



2 June, 1999

The Hon. Tony Staley
 Chairman of Council
 Telecommunications Industry Ombudsman
 PO Box 14
 LANCEFIELD 3435

Telecommunications
 Industry
 Ombudsman

John Pinnock
 Ombudsman

Dear Tony

Mr Brian Purton-Smith

I realised after our discussion yesterday and after checking the file that this is not the first time Mr Purton-Smith has written to you about his claim.

For your information I enclose copies of:

- (i) letter from Mr Purton-Smith to you of 28 December 1996, attaching a letter to the Minister of 3 December 1996 and other attachments
- (ii) your letter to me of 30 January 1997
- (iii) my response to you of 13 February 1997

So far as any personal claim which Mr Purton-Smith may have, it appears that he has taken no steps at all to prosecute the matter since he last wrote to you.

Both before and at the time when the Enfield Peak Pty Ltd (Salome Party Hire) matter was settled, the former Deputy Ombudsman and I made it clear that the TIO could do little to assist him with his personal claim which I understand is, in effect, a personal injury claim for pain and suffering.

Both the Deputy Ombudsman and I were of the view that it was not a claim which was suitable to be submitted to the Arbitration process which Telstra had established.

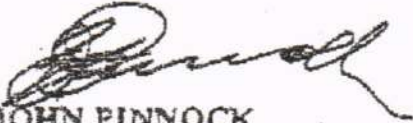
I am even more strongly of that view today. In part my position has hardened because of the many problems and deficiencies in the Arbitration process. Secondly, my recollection is that in a judgement in 1998 concerning an Appeal brought against an Arbitrator's Award by one COT claimant, Mr Justice Hooper of the Victorian Supreme Court cast doubt on whether the Arbitrator had any power to consider a 'pain and suffering' claim under the Arbitration procedure.

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In my opinion, the only avenue open to Mr Purton-Smith to pursue his claim is through litigation.

I also enclose copies of a letter dated 21 April 1999 from Mr Purton-Smith and of my reply.

Yours sincerely



JOHN PINNOCK
OMBUDSMAN