PRODUCTIVITY COMMISSION

COMPENSATION AND REHABILITATION FOR VETERANS

MR R FITZGERALD Commissioner
MR R SPENCER, Commissioner

TRANSCRIPT OF PROCEEDINGS

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COMMISSIONER FITZGERALD: We might start just a couple of moments early. So thanks very much for participating, thanks for being here. I'm sorry this room doesn't have any light in it, natural light, but it's the way of the world. I'm just going to make a formal statement and then we'll get on with our first participant.

So firstly welcome to the public hearing for the Productivity Commission's Inquiry into Veterans' Compensation and Rehabilitation following the release of our draft report in December of last year. I'm Robert Fitzgerald. I'm the presiding Commissioner on this inquiry, and my fellow Commissioner is Richard Spencer and we've met many of you previously.

The purpose of this round of hearings is to facilitate public scrutiny of the Commission's work and to get comment and feedback on the draft report in order to complete the final report. So far we've held hearings in Adelaide, Perth, Darwin, Wagga Wagga, and following today we will have hearings in Melbourne, Hobart, Townsville, Brisbane and Sydney. We'll then work towards completing the final draft to government which will be provided at the end of June, having considered all the evidence presented at the hearings and in submissions as well in other formal discussions.

Participants, and those who have registered their interest in this inquiry, will automatically be advised of the final report's release by government The Commission produces and publishes the draft report but the government publishes the final report. However, they are required to do so within 25 Parliamentary sitting days after the completion and presentation of the report to the government. So governments have to publish our reports in full within a specified period.

We like to conduct all hearings in a reasonably informal manner, although some people may say this isn't very informal, but I remind participants that a full transcript is being taken. For this reason comments from the floor cannot be taken, but during the proceedings and at the end of the day I'll provide an opportunity for any persons wishing to make a brief presentation, subject to time permitting.

Participants are not required to take an oath, but they are required by our act to be truthful in their remarks. Participants are welcome to comment on the issues raised in other submissions by other participants. The transcripts will be made available to participants and will be available from the Commission's website following the hearings. Submissions will also be available on the website.

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And just for occupational health and safety reasons, there's only two entrances out, those two doors, and just follow the signs past reception, and also all of the facilities unfortunately are outside past the reception so you have to go out of the actual offices to access those.

So I'd just like to start today with Liz Cosson, Secretary of the Department of Veterans' Affairs as our first participant. So if you can give me your full name and the agency you represent for the record.

MS COSSON: Certainly. Elizabeth Cosson. I'm the Secretary of the Department of Veterans' Affairs.

COMMISSIONER FITZGERALD: Good. Liz, if you can give us an opening statement.

MS COSSON: Thank you. So the Department of Veterans' Affairs welcomes the Productivity Commission's Inquiry and its draft report and the opportunity to present at today's hearings. We are very grateful for the efforts that the Commission has made in understanding the complexities of the veterans' support system and the many part of the system.

DVA has a long history and is proud of its support of veterans, but we also appreciate that some veterans have at times not had the best experience with the department due to the system being difficult to navigate, confusing and difficult to engage. The complexities of legislation and systems and how they interact has been challenging for veterans and their families, DVA staff and for our veterans' advocates.

We acknowledge that much of the complexity in this system stems from response to the needs expressed by veterans and their support organisations over many decades. We have now a system which does reflect a wide variety of veterans' circumstances and needs but which is complex because each iteration and improvement has been layered upon the previous one.

We also recognise that one of the most significant causes of the frustration to veterans and their families results from the time lag between an injury and the acceptance of a claim. This aspect is where much of the ambiguity in the system lies. We are continuing to work very closely with Defence to improve the determination of liability to make it clear where an injury or an illness is related to service and to do that from day one.

Improving this aspect alone would introduce much greater certainty, immensely improve the claim experience of veterans and their families and ensure continuity of care where needed, but reforms needed to the

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system are much broader and go to legislation and policy, structure, culture, delivery, engagement with ex-service organisations and with the veteran community that this system supports.

5 It is worth briefly discussing how the broad veteran community is supported and the challenges for this support. We estimate there are more than 640,000 living veterans from all conflicts, including peace time and reserve service since the Second World War. DVA has around 282,000 clients of which 165,000 are veterans, 117,000 are widows, partners and 10 other dependants. Our clients also range in age with 18 per cent over the age of 90, 67 per cent over the age of 65 and 9 per cent under 35, so of the 640,000 veterans, DVA knows 165,000 of them as clients.

The veteran community is very broad. There are more than 3,400 15 registered charities in Australia that have veterans and/or families as beneficiaries which includes 500 or more ex-service organisations. The advocacy services that ex-service organisations provide, overwhelmingly through volunteers, support veterans and their families with compensation claims, predominantly with compensation claims.

20

Newer generations of veterans are not stepping into advocacy roles as the previous cohorts of veterans age. Younger veterans are not members of these ESO's, and potentially advocates find it difficult to deal with the complex legislation that was less significant for previous generations of 25 veterans.

There is a challenge across the veteran community which includes DVA and ex-service organisations in how to respond to the needs of veterans and their families into the future how to build capability to ensure the 30 model is sustainable. I welcome the Productivity Commission's draft report observation that through our veteran-centric reform methods DVA is streamlining and improving the claiming experience, but we don't have a good track record for change and we know that more can be done.

35 Some three years ago DVA commenced a significant transformation program to deliver improvements in the way DVA assists veterans and their families. It commenced this reform on the basis that the veteran and their family are at the centre of all that we do. Our program of veteran-centric reform is now well under way. We believe we are on a path to a 40 better system, but we are not there yet and have several more years to go.

I have available to table our ICT road map which sets out this program of transformation. It is a multi-year program and I must say that it is still dependent on government investment through budget process. We 45 acknowledge the areas of DVA services which the Commission has been

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critical of in its draft report. However we do have some of our reforms that are addressing these shortfalls and we have made significant improvements to our services for veterans and their families, and I'd like to offer our thoughts in six of these areas.

Firstly, the fundamental principle which is the unique nature of military service of being different to workers' compensation system and we note the Commission's views on military compensation compared to workers' compensation schemes and I'm pleased that the Commission has accepted that military service is unique.

The requirements of military service include elements which are best dealt with by remuneration and there are others that should be considered through compensation. To observers of the veterans' support system these issues are often considered to be interchangeable. For example, while many aspects of military service involve long hours, on-call requirements, interstate postings and the like, these are not unique to military service and are already dealt with through remuneration.

The key unique elements of military service which distinguish it from civilian activity are as follows. It's the authority to use lethal force; the inability for the risk of injury or death to be managed or mitigated in operational engagement with a hostile enemy force; the requirement for all those who put on the uniform to be subject to military discipline and to commit to the potential for operational engagement.

A fundamental aspect of workers' compensation schemes is that the employer is required to take reasonable steps to safeguard the wellbeing of their employees. However, in military operations the risk to wellbeing cannot be managed in the same way to the extent that injury or death can be a reasonable expectation held by members of the Australian Defence Force participating in armed conflict. Our submission will expand on these issues.

The second area. Structural recommendation in the draft report. A key aspect of the Commission's draft report is its series of recommendations concerning the structure and governance of veterans' support systems. Our comments on these recommendations today will be relatively limited given that these recommendations are best considered and responded to by government.

We understand the rationale for proposing these recommendations and we offer some observations including veteran-centric reform is still under way, hence there is a risk of disruption to the current reforms through early changes to the governance structure. We suggest that some roles

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and responsibilities need further consideration as to their best fit, such as veterans' policy and defence and relocating the commemorations and war graves' functions.

5 We do agree there is potential to consider how services are delivered and how delivery fits with or is separate from veterans' policy. DVA will be working with Defence to develop a range of options and new thinking against the analysis and recommendations in the draft report.

10 The third area, commemorations and war graves. I'd like to touch on the Commission's proposal that DVA's commemorations function and the Office of Australian War Graves be relocated to the Australian War Memorial. My observation on this recommendation is that commemorations are generally considered to be integral to recognising 15 and valuing military service and can be an important contributor to veterans' rehabilitation and mental health.

DVA plans and delivers international commemorative services and engages with foreign nations to conduct these services. DVA also shares 20 this role with the New Zealand Defence Force in Turkey.

The fourth area. Reforming the schemes of compensation and support. DVA supports the need for the legislative reform and would add that work is already under way on some elements of harmonisation. The nature of 25 simplifying and harmonising legislation is far from simple. Much work needs to be done to examine the legislative detail, the effects of any changes and the transition arrangements.

It is critical to understand the implications of all elements of 30 harmonisation and simplification, especially if they affect veterans' entitlements, so might carry a high cost to government. Throughout this process, and certainly over the next several months, we will be keen to understand the views of veteran community on these important issues.

35 The fifth area on claims and reviews and changing the Veterans' Review Board. We consider the Veterans' Review Board to be working well. The introduction of alternate dispute resolution was first implemented by the Veterans' Review Board as that presented the most logical and efficient point in the existing review process to test that arrangement. We realise 40 that one of the factors that has contributed to the success of the alternate dispute resolution by the VRB is that the VRB can still rely on its determinative powers should the ADR process not reach a resolution.

I am pleased that the Commission has acknowledged this initial success of 45 ADR processes at the VRB and these need time to work through the

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system. DVA is focussed on reforms at the primary decision level which might include ADR methods at the primary and internal review level as well.

The final area I wish to address is the health care, transition and rehabilitation. DVA fully supports the wellness model articulated in the draft report. We are mapping our existing programs, sub-programs, initiatives and activities against the seven domains of the Australian Institute of Health and Welfare Wellness Model and we are also exploring effectiveness measures and data requirements for each of these domains. We would be happy to share our findings with the Commission in the coming few months.

A critical element of this approach is to separate treatment from compensation. Continuity of care and early intervention is core to this model. We also support the importance of transition and the transition support needs to commence from the point of enlistment until well after the member leaves the Australian Defence Force and this is needed with DVA involvement throughout the process.

DVA, along with Defence, Joint Health Command we continue to invest heavily in work across government to improve timely access to critical health, rehabilitation and service history data. These efforts are enhancing continuity of care and rehabilitation throughout transition, while at the same time building the evidence base for early, proactive interventions which prevent injury and illness in the first place. DVA would be keen to understand the Commission's further views on health care in its final report including provider fee arrangements and we are happy to provide further information in the coming months to assist you.

Timings. DVA has noted the timeframes proposed in the Commission for reforms. However, the timeframes are generally very ambitious. For example, setting out considerable activity to be undertaken this calendar year which may not be realistic to achieve. We would need to work with government to seek endorsement and resourcing for a reform program beyond our current veteran-centric reform. Some elements such as legislative reform are complex and do require consultation, design and drafting which may take several years.

In concluding. I can advise the Commission that DVA is actively undertaking further work to understand options and to determine resourcing against the number of key parts of the draft reform. We are working across government to prepare some more detailed costings which will be made available to the Commission around mid-April.

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I would like to thank you for your time today and wish you the best in future hearings and I'm very happy to take any questions of clarification.

COMMISSIONER FITZGERALD: Good. Thanks very much, Liz. If I could just start with the numbers that you've given us of 640,000 living veterans. As you know in the draft we were unable to establish any figure. Your level of confidence in that figure?

MS COSSON: So the Australian Institute of Health & Welfare actually came up with their figure in working closely with Defence records on who's actually served since World War II, so I have some confidence in that figure, and it has been a published figure.

COMMISSIONER FITZGERALD: And you've indicated that 165,000 veterans are currently clients of DVA. Can I just understand the notion of a client of DVA? Would that include anybody who is simply accessing Gold Cards and White Cards as well, all of those would be clients?

MS COSSON: Absolutely. Anybody that has registered a claim with DVA for benefits through our system would be registered as a client.

COMMISSIONER FITZGERALD: So given that DVA is well-known and the scheme, the veterans' scheme in one way or another has been around for 100 years, what interpretation should we place, if any, on the fact that only a minority of veterans are seeking services through DVA? On your figures two-thirds are not. Are we to interpret that that most veterans are living well and are able to integrate back into civilian life or should there be - have another interpretation on that?

MS COSSON: I'd interpret it a couple of ways. One is most veterans do transition and live well and don't need the services of the Department of Veterans' Affairs. That would be a majority who transition. I'm a registered client but I'm not accessing any services through the department. I don't need to, but there are also some veterans out there who have had a bad experience with the department and they have not been able to enter into the system, and so therefore have not been prepared to re-engage with us.

There is also a third element of that question. There's not a great awareness of DVA and the services DVA can provide after you leave military service. You often hear the stories that when they leave the Australian Defence Force some don't even realise that there is this department that is available to them that they can register, so that's the work that we've been doing with Defence, to raise awareness of the department and the veterans' benefits and veterans' schemes, and that's

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why everybody on transition from January 2016 now receive a letter from myself and they receive a White Card so that they are introduced to the system.

5 Similarly what was introduced at that time is, everyone that now enlists in the Australian Defence Force, we have visibility of, so we now know everyone that serves. We didn't prior to 2016.

COMMISSIONER FITZGERALD: So has the department got any sort
10 of expectations as to what the trajectory will be in terms of its clients going over the next five, 10, 15 years? So of that 640,000 do you have any particular projections as to what percentage of those will actually become clients over time?

15 **MS COSSON:** I don't know whether that work's been done but I can certainly have a look at that to see if we can give you some further advice.

COMMISSIONER FITZGERALD: Sure.

20 **MS COSSON:** But we have actively - we have had an active outreach program over the last two years and I haven't seen a huge increase other than with the recent announcement of the veterans' identification card or the veterans' card where we have had an incredible take-up through the MyService channel, and once again I'll need to get that number for you.
25
COMMISSIONER FITZGERALD: Just explain that, a veterans' card, what's the purpose of a veterans' card?

MS COSSON: The Prime Minister announced a covenant and a
30 recognition package, and so what we're doing with the veterans' health card is using that as an identification card. It won't have a photograph on it, but veterans will be able to use that so that people can recognise them as a veteran. Similarly they'll get a pin so a veterans' pin. That is about helping them reconnect with communities. As you asked your question
35 before, most veterans do integrate well back into their communities, and this pin and this card is to help those that perhaps find it a little bit more challenging.

COMMISSIONER FITZGERALD: Sorry, can I just ask a question. I
40 don't want to go into the health area yet. Richard may have some questions, but in relation to the White Card which is effectively almost automatically given to somebody that leaves military service, can I just ask, at the present time people have to apply for that card, and do they have to identify any illness associated to get that card in relation to mental
45 health?

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MS COSSON: No, they do not need a diagnosis. They are eligible for treatment with that White Card. They have to activate their card to get that treatment.

COMMISSIONER FITZGERALD: In the future is it likely that when a person is discharged from service they will automatically get a White Card or do you think the process will need to continue to be one of applying for, and as you say, activating that card, and the reason why I ask that is, if, in the first instance, they were suddenly automatically granted a card, everybody that leaves military service would become a client of DVA overnight, whereas at that time because people have to apply, and in some circumstances show some sort of eligibility criteria, the clients are obviously a lesser number, but I was just wondering what's the intention with that card?

MS COSSON: Ideally what I would - what we have been aiming for and working closely with Defence on is to try and separate, well, get rid of the lag between your military service and then seeking medical support, that's separating that treatment from compensation. I would like to think that everyone that leaves will automatically receive that White Card which has already loaded on to the White Card any condition that they have that has been deemed to be service-related so that they do not have to apply for access to medical treatment.

The aim with that is the preventive health; proactive intervention; get into treatment the minute you leave; have that continuity of care. And supporting that program would be, how do you connect with clinicians; how do you connect with general practitioners? Can I use an example of myself?

COMMISSIONER FITZGERALD: Sure.

MS COSSON: After 30 years, not being able to find a GP in Canberra, and there was a gap between that continuity of care. Not that I needed a lot of medical care, but getting into a GP that you can then continue to enjoy some medical, universal health system that we have in this country, and so that would be where I'd like to land, that that White Card is loaded, go and get treatment. If you would be seeking compensation for any injury or illness that would be a separate process that you would then have to have further evidence that it is related to your service, and then apply the SOPs.

COMMISSIONER FITZGERALD: And if that strategy were to be fulfilled, then obviously, going back to my point, the number of clients of

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DVA or whatever organisation it would be, would in fact be substantially greater than that which we have today, going forward.

MS COSSON: Given our client numbers are considerably reducing as it
5 is with the aging nature - - -

COMMISSIONER FITZGERALD: They get back up but.

MS COSSON: Some of them go up, so we have about - so one of my
10 Defence colleagues might give me a hand with the enlist each year, but I know 5,500 roughly leave per year.

COMMISSIONER FITZGERALD: Just to go to the veteran-centric reform, the veteran-centric reform has been in for three years and we've
15 acknowledged the report and we've acknowledged some of the benefits arising from it. Can I just raise two questions.

The first one is, part of that is to almost automate or make easier the ability of people to be able to put in a claim and whilst we've
20 acknowledged that has many benefits, in the hearings that we've had so far, at the last I think four hearings we've had, some people have raised the question that the veteran is still at - may be disadvantaged by inputting inadequate information, wrong information, categorising their illnesses for ill health in different ways, and so people have cautioned us against
25 enthusiasm for that mechanism, not because it's more automated but because the burden or the risk actually rests with the veteran and inputting the appropriate data, and then of course the second point they raise is if they do in fact input the wrong data and a decision is made, the only process is then through a review process. So I'm just wondering whether
30 you have a comment on that.

MS COSSON: My preference is the automated approach and having our system better at the back end so that it does actually look at what is the best outcome for the veteran and looking at the - applying that legislation
35 without the veteran having to know what legislation they come - they fall under in relation to what they're seeking in response to their illness or their injury.

I think there is greater benefit through that automated process. I respect
40 that some of our advocates think that we still need to have an advocate involved and I support that as well when you have complex needs of a veteran, or if the veteran has been out of the Defence Force for a period of time. You still do not potentially need an advocate to help you, but in my case where it's quite simple, I've got a diagnosis. I can upload it. I was
45 very happy it went straight through and noting that we have streamlined a

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lot of our conditions so that a veteran doesn't have to go through all of that evidence building and reaching back into Defence. So I think there's benefits, greater benefits outweighing the risks that may have been raised, but recognising we still need advocates to help those that have complex needs and have been out of the system for a period of time.

COMMISSIONER FITZGERALD: And just in relation to the advocacy report by Robert Cornell, is there an indication from government as to when that might be released publicly?

MS COSSON: So the Minister asked me to have a detailed look at the report noting the Productivity Commission had also made some references to it, and I think we've provided the report to the Commission now. There are some sensitivities in the report that we need to really understand how our community will respond to that; what are the costings associated with that; what are the implications. So I've given an undertaking to the Minister to give him a full brief very soon, over the next couple of weeks, so that he can make an assessment, but importantly he's very conscious of the Commission's report as well.

COMMISSIONER FITZGERALD: And a point from a Commission's point of view. while we've got a copy of the document, we can't comment on it unless it becomes public.

MS COSSON: Right.

COMMISSIONER FITZGERALD: So there is a necessity for us to receive a public version at some stage.

The second point, can I just raise this, there has been a discussion in relation to the outsourcing by the department, and as I understand it, but you might clarify this, is in relation to the veteran-centric reform part of that does require outsourcing to different agencies, and that's clear. Can you just tell me this, in three years' time, ignoring our recommendations completely just for a moment, where would the department be likely to be, say in three years, in relation to the range of service it provides directly and those that are outsourced if you're able to give us some sort of understanding of what that would look like on the current proposals.

MS COSSON: So noting the current proposals that we have under our veteran-centric for year based on - - -

COMMISSIONER FITZGERALD: Yes, I understand that.

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MS COSSON: Yes, government decisions every year, so that the future operating model for the department has been refined over the last couple of years but it is on a pathway where we need to build a capability that has a greater focus on veterans' policy; better commissioning of services; better measuring of outcomes for veterans; better measures of the services that are being delivered to ensure that veterans and their families are getting the best outcome. The department needs to build that capability and building that operating model around that policy our programming and commissioning has been important. Also case management model, having a look at the unique requirements of our veteran cohort, so building that capability, but importantly, as you reflected, is partnering with other agencies where it makes sense.

Where, for example, our ICT, Department of Human Services had a multi-billion dollar program under way with ICT in welfare payments, and improving their infrastructure, so we're leveraging off that ICT build to make sure that we are modern and we are digitally capable, and we're into the second year of leveraging that major program.

At the moment we've got 16 veterans' access network shopfronts, I think it's 16, around the country where we have a small presence in a lot of communities which sit alongside our open arms facilities but also sit alongside a Department of Human Services government services shopfront.

In some cases it may make sense, as it did in Geelong, and we also did that here in Canberra, where we partnered with the Department of Human Services for veterans' services, but what I do know in some areas that's not working well. Some veterans have reported a bad experience with going into a human services shopfront, and potentially we're not measuring that as effectively or as well as we could be, so we need to get better at that partnership if that's where we think we should be going on our - as services delivered to our veterans, that frontline service.

But noting the Commission's report on a Veterans' Services Commission, that may be a different model where the services delivered may be delivered through that Veterans' Services Commission rather than the Department of Human Services, so that's why I'm very keen to work with the community to say, well, what does this look like and what are some other options the Commission may consider.

COMMISSIONER FITZGERALD: So if I can just deal with the governance and then I'll hand over to Richard and come back with some others, but the governance arrangements as you've highlighted and others have to us is that we were looking at putting policy within Defence, not -

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not, as many advocates have said to us, we were never contemplating that the compensation scheme would be within the Department of Defence. It was only policy, and then having the administration of compensation, incapacity impairment, health and community services administered in a much more contemporary environment which is an independent statutory authority which would have a Board of Commissioners, be veteran-centric and be responsible to the Minister responsible for veterans' affairs.

Can I just raise a couple of issues, and you may or may not be able to comment. In relation to the shifting of policy to Defence, you would be aware that everybody has opposed that so far, and we're looking at why that is, but I do want to deal with this. If policy doesn't go to Defence, how do we get an integrated approach to policy? You've indicated in your opening statement that there's an absolute link between remuneration that is paid to a service person, and the compensation that's paid, yet we've just cut them. We treat this as this and this as that, but of course that's not how veterans live their life and that's now how systems work.

So we raised this prospect because we have a genuine concern about the lack of an integrated policy approach to veterans while serving and not serving and there are significant weaknesses in that, so assuming for a moment the government were not to accept the recommendation, and ours is only a draft and we may well change it in the final, how do we better improve policy-making that travels through the life of a veteran from recruitment to end of life?

MS COSSON: So without commenting on the government's decision on the outcome of the final report. In our submission that we're preparing to come forward we've identified the pros and cons for policy to move into Defence. The key areas from our perspective is that, one, if you have policy sitting in Defence, one of the biggest negatives to that is it's reduced the level of attention. At the moment as the Secretary of the Department of State, I sit with my colleagues, including the Secretary for Defence, and I can argue for veterans' policy and investment in veterans' policy.

To put it into Defence it would be at the level of a deputy secretary who doesn't have an equal voice with colleagues across the Commonwealth, so that's a negative. A positive is that better level of engagement, as you pointed out, on when you're making decisions about deploying forces, and I think over the last two years we've already demonstrated that we are working far better with Defence, and sharing of information.

I think further work and investment in that data-sharing is a really critical part to get that integration. Sharing of our information, particularly in

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Defence's Sentinel system and how we can integrate that to see what workplace health &safety and injuries and illness are being reported; are they actually being reflected in what we're seeing in that direct engagement with us.

Joint Health Command have already indicated to me that they have a checkbox on a medical form now that if a serving member reports to a medical officer there's a box there to say, "Is this related to service?". Not accepting liability for any compensation or claim, but, yes, it's service-related, and having that better data-sharing and me providing better data back. What am I seeing in relation to claiming patterns; areas of concern that the CDF can make informed decisions.

COMMISSIONER FITZGERALD: So can I just go back a little bit. Whilst I acknowledge that the current leadership of both Defence and DVA are working well together, yourself and your immediate predecessor have indicated that to us, historically that's been hit and miss. If we look back over a period of time there have been times when DVA and Defence have been in close alignment and there have been periods of time when it hasn't been, and much of the recommendations we've made and also are in the VCR were sort of not novel, but weren't able to be enacted, so a whole lot of that information sharing, the better integration of information more generally and so on and so forth were proposed by many inquiries and by many secretaries, yet there's been many periods of time during the history of those two departments where it just doesn't work.

So we've tried to take a structural approach to that. We say, well, it's not just whether the two secretaries get on. It's actually a deeper seated issue. So why should the community have confidence that the current arrangements would in fact serve well the veterans' community into the future irrespective of who are the secretaries, or in fact, who are the ministers, given the history. Now, as I said, there's been good times and less good times, so why should we be sure that the current arrangement has improved would in fact be different?

MS COSSON: A couple of reasons why I would like to offer some assurance is, we recently - well, two years ago we formed a joint taskforce not only DVA and Defence, but also Comm Super Corporation, to ensure that we are looking at that transition area because that's the key part of making sure that those that need that additional support in transition are receiving that and receiving that continuity of care.

We've also engaged in a special operations forces pilot on Holsworthy, and what those, the joint taskforce report and that pilot are showing Defence and DVA is that we need to be engaged together before someone

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leaves so that we don't have that lag after separation, and Defence has already implemented some key initiatives to continue that, reach into the veteran after they leave to make sure, one, they're going into employment; one they're being connected to community; and with the covenant that I talked about before, that recognition package, that's about formalising that commitment that you will be led through transition and you will be connected back into community after you leave.

As the CDF refers to it is that you are a member of the ADF for life, and yes, you leave the Australian Defence Force, but you've got the Department of Veterans' Affairs, and that will be enshrined in the covenant to say we have that joint commitment to actually look after those that have served our Australian Defence Force, and to make sure that we look after those families to help them in their life military service.

COMMISSIONER FITZGERALD: And again, just from what you've said, and I understand that obviously it's ultimately a government decision, is it the case that you would believe that you don't need to move planning necessarily, or policy, into Defence to achieve those outcomes going forward? Now, again, this government's policy, and I appreciate that's not for you to comment on, but generally from what you're saying is that you believe policy, a split between Defence and DVA can be made to work in a coherent manner going forward?

MS COSSON: My view is that there are different options where through that better data analytics, better sharing of information, but also I would offer, give us a couple of years, to see where we land with our reform program because I actually think over these next three years, which the Commission has offered in its draft report, we need for our veteran-centric reform to do another check-in to see that that is now locked in as a formal engagement between Defence and the department. Once again, that's my observation.

COMMISSIONER FITZGERALD: No, no, that's fine.

COMMISSIONER SPENCER: Liz, I just wanted to explore with you the future as you see it of ESO's and how that can be better leveraged, but before doing so you mentioned earlier on there's a number of areas where change is being considered and looked at and you mentioned culture. One of the things that we hear, and it may be more historical now, but we continue to hear it is the view of some veterans of a - their experience is one of an adversarial relationship with the department, and we've had veterans acknowledging that the benefits under way by the department to make much more information available in some of the ways that you mention.

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But a feeling that it's overwhelming, so, "Where do I go with this information and how do I utilise it? What are SOP's?", and that kind of thing, so what struck us, when you look at other areas providing similar type services, and if you look at sort of best practice workers' compensation schemes, what you see there is a very rapid engagement with the individual to work with the individual to help them work out what their entitlements are.

So there is a bit of a sense, I think this perhaps goes to culture, but you may want to comment on how to deal with this, that the system at the moment seems to rely on, "Well, if it's complicated you need an advocate", whereas some people are saying, "Well, why doesn't the department help me? Why do I need to go to an advocate? Why aren't I helped?". A bit of a sense as Robert said before, the experience is, "I didn't know what the language was or what the particular issue was, and I didn't name it, so I get rejected, and then I go to an advocate and they tell me, 'Ah, you didn't put that in the right way so this is how you should do it'".

So that's just an example perhaps of a broader cultural issue, one of, you know, really engaging and finding out how best to assist veterans. I mean, in your thinking, and in the next few years, how do you see a shift within DVA or whichever organisation is responsible for this to actually achieve more of, I think what you're already talking about, this cultural shift?

MS COSSON: So since, for the last two and a half years we have been - we've had an active culture program in the department with our staff and we've engaged over 500 staff in different workshops in understanding what is the culture we're trying to build? What is our purpose? And it was quite interesting to talk to someone about, "What do you think we're here for?", and some were focussed on the fact we are here to process workers' compensation and pensions. The culture wasn't about putting the veteran at the centre and the family at the centre to actually understand, "What's the outcome we're trying to achieve for our veteran community?".

We have a unique place in the Commonwealth where we have a cohort of really special people, in my mind, veterans and families who have served, and we need to build a culture around respecting that service to our nation, and the sacrifice that families make for those that serve. So we've had so many workshops. We've built cultural champions; we've built staff reference groups to talk about how we need to change to actually flip why we're here; what are we here to actually make us proud of; and what is the legacy we want to leave? So we've invested very heavily in that.

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But also I look back at the year 2012 I think it was when I was last in the department. DVA used to be paid by Defence to do transition management services, so anybody that was transitioning out of Defence, they moved straight into the Department of Veterans' Affairs to help them with that transition management, and that ceased in 2012 or 2013, and we built around major bases what we refer to a non-based advisory service from within the DVA budget, but I don't think it went far enough in that we didn't have consistency in that model, nor did we have appropriate training of those on-base advisers. Some are brilliant, absolutely brilliant and you hear nothing but glowing reports; how that adviser sat down with the veteran and helped them fill out their claim form.

If that had been heard of back in Canberra it would have stopped because most of those advisers were told they can't help a veteran because there's a conflict of interest. So we have started to shift that through our special operations forces pilot where we have an on-base advisor and Defence and ComSuper sitting down with the individuals before they leave helping them put all their paperwork in, know what paperwork they need when they leave. But that said that's what we need to do, but we still need an ex-service community which goes to your first question.

As I mentioned we have got over 500 organisations out there, 3000 organisations that claim to be looking after the interests of veterans and their families, but I think it's ad hoc and sometimes some of our veteran community and families don't know who to go to. I'll use my husband as an example. He's a veteran. He's been trying to find an advocate here in Canberra to help him with his situation. He doesn't know who to go to. The person he went to said, "Oh, no, I can't help you. You need to go to this other advocate". The mother of a veteran who died in Afghanistan, she didn't know who to go to.

So just a snapshot from Rob Cornell's report is to say you need to have some way of capturing all of the accredited applicants out there so someone knows where to go to, because in some instances a veteran doesn't want to go to a department. They may be angry with the fact that they have been asked to leave military service. They're angry at the Department of Defence and they don't want to come to Department of Veterans' Affairs, so they may need to go to an advocate. But importantly it's not just about pension advocacy, it's about that welfare, and that's about the building capability I mentioned to help the ex-service community not only understand our legislation and help our veteran navigate it but how to take them into community and welfare, give them - not welfare, wellbeing to help them make that transition if they have had a bad experience.

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COMMISSIONER SPENCER: Yes, I'm interested in thoughts about how that might happen, because what struck us as we've been travelling around Australia and speaking to the ESOs is that in some ways it can be described as a huge hidden asset of the complete system.

5

MS COSSON: Absolutely.

COMMISSIONER SPENCER: And what ESOs choose to do and how they choose to organise it is up to ESOs. It's not for government or anybody else to tell them what to do. But the leverage that government can have quite often is to be very clear about what range of services would be helpful and funding to go with that frankly. So what struck us, we've seen terrific examples which you'll be very familiar with in Townsville, we were down in Wagga, to the Hume Centre, so there are what I would describe as terrific green shoots of a new model which is service oriented to meet the informal needs and to harness the terrific volunteer resources. So in looking for ways for government to leverage that, how do you think that could work? What might be ways in which government can be clearly defining what they're hoping ESOs might be able to do and what they're willing to fund?

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MS COSSON: I welcomed the Commission's reflection on other advocacy services that are out there for the aged care and the disability sector, and the fact that potentially we've been under-investing and over-relying on volunteers, but we never want to lose those volunteers, because they bring to the veteran community that lived experience which means a lot to veterans and their families.

25

There are a couple of models that we would like put forward in our submission. I won't go through them all today if that's all right?

30

COMMISSIONER FITZGERALD: That's all right. Yes. No, that's fine.

35

MS COSSON: Because I think they need a little bit more testing, but certainly those that I've seen, such as Oasis in Townsville and Hume and Victoria building a hub, I think there are some opportunities to have greater investment in those types of services. I think you will still need the pension advocates, but that wellbeing focus is really important, and that's where I really value the Commission's insights there about how we can have a greater focus on wellness and move us from that illness model and then, you know, helping reconnect with community and employment and purpose and giving back, so I think there are some great opportunities there to leverage that ex-service community, because we're not doing it now.

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I think it was in your report as well that it had actually built up - we'd become quite adversarial with our advocacy services with our ex-service community. They thought it was a fight with DVA, but I'm really proud to say that over recent years the way that we have been working with the ex-service community is seeing some greater outcomes and positive outcomes for veterans and families.

COMMISSIONER SPENCER: Thanks for that.

COMMISSIONER FITZGERALD: So can I come back to a couple of specific issues. Let me deal with the contentious one at healthcare. I just want to - you'll be aware we put forward a number of things we're looking at. The only recommendation that we had was not to extend the Gold Card, and of course that's contentious and we'll hear that.

But there is a reality to this, if there are 640,000 living veterans the notion that everybody that leaves military service gets a Gold Card would be daunting, fiscally almost impossible. As I understand it, correct me if I'm wrong, we spend over 5 billion dollars a year on veterans' health now. So the notion of suddenly granting this universal card, given the figures you've given to us this morning, represents almost an impossible fiscal burden on society. And yet we know the Gold Card is very valued, and our recommendations would have no-one lose that card. I want to be clear about that, and no-one who receives the Gold Card currently would lose it. Nevertheless we are looking at whether it should be extended and whether there are aspects going forward.

Approaching the whole health area, what is the underlying principles, if there are any, that currently inform the way in which governments decide how to provide health care, whether it's through the White Card, the Gold Card, the direct funding of services, is there a set of underlying principles or guiding approaches that the government currently has as distinct from what we might come up with later on? Because to us it looks like an area that absolute commitment to the wellbeing of veterans requires the provision of health care. That's accepted. It's the method by which we achieve that. But is there anything that actually guides this particular area which is one of the most contentious, and of course expensive areas of the system?

MS COSSON: So certainly prevention has been a key theme, preventative health has been a key theme in driving some of our programs and that was what driving the non-liability health care with the White Card for all mental health conditions. What was underpinning that is to make sure you get into treatment early. You don't have to prove that it's

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service related getting to treatment. And that was part of a broader mental health strategy. But I acknowledge that the Commission's report identified that perhaps that isn't - it needs a bit of updating, which it certainly does.

5

What I feel sometimes we've introduced programs and measures based, it's been quite ad hoc rather than a broader strategy. So we have been focusing our efforts on what is that strategy, but it is on prevention, early engagement, early intervention, and working with the veterans to look at
10 the whole veteran and the outcomes. We're not there yet to be honest. We need to do more. But in relation to the cards, if I can offer, we've used an average cost of the Gold Card at $23,000 per card, but as the Commission knows our younger veterans they don't - it's not $23,000. As you age, my father, who's a Gold Card 87-year old, yes, he probably uses quite a bit.
15 And so the higher cost the older you get it's going to have that cost on the health care system. Some of it is offset as we know through Medicare.

COMMISSIONER FITZGERALD: Sure.

20 **MS COSSON:** But mainly just GP visits rather than hospital. But if I can, once again, just offer a personal reflection, my father with his Gold Card, that's what takes him to the doctor. He wouldn't be going to the doctor without that Gold Card. He wouldn't be going to have his eyes checked because I just know him.

25

COMMISSIONER FITZGERALD: Sure.

MS COSSON: He is so proud of it, and to me it's about what is the purpose. It's about getting you into health care. It's about making sure
30 that you're getting timely treatment and response, and that it's appropriate for your needs, and as early as possible; that you're not sitting at home. And it's also keeping him at home. Through that Gold Card he gets the support to stay at home, so I just wanted to offer that.

35 **COMMISSIONER FITZGERALD:** No, and we recognise the benefits of the Gold Card for those that receive it, and I think some people think we're naïve about all those. I don't think we are. But we are very conscious that it's a way of providing health care, and there are multiple others. Some completely inappropriate, and we're looking at that.

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Can I come to the second issue, and you may again want to comment. We've heard from some veterans groups, and I think this depends on where the veterans are, that the payment arrangements by DVA, that is the payment of a lower price for some services, although you're competitive
45 in others, affects access. We can't get a handle on that. It's people have

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different views about that. Do you have any sort of more concrete view as to whether access is being impinged at the moment by the payment arrangements of the department?

MS COSSON: So a couple of things there. We've done a few deep dives into this when we've heard that some veterans have difficulty accessing mental health services. Certainly in rural remote Australia it's not just the veteran community, it's all Australian citizens are having some challenges accessing mental health services, and that regardless of the fees that may apply, but if a veteran, and we've tried to do many studies and get examples of this, what we see that if veterans are having difficulty because of fees they can get prior approval from us to pay a higher fee. We have that in place now if they let us know that they are having challenges in accessing those services, so we do have a fall back if necessary.

But the deep dive that we've done we're not actually seeing all that evidence, and I would welcome any further evidence to show us where that is happening. But in parallel to that one of the initiatives in the department is how we can better engage our clinicians, how we can better engage our providers through a robust strategy. We've never had that in place before. I want to meet with all the peak bodies, but to talk to them about what is the veteran experience, what is the nature of military service, what is the impact that it has on individuals and families so that they can better understand and to be - their literacy in our veteran community because some that are turning them away, turning our veterans and families away it's because they really don't understand the nature of that military service, so that education is a parallel piece to that, just to help where we do have issues where people are turning our veterans and families away.

COMMISSIONER FITZGERALD: Just in relation to health, if I could just deal with mental health for a moment, one of the things we're contemplating at the moment is whether or not the government, particularly DVA, should be more active in the design of mental health services not simply the funding of it. The White Card funds it more or less. The question is as distinct from mental or physical health issues, whether or not there's a more proactive role for government to play. As you know the Productivity Commission is doing a review of the whole mental health system at the moment, but do you have any views about that at this stage?

MS COSSON: Whether we have an active - government has an active role? Probably not, but I do know that what we're investing in is research through a number of institutes to give us advice on what our program

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should look like knowing our veteran community and working closely with our Australian Institute of Health and Welfare I think can inform the design, and then make decisions on what that design should be.

5 **COMMISSIONER FITZGERALD:** So our initial thinking in the draft, and it may change by the final, is that in relation to physical health issues the general system works. You're in the funding arrangements for that. But the mental health system doesn't seem to work well for some veterans and that's where this issue is whether or not a more specific, more 10 proactive system design or service design is required. But as you say there's research that you're working on.

MS COSSON: So Phoenix Institute are doing that research and similarly the transition wellbeing research project is giving us advice on how to 15 target our mental health and better develop our mental health strategy. But one of the key areas that we have identified through the Open Arms, which I also welcome the Commission's thoughts on how we can better measure the effectiveness of our Open Arms, is to look at this lived experience and peer support. The Canadian model, it was something I 20 was quite attracted to, where they have a formal network out there in helping in that broader mental health strategy, but I acknowledge that we need to do some work to inform that design.

