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Dated 6 January 2009

Our Reference: JKC/Tremain

The Honourable Mr Arch Bevis MP
Chairman
Defence Sub-Committee
Joint Standing Committee on Foreign Affairs, Defence and Trade
Parliament House
Canberra ACT 2600

Dear Mr Bevis,

Re: Tremain - Hercules Wing Rehabilitation Program

I advise I act on behalf of the estate of Mr Tremain in proceedings before the Administrative Appeals Tribunal arising out of his claim that his condition of Multiple Myeloma was caused or contributed to by his Deseal Reseal duties performed upon the Hercules C130 aircraft. Mr Tremain passed away while his matter was part heard.

For a brief review of the Tremain matter generally you may care to review the article appearing on the 7.30 Report for 17 July 2007 which can be accessed through the 7.30 Report's website under the archives heading for that day.

I also act for Mr John Manuel who recently succeeded in AAT proceedings that granted him liability for a sinus cancer condition as a result of his work within the F-111 Pick and Patch operations. I had the opportunity to read

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your comments in The Australian article written by Mr McKenna regarding Mr Manuel and congratulate you on your candour.

By way of further background I am the honorary lawyer to the Qld Regular Defence Welfare Association and had a significant role in the preparation of its national submission to your recent Inquiry.

CURRENT ISSUES

I leave to I side comment regarding the F-111 Pick and Patch issues pending the release of the Report into your Inquiry. I can say however there are a number of equivalent cases to that of Mr Manuel still in the system which the Department continues to resist.

The lawyers for the Defence Compensation continue to operate the Tomain defence (and other Hercules service people matters) as if there are no lessons to be learnt from the Manuel/ Pick and Patch circumstances and the SHOAMP report itself. A number of the Hercules Descal Rescal servicemen are also affected by leukaemia and other more exotic style of cancer conditions. This is no slight upon the lawyers – they no doubt are acting upon instructions.

The difficulty lies within Defence Compensation itself and its apparent resolve to not turn its mind to the systemic issues relevant to both the Pick and Patch service people and the Hercules service people who also undertook like duties.

This itself can be traced back to its senior officers decision to not take up advice that the Health Study or at least its findings should have been broadened to include the health of these service people. I understand that the relevant officers included Mr Mark Johnson, Mr Sean Farrelly and Dr Keith Horsley. If the advices given to me are accurate (and I am most confident of same) then one can well imagine a reluctance by the Department to now admit such action when such an admission could well give rise to calls for a further health study which no doubt would be very costly and embarrassing to the relevant bureaucrats.

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I am mindful that even the naming of the report as the Study of Health Outcomes of Aircraft Maintenance Personnel reflects poorly upon those who decided to exclude the Pick and Patch and Hercules service people. This has been a major travesty to these people and I would urge you to make submissions that the Senate look to investigate the matter.

To me the sensible alternate path forward would be to source expert medical opinion regarding the causation pathways that were considered reasonable whereby certain conditions were accepted as exposure related. The SHOAMP report itself identifies such pathways.

By way of examples;

- Benzene exposure can be related to the development of leukaemia and haematological cancers
- Lead and Zinc chromate exposure can lead to the development of pulmonary, lung and sinus cancers.

No doubt the Department's generic causation responses for such conditions was largely based upon this research and not necessarily the findings, per se, of the SHOAMP Report which I am advised by expert medical opinion were based upon sample numbers not large enough to be of significant scientific statistical worth.

What the SHOAMP Report authors did so expertly was to assemble and reflect upon the major international health studies dealing with exposures to industrial exposure to Benzene and industrial solvents. These have proven the link between cancers and exposure to these substances. The F-111 Descal Rescal service people did not get sick from working in confined spaces. They became unwell by being exposed to toxins. Attempts by the Department to differentiate on the basis of confined space argument lack any cogency particularly when put up against the breadth of other people who have been compensated under the SRCA simply because of their proximity to the F-111 Descal Rescal Program.

I also draw your attention to the plight of Mr Darryl King, a F-111 Pick and Patch worker who suffers the same rare condition of multiple myeloma which afflicted Mr Tremain. 2 cancers of this nature in the limited group of

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Hercules and Pick and Patch workers would be as statistically significant as any of the statistical findings in the F-111 Deseal Reseal group.

Perhaps an enquiry of the Department to confirm the accuracy of what I have put forward would be a good starting point. That could then move on to the number of testicular cancers affecting these groups which is also well beyond statistical expectations. I hold records of affected servicemen which I believe will be of use.

At no time has the Department apparently sought any advice as to what lessons can be learnt from the F-111 Deseal Reseal experience. They have conducted their defence of the Tremain matter with its head in the sand, or worse, given my comments above.

In the mid 1990's I acted for a number of the F-111 Deseal Reseal servicemen (the group that have now been compensated) and at that time advised them that the only way forward would be for there to be the political and bureaucratic will to consider their plight in a systemic manner. Unfortunately that will has not extended to finishing the job -- not to today -- perhaps tomorrow.

I would urge you to, preferably in a forum where questions need to be answered under oath, make enquiries as to why the Department response to the Health Study did not extend to other service people exposed to similar toxins as part of Deseal Reseal activities.

Running a health study on scientific grounds is 1 thing -- failing to deal with its findings on a systemic basis is something quite apart.

I quote from the SIOAMP Report (Mortality and Cancer Incidence Study 2nd Report April 2004 page 24

"The BOI also identified two other groups who may have been at risk from DSRS activities. The first group involved personnel employed on duties closely related to DSRS. These included trades people who carried out fuel tank repairs outside the formal DSRS programs. Because it was always an ad hoc program, it has not been possible to locate all the people who may have entered an F-111 fuel tank for "Pick and Patch" work The findings of

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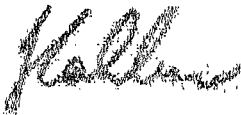
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the study (particularly in relation to Deseal/Reseal Program 2) may well apply to them ...". It would seem that this advice has not been taken up by the Department.

Leaving the Hercules and F-111 Pick and Patch service people to attempt to take on the might of the Commonwealth, on an ad hoc basis, given the findings and observations of the SHOAMP report will be judged a national disgrace. While I am confident that your yet to be released Report will support the plight of the F-111 Pick and Patch workers I am concerned that the plight of the Hercules service people does not be forgotten.

I would be pleased to answer any questions you may have arising from this letter.

Yours Faithfully,



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