

Submission  
No 46

**FIRST REVIEW OF THE WORKERS COMPENSATION  
SCHEME**

**Name:** Mr John and Mrs Petronella Schofield  
**Date received:** 21 September 2016

---

Partially  
Confidential

Petronella (Ruth) and John Schofield

Petronella is typing John's story as he has limited computer skills and poor shoulder function.

**John was on workers comp benefits from when his employer asked his doctor to declare him unfit for all duties in September 2012 until he settled his case at mediation in December 2015. He is now aged 60 and has retired from work.**

John sustained an accumulation of shoulder and knee injuries in the course of his work as a cleaner/labourer, rigger/scaffolder and power worker over a period of thirty years at the state-owned power stations (Electricity Commission of NSW/Pacific Power/Delta Electricity) of Munmorah and Vales Point on the NSW Central Coast.

His shoulder injuries were the most serious – his diagnosis was massive bilateral irreparable rotator cuff tears with muscle retraction and atrophy leading to dislocation of each shoulder with every movement. Both shoulders were bone-on-bone. His range of motion was extremely limited and function was severely affected. He had 27% WPI for his shoulders in July 2013 and additional impairments for his knee and hearing.

John also has pleural plaques from exposure to asbestos at work, tinnitus and industrial deafness from noise exposure at work, and injuries to both knees. He had a torn cartilage in his right knee in 2006 and had the cartilage removed, leading to him having a total knee replacement under workers comp in 2014.

**The reported date of his shoulder injury was in July 2012.**

He had been experiencing increasing loss of function and pain for many years but remained at work full-time with self-imposed restrictions. This was possible because he was working at Munmorah Power Station, which was in mothballs for many years. He had seen his GP, \_\_\_\_\_, in 2001 complaining of pain in both shoulders and was sent to physiotherapy. He attended for several months and was given exercises to do at home, which he did daily until May 2012, when he discontinued them due to increasing pain.

When Munmorah closed John was sent to Vales Point and reported his injury in May 2012 due to his inability to cope with the amount of physical work in a fully functioning power station.

**Delta Electricity was a self-insurer.**

**John's lengthy experience with the workers compensation scheme was traumatic and demeaning.**

**The main issues were:**

- The case manager continually trying to influence treating doctors to change their Workcover certificates of capacity.
- The case manager sending John to the same Injury Management Consultant three times and trying to influence this doctor's decision. The IMC did not watch John when he went through his range of movement tests but wrote with his finger tracing a letter with a Delta logo on it.
- The insurer going for lengthy periods (three months (4/9/13 – 19/12/13 no IMP) and then nine months (30/6/14 – 13/4/15) without updating John's Injury Management Plan. This meant that for over twelve months out of 39 months there was no current IMP. The insurer tried to change dates on plans, alter plans and dates (we have documentation for everything) and only sent one signed copy of an IMP despite there being 9 IMPs over the 3+ years. Each time they tried to falsify plans we refused and insisted on corrections, which they then made. We emailed to keep a paper trail.

- The rehabilitation company sending a driving assessor who did not test John at all (she was running late – details later in this submission) before she made recommendations which he was unable to follow due to his injuries and writing a report which was copied and pasted from another client and had numerous inaccuracies (detailed later). She wrote to the RMS and had John’s driving licence cancelled without performing any testing on him. We believe she acted fraudulently – details later in this submission.
- The case manager then refusing to believe John when he told her the situation even though he was hospitalised as a result of attempting to comply with directions.
- The case manager then writing to the IMC and asking him to give an opinion on why John was ‘refusing to drive when by all accounts he should be able to do so’.
- The insurer, when pressed by John and his Nominated Treating Doctor for a proper driving assessment by a suitably qualified assessor, tried to get the OT from the rehab company who had told him that his injuries were all in his head to do a driving assessment even though he is not qualified to do so and the company does not offer this service. When John and his NTD insisted on a qualified assessor, the case manager wrote to John and said that he was not complying with his Injury Management Plan (which was nine months out of date).
- The rehabilitation company (Greenlight Human Resources, Hamilton) providing computer training but refusing to provide an ergonomic setup for a man who could barely move his shoulders due to his injuries and then telling him that ‘his injuries are all in his head’. The case manager had written to the IMC asking if John could attend this training if ‘a correct ergonomic setup was provided’.
- The Vocational Assessment company (Compensation Assistance Services) refusing to take compensable injuries into account when determining ‘suitable jobs’ and ignoring the recommendation of their own OT who had examined John. They had a list of jobs selected before interviewing John and tried to bully him into signing that they were suitable jobs – he refused and was later accused by his case manager of ‘taking the form’ from this meeting.
- The insurer refusing to provide assistance with daily living as recommended by the Rehab Provider (Greenlight) but offering to pay for help which was not requested as it was being done by family members.
- The insurer never making a work capacity decision despite John being on benefits for over three years.
- The insurer refusing treatments and WPI claims (on several occasions) until WIRO involvement meant an independent opinion was imminent.
- The fact that, despite being a union member all his working life so that he would be able to access legal help if necessary, he had to pay his legal fees out of his settlement due to the changes in workers comp laws.

As stated previously, John’s was a long and complicated case. He eventually settled at mediation (for a much smaller amount than was claimed) to escape the mental stress he suffered from going through the workers compensation system.

## **FOLLOWING ARE THE MAIN LOWLIGHTS OF HIS MANAGEMENT BY DELTA AND ASSOCIATED PROVIDERS CHOSEN BY DELTA.**

### **INSURER: DELTA ELECTRICITY (SELF-INSURER): CASE MANAGER**

#### **Early days of surgery and aftermath**

The insurer initially denied liability for his shoulder injuries and sent John to an Independent Medical Examiner, who said that his shoulder injuries were caused by his work.

His Nominated Treating Doctor sent him to a shoulder surgeon, who recommended a tendon transfer in his right shoulder to decrease the pain.

The insurer declined approval for surgery and sent John back to the IME, who said that John should try the surgery. John continued to work on restricted duties until his surgery was approved, when Delta called an occupational therapist to the workplace. The OT recommended that John be sent home from work and wrote to John’s NTD asking that he write a certificate stating that John was unfit for all duties.

John had his tendon transfer in October 2012. This surgery has a recovery time of 9 – 12 months and is designed to reduce pain caused by constant dislocation of the shoulder joint. The patient's arm is immobilised for two months and in a sling for a further two months after physiotherapy begins.

Six weeks after the surgery the nurse from Delta phoned and asked John why he wasn't back at work. She told him that in her experience people who have shoulder surgery are back at work in six weeks and on full duties within three months.

John's surgeon reviewed him in February (four months after surgery) and said he was able to start taking the sling off and would be fit for light clerical duties at bench height with no lifting and no using his right arm away from his body. John was unable to raise his right arm at this stage. He was allowed to attempt to drive in March. When John tried to drive, he couldn't control the car as he had very limited movement of his right arm. He was still unable to wipe his bottom with his right arm and needed assistance to get dressed and shower and dry himself. He told his NTD and Delta.