COMMISSIONER SPENCER: I was just going to get the legislation 25 just very briefly because both Robert and I are lawyers by background, and in looking at the legislation, it's putting it mildly to say it's extraordinarily complex, so we empathise with those people that have to really do some very difficult interpretation and we know that's a huge source of stress and confusion in the system, so obviously a perfect 30 solution would be to have one scheme, and some people have obviously said, well, it would be terrific if we could do that, and obviously we don't think that's achievable.

So, as you know, we have developed this two-scheme approach because it 35 struck us that there is a group of veterans who particularly around the VEA and those who have their compensation and benefits under that scheme, value that highly, and obviously a different set of needs more broadly around contemporary veterans. So that's what's informing, as you know, our two-scheme approach.

40

So what we're suggesting at this stage is that by 2025 we will have moved to that, and of course over time MRCA with DRCA having been involved it would become the one scheme. So, look, there are a number of issues around how that is best done, and you'll have thoughts on that. We'd 45 welcome your input into that as part of your submission. But broadly

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speaking you think that's a good direction, a good pathway to try and bring about a simpler, a fairer and a better set of schemes than ultimately one scheme?

5 **MS COSSON:** Well, just looking at the pathway that we've been on and the purpose of having SRCA/DRCA come into the one Minister was for a purpose which was to try and harmonise so that we didn't have this complexity because that's where you're going to have mistakes being made as you've pointed out when a delegate is trying to make a decision
10 and they're trying to apply this complex legislation, yes, we do make mistakes. So simplification and harmonisation has been a path that we've been on. It's hard, and Ms Campbell, who is sitting there, who joined the department a while ago, has been helping do that analysis on how we can have greater harmonisation but the biggest challenge is always going to be
15 to what level do you take the benefits. And the veterans community in having a look at the Commission's report has offered thoughts to me that they'd rather the higher benefit and naturally that would be a decision for a government to look at that, but where it makes sense to harmonise the legislation we're certainly preparing that to put forward on how that might
20 apply but we would always do it in consultation with our community.

COMMISSIONER SPENCER: All right. Thank you.

COMMISSIONER FITZGERALD: So just in relation to the timing, so
25 we've got a three-stage approach. I suppose one is to harmonise various elements of the three Acts, so that there's a common review process. All statements of principle apply to all three Acts and a number of other initiatives.

30 The second stage is the changes to governance and structure, and the establishment of a VSC irrespective of whether the department stays or otherwise, and the third stage was the two-scheme approach.

All of that was on the basis that the VCR, the Veterans' Centric Reform
35 would be rolled out by 2021, mid-2021, so we agree that we don't want to unduly disrupt that process and that's why our timing is what it is notwithstanding that we think some things could happen much earlier including harmonisation.

40 Obviously we'll sit down with you and talk more fully about the timetable, but can I just ask this, do you believe that you're online, on track to complete the vast majority of the VCRs subject to government approval? It's only annualised I know, at this stage?

45 **MS COSSON:** Subject to government approval, absolutely.

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COMMISSIONER FITZGERALD: Okay. And so when you said about the timetable I gather it's really the first year that was the problem.

MS COSSON: This year. That's right, yes.

COMMISSIONER FITZGERALD: Yes. No, that's fine.

MS COSSON: Noting that your report, end of June, then government to consider then - yes.

COMMISSIONER FITZGERALD: Yes. No, we can look at that.

MS COSSON: I'm not concerned, yes.

COMMISSIONER FITZGERALD: Can I just ask this question, and again one of the recommendations in relation to the two-scheme is that there be a cut off for new entrants into the VEA at 2025, and there are mixed views about that in the sector although that doesn't seem to be a great concern to many organisations. That notion of cutting off the scheme, you know, by 2025, again, do you have any particular views around that at this stage or not at this stage?

MS COSSON: I was comfortable with that subject to the community's views on it.

COMMISSIONER FITZGERALD: Yes, okay. Can I come to, very briefly, we've only got three minutes left, so I'll just take this, the VRB, so the whole purpose of our recommendations in this report is to improve the level of decision making at the delegate stage, and what we then have got is a four-stage approach which is a formal reconsideration, the ADR being used by VRB, and then the AAT. Well, you know, it's got the three - the first stage and the other three.

The only change we're making to the VRB is removing the determinative issue, and you raised the issue that you believe, or you've been advised, that by having the ability to make a decision it actually aids the ADR. There's a sort of a carrot and stick I suppose taking place. This is a very unusual system. In Australian Government we've got rid of two - this is very rare to have two determinative bodies, a VRB and an AAT. It doesn't exist for most other activities in government, and all of those multiple stages have been got rid of. So, again, I was just wondering why do you think the VRB should retain a decision making process, which is not in fact common at all? I understand where it came from historically. I understand how veterans have a very strong favourable view of VRB, and

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we're not saying it doesn't do a good job. But we are saying why do you need two independent bodies making decisions: that is the VRB and the AAT?

5 **MS COSSON:** So the principal member I think will be talking to this a bit later but from my perspective when the VRB was able to introduce that alternate dispute resolution process we were already seeing a huge difference in resolving matters quickly and painlessly for our veteran community. I think it's a really unique, as you said, capability that we
10 have in our veteran support system that I treasure, particularly if they can give back to me what's going on at that initial primary decision level. We've never - I think over the last two years we're using that a lot better to inform what we need to be investing in at the front end. I don't want things going to the AAT. The more I can reduce from the AAT the better,
15 because that's where we're seeing a lot grief and a lot of costs in that space. So I'd like to keep the VRB and that determinative power for a little bit longer, particularly into the future, because we need to invest in that front end as well on the resources to make those - the right decision at that primary decision level and the team have been doing a lot of work in
20 what other decision support tools that you need to make the right decision. And I may take the VRB out of business anyway, but there will always be some that will need to go to review, but my preference is none to the AAT.

25 **COMMISSIONER FITZGERALD:** We're on time, Richard. Any final comments?

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

30 **COMMISSIONER FITZGERALD:** Any final comments, Liz?

MS COSSON: No, thank you.

COMMISSIONER FITZGERALD: Good. Thank you very much.
35 Thanks very much for that presentation. And if we could have Legacy Australia, please. So could we have Rick Cranna and Philip McNamara, please?

So just to understand DVA had a slightly longer presentation period time.
40 The other presentations during the day will be a little bit shorter. But the basic process is that people are asked to make a short statement, a 10 minute statement and then we'll have a discussion and we will be very strict on time, because we have a large number of participants today.

45 So if you could both give your individual names and the organisations that

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you represent.

MR CRANNA: Certainly sir. My name is Richard Cranna, I am the chairman of Legacy Australia.

5

MR McNAMARA: And I am Philip McNamara and I am the vice chairman of Legacy Australia.

COMMISSIONER FITZGERALD: Good. Thank you very much.
10 Gentlemen, if you could give an opening presentation.

MR CRANNA: Legacy has now submitted to you a full submission detailing Legacy used on all the points set out in the various chapters of the report. I'd like to highlight some of the points that are of major
15 interest to Legacy and our beneficiaries that we care for. In Sydney on 26 February our advocates will be able to speak on some of the more technical aspects of the report.

By way of introduction as set out in our submissions to the Productivity
20 Commission Legacy began in 1923 in the wake of World War I and has been operating for almost a hundred years. It's the only organisation in the world that has the sole focus of supporting families of veterans who have given their life and their health to service to our nation. It's often said that the three great things that came as a result of World War I was
25 the RSL, Legacy and the War Memorial.

Legacy Australia, the incorporated body of 47 Legacy clubs around Australia and one in London has supported families in each conflict that our country has been involved in and Legacy currently provides caring
30 compassionate service to assist over 58,000 widows and 1800 children and dependents with a disability.

Since our beginning Legacy has worked very closely with the Department of Veteran Affairs where the care and support of the children of these
35 veteran families is of particular importance to Legacy. There are some 4100 volunteers around Australia who act as mentors to widows and their families to ensure Legacy's promise to care for the families of the deceased veterans is kept.

40 As we advised in our submission Legacy's presentation is restricted to those aspects that have a direct bearing on our beneficiaries and there are some aspects of the report that may affect them, but it's important I believe to discuss one aspect of the Productivity report that has a significant influence in the proposed changes and that is the definition of
45 "veteran".

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Legacy believes that the report and the proposed changes as set out in chapter 13.1 is principally based on the government's definition of veteran. As you're aware the government's definition of veteran is an ADF member who has had one day's service. Legacy's definition, and I believe the correct definition, is an ADF member who has served in war or on war-like operations, and the Commission's report appears not to understand this distinction and appears to remove any special recognition, treatment or consideration to those who have served in active war like operations.

When the government changed their definition of veteran I do not believe that the ex-service organisations were properly consulted on this definition change. The Department of Veteran Affairs, I've already mentioned the very close association and support that Legacy receives from the Department of Veteran Affairs, and I believe the report appears to give little recognition to the good work and assistance that the department gives to veterans and their families. For almost 100 years through all wars and conflicts since World War I the Department of Veteran Affairs, the DVA, has developed a very deep understanding of veteran and veteran family needs. With their knowledge and experience in veteran matters the department has worked cooperatively and closely with Legacy and other ESOs in assisting the families and children whom Legacy supports.

In Chapter 16 the Commission recommends that DVA should develop outcomes and performance frameworks that provide robust measures and effectiveness of service to ensure that families have stability within the home, have direct service as they need, and are empowered in seeking meaningful employment and obtaining financial advice and independence. Legacy agrees and commends the Commission for these recommendations. But with only 35 per cent of families eligible to be enrolled for Legacy assistance there are many families enrolled with DVA that are not enrolled with Legacy due to privacy restrictions. However, I can assure the Commission that under the current leadership within the DVA, veterans and their family can and do receive personal advice and help if called upon from direct contact by advocates, veterans or their families and Legacy clubs all around Australia commends and thanks the department for this.

Legacy strongly opposes the Commission's recommendation in Chapter 11 which suggests a new veterans policy group headed by a deputy secretary should be created in Defence, with responsibility for veteran support policies and strategic planning. However, we would welcome the veteran policy group if DVA have carriage of this initiative.

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We also disagree that the Australian Government should establish a new independent Commonwealth statutory authority to administer the veteran support system reporting to the Minister Defence, personnel and veterans. We believe that this recommendation would surely create a conflict of interest when separating defence's primary task of defending Australia with providing funding to care for veterans and their families. The current system where DVA reports to the Minister for Veterans' Affairs works well and is practical, but we do agree that DVA should have and remain a close liaison with Defence.

The Department of Veterans' Affairs may have received criticism from some veterans or veteran groups who perhaps consider that DVA owe them a lifetime of unrestricted open-ended debt. However, most do not share this view and understand that governments have a clear responsibility to compensate veterans in areas such as health care, rehabilitation and some financial wellbeing.

This report infers that veterans who are currently in receipt of entitlements are excessively compensated. We do not believe this to be the case. Most consider that DVA do an excellent job in providing a wide range of services for veterans and have veterans' needs close to their heart. If this report is adopted and DVA is abolished or their current DVA responsibilities are diluted or spread over numerous government departments this level of expertise will be lost and veterans and veteran families will suffer the consequences. DVA is a good vehicle that we need to retain and government needs to give it financial support it needs for them to do their work with maximum effectiveness.

The Veterans' Review Board, Chapter 10 sets out recommendations for changes in the procedures of the Veterans' Review Board. We agree that VRB decisions should be communicated to senior management especially where decisions are set aside due to errors in the original decisions made by DVA, so that the appropriate changes are made to the decision making process. However, we have concerns that the VRB are moving from a written to an oral communication. If they reject a VRB case it should be a matter of process to publish the reasons for rejection. Legacy strongly disagrees with modifying the role of the VRB and is very firm that it remains independent of the DVA commissions.

The Veterans' Review Board has been very successful in the past, and it's a three member board, which I understand includes veterans or a veteran and we see it as a retrograde step for veterans and their dependents changing the makeup of the board to a one person panel.

Gold Card, Legacy rejects the Commission's suggestion that the Gold

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Card is not needs based, wellness focused, and encourages an incentive to remain unwell, encouraging over-servicing and is inefficient. Legacy believes that the current system of offering Gold Cards to dependents where the partner has made a successful application to receive a war widows' pension of compensation can be discriminatory, and in fact recommends that the recipients of a Gold Card should be extended to all dependents whose husbands or partners served in war like operations. Those who have not been successful and being granted a war widows' pension do not enjoy the same social or health financial benefits as those who do have a Gold Card. Partners of those who fought in war all went through the same difficulties managing their families at home while their partners are away with no certainty of them returning if ever.

Many medical reasons for widows now being granted a Gold Card perhaps in the past may not have been eligible with some of the return veteran health problems, such as PTSD and mental illness, now acceptable for receipt of a war widows' pension and Gold Card. But many veterans, particularly from World War II, and including my father who served in that war, all colleagues of mine or Phil's who served in Vietnam, a lot are too proud to apply for a Gold Card. As our dependents age health costs increase and where a dependent does not have a war widows' pension, Gold Card, Legacy needs to step in and fund those costs. Last year Legacy spent over $16,000,000 to assist widows' health costs in assisting those families who are not eligible to receive the benefits of a Gold Card or whose death cannot be related to the veterans' service. We believe that where veterans over 70 years who have had war service when they pass away their Gold Card should be passed on to that dependent, spouse or partner. We firmly reject the statement made in the report that the Gold Card is treated as a prize. It is not. It is needed and it should be expanded to include all families of deceased veterans who have served in war.

Ex-service organisations: there is no doubt that the number of ESOs has grown substantially which has, in many cases, diluted the voice of veterans. As part of the ex-service organisation round table Legacy meets with other ex-service organisations at the Department of Veterans' Affairs on a quarterly basis. It's Legacy's view, however, that the members of this round table committee need to be reviewed and strengthened to include those within the ex-service community organisations that really understand the issues and have direct contact with veterans and their families. The ESORT committee is and should be treated as the peak ESO body and the government should treat the matters raised at the ESORT committee with respect and importance. The round table committee meetings should have direct involvement and communication with the Minister of Veterans' Affairs, who should be in attendance at the ESORT meetings.

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The Commission briefly mentions the introduction of ESO hubs, which is now happening randomly in various States around Australia. This provides a one-stop shop to veterans and their families seeking advice and support following or during their ADF service. We believe that this hub system is effective and a great benefit to veterans. This is shown to be the case in South Australia and Queensland and I believe that the hub system should be set up and coordinated within the Department of Veterans' Affairs where veterans can have one place to obtain advocacy assistance, family assistance, medical or health assistance, financial assistance and, very importantly, financial advice.

You have Legacy's full report where all areas of recommended action is set out in the Productivity Commission's report have been addressed. But if I could close my presentation with the conclusions as set out in Legacy's report. Legacy Australia stands by its 60,000 beneficiaries and those in the wider veteran community who deserve recognition, care and compensation for sacrifices made by partners and parents in the ADF. Legacy Australia will forever champion the needs of families and dependent children who bear the brunt of these sacrifices. While Legacy Australia supports a reinvigorated DVA and the harmonising of legislation Legacy will not stand idly by if the entitlements of veterans and their families are eroded away with the rationalisation of elements across the relevant pieces of legislation, Legacy implores the Commission to consider the highest common denominator be applied for compensating veterans and their families.

Legacy Australia encourages an evolutionary approach to addressing these matters raised in the draft report. The knowledge, expertise and capacity to build a more strategic approach to improving the wellbeing of veterans and their families resides in the leadership of the DVA and the collective wisdom of ESOs. Again, Legacy congratulates the DVA for the success they have achieved so far with their veteran centric reforms.

With respect to the government's definition of a veteran Legacy urges the Productivity Commission to clearly differentiate between injuries, illnesses sustained in war-like service compared to those in non-war-like and peacetime service, and that level of compensation afforded reflects the level of risk in which the veteran has served. Legacy is confident that the ongoing modernisation, upgrading of current IT systems and the data sharing capabilities between DVA and Defence will revolutionise care and ensure wellness support for the veterans and their families.

And, finally, sir, Legacy Australia is very grateful for the opportunity to respond to the draft recommendations and looks forward to working

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closely with government, the DVA, and other ESOs in order to care for veterans and most importantly for Legacy their families and dependent children. Thank you.

5 **COMMISSIONER FITZGERALD:** Thank you very much. And thank you for your submission. Can I just deal with a couple of issues to start with? The issue, as you - the definition of veterans is that of the government, not of the Productivity Commission, so some advocacy organisations have rowdily criticised us for the definition, but it's not ours,
10 so - - -

MR CRANNA: No, I understand.

COMMISSIONER FITZGERALD: At least you didn't do that, so
15 thank you for that. If I can just look at the modern veteran coming through, we've seen a very strong view by modern veterans, contemporary veterans, that an injury is an injury is an injury, whether it's in training, peacetime, war-like or non-war-like, yet we see in the older veterans a very clear view that they are different, and it's night and day. So when we
20 looked at this we decided, as you know, to keep the VEA and for most veterans that are over 50 years of age that’s the scheme that would continue on undoubtedly.

But in relation to MRCA and DRCA we have taken a policy stand that an
25 injury is an injury is an injury is an injury, and so MRCA and DRCA should be combined and what we have to do is to work out what the level of benefit is. So do you have an objection to that, or is it some of our recommendations, for example, if I can go to it, the statement of principles has two tests in it, as you know, the balance of probability beneficially
30 applied and the reasonable hypothesis. So are you objecting to us treating an injury as an injury in say that second scheme - - -

MR CRANNA: Yes.

35 **COMMISSIONER FITZGERALD:** - - -or is it actually some of the other recommendations that we've made?

MR CRANNA: Yes. No, we reflect that an injury in peacetime operations is different to an injury when you're serving in a war. In a war
40 you go to war perhaps with the expectation you might be killed. If you fall off a truck in Australia you don't have that expectation, and so we think that the separation should be clear.

COMMISSIONER FITZGERALD: In relation to that, can I just deal
45 with this issue, but to what extent? Again if I can just use the

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contemporary veteran for a moment, the remuneration system within the Defence department actually should acknowledge deployment, and at some stage there'll be a review of that, so you can't look at as we currently do remuneration there and compensation there, it's an aberration which we have. We're saying you can't do that. You've actually got to say that serving personnel should be well-recognised for the dangers and risks including those associated with war and the compensation deals with other issues. Now, that wasn't the case in the past and many veterans of my generation would not have been well-remunerated for that war. So how do we deal with that? Do we actually say to Defence, remunerate service personnel better for what the risks are that they're incurring, and don't leave all the heavy lifting to the compensation scheme?

MR CRANNA: Yes. I spoke with advocates in Sydney yesterday and they are very informative on those, and I'd like that question - - -

COMMISSIONER FITZGERALD: Sure.

MR CRANNA: - - -if you don't mind to be put on notice for our advocate, because they have a clear understanding of that. But I just want the Commission to understand that war like service is different to peacetime service.

COMMISSIONER FITZGERALD: Look, despite what people may think, we do understand that. The question is, how do we recognise that?

MR CRANNA: Yes.

COMMISSIONER FITZGERALD: And there are different ways of recognising, so whilst neither Richard nor I are veterans in any way, shape, or form, we do understand that. The question for us is, then, how do you deal with that issue? Can I go to of couple of other ones that you've mentioned? Of course our questioning of the Gold Card is contentious.

MR CRANNA: Yes.

COMMISSIONER FITZGERALD: And I want to make the point, again, that nobody who currently receives a Gold Card would lose that, and we're not intending in any way to do that. But we are looking at alternative ways going forward for people. Can you just go through, again, the logic of extending the Gold Card to a new group of dependents, and you're not the only group that's putting it to us, but I'd like your explanation again. Why do you believe we should extend the Gold Card, or some healthcare benefit to a new group of dependents?

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MR CRANNA: Certainly. Yes. Well, as I mentioned, we have 58,000 widows, Legacy widows, that we care for, and probably - I don’t know the exact number, but I would say probably 60 per cent of those widows have got a Gold Card. Now, as far as Legacy is concerned, we look after all the widows, those with Gold Cards or those without, but those without are suffering because they don’t have the benefits, health benefits mainly, that the Gold Card widows or partners have.

So - and we, as I say, we spend considerable funds trying to help those dependents who don’t have a Gold Card, and I think in a lot of cases those widows, who went through the same experiences as a widow with a Gold Card, who was left at home while the husband was away serving, should have the same benefits health-wise, and these numbers are dropping down too. We're losing a lot of widows each year and - but by - I think by 2025 we'll still have somewhere around about 40,000 widows that Legacy would care for. But it is a clear distinction, those that have the war widow's pension and those that don't, and those that don't - a lot of cases are in a lot of need, and I would like, therefore, that be extended to all widows of veterans who served in war.

COMMISSIONER FITZGERALD: Some advocacy groups have put to us that the White Card, in relation to mental health, is a more important issue because of the stress, as you've identified, of living with veterans that have come back from war and other circumstances. So they've taken a more narrow approach, to say yes, they'd like the Gold Card, because everybody does, but they actually think the (indistinct) area is in mental health. Would you have a view about that?

MR CRANNA: Well no. We experience mental health with veterans. Legacy now cares for families where the veteran has mental health problems or other injury problems and cannot manage their family. We have probably 240 of those families throughout Australia, and a number of children attached to that, and a lot of these cases, they do have mental health problems, and it's difficult for, say, us as legatees, who are not trained in mental health, but by knowing where we can get assistance in mental health is how we would go with that. So any help to veterans to help their mental health aspects is very much in favour.

MR McNAMARA: Could I just make a comment there, because I had quite a concerning experience just two weeks ago, because for the first time I had to go and enrol. I've been in Legacy since '84, so I've involved lots of widows over my time, but I had to enrol the wife of a defence force member, 20 years' service, including offshore on operations, who'd lost his health, and I found that really a quite concerning experience because

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not only was I interested in the wife, but the veteran was there in the room, and he is no longer able to work because his PTSD has caused him that - so much concern that he can no longer able himself in the work environment, but it is a considerable challenge, an it's really been hard on the wife. She's been so worried by his situation that she's lost her hair. She now has to spend lots of money on wigs, but for me it was an overwhelming experience that I'd never had before, but it's something, because of the PTSD out there.

My son is a 17-year-old - is a 17 year contemporary serving soldier, and I'd have to say that one of the things that does cause me concern is the mental affect that I see amongst his cohort. It is much more considerable than what we had from Vietnam. People said "Yes, the poor old Vietnam generation, you're real screwed up". No. These young people who've served in Afghanistan in particular, but in other places as well, have had mental strains put on them that is really evident and is really of great concern.

MR CRANNA: Could I - if you wouldn't mind, if I could just give another case. I have a family - I live in the Central Coast of New South Wales. I have a family there. The mother - the father served in Afghanistan. He came back with mental problems and has spent time in mental institutions, et cetera. They have a little boy, but he was given a large payout in compensation when he first came, and being a young veteran spent most of those funds. Now the family don't have a lot of money, the husband's estranged, and they've got to bring up the little boy, which we help with, but that can be something that perhaps the Commission could have a look at.

COMMISSIONER FITZGERALD: Sure, well I'll just deal with that, then Richard will have some questions up. Under MRCA/DRCA, which we were looking at merging, which seems to be - most people think that's a good idea, although it's complex, under one of those acts there is the capacity to take a lump sum or a periodic payment. Under the other one there isn't; it's a lump sum. So we're looking at that at the moment. Just your comment on that, we're aware that some people receive lump sums through all sorts of schemes, Workers' Compensation schemes, common law cases and so on, and society by and large says that that is a matter of, you know, their choice, their sovereignty.

MR CRANNA: Their choice, yes, sure.

COMMISSIONER FITZGERALD: So when we come to the veteran sphere we understand that some veterans will make unwise decisions, as we, in civilian community do all the time, but our point, I suppose, at this

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stage, is to say it's really up to the veteran to choose whether they take a lump sum or they take a periodic payment, whereas under VEA it's a pension.

5 **MR CRANNA:** Yes.

COMMISSIONER FITZGERALD: So there are down sides, but the question is, are the down sides so great that we would deny people the right to be able to take a lump sum, which they'd be entitled to in a
10 common law damages or a civilian?

MR CRANNA: Yes, sure.

COMMISSIONER FITZGERALD: I was wondering whether you have
15 a view about that, because it's tricky.

MR CRANNA: Well my view is that if a veteran returns from active service and has PTSD diagnosis he needs care with respect to advice with respect to his funds, financial advice particularly, on how - on what they
20 should do with their funds, and I'm not sure the level that that now takes place, and whether or not - I know you can't make somebody take a periodic payment for the rest of life, but with mental problems that he may have there may be some direction that perhaps we should bring in more care with respect to their financial advice.
25

COMMISSIONER SPENCER: Yes, thank you.

COMMISSIONER FITZGERALD: Richard, you've raised the issue of the world of ESOs, and so I'd just like to explore that a little bit with you,
30 and also, in particular, the role of Legacy. You began by reminding us of the rich and very impressive history of Legacy over 100 years. Some of us still remember, when we were schoolboys, out there selling Legacy badges, so it's a very important longstanding part of community engagement and looking after each other, so - and raising $16 million a
35 year to - I would think in a very targeted way, because you know where the need is and you know how to use those funds very wisely, and I think it's very difficult for a large system, sometimes, to respond to some of the situations you've shared with us this morning.

40 So, as I commented earlier when we were talking with Liz, we're trying to think of ways in which, from a government perspective, they can leverage the work you're doing, and you've given a very positive description this morning of your relationship with DVA and the assistance they give you, but if you're looking to the future and how you can best support the needs
45 of families and partners, with the knowledge that you have through your

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volunteer networks and the work that you can do through that network, how could government better assist you to do that?

MR CRANNA: Well one thing is that - I mentioned privacy restrictions not enabling us to receive information about who are DVA clients. If we could get that - we've got, as I say, 58,000 - I think Liz mentioned 165,000 veterans out there who are. Well, if we could get the information on those other families Legacy could then go out and bring them into the Legacy family and assist them. One of the things that we do is, as I mentioned, those that don't have DVA support we support as best we can, but we look after all those widows, so it's more contact with all our widows, whether they've got a DVA Gold Card or not. But if we could get more information from DVA on the clients that they have, our 48 clubs around Australia could go out and bring them into the Legacy family and give them care and assistance.

COMMISSIONER SPENCER: So privacy legislation is the big blockage at the moment?

MR CRANNA: Yes.

COMMISSIONER SPENCER: Right, and as we commented earlier, Robert Cornell's report has been shared with us but we can't comment on that.

COMMISSIONER FITZGERALD: No.

COMMISSIONER SPENCER: It is not public at this stage, but we indicated, I think in our draft report, that we certainly want to give more attention to this issue around both advocacy, but advocacy just beyond assistance with compensation, obviously around welfare, but beyond that into what other ways in which, you know, government could leverage the resources you have.

If I come back to your comments on ESORT, you mentioned that you feel that should be the peak body (indistinct) contact with Minister. Do you want to comment on how it's operating at the moment? Because I thought that it's not an official peak body, but in a sense - and frankly we're not sure how you get a peak body with a number of organisations and how you go about that.

MR CRANNA: Yes, true. Yes.

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COMMISSIONER SPENCER: But out impression has been that, so far, that it's a pretty good way for the voice of significant ESOs and a diverse range of ESOs to be heard.

5 **MR CRANNA:** Yes.

COMMISSIONER SPENCER: But you're indicating you think there should be more to that.

10 **MR CRANNA:** Well maybe the ESOs that are not involved in the ESORT round table, that have particular skills, say, with mental health or other issues, might be able to be invited into that quorum, and I think it is important that the Minister - I mean, I guess the ESO round table report goes to the Minister, but it would be very good to see him there, that he
15 could them get personal advice from those that are actively involved in veterans and their families. But I think it just needs to be looked at to see if there are any ESOs out there that are doing particular work with - in a particular field that perhaps could be involved in the ESO round table.

20 **MR McNAMARA:** Could I just make a comment there? Because I had the experience in February last year with Rick asking me, as his vice chairman, to go to an ESORT meeting -never been to one before - and I went to Canberra, and in fact the meeting was chaired by Liz, but - in fact no, it wasn't. No, Simon Lewis was still - and it was chaired by Simon
25 Lewis, but I had never seen this organisation before, but sitting at the table I was just so impressed in the scope of the experience and the groups around the table, and I came away from ESORT with a really very, very - well, I was enhanced by the fact that we had this organisation sitting down there discussing all the good things that they could do for the veteran
30 community and their beneficiaries, and it was just a really impressive experience to me.

MR CRANNA: And maybe I'm just saying that that is strengthened by some who may be out there in the ESO community who may be of
35 particular help to veterans and their families.

COMMISSIONER SPENCER: Just one further question. One of the things we've noticed is that there's obviously a history in Australia of organisations that have been for, if I put it this way, older veterans, and
40 the membership model.

MR CRANNA: That's us.

COMMISSIONER SPENCER: But you have a very unique
45 perspective, and that is around the families and the widows, but the format

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of those - some of those other ESOs was more around a membership model, comradeship, getting together. We hear that the younger contemporary veterans as not so interested in that. They're more interested in services, what can assist them, and frankly we're experiencing a bit of a disconnect in our hearings. We're hearing from the well-known well-established ESOs which relate perhaps more to older veterans - once again, you're different from that group - but we're not so much hearing the voice of the younger veterans, and the - and we all know about social media, we know that there are some very interesting organisations like Soldier On, Mates4Mates, that are - - -

MR CRANNA: yes.

COMMISSIONER SPENCER: And we'll be hearing from some of those organisations, but it's been interesting to us. So when you look at an ESORT, do you think the voice of the younger veteran is around that table as well, and their needs?

MR CRANNA: I think it could be strengthened, and I think that's one area that I was thinking could be strengthened, in the younger veteran space.

COMMISSIONER SPENCER: Sure, okay.

COMMISSIONER FITZGERALD: Just following from Richard's question, then, is we've recommended a ministerial advisory council, and it - we've talked about it having veterans and people that have a knowledge of Workers' Compensation, other schemes. So one of the difficulties, I think, at the moment is, we've got ESORT which adequately represents the views of much of the veteran community, but not the young. But actually, what's missing from the table are people that have expertise in alternative schemes.

DVA knows exactly what veterans think, but there's a whole world of improvements that have now happened in the space we're dealing with, the way in which you compensate people, the way in which you fund and deliver health services, the way in which you provide community services, and Richard was on the Productivity Commission's review of human services. Now, that world has changed, yet when you get to the veteran space it's like that world doesn't exist. So a lot of our thinking is in fact - veterans are finding very difficult, and they assume it's because we don't veterans, or they don't understand the unique nature of military. Actually, it's we understand that there are better ways to deliver some services, but that voice is missing.

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So one of the issues for us is, how do you have a peak body for ESOs, and that's fine, like in every other part of what Richard and I have been involved in community services, but then how do you have an expert advisory group, including veterans, to the Minister, actually informing how you run, you know, a $13 billion system, which is going to blow out. There's no cost savings in what we're recommending, none. None. In fact, it's all going to increase. So the question for us is, how do we get a blend of expertise and experience together that actually informs policy, and we're not getting that at the moment? We're getting a view of certain organisations, which is very important, but it's an incomplete view. So that's really what we're looking at. I don't know if you have a comment about that.

MR CRANNA: Yes. Well, I think I might have indicated that in my talk that I think the ESO group should be the group, and that should include the people that you mentioned, so that it is a collective and proper spread across all.

MR McNAMARA: Could I just make a comment from my own experience, and that is with my son, who's a five time Afghanistan veteran and two time Timor, still serving, but his cohort are the people that you're talking about, the contemporary veterans, and I'd have to say that they are very - they are different and I'm not sure anybody has worked out just yet just how to reach them, and I think it's something that we should all be challenged with, because along the way, as I was indicating, they've got a lot of PTSD, they've got a lot of challenges, but they are a different group, and they don't necessarily want to join the organisations that are there. What organisation that they will join, I don't know. My son can't tell me, but they are different.

COMMISSIONER FITZGERALD: Well we've experienced that, because we actually ran round tables on bases with existing service personnel, and I just repeat, it's night and day. The ESO community represents different people at different stages of their life, and that's perfectly fine. Can I just go back to two things? One is in relation to the policy area, and you clearly don't think sending policy to Defence is a good idea, and you want to keep DVA. We have a very clear view about how you could improve the administration of the scheme, and there's lots of other things DVA is apart from that.

Can I just ask this? In New Zealand, for example, defence is in place - it does have veterans policy, and in other countries around the world that happens as well - not many, but some. What is it about putting policy in Defence that's so repugnant? We hear nobody likes our recommendation.

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We'll look at it, but what is behind your concern? Apart from DVA being good? Is there a fundamental concern with Defence?

MR CRANNA: Well I think that the veteran and the veteran's family would suffer if that happened. I mean that, because I think that Defence - my mind is that they defend Australia and they look after defending Australia. If another conflict occurs - hopefully it won't, but if it does the money will go into Defence and the veteran will suffer if they're in the one department, so I think having the two separate is absolutely vital.

MR McNAMARA: I was 35 years a soldier, and do you know what being a soldier is all about? You're serving your nation and getting out there and doing the dirty work, and that's not what DVA is about. DVA is about looking after the people that have stopped doing that and focusing on them, and that - Defence must continue to have its focus on the serving soldier, the serving navy, the serving airman, and getting them doing the right thing, and looking after them while they're in the service.

I think that there's a lot - and we - the word was used, and Liz used it, what we've got to do in the future a little better is look about the transition when someone stops serving and becomes a veteran, making sure that in that period we do that a little better.

COMMISSIONER FITZGERALD: Yes.

MR McNAMARA: And I think, I'd like to say, DVA are getting much better at that than they have been in the past and it's great to see. There's still a lot of work to do.

COMMISSIONER FITZGERALD: So you'll just be aware that we believe that that's the primary role of Defence, with DVA's involvement and others, and we've got a model that we're looking at, because it is that transition that is - the modern day veteran is obsessed, rightfully, about transition. The second thing in my last comment, Richard made the comment that younger veterans are about services, not entitlements so much. They're no unrelated, but there's about that.

The issue of the hubs: yes, they're growing and there are models in WA, Victoria, Queensland, I presume in New South Wales. What do you think the role of government is in the promotion of those hubs? Government certainly, at the moment, says "We don't want to own them, we don't want to control them. They should be ESO run", and they're also saying "We don't want to fund them 100 per cent".

MR CRANNA: Yes.

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COMMISSIONER FITZGERALD: But are there elements of the hub that the government should in fact fund?

5 **MR CRANNA:** Well I think so, because I think there's got to be a coordination of the individual hubs that are all springing up around Australia, and I think that's the Department of Veteran Affairs' job, in my view.

10 **MR McNAMARA:** But they've got to be funded for it.

MR CRANNA: And they've got to be funded, yes.

COMMISSIONER FITZGERALD: If they weren't going to fund the
15 hub itself but they were going to fund certain services inside the hub - you may not have a view about this.

MR CRANNA: Yes.

20 **COMMISSIONER FITZGERALD:** We would welcome any thoughts you have about, what do you think the government should provide within a hub that is operated by an ESO or a consortium of ESOs?

MR CRANNA: Being an accountant by trade, finance is my point, that I
25 think the government could certainly assist with finance advice to veterans when they leave the military, and that's one aspect.

COMMISSIONER FITZGERALD: And your organisation is reappearing in Melbourne, is that right?

30

MR CRANNA: Yes.

COMMISSIONER FITZGERALD: So it might be helpful if those delegates - - -

35

MR CRANNA: Well I'm not sure, sir. I think they are in Sydney and Brisbane.

COMMISSIONER FITZGERALD: In Sydney. Fine, that's okay.

40

MR CRANNA: Yes.

COMMISSIONER DOOLAN: Well at some stage we'd welcome your view about whether you think the hubs are a good idea, which you do, but
45 more importantly what you think government's role could be in the hub.

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MR CRANNA: Sure.

COMMISSIONER FITZGERALD: If I'm right in my presumption,
5 which is governments don't want to run, own, or fund the totality of the hub, which I think it's pretty clear they don't.

MR CRANNA: Yes.

10 **COMMISSIONER FITZGERALD:** Any final comments?

MR CRANNA: No. Sorry, sir, but I was just going to say, in a hub where perhaps mental illness could be one area that is a specialist area. Finance, as I've already mentioned. So, those are areas that could be
15 funded and assisted in a hub, but thank you very much indeed for your - - -

COMMISSIONER FITZGERALD: Any other comments? No. Thank you very much. We appreciate that. Could I just ask, are the
20 representatives of the Vietnam Veterans' Federation of Australia present? So if we can do a 15 minute break, just only 15 minutes, no more than that, and then we'll go straight on to your presentation. So we'll be back by five to 11.

25

SHORT ADJOURNMENT **[10.44 am]**

RESUMED **[10.54 am]**

30

COMMISSIONER FITZGERALD: Okay, we might start to resume. If you want to grab your tea and coffee and come back we'll just keep going. Okay, thank you very much. So we have James and Jules; is that
35 right?

MAJOR WAIN: Correct.

COMMISSIONER FITZGERALD: So if you can give your full names
40 and the organisations that you represent.

MAJOR WAIN: James Wain. I'm the immediate vice president, national president of the Vietnam Veterans' Federation of Australia.

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MR WILLS: And it's Jules Wills. I'm part of a research group working for VVFA.

COMMISSIONER FITZGERALD: Terrific. So if you could make an
5 opening statement, that would be terrific.

MAJOR WAIN: Well, the way we've structure this, Commissioner, is that Jules will do the first bit and I'll come in in the second bit.

10 **COMMISSIONER FITZGERALD:** Terrific, thank you.

MR WILLS: Right. Well, we're pleased to appear before you again and present details of our latest submission to the inquiry. We certainly, with others, acknowledge your efforts in preparing the draft report. Seven
15 hundred pages is something, and we really appreciate the effort you've done in killing another forest and incorporating a very wide range of suggestions in the best interests and better support of the veteran community.

20 Being a part-academic, or used to be an academic, we're looking - I'm looking at - more at the strategy and structure elements of what the Commission has looked at. We see some of the basic issues as follows: certainly continued recognition of the unique nature of military service, and I know that's continuing issue and a major theme of what the
25 Commissioner is looking at, and certainly as the bedrock of any issues that relate to veterans' situations; also identifying and accepting improvements to the relevant beneficial legislation to support veterans through rehabilitation and compensation; harmonising the existing veteran support legislation to reduce conflicts and inconsistencies. We put in a proposal
30 during our last submission that identified terms of reference about how that could be done, and unfortunately we didn’t see that reflected in what you had told us in your report, but Jim will be talking more about the harmonisation issues that we consider interesting and important.

35 Also, obtaining government acceptance of your recommendations as vetted and consolidated by public submissions and debate, which is carrying on here, and we see as being valuable. Retaining DVA to implementation processes flowing from accepted government recommendations and acceptances, improving governance, as Liz was
40 talking about, which is a continuing issue, and of course service delivery, and also to continue and expand the VCR program and other infrastructure in continuing consultation with the veteran community. That's done through ESORT, and it's also done every day in terms of advocates appearing before the BRB and AAT, we suggest.

