator of my choice.

MS McKENZIE: Can I ask, have you ever made a complaint under the Disability Discrimination Act or - - -

MR HOPKINS: If you go to a solicitor, what does he say? "Oh, we need a" - I'm not a legal person, right, with all the jargon. When I was on - one reason why I pulled out of the senate ticket was because I'm not a paperwork person; I'm a toolman, right? At the end of the day I like to see something constructive, not a piece of paper. When I was in the Democrats under Don Chipp and Maggie Gordon, they were trying to help me out and one thing or another, and I was very popular at the time because I did a petition that went Australia-wide and Sir Harry Jenkins senior put it through parliament against the VAT as it was then. I come from England and the VAT is a hated tax, especially in the farming community and small businessmen, and as Joe said, "Albert, VAT was out when I first started." He said, "I wouldn't have the business I've got today." So I sort of feel when I got into all the paperwork, the headaches, the back-stabbing and two-facedness, "Hey, this is not for me."

MS McKENZIE: It seems you've been able to accomplish lots by just force of character and going to your local MP.

MR HOPKINS: It's like my dad always used to say, "One pound at the right time can be more than three ton at the wrong time."

MS McKENZIE: When you started you said that you thought - if I'm interpreting you correctly - that attitudes still haven't improved. There are still difficulties.

MR HOPKINS: Yes, it's getting worse, especially with - if you look at the manufacturing side of industry, which is what I've been mostly involved with, years ago I used to manufacture stuff for four-inch plates for Latrobe power station, Ok-Tedi, the north-west gas fields and all the rest of it, as a proper boilermaker. The trade I'm doing now is really not a boilermaker's trade. It's a "sheeties" trade. In the game of boilermaking, the only thing that's left out of one of the best industries and best-paying industries is small factory work. It's all been shipped off over to Malaysia, Indonesia and the big docks in China. The problem is, I used to work for Bambora, and Dog and Dave - Lloyd and Dave, I should say. They put a quote in for the north-west shelf and they screwed it right down because they were trying to save the business and the jobs of 40 men - 50 men actually. The contract was awarded to Malaysia, not so much as price but because it was the government's directive of that period of time to look at third world countries. All right? That's the only reason why they lost the job.

MS McKENZIE: But just going back for a sec to the question of attitudes to people with disability, why was that - - -

MR HOPKINS: I was just going to get to this. Because of that, the markets now are so tight and keenly fought for, therefore before anybody will put a person with a disability on who might have had a broken arm, or bit of a thing like that - it happened many, many times before - now it's not on because they're having to compete at 100 per cent. There's no flexibility in the market any more. It's like Tieman's used to employ 550 men going back about 10 year ago and they used to do the scissor lifts and things like this. Well, to compete with other companies, they've had to get all the stuff made in Malaysia and brought into Australia. If they didn't do it, they'd have gone bust in that field in any case. So you're in a no-win situation. Now, with our tankers, there's a company starting to bring in barrels from China at $5000 a blooming barrel cheaper than what we can manufacture.

MRS OWENS: So you're saying some of the jobs that people with disabilities might have got at one stage, they're going as well.

MS McKENZIE: It's gone off-shore.

MR HOPKINS: **D**efinitely. No "ifs" and no "buts" about that. So it's very rare now that I see anybody in the game that is - who have got disabilities through either accidents or through congenital - you know, something happening at birth or anything like that, and a lot of them, because they've had problems at school, they haven't got the academic to get into offices. Now, I don't know the answer. I'll be quite honest with you. I do believe the tariffs is one major issue in the discrimination for disabilities. Now, people may think I'm nuts but the reason why I say that, if the tariffs were up a little bit, if you could give an equal market for people to give extra time or say, "Okay, well, I can afford to put him on," like it used to be. Now, we just look at the disability and use any excuse under the sun. Does that answer your question?

MS McKENZIE: It does.

MR HOPKINS: They forget one thing. Common law rights cannot be taken away - blah, blah - for the three crowned heads of state.

MS McKENZIE: Yes.

MR HOPKINS: Now, that's covered by the three Magna Carters - all right - signed by John I, Henry II and Edward III. Now, I know it sounds crazy again but Plantagenet is Devereux Shirley. The Bill of Rights up to the Imperial Applications Act of 1828 to the Imperial Applications Act of 1980 and reprinted 2000. So in law, no matter what parliaments may pass, as we are still under the rights of the crown and House of David, over 2000 years of evolution in laws - this was proven in 1994 when Her Majesty ordered the proroguement of the Kennett parliament, to go to the people with a vote of the Victorian people on privatisation. Parliament was prorogued but Kennett didn't give a vote to the people. He tried - well, he did get around it by passing a new Victorian constitution which as with him having power of majority in both houses, he did - but never registered in the House of Lords and because of this he should be charged with treason, and I'll say that openly and in any court or anywhere. Under the Treason Act of 1703-4 period he then started to illegally sell off lands, trust lands that we put in trust to build schools, police stations, hospitals and other assets as private lands of landowners and land to be used only for that designated purpose. If closed then shall be given back to the land owners or the heirs. His arrogance said, "No, we will sell off and they can take us to court if they dare."

MS McKENZIE: But can I just bring you back to the disability discrimination issue because there are many other issues that are important but - - -

MR HOPKINS: You'll see what I'm getting at.

MS McKENZIE: We only - yes, if you can - - -

MR HOPKINS: Because this affects the person from Yooralla, right? This affects the people at Kew Cottages under these acts. Okay, I've only got, what, two or three pages left and then I'll cut it quick. Designated person. If closed then should be given back to land owners or the heirs. His arrogance said "No," blah, blah. People cannot afford to take on the ground in court, so back off. But when lands are held in trust, it's always in trust under the trust laws and the banking acts. This is like discrimination as they are physically handicapped through lack of funds to pursue their rights. This is like the liquidation of the Victoria bank, and the Victoria bank was one of the bank systems for schools and hospitals - all right - and still in liquidation today. The National Bank now is the Victoria bank; even the headquarters is there. I'm trying to cut things out.

In accidents at work, couldn't care less about your pain or what it has done to your family, when no money to cover your bills, to pay power, Telstra, rent, water, the basics of life's freedoms. If you don't or cannot pay - threaten, will put you on the blacklist in the city and you cannot get finance through normal channels. Now, most disability people are on a low income. It only needs to have a slip up a step to put you behind the eight ball. It takes them a lot longer than a normal person to get back up again. This black system what the power companies are using to black ban you on the finance, there's no recourse. You're a write-off here and write-off there and they say, "Oh well, it's got to go through this process, that process." You go to a solicitor and how much does it cost? That's why I believe that under the

Discrimination Act there should be a couple of things in law, entitlements like the lady was talking about before; integration of children, which helped my son immensely, because that person who is trained in integration has a better understanding than I or the majority of parents have in aspects of law.

So instead of the teacher bluffing you to do this, this, this, they have a job to bluff this person because that person is formally trained. Then you have a board of people, like this today, an informal thing. I wish I had a dollar for every time that I've had their things thrown in my face, "We'll take you to court." I wish I had a dollar. I reckon I'd be able to by a brand new flaming car - and they laugh at it. That's a comment that is seriously stated. If you haven't got the money, how can you?

Basically it stinks, all right. It's like even now where you've got the doctors with this three-tier system only two days ago. I know what I'd do, I say, "Hey, mate, you take away those fees or I'll take your licence to operate. No ifs, no buts. You have a Hippocratic oath you've sworn to. If you don't like it, either get out or let someone else come in that can do it" - not say, "I want extra money for this, and want extra money for this." But who's at basic fault of it? Maybe Howard trying to destroy Medicare, because he's never liked it. Last time I saw that four-eyed git I told him what I thought to his face over Medibank.

MS McKENZIE: Can we just maybe go back to disability discrimination.

MR HOPKINS: Yes, all right, but that has an impact on disabilities, because if I've got to go to a doctor at 35, 40 dollars, I can't afford it as a disabled person, I then have to go to Northern Hospital. You try to go to Northern Hospital with a general complaint now. The queue is growing every day. It's getting worse and worse. What then happens, you have doctors who are stressed out to the limit, nurses stressed out to the limit because they're doing all these hours trying to catch up. Then what happens then? You have wrongful medical decisions. If you're already disabled that's the worse thing you want. My sons were born at PANCH and born at Northern Hospital. My grandson was born at Northern Hospital and I feel extremely sorry for the doctors who operate there, especially the young ones who have just come out of training. So it all has impacts.

Sorry, look, I'll wind up basically there. I have a fair bit of all this to say. But I personally believe with what's happened with all these laws, people are using the laws to hit you like a stick over the back of the neck. I shattered my ankle. With occupational health and safety, they brought this Angelica Mystica and this optimum career. I've asked her three times to show me her documents of accreditation, of her training and accreditation to operate in the field. She has access to my personal information on my medical and everything and she's refused three times. On Friday I turned around and said I want them. She said, "Well, I can't supply them." I said, "Well, in that case then, it's this," and I'm taking her to court because now the union is backing me. You know what she said - "I'll dissolve of this case" - and walked away.

MRS OWENS: We can't look at that case, obviously.

MR HOPKINS: No, but I'm just saying I got a broken leg through an accident at the fault of the company through changing their policies in work. This last 14, 15 months I've had flak left, right and centre, all right. We've got no understanding and that's part of the reason why I'm here. I normally keep out of the system, but I think it's time to say - because I'll say this now, I am the Duke of Buckingham and I am the head of the house of Stuart and Hanover and have a better right to the British throne than Her Majesty, because I'm the head of the 57 men, women and children who had a better right to the British throne than George I, and you're really talking lines of succession on page 29. It's in black and white. You then go to the Guinness Book of Records and the peer who had 57 children, my great-great grandfather, and I would like something to be done about the attitude of the governments on this Medibank issue.

MRS OWENS: Thank you very much for that.