### **Insurer trying to influence NTD**

Delta wrote a letter to the NTD on 22/3/2013 stating that John's restrictions were very limiting and that John had told them he felt he couldn't drive. They asked the NTD to clarify his restrictions regarding no activity with the right arm. They asked whether John could lift 2kg with his right arm and whether he could drive. The NTD called John in for an appointment and told him that he was sick of hearing from Delta. He changed John's certificate to say he could now lift 2kg with his right arm and do anything with his left arm. He said John could drive short distances.

When John was reviewed by the surgeon in April 2013, the surgeon was concerned about John's lack of movement. He ordered an ultrasound, which showed that the subscapularis tendon had torn off subsequent to surgery. This basically meant that the arm was unable to be raised or move backwards. The only functional movement was to bend the elbow. The only treatment for this is a reverse arthroplasty, which may give more movement but was described as 'will not be robust'. It was recommended that John delay this surgery for as long as possible as it is very unusual to perform the surgery for anyone under the age of 60. The surgeon then certified that John was unfit for all duties due to the lack of function in his right arm. He told John to cease his hydrotherapy and physiotherapy as they would not help the arm function due to the subscapularis being torn off.

### **Insurer continuing to try to influence NTD**

Delta continued to write to and phone John's NTD asking him to change the certificates. He deferred to the surgeon and did not change them.

### **Total lack of work capacity decisions**

Delta wrote to John in May 2013 and said that they had decided he had no current work capacity and that they had no suitable work for him. They said they would do a work capacity assessment. They did not do one then or later. He was on benefits and off work from 25/9/2012 to 19/12/2015.

Delta wrote to John in February 2015 and again said they would do a work capacity assessment. Once again, no assessment was done. They also said that they would now require monthly certificates of capacity rather than the three-monthly certificates they had been accepting for almost three years.

Delta called a meeting in March 2014 following a report from CAS – a vocational assessment company, requested by Delta.

(NTD) had told Delta that John could work 4hrs day 5 days a week as per CAS recommendations but refused to fill in the report while we were in room. He continued to certify John unfit for all work and said that 'what he wrote about these jobs won't mean anything'. John had been trying to find another NTD for some time, as

had continually refused to answer letters from Delta and kept saying that he was 'sick and tired of them annoying him'. At the meeting asked John for a form that she said he took from the CAS meeting. This is

presumably the form he refused to sign regarding suitable jobs. **John raised concerns about his deteriorating knee and Delta said they had no record of any knee injury or industrial deafness/tinnitus, despite these both being handled by Delta workers compensation. told John to provide evidence of these injuries, which he did. Delta then (after lengthy delays) approved a total knee replacement and hearing aids for John under workers compensation.** raised concerns about and said it would be ok to change NTD. Regarding the

driving assessor that we had located in \_\_\_\_\_, Mary said that Delta chose not to use her and preferred to use \_\_\_\_\_. Delta said they had no suitable positions for John due to the limitations imposed by the CAS OT. These included: no working away from the body, no working above bench height, no lifting more than 0.5kg with his right arm and more than 2kg with his left arm, no repetitive movements, rest breaks every 20 minutes and other restrictions. We have the full report and would be happy to provide it.

**First visit to Injury Management Consultant**

Delta sent John to an Injury Management Consultant \_\_\_\_\_ in May 2013 for an opinion on whether John should drive and what work he could do. ***The IMC said John could not drive and that he could do supervisory duties or very minimal office duties and that his prognosis was very poor.***

**Second visit to Injury Management Consultant**

John was sent back to the IMC \_\_\_\_\_ in November 2013. \_\_\_\_\_ ***said that if John could drive he could be suitable for clerical work with no repetitive movement, no movement away from the body and only working for limited hours – three hours a day three alternate days a week. He noted that John’s movements were worse than at the previous visit. He said his rehabilitation to the workforce will be slow and that the prognosis is guarded.***

**Third visit to Injury management Consultant**

John was sent back to the IMC \_\_\_\_\_ in March 2015. \_\_\_\_\_ noted that the left shoulder pain had worsened due to the left shoulder (already with massive tendon tears) doing the work of both shoulders because of the lack of function in the right shoulder. *The movements measured were less than at previous examinations but \_\_\_\_\_ stated that they were ‘marginally better’.* \_\_\_\_\_ *said that John ‘must learn to move his shoulders more’.*

***Delta asked if John would be fit to undertake computer training ‘if the environment is ergonomically suitable’.*** \_\_\_\_\_ ***said this would be both possible and therapeutic.***

***Delta asked if John would be fit to undertake a combination assessment by a suitably qualified OT and a driving instructor to ‘determine why he cannot safely operate a spinning knob in his car when on all accounts he should functionally be able to do so?’***

\_\_\_\_\_ ***said ‘In this age of the Paralympics, I feel, with an appropriate attitude, that Mr Schofield is fit, or should be fit, to undertake the above assessment. Again, if achieved, I feel this would be therapeutic for him.’***

Delta asked whether John would be fit for work and what hours he could work.

\_\_\_\_\_ ***said John could work (after appropriate training) as a telemarketer from home, a customer service person or a weighbridge operator for 15 hours a week on a graduated return to work. This is a direct contradiction of his opinion at the previous assessment of working three hours three days a week, and does not take into account medical restrictions or other compensable injuries.***

\_\_\_\_\_’s opinion now magically aligns exactly with the CAS report, contradicting everything he had previously said. ***Delta asked if John would benefit from pain management counselling.***

\_\_\_\_\_ ***said this would assist John to ‘move his shoulders more and look at his attitude to return to work capabilities’.***

**THE WHOLE DRIVING DEBACLE**

**The following is an email sent to the union asking for help with dealing with Delta’s refusing to arrange a qualified driving assessor for John after the first assessor didn’t test him.**

Dear \_\_\_\_\_,

Thanks for your phone call yesterday.

I have summarised John’s position re driving assessments (with a couple of gaps).

As you read through, you will see why it’s too complicated to cover on the phone!