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There's also the issue of periodic reporting on implementation progress to the government through the Minister for Veterans' Affairs. The evidence that we provided, we hope sufficiently in our submission, talks about six or so major issues that we can raise as part of our executive summary, and they relate to: the unique nature of service; the restructuring of veteran policy and administration; veteran legislation and policy; Joint Transition Command, which we support; the compensation premium, which we don't; and the non-liability health card for spouses. Those tend to be foremost in our thinking and appear as part of our executive summary, as I suggest.

I should note that we have actually supported 27 of your draft recommendations. However, we also disagree with 23 others, so it's in the balance, I would say, but I'd like to hand back to Jim to talk about some of those issues, particularly relating to harmonisation.

MAJOR WAIN: Thanks Jules. What I'd like to suggest to you, gentlemen, is that harmonisation is the opportunity to take the bad bits out of the legislation and replace them with good bits. And in fact if we do that we're going to make the option of having one piece of legislation much easier to achieve. Once that harmonisation is there, somewhere along that path it may become blindingly obvious that we can have one Act.

Now, first and foremost, we recommend removing the requirement for a condition to be permanent and stable from DRCA and MRCA. It's not a real problem getting acceptance of liability by DVA. With the current processing through - doing the processing on line, they've managed to - I think their record was two hours to accept liability for a claim. Now, with the Veterans' Entitlements Act once liability is accepted the rest of the processes flow from that. Now what is holding up the process for perhaps the younger veterans is that the stable and permanent takes so long to occur. It takes a lot of specialist appointments, rehabilitation, which in some cases is good, in some cases it's not. But if you didn't have that requirement you could get the whole thing, the claim finished much earlier. And in fact we put it to you that the requirement for being stable and permanent is part of the Civilian Compensation Act. It came from the old SRCA and it was transferred into MRCA. It is not in VEA. Why? Because VEA was a veterans' compensation.

Now we also recommending using GARP 5 [Guide to the Assessment of Rates of Veterans' Pensions, Fifth Edition] in all Acts, which would standardise impairment ratings, remove discrimination between war-like, non-war-like and peacetime service injuries or diseases. Just one. You have written it or you noted in your report that the GARP 5 military or

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GARP 5M has two separate tables, and I know my colleague, Norm McLoughlin, has written about that, where you've got Table 23(1) and 23(2). Now we could get rid of that so you don't have problems with it, so we recommend just GARP 5 so everything is the same across the board.

DVA has done a good job with streamlining a lot of their SOPs, about 43 to date we think, but they should be extended to all Acts. Now at the moment a lot of them are not extended to the VEA, which to me discriminates against the veterans who have eligible service under that Act. So we say they should go right across.

In terms of SOPs, which have been discussed earlier today, we recommend adopting the reasonable hypothesis SOPs for all Acts which would simplify claim decisions for the veterans, the delegates and the advocates. Just the one SOP.

In relation to SOPs, at the moment we believe that the delegates treat SOPs as though they're chiselled in stone and there's no deviation from them. Now in fact I don't believe that was the original intent when they were brought in. My understanding from my 21 years is they were brought in to stop doctor-shopping between DVA and the veteran. Well it certainly stopped that, but it's gone too far the other way. Many of the requirements are not up to date. The repatriation medical authority is longwinded and it takes a long, long time to get a SOP changed. The appeal process through the specialist medical review council has got to be seen to be believed. We still believe, as in our original submission, that a deeming period of 60 days is reasonable and greatly reduces a veterans' stress while waiting for claims to be determined. And if in fact the requirement for that permanent stay to be deleted from the Acts, you wouldn't have any trouble, DVA wouldn't have any trouble meeting the 60 days because they're already accepted liability, assuming you have accepted liability, 60 days is plenty to get the rest of the processes in action. This might sound like a very drastic step but I believe it is really cutting the Gordian knot and this will free up so many other issues.

Compensation benefits should be adjusted and standardised across all Acts to reflect the most beneficial allowances available. Which goes back to my earlier comment about taking out the bad parts and putting in the good parts in all the Acts. Now, the other thing we recommend is a non-liability White Card for dependants; in other words, for the wives of veterans who have come home from their operational service, and like their fathers and grandfathers and great-grandfathers before them, have made their lives, the lives of their wives absolutely fraught with anxiety,

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danger in some cases and it rubs off on the kids as well. The whole household is affected.

Now that's the end of our little bit, so we're over to you.

COMMISSIONER FITZGERALD: Thank you very much, and look forward to the submission. Can I just deal with a couple of these specifically. In one sense it's easy to say we have one Act that takes the very highest benefits and applies it, except it comes at a great cost. The second part of that is, as you know, in 2004 the government decided to move in a very different direction and that was to move to an Act which was very much about a proactive rehabilitation and so on, which was MRCA and DRCA. So for a long period of time now we basically as a government, not the Commission, has said we believe that younger veterans effectively need to have a different system and older veterans the VEA, and we've gone down that path.

It seems to us that your proposal, whilst it would simplify the system unquestionably, potentially comes at a very high cost and it redirects in some senses the system away from where we were going with the MRCA and DRCA and so there's a fundamental difference and I suppose it's a philosophical and principle based decision but it's also a financial decision. So that's what we're grappling with. So I understand simplification is fine, but then what's the cost of that? And that's the challenge we're trying to look at the present time, even with our recommendations. Some people in the community have said this is a cost-cutting exercise and I've said over and over again our recommendations will actually cost the government more, especially with the DRCA/MRCA, just by taking those two together and changing the benefit arrangements.

But can I just deal with a couple of things. The permanent and stable, we've recommended that that process be sped up. We've recommended that if within a period of time it's not dealt with, then in fact it's deemed to be permanent and stable. And I think, and correct me if I'm wrong, it may be two years I think we've indicated.

MAJOR WAIN: Two years.

COMMISSIONER FITZGERALD: And effectively what you want to do is to do away with permanent and stable and then you're linking that to your deeming of 60 days. Why do you think it's not reasonable for a system to wait a period of time, not years, but a period of time, to see whether or not the condition is in fact likely to be a longer lasting condition, which effectively is what permanent and stable is; it's a is it a

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temporary condition or is it likely to persist into the future? And most schemes have that sort of notion, as you've identified. DEA doesn't, I acknowledge that. What's fundamentally wrong with actually saying - now whether it's two years or a year or whatever it is, we can argue, but that notion seems to me to be reasonable, rather than just assuming that it's going to be long-lasting.

MAJOR WAIN: It depends what it is. For instance, physical injuries. If for argument sake someone breaks a leg. The bone knits together again and it's fine and off they go. It's not a permanent injury. But if someone comes back from operation service, and the gentleman before us talked about his son having six tours of Afghanistan, and he's diagnosed with post-traumatic stress disorder, that's permanent. There is no peer review of medical evidence that says that bad PTSD is ever cured. Now, if the PTSD is diagnosed early and the veteran gets treatment early there is a chance that he'll get better. But if he does get better he will want to go back to work. No veteran wants to sit on his bum at home, annoying his wife and kids, if he can be out working. Work just gives you that sense of self-worth. It gives you the sense of responsibility for your family. No veteran sits there because he's sick because he wants to be.

COMMISSIONER FITZGERALD: But let me just test that. I don't want to disagree with you entirely but there are in fact conditions of anxiety and depression and so on which are episodic in nature and in fact people can move into recovery, not cured but recovery. So even in the mental health space it's not universal; whether or not PTSD is curable or not or you simply move into a better phase is contentious. But again you're dismissing the notion that an injury, be it mental health or otherwise, could in fact stabilise - could in fact improve, and you're saying that shouldn't be taken into account.

MAJOR WAIN: No, I wouldn't say that. I would say that if it improves we suggest strongly that the veteran concerned will ring up DVA and say, "I'm feeling good, I've got a job, I'm starting next week", and they stop that particular payment because he's proven that it's improved - proven it's improved.

COMMISSIONER FITZGERALD: So the other element that we've added is because some of the Acts allow for lump sum payments, we've suggested that during the period of permanent and stable that there is an interim payment, a periodic payment, and then that gets adjusted at the end of that period either into a lump sum, if that's what the person wants, or into a permanent periodic payment. But your suggestion is that in the case where they take a lump sum they'd have to repay that.

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MAJOR WAIN: Well unfortunately they would, but if you're on the periodic payment that you mention, and I think that's a good idea by the way, and they say to DVA, "Look, I'm starting a job next week", then in six months - and he stops the periodic payment, right - but in six months' time his wife rings DVA and says, "He's in a mental health facility, he couldn't cope". It starts again.

COMMISSIONER FITZGERALD: Can I just move to the second issue about harmonisation of the SOPs. We agree with you, we've adopted what you've said, that is the statement of principles should apply to all Acts, we agree with that. The issue that you've mentioned is what's the burden of proof, you know, what's the test. We have sought feedback. You are saying reasonable hypothesis and that's been put to us by a number of organisations. That has obviously a cost because there will be more claims put through that.

So just explain to me your reason for going to reasonable hypothesis. Is it simply it's the most, you know, the easiest one to meet, or do you have a principle behind that? I am not disagreeing with that, we're looking at that, and many other advocates have said, "Well we're happy with one test but it's got to be the reasonable hypothesis". Some are saying that's simply because it's the easiest. Others are saying that because there's a logic to that. Do you have a view as to why you think reasonably hypothesis is the right test?

MAJOR WAIN: We think it's the right test because it doesn't take away anything from those that have operation service. They're on that anyway.

COMMISSIONER FITZGERALD: That's true.

MAJOR WAIN: Right, so it doesn't take anything away from them. But the timeframes involved in the reasonable hypothesis, like it might be three years instead of five years for some of the factors within, are also more reasonable and we've used the direct example of the 1986 Townsville disaster. You try and tell a wife that her husband who died in a helicopter crash in Townsville is any deader than a husband who dies in a helicopter crash in Afghanistan. You can't do that. Now, why shouldn't the veteran - and I agree with the earlier speaker about what is a veteran, it's not a person with one day service - however, why not give that same, more beneficial standard of proof to someone who served in Australia.

COMMISSIONER FITZGERALD: So can I just deal with that. You would have heard that some advocacy bodies have said that we need to keep the two standards proved because they believe we should recognise war and non-war-like circumstances as being different from peacetime or

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training, whatever it might be. Is it your organisation's view that subject to it being the reasonable hypothesis test, that distinction should go?

MAJOR WAIN: No. These days, you know I talk about me going to
5 Borneo in 1966 and my colleague being in Vietnam, we got some tax benefits, you know we didn't have to pay tax on the money we were earning up there, but the modern, the contemporary veteran gets, I think, very good allowances. I wish we had them in our time.

10 **COMMISSIONER FITZGERALD:** Yes, we're aware of that.

MAJOR WAIN: But I mean I think that they're well rewarded financially for their overseas service, the operational service. They get the ribbon to show that - recognise their service. There's now talk about other
15 sorts of medals and so forth. I think that the recognition of their service is being recognised over there, getting good allowances and they don’t have to put up the crap that we did coming back, that the Vietnam veterans did.

COMMISSIONER FITZGERALD: And as a consequence the
20 compensation scheme going forward, not in relation to what we've got at the moment, doesn’t need to recognise the distinction between different circumstances in which the injury arises.

MAJOR WAIN: I don’t think so. I think an injury is an injury, a death
25 is a death.

COMMISSIONER FITZGERALD: I will ask Richard for any questions, but can I just go back to one other issue. DVA itself. We understand the relationship that you’ve described with DVA. I presume
30 from your position that you clearly oppose putting policy into defence.

MAJOR WAIN: Yes.

COMMISSIONER FITZGERALD: We were never going to put the
35 compensation scheme into defence, but nevertheless. If DVA stayed with policy and a number of other functions, would there be a strong objection to the establishment of a contemporary statutory authority for the administration of the scheme, with its own border commissioners, its own advisory bodies that reports to the minister, but it actually takes best
40 practice from all of the other contemporary schemes. And I'll put this to you. I understand why veterans want to control the policy and influence that. I understand why it's all about benefits, but that's all policy. I don’t understand at all why veterans would be opposed to establishing a much more contemporary better practice administration scheme, which we've
45 done in every other area. It has nothing to do with uniqueness of veterans,

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it's actually in running a scheme. If policy were left elsewhere. I was just wondering whether you have a view about that?

MAJOR WAIN: You lost me when you wanted to put some insurance executives on that council.

COMMISSIONER FITZGERALD: Well people don't understand compensation schemes.

MAJOR WAIN: Well, insurance executives are a little bit like criminals, I believe. The only difference is that they don't carry guns, whereas Ned Kelly did. I mean to even - - -

COMMISSIONER FITZGERALD: Can I quote you?

MAJOR WAIN: To actually say that you want insurance executives on, after the Royal Commission, no thank you. And bankers, no thank you. I would agree that there are some benefits in contemporary civilian compensation schemes. And in fact when our veterans were under SRCA they got better benefits than people under MRCA. Now that suddenly changed when DRCA appeared and in fact when I was - I was at a Senate hearing and I said, "Guess what they've called the new scheme?" I said, "DRCA", the senators had a good chuckle about it, you know, they drew the distinction between the dirk and the DRCA.

Now, I would not be at all opposed to some of the good parts of a civilian compensation scheme being brought into veterans' compensation and rehabilitation.

COMMISSIONER FITZGERALD: So we agree on that. The question is then what is the right structure for that? Which is what we are looking at.

MAJOR WAIN: What I'm concerned about is when the harmonisation goes on, for instance in MRCA there's a chapter at the end, I think it's 342, which in fact says that if any veteran has a claim that he'd made, say on an SOP last year, and a new SOP comes out this year which may not benefit him, the new SOP is the one to be applied. Now that's entirely different to the court precedents won by veterans in the VEA. You'd know, as lawyers, about that. Now it seemed to me, and of course we know, that because DVA have put that section in, we can't object to it legally because it's in the legislation. Now, that's one of the bad things I want to take out.

COMMISSIONER FITZGERALD: So that's currently in the legislation.

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MAJOR WAIN: It is, currently, and that's what I'm talking about harmonisation, I'd like to be able to input to take it out.

5 **COMMISSIONER FITZGERALD:** But the quid pro quo with that is that you would have to then go back and reference every statement of principles that apply at a point in time. So instead of being able to look at the current SOP, you would endlessly having to be archiving those SOPs and going back to that date, so the system becomes inordinately complex.

10

MAJOR WAIN: No, just the - it comes in the assessment period, which is the date the claim's put in until the date of the last appeal submission.

COMMISSIONER FITZGERALD: Not the date of the injury.

15

MAJOR WAIN: No, no, no. No. The date the claim's put in.

COMMISSIONER FITZGERALD: All right, let's have a look at that.

20 **MAJOR WAIN:** So the SOP that is on foot at that time is the one that he's claimed on.

COMMISSIONER FITZGERALD: Well we'll have a look at that, yes.

25 **MAJOR WAIN:** Okay.

COMMISSIONER FITZGERALD: If it was the date of injury I could say we would oppose that.

30 **MAJOR WAIN:** No, no, no, no, no. I'm not suggesting that.

COMMISSIONER FITZGERALD: Okay. Richard?

COMMISSIONER SPENCER: Yes, just going back to that insurance
35 label. I think we moved on a bit from that to where our thinking is at and I think you're agreeing with us, but I just want to confirm that. Because what we've observed in talking to a number of people who administer schemes, workers compensation schemes, it's not just the inherent nature of those schemes, and I know there are concerns about people that we're
40 just going to "civilianise" a military scheme. It's about what are the practices which actually get terrific results. Which show how departments track injuries, track, you know, what happens and how do you improve that. And I think your comment is, well, it's to bring back best practices into the way this operates.

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5 One of the reasons behind the Veterans Services Commission is we think that is much more fit for purpose to do that. You know people have said to us that, well the department is getting better. The department is addressing some of these issues, we should not, you know, change the department, it's just got to do a better job.

10 15 20 I suppose the thing we wrestle with, and I'm just interested if you've got any thoughts on this. This has been going for a long time, a long time, and there have been endless reviews about what the Department does. Some people might say, and some people have said to us, well, what – why would we expect – and this is no comment on the current leadership and their good will and the intentions, but is there something about the inherent structure of the department that really gets in the way of being able to operate a really effective best practice based on evidence scheme? We see this in other areas of government services, it's no longer done through departments, it's done through a dedicated statutory corporation with the sort of board management there. So that's what's – that's what's behind our thinking. But then, we come back to this constant view, sometimes, that – well, not constant view, but a view that some people have. No. The Department's just got to get better at doing it and it will be okay. So what gives you the confidence that this is going to – if it stays within the Department Structure, this will be part of the solution?

25 **MAJOR WAIN**: I think you've got to put the issues that you want fixed in the legislation.

COMMISSIONER SPENCER: Yes.

30 35 **MAJOR WAIN**: Now, I think that will be head-lighted by the covenant. Now, we recommend that the covenant should be the first paragraph in the Act itself, not sitting apart from the Act. Every Act, you know, or the three Acts at the moment. They should, when we're doing the harmonisation, the covenant should be there first, and that, I think, gave some moral authority to the rest of the legislation. It commits the government to looking after its veterans. In other words, they won't be just walking the walk, they'll be talking the talk.

40 45 I believe that will constrain them to stop them changing things. And if we get the legislation right, and simplify it, it'll make life a lot easier. May I just add to that comment? We have nothing against rehabilitation. Nothing at all. If someone's going to be rehabilitated to get a job, that's wonderful. But I point out to you gentlemen that ADF has a rehabilitation program. Some of the veterans are on that for up to two years, and then they can't find them a job, because they're – they've had it, they're worn out, you know, they're cactus.

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So is another lot of rehabilitation under DVA control going to do anymore or should we in fact, look at the ADF rehabilitation and say what do you think, fellas? And if the ADF says "Look, we can't find him a job and we've got lots and lots of jobs we could put him in, or her in", don't you think he's probably had enough rehabilitation?

COMMISSIONER FITZGERALD: Sure. But just taking that point, neither MRCA nor DRCA force rehabilitation where it would be – where it wouldn't serve any purpose. It encourages rehabilitation on the basis that most people, as you've said, want to actively reengage in both employment and/or active society. But for some people, that's not possible. And we understand that. So I appreciate that. But neither Act actually forces people to rehabilitation than is going to be useful, well, that's not its intent, is it?

MAJOR WAIN: No, but they're not forcing them, but if DVA say to someone, you've got to start rehabilitation, don't forget these ADF people are used to being told what to do. You know, they're in a structured hierarchical organisation. They've been taking orders for as long as they've been in the military and when DVA takes over and say you've got to do rehab, they do it. You know, I'd suggest, kindly, it's not enough to say they don't have to. We'd have to make sure, they're not forced to, when really it's of no benefit. And that's where I hark back to the ADF rehab.

COMMISSIONER FITZGERALD: And the other thing that flows from that is why do we support the transition command arrangements, where all of those bodies that are losing and gaining a member have full records that are going from one to another? We also make the suggestion that if someone is deemed to be a medical discharge that they remain in the service until DVA actually gets that information. That then, would smooth the way for the veteran as well as reducing administrative nonsense.

MAJOR WAIN: It's in our full regiment.

COMMISSIONER FITZGERALD: Yes.

COMMISSIONER SPENCER: Yes, and we've commented on some of the initiatives that are underway and some of our recommendations going to – if that is getting good results, they should be rolled out.

MAJOR WAIN: Absolutely.

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COMMISSIONER SPENCER: Across all services. Can I bring you back to the SOPs, I mean, you made the comment that the way they've been administered is chiselled in stone, so - - -

5 **MAJOR WAIN**: (Indistinct) quote me on that (indistinct).

COMMISSIONER SPENCER: Well, (indistinct words) there we are, but if I just explore that a bit further, because you know, clearly issues say there was a view that this helped to eliminate a source of great frustration
10 and stress to many people through this notion of doctor shopping. We have made some recommendations there about how to update and actually put in more resources. This is one area where we're saying further investment is needed, so the period of time for an SOP to be informed by best evidence and contemporary views around certain conditions should
15 happen, well I also made some comments about, as you did, about the review process and about what should happen there. We think it can be done in a much faster way, more effective way. So having said that, and we've – you know, we've talked with other military systems in other countries, and some of which – some of them have adopted the SOPs.
20
MAJOR WAIN: New Zealand?

COMMISSIONER SPENCER: Yes, exactly, and they give it a big tick. They say, this is terrific and they work with, as you know, our defence
25 around those issues. So when you say chiselled in stone, what should be done about that? What is your concern? We've made recommendations to try and speed it up, but beyond that, do you have other suggestions or thoughts about improvements as to how that's going to be administered or those principles?
30
MAJOR WAIN: We think that the SOP should be a guide. Not chiselled in stone. Now, it says that DVA have gone part of the way by streamlining these SOPs. Nowadays, as we said in our submission, if someone's an infantry soldier, by the time you've finished recruit training,
35 you've matched all the lifting and bending and twisting and so forth for muscular skeletal injuries. Now, that's fine. Now, I think they could probably go further with that. Now, of course, once they've streamlined, the veteran doesn't have to prove that he's lifted 150,000 kilos over 10 years. Plus Cattenburg makes that a nonsense anyway.
40
You know, if he's done a substantial amount, it's enough. So why not recognise existing situation and make them less structured and rigid? Because they're a tabled instrument in Parliament, they sit on the table – I've forgotten the term at the moment – but it's got the authority of law, I

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think that's too, makes it too rigid. We could come back to that later and make further the recommendations.

COMMISSIONER FITZGERALD: I think the thing we're wrestling with, and if you could, that would be great – the thing we're wrestling with is the SOP's have the advantages of giving a lot of certainty.

MAJOR WAIN: Yes.

COMMISSIONER FITZGERALD: Most people would say they're very beneficially determined. We've talked about the standards (indistinct) put to go with it. If one is going to then open up to and straight through processing and streamlining as you've suggested? Good. It seems to be a very good improvement, but if we're going to start to open up questioning the SOPs through the process, I think there's a degree of nervousness about, will we sort of slide down the slope of all of these things, sort of - finally being, you know, brought into contention, which the system was designed to eliminate. So you know, you may not have any comments on that at the moment, but it would be helpful, you know, and any further comments you make to us. If you think this - there are adjustments beyond what we're recommending, what do you think they should look like?

MAJOR WAIN: They would certainly be marginal. I'm not talking, you know, really, really big changes.

COMMISSIONER FITZGERALD: No.

MAJOR WAIN: Okay. It's something – sometimes we've had cases, and I'm sure all the other advocates in the room would agree that someone said, no, you don't meet that particular factor, therefore, it's finished. It's over. Now, when you look at it and you put a further information to the Veterans Review Board, even on an ADR process, they'll say, you know, no, I think you're quite right. And they'll tick it. Mind you, we do lose some. But we tend to get them (indistinct).

COMMISSIONER SPENCER: Just one follow up question to that, because it goes back to something I mentioned earlier and that is a view that we've heard that in the situation you've just described, the claim gets rejected, somebody looks at it and says "Well, you've got this, you didn't mention that if you had," and it goes back in, you've got to go through a review, which seems very unnecessary. So and this comes back to the earlier comment I made about the expectation the department will be more helpful. As it is in other areas and on the basis that it is your entitlement.

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And the department or the vehicle that's handling all of this should be proactive about assisting you in your claim and pointing that out.

So I mean, from your experience, do you think that there can be improvement in the way the department will handle this by being more proactive about helping veterans initially, in their claims?

MAJOR WAIN: They could. Quick sketch of the dog fight, when I first joined up 21 years ago, with the Federation, if the advocates in those days were mostly ASO6 category public servants, the majority of them were veterans. Now, if they were going to make a decision to reject the claim, they'd ring the advocate up, say, you know, listen Jim, I'm thinking about so and so, and I really think that if you go down this path, you're probably likely to get a better result.

So you'd have a chat and then you'd put in further evidence to do what that person suggested and it gets a tick. Why? Because you put the correct evidence in front of you. Now, we find that there's contractors doing the advocacy work. And I believe it was up to 40 per cent of advocates are contractors.

COMMISSIONER FITZGERALD: The delegates, you mean?

MAJOR WAIN: I beg your pardon. Delegates. You're quite right. Thank you. My age is showing. So if the delegates have 40 per cent of the newer contractors and they turn over, there's a constant cycle of training to try and get the next delegate up to speed.

Now my understanding is this come about because of the 2 per cent efficiency dividend the Government opposes – sorry – imposes on all departments. I've got no argument, that's a Government policy. But I think we should be able to have a core of delegates who are permanent and experienced. I mean, the experience only comes with time. Rather than this churn of contractors.

COMMISSIONER SPENCER: Okay.

MR WILLIS: And the other point to add to that, of course, is to take away this nonsense about a conflict of interest that if the department is actually helping you, good grief, we really should have an adversarial approach, rather than – or rather it could be a devil's advocate's approach when any claim goes in, rather than saying, well, let's sit down and talk about this one. And try to sort out whether you really have a claim or not. That would create a much better atmosphere between the department and also any claimant.

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COMMISSIONER FITZGERALD: And we would see in any new structures that would be a critical element in it. But even in the current structures, we've looked at this – what we call this reconsideration stage.
5 So try to improve the delegates' decision immediately followed by a reconsideration in which, in fact, that conversation happens. So instead of waiting til you get to the VRB, you bring that forward. We've discovered with the VRB, the very positive element of the new alternative dispute resolution is that they actually talk to the claimant.
10
MAJOR WAIN: Yes.

COMMISSIONER FITZGERALD: And they extract information early and we believe that that should come forward one step, so – and in fact
15 there is legislation that allows that already, but it's not activated very often. So I think we're on the same path about that conversation.

Can I just go to the "one" one, and it is a difficult one for us, is your recommendation in relation to non-liability health care for partners'
20 independence. I mean, we are – this is a generally difficult issue for us, and we understand that many of the submissions will encourage us to extend these benefits. So I just need to understand from your point of view. Firstly, precisely, when you say non-liability health care, are you talking about the Gold Card, the White Card, or a variation of that?
25
MAJOR WAIN: White Card, we're talking about.

COMMISSIONER FITZGERALD: Yes, that's what I thought.

30 **MAJOR WAIN:** Yes.

COMMISSIONER FITZGERALD: So I just wanted to be clear.

MAJOR WAIN: Yes.
35
COMMISSIONER FITZGERALD: And that's in relation to mental health and anything else that the government so deems is a non-liability health - - -

40 **MR WILLIS:** Can I refer – excuse me. Can I refer you to page 9 of our submission?

COMMISSIONER FITZGERALD: Yes.

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MR WILLIS: Where we talk about some of the history of the NLHC [Non-Liability Health Care] and the Gold Card and the number of the times it's been raised, the number of times that the benefits of that have been raised, but had been dismissed at other levels, for financial or other
5 reasons.

And our friends in the Partners of Veterans Australia have also raised these points many times. As to the value of having a partner or spouse or whatever that relationship is, in terms of gaining support and also perhaps
10 medical assistance, if their veteran husband or wife is given that on the way back, these days, we would actually prefer a Gold Card, regardless of what your previous comments were on that. So anyone who's - - -

COMMISSIONER FITZGERALD: But I want to be clear, you're not
15 recommending that? You're recommending the White Card?

MR WILLIS: No. It has been recommended in the past.

COMMISSIONER FITZGERALD: No, no, but I know, I just want to
20 be clear about your recommendation is currently the – a version of the White Card.

MR WILLIS: Yes, indeed, because it would then provide some assurance to that spouse or partner that they are being looked after as well
25 as their spouse is or partner is.

COMMISSIONER FITZGERALD: So putting that many people have indicated to us that it's often the – I'm sure there are some physical aspects to this, but largely it's about the stress of (indistinct) that the
30 veteran who may not be well, both mentally and physically unwell. So one of the approaches that we've been looking at, is, well, if it's about services, do we increase the services that are being provided through organisations such as Open Arms or do we look at alternative or additional services that can be provided. So that instead of giving a card
35 or an entitlement, you actually look at a service that could be of support to both partners of living veterans and others. So we're trying to look at a range. We're not prescriptive at this stage, at all, about this stuff.

But there seems to be a reluctance to embrace a service delivery model as
40 distinct from a funding model and I just want to get just your views on that. And this is an area where we'll receive many submissions.

MR WILLIS: Sure. We think – and we say, just before I start – the Open Arms we believe is part of the solution. It's not the solution. And
45 in particular cases where you seem to oppose that or develop outcome

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measures and then only that, that you would review Open Arms or any other support, so you end up with, you know, stacks of support going on.

We believe that the entry into the best arrangement would be an NLHC card for the partner of a veteran who's already receiving one. It seems to be a better match under those circumstances.

COMMISSIONER FITZGERALD: So, can I just be clear about your last comment. Who – sorry – who precisely would receive this?

MR WILLIS: What, what?

COMMISSIONER FITZGERALD: You said a veteran who is receiving - - -

MR WILLIS: Well, if a veteran is coming back and is given an NLHC card on return to Australia, for example for contemporaries, right?

COMMISSIONER FITZGERALD: Yes.

MR WILLIS: That if they're given it on the basis that they need assistance and they are identified within the range of what NLHC offers.

COMMISSIONER FITZGERALD: Sure. So basically, it's a veteran that has had a successful claim in the first instance through DVA and receives the White Card with certain entitlements.

MR WILLIS: We understand that the - - -

COMMISSIONER FITZGERALD: Sorry, go ahead.

MR WILLIS: Yes, the new idea from DVA is that veterans when they come back from overseas, on operation service, will be given a non-liability health card. White Card. When they step off the plane, virtually. So they don't have to – they can go and get their own treatment when they're ready without having to go to the service treatment. So we're suggesting that that card should be given to the spouse at the same time.

COMMISSIONER FITZGERALD: That group. There's a proposal as you know, that – and in fact, this is now the case - that the White Card is available to anybody that's been in military service with almost as long as you apply for it. So it's almost a universal access card. Would you see that the universal access motion would be extended to all partners and dependents of ex-military service personnel or would you restrict it to the group that you've identified?

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MR WILLIS: No, I'd – I'd recommend – mind you this is a question off the cuff.

5 **COMMISSIONER FITZGERALD:** Well, you don't have to - - -

MR WILLIS: I don't have the answer. I'd like to come to – come to in a more structured way.

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

MR WILLIS: But off the top of my head, I think it should only be for those coming back from active service.

15 **COMMISSIONER FITZGERALD:** Okay. Well, if you can give some more thought to that that would be helpful.

MR WILLIS: Yes. Might I just say something about Open Arms? In my time, I've had lots of complaints from spouses and especially as the
20 younger one started to come along, if they wanted to go and see a counsellor at Open Arms who was whatever – VBCS previously, and they had little kids, they couldn't. Now, by definition, most young wives, have young kids and if they want to go and see a counsellor, what are they going to do with the kids? You know, they're usually a state away from
25 their own parents, their own support networks. DVA – sorry – Open Arms won't let them take the kids in there.

Now, there is one way that that service would be improved if they were given access to a child-minding area. That will (indistinct) that into our
30 submission as well.

COMMISSIONER FITZGERALD: Well, just add to that, that you know one of the issues we hear fairly regularly about cards, is it's fine, people want cards, they have cards. But where can you go and get the
35 service? Now, this is not uncommon across a whole range of human services in Australia, obviously in remote and rural and regional areas there's great difficulty and we heard about that in Wagga yesterday, but if there are particularly issues that you're aware of is you know, you've got this entitlement but when you go to get the service, it's hard to obtain the
40 service. If you've got any commentary on that, that would be helpful. Because I think at the end of the day, as Robert said earlier, the principle is to get the right service to the right person at the right time.

MR WILLIS: Yes, sure.

45

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COMMISSIONER SPENCER: Now, we have some thoughts about limitations of cards to do that. But if cards will continue (indistinct) and they will continue to be part of the system into the future, how do we make that (a) that these response of the service system out there can be more effective to make sure that it's meaningful and that people get the right service at the right time?

MR WILLIS: Yeah, well, we do have some examples we can share with you on people having trouble on remote and rural areas which you've seen yourselves. So yes, how to get that – okay. We'll include that.

COMMISSIONER FITZGERALD: So thanks for your comments. I could just say, it's very unlikely that we will in fact move to a recommendation where we have just one scheme. I think we are going to end up with the two scheme approach that we've got and we want to make sure that both of those schemes work effectively. But I understand your opening comments that you would like us to be able to just to move to one and I understand the issues behind it. I just want to say to you that's probably unlikely to be able to be achieved but we'll look at that. But it is important that organisations such as your own then comment on those schemes as we're proposing and how we could deal with each one, and they do have slightly different purposes and they are targeted to different categories of veterans, so they are, to use the word "targeted" in a way that we think better represents the contemporary and the older veterans. We may be wrong in that.

MAJOR WAIN: Yes, but they can be changed. We've witnessed the idea of having SOPs going to do it. They've got to be changed.

COMMISSIONER FITZGERALD: No, it's all changeable.

MR WILLIS: Notwithstanding, and with the greatest of respect, because you are lawyers, - - -

COMMISSIONER FITZGERALD: Former lawyers.

MR WILLIS: Former lawyers, okay, well even better.

COMMISSIONER FITZGERALD: We're much better now.

MR WILLIS: We would refer you to our - - -

COMMISSIONER FITZGERALD: We've improved enormously since.

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MR WILLIS: And look where you are now.

COMMISSIONER FITZGERALD: Surrounded by economists. Is that an improvement? With all due respects, of course, to lawyers.

5

MR WILLIS: The final point is that we would refer you back to our June submission which gave you very clear and a barrister-written terms of reference for having a look at all three Acts and coming to a single point.

10 **COMMISSIONER FITZGERALD:** We have looked at your earlier submission and we will go back to that. So we're very conscious of the issues and we - our first starting point was could we get to a single scheme, but there are trade-offs and there are costs and so, therefore, it's not just simplicity, it's actually the costs that are associated with doing
15 that. So thank you very much.

MR WILLIS: Thank you.

COMMISSIONER FITZGERALD: Could we now have the Australian
20 Federation of Totally and Permanently Incapacitated Ex-servicemen and Women. Pat and John. Okay, if we could just resume. Pat and John, if you could give us your full names and the organisation that you represent first.

25 **MS McCABE:** Patricia McCabe, and the Australian Federation of Totally and Permanently Incapacitated Ex-servicemen and Women.

COMMISSIONER FITZGERALD: Thank you. John, can you give your full name.

30

MR REEVES: John Hamilton Reeves.

COMMISSIONER FITZGERALD: And the organisation you represent.

35

MR REEVES: The exact same organisation.

MS McCABE: It's very long to say.

40 **COMMISSIONER FITZGERALD:** It is, but a good organisation, and I might just say we've had people from your organisation present in a number of the previous public hearings and undoubtedly in the future ones as well, I would imagine. So thank you for that. So just your opening comments.

45

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MS McCABE: Okay, just a couple of comments, nothing too in-depth. I just advised the previous speaker that that issue with the - looking after the children while the women are being - going to Open Arms, that's been fixed already, so that was a great step forward.

Our first issue with the Productivity draft report is that we do not want to see DVA devolve into an agency. It would lose status in the community and therefore the veteran would lose that status as well. It would lose impact with ministers and prime ministers being an agency, and we believe that if the Veteran Centric Reform is given a fair go, that has improved things immensely and if you try and duplicate that into an agency that's only adding to costs anyway. So that's the number one point.

The second point is that we were most disappointed that you totally carpeted our idea of the economic loss compensation. You said that it wasn't warranted due to the so-called package. We were under the impression that everybody had agreed that the word "package" was inconsistent with what we were trying to claim for the economic loss of the compensation payment but you've gone along that vein, which is very disappointing, and it seems to be consistent with references to the Tanzer review and going back to 20 year old reviews to me doesn't seem to be looking for the betterment of the current contemporary veterans. So it's a bit convoluted there.

The idea to remove the special rate from MRCA I think is very dangerous. If you get a severely disabled veteran and he hasn't got that capacity to make the choice of having a special rate, that's not doing the veteran any good either.

So we're still continuing to discriminate after a veteran's claim has been assessed. Well, the previous speaker spoke about that. We are upset about the harmonising and normalising of DVA veterans into Medicare or any sort of private insurance company. Veterans are a special people, it's been acknowledged. Why are we trying to get them into the general population through Centrelink and Medicare and so forth where they'll just dissipate and not be that special generation of people that stood up and took the bullet, metaphorically, and they were prepared to put their life on the line. Nobody else goes out and does that, but now the report's trying to say that "No, you're just one of the general population. Now you're discharged just go back into the general population", and we don't believe that's right.

Obviously the idea of removing the Gold Card is detrimental to the veteran as well. The Gold Card enables them to get all the services they

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need. Right. If they just walk in with the Medicare card, that might even have the word "veteran" on it, but nobody is really going to see it because it's the same colour and the same concept as the Medicare card, they're going to turn around and say, "You've got to pay the Gap", or "You've got to do this", and the veteran's got to argue with every appointment and say, "No, I'm a veteran, I'm entitled". Whereas the Gold Card stands out and they know they've got full entitlement there and there's no arguments. And there's too many veterans there with mental health issues, but you put that sort of pressure on them where they've got to argue every time they go and see a doctor, they'll stop going. And maybe that's part of the cost cutting, I don't know, but it's not good for the veteran.

Okay, the - we're also upset that DVA has no publically available data on any of the MRCA clients. For example, we don't know how many special rate people there are under MRCA. You've had 14 years to gather this data and we can't get it. Believe me I've tried many times, and they can't keep blaming the computer systems, there's something wrong. Now there's also a tendency that you want to remove allowances, just about all the allowances, that DVA clients get at the moment. We would like to see them examined individually. Find out what the root reason was for having that allowance given and then make a decision on each allowance, not just carte blanche and already remove all the allowances.

And the final one really is we believe that the initial mistake was made in 2003 when MRCA was first discussed, but we believe the VEA should have remained a compensation legislation. Just on its own. And MRCA could have been a standalone rehabilitation legislation. There would never have been any confusion between the two then. That's about it. Have you got anything to add, John?

MR REEVES: Yes, I've only one thing that I think this review or this Productivity Commission on veterans' compensation seems to be just another peg in a hole. I've seen in my time slowly allowances and things like that get whittled away as Acts - when they introduce new Acts things that were in the previous Act aren't there any more, and you find, for example, you know, I'll just give you a quick example now: people who are currently going to an exercise physiologist as of 1 July they'll have to go back to their doctor after every 12 visits. Now, some of these people have got skeletal, or whatever you want to call them, injuries that are never going to get better. The doctor says that, he ticks in the box. You can't do that any more. You can't say, oh you're going, after 1 July. So the doctor believes that it's ongoing, yet not only has the veteran got to go back and get this certificate, it's actually costing the tax payer, because you've got to go back, get this certificate, and the doctor fills it in, hands it off, and send his bill. And, you know, just another thing to me that's just

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slowly whittling away things. And what will happen, a lot of people will just say, "Oh damn it, I can't be bothered going every 12 weeks, I won't go.