MS McKENZIE: Thank you very much for your submission. You've raised - - -

MR HOPKINS: If ever you need any help - - -

MS McKENZIE: - - - a lot of issues.

MR HOPKINS: Right, if ever you need any questions, the lady who was in the paper, you've got my phone number.

MS McKENZIE: Yes, thank you.

MR HOPKINS: And there's other people here to talk, I gather that.

MS McKENZIE: Yes, they are. Many people would like to make some submissions to us as well, but thank you very much for yours, thank you.

MR HOPKINS: If you need help, let me know, because I'm sick of the attitude now.

MRS OWENS: We'll break, thank you.

MRS OWENS: The next participant this morning is Yooralla. Could I ask you each to give your name and the capacity in which you are appearing, for the transcript.

MS LEE: My name is Jeanette Lee and I'm a worker at Yooralla's Community Learning and Living Services and my role is in advocacy and consumer participation.

MRS OWENS: Good, thanks, Jeanette.

MR POWER: My name is Colin Power. I'm a volunteer with Community Learning and Living, with Nola Swan, she is the manager, and I'm also a consumer of Yooralla.

MRS OWENS: Thank you both very much for coming and I know you were both here yesterday to get the hang of things, and we've got some points before us that we know you want to run through. So will I hand over - who's going to do it, Jeanette or Colin, or both?

MS LEE: Yes, we'll both sort of do it at different points.

MRS OWENS: Yes, that's fine. Okay, yes, go for it.

MS LEE: Colin can add things too, if you want to.

MR POWER: Yes.

MS LEE: Okay, yes. We thought we'd start with the benefits of the Disability Discrimination Act. What I found in my role as advocacy and consumer participation worker, I have a role in training people about their rights and also about how to speak up and, you know, assert themselves and also get involved with issues that affect them. I found that having the DDA has given people a lot more empowerment to know that they do have rights to be able to have equal access to things, to be able to go places where there has always been lots of obstacles, and often people with disabilities have accepted those limitations and have often not even thought of it as discrimination because they've always been told, "You know, put up with the situation and just fit in and don't ask for too much."

There has often been that attitude, like, you know, "Be grateful for what you get if you do get any access or any assistance and don't rock the boat." So having the DDA there, that legislation I think has been very important. The publicity of it, I guess a lot of people with disabilities still don't know about it. So I've made it, I guess, my point to let people know and to train them on how to use it as well. So yes, that's I think one of the big benefits. I guess the difficulties with that is that yes, there's a lot of publicity but we'll cover that later.

It has been a very useful tool to gain changes. Informally I often get requests from people wanting to make some changes in something or they've got issues or complaints and I may be the initial point of contact. So often I'll work with them initially just to make a complaint to the actual provider of a service or somewhere that they feel they're not getting a fair go and to write a letter and often we would put something in it about the Disability Discrimination Act to put a bit of pressure on them. I've found that that has worked, so often it has not had to go to the next stage of a formal complaint.

So, you know, there has been that issue of - like getting a ramp put in, which was just a matter of one step basically and they were saying, "Oh, it's too difficult. Why don't you go to this other course that has the same kind of course?" But we're saying, "No, we want to go to this course and it's closer and it's what they've chosen." So yes, they did put it in, in the end, though they were reluctant at first, yes.

MRS OWENS: But once they hear about the act - - -

MS LEE: Yes, that's right.

MRS OWENS: - - - and the potential to go further, that means that threat helps.

MS LEE: Yes, that's right, and - - -

MR POWER: It always seems that you just have to more or less - it's unfortunate with the way it is, but it just seems that you've got to always threaten people with the act all the time to actually get something done. Like, reasoning doesn't come into it because they've got to spend a few dollars or whatever. But as soon as you say, "Look, there's an act in place. You know, you'll have to do it," and then it's forcing them then, you know. But I always think that reasoning should come into it, but a lot of times it doesn't.

MS LEE: Yes, whereas you do get the people - like, we have run some education with service providers and people in the community about the Disability Discrimination Act and, you know, some of them have actively sort of said, "Yes, we will look at our access and the accommodation for people with disabilities." So just by education too - - -

MS McKENZIE: That also helps.

MS LEE: Yes, that does help. So there are some people that do want to do something and I guess there's the reluctant ones that need that push along. I mean, I can probably talk about a situation myself, putting a complaint in with an airline company regarding a ticket I bought to travel to Darwin and I bought two tickets, for me and one for my attendant, and at the last moment my attendant couldn't come along too because she had an accident and what I wanted to do was to transfer the ticket to the other attendant. I managed to get someone a couple of days before, because it just happened at that stage, and I saw it as interpreting the act as if you need an aid, yes, you should be able to bring the person.

I mean, I was paying for the ticket but what they were saying is that, "It's non-transferable and you can't put another person's name onto a ticket." But what I said was, "The person is like an aid. It doesn't matter who they are, they're still my aid."

MS McKENZIE: Yes.

MS LEE: And I had to really push that and I used the Disability Discrimination Act as one of my arguments.

MS McKENZIE: And they did transfer eventually?

MS LEE: They did in the end, but after months and pushing and at first, you know, I didn't sort of threaten but at the end I was saying, "I'm going to put in a formal complaint," and they finally came to the party and refunded me. I mean, I was prepared to just pay the same amount for the other person but they were wanting me to pay for the full fare ticket because when you actually - - -

MS McKENZIE: You got the discounted ticket?

MS LEE: It was just a normal discount ticket because you booked early. But when you get one the day before then you have to pay, like, 12 or 14 hundred dollars and my other ticket was $500. At that stage I actually paid for the $1400 tickets because I had to get there. But when I came back I made the complaint and they actually refunded me the difference.

MS McKENZIE: So did you just have to complain to the airline or did you have to actually go and make a formal complaint?

MS LEE: I just complained to the airlines. I was wanting a policy change and I think for that to happen I would have had to go to the commission. But I was sort of pretty low in energy at that stage and I actually sort of didn't continue with it.

MS McKENZIE: But they did it for you and - - -

MS LEE: Yes. But I do want to set sort of precedents and I have told people about it.

MS McKENZIE: And now it's on the transcript and will go onto our web site.

MS LEE: Yes.

MRS OWENS: We can draw it to the attention of the airline later. If you tell us later which airline it was, we can - there's not that many airlines going to Darwin.

MS McKENZIE: Maybe we might send it to whatever airlines go to Darwin so that they all know that this might be an issue.

MS LEE: Yes. But it wasn't an easy process and it takes a lot of commitment to it. But one case which I myself took right through, which took probably four years to get changed and I was looking for systemic change, was about the parking in Melbourne City Council. They probably don't mind me talking about it because we ended up working it out and they said it could be public. But what the issue was there was that their ticket vending machines for the car - because I drive a van and I had to park it in St Kilda Road where you actually have to get a ticket from the machine and then come back into your car and display it on your dashboard.

I parked in that area because I couldn't find any other parking and when I went to the machine it was inaccessible for me to reach a ticket. Also the whole process of me having to get out of my van and then go back into the van would have taken, you know, a long time. So I actually didn't get the ticket and then they issued me with a parking infringement. I actually wrote a complaint to them and told them about the Disability Discrimination Act and said it was unfair. They sort of ignored that at that stage. They said it went to the wrong person, just the clerk or whatever. So I actually put in a complaint to the commission.

MS McKENZIE: Equal Opportunity or HREOC?

MS LEE: HREOC, and it was through the conciliation and then actually went to pre-hearing stage, and then the hearing was coming up when we finally came to agreements, and they got the right people involved finally. It took a while because council themselves had to work out what could be changed with the machines, the parking laws. But what we actually came to, we worked out in the end, was that anyone parking in an area where they had those ticket vending machines that had a disabled parking sticker would be exempt from having to get a ticket. So they have actually put those stickers up and signs up in all those areas and so it's the whole of the City of Melbourne area. But other councils have now followed because I've actually told them and a few people.

MS McKENZIE: So what you've done has had an enormous effect and helped many people in a much bigger area as well.

MS LEE: Yes, that's right, and in the end it became a win-win thing because I worked with them and I went on these committees and all this kind of thing, and it probably took about four years.

MS McKENZIE: And now the council can be a leader in that area and be a model for other councils to follow.

MS LEE: Yes, that's right. It also influenced the other parking areas because there was a parking action plan in the end and they're now putting in lower machines for the ones where you just put the money in and they will try and put those machines in most places and they will actually make them accessible.

MS McKENZIE: How did you find the process, can you tell me?

MS LEE: It was very time consuming and - - -

MS McKENZIE: Long?

MS LEE: Yes, frustrating.

MS McKENZIE: But good at the end, I suspect.

MS LEE: Yes, that's right. But I think if you persevere and if you keep your cool and - I mean, for me I went in there to make some change. I wasn't too emotionally involved with it, so probably that's why I could pursue it and had the energy. But I did it also to test out the legislation.

MS McKENZIE: Was that at the time when, if the matter had actually gone to a hearing, you would have had to go to court?

MS LEE: Yes. Well, it would have gone - at that stage it was the hearing.

MRS OWENS: Would you have been prepared to have gone further?

MS LEE: Yes, I would have, yes, because I went that far.

MRS OWENS: What about the costs or potential for costs? Was that going to be an issue for you?

MS LEE: Yes, probably would have been an issue but I think I would have looked at some legal assistance or avenues or got a friend, a barrister, or something like that, yes.

MRS OWENS: Did you use any legal assistance during the conciliation in the pre-hearing process?

MS LEE: Yes, Dallas Disability Discrimination Legal Service assisted me with the case, yes, and they were involved initially with the conciliations and then I sort of took it on further, yes. But it was a good outcome for all really and, yes, the Melbourne City Council now are seen as sort of leading in that area.

MRS OWENS: You're right.

MS LEE: But yes, it does take a lot of energy and patience and I guess the way you work with people.

MS McKENZIE: But then do you honestly feel that without the Disability Discrimination Act you wouldn't have been able to even do that process or get that systemic change?