Date	Who	What	Result
2/2013	John	Attempted to drive following shoulder op	Could not control car; told _____ at March meeting
3/2013	IMC	Said John is not fit to drive	John continued to not drive

22/3/2013		Asked (NTD) if John could drive	referred to surgeon for opinion
11/2013		Asked (surgeon) if John could drive	told to arrange RMS testing.
11/2013	(NTD)	Referred John to for driving assessment, then said he would call her and make sure she followed surgeon's recommendations so that the surgeon would not call her and tell her off.	did not return calls or make appointment
3/2014	John	Asked for driving assessment to be done by Recovery Station at Toronto	said not Recovery Station driving assessor is not suitable – must be Workcover approved disability driving assessor. Said she would get Greenlight to arrange assessment – they booked
21/5/14	(W/C approved assessor)	Arrived late for test, wanted to go directly to physical test without screening.	John showed her his range of movement and told her he thought he couldn't drive – she insisted that he do car section first and that she would test afterwards.
21/5/14	John	Drove <8km, stopped due to severe pain.	Test finished after ten minutes.
21/5/14		Questioned John constantly about his injuries and medical history while he was trying to drive for the first time since surgery in 2012.	John told her he was waiting for a double shoulder replacement and a knee replacement.
21/5/14		Drove away immediately after driving component – did not attempt to test John.	
21/5/14	John/Ruth	Emailed telling him what had happened and expressing concern that testing was not done properly.	
12/6/2014		Told John his shoulders are both permanently dislocated (one side up and one side down) due to tendon damage and muscle wasting and that when he moves them it causes bone-on-bone rubbing and further dislocation. Said John should not be driving due to lack of outer rotation and strength and that assessment should confirm this. Said John would need both shoulders replaced before attempting to drive again.	John waiting for results of assessment.
19/6/14	John	Received RMS letter telling him had recommended cancelling his licence and getting a learner licence with condition only to drive with disability driving instructor with spinner fitted to car.	Followed instructions
26/6/14	John	Received copy of report stating she had completed physical screening (no test results in report), trunk/neck screening and lower limb screening (nil deficits found). This is despite John needing a TKR right knee, which was done four months after this 'test'! Also stated John drove for 45	Shock and disbelief on John's part! Emailed and told her report was not accurate and that he had not been tested for physical defects and that he drove for less than ten minutes, not the 45 minutes stated in report. Said he would try to comply with

		minutes in a different car to the one the test was done in, with a different instructor, wrong weather, through traffic lights, multi-lane highways etc. She said the assessment took the form of a lesson as John was unable to reach and turn the wheel with both hands. She said the lesson was terminated after 45 minutes due to John's pain (it was less than 10 minutes). recommended spinner knob be fitted to John's car and 6 driving lessons be given, then that she re-test John (and charge for a further 3 hours for that test!).	recommendations.
26/6/14	John/Ruth	Emailed	said to try and comply and see how it went.
August 2014	Delta	Had spinner fitted to John's car on left side with electronic indicators and horn but no other controls fitted.	John still can't use/reach wipers (on right side of steering wheel in his car).
29/8/14	John	Had first of six booked lessons with disability driving instructor.	Drove < 3 km, less than 5 minutes. Stopped due to pain. Giddy, pins and needles left arm, couldn't stand or sit, GP said to go straight to hospital. Hospital kept John for 4 hours, diagnosed severe pain reaction and recommended changing medication to an opiate. Noted severe wasting of both shoulders and extremely limited movement.
29/8/14	John/Ruth	Emailed	Recommended tell would not drive until properly assessed. John did this.
September 2014		Wrote to NTD asking if John's new medication made him unfit to drive	said to ask for a proper driving assessment.
September 2014		Told John she would ask to reassess him.	John told he had no faith in s ability to do a proper assessment and would like to use a different assessor.
September 2014		Told John that 's version of events differed to his version but that she would agree to have somebody different assess him.	
September 2014	John/Ruth	Asked if we should arrange the assessment.	Peter recommended to let Delta/Greenlight arrange the new assessment.
Remainder of 2014 until now	NTD	Has stated 'no driving' on Workcover certificates.	
March 2015		Wrote to , IMC, asking "Is Mr Schofield fit to undergo a combination assessment by a suitably qualified occupational therapist and a driving instructor with rehabilitation experience, to determine	replied ""In this age of the Paralympics, I feel, with an appropriate attitude, that Mr Schofield is fit, or should be fit, to undertake the above assessment. Again, if achieved, I

		the issue of why he cannot safely operate a spinning knob in his car when on all accounts he should functionally be able to do so?"	feel this would be therapeutic for him."
March 2015	John	Wonders which Paralympians have lost function in upper half of body/arms while retaining use of lower half of body.	Hopes a change in attitude to an "appropriate attitude" will cure his shoulder problems!
7/8/2015	, O.T. from Greenlight	Emailed John saying he has booked a driving instructor and car for 26/8/15 and that would review John's history etc. prior to the driving lesson. Asked for John to confirm arrangements.	John will not confirm arrangements. is the same O.T. who couldn't find anything wrong with the "ergonomic set-up" at John's "computer training"!
7/8/15	Ruth	Emailed and asked whether or the driving instructor was a Workcover approved driving assessor. Sent CC to .	Neither nor the instructor are Workcover approved driving assessors. Greenlight do not conduct disability driving assessments – they refer all enquiries to external providers.
8/8/15		Emailed and said that as is an OT with an accredited rehab provider he has the appropriate background for what is required.	
10/8/15	Ruth	Phoned Workcover for advice	Was told that a clerical worker can't over-ride the NTD's recommendations regarding no driving. Said assessment must be done by qualified disability assessor. Recommended that speak to , but he is away. Workcover wanted to raise a level one complaint. John did not raise the complaint yet.
13/8/15	Ruth	Phoned Greenlight to enquire about booking a disability driving assessment.	Greenlight said they do not conduct disability driving assessments as it is a specialist field, and there are only two people in the Newcastle area who can do them, but that they can recommend somebody.

John knows that he doesn't have the strength and movement to drive. He has been told by his surgeon and his GP that he should not/cannot drive. "No driving" is written on his Workcover certificates. He does not want to cause further injury to his severely damaged shoulders and decrease his chances of successful shoulder replacements further down the track.

He had no idea that he would be unable to drive after his operation on 2012, and neither did the surgeon until further investigations showed more tendons had snapped off his shoulders after surgery.

He has a degenerative condition which can only be helped by bilateral shoulder replacements. Physiotherapy and 'the correct attitude' will not re-attach tendons or restore the associated muscle wasting.

John has never had a proper driving assessment. He has co-operated with every step of what Delta/Greenlight have organised for him to date, but he will not agree to this latest attempt to get him to drive without a proper assessment.

He would like to know what means by 'when on all accounts he should functionally be able to do so' when referring to his ability to drive. She can only be referring to the test that failed to do, charged Delta for and wrote a false report about!

(NTD) is overseas on holiday and John can't see him until 7<sup>th</sup> September, after the proposed 'test'.



We need some help on this one – we have done our best but /Greenlight persist in trying to get away with doing the wrong thing!

John and Petronella Ruth Schofield.

We ended up emailing and refusing to undertake a test without a qualified assessor. She wrote back and said John was refusing to comply with his IMP.

**EXPERIENCE WITH OCCUPATIONAL THERAPIST FROM ABSOLUTE INJURY MANAGEMENT, JESMOND.**

John was sent to , OT in June 2013. The following is her report with comments by John, as sent to John's solicitor on receiving the report. John and Ruth both attended the meeting with .