5 Now, at the same time DVA is saying we want to make our veterans healthy. We want to keep them healthy. We want them to stay at home. We don't them in nursing homes, you know, that sort of thing. Now, if you take away those little things like that, don't be surprised if these numbers going into nursing homes increase. It just seems to me the 10 government - I think they were a bit frightened by DVA. They thought it was costing too much, so we'll bring something in and they changed it and made it a bit harder and the next one is a little bit harder gain, and here we are again doing reviews and looking again, and yet when there's a ceremonial event on the same people that are asking you to do this will 15 stand up there and tell everybody, "We'd be lost without these veterans. These veterans are really special people". Well, you know, I don't feel like a special person when you can't even get, you know, to talk to the Minister. That's the difficulty I see. It just seems to be - to be quite frank I just think you're trying to make the ADF into a division of the public 20 service.

COMMISSIONER FITZGERALD: Yes.

MR REEVES: That's it.

25

MS McCABE: Thank you.

COMMISSIONER FITZGERALD: Thank you. Can I just deal with a couple of issues, the major benefits under both VEA, MCRA and DRCA 30 are in fact not being touched at all, and as I've said there's no cost cutting at all. When we merge DRCA and MRCA it is likely that in fact the benefits will increase not decrease.

MR REEVES: Right.

35

COMMISSIONER FITZGERALD: Well, there'll be no decrease. And so in fact our proposals are going to cost the government more. That is more money for veterans, not less. So the notion that it's cost cutting, it isn't. But it is true, if I can just deal with this, that there are a lot of 40 benefits that have arisen historically, a lot of allowances, you've mentioned that. And we've said are there better ways of achieving that. So the modern philosophy is you put it in the benefits, you put in the main benefit. You don't have a thousand little bits. You actually consolidate them. So you might actually increase the rate of the pension under the 45 VEA or the lump sums, or the incapacity payments, whatever it is, under

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VEA, MRCA, but you actually try to rationalise the 20, 30 or 40 little benefits. Now, that's just good design, and governments do that all the time. They try to rationalise the system.

So a number of our proposals, yes, getting rid of the allowances, but actually replacing them with an increase in the benefit, or a lump sum payout to the individual. So when we looked at the list of them we understood where they came from, but some of them don't serve any purpose at all today and better design would say make the system simpler and compensate in a different way. So, yes, it looks like you lose but it's actually just a different way of doing it. So when we were trying to design the system that's what we were looking at.

MR REEVES: Yes.

COMMISSIONER FITZGERALD: And obviously your organisation and a number of the others have great concerns about the loss of those benefits. But we actually were trying to say, how do you do this better, and there's better ways of doing it today. We wouldn't have the system today if you were designing it today. Like all systems, they're part of history, social security, the health systems.

MR REEVES: Yes.

COMMISSIONER FITZGERALD: So that's where that came from. But I just want to go to your point, why are the individual allowances so important if there's a better way of delivering overall benefit to people?

MS McCABE: Well, the better way you're talking about that was described in the current report and you've just described there is to give an increased payment - - -

COMMISSIONER FITZGERALD: In some cases.

MS McCABE: - - -and then you organise your own - - -

COMMISSIONER FITZGERALD: Yes.

MS McCABE: - - -for example veterans' home care, for example. All right. Give you an increase in allowance and then you get your own cleaner and it's up to you.

COMMISSIONER FITZGERALD: We haven't recommended getting rid of home care, but, yes.

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MS McCABE: Well, incorporating into HACC [Home and Community Care (HACC) Program] which is virtually getting rid of it.

COMMISSIONER FITZGERALD: Sure.

5

MS McCABE: It's become non-veteran like all of a sudden and you joined in with the general HACC packages if they're available. There's so many idiosyncrasies with that. But this idea of putting the money into your general payment and you work out how to spend it, that to me is

10 totally wrong too. You get a TPI, because I can speak on behalf of TPIs - - -

COMMISSIONER FITZGERALD: Sure.

15 **MS McCABE:** - - -who is not mentally capable and he will spend that money on drugs, grog, whatever and he won't have a cleaner, whereas if he's got the veterans' home care contract he's definitely got a cleaner. He can't spend that $5 he gives her - or he doesn't really have to give it, because they don't chase the $5, but he's only liable for the $5 each time

20 she turns up.

COMMISSIONER FITZGERALD: And yet, if I can just go to this point, when you get your Gold Card nobody tells you how to spend it, so you in fact design what services you'll have. Now, if the person chooses

25 not to have home care or, you know, the equivalent in a medical condition, we give you that right now. All the government does is say, if you're getting it, we'll fund it. But you design it. You determine how you're going to use it.

30 **MS McCABE:** Not necessarily. There's a large majority of services that you've got to get prior approval for.

COMMISSIONER FITZGERALD: Yes.

35 **MS McCABE:** And they can be knocked back.

COMMISSIONER FITZGERALD: Yes.

MS McCABE: So the option is there.

40

COMMISSIONER FITZGERALD: Okay.

MS McCABE: You can't just say, "I want every medical service going".

45 **COMMISSIONER FITZGERALD:** Sure. But it's largely driven by the

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individual in the case of Gold Card. It's a funding scheme.

MS McCABE: It's the GP.

5 **MR REEVES:** It's driven by the GP.

MS McCABE: I can't just say, "I want to go to a specialist". The GP says, "I think you should go to this specialist".

10 **MR REEVES:** Correct.

COMMISSIONER FITZGERALD: But what I'm trying to get at is in one system we basically fund and the veteran determines how to use that funding. Yes, of course, with approval and through the doctor. And then
15 we've got a whole lot of allowances which are very tight, very prescriptive, very deterministic. You know, they apply to a small number of people, and they are historically based. But what you're saying to us is if we roll those into the payment system itself, whether it's the pension or a lump sum or whatever, you see that as a deterioration, not because you
20 lose the benefit, because you think people may not achieve - - -

MS McCABE: Especially a veteran who has mental health issues. They're the ones that I'm concerned about that will not utilise those funds for the purposes that they were originally allocated for.

25

COMMISSIONER FITZGERALD: Okay. And so you think targeted benefits/allowances serve that purpose?

MS McCABE: Yes.

30

COMMISSIONER FITZGERALD: Okay. Can I just come to a couple of other things? The packaging, there are two major ways of paying them: one is for pain and loss. You know, that's the impairment payments, and then the economic loss has really picked up in the incapacity payments,
35 and I know in VEA it's all merged but under DRCA and MRCA.

MS McCABE: Yes.

COMMISSIONER FITZGERALD: So the economic loss is picked up
40 in the sense that if you're unable to work then there are incapacity payments which go through until a particular period of time.

MS McCABE: Until you're 65, yes.

45 **COMMISSIONER FITZGERALD:** So in a sense the VEA deals with

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it via a merged - you know, it's all together, incapacity and impairments all paid through these pensions, and in DRCA and MRCA it's split, so there are different payment systems. But do you have a fundamental problem with the MRCA/DRCA in that relationship, in that way?

MS McCABE: The difference is that MRCA/DRCA they are based on 75 per cent of the pay that the veteran was getting.

COMMISSIONER FITZGERALD: Yes, they drop down. Yes.

MS McCABE: Whereas under VEA it's a flat rate.

COMMISSIONER FITZGERALD: Yes.

MS McCABE: And it's nowhere near 75 per cent of anything. Right? So the economic loss component I was talking about was to do with the VEA.

COMMISSIONER FITZGERALD: Yes.

MS McCABE: Specifically. And that's the part that is 63 per cent of the minimum wage, and when you talk about package it convolutes that entire argument.

COMMISSIONER FITZGERALD: So can I just understand that so people understand it? What we did is we looked at the range of entitlements that a veteran and/or their dependents would receive as a totality. So previously what's happened in this space is everybody argues about the individual payment, everybody, or the individual benefit, and what we've said is actually what you've got to do is you've got to look at the whole, what is that veteran getting out of the whole scheme, you know, entitled to out of the whole scheme, or the dependent. And that to us actually is a much better way of looking at the wellbeing of veterans. So you look at the totality which, as I think you've highlighted, we may have used the word package, yes. But it's really just saying, we looked at the whole set of benefits that an individual would do, and we did a whole lot of case studies.

MS McCABE: But the problem is a Gold Card will not put bread on the table. Veteran's home care will not put bread on the table. It will if you do your thing about putting it into your main payment, but then you haven't got your veterans' home care, so you can't have both and it doesn't become a package deal. The war widows' pension is not part of the package for a TPI, right? Because that doesn't feed the family and it doesn't pay the utilities, all that sort of stuff. So how can you make it a

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package? So you've got your benefits on this side with your Gold Card, and your veterans' home care, whatever, but you've got your compensation on this side.

5 **COMMISSIONER FITZGERALD:** Yes.

MS McCABE: The two should never be merged ever. I don't believe.

MR REEVES: And I think there's another way to look at this, and that is
10 a person who's injured in service, once their impairment rate gets up to 80 per cent you're issued a Gold Card. When they get to 100 per cent you can't get more than 100 per cent of 100 per cent, so everything after 100 per cent has got to be compensation. It can't be medical because you're giving me 100 per cent for injuries and you're giving me a Gold Card for
15 it. So that lump sits over there and above that, above the temporary rate or the special rate, above that there's got to be compensation. So we've argued this with - - -

MS McCABE: Economic loss.

20

MR REEVES: Economic loss.

MS McCABE: Yes.

25 **MR REEVES:** It's economic loss, so the problem is we've argued this with the Minister and DVA and they've all come around eventually and said, yes, what you're saying makes sense. Initially they didn't want to hear it, but they've all come around and said it now, because we basically said, look, you know, you're packaging, putting the whole lot together and
30 - not you personally I mean. And you can't put the whole lot together, because if you did that we would - 100 per cent would be the special rate. One hundred per cent isn't the special rate.

MS McCABE: If ever the MRCA fell behind on that 75 per cent of the
35 pay that they get - - -

COMMISSIONER FITZGERALD: For the incapacity, yes.

MS McCABE: Yes, just for the incapacity, we would argue the same
40 thing for them.

COMMISSIONER FITZGERALD: Sure.

MR REEVES: Yes.

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MS McCABE: So we're looking - and there are people under MRCA that do get a special rate. You said there were about 10 in the report.

COMMISSIONER FITZGERALD: Yes.

5

MS McCABE: We got about 200 was the last estimate, real rough estimate. But there are people there that they're sitting on 63 per cent of the minimum wage as well.

10 **COMMISSIONER FITZGERALD:** Sure.

MS McCABE: They're not getting the 75 per cent of their pay-off pay.

COMMISSIONER FITZGERALD: Well, there's very few. Whatever
15 the figure ultimately is, because they all come from the department, so whatever we quoted is departmental figures and - - -

MS McCABE: It's definitely not 10.

20 **COMMISSIONER FITZGERALD:** Well, we'll get more, but, I mean, we use their figures.

MS McCABE: Yes.

25 **COMMISSIONER FITZGERALD:** It's a very small number of people under MRCA in relation to that, but you're right, it's a small number, but we'll have a look at it.

MS McCABE: Well, the government uses what I classify as the criminal
30 lump sum philosophy on these young blokes. They grab this lump sum because it just looks so wonderful. It's like a Lotto win to them. They spend it on whatever, they buy a new car or put it on a house or whatever, and they've got no more compensation, so what happens when they get worse and they need that compensation.

35

COMMISSIONER FITZGERALD: So can I just go back to that, I mean, it is an issue. I've confronted this issue in numerous different inquiries including the Royal Commission where I was a Royal Commissioner on child sex abuse where we were looking at redress
40 schemes, and it comes up all the time and it's this issue, do you as the State, as the nation, say to a person, "No, you're only entitled to receive something as a pension because we're not sure that you're going to make the right decision"?

45 **MS McCABE:** It's not a pension. Pension infers - - -

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COMMISSIONER FITZGERALD: No, well, periodic payment.

MS McCABE: Yes. Yes.

5

COMMISSIONER FITZGERALD: No, that's fine.

MS McCABE: Yes.

10 **COMMISSIONER FITZGERALD:** Or do you say to the person, do you say to Richard, "Well, Richard, it's your choice. You can have it as a lump sum or you could have it as a pension or a periodic payment but it's your choice", and it's the sovereignty of the individual. Now, we know that Richard multiplied by a thousand, some will make very good choices,
15 some will make very poor choices, but as the State it is a significant issue as to say, "We're going to actually say, 'No, you can't have the lump sum. It's going to be by periodic payment'". Whereas right through the workers' compensation, as you say, the Common Law, we do in fact give people that right.

20

MS McCABE: But you look at the mentality of a 20 to 30 year old and they're going to take the Lotto win, aren't they? They're not going to see what it's going to be like when they're 50 or 60 and they need something. It's human nature to do that.

25

COMMISSIONER FITZGERALD: So I'm going to be hard here and say, why should the State intervene?

MS McCABE: Because you try to do the best for the veteran.

30

COMMISSIONER FITZGERALD: When we don't interfere in any part of society including redress schemes, Common Law settlements, workers' comp.

35 **MS McCABE:** But you're normalising again, and we don't believe in the normalising.

COMMISSIONER FITZGERALD: And some of those have mental problems. So the question is, is it better to put in place a range of services
40 that helps advise the person at the time of making that choice? Is that the better way than actually denying them the right to have the lump sum? I'm not - I understand your arguments absolutely, and I respect them. I've been through this many times. But it's a really big issue at the end of the day.

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MS McCABE: Well, the department gives, I think it's about $2500 for a financial advisor to advise them, but you tell me which financial advisor knows all the implications of veterans' compensation, all the implications added to that of the superannuation and what effect that has on their compensation. You're talking thousands of variations to it.

COMMISSIONER FITZGERALD: Sure.

MS McCABE: And people can't find that sort of financial advisor but as the previous speaker said you look at the banking Royal Commission and would you go to a - is it a good prospect to go to a financial advisor? You know, you're putting an awful lot of responsibility on a young 20 year old to make the right decision for a one only decision for the rest of his life that's going to affect him. That's huge.

MR REEVES: You know, and I think it's important that one of the two things we feel about this, is we're very concerned about what's going to happen to younger veterans, because we believe it's not just us, it's people down the track, you know, that are going to come in and the decisions you make are going to affect those people, and I'm sure you're very aware of that. But, you know, we think - we had a case of a fellow who took a lump sum, came back and he had nothing, nothing, nothing. And he was a real mess, and, you know, basically nobody wanted to know him, you know, and this is the problem. This is the problem when you give a young person a lot of money and say, "Off you go".

COMMISSIONER FITZGERALD: So I just want to be clear, we understand fully what you say.

MR REEVES: Yes.

COMMISSIONER FITZGERALD: And appreciate the issues.

MR REEVES: Yes.

COMMISSIONER FITZGERALD: Because, yes, that's absolutely right. That can and does happen.

MS McCABE: The government has got to take responsibility for that, yes.

COMMISSIONER FITZGERALD: Now, that's the challenge.

MR REEVES: Yes.

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COMMISSIONER SPENCER: Yes, just a couple of questions to follow up. John, you mentioned before about whittling away and your concerns about what's happening with the current system, and we heard in Wagga the other day from an OT for example who said that, "I just want to get on and be able to deliver the services that are needed for this GP referral". So there are some issues there that we need to further explore and see what's happening. But one of the areas that we've been focused on, as you know, is the outsourcing of health services generally.

MR REEVES: Right.

COMMISSIONER SPENCER: We have concerns that that is being done in a way which almost transfers responsibility to an outside organisation or organisations.

MR REEVES: Yes.

COMMISSIONER SPENCER: Whereas contemporary best practice would say you need to be very focused on what are the specific needs, are you commissioning the right organisations to provide those services. So that's the direction we're pushing in.

MR REEVES: All right.

COMMISSIONER SPENCER: So I just wanted to mention that because I understand that simply putting out there to an organisation or organisations and saying, "Well, they'll take care of it" - - -

MR REEVES: Yes.

COMMISSIONER SPENCER: - - -is a very simplistic description, but we certainly don't agree with that.

MR REEVES: Right.

COMMISSIONER SPENCER: We think they should be much more focused.

MR REEVES: That's pleasing to hear. That's very pleasing.

COMMISSIONER SPENCER: And a service provision network out there. To come back, you made a comment as well about the lack of data and we've obviously said quite a lot about that, because best practice says that if you don't capture the data, if you don't have the information about what's working and what's not, what's producing outcomes, you go right

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back to the prevention of injuries in the first place and what helps to prevent injuries. Now, when we look at other arrangements and best practice, you see all of that. We've commented in our report that it is not there. Frankly at the moment DVA, they may be striving to get there, but that's got to be a part of a future system.

So just come back to the last area you mentioned right back at the beginning about your concerns about the department going. I think we've already said this morning, you know, this is not getting a big tick of approval by many people, but you mentioned the status of veteran would be diminished by that. So if policy didn't go across to Defence and there was a DVA that continues with policy responsibility, but in terms of best practice and delivering services we have the Veterans Services Commission, note "veterans" is the first word in that title, to really represent what we would think is contemporary best practice, does that concern you for your issues that you mentioned before, because there would still be a department with policy responsibility and a secretary of the department? So would that model - what would your thoughts be on that model?

MS McCABE: The very concept of what was described in the draft report and the - who would be sitting on that board that frightens me because they're all civilians. They might be learned in their own fields.

COMMISSIONER SPENCER: I think we said veterans in there as well.

MS McCABE: Well, one or two veterans were thrown in on the side, but - - -

COMMISSIONER SPENCER: Well, I don't think that's quite right, but anyway.

MS McCABE: But I don't think they were given too much importance and I think if you've got the expertise of all of these insurance companies or compensation companies, whatever, sitting there, accountants, doctors, whoever, they're going to dominate the situation and they are not going to understand the military concept at all, because they've not been in it, and these couple of little veterans that are sitting on the board as well they're not going to have much of a say really. They'll be shouted down.

COMMISSIONER SPENCER: Well, we were thinking more a blended model. So if that doesn’t work, how do you bring in – because we think that there’s a danger and there perhaps has been in the past that other systems have moved on and are achieving better outcomes and can show

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that for individuals. So how do we make sure that expertise informs what's happening in this space? What's another way – a better way we can do that?

5 **MS McCABE:** Well, I think PMAC [Prime Ministerial Advisory Council (PMAC) on Veterans' Mental Health] was a good start for mental health and that looks after mental health for the veterans. They have a good veteran set up on that (indistinct) but they have the civilians as well that are within that hierarchy. But it's a better ratio than what was described in
10 the draft report for the board.

COMMISSIONER FITZGERALD: Okay, sure. So that's your concern that they're - - -

15 MS McCABE: And they've just started up a counsel of women under defence and that's similar to PMAC where it just hangs off the side and – but it reports directly to the Minister. And you know, the women under defence all have the main say of what information goes to the Minister. So where the ESORT concept - which is brilliant - but it's got to go
20 through the hierarchy of DVA. Now, we don't know what the Minister sees in that hierarchy.

COMMISSIONER FITZGERALD: Sure. Okay.

25 **MS McCABE:** So, if that – if his thought was to swing off like the counsel of women and PMAC, and talk directly to the Minister and have input from the Minister as well, that, I believe would be better than this board you're talking about. Because if you've got a subject, for example, insurance. If you've got a subject you want to discuss, you can invite
30 them as a learned speaker. And then they go away and do their normal job. But you've got the information and – that you can then discuss. So it's not necessary to have all these experts there. I don't believe.

COMMISSIONER FITZGERALD: No, no. We hear that. I would
35 have a slightly different view to that, but we are going to look at ESORT. We're trying to look at as Richard's used before, how do we leverage - we better leverage the ESO community, their voice and the services they can deliver? So that's been a constant theme throughout the public hearings.

40 But we are absolutely certain that I think the system has – it is an extraordinary complex difficult system and nobody could say policy that sits behind it is great. It isn't. Otherwise, we wouldn't have the complexities we've now got. And what's been missing at a lot of the stages has been that expertise, that input coming through. So the question
45 is not diminishing the voice of veterans, it's actually enhancing the voice

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of veterans but also with expertise in this area. So how do we best do that? That's the challenge. And we'll look at that.

But ESORT serves a role and you're right, the problem at the moment is it goes through the department. The Minister is not directly advised in relation to any of these matters. We think that's a problem. And then the administration of complex schemes, the world has gone on and there are better ways of doing it. And yet, that's not necessarily reflected in what they're seeing in the department, and I'm not criticism of the department, it's just that it's very difficult to get that body of knowledge impacting on policy. So we're just looking at that.

MR REEVES: A couple of points here. If you go back a few years, when they introduced the worker scheme, we sort of said, you know, what's wrong with VEA and they didn't want to hear that. And then they introduced you to something else and they don't want to hear it again.

Now, we keep moving – we keep moving the goal posts and it keeps getting more complex and now we've reached the stage where we – it looks like we can't amalgamate them. Maybe we could have, years ago. But now we can't. That's one problem. The other one, other problem I see is that this committee or whoever it's made up of, it needs to be an authority in its own right because it couldn't be subjected to, or shouldn't be subjected to political influence, or expediency, clinical expediency. I think that would be a drastic move. And third, and I do say this for the benefit of everybody in this room, although we hear from the TBI Association and we are here for TBIs, we are fundamentally very concerned about young veterans and where they go and what happens to them. You know.

COMMISSIONER FITZGERALD: Can I just go back to one issue that's been raised before. The notion of veteran's hubs and things like that. Have you – has your organisation got any particular views about the ways in which ESOs could be used for service delivery? Not advocacy, not policy, but in the service delivery space? Because that's an area that we're looking at and we're not suggesting the Government should fund 3000 ESOs to provide services, and we're not – we haven't got any clear view about this at the moment, but everyone's talking about veteran's hubs. We've mentioned them, we think there's benefit in them and you will have heard me this morning ask some participants as what elements of that do you think government should supp0ort or fund? You may or may not have a view on that, but - - -

MS McCABE: The biggest expense for a hub, I think, is salaries, and if you've got a hub where there's pension work, you can get salary

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subsidisation through BEST. But the biggest work load is not pensions, it's welfare. And you cannot get salaries through welfare. So that, I think would be a huge benefit. Assistance to set up pubs, I can give you the example of Canberra, there's a terrific hub over in Page, I don't know if you know it. The Vietnam Veterans Federation set it up initially. But they've got metal workshops, computer shops, they have regular barbeques and all that sort of thing, and there's people in and out all the time. But the south side of Canberra's got nothing.

So I think that sort of facility needs to – some assistance from Government to set it up. Because there's ESOs on the south side that would benefit from that. Now, that sort of thing would be nationwide, but it's not putting 13 hubs in Canberra. You know.

COMMISSIONER FITZGERALD: Sure.

MS McCABE: It's only the two.

COMMISSIONER FITZGERALD: Sure.

MS McCABE: Whereas, you know – and that other areas can be broken down like that as well. So I think it's salaries is the big thing. And probably the second biggest thing would be the cost of the utilities. But

COMMISSIONER FITZGERALD: No, that's fine.

MS McCABE: But you can probably gather income, yourself, once it's all set up. But the initial set up process is very expensive as well.

COMMISSIONER FITZGERALD: Okay. Any other final comments that either of you would like to make?

MR REEVES: No. No.

MS McCABE: Thank you very much for that. That's terrific. Thank you. Good.

COMMISSIONER FITZGERALD: Thanks very much. I just wanted to – we're a couple of minutes early and I was wondering whether any of the participants from this afternoon are here, just in the room. So if I can just check – is Peter Reece here? And is the Royal Australian College of Physicians here? No? RSL?

VOICE: (Indistinct words.)

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COMMISSIONER FITZGERALD: Righto. That's – RSL Woden Valley sub-branch? No? And Connie Boglis and Karen Bird. Any of those? So what we'll do is – three of the participants this afternoon are appearing by phone, so we can't necessarily adjust that, though we'll try a
5 little bit. So we'll just take a break for lunch and we'll resume at 20 past 1 if we can. And there's a café – coffee shop downstairs if you want to use that. So we'll resume at 20 past 1. Thanks.

10 **LUNCHEON ADJOURNMENT** **[12.18 pm]**

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RESUMED **[1.21 pm]**

5 **COMMISSIONER FITZGERALD**: So this next bit - we have got three participants coming in by phone today, so hopefully it works.

(Telephone link established.)

10

Peter, it's Robert Fitzgerald and Richard Spencer. If you could give us your full name and any organisation you represent that would be terrific.

15 **MR SUTHERLAND**: Okay. Peter Sutherland and I'm at the ANU School of Legal Practice.

COMMISSIONER FITZGERALD: Terrific, and well known to many people I am sure in this room. Peter, if you would like to make an
20 opening comment and then we will have a bit of a chat about those issues you raise.

MR SUTHERLAND: There were three things I just wanted to mention. The first is a small one, but I think worth saying is that I really think the
25 ban on legal practitioners at the VRB just doesn't make sense. There's sort of an historical curiosity about it, but it really has no useful purpose. You know, I think the costs rules, the no cost rules at the VRB will prevent the abuse, any potential abuse by lawyers, and also (indistinct) and myself can deal with that (indistinct) behaviour, again he just doesn't sit down and
30 shut up, if they behave like that, but there's all sorts of reasons why (indistinct), you know, community legal standards and people shouldn't be excluded simply because they have a law degree, when other people who don't have a law degree but may be repeat players or even like, you know, even ADR specialists, any sort of qualification can (indistinct). So just a
35 general comment.

The second thing I wanted to mention is just the one big Act. Obviously, you know, I submitted along the lines of what you suggested and I think that the proposal you're putting through is the best possible way of doing
40 it. The two scheme I think is exactly right. The timeline, I think we can achieve some of the integration much earlier than 2025, but some of it will be 2025.

The third thing I wanted to mention is that I am still very worried about
45 the incapacity issue, like really (indistinct) ask for more information about

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it. My concern about incapacity and particularly the loading, the $100 plus loading that goes on, it's not that I think it makes the scheme too expensive, I just think that it distorts the return to work choices that people may make, and I think returning to work is the most important element of any scheme, and I just think that there's the real possibility that that higher remuneration amount is (indistinct) into the major scheme objective. I can't give evidence on that, because that's done at the data, but I think it's there.

The other thing that affects this area is of course just how much the department itself imposes return to work obligations. Under the old SRCA I think they were probably a bit hard, but under the VEA there's none of that sort of thing, and under the MRCA I think that so far the department has probably been backing off enforcing return to work obligations, but there's a good middle, there's a sweet spot where, you know, you're kind and generous to people, but you sometimes push a little bit in your own best interests. So that's the impact thing, and then as I mentioned if we are going to reduce or take out the remuneration loading and put in compulsory superannuation, which I think is another necessary thing, then there are pretty serious equity issues in how you do it, because the quicker you do it and the more you do it then of course the more it helps the highest income recipients and has very little benefit to the lower income recipients, which are the ones that I most worry about, the people who have got total incapacity, perhaps injured as - not the vets, but in recruit training, and they will spend their life on the minimum wage and have no superannuation at the end of it and I think that's an unfortunate group.

One way of dealing with it might be to bring in the compulsory superannuation, not as 9.25 per cent of the total compensation package, but as a percentage of the minimum wage so that the people in that situation will get full benefit and it will be a lessening benefit going up to the top of the compensation range. Equally I think equity suggests we should probably have a maximum. You know, I would be suggesting probably 150 per cent (indistinct) to do that, but perhaps 200 per cent (indistinct). It really affects I think probably about perhaps brigadiers above, or perhaps colonels above, and people with very high allowances would also be affected, (indistinct) someone like that.

So perhaps there's some sort of way of doing both objectives, reducing or removing the remuneration allowance, bringing in super and (indistinct) perhaps to 2025 to try and maintain some equity in law. I think that's all I want to say.

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COMMISSIONER FITZGERALD: Good. Thanks very much, Peter. You've given us a submission and responding to a number of the recommendations, the draft recommendations. In fact to just pick up a couple of those. Firstly, in terms of the two scheme approach you're generally in support of that, given that we don't believe we can get to a one scheme approach. You indicated that some of those things could happen earlier. We have identified some harmonisation issues that should apply across the three Acts such as the statement of principles, the single review processes and so on. Do you have any particular other issues that you think can be brought forward?

MR SUTHERLAND: Sorry, did you say brought forward?

COMMISSIONER FITZGERALD: Brought forward.

MR SUTHERLAND: Some of the rearrangements I think are complex. One I mentioned is that to harmonise PI between SRCA and DRCA I think would be unfortunate to jump into that without solving the method of assessment, but at the moment the approved guide and the GARP are pretty different beasts and both have their (indistinct), and I don't think you should be trying to harmonise until you've actually worked out how the guide to assessment is going to be harmonised, but basically I think the improved guide is too generous, you know, around about the 10 per cent level. You've got the commute problem with the DRCA. So there's a number of things that just go together. So before you harmonise the PI payments amounts you probably need to, you know, work out what your assessment guide is and fix that.

Some of the things involve money too, in fact it's (indistinct) harmonise the funeral benefits between SRCA/DRCA and VEA, but it's very different money side of things and the point is that the funeral benefit - funeral compensation under MRCA and DRCA is pretty narrow and who gets it while in VEA it's the whole caboodle - you know. That's one reason of the difference between $12,000 and $2,500, and if you're going to harmonise them really what are you harmonising. Perhaps you should be solving the problem of the dependent, the access to dependent benefits in VEA and setting up two categories there and the higher funeral benefit comes into a category that doesn't have such a wide drawdown. But anyway it can be done, but each harmonisation has its own little wriggles. The DRCA (indistinct) is generally a bit easier. Sometimes harmonising the VEA stuff with the other two can have problems, it can introduce significant inequities such as the funeral one.

COMMISSIONER FITZGERALD: Can I just turn if I might to the SOPs for a moment, the statements of principles, and I know this from

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your submission that you I think support the SOPs being applied across all three Acts, is that right?

MR SUTHERLAND: Well, personally no, but I think inevitably yes. It's not for me to say the SOPs are probably not the best way of going because that's what it went in '94 and I don't think we can go back. So given there will be a SOP system at least in the VEA and MRCA then the question is, well, yes, we have to go to the DRCA in the long term because we have got to bring DRCA and MRCA together. So that will be in SOPs. In short term - in short term I think you can apply the SOPs to DRCA simply by using them in your initial liability determinations without, you know, just using (indistinct) determinations, it doesn't create a problem. It's only if you reject on the basis that you don't meet this SOP that you've actually got (indistinct) problem.

COMMISSIONER FITZGERALD: One of the things we have asked for feedback on is the appropriate test, whether it should be the current two tests, balance of probabilities beneficially applied or the reasonable hypothesis, or we go to one of those or we go to a mid-point which was recommended in a previous enquiry. Do you have any particular view on that?

MR SUTHERLAND: It would be good to get them together in the end, but the big point I suppose is some sort of funny Briginshaw test. You know, it can actually reverse Briginshaw I think. I'm not sure how it would work in practice, but perhaps in the end we bring - it's very difficult because I'm not sure that the reasonable hypothesis standard is that important. You know, it's actually - it's the holy grail to the ex-service community, but I think in terms of actual liability determination it's not - you know, the difference between the two, it's not significant and it could be brought together by (indistinct) SOPs which - you know. I just don't think that there are actually such big differences, but in terms of service history and where it came from it's absolutely holy grail stuff.

COMMISSIONER FITZGERALD: So we are trying to understand the implications of all of those permeations and to see whether or not your last statement is right, whether or not there's a big difference. So we have heard two views. One is that the two tests are very different and therefore the impacts of choosing one over the other would be significant. The other view is the view that you've just put, that in fact in practice they're not so significant. So I was just wondering if you could explain a little bit further.

MR SUTHERLAND: There will be some conditions where it's very significant. You could probably go through condition by condition and

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say here it makes a really big difference and here it's not that close. Just in practice, you know, you don't have that much differentiation, but there's going to be some conditions where it's obviously significant. It's just difficult. Perhaps you go for modified sort of Briginshaw test, but I just - the history we would be better if we put it behind us and possibly can't.

COMMISSIONER FITZGERALD: If we ever recommended a Briginshaw test I will let you explain it to the veteran community, because most lawyers don't understand it.

MR SUTHERLAND: You can think about reverse Briginshaw, but, yes, it's impossible to explain.

COMMISSIONER FITZGERALD: Yes, I know. I have spent considerable time trying to understand it myself in another life. Can I just go to another couple of recommendations. One is in relation to getting rid of the - sorry, we are looking at the possibility of getting rid of the SRMC and putting those review processes into the RMA. You are supporting that recommendation. Do you think there's any unintended consequences of doing so?

MR SUTHERLAND: Independent review is important, and that's why the Senate did it. The question is can you have a sufficient independent and sensible review inside the same body. If you can't do that then you need to have a separate body. My experience is that if you look at the Federal Court essentially the Full Federal Court can review a single judge. You know, it's a bit embarrassing sometimes to be sort of changing the decision of one of your colleagues, but the Federal Court does - on the tribunal I (indistinct), you know, an appeal. Sometimes you've just got your grit your teeth and say you were wrong. Usually it's better evidence is why things change. So I think there might be some - I just think there might be a greater clarity and structural - (indistinct) structural clarity by having either one, but I don't think it's - you know, the biggest issue in the world. I don't know that the (indistinct), you know, the review committee does that massive amount of work anyway. (Indistinct) review as five or ten years, I'm not quite sure. It doesn't seem to be an enormous jurisdiction.

COMMISSIONER SPENCER: Peter, it's Richard Spencer here. Peter, I'm just looking at the bottom of page 2 of the submission you gave us, and you've said there that you think we're being a bit light on with the very different needs of reservists, and you're saying there that you're urging us to consider their special needs in the key reform areas. Could you give us a little bit more background and your thoughts around that as to what we're missing.

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MR SUTHERLAND: Look, it's a very generalised statement, but how he spends in the field is that - you know, reservists come up as an afterthought. You know, the scheme is designed for full-time. It's not surprising, and of course a lot of the reservists were in fact full-time and they're now - they're actually putting on the full-time service for their entitlements really, but (indistinct) generally found is that - and I'm talking when I've been working in this field when I was working doing consulting for the department and so on, that often the situation in the reservists was we forgot them, we better work out what the policy is. The stuff was mostly - (indistinct) on the drafting for the full-time members, the people who are now in the reservists because they were in full-time.

The biggest problem in the comp area with the reservists is if you don't have that previous full-time you are basically relying on your civilian employment for your financial support for your family, and the injury in military service can have a massive impact on your private sector capacities, and I'm not sure that the incapacity system deals with that in a fantastic way, or at least you need to think about it. Every time you're looking at a benefit, looking at introducing something and then say, okay, how does this apply. Without any change to reservists we need to - you know, for me it's almost like a tick the box that you (indistinct) the policy proposal and think and how does this play out for reservists. I suppose that's what I'm saying.

Cadets don't matter because what's being done there is they just delegate it. Basically saying cadets are part of the scheme, we'll set up a legislative instrument that works out what they get and so it's very flexible. The reservists is not like that, the legislation says they are there, but particularly the DRCA for example doesn't say how.

COMMISSIONER SPENCER: No, thanks, Peter, that's a good reminder and we will certainly take that on board. If I could just go to another comment you made, it was in relation to the idea of an insurance premium. You thought that could have some impact in concentrating people's minds on the long term consequences of injuries and how that may inform better prevention strategies. You've given us some guidance about how might that actually work across the different Acts. You also commented that there could be some lessons learnt from the introduction of premiums in the SRCA.

MR SUTHERLAND: Yes. Coming to the first thing about the use of premiums the (indistinct) that I think of is I don't think you're ever going to get premiums to affect the operation or commander of a unit. Like, you know, even if you were bringing it down to the battalion level or

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something it would be very hard for a battalion commander to say that's going to hurt my premium. So I don't think - it doesn't work at that level, but I think the higher level, particularly when you're talking in joint command and decisions (indistinct) to engage in an operation, like a premium gives you a figure of saying our intervention in Fiji if it lasts for six months will be a 1 per cent increase in premium and if it lasted two years at the level - you know, at a proposed hurdle it will be 3 per cent on the premium, and it's a number that can actually inform the public.

If there is a premium and it's actuarially determined then before you even start a commitment you can say, well there will be - our actuaries say it will cost this much, and nobody talks about the fact that we went into Afghanistan. There's a really large driver in the costs of the decision to go to Afghanistan, but that's not what people talk about, they talk about how many thousand troops cost, and (indistinct) at the beginning this is what it's going to cost and get in early with the rehab and as far as possible (indistinct) to prevent the thing, and that will permeate the higher levels of command I think. The lower levels it can't affect them by premiums.

COMMISSIONER SPENCER: Okay. Thanks, Peter. Just a last comment - - -

MR SUTHERLAND: Sorry, there was a second part to that question - - -

COMMISSIONER SPENCER: Yes, sure.

MR SUTHERLAND: The SRCA.

COMMISSIONER SPENCER: Yes, experience from SRCA.

MR SUTHERLAND: Well, the SRCA did introduce premiums, and that was an interesting exercise. It was pretty quietly done and it was very back room stuff, nobody really - the only people that really got into it big time were the licensees who had to pay premiums, and so they were right across it, but apart from that it was a very quiet thing. There was a decision made not to extend the premium to injuries that were already there and that couldn't be controlled. So in other words they didn't start the premiums until - I think it was November 1990 or something was the date when they started premium, and, you know, the injuries before that were basically cordoned off and put into what is called the pre-premium and so that (indistinct) was consolidated revenue and Comcare is being subsidised to deal with those cases, but the premium cases of those it came after that date, but premiums is a difficult thing. The SRCA scheme and the application of premiums to licensees is pretty broad.

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COMMISSIONER FITZGERALD: In your submission you're saying that if there were to be a premium it should be applied to MRCA. If we combine DRCA and MRCA, which was our intent, would it be that you would apply premiums going forward in relation to the combined Act?

MR SUTHERLAND: Yes, but I think possibly date of injury might be relevant. Do you actually introduce premiums over liabilities that accrue 14 years earlier?

COMMISSIONER FITZGERALD: If it's a future looking scheme the answer to that is probably no. You can do it, but there's a question mark about that. But you have been very clear that you don't think the VEA should be included in a premium.

MR SUTHERLAND: Can we really gain the discipline that a premium applies any more in that scheme. I think the main - premiums give accountability transparency in discipline and I am not sure that we can do much about that, the scheme. I think it's going to play itself out the way it plays out.

COMMISSIONER FITZGERALD: Okay, thanks.

MR SUTHERLAND: So what do you think, what are you thinking? What's been coming back at you from that, because it's a bit radical?

COMMISSIONER FITZGERALD: Well, right at the moment nobody likes the premium, but if I could just make a couple of comments. Firstly there is a notional premium already in place. It's just nobody seems to be aware of it. So the government has been raising a notional premium for some time, so our work is not novel. What is important is to try to work out whether it's forward looking the way we've described, what are the costs of the scheme it should cover, whether it should be a full insurance sort of model which covers all the liabilities or only some. So at the moment we are just looking at it and we have put out an information request in relation to that, and I might say we are working with - we will be working with finance, Defence and DVA to put some more flesh on the bones and to see whether or not it is capable of being actually applied. So right at the moment it's a work in progress.

I think it is true to say however the Commission is of a view that a premium applied against Defence actually has some benefits. One is in relation to focusing the mind on prevention, but the other one is actually a better way of funding the scheme going forward. At the moment Defence has no concept of or concern about the costs of injuries that occur in Defence because they don't bear it. So we tried to say, well Defence does

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in fact create these injuries in a sense and therefore should have some sort of responsibility for the costs of the consequences, but to be honest - - -

MR SUTHERLAND: Yes, it's a pretty powerful argument, isn't it?