MS LEE: Yes. I don't think I would have been able to do it without the act because the hearing was coming up. We did delay the hearings. I think we had, like, five months to work out something before the actual hearing was coming up and I kept pushing that. I'd say, "Okay, I'll work with you on your committee and this and that. But, you know, if we haven't worked it out by then, then I'm taking it further."

MRS OWENS: I wonder if the message has got beyond Victoria or beyond Melbourne to other states on what you've done; any idea?

MS LEE: I'm not sure. The Melbourne City Council put out something in their news at that stage and they actually notified all the people who had the disabled parking permits that they could park in those areas for free. But other councils, I think some of them have heard, because I have had quite a few calls from other people that have had a parking infringement notice, that are parked in an area where they had a ticket vending machine, and I told them about the case and, you know, to push it. So I notice that Box Hill and Williamstown have also got the same stickers now, too.

MRS OWENS: I'm just wondering if it got into New South Wales and South Australia and so on.

MS McKENZIE: Yes. But for starters that's a really excellent result.

MS LEE: Yes. So I mean, I didn't have to go through the full hearing and I think, yes, if you push it at the beginning stages - - -

MS McKENZIE: Thank you for that.

MS LEE: Yes, there's better recognition of the rights of people with disabilities. Did you want to say something about that, Colin?

MR POWER: Well, there is. There's certainly better recognition of the rights of people with disabilities in our society. But it's still only early days I think yet. I think what we do need to cover a lot more is getting the DDA more or less out there and publicised more. I don't know how this can be done. Whether you can put aside a certain amount of money to publicise it through TV, through local newspapers, stuff like that, I don't know. But it certainly is a very good act but it needs to be publicised and a lot more people need to know a lot more about it, what it entails, and also how to use it without feeling that they're going to be discriminated against if they do use the act.

It's like many years ago where people, you know, they don't want to rock the boat or anything like that, and because they're fearful, like I live in a high-rise with elderly people and some wheelies and that and they don't like speaking up. Like, many years ago, of the old cliche that if you start more or less rocking the boat to the Department of Human Services, which is our landlords now, they used to be the Ministry of Housing, they could come back and say, "Well, look, you know, you're a troublemaker, we want you out," and all this. That's past and gone. But there's still quite a few people out there that just don't want to speak up because - - -

MS McKENZIE: They're still afraid like in the old days.

MR POWER: Like in the old days.

MS LEE: Yes, and just knowledge of the act, I think still a lot of people don't know about it unless they've had some contact with an organisation that has promoted it. There hasn't been anything I know of on TV or a radio or that kind of thing, you know. No actively trying to reach people, and also the community, just, like, shopkeepers - yes, they're still unaware of it.

MRS OWENS: Yes, I think we're getting that message as we've gone around everywhere that there's just a lot of people with disabilities don't understand that there's an act. People out there running services don't know it's there and the general community doesn't know. So there is a challenge, and we've been asking people what is the best way of getting this message out. Colin has just made a couple of suggestions. But groups like Yooralla do play a very important role, like, Jeanette, your own role has been obviously vital but you're suggesting it needs a lot more than that.

MS LEE: Yes, that's right.

MR POWER: Also, to my way of thinking - I could be wrong - but I think

Yooralla is a unique kind of disability service because all the other states have just got one spastic society type of thing, or a SCOPE they call it these days. Like, when I went to school in Brisbane, I was with the Spastic Centre of Queensland. But I mean, you know, Yooralla, I don't think there's another second organisation like Yooralla. I don't know if New South Wales has got one. They might have one. But see, also like it's funding as well, like, if the different organisations like Dallas or Yooralla or whatever got a little bit of extra funding for, say, the publication that we could - - -

MS LEE: Advocacy.

MR POWER: Yes, of - - -

MS LEE: We've sort of had to use our funds for - I mean, our department is about independent living and I guess a lot of people interpret that as practical skills and that. But I guess when I started working there I sort of pushed to develop this area and I created my position basically. I was in a different position before, more about education, assisting people to access education. But the whole issue of independence is in the mind and knowing your rights and getting out there in the community and being able to do what you want to do and live a life of your choice. Often there's a lot of obstacles there so you need to know about your rights. You need to be able to assert yourself, that kind of thing. So I'd focus on, you know, building people's skills up in those areas.

MR POWER: I think a lot of it is people being assertive and there's only probably a certain percentage of probably wheelies or whatever or people with disabilities that would have that assertiveness to more or less speak up where other people want to just go with whatever is going on at the time. But, you know, that's not really going ahead either. We definitely need - like, the work that's being done in Victoria is fantastic compared to say where I come from in Queensland. That's why many years ago I didn't learn special skills or whatever. There was only one and that was in Brisbane.

MS McKENZIE: If you came from somewhere else in Queensland you'd have to either move to Brisbane or you just wouldn't have - - -

MR POWER: Exactly.

MRS OWENS: Where were you? You were at Mount Isa?

MR POWER: Mount Isa.

MS LEE: So someone gets difficulties with the DDA, as we're saying, it's mostly complaints-based. You know, like, change doesn't often happen unless you put in the complaint.

MS McKENZIE: Will the standards help, do you think?

MS LEE: Pardon?

MS McKENZIE: Will the standards help? The transport standard, for example, do you think that's a help?

MS LEE: Yes. I think it will help to some extent, when the standard is actually achieved. But at the stage where they've got all these time lines and it's going to be, you know, what, 30 years or something, it's making it hard for people to put in complaints now about some - it might be even little things they can do but they might just say, you know, we already got our action plan or standards that we're following, because I've heard that - - -

MS McKENZIE: So you might not be able to complain now because they're saying we're doing our standard and we're going to get everything accessible within the time line.

MS LEE: Yes, that's right.

MR POWER: Just for an example, like, two blocks away from here where we are, Spencer Street station, it's still going to take about two years to complete, and it will be just completed just before the Commonwealth Games. Now they're saying that, yes, the architects have learnt by their other slight mistakes they've done at Waterloo in London, the Waterloo station, train station in London, and Piccadilly, and they've learnt from that and they're going to put better resources in for disabled people and stuff like that. But that's still two years away, and the trams for different people, it's going to be completed, but that's still a certain amount of time away. So, you know, it's just a waiting process.

MS LEE: Whereas maybe some areas they could do it a bit quicker, but I guess because the standards are there, they're saying we can take our time. Whereas we realise there's some other areas that may take more time. So I guess that might be some of the problems with standards. With standards, there's no standards about just public access, is there. Is that right?

MS McKENZIE: Not yet.

MS LEE: I guess that's one of the big problems of people that are going to, you know, a restaurant, shops, nightclubs, whatever. Those places aren't actively putting in change, you know, access, and it seems to always depend on someone really putting in a complaint, making an issue about it, whereas it's quite an easy thing often even to put in a ramp for one step. So it seems like, you know, a waste of time that we all have to constantly make complaints, because we could spend all our time making complaints generally because there's so many places that are inaccessible with the physical access.

MR POWER: But also we are talking about probably two or more clarifications of people with disabilities as well, like there are people with disabilities that can still use trams, trains and buses. But there are other people that can only use taxis and what was brought up yesterday at the discussions here and that, like, with taxis - I don't use taxis a great deal. I use the train because the train station is right where I live. But I broke down one time, my scooter, and I waited over two and a half hours for a taxi, and I do know the frustrations of other people that have got to rely very, very heavily on taxis and that is their only way of getting from point A to point B.

A couple of years ago there was a thing put on by SCOPE, or the Spastic Centre, with the Department of Infrastructure, what's new in taxis, trains and trams, and actually there was one wheelchair person, disabled person, came, who went up and she was giving a talk with the help of one of those overhead, you know, where you type it out and it talks back to you. Anyhow, she did say to Peter Batchelor at that time, "How would you know?" - because you have got to more or less experience the frustration of being in a wheelchair and stuff like that and only being able to use one section of the public transport, which is the M50 taxis. We've got the M50 taxis here, they can work reasonably well. But it's the drivers that you've got to train and I don't know what the answer is to that because the so-called normal person in the street waits a half an hour where, you know, you can wait minimum of an hour for a taxi.

MS McKENZIE: There's clearly a problem.

MR POWER: It's a very big problem, massive.

MS LEE: The other big difficulty with DDA is the time, the energy and the commitment it takes to follow through with a complaint. Often people are very stressed about a situation and in the end they might not have the energy to follow it through. I've had people with mental health issues and it was just all too stressful to take it further.

MS McKENZIE: So did they lodge or they just didn't feel they could even lodge a complaint?

MS LEE: They had actually made a complaint to the actual centre, the shopping centre, it was, and they hadn't got a good result at all because this person was banned from the shopping centre. They then went to Dallas and talked about it then, about putting in a complaint, and I actually started writing the complaint with them. But then she had a bit of a breakdown and stuff like that and it was just too much to follow through. She just said forget it, I'm just, you know, not going to do it any more.

MRS OWENS: You would have to feel quite strong and resilient, wouldn't you, to be able to go through the process.

MS LEE: Yes, that's right, or you would need that support of someone to actually work with you, yes. So it does take a long time, the commitment. I've just been assisting a couple of people that put in the complaint about a pool, public pool, and we've had meetings with them. We've taken them to conciliation and then get agreement and finally went to the Federal Court, but went to the hearing stage of the Federal Court, and finally came to some agreement. I mean, it wasn't all that they wanted but they actually got to the stage where they were sort of tired too.

But it was about access to the pool, you know, on an equal basis like whenever the pool is open that they should have access to the hydro pool, because this pool complex really limited the times when people with disabilities could use the complex or the actual warm water pool, because they used it for children and birthday parties and all sorts of other things. They were giving priority to those things whereas they could probably have used another pool for those purposes.

MS McKENZIE: So it wasn't quite as good access as they wanted, but it was better than they would have had.

MS LEE: Yes. We actually increased the access through going to the commission and generally got a portion of the pool that they could use if they gave prior notice.