Peter: this was handed to Mary Woodcock at my last meeting in 2013. I told her that going through life you run into a lot of bullies, both physical and verbal, and Fiona McDonald is definitely a verbal bully. I said Delta has standards in place regarding bullying, harassment and vilification in the workplace, and I think it's extremely disingenuous for Delta to use the McDonald report in any way. Mary said she was unaware of any such behaviour or reports of the same. I said to Mary that this was for her information, and that it wasn't an official complaint yet. (It's probably what prompted the question from Dr Price regarding "how has Delta been treating you, and are you happy with how they've handled the process?")

The following is a transcript of a report from (Occupational Therapist) to Delta following an appointment on 29/5/13. The points I most strongly disagree with are highlighted in yellow, and my responses are highlighted in grey.

Following receipt of this report, I told Delta that I would be exercising my right to choose a different service provider, should one be required. I would not, under any circumstances, use as a service provider.

I strongly feel that this report is so inaccurate that for Delta to use any part of it in determining my treatment would be invalid.

I also feel that should not be used by Delta, following this report, and given that her assessment of a colleague allegedly resulted in a minor tear of the cartilage in a his knee becoming a major tear when she insisted that he squat beyond the limit he was comfortable with.

REGARDING

INTERVIEW AND REPORT:

Dear Mary  
Re: John Schofield  
Needs review -post surgery

As arranged, a review with John was conducted at Vales Point Power Station on 29.05.2013. At this time, although certified fit to resume clerical based duties, John had not resumed due to concerns about his reported reduced functional capacity including inability to drive. John attended site with his wife Ruth who was also present during this review.

John confirmed he underwent major surgery to his right shoulder on 31.10.2012. He advised me politely that he would not be moving his right arm during the review due to lack of function. He also advised that recent ultrasound has shown a tear involving the subscapularis tendon and he was now awaiting further advice from Dr Hughes regarding further surgery. John kept both arms by his side and supported his forearms on his body throughout the review.

- I did not at any stage tell Fiona I would not be moving my right arm. When she went to shake my hand, I told her that I would not shake hands, as 'it isn't worth it'. Shaking hands hurts me. Why would I risk my future, 12 months of very painful recovery, the tendon transfer and all the good results of surgery to massage someone else's ego, or for the sake of politeness?

I explained to John that the purpose of the review was to assess his current function and progress since surgery. Also to determine if he would benefit from any domestic assistance and to start to commence discussions regarding his vocational future as there was some concern as to whether John would be able to ever resume his pre-injury duties.

- Fiona said 'I don't know why we're even having this interview because you haven't seen Dr Hughes yet about your ultrasound'. She also said that 'there is zero chance of Delta ever finding any work for you'.

Although John was polite through our discussions his responses were defensive and he did not wish to consider any suggestions provided that may be of assistance.

- This is not true. I did not wish to agree with all of Fiona's suggestions, such as having somebody come to shower and dry me, as I prefer to have my wife do this. I was, however, fully expecting Fiona to contact me to arrange for somebody to come to my home and see what assistance/aids could be provided to help me at home through the day. This was clearly stated by Fiona McDonald.

The attempted discussions regarding his shoulders and their progress were of concern as John spoke only using anatomical terminology. John advised he had been researching the procedures performed on his shoulders and enjoyed speaking in Latin. He was able to describe the next surgical procedure he believed he would undergo in precise anatomical terminology. He also discussed the pro's and con's for bilateral prosthesis. I must admit I could not quite keep up with his discussion as my specific recall of anatomical structures of the shoulder and biomechanics was rusty. John has no background knowledge in human anatomy and I was a little concerned at his fastidious research on the internet and his interpretation of what he was reading. However, he did appear to understand that recovery to his pre-injury state was guarded.

- Fiona asked questions about my shoulder, and I told her what Dr Hughes (and Dr Burnekis before him) had told me, and what was in their reports and the MRI results, using the wording in those reports. Fiona told me not to use Latin, as I 'did not have a medical degree or the background to understand what I was saying'. When she asked me about any proposed future surgery, I again told her what Dr Hughes had told me. She appeared to have no idea what I was talking about, so I referred her to a website (Reading Shoulder Hospital), which I thought may be of some use to her. Contrary to her opinion, I have not done 'fastidious research on the internet', as looking at what has been done to my shoulders is distressing to me. However, I do listen to my surgeon, and ask him questions about any procedures, so I can make as informed a decision as possible. When I realised Fiona had no idea what I was talking about, I asked her 'what is your understanding of my shoulders?' She immediately changed the subject. She has no knowledge of my condition, and did not even bother to prepare for the interview.

I moved the discussion to what he was doing with his days. His wife Ruth, works fulltime. There are two children living at home (aged 26 years and 17 years). With significantly reduced shoulder

function, and being at home alone for long periods would be mentally and physically difficult. I attempted to explore ways that domestic assistance or adaptive aids may assist.

- This is an assumption – Fiona did not ask me, and did not care!

John initially attempted to read to me a written list of what he couldn't do. I advised him that I was more interested in what he could do during the day. The following was provided:

- When I told Fiona I had trouble combing my hair, she said that I 'could shave my head'! I was astonished by this response. I found it unprofessional, totally lacking in empathy, and unhelpful.
- Awakes and rises anywhere from 1.30am -5.00am. John advised that he has a consistent habit of waking a 2.37am and he can't resume sleep as his mind is actively thinking. He advised he goes to bed somewhere between 8.00pm -10.00pm.
- Upon arising he undertakes bathroom activities, toileting, showering. . John cooks himself breakfast of bacon and eggs if the fry pan is out. .
- Ruth arises at 6.00am and they both go for a walk.
- After Ruth leaves for work, John advised he will probably watch a movie.
- He will then go for another walk. He often walks around the lake to his mother's home. He states he would come home and often watch another movie.
- His daughter comes home from school at approximately 3.30pm.
- When his wife returns home from work they again go for another walk.

John does confirm he is very anxious about his future. He feels that he can't do anything. He feels his left shoulder is now deteriorating. He states he feels like an "armless wonder".

I advised John that assistance could be provided to him at home to provide him with assistive aids and devices to help him achieve adaptive techniques for daily living. I gave him an example of a kettle tipper so that he could safely make himself a cup of tea/coffee. He acknowledged my comments however did not want any assistance.

- I did not want assistance with showering, but was willing to have somebody come to my home to see if any other assistance could be provided. I was waiting to be contacted, but when I saw a copy of Fiona's report, I realised it wouldn't be happening!

He then explained his wife was able to provide him with assistance including getting him dressed and drying him after a shower. John advised that with all the assistance Ruth provided she should be entitled to a carer's pension.

- So what! This was a throwaway line!

I asked Ruth about her work and she advised she planned to remain working full time.

I raised the concern of how working full time and of daily living may be stressful on Ruth over time. John still did not wish to explore the area of domestic assistance.

- As before – this is incorrect

I also attempted to discuss John's vocational future. His background has predominantly been labouring since completing his HSC. He is currently 57 years of age. He reports he does hold tickets in the following:

- Rigging
- Scaffolding

- Crane chasing
- Front loader
- Backhoe
- Bob cat
- Forklift

He advised he has no idea what else he would be able to do.