COMMISSIONER FITZGERALD: We think so. It wouldn't surprise you that Defence in its earlier submission prior to our draft indicated that it was not in favour of such a premium, but we await their position following the draft, but it's a work in progress.

I should make the point we're absolutely clear that we don't expect a premium to have much effect at unit level, we understand that, but the point that you make and the point we have made is it does have an impact at the head of organisation level, the leadership of an organisation, and in a sense it does flow through, through better policies and practices and training and so on. So there's not an immediate effect on the local commanders and the local units, but it does effect policy, practice, training and those sorts of things. So it does have some effect lower down the ranks.

MR SUTHERLAND: And you can also draw in it some sort of (indistinct) transition. Like Defence has got to be responsible for the costs of transition, otherwise they will just - you know, they will just walk away from them. Totally (indistinct) and pay for it and pay for it good and solid right through until the (indistinct) transition is finished.

COMMISSIONER FITZGERALD: We agree with that.

COMMISSIONER SPENCER: Peter, just one other question that I have. It was in relation to 13.6, 13.7, the special rate disability pension. You have made the comment that that was a compromise required for the passage of MRCA in 2004, and your suggestion - - -

MR SUTHERLAND: Did I say that or just that it was - perhaps compromise - let me think. It was one of the things - look, there was a special rate in VEA and (indistinct). I think - I suspect - I wasn't involved at all, but I suspect it was a political necessity to have an equivalent.

COMMISSIONER SPENCER: Okay. You're speculating - - -

MR SUTHERLAND: But that's as far as I can go, I think it was just a political necessity at the time.

COMMISSIONER SPENCER: Yes.

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MR SUTHERLAND: Logic would suggest that if we've got any people on that pension - it sounded (indistinct) we have got one or two now - like when I was on the review a few years ago there weren't any, but if there are a couple now then the logic might mean that they actually go back to scheme 1, you know, that they stay - that they go back to the VEA or something, go on a special rate under the VEA under scheme 1 in 2025.

COMMISSIONER SPENCER: Yes, we understand there are a small number, so we would need to look at that. Robert?

COMMISSIONER FITZGERALD: Can I just - there's two issues, one of which is very contentious. You're supporting our position at the moment that dependent, that the special rate pension not be further indexed and clearly we have very significant representation from organisations - - -

MR SUTHERLAND: Hang on, hang on, just let me clarify what not be indexed?

COMMISSIONER FITZGERALD: You've got here the special rate pension.

MR SUTHERLAND: In the VEA?

COMMISSIONER FITZGERALD: Yes.

MR SUTHERLAND: I'm probably misunderstanding the question then. What should not be indexed?

COMMISSIONER FITZGERALD: Sorry, you've got here in relation about finding that you have agreed with our position on the special rate pension, and I just want to understand what that meant when you say you agree - - -

MR SUTHERLAND: I will just make sure that - I can't open my submission because I'm out in the sticks and I don't have a copy of it. What I understood you're talking about was something I agreed shouldn't be indexed, but I need to know what it is what you're talking about. Are you talking about the VEA TPI rate?

COMMISSIONER FITZGERALD: I will be precise, just give me one sec.

MR SUTHERLAND: Because I think you have to still index the TPI rate. That wouldn't be fair.

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COMMISSIONER FITZGERALD: No, sorry - - -

MR SUTHERLAND: It was one of the - it wasn't the TPI rate, it was
5 something else.

COMMISSIONER FITZGERALD: I can't find it. So that's all right, we will just - - -

10 **MR SUTHERLAND**: What recommendation number was it, perhaps look at the recommendation number.

COMMISSIONER FITZGERALD: No, you've said it was a draft finding.

15

MR SUTHERLAND: With what number draft finding?

COMMISSIONER FITZGERALD: Draft finding 10.3.

20 **MR SUTHERLAND**: Having to go to 10.3.

COMMISSIONER FITZGERALD: It's not there.

MR SUTHERLAND: Anyway - - -

25

COMMISSIONER FITZGERALD: No, don't worry, it's - - -

MR SUTHERLAND: Tell me your explanation, the thing that you said shouldn't be indexed - - -

30

COMMISSIONER FITZGERALD: Sorry, no, no - I will read - - -

MR SUTHERLAND: I definitely wasn't referring to the VEA TPI pension.

35

COMMISSIONER FITZGERALD: No, I have got here. It says:

> *Changes to eligibility for service pension and other welfare payments means that the package of compensation received by*
> 40 *veterans on the special rate of Disability Pension is reasonable. Despite strong veteran representation on this issue there is no compelling facts increasing the rate of* - - -

MR SUTHERLAND: Yes, that's about the level. I think - it's at the right
45 level now I think, given the various nature of the scheme. Like everybody

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can argue for more. You know, like, yes, of course there could be more, but it's sitting as I understand it when you take out tax (indistinct) around about the minimum wage. When you look at what it's doing it is around the minimum wage, that's about right, but (indistinct) should be another $100 or another $200, another $300, and that - you know, it is not a great amount of money to keep a family on.

COMMISSIONER FITZGERALD: All right. I just wanted to clarify what your response was. Clearly we have very strong opinions to differ from that. Can I just go to the health care area for one moment?

MR SUTHERLAND: It's not really my field, but anyway - - -

COMMISSIONER FITZGERALD: No. Just about the history of the gold card; did you ever look in your academic work back into the history of the gold card?

MR SUTHERLAND: No. No, it's not - when I first started in the game I don't think that (indistinct) exist. It sort of emerged probably in the 90s sometime. There was a big - it really became evident in my knowledge when they (indistinct) about the World War II people who had been overseas and excluded the ones who were in Australia, and that's when the whole gold card thing blew up politically, and it was called a gold card at that point.

COMMISSIONER FITZGERALD: So somebody said to us - - -

MR SUTHERLAND: It probably was a gold card, it was probably always gold and white, but the eligibility for that card became a highly political issue when that decision was made to extend it only that way and not extend it to the ones in Australia.

COMMISSIONER FITZGERALD: So somebody said to us in one of the hearings, and I just wanted to know whether you have any knowledge of this, we will explore it a bit further, I am sure there are people in the room that have greater knowledge, is that the gold card's expansion was somewhat related to the decision by the government to move out of veteran specific hospitals and health care.

MR SUTHERLAND: Yes, I read something along those lines. Just recently I was reading about the close of the repatriation hospitals. It might have been even a comment in (indistinct). I was reading - I happened to get hold of a copy that was written in 1990 or something, so it hadn't sort of - it was talking about (indistinct), but contemporaneous then. There was a mention about some sort of linkage with - you know,

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part of the thing of closing off those repatriation (indistinct words), the state hospital system, and of course that raised cost issues, and one way the Commonwealth had of doing that was to issue a card which made it possible I presume then for the states to in some way bill that to the Commonwealth. I did mention - I did read about that link, but I've got no personal knowledge of it, because it's not a field I've really ever been involved in.

COMMISSIONER FITZGERALD: Okay, thanks. Just generally in relation to the most pressing issues, just to get your idea or priorities, the secretary of the department this morning indicated that we need to revisit some of our timings and that's clearly the case, and she was concerned about some of the things we had suggested to be done in the first year, but what in your mind, Peter, given your extensive knowledge of all this are the high priority areas that could or should be done within the first year or so, if you've got those on the top of your head?

MR SUTHERLAND: Look, the bigger priorities have got to be improving department administration, getting the veteran centric approach working, taking the complexity away from the applicant and putting it into the department. It was improving the administration, improving the transition, improving the mental health facilities, you know, really going with the non-liability rehab and working out the relationship with Defence. All that administrative stuff is, I think, the really (indistinct), that's the real key priority. Other stuff, as I've said you need to be careful in your sequencing of some of the harmonisation stuff, because you want to make sure that what you harmonise too in the MRCA is what you actually want in the MRCA, because you harmonise to something that exists. The chances of them then sort of changing it to what it should be is bloody minimal. So that's why I said that before we harmonise the SRCA, the DRCA PI and MRCA PI let's get it right, and absolutely the same with incapacity. Don't go anywhere near harmonising until the incapacity section or provisions in the MRCA have been rewritten and preferably streamlined, you know. So that you can pick up some low hanging fruit in terms of changes, but I suspect the really important stuff is behind the front door in (indistinct) interacting with its clients and its IT and its rehab and its OH&S - you know, all that stuff, transitioning; transition, transition, transition, transition.

COMMISSIONER FITZGERALD: So can I ask one final question and that's in relation to Defence and DVA. You have made some comments on our changes to governance arrangements, but I just want to deal with one issue, and that is policy. Clearly we have been concerned that there's been evidence that there's a policy disconnect between Defence and DVA and we put forward a proposition that policy should go to Defence.

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Almost nobody supports that for various reasons. But I was wondering from your point of view are there ways in which the policy integration that I talk about or policy cohesion can be improved between Defence and DVA, if you see that as a problem; you may not see that as a problem, and the point that we are making is the remuneration people get paid whilst they're in the service is related to the compensation they receive later on, and there's a number of other issues in transition and that that clearly cut across the boundaries of the discharge of the gate post. So I was just wondering whether you have any views in a broader sense about policy and if that needs to be improved, and if so are there any mechanisms to achieve that.

MR SUTHERLAND: Yes, okay. I think when military comp was moved from Defence over to DVA, and that was in the sort of early 2000s I think, there used to be a military rehabilitation - compensation service inside Defence, but around the SRCA scheme at the time, and it was moved over to DVA administration. There was a lot of coordination lost there, like they lost the opportunity to integrate WHS and military compensation at that point because we built a system that did both, and then when the compensation side was moved to DVA Defence never turned on the computer software that linked the WHS system that had been built with the military comp system, and now we're talking about doing now, but it was there sitting on the shelf, it was sitting there to be done and it was lost because of that policy and administration change.

I don't know that you get where we want to be by actually putting it all back in Defence because it will probably just be ignored as it always has. So we just needs stronger mechanisms to force Defence to think about the implications of what comes after, but also to expect (indistinct) to take on properly both the policy and financial costs of the pre discharge and immediate post charge then transition costs. They have got to be doing the rehab properly. They have got to be doing the transition properly. They've got to be paying for it. They've got to be paying for it after discharge where that's necessary, and DVA picks up essentially a very stable client.

COMMISSIONER FITZGERALD: Any other final comments, Peter, before we conclude?

MR SUTHERLAND: No, no. I think it's a good exercise. You know, it's (indistinct) people, anybody in a policy area says (indistinct) what do they know about anything, you know, but I think it is important to take at least a partially economic view of this stuff and as long as - and I think it is understood how important the veteran community is and how important the contribution to Australia is. I think that's understood, but we have still

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got to put reasonable rules - you know, a (indistinct) and policy around that.

COMMISSIONER FITZGERALD: Good. Thank you very much, Peter, we very much appreciate you contributing today and your previous work before the draft. So thank you very much.

MR SUTHERLAND: It gives it a whole new edition of the book too.

COMMISSIONER FITZGERALD: At least we're doing service to somebody, so that's good. All right, thanks, Peter. Cheers. Never say the Commission doesn't do good for anybody. It's good for academics. So we have just got another phone in.

(Telephone link established.)

Gidday, Greg, it's Robert Fitzgerald, how are you?

MR WELLER: Hello, Mack Weller speaking.

COMMISSIONER FITZGERALD: Mack, it's Robert Fitzgerald and Richard Spencer. How are you?

MR WELLER: Good, good. Hi gents, how are you?

COMMISSIONER FITZGERALD: Good. If at any stage you can't hear us please let us know. You go by the name of Mack, is that right?

MR WELLER: Yes. Yes.

COMMISSIONER FITZGERALD: Not Greg. Okay, Mack, if you can give us just an opening statement as to your key points and we would be pleased to hear those, and then we will have a discussion for a short time.

MR WELLER: Okay. Now, is this line still okay?

COMMISSIONER FITZGERALD: Yes, it's fine.

MR WELLER: I've just gone on to speaker, sometimes it does cause difficulties.

COMMISSIONER FITZGERALD: Sorry, firstly you have to give us your full name, I'm sorry, your full name for the record.

MR WELLER: Yes, Elliott Macleod Weller.

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COMMISSIONER FITZGERALD: Sorry, now just proceed with the statement. Mack?

5 **MR WELLER**: Go ahead.

COMMISSIONER FITZGERALD: Yes, if you just make your statement, your opening points, that would be terrific.

10 **MR WELLER**: Well, in general I classify the nature of that minute, email that was sent (indistinct) I would really - - -

COMMISSIONER FITZGERALD: Mack, can you go off speaker and just use the handset.

15

MR WELLER: Is that better?

COMMISSIONER FITZGERALD: Yes, thank you.

20 **MR WELLER**: Yes. Well, my first point is the abolition of DVA and the transfer of the support (indistinct) to Defence, and that of course has been picked up by media and will attract a fair bit of publicity. I just can't quite see (indistinct words) and go to (indistinct) and possibly (indistinct words). Anyway more important I wonder whether (indistinct) changes in 25 organisation is the right way to go about it. Certainly where there have been no (indistinct). I think also those (indistinct) organisations (indistinct) consider are more important than (indistinct) their reputations (indistinct) that the special compensation (indistinct) over the years has been withdrawn, and I just think that's a fairly extraordinary degree of 30 rationalisation that's been embarked to get to that point.

I presume that's correct, that the report is really saying that the trauma of war service doesn't (indistinct) a specific form of compensation beyond what (indistinct) in peace time (indistinct). I would just think that we 35 would definitely (indistinct words) - - -

COMMISSIONER FITZGERALD: Mack, we're losing you on the phone. Do you have a landline that we can ring you back on?

40 **MR WELLER**: Yes, (indistinct).

COMMISSIONER FITZGERALD: So if you can give us the landline we will ring you back on that.

45 (Telephone link established.)

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MR WELLER: Mack Weller speaking.

COMMISSIONER FITZGERALD: That's fine. Thanks, Mack. If you just continue on. We have your notes in front of us and you have just been going through them. So if you just continue on. You were up to the point about recognising the trauma of war service, and we will come back to these points when you have concluded. So if you just keep going and then Richard and I will come back to you on some of these issues.

MR WELLER: I'm sorry, I'm just a little unclear where I'm supposed to go from here.

COMMISSIONER FITZGERALD: The fifth dot point. You have a paragraph starting "Apparently so".

MR WELLER: We're referring to your report now?

COMMISSIONER FITZGERALD: In your email to us the fifth dot point starts:

> *Apparently so, because the Commission resorts to a considerable degree of rationalisation that treats all injuries as having the same consequence.*

MR WELLER: I'm having a lot of difficulty understanding or hearing you. Let me pick up - we'll just move on beyond the rationalisation bit and to indicate that to be fair there are certainly some sensible recommendations, and particularly in relation to transition of service people, although I would have to wonder whether it really needs a transition command to drive that wherever it is. It just seems to me that it's - one of the main things that I think coming out of service that a person should have is a certified state, agreed of a person's state, agreed by both Defence and the person about his condition, his or her condition, and what that has amounted to in terms of likely future entitlements for compensation.

It should allow also of course for what I would call a latent arising, something that would arise later in life. We would also welcome any attempt to streamline legislation, but really I'm not sure whether what I see in terms of the recommendations would lead to a large scale change in the complexity and it seems to me that the complexity issue is really the largest issue that was coming out of the senate inquiry and which would have been involving you people. I'm not sure there's any way of getting

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around it other than scrap the whole lot of those three Acts and rewrite them.

I guess also I'd like to make the point that a lot of DVA's work is quite effective. The bit that most people find difficulty with is in the claim entitlement processing where - once a person has gone through that, once a person has got his or her entitlement then the ongoing service that's provided by DVA's (indistinct) is quite good. So I just make the point I think we need to be careful what we throw out and what might go out with the bath water.

I was very critical of the DVA gold card. I think that is in contrast to what you say about it being not targeted and not focused on wellbeing. I think it basically has been and particularly built for Vietnam veterans, and in fact to me it seems to me to form a way of looking very sensibly at handling the entitlement process for - or compensation requirements of people with war service particularly.

I guess all the people, veterans wonder why the government persists with this business of what I'd call known as a prudent adversarial approach to prove your case to go through, continually go through with a commission of claims and the ongoing business of examination of claims and the review of claims, the preparation of claims, the effort that goes into advocacy and the support that has to be provided and the costs that that entails. Whether in fact can we move on from that to a sort of more sensible approach and just say for a person of war service particularly we understand what you've been through and we are prepared to accept that you've got entitlements and you've got trauma and we are prepared to support you perhaps in the form of an equivalent gold card system. I just find it difficult to reconcile that with the way society has changed in recent years to accept the public health system, to accept a Medicare system where the onus of proof doesn't exist. The business of overcharging or over-servicing seems to be largely - any hang-ups over that seems to have largely been overcome.

I guess that largely covers my concerns. I just feel that there is some bias against to the serving person with war service. I'm not sure that it recognises the costs of the advocacy that's provided by ESOs in the make-up of the cost structure. I'm not sure that multiple deployment - in fact there are societal issues involved in the current system, and maybe transformation is required, but it seems to me that the culture in society has changed quite a lot. The way Defence manages its people it's changed in recent years. There's quite a preponderance to use multiple deployments. We find veterans who have had seven or eight or nine deployments on active service. It causes extreme difficulties in service

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structure, in their family structure. I am not sure really at the end of the day that the issue of legislative complexity is resolved by the way that either report is going about it. So that's about my concerns.

5 **COMMISSIONER FITZGERALD**: Thanks. So, Mack, you've also given us an additional submission that goes on for a few pages and we have read that, so thank you for that. If I can just pick up your last point. We can't get to simple solutions quickly in this space because of the complexities, but ultimately what we are proposing is two schemes which
10 eventually becomes one scheme, and everybody would be under one Act, not three Acts as is currently the case. So I'm a bit surprised you don't think we are in fact moving to a simplified system, because by the end of the course it's a radically different system with considerably less complexity, but in the short term it remains a complex system for all the
15 reasons you've identified. So I'm a bit surprised you don't see where we are going as achieving that.

MR WELLER: Yes, I do see where you're going, because at the end of the day where you are going leads to a person with war service losing out
20 on entitlements. In my view the contemporary veteran, the younger veteran out there will eventually be dudded his entitlements.

COMMISSIONER FITZGERALD: So how could you make that statement when the MRCA, which is the government scheme that came in
25 in 2004, recognises war service, and the contemporary veteran - those benefits remain, and the contemporary veterans are saying to us very clearly that an injury is an injury is an injury, and we should respond to their concerns. Whereas older veterans are saying to us they want to maintain the VEA which we have agreed to do for very good reasons, not
30 simply because they want it. So doesn't our scheme actually recognise what contemporary veterans are saying?

MR WELLER: Well, I find that surprising, and I would still be maintaining my position, still arguing my case. Contemporary veterans
35 aren't concerned that they would not have their war service entitlements recognised?

COMMISSIONER FITZGERALD: So the problem I have got with it is what are they actually losing. So they're entitled to lump sum payments or
40 periodic payments, they're entitled to a white card and no liability health cover. They're entitled to a range of benefits going forward. So when you say they're losing it what are they actually losing?

MR WELLER: Well, compared to what exists at the moment.

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COMMISSIONER FITZGERALD: And what's that? I'm not trying to be difficult, but I am just trying to say that we have looked at this pretty carefully and they are different benefits. So VEA has a different set of benefits which best serve the veterans that are in that scheme, and the new
5 scheme which the government acknowledged needed to change in 2004 recognises the contemporary needs of veterans. I am not trying to be argumentative, but I'm actually trying to struggle with what's the loss in this. Indeed as I have said many times today our schemes will actually increase the cost to government by increasing the total amount of money
10 payable to veterans. So our changes actually put more money in the hands of veterans. So I am just not sure what they're losing other than some of the things in relation to maybe to the health care system which we are looking at.

15 **MR WELLER**: It didn't seem - it didn't seem to me that there would be any difference in entitlement between a person with war service and one without.

COMMISSIONER FITZGERALD: That's correct, because going back
20 again, if I can just put this point to you, younger veterans have said to us over and over again, and we've been on the basis, we have had many round tables on the basis is they don't see that difference, they see that injury is injury is injury. They get compensated through the remuneration for deployments and for the risks they take in the war, but what they say
25 to us is, well if I get injured in training or I get injured anywhere else we should be compensated effectively irrespective of that. So they see the remuneration that they get paid during service. Now, older veterans didn't get those in anywhere near the same extent, so they have a very different view of the world, they see that compensation is the way forward. So I'm
30 just wondering whether - - -

MR WELLER: I see your argument. If I was a younger person I'm not sure that I would agree with them having the foresight of a few years. I just - I'm just not sure that I can accept that an injury is an injury and that
35 the - that the basis of how that injury was made or in the circumstances which it was made becomes irrelevant, and if the younger veteran is saying, well it is because I am paid more then I think the logic is wrong.

COMMISSIONER FITZGERALD: Okay. No, that's fine, and your
40 view is - many people would hold that view, so we have heard that view as well.

MR WELLER: It's a view that in recent weeks I've pushed around at a reasonably senior level in Defence and nobody has - nobody that I talked

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to has pressed the view that you feel that you got from talking to younger veterans.

COMMISSIONER FITZGERALD: The only point that I would make is the MRCA which came in in 2004 has a very different focus as you know from VEA. So even 14 years ago, whatever the number of years ago it is, there was clearly a view within a government that a different approach was necessary. So I suppose the Productivity Commission's approach is actually not very dissimilar to where government moved some years ago. There is a continuum of thought in this process. It's not just a - - -

MR WELLER: I think (indistinct) your argument you need to make that pretty clear and extend the logic that you have in your draft report.

COMMISSIONER FITZGERALD: Thank you.

COMMISSIONER SPENCER: Mack, it's Richard Spencer. I just wanted to go to another issue you raised which is about ESOs, and you've made the comment in your paper that what we had said came across as dismissive of ESOs, and I'm sorry if that's the way it's come across. Just to give you a bit of background; because of the Robert Cornell study that you're probably familiar with on advocacy and ESOs in general - - -

MR WELLER: Yes.

COMMISSIONER SPENCER: We were holding back a bit to see his report. His report has been completed, I mean we have seen a copy of that. It hasn't been released publicly, yet, and we hope it will soon be released, but we're going to do more work in that area.

The comments you've gone on to make about potential roles of ESOs, I mean this is very much in line with our thinking. So just to explore that a bit further, clearly – and then this comes back to this issue of the – you know, just to be a bit simplistic, but the older veteran and the younger veteran. The older veteran typically was – well, many of them were more associated with the long-standing larger organisations. With younger, contemporary veterans we see that's not happening. They are much more connected via social media; they're much more interested in services that can assist them. So clearly there is a lot of debate going on in the ESO community about future roles they may play.

Now, just to be clear, we take the view that that's a terrific and largely hidden resource that should be better mobilised for the benefit of veterans. Now, how can that happen? Well, things are happening already with

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veterans' hubs and you're probably familiar with those. We've seen some terrific examples of that around Australia. But what ESOs do is largely up to ESOs, but our question is – and you may have thoughts on this – how can government leverage its support of ESOs to help with the range of services that, in particular, younger veterans are going to need? For example, around employment, around sometimes family issues, there's a whole range of issues there.

So we will want to say more about this in our final report and I think from your comment you'd be pleased if we do. But it'd be helpful to have your thoughts and comments, either, now, or in a subsequent submission about how government, in particular, might be able to invest in or leverage ESOs to provide some of those services that we're hearing are needed and to support some of the initiatives that are already underway.

MR WELLER: Yeah, well, I guess at the outset – and it depends a little I guess where eventually your – where government comes to with what system it ultimately develops. But at the moment the – let me – let me be blunt and frank. It is – it is difficult to make contact with younger veterans and it's difficult to maintain that contact and it's not for want of trying. In the past years – I'm a Vietnam veteran – I would say the RSL that I came back to was very much not supportive of Vietnam veterans. I do not believe, today, that the RSL is not supportive of the contemporary veteran, in fact, I know they're not and a great amount of work is done to help that. There are a few bad apples in RSL and we can understand where that's coming from. But, at the end of the day, there are people in the trenches working really hard for the support of veterans.

The one area that would cause us particular concern is the one that Rob Cornell has been tasked to look at which is advocacy where, quite frankly, there are – and this is a social issue I think – there are not all that many volunteers in the business of supporting any volunteer organisation, frankly, but particularly veterans. So that the source of advocacy that was there in the – advocates, rather, to provide advocacy is slipping away there. They're becoming older and basically dying out, so to the extent to which advocacy and its feature is needed - I assume there's always going to be some – is an issue and I think I've said somewhere that – I mean it's the government that has the legislation and it seems to me that there's an obligation on the part of government to help the cost of funding advocacy.

At the moment, interestingly, our assessment is that the cost of advocacy per claim is roughly about the same as the cost of its processing within DVA. So it is costing as much to prepare the claim and submit it as it is for it to be processed within DVA and, at the moment, that cost is largely met by grants out of DVA and also, simply, by fundraising. So there

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needs – and I guess Rob is going to address this – how advocacy goes. Whether it'll be a paid for service or not is an issue.

ESOs look to be a lot of desperate – despair organisations – some of them are desperate, but they often – they largely meet different service needs. You know, Legacy looks after the dependant, the VVF came into being simply because the Vietnam veterans weren't being looked after. But to a large extent, a lot of those have now amalgamated, if not in name, certainly in service, where they are jointly working together in veteran support centres and such. So the support of an amalgamated function would be important.

COMMISSIONER SPENCER: Okay.

MR WELLER: I guess the other thing - a point to make is that, yes, I understand that some of the more contemporary ESOs, such as Soldier On and others – no doubt doing a great job in their own area – still an important area in fulfilling what I would see as social need, but haven't been able to support the what I would call the more deeper, intensive area of support such as advocacy. That's largely still being supported by the RSLs and the veterans' federations that are around. Does that help?

COMMISSIONER SPENCER: Yes, no, that's very helpful. As you say, Mack, we'll await the Robert Cornell's report. But he'll obviously be addressing those issues, as we will be, and the need that you've identified with a reducing pool of advocates and how that is best managed in the future, I think that's a very live issue. So we'll certainly be addressing that.

If I can just come back to some of the earlier comments about the – our draft recommendation about the abolition of the department. You're not alone in your view of not supporting that. But, once again, just to go over the background of this, just to be clear about how we were seeing it and your further comments on that, we had suggested that the policy functions of the department go to Defence.

The rationale for that was, from the moment somebody joins the ADF through their service and for the rest of their lives, we believe that there's a continuum there and our view was the Defence should be responsible for their members in service and have responsibility post that. So that was the rationale for policy going there.

Now, that's not – we're not hearing a lot of support, frankly, for that position. So if I can just park that for a moment and go to the Veterans' Services Commission which, I think, you're not attracted to either. The

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view there is that if you look at other areas of government in terms of running contemporary based schemes which are operating with the best evidence and the best practice of how to get really good outcomes for the people that are injured, that department structures struggle to do that and I think it's fair to say that that's been a long term struggle for DVA to do that. There are improvements made now and that's terrific, but it does raise this issue; a structural issue.

So our view was that a dedicated, statutory corporation, Veteran Services Commission – Veterans name is the first that appears there – focused on the particular needs of veterans and with the expertise and capability around that would be a much more contemporary model and successful mode. Now, so if I come back to the earlier part, people are now saying they're not attracted to the idea of policy going into Defence. So if the Department of Veterans' Affairs continued and it had responsibility for policy and we brought a veterans' services commission in to be a much more – as along the lines as I've suggested – that was our thinking and I just wanted to clarify that.

So, Mack, your reaction to that, because I think there's been a bit of confusion about all these moving parts, so I'm not sure if that's what you understood from our draft but I'd be interested in your thoughts and comments, just having clarified that.

MR WELLER: No, no, that's not what I gathered from it. So let me just repeat what I think I heard from you, was that there would still be a policy DVA organisation and within that, there would be some sort of VSC. Isn't that right?

COMMISSIONER SPENCER: Well, that's an option – that's an option. I'm just exploring behind it, yes.

MR WELLER: Yes, well, I would certainly favour that option. I just have a lot of difficulty finding – I understand where you're coming from in terms of there should be some obligation on the part of Defence to be looking after or having some incentives to collect what they might be doing to their people, and I think that can be done by other means, but (indistinct) difficulty finding how it would find enough traction within Defence. So certainly I would be leaning more favourably towards a DVA policy outfit, but I guess I'd have to ask in would a VSC then – I'm not sure that I see a whole lot of difference between a VSC or Repatriation Commission and such and is not part of DVA's problem that it's saddled with these three complex legislative acts and, if they weren't that they didn't have that complexity, maybe life would be a lot easier for them.

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COMMISSIONER FITZGERALD: All right, well, we'll explore some of that back in the final so that people have a much clearer understanding and we are looking at different options, as Richard's just floated. So from our point of view all of these comments will help us do a little bit more work at fleshing out whatever option we ultimately recommend and, as you know, governments will ultimately make that decision. So is there any final comments you'd like to make before we conclude?

MR WELLER: No. I'm very grateful for you organising the phone patch. That's been good, so thank you for that. A difficult charter that you've got and I kind of saw it. You know, I've had, you know, basically 50 years' experience with uniform and the way it was coming across to me is that it seemed to me that I, as an old veteran, was being looked after and what I have and the entitlements I have, I'll die with that, I'll be okay. But it really worried me that the younger veteran was – you know, I'm not sure that they understand what's happening.

I know you've asked that and you're telling me you've asked that and being getting knowledge about that they'd remunerated successfully, but, boy, I wonder about that. I really do.

COMMISSIONER FITZGERALD: No, no, and we appreciate that. All I can say is that we are very conscious that there are different views, not always aged-related but often age-related – and this is not just specific in the veterans' community. The Commission does inquiry after inquiry and we find different generations have different views and want their services delivered in different ways and so this is bread and butter for us.

MR WELLER: Yes.

COMMISSIONER FITZGERALD: Having said that, trying to find out the best way to do it in the veterans space is the challenge we've got. So, again, thanks very much, Mack, and thank you very much for your fulsome submission.

MR WELLER: Okay, thank you for your time. Thank you.

COMMISSIONER FITZGERALD: Thank you, bye. Thanks. Peter Reece? We rolled. It's okay.

VOICE: (Indistinct response.)

COMMISSIONER FITZGERALD: Well, hopefully some of us are. Yes, good, okay, thanks very much, Peter. If you could give us your full name and if you represent any organisation.

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MR REECE: Peter James Reece, I appear in a private capacity, Commissioner.

5 **COMMISSIONER FITZGERALD:** Good, and if you could just speak up because it has to go towards the back, that'd be terrific.

MR REECE: Okay, I'll try.

10 **COMMISSIONER FITZGERALD:** That's okay. Otherwise, if you sit next to that microphone - - -

MR REECE: This one.

15 **COMMISSIONER FITZGERALD:** Just that one there - it picks up on the other one. Strangely enough - - -

MR REECE: I'm sorry I've got a soft - - -

20 **COMMISSIONER FITZGERALD:** No, that's okay. For those that can't hear can move forward. It's not a Catholic gathering, so you're entitled to sit in the front seat. So, Peter, thank you very much for your detailed submission. The way this operates, as you know, is if you could give us ten minutes of the key points that you want for us to hear and to
25 put on the public record and, then, Richard and I will have a bit of a chat.

MR REECE: Okay, that's fine, thank you. Well, my background; I was a division head in charge of compensation for quite a few years, up until my retirement in about the year 2000. So I am way, way, out of date.
30 I don't pretend to have any detailed knowledge of the current operations of DVA, nor do I pretend to have any knowledge or information about rehabilitation or in the workings of Defence and OH&S nor the transition scheme as it works, except to say that I think it's been a long-term disaster. So I really speak at a higher level about the policy concepts
35 behind this whole area.

In my experience, one of my key onus when I was division head was to try and get rid of dual eligibility; that is to come to one scheme. That was way back in the 1990s probably and a colleague and I in Defence
40 organised for Ray Tanzer to do that work and he came up with those recommendations which you acknowledge in your report that we should get to one scheme and it should be a fair and equitable scheme and it would come down to getting rid of the more generous standard of proof, as I recall.

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That was terrific and then MRCA came out of that. But MRCA did not come out as the way I would've planned it to do. My plan was really to put VEA on ice because it really is an early 19th century monster and it way, way has become far too anachronistic and unfair; and so it went.

My experience in (indistinct) to make a submission to the Senate Foreign Affairs, Defence and Trade Committee in its inquiry and, hence, the recommendation that the work be referred to the Productivity Commission for examination because I couldn't see a parliamentary committee getting to the nuts and bolts of this in any rational way, nor did they, except for that one recommendation; and here we are today which, I suspect, is going to be a life-time opportunity to get some rationale put into this scheme because it is a monster. It's not that it's expensive and, may I say, I don't care what veterans are paid; I don't care what the military's paid; provided that is transparent and fair, and it's not. It is simply not and has not been for a very long time.

But I've come, having read the Commissioner's draft report, it's actually hardened me up a little bit. In fact, in my submission, I said I don't see there's any need for any military compensation scheme at all because I think that's where it comes to. I know of no other industry in this country where there's an occupational health and safety compensation rehabilitation scheme of this kind and issues of transition, where people leave one job for another job, they just don't appear as (indistinct).

We have a huge legacy, a huge industry and, while I'm sympathetic with it, and I'm a great student of military history and I've done all that stuff and I agree that they do the hard yards and (indistinct) we're looked after, I'm not too sure that the regime we have at present is doing that very fairly and it's certainly very expensive.

Now, a lot of the complaints we're getting in the submissions are about unfairness. But from a group of people who are well motivated and I just don't think understand the (indistinct) of where we're coming from in this day and age.

I noticed this morning that the New South Wales Workers' Compensation Scheme has a maximum payout on death of an employee of $750,000; doesn't seem much money. Now, I think that's where we are. Ten years ago, I recall the net present value of a widow's pension was 3 million. Now, I'm not going to comment on that disparity, but I think there's a lot of political guilt money in that, as there is right throughout this, philosophically speaking. Now, I can live with that too, provided the scheme can be simplified and made fair and transparent I'm not too fussed about where the scheme goes at all.

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At least we seem to be making some progress with MRCA if we get into one scheme. It would be nice if we could get rid of all the vestiges from the VA and particularly the more generous standard of proof which is just ridiculous and which the Commission had agreed would happen. But, having said that, the Commission's also got to acknowledge the consequences of that because if you get to one common standard of proof which is the balance of probabilities, then all the benefits go with the more generous standard of proof disappear, in theory, and that includes the second level of the statements of principle from the RMA. It is just scientific nonsense. You can have two standards of proof for any medical condition and Ken Donald, I remember actually saying it once.

And the other issue, I must say, with respect to this whole scheme is the culture; the traditions which came up through from Billy Hughes, right through of the whole history and nobody questions this – it's captured in the Commission's draft report. The beneficiality which goes for people who do the hard yards, and in Western France for example; that was three or four years and the worst thing you could ever experience. The guys in Vietnam did it very hard too. Some of the others didn't. I notice air bombed people for example have now got qualifying service for what they call qualifying service.

It was once said the most dangerous thing a person and everyone could do would be riding their bike home from mass at night-time. See, these are the sort of war stories you get that are absolutely no danger facing an enemy at all. To get qualifying service and the higher standard of proof, you actually had to prove that you faced mortal consequences from an armed enemy. Crossing Bass Strait was accepted once, until they were shown that Germans actually didn't have any submarines there at all and from Rottnest Islands. These were a couple of furphies which have been got rid of.

But then it's the nonsense of course the guys were sent out in a 707 to see if they could do some rolls and wondered why the wings fell off, that's pretty dangerous stuff too. Parachuting's dangerous, diving's dangerous; no higher standard of proof for that stuff. They're just ordinary, industrial accidents. I think that is grossly unfair and it's been unfair for a long, long time. So if we could get rid of that that would have to transform military compensation. Doesn't matter whether they go to one act or whatever, get rid of that and you solve an enormous amount of problems and complexity and if we put old DVA at (indistinct) trying to manage these claims because, at the end of the day, people need to understand the more generous standard of proof beyond reasonable doubt – the Department has to prove that their claim is false and they don't have the evidence a lot of

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the time to do it. So if you wonder why it takes so long, DVA just can't do it. They haven't got the evidence.

The other big, damming thing that's come out of your report about this compensation scheme which doesn't make it; he actually says, "It's not a compensation scheme at all, it's actually a retirement income scheme", on your figures, only 2.4 per cent of claims result from a notifiable injury. Now, that would not happen in any workers' compensation scheme. If you can't prove that your accident happened at work and there's a report there and treatment and rehabilitation there and then on the spot, the claim wouldn't get up.

The other damming feature of it is that it takes 16 years on average for a claim to be made. That's not compensation rehabilitation; that's income support. I think that's true and simple and they're the facts of the matter. Doesn't matter what all the politics are, what all the sentimentality is; that's all nice and wonderful but, at the end of the day, if you're running a compensation scheme that's publicly funded, there's got to be some discipline in it and there's not; there's no discipline.

The other thing I say there are less than 50,000 people in employment in this industry at present on a daily basis. Their average length of service is nine years, on your figures. That barely justifies having a scheme like this, let alone the health and welfare tale which goes on for years and it's for the rest of their lives, in parallel with public schemes, including the NDIS which, you know, potentially is wonderful for people like this.

We streamlined the hospitals by getting rid of them which was a great hit. People said all the same things, "Oh, we can't get rid of the hospitals." It was a great hit because fellas could go to their local hospital, they didn't have to go the repat. They got better treatment, more locally available and it was terrific. There's no reason you can't do that with a lot of other services, if you ask me, if we only had a look. Home and community care is a classic example for veterans who are in care. They are the same thing; differently funded, differently managed with different systems. In public terms it's nonsense, you can't afford to do that.

Ian (indistinct) made some point about Britain, they went down this track a long time ago. They grandfathered their current schemes and said, "If you have a claim, you've got five years to make a claim. If you make a claim after that for worsening conditions, you're reconsidered under the new scheme and that's it. We'll make a final payment there and then you're off to the national health system or you're off to your local government for housing, you're off to some other streaming service." Very hard and tough but it works and no sporting injuries allowed either, by the way.

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So I think we need to come back to a lot of those basic things. Beyond that, Commissioners, I don't think I can add anymore. I recognise though in saying all those things I'm a heretic and you can throw bricks and fruit at me if you like, ladies and gentlemen, but at some stage there's got to be a rational look at this because governments are looking for answers and it seems to me though, the policies and the politics are so closely interwoven that you can struggle to find your way through them and I think that's exactly what we're hearing listening to the previous witnesses, exactly where we are. I think we'll move to put the DVA into Defence, in a crude sense, it's absolutely right. Defence has to take responsibility for its people and you can't have another organisation just to duck shove to unless they have it here.

So for years, if you had, for example, some bad behaviour; a person's playing up whether he's being bastardised or not - it might be worth looking at some of the evidence of the old Foreign Affairs Defence and Trade Committee on military justice, by the way – the abuse and the treatment of personnel brought forward in that is absolutely amazing and medical discharge was the key way of getting rid of bad behaviour and people. In fact the Hoddle Street murderer was serially bastardised and turned out, killing 20 people and he's still in gaol. That's the sort of thing that can happen through absolutely appalling practices on discharge. I don't know whether it still goes on today. I certainly hope not. But having said that, heretic that I am, I'm happy to answer your questions.