MS McKENZIE: So again it's not quite the same as a person just coming along.

MR POWER: No.

MS McKENZIE: But it's better than before.

MS LEE: Yes, that's right.

MRS OWENS: Did that take a long time to get through that whole process?

MS LEE: Yes. It took about three years, yes.

MRS OWENS: It took three years from when they initially decided they wanted to make the complaint till you got the final hearing outcome?

MS LEE: Yes, that's right. It was probably about that much.

MS McKENZIE: But that wasn't a hearing. That actually settled just before the hearing. Is that right?

MS LEE: It was mediation before the Federal Court hearing.

MS McKENZIE: Yes, so it was a pre-hearing mediation.

MS LEE: Yes. It didn't settle at conciliation but then it went to the mediation and there was the risk of all those legal costs and all that, and my clients felt it would be too much to go further. But we did get a few changes like they said they would publicise it and that most times that pool could be made available, but they just wanted people to check up if they were just going to turn up.

MRS OWENS: Why did it take so long?

MS LEE: Because I think the things were drawn out with the time lines, with first the conciliation and then the hearing, and we initially had meetings with the pool and then getting some support from - the legal support and that, and from Dallas. So yes, it just seemed to - - -

MRS OWENS: Take a long time. Meanwhile they're not having full access or as much access as they would like to the pool.

MS LEE: Yes, that's right.

MR POWER: I think in some cases too, you know, the longer you can draw it out, the better. Maybe they reckoned it might be for them - you know, they might think, "Oh, well, they will go away and not worry about it." It's like going to court, on a court case, the David and Goliath kind of syndrome I suppose you could say.

MS LEE: Because sometimes you don't know whether to complain directly to the people first, because sometimes it can go on for ages and they say they're going to do something and they don't do it.

MRS OWENS: The three years didn't include this - - -

MS LEE: Yes, it did, and the managers - - -

MRS OWENS: It did, it included that trying to talk to them first.

MS LEE: Yes, and the managers changed as well during that time.

MRS OWENS: So the three years wasn't just getting into the HREOC process?

MS LEE: No. I think that might have been two years, yes.

MRS OWENS: Two years for the HREOC bit of it.

MS LEE: Yes.

MRS OWENS: It seems like a very long time nevertheless.

MS McKENZIE: A long time to wait.

MS LEE: Yes.

MRS OWENS: But I think what interests us is how much of that two-year delay or period is due to the complainant, how much is due to the respondent and how much is due to just the slowness of the process overall. I'm trying to break it down a bit and understand where the lags occur and why.

MS LEE: Yes, that's right. Yes, I mean, it could have been both because they needed to wait for the response from the pool as well and they took a while and their managers changed. Then we had to make a response.

MR POWER: I think that frustrates a lot of people everywhere, is in the length of time it takes from the time you complain about something to when it's resolved. You know, they just - - -

MS McKENZIE: Are there any other matters you want to raise?

MS LEE: There was the matter of feeling that the HREOC is sort of under-resourced and they're sometimes reluctant to take on cases which they may see as trivial or too demanding clients.

MS McKENZIE: Have you had experience of that?

MS LEE: I don't know that I've had it direct, but I've talked to some people and they have said things like that, and also at the beginning when the DDA came in, it seemed to be a lot more - when there was the commissioner specifically for the DDA and she was sort of motivating people and saying, "Yes, put in a complaint. Whenever you experience discrimination, put it in." But I don't know, since then it seems to be like the actual process is a bit more formal and that your letter has to be a lot more detailed and very carefully written. I notice from talking with Dallas and that, you know, they think that initial letter is really important and you need to actually get that formal legal support to write it, or advocates or something, whereas for some people that may not know how to present their case they might just write it.

It may be not perceived in the right way. They may be seen as more trivial or something.

I don't know how much HREOC actually would do some investigation themselves or assist with the process to actually understand a situation fully. So that has sort of been my impression anyway, that yes, it seems to be a lot more - you know, you're needing to get that legal help. Sometimes I think that the way we perceive discrimination here can be a bit narrow, compared to other countries like America. I spent a bit of time in America and went around with the different activists there. I got a grant. This was in 94 I think, when the American Disabilities Act was out, and I found that their expectation of access was a lot greater in equal, more equitable access, whereas here we have cinemas that say they provide access but you might have to just sit in one spot right at the back and there's only one seat for someone that comes with you, one or two seats. You don't have the choice to sit in different spots in the whole cinema whereas in America their new designs was that you could access the whole cinema, all the different sections.

I went to a night club. They had a really good design there, where the whole night club was accessible and there were different levels, that you could get off at different points, because there was this ramp that went down. But it was just part of the design. It wasn't like special access. Here we tend to look at a special access thing, not universal access, and their definitions of, say - this deaf person told me that when she wants to go to theatre, a musical, she just said to them, "Provide me with a sign interpreter," to go to that show. It was a musical and she wanted a sign interpreter and they did, because they knew about the American Disabilities Act, and that was the expectation.

There was another case where this nightclub opened and it was then very accessible but someone complained that if they wanted to go there to be employed as - they had nude dancing in this wet floor area and it was down a couple of steps and she said, "If I was wanting to become this nude dancer I would not be able to access that area to do the dancing, to dance for the people," and it was closed down until they - - -

MS McKENZIE: Made it accessible.

MS LEE: Made that part accessible. So I think, yes, we need to look at that area of more equal access and looking at some entries, not back entries and not the goods lifts and all that kind of thing.

MR POWER: That is a good point actually with accessibility. Is it accessible or is it only partly accessible? Like, you know, if you're going to have something accessible it should be accessible, not only partly accessible.

MS LEE: And people say things are accessible when it's only just partly in a lot of places.

MR POWER: It's a bit like Federation Square. At the moment - there was an article in the paper only a few days ago about wheelchair people that have got to pull themselves along, use the wheels without a motor or anything like that. The back of it is not accessible because there's about a half-inch kind of different designs at the back and whatever, where the front part is pretty accessible. See, so there's only parts of different areas that are accessible.

MRS OWENS: We have that article, yes. We'll actually have to move along a little bit, I'm afraid, because our next participants are waiting and they've got a disabled cab booked at 12.00.

MS LEE: Yes, that's fine.

MR POWER: Yes.

MRS OWENS: We have to give them a chance to talk to us.

MS McKENZIE: Have you covered all the issues you want to cover?

MS LEE: Yes, basically. I mean, there's just those two other points about lack of funding and stuff, I suppose.

MRS OWENS: We talked before about the publicity and promotion.

MS LEE: Yes.

MRS OWENS: You've also put on your note about the financial risk in taking the DDA complaint to the Federal Court stage.

MS LEE: Yes.

MRS OWENS: Then the lack of funding for advocacy and legal support.

MS LEE: Yes, very limited, yes.

MRS OWENS: We're hearing that a lot as we go around too, I have to say. Sorry to rush you along a little bit.

MS LEE: No, it's fine.

MR POWER: No, that's quite all right.

MRS OWENS: But we need to get on to the next participant. Thank you very much indeed.

MS LEE: Thank you.

MR POWER: Thanks.

MRS OWENS: We'll just break for a minute.

MS OWENS: We will now resume. The next participants this morning is a group of individuals, all appearing together. I'd like you each to give your name for the transcript. Who will we start with? We'll start with Barbara.

MS EDIS: Hi, my name is Barb Edis.

MRS OWENS: Thank you.

MR WEST: Hi, everyone. My name is Cameron West. "Westy" to my friends.

MS MILNER: Hello, my name Andrea Milner.

MS JOSEPH: And my name is Rhonda Joseph, and I'm actually just supporting, and also there's one member of our group, Jack Tyers, who was unable to be here today. So because we've had to pre-program our communication aids, Cameron will actually introduce Jack as if he was here, and I will be reading out Jack's part.

MS McKENZIE: Okay, good. Thank you. I'll hand over to you, in whatever order you want to go.

MS EDIS: We are all looking at the issues using public transport and to the Disability Discrimination Act. We think it is important to have a DDA. People with a disability are important and don't want to be discriminated against. We think the DDA gives us a voice whether we use a wheelchair or not and whether we hear and see. However, things have not changed a lot for us in the last 10 years in public transport.

MR WEST: I would like to introduce to you Jack Tyers and today he has asked me to tell you about his experiences.

> A tram runs past the centre I attend daily and yet I cannot get on it. I have to catch a taxi which costs a lot more than the price of a tram ticket.

MS MILNER: We believe there are two parts to this problem. The first problem is I still can't get into some trams, trains, taxis, buses and buildings. This makes catching public transport hard and very expensive.

MS EDIS: Because I can't use my hands, I have to use a head pointer to drive my wheelchair and my communication aid. This makes my neck really sort. It also means that using the safety buttons and the ticket machines impossible. I can't use the lift buttons either. This is not my fault. They should be made for everyone. I use Melbourne Central station. It is the easiest for me but I have to use two lifts. I can't use the buttons, so I have to wait for someone to help me.

MRS OWENS: I think it said in the submission that Melbourne Central is one of the more accessible stations too but you've still got - - -

MS EDIS: This can take more than half an hour. Some days I can't use the timetables because the writing is too small. They are too high and the buttons are out of my reach. I just have to sit and wait.

MS MILNER: Most are unable to use trams, train and buses in Melbourne's public transport system, yet we are members of the public. Because we can't use public transport, we are forced to use the multi-purpose taxi which is very expensive and very unreliable. This is discrimination because everyone else can buy a daily ticket that covers the whole public transport system for a few dollars. I have to pay much more than that.

MR WEST: Glenn Hill, he wasn't able to be here today but he asked me to pass on to you his experiences.

> I use a taxi because I haven't any other choices when it comes to catching public transport. It is the only way for me to travel. Sometimes on a Saturday night I will be waiting three hours for a taxi to take me and my mate to the pub. When it doesn't turn up, it puts us into a bad mood and means we cannot go out. This doesn't happen to other members of the public.