- I had no idea I would be asked this type of question, and was unable to think of anything I could do job-wise that fitted in with my experience and the current state of my shoulders. On the spot – idiocy to think on your feet or comment on something not thought through. I have only ever done manual work, and have no experience or training in other fields.

I discussed with John the option of starting to explore what other work options he may be suited to. This could be done via a vocational assessment. As it would appear that clerical/sedentary work would be more appropriate long term, we could start exploring options for retraining whilst he is awaiting further medical advice. This may assist him in maintaining an active goal and purpose for his future in learning new skills.

- Fiona suggested a career in Advertising or an Internet-based career. These have zero interest to me, and I have no background in computing. All of my former hobbies were physically based, except for reading and watching movies.

Again John showed no interest in this assistance. He advised he would await review with Dr Hughes before considering any assistance.

- Fiona was continually pushing me to have my doctors certify me unfit for work. I was being reviewed by Dr Hughes because I was not progressing as expected following the tendon transfer.

I must admit that I found this review with John to be extremely frustrating as no matter how much empathy and offer of assistance provided he resisted with defensive answers and a negative view of his future.

- I felt that Fiona was angry that I did not agree with everything she said. She swore frequently ('fucking this' and 'fucking that'), and started talking about how her husband had died, and that his attitude and decisions he had made after looking on the Internet had killed him. She said he died of Lymphoma. Once again, I found this behaviour to be extremely unprofessional. I felt she was projecting her personal problems onto me. I told her bilateral shoulder problems would not kill me. I feel this was an attempt at verbal bullying.
- As for empathy, I think it is disingenuous for her to use the word 'empathy' in this report because:
  - Empathy does not include swearing.
  - Empathy does not include shouting.
  - Empathy does not include calling someone a liar.
  - Empathy does not include calling into question the way someone acts, speaks and thinks.
  - Empathy does not include telling someone to shave their head if they can't comb their hair.

- Bullying does include all of these things.
- Also vilification i.e. abusive language to debase or degrade – the complete opposite of empathy!

Even with the frustration I felt I did still sense that although he was reluctant to consider any assistance or to explore any future work options, this was more resultant from fear and anxiety of the loss of control or sense of self rather than from reluctance to cooperate.

- I made a short-term goal to be able to drive again. Fiona said she would arrange for an assessment with somebody qualified to assess me for driving. I was expecting her to contact me regarding this (until I got a copy of her report)! She has made no mention of this at all!

At my initial review with John in October 2012, I recommended he be certified unfit for work due to high incapacity levels versus job demands of Power Worker. At that time John had been reluctant to cease work or advise of his pain and incapacity for fear of losing his job.

- I did not tell Fiona that I was afraid of losing my job, but that I was aware of how people had been treated when they reported injuries.

At this review my discussions with John still found him to be stoic regarding not wishing to obtain assistance from anyone and wanting to stay in "control" and thus manage everything in his own way. This time believing he would be never able to work again.

I am therefore unsure of how to further progress with John's vocational rehabilitation.

I note Dr Hughes' report dated 06.06.2013 leaves the decision for any further surgery (reverse arthroplasty) up to John. Dr Hughes has no immediate plans to review him unless John chooses surgery.

Dr Hughes also indicates that John should remain unfit for any work until at least the end of September 2013. I am not sure if any ongoing treatment is recommended.

I would however provide the following options for consideration.

1. Contact with current physiotherapist to determine if further treatment is to occur and subsequent treatment plan if any. Should this treatment be conducted closer to John's home rather than in Sydney.
2. Consideration for referral for injury adjustment counselling. I feel that John's levels of fear, anxiety and loss of sense of purpose and self will ultimately impact on his future outlook towards his abilities, work capacity and his overall recovery.
3. Attempt to obtain further medical advice on the current range of movement and functional capacities if no surgery is to occur. In addition potential range of movement and functional capacities if John chooses to undergo reverse arthroplasty. I had hoped that I could have been of assistance in this area, however as John chose not to move his arms during our review, this was not possible.

- This implies that I was un-cooperative, and is a blatant lie. I feel this report is defamatory! At no stage did Fiona attempt to test my range of movement in either arm, but she was interested in how I got my jacket on and off (with

assistance from my wife). Mary had stated before the interview that Fiona 'would not do anything to hurt me'.

Now that John has been reviewed by Dr Hughes, further advice on how to maintain and/or maximize John's function, whether or not surgery is to occur would also be of benefit.

I am concerned about John's future and the impact this will have on him and his family and so I feel it is imperative that a suitable activity based plan be developed that will assist John with his independence at home initially. I am hoping that Dr Cranney can be of assistance in guiding John into a suitable program.

Although I feel that my assistance was not fruitful on this occasion, I am hopeful that the above information will assist the key stakeholders to assist John through a difficult stage in his recovery.

If I can be of any further assistance, please do not hesitate to contact me.

Yours Sincerely

Fiona McDonald  
Occupational Therapist / Ergonomist

- Fiona's report bears little relation to the interview I had with her, and I will be exercising my right to choose a different provider, should one be required in the future.

At a meeting with \_\_\_\_\_, case manager, in November 2013, Delta noted John's complaint about \_\_\_\_\_ and said they would review the issues even though no formal complaint was lodged. There has been no feedback on this. Delta continued to name \_\_\_\_\_ in Injury Management Plans and refer to her comments in letters to \_\_\_\_\_ and other practitioners even after John said he would exercise his right not to see her again.

**INDEPENDENT PHYSIOTHERAPY CONSULTANT – SENT BY DELTA WHEN SURGEON SAID THERE WOULD BE NO MORE IMPROVEMENT DUE TO SUBSCAPULARIS TEARING AFTER SURGERY.**

Delta sent John to an Independent Physiotherapy Consultant ( \_\_\_\_\_ ) in July 2014 to get an opinion about the physiotherapy and driving. The IPC said that he couldn't understand why John's function was worse after the operation than before it (the subscapularis had torn off) and that John should be sent back to his surgeon or another surgeon for 're-education' about his shoulder. He recommended a driving assessment by a suitably qualified driving assessor.

John was sent to his surgeon for re-education. The surgeon phoned the Independent Physiotherapy Consultant while we were there and proceeded to tell him that he had 'no idea about the functioning of the shoulder'. He spoke to the IPC for about ten minutes, and said 'that man is a fool' when he got off the phone.

An excerpt from this consultant's report is attached, with comments from the surgeon and from the injured worker. This was emailed to John's solicitor.

: this is an overview of \_\_\_\_\_'s report with comments inserted. I was sent to \_\_\_\_\_ by Delta to

be 're-educated' on [redacted]'s suggestion. I have not given this to anybody! (By the way, [redacted] was the only one who was re-educated).

REGARDING WARD'S REPORT –

' COMMENTS (In blue italics) AND JOHN'S COMMENTS (in green italics).