COMMISSIONER FITZGERALD: Thank you very much, Peter. Your submission is unusual for the reasons you've (indistinct) indicated. But I'd like to go through a couple of things because you have a history of change. So let me go back; if I can deal with one issue.

You heard right throughout that we've made a recommendation that policy, not the whole scheme, should go to Defence and you'll also be aware that most people don't think that's appropriate. But I was wondering in support of it, you think that that's an appropriate place. Why do you think there's such concern, and I think it is legitimate concern, of putting Defence in charge of policy in relation to the Veterans' Affairs area?

MR REECE: I think I expressed some concern about that though for different reasons.

COMMISSIONER FITZGERALD: Yes, well, please - - -

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MR REECE: I think that policy and administration should be separate things as this is a bureaucratic argument (indistinct words) indicates whether policy and administration should be together or apart because policy is fed by administration; that feedback is very important. That's what you have in DVA at present, although I must say in my experience, there's not much policy there, it's very thin. It's large in operation (indistinct). If you were to be very serious about compensation policy at the commonwealth level, you'd have it in workplace relations and employment, where it sits for all other commonwealth employees and that wouldn't be a bad thing because compensation – there's comp and rehab – they're just exactly what they are. They are practical models, every-day models and the SCRA works. It works to the extent that other industries in Australia want to join it. There was a controversy once about whether the transport industry or some other states or whatever could join SRCA. So I think there's a nice little argument about that. My worry that I expressed about policy was that it's like giving the cat the keys to the canary cage for Defence. But the reverse to that is, of course, it makes them responsible for the expenditure and they've got to be accountable for the expenditure they make; you injure them, you break them, you fix them. That's the policy and it's not there at present because they just waltz them all off to DVA and wash their hands of them and why you have this terrible trouble in transition where Defence don't want to know about them and I think that's terrible, particularly if the 2.4 per cent are actually notifying their claims that's appalling. It's just the business about concealing injuries. It is nobody's interest except theirs because they can keep their allowances. So if you hurt yourself on board ship and you were flown ashore, you lose all your see-going allowance (indistinct) you're not going to admit that and you're injured will not get treated, it will not be rehabilitated. You will get worse, your compensation will be higher and so it goes. I think that's a nonsense. Whether the function can be split in Defence, say the policies in say the personnel area with other personnel things, to do with pay and conditions that might be an option. But it has to be separate from the claims administration, as does healthcare. Healthcare and compensation should run together and they don't in DVA, by the way. They're two separate silos, always have been.

COMMISSIONER FITZGERALD: So just in relation to the thing, I think we are quite weathered to the view that policy and administration should be separate and, in fact, that's standard government policy right across Australia at all levels. Smaller jurisdictions it tends not to happen, but in larger jurisdictions that's the way to go forward.

We did look at alternatives to put a policy in Defence and we did look at your suggestion. But in the end our view was, for the second argument that you put, that we saw a continuity, a consistency in policy between the

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way you manage personnel in service and the consequences of injury or illness flowing through and - - -

MR REECE: I can live with that.

COMMISSIONER FITZGERALD: Nevertheless, as I said, it's not warmly received. But one of the reasons for that, if I can put it, is that there is a strong view and it's been exhibited by people in Defence that the main job of Defence is deployment to war-like circumstances or war and that this is a misfit; that it just does not fit within the priorities of Defence. Now, I have to say that's come back to us over and over again, formally and informally.

MR REECE: It's a hairy old chestnut. They run that up the flag pole every time and the great contradiction is this that at the platoon, the command level actually do care for their men. They will not send men into danger without good cause. They do and are trained to look after their men and so, in terms of healthcare and those sorts of things, they are a family and you get to the senior level and they don't want to know about it, they don't want to know about OH&S. It should go down to the platoon level. He's responsible for caring for his men. That's where the medical reports should be made. That's where the treatment should happen. So if you're told to jump out of a truck with a 50 kilo ground pack on your back that is stupid. If you send someone out into a 45-degree heat in the Northern Territory on an exercise – there have been two deaths in my knowledge and one quite recently – where's the accountability? They inquire into the inquiry, they inquire into that inquiry and, eventually, they say, "Oh, we've change our procedures, oh, but, sorry. The boy's dead." You see, this is what happens. They don't care up there. They're about fighting battles and it is absolutely stupid and I mean war stories and the history of war is about commanders caring for their men and they cry when they lose them. Why doesn't that translate to head office? It doesn't. The (indistinct) is people in Defence have always been strangled by this lack of interest up top and they say, "Oh, we don't want to deal with this stuff. We are not – there's too much babysitting, too much paperwork, all of this. "We're soldiers. We're tough. We can take it." It's a nonsense, it's a nonsense. If you're in the public service and a manager ignore the OH&S procedures, he'd be in trouble. Not in Defence, they get away with it; it's a furphy, it's an absolute nonsense.

COMMISSIONER FITZGERALD: One of the recommendations we have is the imposition of a premium of some description and, as you know, there's a notional premium raise and it has been raised for some time, although most people don't know about it, even though it is public in some way.

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We don't over sell the benefits of the premium, but we think it is important, both, in terms of providing an additional incentive to reduce preventable injury, but also as a much better way of funding a scheme, at least in part. I was wondering whether you think that is a positive initiative or you think it will have no effect on - - -

MR REECE: Absolutely. At the injury level, putting it right back to the local command at the platoon level or company level or whatever that feedback is essential and you say to him, "You made all those fellas jump out of those trucks with 30 kilogram packs on their back. We've got five knee injuries, four ankle injuries." These musculoskeletal injuries in the armies are the biggest proportion of all OH&S injuries. It is enormously costly.

You must make those commanders aware of what they're doing. If I'm going to tell my fellas to jump out of a truck with that pack on their back, there are going to be consequences on this end and they should pay. There should be a premium split up right down the line to them. That's immediate feedback to OH&S people and say, "Why are we having so many knee and ankle injuries in the army?" and make them have a look at it and I think they do, by the way, I think they do. I think this is filtering through.

COMMISSIONER FITZGERALD: Sure.

MR REECE: I think the premium at that level for compensation and rehabilitation is definitely there. Where I struggle is with the health and welfare tail out the end which is as long as a piece of string. I don't know how you actually come to grips with that in a business model because it is massive. I don't know what the health budget is in DVA which probably (indistinct).

COMMISSIONER FITZGERALD: I can tell you. It's just over 5 billion.

MR REECE: Over 5 billion?

COMMISSIONER FITZGERALD: Around.

MR REECE: Well, there you are and the compensation one is four, four and a half billion or something or other.

COMMISSIONER FITZGERALD: Something like that.

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MR REECE: Yes, well, so there's income support in that too.

COMMISSIONER FITZGERALD: The total is 13 billion.

5 **MR REECE:** Whatever; I find that hard in the business model to cope with the premium on those sorts of things. But, then again, the discipline applies if the Defence are responsible for paying for that they might actually pay some attention to it. They always expressed great concern about the entitlement mentality in Defence. They've got a pile of
10 allowances that high. You can even get an allowance for shifting your cat. I mean this is – and they are concerned about this predominance of people's concern and interest in exploiting their allowances. That's a game, they do it. If they fly to America, they'd work out they could stopover in Honolulu for two days, "Well, let's do it. Everyone else does
15 it." That's the culture and my point is, if you make Defence manage that financial cost, it would – people would otherwise – DVA – it's all out the backend.

COMMISSIONER FITZGERALD: Sure. Sir, can I just deal with two
20 things and Richard will have some questions? I want to deal with this issue; your proposition is, I'm not quite sure to what extent, but you don't believe that there necessarily should be a military or veterans separate compensation scheme.

25 **MR REECE:** Well, in pure terms, no. But I accept the realities that it's a political reality you've got to deal with. Other countries have got one, we've got to have one.

COMMISSIONER FITZGERALD: Sure.

30

MR REECE: But provided it's simple, provided that it's strictly administered, there are proper processes of discipline in the claims process, I don't have a problem with it and MRCA, if it was a modern worker's compensation scheme, would be fine, but it's not. It's an
35 amalgam of a whole lot of rubbish out of VEA.

COMMISSIONER FITZGERALD: So just can I take that second point which you've led me directly to it. You describe it as VEA and, I presume as MRCA and others, has been an unfair system. We've identified certain
40 elements of that and I think some veterans have also identified it, but everybody's fairness is different and everybody's version of what is equitable is different. But can I understand, what do you think the most unfair aspects of the scheme are right at the moment?

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MR REECE: Well, the biggest one is the differential end values of, if you like, the scale of (indistinct) if you might call it are that someone who does injury to their knee (indistinct) gets twice the compensation than someone who falls of their chair and does exactly the same injury at Russell Hill and that's stupid. An injury is an injury, I agree with that philosophy. The problem is you've got to get risk out of the system and risk gets paid for and allowances and that's where you come into in your draft report very strongly. If you're consistent with that you've got to follow it through, it's got consequences and that is – if you remove that you have suddenly simplified the system and (indistinct words) people out there who will suddenly understand it, will stop this crazy drive to have (indistinct words) or somewhere upgraded because, "Oh, it was very dangerous," well, rubbish it was dangerous. The blokes in Bekoff in Japan thought it was dangerous. It wasn't. They had someone fire some bullets at them once. The blokes at Baralingara thought it was dangerous. So it wasn't - it was a different sort of danger and that's all been accepted now, despite the Royal Commission, they're now getting benefits for what they were exposed to. That's a danger of a different kind too.

But if you remove those risks adding to allowance then you simplify the system – give the claim assessors – "Oh, well, here's a claim. All the facts are there." I've got to prove this on the balance of probabilities, yes, or no, bang, done, and the injury's reported; it was treated; it was rehabilitated and this is where we are, it doesn't matter how far down the track you are that would simply the system enormously.

COMMISSIONER FITZGERALD: But related to that, can I ask just one point then, Richard – you made a comment – just correct me if I'm wrong – about the British system having a cut-off for the old scheme.

MR REECE: I think so. My memories (indistinct).

COMMISSIONER FITZGERALD: Yes, that's fine and I think you're right. There was a significant cut-off and part of the – and you now have to access national health service. In New Zealand, except there in relation to if it's war-related injuries, you access their national system as well.

But putting that aside, you made another comment and, correct me if I'm wrong, that if you haven't reported an injury and put in a claim within a period of time at X number of years, you don't believe that anything after that is actually compensation. You think that's just income support. Can you just give me the rationale behind that view?

MR REECE: Well, the typical OH&S compensation regime is you're injured at work. You report the injury. You go to the health facility.

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They treat you. If it's serious, you get rehabilitation. It's reported. It's on your file. That's a legitimate claim. You suffered some injury.

COMMISSIONER FITZGERALD: Yes.

5

MR REECE: If it comes down the track 12 months later and say, "I've got a sore back, oh, I did that at such and such." Where's the evidence for that? You know, we get these claims all the time in DVA. The fella, the veteran who was cutting down a tree in northern New South Wales and

10 couldn't get out of the way quick enough and fell down and hit him and he blamed his war service on him not being able to move fast enough.

There's an attitude out there that this is due to my service. Well, who knows? It's a lottery. You know, some of them probably are legitimate.

15 The SoPs give you an actual (indistinct) and say, "Oh, I slept on wet ground in New Guinea for three nights and I got spondylitis." Well, the SoP will tell you, sleeping on wet ground, you have to do it for three weeks, sorry. There is now some science behind it but I think it just gets a bit suspicious. It is on the border of being fraudulent. But that's the name

20 of the game I'm afraid. That's the culture that's round it. But I'm not saying that there aren't a lot of legitimate cases where people have got - - -

COMMISSIONER FITZGERALD: Sure.

25 **MR REECE:** - - - have got the – in the course, but there are lots of people trying it on. It's (indistinct) bats and all those sorts of things. If the government runs a program there are going to be people in there to exploit, don't you worry about it.

30 **COMMISSIONER SPENCER:** Peter, thanks for that. You're very direct and clear in your written word, so that's good. Thank you.

MR REECE: One chance.

35 **COMMISSIONER SPENCER:** Thanks for that. Very clear messages. So, just a couple of quick ones. You've referenced the UK situation. We did look at overseas models and it did strike us how different they are. You've made a particular comment about the US model where there is more of an insurance model and there's an option to purchase higher levels

40 of cover.

MR REECE: And you can here too, I think.

COMMISSIONER SPENCER: Really? Is that possible?

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MR REECE: Yes. There was a scheme, I've forgotten the fellow's name. Big Queensland guy, Ken. He worked for some time with Defence when I was at that level whereby a commercial insurance was available for a premium and Defence subsidised it, and you could choose ten, 20, 30, whatever you wanted you could choose for a very modest payment on the day of your embarkation. So if you didn't think your coverage was sufficient, you could – you could increase it, personally, that was your choice.

COMMISSIONER SPENCER: Okay.

MR REECE: I don't know what happened to that.

COMMISSIONER SPENCER: Right.

MR REECE: But it seems to be – me, to be an imminently sensible model and I think that's the way the American model works where the government insures the whole thing, and I think it's actually run by Prudential, I'm not too sure.

COMMISSIONER SPENCER: Okay.

MR REECE: And it's an insurance model, and every GI or whoever out there can take an extra package if they want to.

COMMISSIONER SPENCER: Right.

MR REECE: At minimum cost, and that's their choice.

COMMISSIONER SPENCER: Yes, okay.

MR REECE: And that seems to me to have a lot of attraction in terms of managing premiums but it does rely on that feedback and the processes of claim (indistinct). They've got to be disciplined. Prudential is not going to put up with nonsense.

COMMISSIONER SPENCER: Right. Yes, okay.

MR REECE: So I think that's an avenue to be explored which I don't think your report does.

COMMISSIONER SPENCER: No, we have an information request around that but we haven't heard a lot, I have to say, so – no, thanks for that comment, we'll take a look at that.

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MR REECE: I'm sure it's probably history. I think only a few people took it up.

COMMISSIONER SPENCER: Yes.

MR REECE: But they don't – most people who get sent away I'm afraid think they're bulletproof. This is a fallacy and they go for the $200 a day, and you know the HSV ute out of the General Motors dealer at Townsville does great business with all these young guys, and they keep going back and back and back because it's great money, and so what will they worry about taking out extra insurance because the injury rate overseas has actually been very low and thank goodness.

COMMISSIONER SPENCER: Yes. Peter, just another comment. You haven't held back on the Gold Card.

MR REECE: Look, the Gold Card started as a rationalisation exercise with all these cards, they were pink, they were purple, white, yellow, for all these different people and they decided to wrap them all up together and get to two cards, a White Card for treatment for acceptable – accepted injuries and the Gold Card for everybody else provided you had qualified service of course for widows and so on. And that was very generous at the time, but it's actually bred hypochondria. Doctors have signs outside their door saying "Gold Card welcome", and I think it's become an extravagance.

I don't know what the annual cost of a Gold Card is now. It's probably $25,000 but I don't know.

COMMISSIONER FITZGERALD: The Secretary this morning indicated a figure roughly around that.

MR REECE: Well, good guess. Because when I was there it was 20,000.

COMMISSIONER FITZGERALD: It's around that.

MR REECE: And my view was that why wouldn't you get to some privately insured model like top cover in Medibank Private or whatever and whether – and in some cases you've got to have a – you know, a contribution that puts some control on it where you can manage it better in terms of the – some discipline into the system.

COMMISSIONER FITZGERALD: Right.

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MR REECE: But I think it's become a political football now. Everybody is working towards the Gold Card, because you get old and over 65, I can tell you medical costs suddenly rocket. I had surgery a few years ago and it was $55,000, the cost of my surgery. People can't cope with that. I was privately insured, thank goodness, and that's why I am. So I mean with a Gold Card, they want a day out, doctors (indistinct words), let's go and have a talk to him, ching ching. So there are lots of problems with the Gold Card to that extent and I - but I don't quite know how you reign it in.

COMMISSIONER SPENCER: Yes. But you made the comment that you – at the end of the paragraph on this, you've said, "So it's just a complete disincentive to get better."

MR REECE: It is. If you pay people more and there's (indistinct) and they haven't got that in action, they'll keep applying until the points rack up and they get there. So if you need – if you need 70 points to get a Gold Card, they'll keep putting in claims for this, that and the other and points rack up, but the whole body – whole person sort of assessment now has probably stopped that. I don't know.

COMMISSIONER SPENCER: Well - - -

MR REECE: I'm a bit rusty.

COMMISSIONER FITZGERALD: Well, that's an issue – the whole person or the individual, you know, condition, yes, we're looking at that at the present time. It's a problem. Any other questions?

COMMISSIONER SPENCER: No, that's (indistinct).

COMMISSIONER FITZGERALD: Peter, we're out of time. I just want to say thank you very much. Thank you for your forthright submission and we value people's opinions and yours is very strong. So thank you again for that.

MR REECE: Well, good luck. I hope the Commission takes this opportunity, it won't come along for a long time and my great fear is Defence, DVA and the government will find this all too hard and just flick it away and that would be tragic. But even if you don't get to a tight rationale as I'm arguing - - -

COMMISSIONER FITZGERALD: Sure.

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MR REECE: - - - there's a lot to be done to simplify this system because those people writing in about their claims don't understand and getting rid of those stupid standards with a – the reverse criminal standard of proof would be an absolute godsend to simplifying the system. It would stop so
5 much bad behaviour. Good luck. Sorry about this, gentlemen.

COMMISSIONER FITZGERALD: Thanks, Peter. So, we've got now a telephone call. Can I just check – Colin, can I just say, can somebody turn on the air conditioning before I expire? That's good. Thanks very
10 much, Peter, that's good.

MR REECE: Okay.

COMMISSIONER FITZGERALD: So we just have a short telephone
15 presentation, and then we'll have a brief break and then we have three final participants. If you would like to make a brief statement at the end of the session, there is time to do that. Richard and I have put back our flights, and if you can see one of our staff at the back of the room, we're hoping to take just some very brief comments right at the end of the day,
20 if you would like to do that on the record. But just see one of our staff during the break.

MR FORDYCE: Hello.

25 **COMMISSIONER FITZGERALD:** Good day. Jack Fordyce, is it?

MR FORDYCE: Yes, yes.

COMMISSIONER FITZGERALD: That's good. It's Robert Fitzgerald
30 and I'm with Commissioner Richard Spencer. So thanks for doing this.

MR FORDYCE: You're very – your sound is very like it's in a barrel.

COMMISSIONER FITZGERALD: Yes, I sometimes feel like that.
35 It's called a shooting barrel.

MR FORDYCE: (Indistinct words).

COMMISSIONER FITZGERALD: I'll speak up but it's a – I don't
40 think I can do anything about the barrel, it's the sound system in this room. Jack, can you give your full name for the record.

MR FORDYCE: Jack Fordyce, F-o-r-d-y-c-e.

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COMMISSIONER FITZGERALD: Thank you, and I understand you want to make a short presentation, so over to you.

MR FORDYCE: Now, you've got my other submission?

COMMISSIONER FITZGERALD: I do, yes.

MR FORDYCE: Now, that all concerns our problem with getting any benefits for the 36 Squadron veterans because the flight authorisation books, the legal record of everybody's flight and every aeroplane and every destination has not been available to researchers or DVA or Defence, and just – so veterans haven't had – the 36 Squadron veterans have not had the availability as other veterans have had.

COMMISSIONER FITZGERALD: And, Jack, do you want to make any further reference or do you want me to ask some questions?

MR FORDYCE: Well, I've written something out here but it might be a bit long. What we – what we need is recognition of the extent of our service because that has never been properly accounted for. We have our air crew log books, which were – we tried to put in submissions before and they wouldn't accept the way that the log books were presented. Now, we need is (1) recognition of our service, the extent of it, (2) an understanding of the lone Hercules crew, which is a five man crew, away from base, and if you took ill the aircraft could be held up until a replacement crew member was obtained from Richmond.

So, the thing is that you didn't go sick. You might have been able to attend a local doctor if you stayed there long enough but – and on a lot of occasions you just battled on with what the problem was and – but they won't believe you because there is no record of it. That's DVA. And (3) we want an acknowledgement of the service through the tense Sumatra corridor, which nobody sort of believes there was any tenseness there. And we want – (4) is an appreciation to the members for dedicated duty in continuing to operate the aircraft on long over water crossings for 11 months with no life raft.

Nobody has ever congratulated, said thank you or anything else. We did that without the knowledge of our passengers. If we'd come down and ditched the passengers would expect to get into a life raft which wasn't there, and that's including senior offices and Medivacs and all – 11 months of it, and regarding flight authorisation books, I have been complaining since 1967 that the information wasn't there, and just recently on 1 May 2018 I received a letter from the office of – office of the Honourable Darren Chester MP, after writing to him.

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He addressed me expressing, "I am concerned to hear that some 36 Squadron veterans have experienced difficulties in verifying their eligible service with Department of Veterans' Affairs without access to the flight authorisation books from the 1960s. I have been advised that in response to your letter, Air Force contacted the DVA principal medical officer, Dr Ian Gardner, who in turn has been in contact with you." But I didn't realise what he was talking about, he didn't mention the letter from (indistinct words).

"And I am pleased to advise you that DVA no longer requires flight authorisation books in order for veterans to establish their claim for operational service." That was dated 6 April 2018. Since then I have not been approached by DVA or anybody else to re-put in a claim or anything, and I think all our members should be notified that that is – they can reapply and they don't have to wait on the flight authorisation books. Now, we – what we want is the stages that I just read to you to be satisfied and the claimants should be notified by DVA to try again.

These families also deserve – the families also deserve some reparation for their lost decades of benefits that other servicemen have had automatically, and that's the end of it. Thank you.

COMMISSIONER FITZGERALD: Jack, thanks very much. So, as I understand it, the Minister's letter has dealt with one of those issues. That is that the missing or destroyed flight authorisation books are no longer required. We will draw your submission to the attention of DVA and the fact that you've not heard from them since the Minister's letter of – I think you said, 6 April 2018, sorry? Is that right?

MR FORDYCE: Yes, yes, that's signed letter by Robert Curtin the chief of staff of Mr Darren Chester MP.

COMMISSIONER FITZGERALD: Yes. So, look we'll draw his attention to that. Can I just raise one thing in your letter to us? You said that there were what you've regarded as confrontations in the Indonesian archipelago up there which have never been acknowledged. Is that right?

MR FORDYCE: Yes, we – we carried army personnel and civil police from Malaysia – Malaysia itself across to airfields in Borneo and the Defence department doesn't seem to know about that because these missions were for the British Ministry of Defence and the Malaysian Ministry of Defence I have found out, which we just (indistinct) out orders for, which is what we were told.

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COMMISSIONER FITZGERALD: Okay. Thank you very much. We have enough information to provide that to the DVA, and we'll pass that on. Richard?

5 **COMMISSIONER SPENCER:** Yes – no, no, that's good.

COMMISSIONER FITZGERALD: So thank you very much - - - -

MR FORDYCE: (Indistinct) Defence - Defence department too please.

10

COMMISSIONER FITZGERALD: Yes, we'll organise that for you. So, Jack, thanks very much for making that submission and we're grateful that you've (indistinct words) and give us a written submission and a brief telephone submission as well. So thank you for doing that.

15

MR FORDYCE: And thank you for listening.

COMMISSIONER FITZGERALD: Good, thanks very much, Jack.

20 **MR FORDYCE:** (Indistinct).

COMMISSIONER FITZGERALD: So we'll just break for 10 minutes and then we'll resume.

25

SHORT ADJOURNMENT **[3.15 pm]**

RESUMED **[3.25 pm]**

30

COMMISSIONER FITZGERALD: If you could give both your names in full and the organisation that you represent please.

35 **DR WESTPHALEN:** Doctor Neil Westphalen, the Royal Australasian College of Physicians.

DR HARREX: And Dr Warren Harrex, also from the Royal Australasian College of Physicians.

40

COMMISSIONER FITZGERALD: Good, thank you very much. Thank you very much for your submission and if you could make an opening statement that would be terrific.

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DR HARREX: Good afternoon. We would like to thank you for the opportunity to present to the Commission on behalf of the college. We would firstly like to commend the Productivity Commission for highlighting the usually unseen consequences on individuals which can arise from or following military service. Most illnesses and injuries are not classified as combat-related and hence do not receive a high profile, so thank you for raising that issue. Your inquiry into veterans' compensation and rehabilitation is of particular interest to two groups of specialist physicians within our college, specifically rehabilitation medicine physicians and occupational and environmental medicine physicians. For the benefit of those who don't know, as a broad generalisation rehabilitation medicine physicians are hospital-based, treat people of all ages following illness and injuries and they have a focus on improving the function of these people, especially with the activities of daily living. Occupational and environmental medicine physicians are generally community-based and their role is the prevention, treatment and rehabilitation of people with work-related illnesses and injuries. We also provide specialist advice on suitability for employment for individuals who may have some limitation of function because of their medical or physical conditions.

The college recognises that military service, even in peacetime, is probably one of the most hazardous occupations in Australia and that risks are inevitable. That is why we consider that rehabilitation and compensation cannot be considered in isolation and there is a need to consider work health and safety for veterans as a whole of life systems approach. We note that you are seeking advice on what is best practice in the areas of rehabilitation workers compensation and we believe rehabilitation medicine physicians and occupational medicine specialists have much to offer in this particular area to both ADF and DVA.

We note that many of the areas you have highlighted in your draft report are essentially administrative processes, but we consider specialist advice that can be provided to help design and implement better work health and safety rehabilitation and compensation programs for both ADF and DVA. We consider that improving work health and safety is the most cost-effective approach and, importantly, will reduce the harm on ADF members and have a flow on effect on reducing costs of both treatment and compensation. We consider the return on investment for work health and safety is likely to be substantial.

We have identified a number of areas which we believe could be improved using best practice guidelines. Firstly we note that there is underreporting of workplace illness and injuries in the Australian Defence Force. Best practice indicates not only should there be timely reporting

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but there needs to be ongoing population-based analysis of trends over time to identify reported injuries and illnesses, and this can lead to investigation as to possible causation and hence implementation of preventive measures. We note that many companies in Australia report their work-related illnesses and injury rates in their annual reports and also at their annual general meetings, demonstrating both their concern for their workers' wellbeing as well as reducing costs.

Secondly, we note that the mere reporting of workplace illnesses and injuries is not a substitute for determining the legal liability from a compensation perspective. It is apparent that there are often long delays in veterans submitting claims following a treatment for workplace illnesses and injuries. Accordingly, this inevitably leads to costs and delays. If claims were submitted as soon as possible, as happens in most other organisations, legal liability could be assessed using contemporaneous information, thus significantly reducing both costs and processing times. So best practice would be better reporting of illness and injuries and timely submission of compensation claims in order to determine liability.

With respect to causation in determining compensation we acknowledge that there is often a long interval between exposure and the development of some conditions and some illnesses, and mesothelioma asbestos is a very classic example there. Determining causation under those circumstances can be difficult and we suggest this really requires the skills and knowledge and experience of people who are familiar with the work environment and the associated hazards. Our experience is that specialists who do not have military experience or little knowledge of work environments and conditions are usually poorly equipped to provide such advice.

We also acknowledge that veterans often report that their military service has been one of the most rewarding aspects of their careers. There are many reasons for this but military personnel are highly trained, understand they are an integral part of a team, understand their specific role, feel valued and have a sense of purpose for what they are doing. Often those same rewards and sense of purpose is not there in many other occupations which people encounter after and following their military service. So we consider from a mental health perspective there needs to be significant emphasis on promoting and gaining employment following separation from the Australian Defence Force. The College considers this is probably the most effective way of maintaining the mental health of veterans.

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The evidence is now that employment is in individuals' long-term best interests, as we know that the health of people who are unemployed or who are employed in poor workplaces, so-called toxic workplaces, is worse than those who are employed. This evidence has only come out in the last decade. In particular, unemployment is associated with high rates of suicides in both males and females, and we gave some figures in our report. Promoting employment and improving working conditions are the basis of the College's campaign called the Health Benefits of Good Work. Given the availability today of antidiscrimination legislation, assisted technologies and rehabilitation expertise, there are now excellent opportunities for employability despite the presence of endless significant health issues of individuals. We therefore consider that the disincentives to employability in the current pensions and incapacity payments needs to be addressed.

With respect to the compensation process, the College notes the determinations are usually long and process-driven. We do endorse the statements of principle as being evidence-based and sound. The challenge is relating the factors that is causation to defence service. Apart from initiating a claim, we note there is little guidance available to either claimants or health professionals as to the requirements and process of compensation and there is reliance on using the advocates who often have more experience than many others.

In conclusion, we are willing to elaborate on any areas we have just mentioned or addressed in our written submission. Thank you very much.

COMMISSIONER FITZGERALD: Thank you very much indeed, and your submission is very interesting. You have given us an extensive set of recommendations, both in relation to the ADF and DVA which will be very helpful. Can I just get a clarification, OEP, what does that stand for?

DR HARREX: Occupation Environmental Physicians.

COMMISSIONER FITZGERALD: The recommendations here, if I can just take a couple of them and what you've been talking about. There's a statement in here in relation to ADF rehabilitation, so let's go to the ADF if I can for a moment. We have been intensely interested in the safety regimes within defence and the preventative strategies that have been put in the place. The overwhelming sense is that we have that since 2011 when the Occupational Health and Safety or Workplace Safety Regulations came into force in a very significant way, there was a significant charge in the culture and practices within ADF. But your statement here, and it's particularly in relation to the navy, but it's said, "One of our specialists has advised there's been a threefold increase in the

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number of navy members with medical restrictions and a fourfold increase in those deemed medically unsuitable for deployment since 1996". And your conclusion I think is that you're not as confident as we've been led to believe that there's been an improvement in safety and injury prevention within at least that arm of the service.

So could I ask this just in a general sense. Is it the view of your members that there may not have been a significant improvement in the preventative strategies of ADF?

DR HARREX: I think in the preventative side of things there may well have been some improvements when the legislation come in. Legislation and regulations always improve things. But I said it's again that culture, the conduct of work and the compliance which is an issue. With respect to rehabilitation, I think the military has always done a very good job in treating their people and getting back to work. But I said what we're really saying is it needs to be better reporting, better acknowledgement and better understanding of causation and reduction, and better prevention.

COMMISSIONER FITZGERALD: I get a sense within the ADF, and again I'm paraphrasing, that you don't believe that OEPs, in particular, and the skills and expertise generally of your members are being as well utilised as they should be in the design of those programs, information gathering and then ultimately practice improvement. Would that be right?

DR HARREX: Yes, that's right. In many respects we see our role as being specialist advisors and the analogy we were talking about to other people a few weeks ago, in some ways you know defence are very good at maintaining their aircraft fleets and their shipping over four or five decades, and not many people drive cars that are four decades old. But to do that repair and that maintenance and that scheduling and make sure the proper use of those ships and aircraft, the operators use the expertise of engineers. So we are equivalent to the engineers because we see people from the causation of hazards that they experience, what might go wrong, what can be done to prevent those things happening, treating them, the maintenance and, if you like, the rehabilitation. So we see our role as very similar to the engineers in the big construction of the projects.

COMMISSIONER FITZGERALD: Do you think, and again these are generalised statements, that ADF values that sort of perspective, that sort of expertise, or do you believe that the ADF by and large believes it knows how to manage its own capabilities, including human capabilities?

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DR HARREX: Look, I think there's some very good people in Defence and outstanding people, but there's a very high turnover of senior executives in both DVA and Defence. So trying to maintain that corporate knowledge about a strategic approach to the whole of life, about work health and safety is problematic. So you really do need that advice, and that is why we indicated that in all the good companies and big mining companies occupation and environmental physicians report directly to the very senior management and give that advice, because in other organisations people's wellbeing and costs are a major factor.

COMMISSIONER FITZGERALD: And just to give me an (indistinct) for a moment, some of your recommendations go to OEPs or your practitioners having greater expertise and some of the high levels; for example, a service to work health and safety committees and that sort of stuff, so it's right at the top of influencing.

DR HARREX: Yes.

COMMISSIONER FITZGERALD: Can I just go to a second thing and it's related, but it's in the DVA area. You've got a statement in p.5 which says, "We note that the present DVA has not specified either occupational medicine or military skills, knowledge, experience or training as even desirable criteria when contracting clinical advisors in their compensation sections and rehabilitation".

DR HARREX: Yes.

COMMISSIONER FITZGERALD: Can you just expand a little bit about that and what impact you think the failure to recognise those skills and specialities is having.

DR HARREX: I think there's a perception that anyone with a medical degree can give competent medical advice, and I don't think that's the case. You wouldn't go to a cardiologist if you had a broken leg. So there's horses for courses. And certainly in best practice compensation areas there's a lot of insurers' workers compensation organisations that do employ specialist occupation environmental physicians to give that specialist advice because that reflects their training; they get that knowledge and that experience.

DR WESTPHALEN: If I could just add to Warren's comments there. My background is more to do with the defence side - I have far more experience on the defence side than with DVA, but in a past life I've had 14 years of running health facilities ashore and have had a lot of contractors come through, medical practitioners come through. There's no

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data but anecdotally the - we get some very, very good medical practitioners performing - treating service personnel but in my experience it takes around about 12 months, if they're working full-time, for them to actually get their head around everything that Defence does. If they're part-time it's inversely proportional to how long it takes, and if they're sessionals that come in once or twice a week it's basically - it's unfair on them and it doesn't do the patients any good either.

COMMISSIONER FITZGERALD: Can I just ask a question about outsourcing. Both Defence and, to a lesser degree, DVA are looking at various models of contracting, outsourcing - I think the term is "partnering with" private sector enterprises in the delivery of rehabilitation services, and as you know the defence force has just entered into a contract with Bupa, which is a national contract, and part of that is rehabilitation, although the majority of that is health.

In the commissioning of rehabilitation services by either defence or DVA in particular, what do you think are the most important things to take into account when actually doing that, and is it a good model anyway? We had a roundtable last year talking about rehabilitation and we will be doing some much more extensive work in the final report. But given there is a propensity to contract out rehabilitation services, and that's been happening for some time, are there any particular aspects that should be carefully considered in doing that, from your point of view?

DR WESTPHALEN: I think that the difficulty is that there's been I think round about three or four of these outsourcing contracts have gone through in the last ten years or so. They've all gone to different companies. The bit that people don't seem to realise outside, for those that aren't intimately involved, is that each of those companies are more or less employing exactly the same people, so one contract finishes, they change their tie colour to the different tie colour and they start again on Monday with a different group. The benefits of that is that at least you manage to hang on to that aforementioned expertise that we're talking about. The difficulty with that is that you may have been a civilian working in the defence environment for an extended period of time but it is hand to mouth and it also leads to - the other problem of course is that unless they're actually ex-service people, and similar to what Warren was saying about DVA, you don't actually have to have a service background to be employed, you haven't got that deployment experience to go for. And I think what's happened is that, yes, we've got lots of very, very good medical practitioners but they're learning off people who haven't been themselves deployed and we're now into the fourth federation with newer doctors starting as the older doctors leave, that's leading to an increasing

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amount of people who don’t know what they don’t know, which is not their fault.

COMMISSIONER FITZGERALD: So does the contracting arrangements entered into either by defence and/or DVA, whatever form that takes, does it need to be more prescriptive as to the nature of the expert personnel, the practitioners, in the way that you’ve described; are they just sort of too open ended and it's basically effectively rehabilitation providers? Whereas I gather from your submission you think that that expertise and experience is vital and should be better recognised in the system generally, and the only way that can happen is either through case management and/or through the contract arrangements.

DR HARREX: Yes, that's certainly our recommendation. Certainly for general practitioners, if they see someone with chest pain they'll refer off to a cardiologist. If they see somebody with ongoing stomach pain they'll see a gastroenterologist. But when they come to a work-related injury they don’t refer to anyone. And when we consider the probably high rates of work-related illness and injury in Defence and also in DVA, when you're dealing with compensation, I think this is an omission. This is a serious omission, not having access to that specialist level of service.

COMMISSIONER FITZGERALD: I will cross to Richard in a second, but do you think that is - what drives that? Is it a lack of understanding of the importance of your members and the practitioners that specialise in this area? Is it a cost issue? Is it something else? Why do you think that lack of acceptance, given this is a long-standing issue, rehabilitation has been a central part of these systems for some time.

DR HARREX: I think there's a combination of reasons. Firstly, one of them is that the Faculty of Occupational Physicians and the Rehabilitation Physicians, the numbers aren’t really all that big, so there's a bit of a supply issue as far as that's concerned. But the other issue goes back to people not knowing what they don’t know. I shouldn’t take these personal examples but I will. For example, what reserve work I've done since I left Defence in 2016 has been looking at things like potable water on ships and things like that. The scope of what they think I do is this big, the scope of what I can actually provide, it's very hard to come up with an area of military medicine that occupational medicine does not go into.

As Neil said, it's a lack of awareness of what expertise is out there and it's also because again, as I said before, there's a high turnover of administrative staff and these are - contracting is seen as an administrative process and not really understanding what may be available in the way of

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expertise. I think in your report you talk about ad hoc policy development and again this is reflecting a lack of input I think from specialist services.

COMMISSIONER SPENCER: Just on that last issue, I'm just thinking that if this was where you think it needs to be and most people would agree I'm sure, and the fact that it's not there at the moment, it seems to me if you're really very good in that space, you're highly qualified, you have two drivers: one is, "I want to go where I can make a bit of difference, and I want to be fairly or appropriately remunerated", so a lot of us make those choices in life. So as things stand at the moment you're painting a picture whereas if I had the opportunity to go and work for a major - around, say, a major mining company that is really best practice, really takes this seriously, it goes right to the top level of the organisation and I'm looking at working in the defence area, you're painting a picture here, "That's probably not going to be my first choice". So there's a bit of a chicken and egg here, is there? I mean if you step up the positioning and the importance of this, you're more likely to attract those practitioners that do have the expertise and the knowledge and the skills. Is that a reasonable way to see how people - practitioners would see it?

DR HARREX: I think that's true, but I said you have to define you have a requirement first. At the moment there's no positions available within ADF or DVA where they actually require that skill set.

COMMISSIONER SPENCER: But that would also be true in the outsourcing model wouldn't it, because if you're choosing to be employed in that model and this is the kind of work you're doing, and you're sizing up this against your other options, this may not be the highest option because of some of the limitations you're talking about. Would that be a fair comment?

DR WESTPHALEN: Yes, I think so. The comment I was going to add is that the current career structure for medical officers when they join the defence force is essentially structured around giving them - qualifying them as general practitioners. Your analogy with mining companies is apt. What I would say is that Defence would offer a really good training background for trainees who want to become occupational physicians. That training, once they're through, that expertise can be used within Defence but it also opens up the door to other fields of occupational medicine, such as the ones you're talking about.

COMMISSIONER SPENCER: And you've got to have some experienced people to be able to impart those skills and that experience to a military cohort and make it attractive for them to want to be part of this.

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DR WESTPHALEN: Well again, giving myself as an example, I started my training as an occupational physician in 1999 and at that stage there was no access to occupational physicians within Defence. There were plenty of ex-serving occupational physicians but most of what I was getting was actually occurring through my sitting in with occupational medicine peers.