MS MILNER: Another problem is caused by the attitude of people. This is not an issue about disability or ability. It is a human right. Barbara Hamon also could not be here today but she asked me to tell you about how travelling makes her feel.

> I use taxis, low-floor buses and trains. Sometimes people stare at me because of my disability. It makes me feel unwanted and unwelcome on public transport. I want to be treated like everybody else.

MS JOSEPH: So now I'm reading the part that Jack Tyers was going to read.

> We feel the Disability Discrimination Act needs to focus on "universal access" and stop referring to "disability access". By "universal access" we mean everyone should be able to use public transport. While current attitudes remain, we will never fully achieve independence for everyone in our community. Some groups will always be left out. So what has changed in 10 years since the introduction of the Disability Discrimination Act? A lot has changed - some for the better and some not so. This is a list of some of the changes we have noticed. Ten years ago we had staff on all stations and conductors on all trams. Now we have locked toilets, inaccessible ticket machines, inaccessible validating

> machines. Safety on stations is a problem as there are no staff on stations and the "help" button is inaccessible for a lot of us to use. On timetables the writing is very small and buttons for audio are sometimes too high. Some level crossings are still unsafe and new model trains means that only two or three wheelchair users can travel at a time. This means that sometimes we can't go out with our friends.

MS MILNER: We now have some accessible trams and this is great and will be fantastic in the future. We believe that 30 years is much too long to wait for a tram or a bus. People who don't have a disability don't have to wait this long. 30 years is too long to wait for public transport to be made accessible.

MS EDIS: Taxis and trains are legs for us. We have no other options. Unjustifiable hardship focuses only on the needs of public transport companies. While public transport remains inaccessible, it is people with disabilities who are experiencing unjustifiable hardship.

MR WEST: Thank you for asking us to talk to you today.

MS McKENZIE: Thank you so much for coming.

MRS OWENS: Thank you very much.

MS McKENZIE: We really did appreciate the submission and I think what you did today was fantastic. I think the presentation was very good and - - -

MS JOSEPH: I tell you it took a lot of time to organise.

MRS McKENZIE: Yes.

MRS OWENS: But it's very clear, it's very helpful from our point of view, and the way it talks about transport is also very helpful.

MS McKENZIE: I think what you said about taxis and trains being the "legs for us", it really does it bring it home, and a number of other people have talked to us about the taxis and said how difficult it is to get a taxi, if they turn up at all. There's extended waiting times and also people having to pay quite a lot more than the rest of the population to get around.

MRS OWENS: Just before you go, it said in the submission - and you made the point on the screen and somebody - I can't remember whether it was Rhonda - said about the trains - it might have been about some of the new trains only being able to take two or three people in wheelchairs at one time. Why is that?

MS JOSEPH: I don't know. That's our understanding, is that the new trains have got a smaller area for people with disabilities and that only two or three wheelchair users can get on at any on time.

MRS OWENS: In one carriage, or is it - - -

MS McKENZIE: Or just on the whole train?

MS JOSEPH: That's our understanding - - -

MS McKENZIE: On the whole train?

MS JOSEPH: On the train.

MRS OWENS: And these trains will be at the level of the platform so you can - - -

MS JOSEPH: No, you still need a ramp to get on. You still need the driver to put the ramp - - -

MRS OWENS: That means you need to be up near the driver. That might be what it is. You need to be up near the driver's - - -

MS JOSEPH: Yes, it is.

MRS OWENS: And then that carriage, there's only space for three.

MS JOSEPH: Mm.

MS EDIS: Afternoon I was at meeting taxi, came at 6.47.

MS JOSEPH: Barb is just saying one afternoon she had a taxi booked for 3 o'clock and it came at 6.47.

MRS OWENS: Yes, I understand. I hope she didn't want to be somewhere at 4.00. That means you can miss the appointment or whatever it is you're going to. You could miss the doctor's appointment, miss going out with a friend.

MS JOSEPH: It also interferes with taking medication and going to the loo, because you can't nick out to go to the loo while you're waiting for the taxi.

MS McKENZIE: And there's all that stress in waiting.

MS JOSEPH: Yes, and not knowing.

MS McKENZIE: And frustration.

MS JOSEPH: Is it ever going to come, and - - -

MR WEST: I'm working a lot around the trams and they want to help.

MRS OWENS: But you've got some accessible trams out there now, and there seem to be more coming on-line all the time. But it's still the issue of accessible tram stops. You've got to be able to get on and off the trams, don't you? So you've got a timetable - we can't tape you, sorry.

MS McKENZIE: You can repeat what's been said.

MRS OWENS: You can repeat when you come on, but, yes, a lady from the floor said that you don't know when they're scheduled on the timetable. So that adds, I would imagine, a huge amount of added uncertainty. I mean, I think it's hard enough for the general public to know when the trams are going to come even with a timetable; far less if you don't know when the one, the tram is going to come, or the buses that are going to be accessible. That compounds the problems many, many-fold. Thank you very much. I don't want you to miss the disabled taxi that's downstairs and I hope it's there.

MS JOSEPH: We've got a private booking, so it will be there. That's the way you get around it.

MR WEST: You're welcome.

MRS OWENS: Thank you all very much.

MS McKENZIE: Thank you.

MRS OWENS: We'll just break for a minute.

MRS OWENS: The next participant this morning is ParaQuad Victoria. Hello, could you each give your name and the capacity in which you're appearing, or the position you have with ParaQuad for the transcript?

MS FLORENCE: I'll start. My name is Janice Florence and I'm an information officer at ParaQuad and so I do information and advocacy work for them.

MRS OWENS: Thank you.

MS FLORENCE: Do you want the others to introduce themselves?

MRS OWENS: Yes.

MS WEST: My name is Raelene West. I'm also just an information officer and disability activist.

MRS OWENS: Thank you.

MR BARTL: My name is Berndt Bartl.

MRS OWENS: Sorry, I missed that.

MR BARTL: Berndt - it's a German version of Bernard - Bartl, and I'm a member of the Disability Support and Housing Alliance, commonly abbreviated to DISHA. ParaQuad is one of the members as are the MS Society, Action for Community Living, Disability Justice Advocacy and various other organisations.

MRS OWENS: Good, thank you. Thank you for coming. Sorry about the slight delay, but we will now turn to your submission, and I think Janice was going to just make some introductory - - -

MS FLORENCE: Yes, I might just make some general points that I think come out in the submission. Just to give the general direction of the submission, I guess, my feeling is that, because the hearings and investigations are concerning the Disability Discrimination Act, that the Disability Discrimination Act has led to some to improvement in the status of people with disabilities. It's definitely good to have some legislation there that people can have recourse to if they feel they've been discriminated against or an injustice has been committed. But I feel that in some ways the law and the way the law is administered needs to be strengthened. I mean, there's still a long way to go in improving the status of people with disabilities.

For example, just on the way here this morning, I suffered from a lack of disability parking spots. I tried to go into a paid carpark and was told that I couldn't park there because there were cars parked around the lift and I couldn't get to it. I went into a meter parking spot and then I found that I couldn't get up onto the kerb to put money in the meter because there was no ramp on the kerb. There was a step on the kerb and I would have had to go a block and come back again. When I got into the lift here I couldn't reach the sixth-floor button. So there's still a long way to go in improving things for people with disabilities.

I note in having visited overseas countries such as Canada, the USA and the UK that incorporated in their discrimination legislation, are deadlines by which changes are meant to be more generally achieved. For example, in the States there was a time deadline for buildings that give a public service like shops, restaurants, cinemas, offices, et cetera to become accessible unless there was a very good reason for it, and I think that in conjunction with that there were some sort of tax incentives, you know, and the suggestion is that perhaps budget surpluses could be employed to assist people, businesses, in upgrading their premises and their general policies and procedures to accommodate people with disabilities. You'll also instantly notice in those countries that almost the whole - in certain states and cities anyway - that almost the whole public transport system is accessible and was made so in the space of about five or 10 years once the decision was made to change things. That hasn't happened here. That sort of deadline isn't included in our legislation.

There are ways in which the legislation also works through other regulations which is helpful in that, you know, the requirements go into the building regulations, which means that therefore it's administered through broader regulations rather than relying on one complaint at a time. Although I feel a complaints process, it's necessary to have it there, if you just rely on that it's a painfully slow process towards change and change is going to take a long time, a really long time to happen, and you're placing the burden of change on the shoulders mainly of people with disabilities who are often lacking in resources, maybe haven't had the opportunity to have a good education, perhaps don't have the confidence to carry through these processes. So putting it into regulations, putting it into national standards like the national transport standards definitely helps to expedite change.

Also when people with disabilities are included, genuinely included, in society, we definitely do get the feeling of greater inclusion when you go to places like Seattle and Vancouver, where there's a consciousness, even in the signage on shops, that people with disabilities are included. If the entrance isn't obvious, it's always signed where the entrance is, so the needs are acknowledged and included. So when people with disabilities are included, then they have a greater ability to participate in society, to be productive members of society, to be consumers of goods and services, to be employed, et cetera, et cetera.

As far as the thrust in the investigation of the Disability Discrimination Act somehow impeding or inhibiting business competitiveness, I feel that the provision of unjustifiable hardship in the act really covers any business that would have hardship in changing in some way, whether it be through physical changes or policy or procedure changes, to support people with disabilities. I feel that businesses would benefit ultimately from the greater inclusion of people with disabilities, aging people who acquire disabilities as they get older, into the general transactions of society. So the greater inclusion of people must not only be a sort of social justice benefit for society but must also increase their ability to function well in society, and that includes using the built environment, using transport, being able to access education, employment, all of those things, recreation, social interactions. Also it fits in with the declared interest of the government in increasing social capital and in encouraging diversity and equal opportunity. So that's a bit of a general extraction from what I wrote.

MRS OWENS: I'm very impressed. You managed to do that without any notes in front of you.

MS McKENZIE: Yes, that's very good.