Mr Schofield also frequently made reference to the expectation of pain as a consequence of specific activities. This can reflect previous experience, but can also reflect an overly negative expectation leading to enhanced self-restriction. This is unhelpfully referred to in the literature as Fear-Avoidance behaviour.

1)

*Mr Schofield is cuff deficient (bilaterally). Loading of the arm away from the body results in proximal migration, (the ball is loose in the joint - JS) eburnation of the humeral head (wearing of the bone - JS) and symptoms. (Noise on movement almost always accompanied by sharp pain, to the point sometimes of losing complete control of whichever arm it is, lacking movement range, pain, lack of strength and dropping things. Ward is prejudiced. - JS)*

However, notwithstanding the complications following surgery, it remains somewhat difficult to reconcile to a clinical pathway leading from a compromised but functional shoulder to the extreme level of disability noted from the examination that can be interpreted from the point of view of altered structural compromise.

2)

*This man's impairment is worse than his original presentation because his lesion has increased in relation to his subscapularis. (Covered briefly in (6) - said 'that man has no working knowledge of the shoulder).*

In this respect, there are a number of features which suggest that elevated guarding and restriction of activities has been potentially influenced by the information that has been provided and his interpretation of that information.

It appears that from Mr Schofield's point of view, that the potential for activity to cause further damage or accelerate deterioration is underscored by crepitus evoked by shoulder movement. This has culminated in his being unable to be fully independent in toileting, showering and dressing himself.

3)

*I have concerns that the understanding of various components of the rotator cuff may not be fully understood. It should be noted that his inability to reach behind his back to toilet for example, is due in part because the latissimus dorsi transfer will tend to tighten as he reaches further into internal rotation, but also the main motor for placing the hand behind the back to the buttock is in fact the subscapularis, and it should be of no surprise that this man is finding it difficult to achieve. 'Elevated guarding' and 'restriction of activities' are prejudices and lies. See (6) again. - JS*

However, it is unlikely that this will have significant value until unhelpful beliefs can be re-dressed from a position of authoritative medical input.

There are clear impairments arising from his condition as well as more significant disabilities.

Pathways for management could include, in order of priority or preference:

Further review and education from [redacted].

4)

*[redacted] phoned [redacted] in my presence and spent about fifteen minutes on the phone educating him about latissimus dorsi tendon transfers, my shoulder function, the inappropriateness of forcing me to have surgery prematurely, and [redacted]'s total lack of understanding of my (genuine) symptoms and disability. My view is accurately based on experience of bilateral, massive rotator cuff damage (of which [redacted] has no*

personal experience) and a very accurate interpretation of the words of [redacted] and two other orthopedic surgeons.

Review and education with an alternative shoulder specialist surgeon: Locally, this could be offered by [redacted] or [redacted].

5) [redacted] is one of the top shoulder surgeons in Australia. He re-educated Ward, so I don't think this point is valid. [redacted] is widely regarded by patients and medical apprentices as one of the worst, if not the worst, surgeon on the Central Coast.

Liaison with a local physiotherapist able to provide supportive and consistent advice. This should be primarily directed at reinforcing an active approach to self-management.

6) This is from a man with no experience in lat dorsi tendon transfers. Enough said. [redacted] said physio will not re-attach my subscapularis tendon, and will not enable me to reach behind to toilet. He also said it may not help me reach forward, particularly as I have already had five months of deltoid strengthening exercises, with which I failed to progress due to the subscapularis tear and the fact that the condition of my left rotator cuff tendons is such that I cannot do the 'closed chain' exercises. He also said my right deltoid 'was not good'. As described, [redacted] rang [redacted] in our presence and delivered a thorough reaming regarding [redacted]'s lack of knowledge of the shoulder, my pre and post-op condition etc.; ending by slamming down the phone hand piece with the words 'that man has no working knowledge of the shoulder!'

**The next time John saw his NTD [redacted], the doctor said that John's surgeon has a very high opinion of himself. He said that the Independent Physiotherapy Consultant is a friend of his and that he 'knows what he is talking about'. The NTD then said that he was referring John for a driving assessment, but that he was going to call the assessor and tell her she may not want to do the assessment because 'the surgeon may call her and tell her off'.**

## REHABILITATION TO THE WORKFORCE 'TRAINING'

**Regarding John Schofield's basic computer training at Greenlight Human Capital, Hamilton: This is a letter given to [redacted] (NTD) and John's solicitor regarding the standard of retraining provided by Greenlight Human Capital at Hamilton.**

[redacted] told [redacted] an ergonomic assessment would be done to ensure the environment was suitable. [redacted] said the training would be therapeutic. Prior to training, John told [redacted] (trainer) that he had shoulder injuries and would need an ergonomically suitable workstation. She said that she would sort it out. John took photos of the training setup because he hasn't been believed by [redacted] when he has complained about the calibre of service providers she chooses to work with him. We have photos.

### Day 1:

Workstation unsuitable – non-adjustable chair that couldn't push in under table – computer chair with no arms to rest right knee on. John couldn't reach keypad or mouse. Small laptop too far away and screen too low. [redacted] said she wouldn't use a set-up like that at her place but that it wasn't up to her to have a suitable environment. Said she would do a demonstration only as John couldn't and wouldn't use keypad or mouse. John got a sore neck from looking down at the small screen.

### Day 2:

Same setup. [redacted] said not her problem. John got [redacted] (Greenlight manager). She said she was not aware that an ergonomic setup was required and that [redacted] had said nothing to her about it. Greenlight have been John's



rehab provider for over a year. said she had no ergonomists but sent an O.T. in. John told the O.T. that he would be more comfortable in a computer chair with arms. She said that was not ergonomically suitable and that John's injuries are 'all in his head'. John told her she doesn't know him or his injuries and she said she knows them better than he does. did a demonstration again because John couldn't use the mouse or keypad, except for one or two very brief attempts. John got a sore neck from having to look down at the laptop screen. He told that he doesn't use or like computers and she said it doesn't matter, but she wouldn't put it in writing. She was asking John if he would try harder if he was paid \$2000 or \$5000 or \$20,000 to have a go. He said no – it's not physically possible.

John was extremely distressed that he was told his injuries are all in his head.

### **Day 3:**

Same setup again. John told he needed a better setup. She said it's not her problem. John told sent in a different O.T. The O.T. couldn't see anything wrong with the setup. John explained his injuries. The O.T. said they didn't have any suitable chairs and told John to just sit and watch – it'll be over in 1 1/2 hours. John asked if the laptop could be raised to make it easier to look at. The O.T. got something that raised it about 5cm. It was still too low.

said she wanted to make an email account for John. John gave her (for the third time) our home email address. She said she wanted to make a gmail account for him. She made an account with the username "jscf00111" and a password which indicated that he was upset at his training.

How is this therapeutic, helping recovery or helping John get back to work?

He has elevated pain levels from the travel and the "training", and has taken endone for the first time in months, and extra panadeine forte each day of training. His stress levels are through the roof. His needs have been ignored and he has been told by the rehab provider that his injuries are all in his head.