COMMISSIONER SPENCER: Can I go right back to the beginning of all of this, because we've sometimes heard and I've had some anecdotal feedback about "This person should not have been in service". So there's something about the - and I don't know very much about this and you may or may not have comments about it, but the screening process about who comes into service and the selection of individuals, we have heard comments about "How did this person arrive there?" Now, is there any role for an occupational specialist to be part of the screening process, or is that not relevant or appropriate to actually - and I'm thinking in the best interests obviously of the ADF, you know because once you have that person in service it becomes difficult for them, but it's not in the best interests of the individual either, if they shouldn't have been there in the first place, for a range of reasons. So is there something about screening, right back at the beginning of this whole process that needs to be looked at?

DR HARREX: In general, I think the recruiting process is pretty good because - it's pretty good. If there are clear cut medical conditions, and there is doubt about that, in the recruiting process normally they will go to clinical specialists who have got a military background to get some advice. But certainly specialist occupation environmental physicians do have a role in helping define selection criteria. I think the ADF has pretty robust selection criteria already, so there's probably not a great role there because the current system is not too bad. Like I said, they do use people who have military experience in those grey areas. They certainly is a very significant role in transition for people leaving, to really identify compensable conditions, identify what's going on, document it clearly and effectively, particularly when any compensation claim is raised within defence. There is also a role looking at the injury and accident reporting figures and certainly from a population from a view, expertise in that particular role. So I think there's more benefit in those areas, rather than sort of in recruiting.

DR WESTPHALEN: Just expanding on Warren a little bit. I think that the first thing is that the recruiting processes have developed over the last century and that's part of the reason why they're fairly robust. They are needing to evolve as medical technology changes, that sort of thing there. But Warren's basically right in saying that we do have a role with respect

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to coming up with selection criteria or amending selection criteria as things change but it's not a big one. The other role is providing input regarding an individual's suitability for service over and above whatever the specialist may be required. Doing that you would need, definitely need military experience as well as an occupational physician. So there's that aspect to it.

DR HARREX: No recruiting process is ever going to be perfect. There's always people who are not going to declare pre-existing conditions - - -

DR WESTPHALEN: Sorry, there is one - - -

DR HARREX: Or don't fit in.

DR WESTPHALEN: Sorry Warren, I do apologise. There is one extra thing to point out in that. You're quite right, that people wonder how people got into Defence in the first place. A lot of it is because sometimes it actually happens because what we - and the psychologists who do the assessments as well - we only provide recommendations. The actual decision is still made by the recruiters, and a lot of the time those decisions can be overridden and - so there's a little bit of, you know, we're not entirely surprised when these people subsequently fall over.

COMMISSIONER SPENCER: Right, okay. Look, I'm just interested, as representatives of the College, does the ADF and the DVA reach out to you as the College; do you seek to engage with them? What sort of discussions do you have around all of this? Because at one level you would think this is all absolutely well known, best practice, you've quoted lots of examples. So do you as the College really proactively engage with them, or do they do likewise, or how does that work?

DR HARREX: To be honest, I don't think there really has been any formal discussions at all between the Australian Defence Force or Veterans' Affairs and the College of Physicians in this area at all. Are you aware of anything, Neil?

DR WESTPHALEN: I'm not aware of anything. I think that the contacts that Defence makes goes to individuals within each of the colleges, of surgeons, of ophthalmologists, et cetera et cetera, but in terms of Defence engaging with individual colleges, there's nothing at that particular level. I will say that the contact with our college with respect to the stuff we're talking about today, is zero, I would say. I'm certainly not aware of any contact.

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COMMISSIONER SPENCER: Does that surprise you? Do others reach out to you and are there different sectors that touch upon your professional expertise?

5 **DR HARREX:** Well certainly organisations approach the college looking for names of specialists that they can contact who might be of use. The college doesn't formally go and advertise its role. It puts out lots of policy statements and contributions. It's there as an independent authority body of opinion, if you like. But it's not really there to promote jobs.

10

DR WESTPHALEN: The way to characterise the college by and large is scientific entities with an advocacy role. Not a, for lack of a better way of expressing it, an employment firm for recruitment.

15 **DR HARREX:** Its primary role is training the specialists.

COMMISSIONER SPENCER: Thanks, yes.

COMMISSIONER FITZGERALD: Just following on from that a little
20 bit. The Joint Health Command within the ADF is an exceptionally important part of the system and has an overarching responsibility for health and rehabilitation. Just following on from Richard's comment, I presume from what you've said you don't have a great deal of formal relationship with that organisation. Would that be right?

25

DR HARREX: With the college, no, we don't. Certainly informally that comes up quite a lot.

COMMISSIONER FITZGERALD: Sure. But given the expertise of
30 your college, your members and what you've said today, it would seem to me that there would need to be a much better or closer relationship between your body, or at least your members and that of the Joint Health Command.

35 **DR HARREX:** Yes.

COMMISSIONER FITZGERALD: You have recommended here, you've referred in your statement to the Sea King Board of Inquiry and following that there was an introduction of what's called a "Worthiness
40 Management System". You're suggesting that in relation to personnel, that you establish what you call EMAPs, similar to specialist engineering expertise. Just explain what that is, what is an EMAP?

DR HARREX: Expert Medical Advisory Panels. What we recommend
45 is as a person starts, that's what we'd advise him, do that first up. Get

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some advice initially. And I think this would be beneficial to the Australian Defence Force.

COMMISSIONER FITZGERALD: The second thing is, could I just understand the scope of an OEP. Many of the veterans, both those serving and those that are post-serving have comorbidities, both physical ailments and mental health ailments.

DR HARREX: Yes.

COMMISSIONER FITZGERALD: To what extent does the OEP, the practitioner cover that field, or do you have a clear delineation between physical and mental health?

DR HARREX: No. We are trained to use a bio-social approach, which is the current best practice, and we've been doing that for over 20 years and it's been picked up by a lot of rehab organisations and workers compensation insurers since that. Our (indistinct) good work, which is very much going on not only from physical safety but it's going on to mental health in the workplace as well, covers those particular issues. So our specialists are really taught how to assess and what are the hazards in the workplace and whether they're biological, chemical, physical, psychological or ergonomic. They learn how to monitor those hazards, how to control those hazards, how to protect people, diagnose and treat work-related conditions, including stress-related conditions, and provide rehabilitation and return to work strategies. So that's the breadth of the things we do. And also from a medico-legal and compensation perspective we also know how to assess the degree of impairment and how to provide advice on causation.

DR WESTPHALEN: Another way of expressing it, the shorter way of expressing it is that we're very much about two things. One is the effect that workplaces have on people's health and on – and how people's health affects their ability to work.

COMMISSIONER SPENCER: Well, in a hearing we had last week, a rehabilitation organisation spoke to us about bio psychosocial approaches. And they had developed a particular program and it had been trialled and found to be successful, but they've had almost no take up. And their view was, and I want to just be careful, that the Defence and DVA had no interest in bio psychosocial approaches. And yet, you say this is the common way in which most worker's compensation and other schemes and arrangements operate. Has that been your experience that the ADF or DVA doesn't value this sort of – well, holistic approach or has that not been your experience?

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DR WESTPHALEN: I think the clinicians within the ADF and also the clinical advisors working in DVA, most of them would really have a bio psychosocial approach. Again, it's getting the advice that – the turnover of the executives are getting the corporate knowledge in that this is a good model to actually pursue.

DR HAREX: I think that I'd say it slightly differently. I think there's an interest in a holistic approach to patient care in Defence that it's oriented around primary care by general practitioners, which is not quite the same as what we've been talking about here.

COMMISSIONER FITZGERALD: So just one of the things. There's changes taking place in relation to rehabilitation by DVA, effectively in the middle of the year. There are some changes to the RAP program and I am – I'm not a conversant, but one of them is that after eight sessions with an Allied Health worker, they are required to go back to the GP. And we've heard various views about that. Some positive, some negative. But it goes back to the traditional model that Australia always has, is the GP is at the centre of everything. And I wonder, is – and I don't necessarily, well, I will. Do you have any reflections about that? And there probably are multiple reasons why DVA is doing this and we will look at that. But at first instance, it's a very traditional model that you put the gatekeeper back to the GP and that's what we've done often. But often without very great benefits being delivered.

DR WESTPHALEN: I think it's been government policy for a long time that the entry to the health service is through the GP. Because somebody's got to be able to coordinate all these key – all things.

COMMISSIONER FITZGERALD: Sure.

DR WESTPHALEN: Otherwise, you'd have patients going off and seeing three dermatologists and two orthopaedic surgeons and no one's coordinating the care and they're getting different advice. So that's why I think the GP is really important to coordinate all those additional services.

DR HAREX: With respect to limiting the number of Allied Health services, I suspect this may well be to control over servicing. As I said, in some ways you're penalising the 90 per cent of people doing the right thing or the exceptions. And I think there's probably better ways of targeting the exceptions.

COMMISSIONER FITZGERALD: So if you take that model, let's assume that's introduced and I'm taking a very simplistic approach to the

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reforms, you have these eight sessions, you go back to the GP. In that system, it's really up to the GP to refer to your specialists, is it? Who refers to you? So it's the GP?

5 **DR HAREX:** Yes, normally, it's referrals from the GPs, yes.

COMMISSIONER FITZGERALD: And if DVA in this instance, doesn't have a very proactive case management of those clients and we've been critical of that in our report, where we don't think that case
10 management system is proactive enough, is it likely that a GP will refer to a specialist such as yourself, or is there a lack of knowledge, understanding of the value or even the role that your OEPs can play?

DR HAREX: I think it's the latter, primarily. Yes.
15
DR WESTPHALEN: Yes, you know, I mean, there's – in Australia, it's our only relatively new specialty. Especially of occupational (indistinct) medicine. It's only been part of the faculty within the College of Physicians for just over 20 years.
20
DR HAREX: There's about five or 600 in Australia. There's a lot of registrars being trained. So it's a lack of awareness, I think. And availability sometimes, of specialists.

25 **COMMISSIONER FITZGERALD:** So just in that model that I've put to you, where does the single – where does the change have to come? Is it in the case managers that technically deal with the veteran? Is it in the GPs? Where is it? Where does the system have to most fundamentally change to better access the services of your members where that's
30 warranted?

DR WESTPHALEN: Well, in most organisations, most of the demand comes from the insurers with this compensation agency. So in other words, the case management. When somebody – a good rule of thumb –
35 if someone's not back at work within six weeks, that's really when you need some specialist advice as to what's going on.

COMMISSIONER FITZGERALD: And do you have any view about the case management of rehabilitative services, generally, within Defence
40 and/or DVA? Because we're being quite critical.

DR HAREX: I think Neil and I both have some personal knowledge, but I don't think the College has any particular awareness that we - - -

45 **DR WESTPHALEN:** Yes, yes.

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DR HAREX: - - - can't comment from a College point of view.

COMMISSIONER FITZGERALD: Do you have any insights about how we should improve case management?

DR HAREX: I think if you had – if the administrative staff, the managers, had a requirement to have access to expert medical advisory panels, I think there'd be a change.

DR WESTPHALEN: I think that's the go. I think that if – it would need to be driven from the top down. And I think that what Warren's saying is if you start with the expert medical advisory panel at the senior levels, the requirement for how – to pan this out so that our expertise is used for rehabilitation among other purposes would naturally flow on from that.

DR HAREX: And it'll just (indistinct) over time.

DR WESTPHALEN: Yes.

COMMISSIONER FITZGERALD: Okay. Is there any final comments that you have for us? And again, the submission is very clear.

DR HAREX: We just thank you for the opportunity for hearing our submission.

COMMISSIONER FITZGERALD: Sorry, there is just one question. And I should have asked it earlier. The RACP Health Benefits of Good Work Consensus Statement. I'll look it up, but what in essence, what is the consensus statement?

DR HAREX: The consensus statement is basically that people at work will be treated with respect. They won't be bullied and harassed, if you like, but they'll – if their concerns are taken seriously, it – people will feel some job security. They feel that their work is being valued, instead of being criticised. They're given reasonable workloads to deal with. And in other words, that people feel that they enjoy being at work and they get some value out of it and they feel productive.

So that's, in an essence, so it's very much moving on to dealing with reducing harassment, bullying and those type of negative approaches would work. Encouraging a much more fulfilling workplace. And if you're interested, google did some work for Project Aristotle on the difference between their high performing teams and their lower performing teams. And one of the big factors they found was

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psychological safety. People felt free that they could raise concerns about their work and better ways of doing business without being victimised and bullied and harassed. So that's worthwhile looking (indistinct).

5 **COMMISSIONER FITZGERALD:** So if I could just ask the following question. The statement, the consensus statement as it stands, the one you've just sort of paraphrased. Could it be applied to the ADF or would it need to be modified, having regard to the so-called unique features of military life that we've heard and accept exist?

10

DR WESTPHALEN: I'd have to have a good look at it, but I think in general, it could be applied pretty well.

DR HAREX: I think that – I think that the context is important. But I
15 would suggest that the consensus statement, if anything, would be more relevant to the ADF, because of the challenging nature of what its people are expected to do.

COMMISSIONER FITZGERALD: Okay. Well, we'll look at that.
20 Thank you very much. Did you have any further comments?

COMMISSIONER SPENCER: No, no. That's terrific.

COMMISSIONER FITZGERALD: Thank you very much. That's
25 been very helpful. Thank you. So that's good. And could we have Jim and Ross, I think it is, from the RSL Woden Valley sub-branch, please?

MR GILCHRIST: I'm Jim, and - - -

30 **MR THOMAS:** Ross.

COMMISSIONER FITZGERALD: Good. Have a seat, please.

COMMISSIONER SPENCER: Good, grab a seat. Thank you.

35

COMMISSIONER FITZGERALD: Good. So thank you very much. And Jim and Ross, if you can both give your individual names and the organisation you represent for the record, please.

40 **MR GILCHRIST:** James Gilchrist, president of Woden Valley RSL, sub-branch.

COMMISSIONER FITZGERALD: Good.

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MR THOMAS: Ross Thomas, a pension officer with the RSL sub-branch, the Woden Valley sub-branch.

COMMISSIONER FITZGERALD: All right. Thank you very much.
5 And thank you for your written submission and we have that and we're very grateful for it. And we've obviously had RSL branches or state branches at some of our other hearings and we'll have a few more in the weeks to come. So if you can just give us an opening statement for about 10 minutes or so and then Rich and I will have a bit of a chat.
10

MR GILCHRIST: Thank you. We've been working together. I've been involved with Woden Valley sub-branch for at least the last six years. We were focussed very much on the service delivery to the veteran community which we broadly call Big W Welfare. It's got lots of funny
15 names to it. And that covers a whole range of things. But the two key issues are claims and appeals and then the follow up from entitlements. Once people get their claims and appeals done, we then have to help them through, those who are most needy, we help them through the process of acquiring those services. And that is a through life process. And the more
20 people need services, we are finding the more they need assistance to negotiate those sorts of issues.

The other thing we're finding through that, in a general basis, is that there are younger folk, but there are lots of people who, as they are aging, they
25 are unable to cope with issues. Physical, mental and emotional, that sort of stuff, particularly while they're active. And that would account for a whole bunch of people who have left the military. As they age and various other things kick in, including normal life experiences, that brings back some of the issues including their physical health. They can get sick,
30 family issues and so on. They change jobs and eventually retire. Those then become speed bumps, which will then bring other issues to bear. And it is then, particularly with the mental health issues, if it hasn't affected them before, it is likely to affect them then. And to that end, we are getting quite a few Vietnam veterans who in their late 60s, early 70s
35 who have been negotiating life quite satisfactorily under various forms of difficulty, until they hit this wall of needs and that brings things forward. They are also getting some serious cancers and the like.

In my time, since we've been there, we have developed quite a team to do
40 claims and appeals, because without that, you don't get to the starting gate. The welfare side of things, has grown from what normal sub-branches have normally done, which are hospital visits and mates helping mates. What we now do is help people through that system and things like, I don't know if you know, but once you get over the age of 65, most
45 welfare is controlled through My Age Care. Everything's done online.

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You can't do anything without online. And so there are ACAT assessments or ACAT-like assessments all the way through the process and people who are doing it for the first time who need it have no chance, whatsoever in our opinion of negotiating those systems. So we are now changing into that sort of model.

We also find that when people are coming in to make a claim, it could be for some osteoarthritis, crook leg, crook back, hearing and that's the basic thing. Sometimes it doesn't take much to let – build their trust. And then all of a sudden, they will outline some other more and sinister issue. Particularly in mental health or well-being side of things. That is a building of trust. Sometimes that takes a few visits but even this morning, we had an extraordinary admission from someone who had been seriously bullied through his military career which is something I don't particularly want to talk about at the moment. But it was just something that came up through general conversation. And Ross has been dealing with him for the best part of 12 months.

As far as the report's concerned, we only want to focus on the high level issues. As you know, we submitted a report to the scoping study. We had a good conversation with Mr Cornell and presented our views. And to put it in context, we have dealt with 2000 cases over the last eight years. Our case is any number of conditions a client claims under one legislation. One Act. So it could be three, four, five or six. And you could be two – one or two Acts and eight cases. One of those. We've dealt with 2000 of them, so we believe we've got a substantial number. And as I said, the welfare cases are quite complicated and it's normally at the high end.

In relation to the appointment, sorry, two things I'll make here. A couple of us, myself included, I chair the National Veterans Affairs Committee for the RSL, so I speak from a reasonable degree of experience or interest, if you like, and we have excellent contacts. Our senior welfare officer is now the chair of that committee and he, too, has reasonable contacts. So for various reasons, we have been able to liaise with people and talk with people about issues at a level that is somewhat higher than a sub-branch.

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: To that end, the key points we have is that the compensation and rehabilitation system is satisfactory, it is fit for purpose and like any system, it just needs constant monitoring and amending where appropriate.

And to that end, two things come out of it. Firstly, we don't think the way the report is written actually covers this need for life support. And we

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said that to Mr Cornell as well. Because that's going to be a never ending story. The second thing is, we have been – I've certainly been involved for six years; Ross, for a bit longer, quite a bit longer - the changes that have been applied in DVA under the veteran centric review have been excellent. And particularly the non-liability health care for mental health is an absolute wonder for just about everybody I ever speak to.

And it's amazing what that produces and how helpful it can be. Similarly, the non-liability health care for cancers takes the immediate stress of having to pay for things at a time when you're most vulnerable. So those are brilliant. We also find, you were talking about case managers before and we can pick the phone up with a client liaison unit to talk about people and we talk down the line to the second level of that as well. And again, given the limitations of numbers, and the information that they're allowed to have, we are finding we're getting very good support. And if we're not, we let them know, and things can be addressed.

That said, nothing is perfect. And I'm well aware of the top level of DVA that are working very hard to get that squared away. And we also make the comment that Defence has a prime responsibility of defending the country. I'm sure you've heard this before. I used to - Warren Harrex was my boss at one stage. I wrote policy and doctrine on evacuation policy and the like. And there's a fundamental issue in Defence of treating – looking after its people, broadly called leadership, which varies – and it also means that you treat casualties as far forward as possible with a view to getting them back to work. It's an integrated rehabilitation system.

When they can't work, you evacuate them as rapidly as possible to a position where they can be treated. At some stage, there's a law of diminishing returns and they're taken out of battle. Or in the case of the services, they are actually medically discharged. This is no more or less than what's been happening for years. So – and I've been part of that and I think that's good.

Prime responsibility of Defence is to prosecute or train and prosecute for war. And that note that we've put on the top, "Go forward, looking backward, celebrate the progress we have made, fight for what is right and remember where we came from", is apposite to those two. DVA's been around 100 years. Defence is doing it and there's always room for improvement.

Specifically, some of the legislative areas, they only cover the claims and appeals. There are several areas, particularly in the VEA that could be fixed with a stroke of a pen, particularly in relation to the alone test, the

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age for retirement and stuff around that. And quite seriously, that could be fixed within a week if people were fair dinkum about it. There are others, such as the combining of entitlements or issues under several Acts. And we will talk about this this morning. Particularly under the VEA and the MRCA. And that's going to become more common, but would take a little bit more thinking about. But there would be no reason why a beneficial legislation could not be fiddled with, and I mean fiddled, just a little bit, tweaked, call it what you like to ensure that it is applied beneficially.

The use of the term well-being is another one, which I just was talked about a minute. You can't do well-being in our opinion, you achieve well-being by having a proper state of physical, mental and emotional well-being. And that again, has been a principle of military medicine for years. We apply that when people come in to do claims. Quite often we have to put – help them get into a calm spot before they explain what they're really trying to ask about.

And lastly of the dot points, the family is an integral part of this. The family will be effected by everything the veteran, whether it be a he or a she, comes back home with. Whether it be from war or exercise or anything else. And that family must be part of the – considered part of the potential - potentially part of the problem and part of the solution. And the better you can keep the family together, the better it is and that should – that's why we refer to the veteran community.

The other rather contentious point we put on the bottom. Not all ESOs in our opinion are actually ESOs across the range or type of services they provide. There are some big ones like the RSL and legacy who've got legacy in particular, but specific areas. RSL tends to do straight across the board. Vietnam vets do straight across the board but some of the others have specific focus.

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: That said, they seem to have a disproportionate voice on what is wrong with the system and how to fix it. It's a personal opinion as much as our opinion. And lastly, the transition process, which I didn't record in here is the expansion of that evacuation. At some stage, they have to go, "That is improving" and we're happy to help. Thank you.

COMMISSIONER FITZGERALD: Thank you very much. And again, thanks for the submission. And you've also given us the scoping study's submission and I'll come to that in just a moment.

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Can I deal with just a couple of issues that you've raised? The role of Defence, if I just start there, because it always starts there. The expression – we fully understand that the primary purpose of Defence is to have force capability, ready for deployment and that's its primary role. But in other jurisdictions including New Zealand, the Defence department actually looks after Veterans policy, not administration, and so it seems to us interesting that in Australia, Defence is very narrowly defined. And veterans such as yourself and others have said that and so have people in Defence.

Whereas we had a view that Defence should be responsible for the impacts of the service that the personnel undertake. And at the moment, it's hit the door, out you go and it doesn't have any responsibility. Younger veterans are saying to us that's not the deal we signed up for. We said, Defence has a responsibility for the well-being, welfare of its defence personnel. We think they're completely compatible. Good capability of personnel is essential to good preparation for deployment or war.

So I'm just wondering. I understand that most people have said to us they don't approve of our recommendation of putting policy into Defence. We've heard that from many people and I'm sure that's what you're saying to us as well. But I just want to understand now. I just want to flesh this out, given your experience. Is it right that Defence in Australia should take a very strict approach to its role? Whereas we would actually think being very attentive to the well-being of its service personnel and acknowledging the impacts that service has is part of the Defence responsibility. Not in total, obviously, as you said, they've got to stop at some point. But we are struck by this very, very tightly framed mission statement of Defence in Australia.

MR GILCHRIST: Well, I've served from 1967 through to 1998 and subsequently been involved, so I covered quite a – a (indistinct) I have never served on operations, but I've dealt very closely with people who have. First thing I would say is leadership is supposed to be an inherent part of defence service and that's looking after your men. I'm not sure if you know that morale is one of the three factors of combat power. Morale is served by exactly what you're talking about. Including the evacuation policy.

And that's inherent in things. And they were talking about the GP before. We convert a GP who joins the military into a medical officer. So the medical officer can apply the medical training into a military environment regardless of what that is. So that's critical. The leaders are supposed to then work as a triumvirate at various levels. With the chaplains, the

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medical officer and the commanding officers. If you take that as a basis, they do their best. That said, if they are required to prosecute something, in war, there is no plan B, so they have to keep doing it. You can't just stop doing it. So that would be – you go backwards from that. There are training exercises and activity that try to simulate that. And by all means things can get a little bit untidy there.

Now, that said, I was taught a long time ago, the US Marine Corps has an example, I think, of what you are saying. In that it – from the moment you're accepted as a marine, your discharge plan starts. Now, there would be fundamentally no reason why that couldn't occur and it's regardless of why you're discharged or when you're discharged. So that's – you were a marine for life.

So that shouldn't be difficult. The difficulty is Defence never has enough resources in my opinion and others would share it to do what they were asked to do. If you're asking that they then resource any of that, that becomes difficult. If you're talking about setting a policy that someone else can do, theoretically, that's what we did, with the Repatriation Commission and now DVA. So as long as that link is done, and tidied, you're suggesting.

COMMISSIONER FITZGERALD: So one of the recommendations which doesn't seem too contentious by most people – I'm sure there are some that don't agree it is our – our proposal that Defence takes a greater role in transition for a period of time, a short period of time. And that's an extension of what they're doing. And transition is the biggest issue that has been raised by contemporary veterans to us throughout this whole inquiry.

So you would have, I would suspect, no objection to that. But in relation to the broader issue of the duty of care that Defence has to those that are transitioning out to being civilians, your view is it that it's correct to keep the role of Defence pretty clear and clean and that the long term well-being of people in civilian life should be moved across reasonably soon after discharge to whatever it is, DVA or something else.

MR GILCHRIST: And to use a common term, Defence is almost out-sourcing that requirement to a place called DVA. And the better they can set up the criteria for that in the spec, which is perhaps the policy that you're alluding to and the better, the more smoothly they can transition that, but I suspect part of the tripping point is defining transition.

COMMISSIONER FITZGERALD: Sure. And we'll do that to the best of our – I must say, that you're – what you just portrayed is a desirable

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outcome, but I'm not sure we're achieving quite that particular model, but that's fine.

Could I just turn to a couple of other issues that you've raised? You've said that our report doesn't deal as appropriately as you think with what you call through life support for veterans. So we have concentrated a fair bit on rehabilitation, and that's rehabilitation back into the work or back into a meaningful life, whichever term. And in Defence's back to duty or, in fact, you know, transitioning out. How do you think our report needs to be improved or changed to give better emphasis to this through life support? Because we agree with that. We have basically said it's about a lifetime commitment to the well-being of veterans and their families. The question and the disputes are about what does that mean and how do you deliver it.

And we've heard lots of comments over the last few days about that. So what do you mean and what do you think we need to do in relation to what you've called through life support?

MR GILCHRIST: I suspect, to take up from what I've said earlier, is to ensure that that approach is as well-resourced as it can be. And rehabilitation does not end the problem.

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: It's like cancer. You don't cure cancer. You don't cure mental health, you don't cure alcoholism. You manage it. So rehabilitation allows you to get to the next step which might be to get a job. It might be to get a job within Defence and they've been doing that for an awfully long time. I can give you plenty of examples of people I've worked for in that regard going back to Korea.

Now, that said, rehabilitation gets you back to a job which is meaningful and is useful within Defence. At some stage, that can't be achieved, therefore the law of diminishing returns means you go out. This is where the transition – how far can Defence go to help you go somewhere else. Some of that somewhere else will be into a deep and meaningful job. Others, by definition, if you're at the far end of the – we'll call it mental health difficulty – which is not only PTSD, you are not fit for another job, in fact, you will continue to harm yourself in any kind of job.

So one of the things that we do as a sub-branch, and there are plenty of others who are replicating this, is to provide support mechanisms, including the camaraderie and what have you. One of the ways we could do that better is if we were resourced better. Now, I'm not here with cap

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in hand, but that would be one example. If people - people then have to be rehabilitated back into the civilian world, and this happens to people who are 40 years, and I asked the question of older folk as they are getting out, including senior officers, "When was the last time you were an adult in the civilian world?" and the answer is ,"Never". And that makes generals' and admirals' jaws drop. We are talking about 20 and 30 year soldiers, sailors and airmen and women who have never been an adult in the civilian world.

COMMISSIONER FITZGERALD: Sure. Yes.

MR GILCHRIST: So that is a part of rehabilitation. How do you do that? So, that's what I'm saying, rehabilitation has got to be carefully managed and defined.

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: And I'm not sure how to answer your question.

COMMISSIONER FITZGERALD: We have an elaborate, complex and difficult system, but nevertheless we have one of compensation for impairment, compensation for inability to work, and we can argue with that. But just taking your point, what is the role therefore of ESOs in this space? But the nub of that question is this, in the final chapter once we've had a review of the Robert Cornell's work, to which you've contributed, we might want to say more about ESOs but the point here is about how governments can leverage off the good efforts and the good work, and the voluntary commitment of ESOs in providing that through life support that you've referred to, so I haven't yet read your submission in relation to Robert Cornell's inquiry, but where do you think the role of ESOs - what's the role of ESOs going forward in relation to the government and what the government should do in order to use those services, if that' s what you think? You may well think that the only role of government is to give an occasional grant here and there. Others think governments should play a more active role. But I'd be keen on your views if any.

MR GILCHRIST: Yes. If you go back to my comment about ESOs and ESOs, there are lots of organisations, if you like, they can be ships, they can be units, they can be Royal Australian Regiments, you know, associations, SAS associations, they have a terrific job to provide an area or a gathering place, a network of people who have been on similar situations and what have you. So that's a mateship. And they can recall, and they can cry, and they can laugh, and they can punch each other, and do all that sort of stuff, so that's mateship.

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If you then take a step forward and actually provide some real welfare support those organisations can help people. War Widows Guild helps people. They in turn get help by Legacy. Without both of those, there are a whole bunch of ladies who would be in deep strife, and they work very closely together, and I suggest they don't get a great deal of support out of government, if that's a part of your question?

COMMISSIONER FITZGERALD: It is.

MR GILCHRIST: If you then go down to what we do, as a sub-branch, and most sub-branches do this, or used to, they do the claims and appeals, then they do the welfare, but it used to be just visiting mates in hospital. We are now going to extend that where we are doing - helping elderly folk and younger folk do their ACAT or ACAT like assessment. That needs resourcing. We haven't got any way to resource that. We don't have any money, and I'm not talking about the RSL, I'm talking about our sub-branch.

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: Now, that would be one way. Grants are not the option because you can't get a fair grant system. That's a statement, opinion rather than anything else.

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: You just can't design it without numbers and numbers won't work.

COMMISSIONER SPENCER: Could I just pursue that a bit further, because one of the other features we see in government services around human services is to be very clear about what services they want to purchase from, what we would describe as the NGO sector, non-government sector. To be very clear about that, we did a review of human services last year in the Productivity Commission and we said that governments should, we described it as stewardship, be very clear about harnessing and leveraging the value of organisations out there that bring terrific resources, volunteer effort, and a role for government is to really be able to sort of, you know, support that.

We also said in our report last year that the contract should be of a long enough period so that the staff who are employed to do those services have continuity of employment, you have continuity of effort, because typically on grant funding you get it for a year or two, and then it goes away, and it's very disruptive, as you would know, in trying to provide a

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service. So as part of our thinking here is, and it goes to what Robert was saying, is everywhere we go we see this terrific resource. I've just been looking through, you know, your description of what you do. I mean, it's a very impressive range of services, and you're constantly trying to work out how to fund that and how to maintain it and the need is greater, I would assume, than resources.

So when we look at this, we think, well, if government should be, we think, investing more in this area, it's not to necessarily fully fund, but just to be clear about what services, who's providing it, and that may go to an issue which you may have been raising earlier. So, who gets funding? I think most of us would agree that the funding should go where it's going to provide right service, right person, right time. So who can provide that? Your organisation, another organisation, but, you know, you tender on that basis.

Is a model like that, moving towards something like that, appealing from your point of view? Dos that give you - can that give you the opportunity to not only continue what you're doing, but to be able to do more of it?

MR GILCHRIST: I'd like to say yes, but I don't know how you'd measure it.

COMMISSIONER SPENCER: Yes.

MR GILCHRIST: And I don't know how you'd compare what we do with what the Vietnam Vets do over at Page and their VSC on the Northside. And it's just a geographic divide, it's no - - -

COMMISSIONER SPENCER: Sure.

MR GILCHRIST: We share customers. But if you can go back to a couple of points, the importance of the longer term ESOs if you like, and I'm not being precious here, you can rehabilitate someone who's not fit for full-time work or aged - my friend here, who's just had his 80th birthday. We keep him gainfully employed. But quite seriously by providing volunteer options - - -

COMMISSIONER SPENCER: Yes.

MR GILCHRIST: - - -we can provide a safe environment for people to work in an environment with which they are familiar with, people with whom they are familiar and can relate to so they have an empathy that you can't teach and you can't learn. So you'll get out of the military, you can talk to someone, it doesn't matter what service you're in, and you're more

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likely to pick up more quickly on something than someone off the street.

If you start to get a bit flapped I can - well, we can manage you down a bit in various ways by managing your work load and having other peer to peer support. So we're giving you something to do and it's part of the rehabilitation process as we would define it. Not only that we're more likely to get a better outcome from the client more quickly and more confidence because trust is the bit that's important, particularly if they've been discharged medically unfit or something untoward has happened, and a lot of them have seen and done some really nasty things as part of their job, and that's something you can't do other than - so, through that sort of thing, we could use - you know, if DVA produces for example a new IT system, we have to go and source IT to keep up with it. That's a practical effect. If they put in training programs, they try to formalise the training for advocates that is creating more grief than we can cope with, and it is frightening people away and we're going to run out of advocates. The choices are very simple, we keep pushing with what we have, which is going to run out pretty soon, he'll be 81 soon, and therefore there will be no-one from the volunteer. Alternatively you bring in some paid staff in which case where do they come from, and how do you measure their performance to make sure you're getting value for money?

COMMISSIONER SPENCER: So what you're reflecting is something you're very conscious of. You can big system change and obviously most of what we're looking at is that system change. But we're conscious of the fact that every veteran is an individual.

MR GILCHRIST: Yes.

COMMISSIONER SPENCER: Their particular issues and problems through the course of their life will change and vary. You and other similar ESOs providing services know better than anybody who at any one time is in need of to be connected to a service, to receive the service, to have some help to have some volunteer support. So once again, you know, I'm just seeking material, we're looking at how that can be brought in as part of the system rather than seeing it as something that sits outside it, because we see a continuum there.

MR GILCHRIST: Yes.

COMMISSIONER SPENCER: And the opportunity at a local level to be able to respond in a way that a government entity can't frankly, because they'll never have the knowledge or the particular view of what you're seeing in your own neighbourhood or region.

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MR GILCHRIST: We were spoiled a little bit because we happen to be in the ACT which happens to be the national capital.

COMMISSIONER SPENCER: Sure.

5

MR GILCHRIST: All the departmental heads are here. We happen to be next-door neighbours to DVA and we were able to talk with them directly and they would pass by and we would talk to them. If we had a course on they could come down and talk with us.

10

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: So that local liaison is absolutely critical because it builds up, Billy Smith, this voice from up there is now standing in front of

15 a classroom. So that's point 1. Point 2 would be I think DVA could be reasonably proactive and work with ESOs to actually conduct some workshops to get the 360 feedback. At the moment again because of our caseload, DVA is referring people and serious cases to us and these are serious. It would make your mind blow, and that again has been built up

20 over trust. DVA attend all the RSL congresses, branch congresses, and they go to Legacy, they'll go to war widows and those sorts of things. If they were able to fund that from other than their own - you know, if somebody could give them some money to that, and we could be - we don't have any money to go to - travel to these things. I'm sorry to sound

25 poor, but that would be useful if that could be facilitated, the same with the training courses.

So those are practical things we could do right now.

30 **COMMISSIONER FITZGERALD:** Can I just ask you a couple of questions arising? The younger veterans are not, at this stage accessing traditional ESOs. Many of them have formed their own around, as you said before, particularly units or other stuff. And so the question we've got is, what is the best way to support younger veterans? And I know the

35 RSL has tried to reach out to younger veterans but – and it may be different in your own sub branch in Canberra here, but universally people are saying they're not joining.

Today we had several people say, "And we don't know how to get to

40 them. We don't know how to support them. We don't know what they need." What we've done is we've actually had round tables on base and so we see that the veteran support scheme needs to meet two entirely different groups. An older veteran, many of whom have had their claims dealt with or having them dealt with. They're part of ESOs like the RSL

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and in a sense whilst, as you rightfully say, both physical and mental health problems are resurfacing, there's a support network.

And then we've got the younger veterans who are saying to us, "We want something very different. We want a different sort of scheme. We want rehabilitation. We want access to work, and we want to be supported in a different way." And we've responded to that in ways that we put in our report. But I'm just worrying about the younger veterans, where do you see the supports coming for younger veterans? Is it clear to you or is it as – you know, lacking clarity as others have said to us.

MR GILCHRIST: It's potentially lacking in clarity because there are confusing messages, and could I clarify at the very beginning contemporary veterans are not younger veterans. Younger veterans are - - -

COMMISSIONER FITZGERALD: Yes, I know what you're saying.

MR GILCHRIST: - - - there is an age bracket.

COMMISSIONER FITZGERALD: Yes.

MR GILCHRIST: Contemporary veterans are up around their 60s and we're dealing with all age.

COMMISSIONER FITZGERALD: Yes.

MR GILCHRIST: To put it into context, at our sub branch we've got ADFA cadets and we've got RMC cadets and I've - - -

COMMISSIONER FITZGERALD: Yes, I understand what you're saying, yes.

MR GILCHRIST: So, we're having no shortage of that. I present - simply again because we're in the ACT, I have presented to RMC and ADFA probably half a dozen times, and that is part of their training– you know, this is what's available. You will be potential leaders, you need to know about this and go and look for it. Secondly, by the way now that you know this you might take advantage of it yourself, we have no shortage of women and we have no shortage of younger folk coming through our door. A lot of them are referred by various people.

MR THOMAS: And they talk amongst themselves.

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MR GILCHRIST: And they talk amongst themselves and they'll bring a mate. Particularly if they're in some kind of – well, down here RMC you would well know is for a holding platoon.

5 **COMMISSIONER FITZGERALD:** Yes.

MR GILCHRIST: One of them comes along – I've had coffee catch ups with them and said this is what we can do for you. We are not getting involved in the military system, but if you would like to register your
10 claim now – the other thing we can – we talk about anything from cocktail parties to formal sessions with the chiefs. So if people in the middle want to get in the way I can say look I'm sorry I've just talked to Chief of Navy, Army or Air Force and they've said - - -

15 **COMMISSIONER FITZGERALD:** Sure.

MR GILCHRIST: They're encouraging you to submit claims. Now, people say they're not allowed to do that. In my day you weren't allowed to do that. The hierarchy are very serious about military personnel
20 submitting claims to get their conditions recognised as soon as practicable after its occurred.

COMMISSIONER FITZGERALD: Okay.

25 **MR GILCHRIST:** But – sorry, and that was the transition programs is the (indistinct) time, with a very serious meaning. Now, we've run rowing programs, which we partnered with Soldier On and the Australian Institute of Sport and ACT rowing. Remount Horsemanship program, are on our distribution list. Those programs are excellent, but all they are is to get
30 you from here to here, which then allows you to go to the next step. None of them are solutions in their own right. You've got to keep going.

COMMISSIONER FITZGERALD: Could I ask a couple of specific questions? Open Arms. You've made a reference here to support for
35 family members and that's a very important area that we've acknowledged. At the moment in relation to their wellbeing, apart from that which is provided by Defence whilst they're spouses or partners are actually in service, the major level of support for family members outside of the ESO community is Open Arms, and one of the things we're trying to get insight
40 into is we've heard from different groups about the benefits that they think they should be entitled to or require.