MS FLORENCE: I've been thinking about it all night long.

MS McKENZIE: Hopefully you haven't also lost sleep from this effort.

MRS OWENS: One of our other participants earlier said he'd only slept one hour last night.

MS McKENZIE: Because he also was thinking about his submissions.

MRS OWENS: Raelene or Berndt, do you want to make any comments?

MR BARTL: Yes.

MRS OWENS: You're interested in the housing issues, aren't you. Is that right?

MR BARTL: Housing access is certainly something that Australia is way behind other countries in. I don't know that it's ideally placed in anti-discrimination legislation because if your neighbour has steps into his or her home and you go and complain about there being steps they probably won't be friendly neighbours for much longer. But they way that other societies have tackled that is through planning legislation, and clearly from a social inclusion perspective and from the perspective of an aging population where 25 per cent or more of the Australian population is expected to be over 65 mid-century, the continuation of building houses which are already inaccessible for a significant proportion of the population and which will be inaccessible for an increasing proportion of the population in the future is just an insanity.

It's insane both because housing itself is not just a private space where people go to sleep - family barbecues, neighbourhood parties and even quite critical things like bookclub meetings and neighbourhood newspapers. For example, my son, who uses a wheelchair, wants to become a journalist. One of the ways that you can network if you're interested in the media is through something local like the local newspaper. I think the very first meeting he tried to get to was in a home which was totally inaccessible. He has three different ramps. He has a short ramp, a medium-sized ramp - which I think is a bit over a metre - and he has a long ramp in excess of two metres. But even with that kind of extravagant technology available to him he could still not manage to get into this home to be part of a meeting to design the local newspaper. It seems to me at a time when the federal government is talking about more people having a mutual obligation and being encouraged to gain employment, the social policies which meet that objective have to be there and at the moment they're not.

MS McKENZIE: It doesn't help inclusion if you can't get into each other's houses.

MR BARTL: No.

MRS OWENS: But I just wonder about your son lugging these ramps around on the off chance that he might?

MR BARTL: Of course he can't, he has to then use his van. But most people with disabilities can't afford their own transport. So it becomes a very, very cumbersome exercise. But the other points, I guess, in addition to Janice's I want to make is that there are limited statistics on what impact the Disability Discrimination Act has made. There's a Melbourne central business district study, which looks at a significant proportion of the Melbourne CBD, which was presented to the City of Melbourne Disability Advisory Committee in March last year, conducted by Ron Shepherd, which shows that about 50 per cent of the business premises, the public premises within the CBD, currently do not meet the Australian accessibility standard. That is only in relation to the ground floor, the footpath level. Heaven knows what the situation is if you try to get upstairs in some of these places.

MS McKENZIE: So they only looked at the ground floor areas for that?

MR BARTL: It was a very limited study, that's right, and I'm not aware of any comprehensive study of this, but it gives at least an indication. Secondly, it only looked at universal physical access. It didn't look at people with sensory disabilities and the kind of way-finding mechanisms that might assist them. I think 20 years after the international year for people with a disability, and similarly more than 20 years since the passing of the disability discrimination amendments to the Equal Opportunity Act of Victoria, and 10 years after the passing of the DDA, that's not a satisfactory situation. Janice has mentioned the business of time lines and that in the

United States the Americans with Disabilities Act, which was passed in 1990 I think, it required essentially that within 12 months that all existing buildings "which can readily be made accessible" - that was the alternative phrase in the ADA compared with the DDA - but "all public buildings which can readily be made accessible" had to be so made within 12 months. So the situation that in Australia we still have buildings which can readily be made accessible and that maybe 50 per cent of them are not, or certainly a substantial proportion are not, I think is shameful.

MRS OWENS: Do you know what happened in the United States? Did that objective get met? Did a lot of the buildings become accessible? Did anybody do an audit? Would there be anything we could find on that? It would be interesting to know how successful that - - -

MS FLORENCE: There may be something through one of the large disability organisations in the States like the Paralysed Veterans of America, one of those. I mean, Raelene has recently just been in Los Angeles.

MS WEST: Having just been there it just isn't an issue, like here. You just have access into stores. It wasn't even something I gave thought to when I was over there. It was just, even smaller-type stores, not just large stores like, say, Myer or anything like that, but just the general local corner store or just a general little cafe had access and often they had the buttons where you had automatic doors which opened. It was just a standard common thing. Every bus had access. You just wheeled up to the stop and if you wanted to just get a couple of stops at any time, any bus that came along, they just had total compliance.

MS McKENZIE: I mean, there's been lots of arguments in submissions here and suggestions that small business making premises accessible might be more difficult because they're small.

MS WEST: Very much so.

MS McKENZIE: But what you're telling me is that even small business in the States.

MS WEST: Yes, and that was the difference.

MS FLORENCE: I can back that up having also been to Vancouver and Seattle last year. Small cafes have accessible toilets. If they don't, they have one toilet that's an accessible toilet so that everybody can use it. So they've found ways around having to put in something extra. They've made what is there accessible. I guess that that's another - creative ways of dealing with it.

MS WEST: I was just going to say, we've had discussions about the unjustifiable hardship and obviously they've gotten around it in America because they've been able to provide access in these smaller-type venues and the companies haven't gone bankrupt. We're hearing from building industry that, no, it's going to cost too much and we'll have to rip walls down and every company is going to go bankrupt just trying to provide access, whereas obviously that isn't the case because it has been possible and it seemed to have been done elsewhere.

MRS OWENS: I think some companies in the States have had problems but I don't think it's because they've been making their buildings and offices accessible.

MS WEST: That's right, and I think they use tax incentives as well. That was some of the documentation, to get it through.

MRS OWENS: No, we'll certainly follow that up because I think it would be very interesting to see exactly what they did in the States and what the outcomes have been and how quickly those outcomes were achieved, and whether there were any subgroups in the States that argued, like, an unjustifiable hardship.

MS McKENZIE: Not really accessible, that's what they - yes.

MS FLORENCE: But I mean, just the amount of places that you can go into, the difference is so obvious, you know, that so many people have taken it on board and have made the changes. Even say, like, an average-size jeans shop like Just Jeans or something, if they had a mezzanine floor they have a little automatic lift up to it or a ramp going to it. So even stores of that size have provided what would probably be considered here expensive changes.

MRS OWENS: I guess if all the buses that come along you can get onto, that means you don't have to worry about whether the timetable is going to tell you which ones are accessible.

MS FLORENCE: Well, no, because they're all accessible.

MRS OWENS: That was an issue that we've talked about, as you know, with the last participants because they're all accessible so you don't have the timetable problem.

MS FLORENCE: I mean, you're genuinely included, you know, like your needs are included with everybody else's. You're just functioning like everybody else does. The feeling of going to a bus stop and getting on any bus you want to and going anywhere you want to, for people like us with an acquired disability, is like, "Oh, yes, this is what it used to feel like. Now I'm sort of normal again," and it's amazing how those difference in your surroundings makes such a difference to the way you function and the way you feel.

MRS OWENS: It must be quite liberating.

MS FLORENCE: Yes, definitely.

MRS OWENS: Have you tried to use taxis in the States, like in New York?

MS WEST: My experience is that there were just more of the taxis that had access. You still had to ring up and book the taxi to get to wherever you were going, but they were fairly reliable.

MRS OWENS: There weren't lots and lots of waiting?

MS WEST: Yes, there didn't seem to be long instances of waiting.

MS FLORENCE: But I mean, the fact that you can get on buses also reduces the need to use taxis.

MR BARTL: The one approach I'm aware of, which is more sensible than the Australian approach where we effectively have a segregated system and basically a first-rate system for people who are temporarily able-bodied and then a fifth-rate system for people with a disability, in London I understand since the year 2000 all taxis are required to be accessible. Now, it sounds a little bit better than it actually is. They are accessible I think for people who use manual wheelchairs. I think it is more complicated for people who use electric wheelchairs. But I think it is salutary that prior to the introduction of that, the modification of a taxi to the standard which is now required universally in London I'm informed was round about 2000 pounds.

But once it was introduced as a universal measure the cost difference was nil and I think it does point to the fact that in a whole range of service provisions, if something is simply required that the cost difference is either minimised, very low or nil. Housing is certainly one of those areas which is quite obvious and the statistics are that to modify a house down the track costs you anywhere from three to 30 times as much as if you do it from the very beginning. But similarly with public access issues, there are still places being altered, for example concrete floors poured in, and simply by changing the formwork where there is no cost differential, in fact you're saving a few cubic centimetres of concrete, people are still putting in steps rather than allowing ramped access.

So it is a universal approach, an approach which simply says: this is the way things are done. I think it should be mentioned that just about every service, every product, everything that's provided in this society has a standard and I don't think that it is desirable or sensible that we have a separate disability standard. The approach should be similar to the approach that's currently being taken by incorporating the

DDA provisions into the Building Code of Australia. So you have the relevant standard instrument which simply takes into account that there is a wide diversity of needs.

I would say in criticism of the incorporation of the public accessibility standards into the Building Code of Australia that it is proving very difficult to look at the situation, or there seems to be a reluctance to look at the situation in relation to existing buildings and we do have 200 years plus of European style building on this continent and it should be addressed.

MS McKENZIE: But the Americans also must have had these problems; they're even older.

MR BARTL: Well, exactly. The key difference, it seems to me, between the DDA and the ADA is that the ADA very quickly - it from the very beginning allowed for an access standard, whereas of course the access to premises standard provision in the DDA was only passed in October 2001, nearly 10 years after the original act was passed. Furthermore the resources were provided for the Department of Justice to come up with quite specific guidelines as to under what circumstances premises can readily make themselves accessible and what is required of them under those circumstances.

So there were clear standard and secondly, there was an enforcement mechanism. It wasn't individual complaints by people who already have more than enough on their plates usually. It was actually enforceable by the Department of Justice itself, so it could be tackled systemically. It could be tackled by a government monitoring authority, rather than by individuals having to take Federal Court cases in order to have a cup of coffee in a place which has a step, which is ludicrous.