**We contacted Senator David Shoebridge and spoke to him about John's situation. The following is the email we sent him at his request. This does cover much of the ground already mentioned but has additional details.**

Hello David,

I wrote to you in April 2014 regarding my workers comp injuries and some aspects of my case. As was the case previously, my wife is typing this email due to my injuries and lack of computer skills.

I would like to let you know what is happening with my injury management now. When I last wrote, I had been off work since 25/09/2012 (sent home by insurer and with a letter to G.P. asking him to declare me unfit for all work due to massive bilateral shoulder rotator cuff tears – (right lat dorsi tendon transfer October 2012, subscapularis tendon snapped off sometime between then and February 2013, very little movement in either shoulder) and my insurer was in the process of making a work capacity decision. They had invited me to give any information regarding my injuries which may affect my capacity to work. I asked them to take into account (in addition to my massive bilateral rotator cuff injuries – 27% WPI) my right knee injury (ripped cartilage at work in 2006 – liability accepted and arthroscopy performed – outlook that a total knee replacement would be needed 8-10 years down the track due to the removal of most of the cartilage) and my industrial deafness and tinnitus caused by exposure to >100db noise generated by turbines and other machinery over about 30 years working at the power station – hearing aids supplied by employer (self-insurer). I had worked for this State-owned corporation for thirty years.

They told me they had no record of any knee injury or hearing impairment that would affect my ability to work, and asked me to provide evidence. The upshot was that I had my knee further investigated by the surgeon who did the original surgery, and he said I needed a TKR. The insured originally denied liability but changed their mind further down the track – they paid for my TKR in October 2014.

In January 2014 I was sent for a vocational assessment. I was told that my knee and industrial deafness/tinnitus could not be taken into account, even though they were compensable injuries for which my employer had already accepted liability, and that only my shoulders could be considered. This is not correct. This company determined I could work 15 hours a week as a weighbridge operator, a customer service clerk or a telemarketer.

I had not driven since my surgery, apart from two failed attempts which lasted less than five minutes as I couldn't steer the car. My insurer arranged for a driving assessment through their rehab provider. The O.T. booked a two-hour session at my place, which was to include a one-hour off-road assessment of my function followed by an on-road assessment with me using a spinner knob fitted to a driving school vehicle.

The O.T. did not arrive at the time set. She phoned twenty minutes later and said she was running late and would be another ten minutes or so. (This was the day you had booked me in for a phone interview at 3.30 p.m.) The driving instructor arrived before the O.T. She spoke to him outside, came into my house and said 'we're running late and the instructor is here, so we'll go straight to the driving component and I'll test you afterwards'. I was horrified. I told her that I didn't have much movement and I wasn't confident that I should be driving. She said that we'll worry about that when we're in the car. I insisted on showing her my range of movement in my shoulders, but she did not do any testing at all. She hadn't looked at my medical history. I drove for less than 8km, and for about 10-12 minutes, before I had to stop due to pain. I hadn't driven for more than a year, and then only for two brief periods, and she spent the whole time questioning me about my medical history and injuries. I try to block this information from my mind, and found it very distracting to try and drive while being questioned in this manner. When we got back to my house, she jumped into her car and drove away. She did not examine me.

The whole process was over in half an hour (start to finish). I emailed my solicitor that day with details of what had happened – I was horrified at the lack of professionalism shown and the fact that I hadn't been examined.

A short time later, I received a letter from the RTA saying my licence had been cancelled and would be replaced with a learner's permit with the condition that I could only drive in a car fitted with a spinner knob and with a qualified driving instructor in the car.

I was sent the O.T. report, which stated that she had tested me for an hour before getting in the car, and that I had a limited range of shoulder movement and no other defects of any limbs. (There were no actual results of any tests and I had a total knee replacement a couple of months later – if she had tested me she should have noted something) She said that I had driven for 45 minutes on multi-lane highways, through busy shopping centres, traffic lights, local roads etc. and had made a successful emergency stop. She also got the make of car and the weather totally wrong. It seemed that she had cut and pasted somebody else's report. She said I would be safe to drive following six lessons with a spinner knob, and recommended one be fitted to my car. The cover letter sent with the report said my insurer would arrange to have the spinner fitted to my car. I emailed my case manager and gave her my version of the test. On my solicitor's recommendation, I said I would try to go ahead with the recommendations even though I had not been tested.

The O.T. recommended a spinner fitted to the left side of the steering wheel with an indicator control on the spinner knob. My indicators are on the left and my wipers on the right. My right arm can't reach my wiper controls. My first and only lesson with the spinner fitted to my car lasted about five minutes, including a stop to move the seat closet to the wheel in an attempt to make driving easier. I stopped the lesson because of extreme pain and inability to control the car with my left arm. I had driven less than 2km. When I got home (my wife drove the car back) I was experiencing severe pain in my neck and shoulders and pins and needles down my left arm. I couldn't stand or sit, and had to lie on the floor. My wife phoned my G.P., who said to take me straight to hospital. I was kept for four hours and released with the diagnosis of a 'severe pain reaction' and a letter to my G.P. suggesting a change of medication to Tramadol (morphine) twice a day to keep my shoulder pain under control.

I emailed my case manager and told her what had happened. I said that I would not drive again unless I was properly tested.

She wrote to my G.P. asking him to confirm that I was unfit to drive because of the new pain medication, with no mention of testing me again.

She later emailed me suggesting that the same O.T. see me again to test me. I told her I would prefer a different O.T. She said that the original O.T. denied my version of the events, but that she would arrange testing by somebody else. I am still waiting for this to happen.

I was sent (for the third time) to an Independent Medical Examiner to determine his opinion of my fitness for work. This doctor had previously stated that I had a very limited prognosis and that any return to work would be a long way off and would be limited to two hours a day, three alternate days a week if I were able to drive or be driven to work. He asked me what jobs I thought I could do, and I told him that I couldn't think of any. He told me that 'In this age of the Paralympics everyone is capable of going to work'. I told him that of the jobs selected by the vocational assessment and taking into account the restrictions imposed on my shoulders by this firm (chosen by the insurer) I would not be able to do the weighbridge operating because of my shoulders – there is no way I could reach out of a weighbridge to trucks for hours on end. I said that I thought my tinnitus (I have a constant sound like crickets chirping in my ears) would make it difficult for me to earn a living working on the phone, and told him that I have very limited computer skills (my wife and children do all my typing for me but I can browse the internet and open emails) as I had always done practical work and never had any type of office job. With my shoulder injuries I am unable to use the mouse with my right arm and have limited use with the left. I can't type at all well. I don't use Word or any programs like that.

When I received a copy of his report, he had answered the questions from the insurer. Two of these (with answers) are:

**Is Mr Schofield fit to undergo a combination assessment by a suitably qualified occupational therapist and a driving instructor with rehabilitation experience, to determine the issue of why he cannot safely operate a spinning knob in his car when on all accounts he should functionally be able to do so?**

In this age of the Paralympics, I feel, with an appropriate attitude, that Mr Schofield is fit, or should be fit, to undertake the above assessment. Again, if achieved, I think this would be therapeutic for him.