We've heard, you know, comments about increasing access to a White Card or Gold Card, but putting those aside, we're a bit bereft in relation to
45 what additional services are required by government, delivered through

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ESOs or anybody else, for family members. So apart from Open Arms, are there specific services that are missing that are – would be important for the support of partners, family members and widows?

5 **MR GILCHRIST:** There's an inherent organisation in Defence, it's now called Defence Community Organisation.

COMMISSIONER FITZGERALD: Yes, we're aware of that.

10 **MR GILCHRIST:** Which is fully paid and resourced – well, I suspect it's probably not as well-resourced as it might be.

COMMISSIONER FITZGERALD: No. It's there.

15 **MR GILCHRIST:** It's there. We were actually at the open day and welcome to Canberra thing on Saturday night, and it had no shortage of people coming to be informed. But their job is to look after Defence families while the member or members are in the service. They then transition to other things. In the meantime, as far as I know, partners and
20 children of service members are entitled through their partner, or despite their partner, to go to Open Arms, which is external to Defence.

The other part of that which is important and I'm sure you've been told, if a serving member self refers to Open Arms that's between that person and
25 Open Arms.

COMMISSIONER FITZGERALD: Yes, correct.

MR GILCHRIST: It does not get reported back to Defence. If on the
30 other hand they go to the – through the medical system then that's fair game, it's like – and that hasn't changed. In fact if anything it's got a whole lot better since I used to do it. So those resources are there, how you – the chaplaincy service.

35 **COMMISSIONER FITZGERALD:** Sure.

MR GILCHRIST: And those sorts of things are active. Now, how you encourage people to do that and access it I don't know. One of the big things from Ross' time and my time – a long time ago, we used to live on
40 bases where you had married quarter (indistinct). That's all gone.

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: So you had self-support, the spouses - and normally
45 the women, looked after each other and their children.

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COMMISSIONER FITZGERALD: Is there a service gap once they leave – once they or their partners leave the Defence Force and we've heard that we need to improve transitional arrangements for family members and we've made some recommendations about that, but beyond that once they've been in the community for a little while, are you noticing through your engagement with people that there are gaps in the level of support or services for family members, not benefits but services? It may not be something that's on your particular radar?

MR GILCHRIST: I'm probably a tiny bit dated on that, but we also liaise with Defence Families Australia, who do some good – and I would say some good work, I can't say any more than that. There are Kookaburra Kids.

COMMISSIONER FITZGERALD: Yes.

MR GILCHRIST: There are those sorts of things, which are really doing good work. Kookaburra Kids we liaise with. They – look, spouse employment has improved markedly, you know, the transition between states and the like, those sorts of things. We tried to encourage – at one stage to get spouses to come and work with us in the veteran community, with or without pay because (1) we get the support, (2) we can pass them onto someone else and continue that kind of rolling program. Thirdly, and quite critically they get to understand the system that is available, it's strengths and weaknesses and they can become a better part of the solution, and this is not male or female. This is either.

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: It is mainly female. Those sorts of things are being organised by DCO and to some extent by Open Arms.

COMMISSIONER FITZGERALD: Okay. Thank you very much. Richard, any (indistinct words)?

COMMISSIONER SPENCER: No, that's (indistinct).

COMMISSIONER FITZGERALD: We're out of time gentlemen.

MR GILCHRIST: Yes.

COMMISSIONER FITZGERALD: Is there any final comment you'd like to make? And we've got the benefit of your submissions, so thank you for that.

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MR GILCHRIST: No, just thank you very much, again and I think the – your comments about this being complimentary to Rob Cornell's thing is excellent.

COMMISSIONER FITZGERALD: Well, we were very light on in the discussing ESOs and advocacy because we said that we wouldn't do that until he had the chance to report.

MR GILCHRIST: Yes.

COMMISSIONER FITZGERALD: And so now we can have a look at that, and we hope that the report is made public soon which is out of our control. So, thank you.

MR GILCHRIST: Thank you very much.

COMMISSIONER FITZGERALD: Good. Thank you very much. It's much appreciated.

MR GILCHRIST: Thank you.

COMMISSIONER SPENCER: Thank you so much. Thanks Ross.

COMMISSIONER FITZGERALD: And could we have Connie and Karen, please? By now you know the drill, so that's fine.

Karen and Connie, could you please give your full names and any organisations you're representing today?

MS BIRD: My name's Karen Bird. I'm the mother of a deceased veteran, Jesse Bird, who took his own life in June 2017. I'm here today to support Connie. You have – I've spoken to you on two occasions before.

COMMISSIONER FITZGERALD: Sure.

MS BIRD: I won't reiterate what I've said before. I'm here to support Connie and if you've got any questions you would like to direct to me at the end, please feel free.

COMMISSIONER FITZGERALD: Thank you so much. And Connie could you give your full name for the record, please?

MS BOGLIS: My name's Connie Boglis and I was Jesse Bird's partner for two or so years and I guess I'm here today speaking on my lived

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experience. And it's very different from, I guess, everybody's feedback to you today. In that my lived experience touched on a lot of everybody's content and discussion. You've obviously been sent my submission.

5 So I guess I won't go into the emails at the beginning, but I guess I wanted to just touch on parts of my relationship with Jesse and my experience with VVCS, now Open Arms. Over the course of two years, just to give some background content around Jesse's mental health decline and the lack of acknowledgment around the risk factors and his mental health and
10 that of the psychiatrist and also CSC, so – which was the superannuation.

MS BIRD: And DVA.

MS BOGLIS: Well, absolutely. And DVA, as we're all here to discuss.
15 So I mean, shall we maybe start with those emails and, was there any feedback for them or?

COMMISSIONER FITZGERALD: So you've got about, if – 10 to 15 minutes to present whatever points you wanted. So we're in your hands.
20

MS BOGLIS: Yes, okay.

COMMISSIONER FITZGERALD: But we have to keep it to that period and then Richard and I will have a discussion for about another 15
25 minutes. So whatever you want to cover in the first 10 to 15 minutes. And it doesn't matter which order you do it. We've got your submissions so you just raise the points as you feel comfortable.

MS BOGLIS: I won't focus on the emails then, I think, I'll just maybe
30 raise my points and be quick about that and maybe have the conversation.

COMMISSIONER FITZGERALD: Yes. Sure.

MS BOGLIS: So I guess Karen and I have been speaking on this topic
35 and since Jesse took his life on June 27 in 2017, for almost two years now, just around the changes that need to happen as a result of obviously the loss of our partner and son.

And I guess I've shared my story in the space of DVA and in public
40 forums in hope that our lived experience would never happen to another partner and veteran. And I guess I'm really here to speak on the fact that I am what is left of a relationship that broke down due to the fact that the processes and the policies were not in place to support Jesse to then support myself as his carer and his partner.
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And then obviously that the fact that I had to leave that relationship because of the effect on myself. And Jesse's further decline and his risk factors. So, there's been discussions around a single ministry of Defence personnel for veterans to be established. And I think what we've been discussing over a period of time is that Defence's role has really lacked in all of the conversations we've been a part of over the course of the last two years. And we would like to see them, especially, in that transition space, but there is no bridge to actually inform Defence, then to DVA, and that acknowledgment of an individual's wartime exposure or service in Defence. Whatever that might be, whether peace-keeping or not.

And understanding that that transition needs to happen with Defence and thereon. So I'm very much in support of Defence having a role in this. But just like DVA and their need to be a need for obviously an organisational cultural shift, which is absolutely what it is, my fear and my concern, and I think why we still are very present in this space, is that Defence has not been held accountable in that space of their organisational culture, and the way they resource supports, and the way they function and I feel like those conversations need to be met around.

Open Arms now, for example, are functioning in a space after a lot of feedback from us and lived experience forums that they've held over the last few years within DVA. Around the need for peer mentors and these support individuals that are part of the transitional process out of an individual – a veteran's service. And that helping to minimise the barriers that they are faced with. So when I met Jesse, he was out of the military for four or five years, maybe? Two thousand and - - -

MS BIRD: Two and a half years.

MS BOGLIS: Okay.

MS BIRD: Yes. He was working in Nauru.

MS BOGLIS: That's right. And as a civilian, I had no knowledge or understanding of the impact that my partner had gone through. Be it naïve, but I guess, it might also be interesting to note, I'm actually a counsellor and a clinician myself. And my background is case management and risk assessments. So over the course of two years, when I met Jesse, I guess I wasn't aware of what services were available. And especially in Melbourne, it wasn't Townsville that we lived that was very well-resourced. It was in Melbourne, where we knew of two PTSD clinics that were not fit for veterans, it was more so the – long wait lists and specific – I'll get into that. But I guess what I'm trying to say is that we didn't – we didn't have any avenue to pursue anything other than

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advocates through RSL, or VVCS. And so when we went through the process of Jesse having some form of acknowledgment for his war time exposure in Afghanistan, aligned with his mental illness, he was unemployed for the time that we were together, mostly.

And he tried to navigate the system of finding employment through other avenues and other – I guess you'd say meaningful means of employment. So he applied for the AFP, the - - -

MS BIRD: Fire brigade.

MS BOGLIS: Even the police force. And he was denied that process of pursuing any further beyond – and he got to the furthest point until they asked for his medical records or was he taking medication, and in that instant, he was then denied an opportunity for changing careers. And wanting to have a meaningful career and existence where he was still able to help people.

So sorry, I guess I'm kind of going in all kinds of - - -

COMMISSIONER FITZGERALD: No, that's fine.

MS BOGLIS: - - - tangents here. But - - -

MS BIRD: I guess, the impact of military service on families has been under-recognised – the impact of particularly war time service and even any sort of deployment service has been under recognised historically in this nation and the impact on families. And because Jesse was unable to navigate the systems that were in place from when he left the army in 2012, to when he took his life. Because it was so claims based and in their own words, a web to navigate. If you are not in the – it's well known, if you're not in a good mental state, it's very difficult to navigate very much of anything. And the fact that there were so many obstacles in Jesse's way, Connie basically is living proof of what happens when there is a systems failure, because Jesse, as we know, took his life and Connie's hopes for her life going forward were ruined.

We don't need to go back over the same things but I think you've got a very good point in your draft paper that I think the premium on Defence is a very good idea. Because – and I think it probably needs to be the premium that Defence needs to allocate for the aftercare of their – of veterans.

I think they seem to be able to fund their planes and their ships, but their aftercare of their important personnel has – is missing. So - - -

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MS BOGLIS: And I think I might just tie in all these points now, as a result of, I guess, telling you a bit of our story. We needed early intervention. We needed crisis management, we needed case management, we needed all of our individuals from the GP to psychiatrists, the numerous counsellors Jesse and I saw individually and together all speaking the same language and communicating the same information. Documents were lost. Information wasn't available and we needed it to be consistent. And I guess, I was here for a few of the conversations around Open Arms and other services and supports.

There needs to be an offer of alternative therapeutic interventions. Not just Open Arms counselling in a clinical based setting, nor the PTSD program which is 13 weeks. You know, heavily paper based. And so on and so forth. Not everybody responds to that. If we are talking about DVA transforming and the language transforming, it is about the holistic well-being of an individual's needs. And I need to – to put that out there. And I'm hearing the feedback from the veteran community and partners and veterans that, you know, Jesse was overwhelmed and flooded many times when you'd even see the emblem of a statement that came in the paper that was from DVA for another potential rejection letter. It is the language and it is also that Jesse may have benefited more and – I have two dogs and for us they were his therapy dogs, you know. And they helped when he had moments of anxiety. There's so much research to show equine therapy and art therapy and non-verbal therapy, meditation, all of this has a space and we have the funding. We need to be utilising that as well, alongside peer mentors that can bridge the gap and support individuals to write a resume so that partners like myself are not the cook, the nurse, the you know, the resume writer, the – I was everything but Jesse's partner. And that's the sad thing. I could never step back and just support my partner. My mental health declined. And who was there for me? No one.

So I just want to make that really clear. And you know, hospitals don't have capacity for PTSD clinics, whether DVA, like Liz Cosson said today to us, pay for a private hospital bed. It's still not fit for purpose for an individual and that clinical based setting is not the answer and a whole – you know, there needs to be centres like Oasis and all these spaces that are holistic.

When we talk about the psychiatrists, I push this point every time, and we had psychiatrists who were specifically trained for over 40 years to respond to veteran's needs specifically and paid by DVA and you know, their fees were ranging from all kinds of hundreds of dollars and I think

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that needs to be – I think there needs to be a set rehabilitation fee for things like that.

But I also think that these individuals are probably burnt out and they're isolated as well in the way they function and if they're only seeing veterans, I'm a clinician, if I was seeing only veterans with PTSD for 40 years, I'd be pretty burnt out, too. My concern is that psychiatrists are trained to know the brain and to study the anatomy of the brain, yet two veterans that go in to see the same psychiatric are medicated the same. Yet they function differently. Their brains are completely different. So my concern on a pharmaceutical level, on a psychiatrist, GP – we are medicating our veterans as a society. We are not offering alternative treatments.

The reason I fell in love with Jesse, because he had emotions and he cared. I lost him two years later. I lost him to being numb of emotion, because he was heavily medicated and that was the answer. That was the outcome for him for the rest of his and our life. The symptoms that come from someone being medicated like that, and Jesse did not need to be medicated. He needed to be rehabilitated the right way (indistinct) what he needed.

They are not listening to the individual and they are treating veterans like an insurance claim. It's not about that. It's about the person. Sorry.

COMMISSIONER FITZGERALD: (Indistinct) reading out just a couple of points and then we might just have a conversation? Because we have your paper in front of us and it's very helpful.

MS BOGLIS: I think just that we also need to be – DVA and Defence needs to be really clear with their statistics and I think that needs to be part of the conversations, moving forward, I think that's something that they need to highlight, you know, what is the feedback, what is the data, what is the statistics on mental health recovery and how they're progressing. Because it is a cultural shift and there's no trust within the veteran community along the – around these changes.

And I guess my final statement is if all these supports were in place for us, what if?

COMMISSIONER FITZGERALD: Yes. Thank you very much, Connie and thanks, Karen, again. Can I just go back a little bit? Starting with the time before you met Jesse, he was in the service and he transitioned out. Just to clarify again, Karen, he transitioned out voluntarily or under a medical discharge?

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MS BIRD: No, voluntarily.

COMMISSIONER FITZGERALD: Voluntarily.

5

MS BIRD: Into the Reserves, and he was in the Reserves up to his death.

COMMISSIONER FITZGERALD: Yes. And so, one of the issues that people have said to us, well, these transition services are available, but lots
10 of military personnel, young men, won't access them. They're not completely aware of what's about to happen and so even if they've got some sort of mental health issues emerging, while some will go through the system, a lot won't. And I'm just wondering, when you look back on Jesse, is he the sort of character that would have accessed the services had
15 they been available? Or do you think he had that culture of "I'll get through this" and wouldn't have been receptive at that time, the time of discharge, to the sorts of services you say and we think should be available?

20 **MS BIRD:** I suspect in 2019 with the new – the seemingly new approaches that supposedly Defence is now, is offering, I suspect he may have. But back in 2012, no.

COMMISSIONER FITZGERALD: Okay.

25

MS BIRD: Because he did have – he and a couple of his friends had, as I've said before, he wanted to get out of Townsville. He couldn't get anyone to help him with his transfer documents. He decided to leave, have some downtime and thought that eventually he would re-enter with
30 his other two friends into 2RAR.

And he found once he left, how difficult it was to actually get meaningful employment, because a lot of the skills that he thought he had that would be transferable into a meaningful job, actually didn't equate to meaningful
35 work. Of course, back in 2012, 13 was the downturn in the mining industry. So there was less work in that field. He ended up coming to Melbourne and he ended up – we ended up paying for him to do some of the rigging courses and courses that would help him get work with the NBN contractors where a team of his military mates were already
40 working.

So that – he had the idea that he'd work and his mental condition began to deteriorate because he realised – because it wasn't, it didn't turn out to be very meaningful work.

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COMMISSIONER FITZGERALD: And that issue about people coming out of the military even today who had a belief that they had a skill set, that would be readily used by the workforce, suddenly discover that's not the case. And we've heard that over and over again.

MS BIRD: Yes.

COMMISSIONER FITZGERALD: So just going back onto that, Connie or Karen, again, was there anything available at the time when he was looking for work that actually supported him to do that? You said you became the resume writer and you did everything to support.

MS BOGLIS: Yeah.

COMMISSIONER FITZGERALD: And again the question I've got is this. Did he look for that support and couldn't find it or, again, did he try to do it on his own, like so many ex-military blokes and women do.

MS BOGLIS: I'll add on to your first question what Karen said.

COMMISSIONER FITZGERALD: Please.

MS BOGLIS: So for the years of 2000 and probably before I met Jesse, I'm not sure, but for the time that Jesse was with me, he was open to all the services we could find to access, which was not much. Which was a few of the RSL advocates that we'd access for claiming and VVSC.

COMMISSIONER FITZGERALD: In the picture you describe, Connie, I get a sense that both Defence and DVA failed to support him in a way that you think was appropriate. But can I just get into it a little bit here. It seems DVA was concentrating on the benefits. The claims.

MS BOGLIS: Absolutely. The claiming.

COMMISSIONER FITZGERALD: But not necessarily about the wellbeing or the welfare of the individual.

MS BOGLIS: Not the holistic wellness, no.

COMMISSIONER FITZGERALD: And so that seems to strike me at the moment that we've got a system that is so preoccupied with benefits, payments, pensions, Gold cards and other stuff, which we want to hive into a specialised unit, that in fact DVA doesn't even have the time to actually look at that welfare issue. Is that the sort of story that I'm getting from you? Because it sounds like it to me.

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MS BOGLIS: And that's the organisational cultural shift that I'm talking about, that needs to happen away from a system that is structured to function as an insurance claiming - you know, it's not a name, it's a number.

COMMISSIONER FITZGERALD: Sure. And that sort of compensation or insurance scheme is an important part of what they do.

MS BOGLIS: Yes.

COMMISSIONER FITZGERALD: But from what you're saying it's, in your case, in the case of Jesse, a more important function would have been to provide those what we would call welfare or wellbeing supports.

MS BOGLIS: Yeah, and I guess to be clear on that point, I guess what I tried to paint - well not paint, but what happened to us was that if all of these services were in place and all of these supports were in place, that would have minimised his risk factors from wanting to commit suicide, for me having capacity to then support my partner to then access the claiming process and him feeling like he could function and live while going through that process. Those risk factors heightened, no one picked it up and there was that overwhelming helplessness and that's ultimately the concern.

COMMISSIONER FITZGERALD: So can I just clarify this. At the stage prior to his death was he able to access funding through DVA for mental health services? I'm not quite sure whether the White Card wasn't universal.

MS BIRD: He had a White Card.

COMMISSIONER FITZGERALD: He had it.

MS BOGLIS: Yes.

MS BIRD: And he was seeing a psychiatrist and he was - he'd been in and out of VVCS and had had numerous contracted counsellors but there was no continuity, which are raised here numerous times today, lack of - -

COMMISSIONER FITZGERALD: No, no, we've raised that. So could I just travel back a bit. In your opening statement, Connie, you indicated that at no stage had Defence recognised what had happened to Jesse. Could I just understand that. Was it not recognised in that it didn't give you the support, didn't give him the support that was necessary, or

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was it that they didn't acknowledge the impact that military service has had on their life? So just in relation to Defence, not DVA but Defence. What is your overriding concern with the way Defence acted or failed to act, from your point of view?

5

MS BOGLIS: Well then we had no relationship with them whatsoever, in that they didn't play a part at any point in what was happening for Jesse, other than sending through his file when we were trying to claim his superannuation, some crisis funding upon waiting for his pension, so to
10 speak.

COMMISSIONER FITZGERALD: Did Jesse express to you that frustration?

15 **MS BOGLIS:** Absolutely. And not just Jesse, all of his friends that I met. It was the phrase, "You don't come out alive", but jokingly I guess, off the cuff, in a way of saying that it's just so difficult to navigate, hence no-one being aware.

20 **COMMISSIONER FITZGERALD:** Sure.

MS BOGLIS: And met by so much red tape and the anxiety that brings up and the length of time that that took.

25 **COMMISSIONER FITZGERALD:** Could I just shift a little bit, and then Richard may have some questions, to your own wellbeing. One of the things we are struggling with in this report is how to better support family members of serving, but particularly non-serving veterans. And so we've asked a number of participants, you know, many have said to us it's
30 about the benefits, it's about health care. And we've also asked about services. So for you, as a partner of somebody that's struggling and obviously Jesse was struggling, what would be the supports that you think would've helped you at that time? Now I know you weren't with him when he was in the service and you were there a couple of years after he
35 left, but what would be one or two things that would've been most helpful to you as a partner?

MS BOGLIS: Again, my industry, we're caseworkers, we visit people at their homes and that's a basis to be able to get a holistic understanding of
40 the individual's needs in a safe place that they function. And for me it would've been knowing that while Jesse was at home and unemployed for two years someone stepped in, took him out for a coffee, found out what his stressors were and his risk factors were and helped him to navigate that. So the peer mentors, the case managers. Somebody to support him
45 through the process of the claiming system. So that Outreach support was

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critical. Critical. And to be clear, Jesse was never going to be someone who presented at a hospital at risk of suicide, and there are so many other Jesse's.

5 **COMMISSIONER FITZGERALD:** Sure.

MS BOGLIS: In Australia and in the world who don’t access that support and internalise a lot of that and that - I just want to make that really clear, that this bridge, these individuals who could come into the
10 home and see how an individual is living, to speak to their partner, to understand. And partners are crucial in this, in that they can feed back what, you know, male or female, what is happening for that individual on a personal level. So they get a lot of that, where all of the risk factors where Jesse and I attended a clinic or sat in with his psychiatrist or a
15 clinical setting with a counsellor or a conversation with somebody else wouldn’t necessarily capture and clearly missed over two years. So it's that. And it's that trust. It's the building of the trust. Jesse never went to any of these appointments unless the counsellor was a veteran or I attended with him and took the day off. So having those individuals in
20 that space is a crucial element, to help minimise those risk factors, remove the barriers with stressors and to support partners to sit back and be partners. And if you have children, look after the children. I miscarried. I had that much stress. If I had the baby, how would that stress have affected my baby? I can't imagine the impact on families with children in
25 that space, in that home, and how that functions and the impact. And so for the family unit to survive there needs to be these interventions of case workers, Outreach workers, care team meetings and all these individuals communicating.

30 **MS BIRD:** Can I just make the point that from being outside of Jesse and Connie's relationship, we were transferring - because we couldn’t fathom why Jesse couldn’t get some sort of incapacity payment or anything, knowing that the claims process was in - had begun. But because we were transferring money to him each fortnight or each week so to take the
35 pressure off their household income, if the incapacity payment that now is in place for recognised mental health issues for veterans, if that had been in place for Jesse I'm quite sure that his mental condition wouldn't have changed. But a lot of - some of the stressors have not been able to support himself in his lived experience with Connie and being dependant on her
40 and dependant on his parents. What 30-plus year old man, who has been independent, likes to be put in that position? So in answer to your question, if the department had done its job and if his claims had been not lost and long delays and if things had been put in place for him there's every chance that he would have had the opportunity to go on and do a
45 little bit of part-time study, address his mental health issues and seek the

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alternative therapies and things that could have helped him, and he could have retrained and he could have gone on and been that primary school teacher that he ultimately thought he would like to do, with kids in disadvantage. But as Connie has stated, it's all what-if's now, but that's why it's - why what you're doing is such an important thing.

COMMISSIONER FITZGERALD: Richard.

COMMISSIONER SPENCER: Well Connie and Karen, thank you for telling Jesse's story and your story as well. It's very important that this be heard. So I just wanted to follow up some questions because if we go right back to Defence and you mentioned the issue of accountability and responsibility that defence has in all of this. As you know we've been pushing quite hard on that. We think that Defence should have responsibility beyond service.

MS BIRD: Can we turn that back to you? Has Defence appeared? Sent anyone to present to the Commission?

COMMISSIONER SPENCER: Not in the public hearings.

MS BIRD: Not in public hearings?

COMMISSIONER SPENCER: No.

COMMISSIONER FITZGERALD: I should say we're having discussions with a number of departments but they have chosen not to appear at the public hearing so far.

COMMISSIONER SPENCER: We are told there may be a submission, so we're waiting to see on that. So we've been a bit surprised because we understand the argument about preparing for warfare but we also think this comes under the category of duty of care, and duty of care extends beyond when the member leaves service. So that is an issue which you've highlighted and we are trying to find ways in which our - and I think, you know, Defence, we've spoken to other nation's defence systems and they say, "Well we have a duty of care and a duty to prepare" and they seem to be able to balance those two responsibilities in a way that is resisted here, frankly at this stage.

So I come back and Connie, look you gave a terrific explanation of the kinds of things that should have happened; early intervention, early understanding of what was happening, so the case management, very proactive case management and these were issues we've commented on in our draft report. I wanted to pose a question to you. When systems fail,

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in the way they did here, the response can be immediately, "We will change things" and sometimes systems change, they begin to change and sometimes they don't. So you may or may not have a comment on this, but are you - and there's been a lot of attention and focus because of telling Jesse's story and absolutely in the hope that there will be change. What's your feeling at the moment about that cultural shift and that understanding of what truly needs to change, either with Defence or DVA at this point? What are you seeing or what are you experiencing in terms of truly understanding what the sort of changes are needed and how that could be made within the current system?

MS BIRD: I think it's evident that under Liz Cosson there is genuine - there is a genuine reform agenda in place. I think the fact that you can sit here today and tell me that Defence has not come to the public hearings, has not exposed themselves or made any comment about where they think their role is in the afterlife of their ex-employees, when they know that between 25 and 40 per cent of their frontline veterans can end up with long-term mental health issues. Why they think they can just take people in and tip them out at the other end without being involved in their long-term care and just pass it off to the Department of Veteran Affairs, and have known that the department has been out of its depth. Major Cantwell's book "Exit wounds" published back in 2012 stated very categorically that there was a tsunami of PTSD coming towards this country and it's come to the fore and there's been nothing - there's been very little put in place. There's insufficient psychiatric beds for the general population but there's specifically insufficient psychiatric care available across the country for veterans. You have veterans being turned away at our public hospitals because there's nowhere for them to go.

COMMISSIONER SPENCER: Could I just ask another question. We've been exploring, as you know, how ESOs may be able to leverage their system and we've seen - and I think Oasis was mentioned before and we've seen there are various hubs being set up and centres being set up. Part of a well- designed hub is to be what I would describe is a way for somebody who will not reach out to a more formal service to actually kind of connect and then over time build the trust, which you commented on earlier, and then actually introduce or permit the person into the services they need. This happens quite a lot in community services, for example women who are isolated with young children who may be experiencing domestic violence, you know, why don't they go to a service? Because they're afraid to, they don't know where it is. But there may be a local playgroup in a park; they will come, they will engage because of the young child and then gradually over time the trust develops and then you can introduce the person to what services they need. If that sort of model

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was there do you think that would have been helpful to Jesse, if there'd been a way to sort of just connect?

MS BOGLIS: Absolutely.

COMMISSIONER SPENCER: And then start to find his way to the services he needed.

MS BOGLIS: Absolutely. Absolutely. And I guess we need to be clear, there's tens of thousands of ESOs that exist in this space and how many are fit for purpose and current or - you know, and where do we locate them, and all of that. You know, it's a very - it's not clear and I think there just needs to be a handful of these RSOs or services that exist, that are current and progressive and fit the needs of - and that be something that we continue to support and that be clear and intentional. We didn't have that.

Going on your point about Defence and DVA earlier. We never really had an understanding of defence and their role but I guess we've been in this space - I guess this is why Karen and I are still here, because we don't trust and we don't see that we can step back yet. And Jesse's voice and those lost souls that have left us, that we continue to speak on behalf of because we're not confident that change - they're changing as they're changing, so everything that's come of Jesse's inquiry and moving forward is all new. It's all rolling out as it's rolling out. So I guess we're part of forums, we're part of communications and so on and so forth but it's not yet anything that we can say is - - -

MS BIRD: For instance, I asked Ms Cosson this morning, if Jesse went to Geelong Private Hospital today to do a PTSD clinic for 12, 13 weeks, what would happen to the document that would be produced. Would that be handed on to someone, instead of Jesse's document being - his files being stamped "Not for release", so his psychiatrist never saw it. At the moment nothing's changed. They haven't got to the space of even looking at that. So around the country as we speak we've got veterans doing PTSD programs being paid for by the department, but there's no continuity of care, that nobody is following - technically no one can be following that veteran up.

COMMISSIONER FITZGERALD: The issue that you've just raised is one that sets the system, so I'm not quite sure how far we go but in relation to both health and mental health care we are trying to look at the service system and how that can be improved. As Richard indicated previously, and you mentioned as well, case management and the role of that, both in mental health and health care and rehabilitation seem to be very important,

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so we are looking at that. And you're right, I think there's been a lot of change, and then there are areas where there's been very little change.

MS BIRD: Yes.

5

COMMISSIONER FITZGERALD: So I think your advocacy over time, Karen, in particular, and Connie is very important as it is the stories we've heard from many people together with the sort of analysis we do. So I think the collection of the personal, the lived experiences, the research and the sort of work we're doing and others ultimately will lead to significant change, but it is a work in progress and so your voice is being and remains very important in that space, as we've heard from other individuals through this process.

10

15 **MS BIRD:** Because at the moment if our Parliament decided to send our veterans into an active war space there's no guarantees that there's anything better in place for those frontline veterans on their return if they particularly see nasty war like service and are asked to do things that you and I have probably got no comprehension of.

20

COMMISSIONER FITZGERALD: Sure. All right. Thank you very much for that. We very much appreciate that. I thank you. Just before we go is there anybody that wants to make a final statement before we conclude proceedings today? Nobody has approached our staff? Yes?

25

UNIDENTIFIED SPEAKER: Can I just add to - - -

COMMISSIONER FITZGERALD: Well, you'll have to come back. So thank you very much.

30

MS BIRD: All right.

COMMISSIONER FITZGERALD: First of all we'll say good bye.

35 **COURT REPORTER:** I was given this by a staff member. I don't know the person's name but this gentleman wants to speak. Maybe he's gone.

COMMISSIONER FITZGERALD: Colin? I'll just see.

40 **COURT REPORTER:** Thank you.

COMMISSIONER FITZGERALD: Thanks. And so if you could just for the record just give your name and a very brief statement?

45 **MR GILCHRIST:** Yes, James Gilchrist from the Woden RSL. I'd just

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like to pick up on two points that just came out of that.

COMMISSIONER FITZGERALD: Sure.

5 **MR GILCHRIST:** And reinforce some of what we said. The claims process is the start of the holistic approach that we take. I'm sure others take the same thing and that needs to be reinforced because you can't process the claim, you can't get a client, veteran, whatever, including families to be able to explain their story unless they have some kind of
10 feeling of wellbeing or confidence, which is all part of what we were saying before.

The second point I'd like to add to was the remount and other activities are critical but they are not the answer. They must be worked in conjunction
15 with something else and if you are looking at funding they are one very practical way that either those organisations could be funded in some sensible way or ESOs could be funded in a way to help people access those.

20 **COMMISSIONER FITZGERALD:** So could I just take this point, Jim, if I might, in the case of Jesse it's very possible that Jesse wasn't in a fit state to be able to put in a claim or deal with the claim issues, but may have needed the sorts of support either from your own organisation or somebody else. As Richard said that sort of soft entry point where you're
25 mixing with people, you're dealing with people, and over time you gain confidence to be able to talk about the issues that then form the basis of the claim. And in talking to some of the families it seems to me that that soft entry, that empathy building, that trust building, we haven't got that quite right yet. And I'm not talking about your branch, but I'm talking
30 more generally. Is what I've said - is that - do you think that's right, or you would disagree with what I've just said?

MR GILCHRIST: I would agree 100 per cent and the point I made before about the non-liability particularly for any mental health condition,
35 if that is explained clearly by someone who knows what he or she is talking about to a client or a veteran who can accept it in the way that it is offered that can start a very good journey of wellbeing which allows that to progress, and that's a major initiative and they are being done within 24 hours these days. So you don't have to prove anything, you don't have to
40 justify - - -

COMMISSIONER FITZGERALD: So that's a recent change?

MR GILCHRIST: Yes, and it's a - well, it's been going on for 12 or 18
45 months, but it's continuing to get better. Yes, and the point that Connie

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made about encouraging Jesse to go to appointments we do that all the time and we run out of resources to do it. People won't or can't, and I say them consciously, they won't or they can't come out wherever they are to go to an appointment.

5

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: They either forget or there's almost some kind of odd barrier that stops them going, so a peer can come in and encourage that.
10 That's where those associations can work with them.

COMMISSIONER FITZGERALD: Sure. But the point there I would imagine is that many people that suffer trauma, whether it's formally diagnosed as post-traumatic stress disorder or just suffer trauma, not only
15 in the veterans community but elsewhere that pattern of not being able to go to appointments, not being able to discuss the detail is very common, and it takes people years to be able to get confidence to do that, so perhaps one of the other things is that right through the ESO and the DVA, and hence we do have to take a much more trauma informed approach,
20 because people that suffer trauma, whether it's abuse or childhood abuse or other forms, you know, they don't react and access services in the way that many other people might, and it's directly related to the traumas that they have.

25 **MR GILCHRIST:** And sometimes, and again without more stories at 2 o'clock I met three people, one I hadn't met today, and - well, I hadn't met two, but one is a former military, this guy was 37 years in the fire brigade. He survived, he knew he was having some difficulties, peer to peer support, and then at some stage he started to get physically ill. He thought
30 he had a virus and was treated for that but in four days he had galloping PTSD fully diagnosed. So 37 years plus a bit he had had no identifiable symptoms.

COMMISSIONER FITZGERALD: And that happens.

35

MR GILCHRIST: And then bingo and others happen more gradually. So it comes and catches you when you least expect it.

COMMISSIONER FITZGERALD: And the only point is we now
40 know a lot more about that.

MR GILCHRIST: Yes.

COMMISSIONER FITZGERALD: And so what we thought was
45 unusual behaviour is now absolutely symptomatic of the conditions

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particularly trauma.

MR GILCHRIST: Yes.

5 **COMMISSIONER FITZGERALD:** Richard, any comment?

COMMISSIONER SPENCER: No, I was just going to comment that, I mean, there have been some terrific programs, this personal helpers and mentors program known as PHAMs is the acronym for it, and that has
10 highlighted what we're talking about here and that is the absolute critical importance of the peer group and the role that they can play, so I think that what's happening through the sort of work you're doing, and we should see more of it comprehensively throughout the country, is that peer relationship which can lead to the right kind of services, but would not be
15 accessed day 1, but somewhere down their journey with the help of a peer support would - - -

MR GILCHRIST: Again, a comment from the professional who was with us today, who's a neuro - psycho, something or other.
20

COMMISSIONER FITZGERALD: It doesn't matter.

MR GILCHRIST: Anyway, doesn't matter. He was endorsing peer to peer support but it has to be done in a positive and managed way.
25

COMMISSIONER FITZGERALD: Sure.

MR GILCHRIST: And neither counsellors nor what have you. But could I also stress Karen's input, family, which can be children, we're
30 dealing with children looking after some oldies, and they're not all that old really - - -

COMMISSIONER FITZGERALD: Sure.

35 **MR GILCHRIST:** - - -but parents get stuck as well. And they are part of the solution and there or thereabouts.

COMMISSIONER FITZGERALD: Yes. Just on that peer I think Connie made the point about peer mentors and other things like that, so I
40 think there are good - I mean, I just make one point and we'll conclude on that, there are good examples in the rest of human services, so what we've been trying to do is look at those and say, can they be applied to the veterans space, including structural issues but actually those sorts of programs.
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MR GILCHRIST: Yes.

COMMISSIONER FITZGERALD: So thank you very much for that.

5 **MR GILCHRIST:** Thanks very much.

COMMISSIONER FITZGERALD: And I understand somebody else wants to - so you're going to present now? That's fine, it's just a brief presentation, and if you could give your full name and if you represent an
10 organisation, the name of that organisation.

MS MOORE: Okay. So my name is Kathleen Moore, and I have put in a submission, and I believe I may be given the opportunity to speak in Sydney. So I just wanted just to make mention here now about some
15 terminology. So the reason I'm here is I'm the mother of a medically transitioned son who served for 20 years. He's single. He doesn't have a wife or a partner and he's relied solely on me and my husband for support which is why he's still alive today. It went badly.

20 The terminology today - and the gentleman who just spoke mentioned parents, but most of the terminology today about families does not mention parents. Now, Karen spoke about how herself and her husband were helping Jesse and Connie. That's a huge role that parents play. Many of the suicides that have happened with our veterans after they've
25 left their service, they are single. It is their parents that are coping with the death when they don't have a wife or partner or children, and I think that terminology is vitally important to everything that we're talking about with this Commission. It needs to include the parents, and that's really - I just wanted to bring that to your attention today, and I do hope that I will
30 have a chance to address my submission maybe in Sydney.

COMMISSIONER FITZGERALD: Well, thank you for raising that, and it's an extremely important issue, and we have met with a number of parents throughout this inquiry.

35

MS MOORE: Right.

COMMISSIONER FITZGERALD: And our terminology in families is very inclusive so I just want to be clear. It does include partners, widows;
40 it does include parents and children. Can I just go to the point of it - - -

MS MOORE: Sure.

COMMISSIONER FITZGERALD: - - -recognising that the question
45 then is what are the supports that we need to put in place for parents, and

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either now or at that time you present later on you might want to, and I'm sure you will, reflect on those, because that's where the rubber hits the road.

5 **MS MOORE:** Yes.

COMMISSIONER FITZGERALD: How can the system support you in the support of your son or daughter?

10 **MS MOORE:** Yes.

COMMISSIONER FITZGERALD: And that I think we probably haven't done enough of in the report, and frankly I'm not sure what it is that is specifically should be made available for parents. Is it the same as
15 for partners, such as we were talking with Connie? Is it something different? So we'd be keen to explore that.

MS MOORE: Well, yes, and just to answer you quickly on that, my experience was just with Defence when our son was still in Defence, and
20 four years of attending the individual welfare board there's a certain amount of stigma when you turn up with your son who's in his early forties and you turn up as the mother. There is a certain amount of stigma there. You're not the young wife with a couple of kids, you're the white-haired mum, yes.
25

COMMISSIONER FITZGERALD: And when you say that in relation to the stigma, and that was stigma that was associated with you or was it stigma that was placed on your son?

30 **MS MOORE:** I think both sides, and, again, it's not something that's written down.

COMMISSIONER FITZGERALD: Sure.

35 **MS MOORE:** It's a feeling, it's body language, it's verbal language, and, yes, it's difficult.

COMMISSIONER FITZGERALD: Good. Thank you very much. And we look forward to seeing you later on.
40

MS MOORE: Thank you. Thank you.

COMMISSIONER FITZGERALD: Thank you very much. Any final comments before we close? So it only rests with me to say, firstly, thank
45 you for those that have participated all day, especially those that have

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endured all day. We're grateful for that. And we will adjourn the public hearing until we meet tomorrow morning in Melbourne. Thank you very much.

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MATTER ADJOURNED UNTIL
WEDNESDAY 13 FEBRUARY 2019

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