MS FLORENCE: And the business about existing buildings also refers back to state building regulations, where they vary from state to state and they all have different requirements about what happens when a building is renovated or upgraded, has a major renovation or upgrade. In most states, whether you're require access at that point is a matter of choice - what's the word - discernment?

MR BARTL: Discretion.

MS FLORENCE: Discretion, that's right.

MR BARTL: They can allow partial compliance.

MS FLORENCE: So all states allow mainly now privatised building surveyors who approve permits to have discretion about asking for access, even when it would be cheap and simple to do it. We've all seen many instances of when we know a place could have cheaply been made accessible and just isn't when it has been renovated, because of the state regulations.

MR BARTL: And it might be worthwhile the commission considering the anti-competitive nature of what's going on here. For example, I recently was involved in the case of a local shop where six shops on one side of it and another shop on the other side of it were all accessible and this one shop, which converted from being a video shop to being a food outlet, in its renovations for whatever reason did not put in a ramp when it very easily could have done so. They're talking about a 10-centimetre rise which is relatively small, could relatively easily have been fixed, but is a significant impediment to anyone who uses a mobility aid.

Now, a person who is considering going shopping and they're wanting to do two or three different things, and one of those is to get some food to take away or some food to eat there cheaply, they won't visit any of those shops, even the ones that are accessible. They will go to a place where they can get access to everything that they need. They don't want to be making two or three or four different trips. So unless you actually have a consistent and systemic approach you're setting up - you're actually disadvantaging the premises that are complying with the DDA and because there's no systemic approach to this, there are actually anti-competitive pressures here which I think must be addressed.

MRS OWENS: It's interesting because I think I read something just recently about how people with disabilities are more inclined to go to the larger shopping centres, you know, the Chadstones and so on, because they can park and get around, whereas it's much harder if you go into a strip shopping centre where you may have one or two shops that don't comply or you can't get into, so you say, "Well, I'm not going to go there because" - so everybody else in that shopping centre, all the other traders, also miss out on the business.

MS FLORENCE: Yes.

MRS OWENS: You'd think there would be some sort of pressure brought to bear by the others but they obviously don't - it's not thought about.

MS WEST: There's just little accountability for them if they don't do it. There isn't really - because it's not regulated, they have the discretion, and it isn't in the Building Code Act. Yes, there's no pressure on them to provide this.

MS FLORENCE: And I think because people with disabilities have traditionally been thought of as a sort of marginalised group with low income, et cetera, that they perhaps don't see people with disabilities as a potential source of business and income, but that's not necessarily the case, and also with the ageing baby-boomers and superannuation, et cetera, and as they grow older, you know, a percentage of them will inevitably acquire some mobility and other disability problems. I mean, they're going to be a large market which could be tapped. But, I mean, again to sort of repeat the overseas experience, those strip shopping centres in the US and Canada are accessible as well as the large malls.

MR BARTL: Again I think the anti-discrimination provisions against a local business are actually very problematic to complain. If you want to go and buy the shop you don't want to have to got the shop owner offside. It's also very often the case that the occupier of the premises, the business, does not own the premises themselves. So there are difficulties in terms of who you actually have to tackle. I mean, there was one instance which Janice and I were involved in in a shop in Queens Parade in Clifton Hill and the local council in the end did decide to - because the business hadn't actually obtained a building permit to do something about it, but they had to find out who it was that's responsible and they actually felt they had to engage a private detective to search out who it was that was at fault, whether it was the builder, whether it was the occupier, whether it was the proprietor. If you simply say it's got to be done, whoever it is that's responsible, I think you avoid those kinds of shenanigans and that procedural maze that currently exists.

MRS OWENS: So what's the solution?

MS McKENZIE: But if you say it's got to be done, you've still got to work out who has got to do it. Do you say it's got to be done by everybody?

MR BARTL: Yes.

MS McKENZIE: So if one doesn't do it, the other does. Is that how it works?

MR BARTL: I think so.

MRS OWENS: Tackling this issue over the last few days of hearings, who should bear the costs? Should it be the building owner who then pays for the renovations, upgrades, or should it be the person that leases the building or who? I suppose the building owner is going to be the one who's going to be paying the major structural changes in the building but then the person who's leasing it might be the one who's paying for some of the renovations, so it's complicated. But you need to allocate that responsibility to somebody. We heard yesterday they made a decision down at the Classic Cinema to share the costs between - there's a restaurant down there - the restaurant and the cinema owner and the building owner and they shared it in the end. That was after a complaint.

MR BARTL: I would have thought the market would look after itself. I mean, if the owner pays for it then the owner will increase the tenancy, you would think. If it's an obligation for the occupier to pay for it, then the occupier will want some reduction in rental or whatever in order to make the business workable. So in a sense it will come out in the wash, it seems to me. I don't know who you place - because the cost will be distributed, whichever way you tackle it, it seems to me.

MRS OWENS: But we've had examples where - you know, you say it will come out in the wash. But we've had an example of an advocacy group that had gone into a building, chosen that particular premises because it was very low rent and then found it wasn't accessible and were up for the moneys to change the building and this is a group that had very little money to spend. So, you see, there are difficulties with that approach too.

MS WEST: But isn't that then if they regulate the Building Act that when any refurbishments are done it becomes incorporated into what other general needs are done when they're doing a fit-out. So if they're just doing a general fit-out and they're going to be spending 10, 20, 30 thousand dollars, they do incorporate the 2 to 3 thousand or whatever the percentage is to create access and that just becomes incorporated into the general fit-out. The same with any other building regulation that you're going to require, you know, 200-centimetre doors and widened doorways, it just becomes a regular standard for any building works done and then that's covered in any refurbishment done in the - - -

MRS OWENS: Whoever is paying for it.

MS WEST: Yes, regardless of - - -

MRS OWENS: That's fine where there's a fit-out but supposing you wanted to get access to a building now where there's no potential renovation - - -

MS McKENZIE: As though those changes are going to be made.

MRS OWENS: There's still that question of who bears the cost in that case. It's not simple but I'm sure there's an answer. There's an answer to every problem.

MS FLORENCE: I guess - I mean, this isn't really an answer to that particular problem but it does bring it back to, you know, requiring changes to be made at a point when it's not expensive to make them; you know, in the beginning when the building is built and when there's a major renovation done. That goes part of the way towards solving the problem anyway, requiring it as a systemic thing early in the piece or when it's more possible.

MS McKENZIE: I mean, clearly it's much better for these to be built into the design of new buildings than to be left to try and fix it up later. It's much more expensive the other way and it's - - -

MS FLORENCE: And to require it during renovations. I mean, ridiculous things happen now with renovations. Like, because this part of the building is being renovated, that's where the toilets would be, so a disabled toilet is installed. But the front part of the building isn't renovated, so we don't require an accessible entrance. So although there's an accessible toilet in there, there's no accessible entrance to get into the building in the first place. So there's a whole lot of anomalies like that, that stop the situation from being improved at stages when it could be improved.

MS McKENZIE: Can I raise with you another matter, and that's the DDA exemption that relates to superannuation and insurance. Do you want to talk a bit about that?

MS FLORENCE: I actually don't know a lot about it.

MS McKENZIE: It's just I have wondered - the DDA contains an exemption which says basically that the act is not going to apply to - and I'm speaking broadly - superannuation insurance where the insurer has got statistical or actuarial evidence to justify what they've done, on which it's reasonable for them to rely, or there's any other reasonable factor which is a relevant factor.

MS FLORENCE: What would be? That people with disabilities have a higher incidence of having to have early superannuation, something like that?

MS McKENZIE: Yes, I'm just wondering whether this is a matter that's been raised with ParaQuad by - - -

MS FLORENCE: The matter of insurance more has been raised with ParaQuad by members phoning in and making inquiries.

MS McKENZIE: On the basis they can't get insurance?

MS FLORENCE: Yes. That's sort of, you know, disruption of employment insurance, that sort of insurance, and also travel insurance. They're the two main inquiries that I've had.

MS McKENZIE: And are they saying that the companies are just refusing them outright? Do they explain why? It's really just a general matter that's been raised.

MS FLORENCE: It's a general matter that's been raised. I mean, I've had travel insurance myself and I - most insurance refers to pre-existing conditions and if anything happened to me while I was travelling that had to do with my paraplegia, there would be no pay-out from an insurance company.

MS McKENZIE: But everything else is insured - I mean, your luggage, for example.

MS FLORENCE: That's my understanding, yes, yes. That's my understanding.

MRS OWENS: So you've had an insurance contract written that's just got an exemption for your paraplegia and everything else is - - -

MS FLORENCE: Look, I - - -

MRS OWENS: Some people have had more trouble than that.

MS FLORENCE: Yeah, I know, I know. I feel I've never clarified it and often I feel that sometimes part of the reason why I've managed to get the travel insurance is because the travel agent concerned has been ignorant and sort of not even thought about it and just put me down, and if I actually had to make a claim, it may not have succeeded. But there has been a company in Queensland that's set up travel insurance specifically for people with spinal cord injuries, and I assume that that's because people have difficulty but when I phoned them and asked them whether they covered all people with spinal cord injuries they said people with normal spinal cord injuries - I'm not quite sure - - -

MS McKENZIE: That's interesting. What is that?

MS FLORENCE: Well, I think they mean without any excessive complications or something like that. Perhaps not on a respirator. They didn't specify but, you know, that sort of pointed out to me that even if you've got this company that's set up to deal with people with spinal cord injuries, they're still making some exceptions in there with who they're offering their travel insurance to.

MR BARTL: As a point of information I don't know whether they've made a submission to this inquiry but the Chronic Illness Alliance in Victoria has investigated this in recent months and I'm sure would have quite a bit of information on the issue.

MRS OWENS: We've spoken to the Chronic Fatigue people but this is different?