**Do you consider Mr Schofield would benefit from pain management counselling?**

I feel he would benefit from psychological pain management counselling to assist him moving his shoulders more and to look at his attitude re return to work capabilities.

**Whether you consider that Mr Schofield has some capacity for work and if so, would you outline the hours he may be fit for. Do you agree that the positions previously nominated as suitable, remain so (work from home telemarketing/customer service centre, customer service enquiry clerk and weighbridge operator)? And if not, would you outline the reasons for this.**

I feel that after appropriate training in computer use and in particular, voice recognition data entry, that the first role of telemarketing from home is particularly applicable. I feel the other two roles he may manage but these need to be monitored by the involvement of a rehabilitation provider, as he gradually returns to these duties. He would be able to do these duties for 15 hours per week.

**I would be interested to know who contributed to 'when on all accounts he should be functionally able to do so', as I am still waiting to be tested.**

**I would be interested to know how psychological pain management counselling will enable me to move my shoulders more – perhaps it will cure the snapped off tendons and restore the wasted muscles!** I feel that my attitude is pretty realistic and that the insurer is trying to turn my physical conditions into an 'attitude'.

**I have passed the 130 week mark in my case, and have been unfit for work the whole time. It looks as if the insurer is trying to have me declared fit to work in able to finish paying benefits. Until last week, they had not updated my injury management plan for nine months – the previous plan expired in June 2014.** They tried to skip a number and send me IMP 9 when the previous one was IMP 7 – I emailed them and it was re-sent as IMP 8 and a gap of nine months noted.

**My NTD says I am not fit to work and that I have received no training that would enable me to work.**

I am being sent to Newcastle in a hire car (one hour travel each way) to do three sessions, two hours each session, of 'basic computer training'. I assume that the insurer thinks this will give me the skills needed for my new career as a telemarketer/sales rep working from home. I have had a silent number for over 30 years and have been on the 'do not call' register since its inception because I loathe telemarketing!

**I would like to say that the insurer and some of their agents do not treat me with respect. I have complied with all of their requests, even when they have failed to behave with integrity and follow the requirements of the act. There is an atmosphere of dishonesty/lying/conspiracy/leading questions in letters which I am not entitled to see, and the insurer has the ability to get away with anything and to get out of anything.**

I know that you have previously offered to intervene on my behalf (to the minister). I am not asking for this, as my case is coming to a close and should be finalised by the end of the year, but I wanted to update you so that you are aware of the way the insurer and the rehab providers have conducted themselves, in the hope that you can use this information in your work to change the unfair laws currently in place in NSW.

My solicitor is adamant that I not be identified in order to not prejudice my claim, but he said that he would be happy to speak with you about any aspect of my case.

My wife and I will probably attend your Parliamentary Forum on May 18<sup>th</sup>, but will not be asking questions or making a statement from the floor.

Yours sincerely,  
John Schofield

### **Other points regarding John's experience with the NSW workers compensation system:**

Insurer:

- Trying to influence doctors – NTD and IMC. Bullying injured worker. Refusing driving for social contact when it was the only support asked for. Making false file notes – re driving assessment. was told by NTD, ICP and IMC that JS can't drive. Asks for driving assessment – not done correctly. Ignores IW telling them not done correctly. Tries to get unqualified OT to do assessment. Gets angry when IW continues to ask for qualified assessor. IW tried to comply with recommendations of assessor who didn't test him – ended up in hospital and on opiates. wrote to NTD suggesting the reason IW can't drive is because of medication.

Vocational training:

- Greenlight – resume writing, how to look for jobs, advised not to disclose injury. Computer course debacle – no ergonomic setup – told injuries were all in head. By this stage injured worker was openly photographing the situation for evidence.

CAS vocational assessment:

- CAS already had list of 'suitable jobs' and told John and tried to get him to sign before their OT saw him. John refused to sign and said jobs not suitable. OT said would be next to impossible to find work and put very severe restrictions on John. (Can provide report if needed). OT asked John to squat – he told her he had no knee cartilage and said he didn't want to – she insisted. He squatted and his knee cracked and he had sharp pain. OT told him not to squat again. Subsequent x ray showed 6mm bone chip had broken off and was floating in knee causing severe pain, swelling and restricted movement. TKR advised. Done under workers comp after initially refused. CAS refused to take tinnitus and industrial deafness and knee injury into account (all work related).

Assistance at home – Greenlight.

- Recommended driving for social contact and to maintain relationship with mother. Delta refused. Recommended lawns done and handyman jobs done – John told OT that he would prefer to continue to pay his children to do these jobs and to have travel assistance.

A work capacity assessment was never done despite being on benefits and unfit for work for > 3 years.

There was only one Return to Work Plan in the three years plus – this went from 6/9/2012 to 31/10/2012.

**We would like to see mandatory video recording of all consultations with ‘independent’ medical and pseudo-medical consultants, with a copy given to each party.**

**We would like injured worker’s dignity, age, physical condition, interests and personality taken into consideration when determining work capacity and recommended jobs. Some people really can’t return to work and there is no benefit in causing them distress by making them attend multiple consultations with people who have no experience with their particular severe injuries and forcing them into fake rehab programs designed to superficially tick the boxes on injury management plans while providing a good source of income for the companies providing the ‘services’. It would be more cost-efficient to fairly compensate injured workers than to spend tens of thousands of dollars on these ineffective services and consultations that seriously injured workers are forced to attend.**

**Vocational training should be real not token, and should be aligned to the injured worker’s interests.**

**Honest workers should not be advised not to disclose their injuries - this is demeaning and immoral and is not fair to potential employers.**

**Unions should be able to support injured workers financially with their legal fees. It is ridiculous that a union can defend a worker accused of misconduct but not one injured at work.**

**We would like the Senate Enquiry to ask to see all of the correspondence from \_\_\_\_\_ to all doctors, IMEs, IMPs, IPCs, vocational rehab providers and vocational assessment providers. This would provide valuable insight into the way insurers operate within the system. As she was acting as an agent of the NSW Government, it is particularly important that accountability and transparency is evident. This has not been the case.**

**The workers compensation system is not designed to support seriously injured workers and is difficult to understand and navigate. If John had not had me to help him, his situation would have been grimmer than it is. There must be many injured workers distraught by their experience with being seriously injured, particularly older workers with a history of manual labour who are suddenly expected to become telemarketers, customer service operators or ‘work from home clerical workers’ just because ‘everybody has some capacity to work’.**

The information we have given here is a small part of the evidence we have. We have a huge folder containing all letters and reports, and 200 megabits of emails, reports and photographs which we would be very happy to provide to the Senate enquiry.

Please contact us if you would like more information.

Yours sincerely,

John William and Petronella Ruth Schofield