MS FLORENCE: No, that's Prof Fisher's - - -

MR BARTL: This is a wide group, a wide diversity of chronic illnesses.

MRS OWENS: We had Associate Prof Fisher here the other day talking about his own experiences at Monash University. We'll see if we can follow up and get more information. The Breast Cancer Network has also surveyed their members and they're going to provide us with information.

MS FLORENCE: In regard to insurance and superannuation, right.

MRS OWENS: Yes. So if any of your members have any useful stories to tell us we'd be very happy to receive them.

MS FLORENCE: Personally, I haven't had any problems in recent years with superannuation. I've been employed the whole time and I haven't personally had any problems but it doesn't mean other people haven't.

MS WEST: Just to reiterate, just going back a step, when you were talking about who should bear the burden of cost in the building environment and things, I actually believe people with disabilities have been marginalised so long and that it's necessary to create a deadline to get these things done that I think it should really fall to the state somewhat to provide these things. I think if a deadline was placed and an amount of money was placed, or incentives to fix these problems, like the majority of the problems within the next five to 10 years as a one-off big hit, you would sort of eliminate like 80 to 90 per cent of the discrimination to access in most places and it would take a fairly big outlay of money maybe initially, but I think that would basically eliminate the problem in one fell swoop rather than just continually having the delaying process of it costing money for complaints, having to pay people to follow through the complaints.

That process is just going to continually take money and it's going to be an ongoing process and take a lot of time and it will be slow in implementing all these policies. In the process you've got people that are limited in their lifestyle and they will be limited for a longer period of time.

MS FLORENCE: There's also the mind-set, the mind shift of, "It's okay to exclude all these people from all these activities in society." Somehow it's been okay traditionally so it's still okay to factor that into your costs. Whereas if people said - I've said this in my paper - "I'm not going to have an adult-size front door. That costs too much," that would be ridiculous. But in effect that's what they're saying to us. "We're not going to have a front door to fit you but that's okay." It's a matter of changing the mind-set to include the necessary costs - a door and a window are considered necessary costs; so is an accessible entrance.

MS McKENZIE: Can I ask about the complaints process because there are a couple of comments in your submission and there's been some discussion about there being other better enforcement mechanisms available that don't rely on single cases being brought. But do you want to talk a bit about how your members have found that process, if they've tried it, and what lessons might be learnt from the Equal Opportunity Commission's approach in Victoria, if there are any.

MS FLORENCE: I personally have been through the complaints process a couple of times - - -

MS McKENZIE: With the Human Rights and Equal Opportunity Commission?

MS FLORENCE: No, with the state Equal Opportunity Commission. Do you want to hear about them?

MS McKENZIE: Yes, sure.

MS FLORENCE: Well, anyway, the thing is, just looking at my conversations - just to start with - with members of the organisation, many people who I encourage to lodge complaints are reluctant to do so because I think they're just not accustomed to the idea of taking action against powerful interests or towards powerful interests. They don't have the confidence and education to do it. They don't have the resources to do it. Their life is just taking up too much energy anyway. So I think there is a reluctance on behalf of a lot of individuals to actually take the action in the first place. It does take energy and it does take time.

The process when I went through it with the Equal Opportunity Commission, I found at that stage anyway - that was a few years ago - it was reasonably satisfactory and the outcomes were satisfactory. One outcome was a $20,000 upgrade to a cinema which basically covered what I wanted them to do. But, I mean, the mediator did remark to me at the time that if it had been any more expensive they probably would have taken it to court. So in that limited circumstance it was successful. The other one was with the boats to Tasmania and the lack of choice of cost range in accommodation. So you were forced in a sense to have one of the more expensive choices of accommodation in order to use the boat. That was the only accessible accommodation available. The outcome was that they agreed to make that accommodation available at a cheaper cost to people with disabilities, because they couldn't choose to have the sitting up all night accommodation, it wasn't accessible. So that was a mediation process that went relatively smoothly.

MS McKENZIE: What about through HREOC?

MS FLORENCE: It takes much longer. I think it takes years for a complaint to come up and to be dealt with.

MS McKENZIE: Whereas the EOC is quicker.

MS FLORENCE: Yes.

MRS OWENS: I see it's interesting you were able to bring a case related to one of the Tasmanian ferries in the Victorian commission.

MS FLORENCE: Yes, there didn't seem to be any question about that.

MS McKENZIE: No. Well, it comes to Victorian ports.

MS FLORENCE: But, I mean, I did actually lodge it under the DDA, I think. I think you can actually lodge complaints under the DDA through the state body.

MRS OWENS: How long ago was it? Was it a while ago?

MS FLORENCE: It was a while ago.

MRS OWENS: I see.

MS McKENZIE: That's not possible any more to go through the Equal Opportunity Commission in that way.

MS FLORENCE: Yes.

MS McKENZIE: The other one, was that also under the DDA or that was under the Victorian act?

MS FLORENCE: It was the DDA. They were both the DDA. But, yes, I think there's a suggestion in the paper that was produced by the Productivity Commission about class actions or something.

MRS OWENS: You talked about representative actions. You said it could improve the process but you haven't thought of any - undertaking any representative actions because I think the ability is there to do it now.

MS FLORENCE: Yes. I mean, I think there still should be a provision for individuals to lodge a complaint if they wish to, but representative actions would certainly spread the burden and perhaps put it onto the shoulders of professional workers who are paid to guide the process.

MRS OWENS: What would stop you doing that now?

MS FLORENCE: As an organisation?

MRS OWENS: Yes.

MS FLORENCE: Although I work partially in that area we don't employ a worker who is a full-time official advocacy worker.

MS McKENZIE: So it's just the resources that would be the problem.

MS FLORENCE: Yes, the resources. You would also want to make sure that that person was open to and obliged to consult very closely with the people involved in making the complaint.

MRS OWENS: There are some areas where you think the potential would have been there to have run a representative complaint if you'd had somebody full-time in your place to help.

MS FLORENCE: Yes, definitely. I mean, we do definitely have that request from our members. I've tried and tried, I've been through the council, I've written letters to the managers, I've done this and done that and I feel that they're not taking any notice of me because I'm just an individual. If you could do this I feel you'd have more force.

MRS OWENS: More weight, yes.

MS FLORENCE: It is definitely something they would like us to do. I mean, I guess there's always that whole conflict of not wanting to encourage dependency, like, of not wanting to go back to the old model of, people with disabilities are always relying on an organisation or someone else to carry things forward for them. But they feel empowered to also do things themselves and that they feel empowered by this process that they don't go back to a sort of disempowered dependent status.

MRS OWENS: But it should be possible to develop a process within a representative complaint where people still feel as if they're empowered as individuals by getting involved.

MS FLORENCE: A community development sort of process.

MR BARTL: The comment, if I may, that I would make is that I think that whole individual complaint-driven process is highly problematic. I mean, of course you have complaints in a whole range of other areas. But my experience is that somebody with a disability might have occasion to complain about lack of access, the way they're treated and so on, probably on at least half a dozen occasions each and every day. So if you complained about everything that you were discriminated against on an individual basis you'd be exhausted after a week.

MS FLORENCE: Yes, that's true.

MR BARTL: Whereas, you know, the standards in general provision of services, yes, you occasionally strike something very dodgy and you might complain about it but that might happen once every couple of years, not every day of your life, not multiply every day of your life. So I think the approach - I know the access to premises cases I've been involved in with Janice, and Janice by herself, and myself by myself, I mean, each of those is enormously time-consuming. It takes energy, and as everyone knows who has even, say, for example, contacted a complaint point in relation to insurance or in relation to consumer affairs, it's something you do as a last resort. But for people with a disability, if they were to complain about everything where they were treated less favourably than other people, they would be spending each and every day just chasing through complaints.

MRS OWENS: But I suppose Janice is saying you'd still like to see that provision remain for the odd - you know, if some people may want to use it.

MS McKENZIE: But have other alternatives.

MS FLORENCE: I agree with everything Berndt has just said. I'm a letter-writer, I write letters all the time but it does take enormous amounts of energy and, you know, I've got a lot of interests in my life and it takes things away from other interests in my life. I wish I didn't have to do it. I wish, like the rest of the community, I didn't have to do that. I've just been down to Wilsons Prom and I discovered that really the only the accessible accommodation available is very expensive and my choice to stay there is to stay in the expensive accommodation. I'm not on a really high income. It means that people with disabilities - people who don't have disabilities can choose to camp and that's cheap. People with disabilities generally can't choose to camp. So if you're going to enjoy the benefits of our environment and our national parks, you have to have money if you've got a disability.

MRS OWENS: So you need the same sort of complaint as you had with the Tasmanian ferries.

MS FLORENCE: Yes, that's right, exactly. I thought, "No, here comes another letter, here comes another complaint," you know, and - - -

MRS OWENS: You can just point out to them - if you do that, just write them a letter and say, "I had success with the Tasmanian ferries, how about it." I shouldn't be giving you advice but - - -

MS FLORENCE: Yes.

MR BARTL: But please put yourself in Janice's position. She's trying to have a holiday to relax from the pressures of life and here - - -

MS McKENZIE: You don't want to have to make a complaint on your holiday.

MS FLORENCE: Exactly.

MRS OWENS: I do understand.

MS FLORENCE: So if it was more systemic, the changes could be somehow systemically made. It would take so much pressure off individuals and also it's justice. Other people don't have to go through this in order to experience these everyday experiences, whereas we have to kind of battle our way in there and it's a battle all the time.

MRS OWENS: Good, thank you. Thanks very much for coming and I'm sorry we've held you up so long.

MS FLORENCE: That's okay.

MS McKENZIE: It's a very helpful submission and that's why we've held you up. Thank you very much for making the effort.

MS FLORENCE: Thanks.

MRS OWENS: Okay. That concludes today's proceedings. We will resume tomorrow at 9 am.

AT 12.44 PM THE INQUIRY WAS ADJOURNED UNTIL
FRIDAY, 25 JULY 2003

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