

**This [Anzac Day](#), the Ode of Remembrance will again be spoken even as pressure continues to pile on systems intended to support military veterans. Journalist David Fisher spoke to Janice Smith about her and veteran husband Rob's efforts to engage with Veterans' Affairs - and what it cost them.**

"Rob was a soldier born and bred," says his wife Janice Smith. "When he asked me to marry him, he said there's one thing I needed to know before I said yes."

And that, Janice recalled, was this: "He said there would be many times over the years when the army would come first."

Janice is telling this story because Rob cannot. Aged 70, he is trapped in his own body with steadily advancing motor neurone disease. Rob and Janice have two children - Kim (44) and Brett (41).

Rob is among the older of our contemporary veterans. His [final deployment to Afghanistan](#) came at the outset of New Zealand's involvement in the troubled country and at the end of a military career he started in 1972.

"He's always been 100 per cent committed. Being a soldier was who he was. He thrived in that environment."

After all those years of service, Rob and Janice found no traction at Veterans' Affairs when they went looking for help. Rather, there were six years of failed engagement as Rob and his disease tried to navigate the hurdles that exist for those who served in the military but now need help

As Anzac Day approaches, there are increasing signs of dysfunction in the system established to support those who served with the mental and physical impact of their service.

On April 25, the pledge will be given: "At the going down of the sun, and in the morning. We will remember them."

And yet, beyond that bleary-eyed dawn parade, there is much frustration. The government agency charged with meeting veterans' needs is cutting services and has a year-long waiting list. It's not even sure how many veterans it represents.

Its political masters have conceded that it should be better. Current minister Chris Penk told the Herald this, as did his Labour predecessor Peeni Henare.

"The basics haven't been done right for a number of years," he said. "I think it's been a slow creep of increasing demand and the systems haven't responded particularly well."

Outside those formal structures, the Royal New Zealand Returned and Services' Association is tearing itself apart in its latest round of internecine warfare.

It's a less robust, poorer, collection of clubs than it was even a few decades ago with a national office that is determined to future-proof an organisation that was being worn away by time.

Isn't it time someone went to war for the veterans?

## A life of service

Rob Smith served in the NZ Army regular force from 1972 to 1993. He had "done his 20" - the 20 years of service - then went off to sell real estate.

"Then they rang him up," Janice recalled. Rob was never quite finished with the army, and it never quite finished with him.

Rob Smith in 1995 after he re-enlisted in the NZ Army. Photo / Supplied

Their life together began at Linton camp near Palmerston North and took them wherever the Army needed Rob. Janice recalled living in 19 different houses and six military bases over the 46 years they had been married.

Some memories are striking - the return from New Zealand's old base in Singapore where their son was born straight into a Waiouru winter; the Papakura base house that was so tiny Janice could never unpack the moving boxes.

They bought a house once during his service but Army pay, a mortgage, and the punishing interest rates of the 1980s saw that dream end with a return to base accommodation.

It was, at times, a solitary existence with Rob sometimes away for about six months of each year. The nature of his specialisation - Rob worked in intelligence - was also a barrier. "He didn't talk a lot about his job," said Janice.

"When the kids were little, I had to have a photo of him in his army uniform that I'd put next to their bed and say, 'this is daddy, kiss him goodnight'."

On one return home, Janice recalled Rob picking up their then-5-year-old daughter who leaned away as if a stranger had come through the door.

Sometimes his absences were short - a week away and a sudden return. "One week you're a dual-parent family and the next week a single-parent family."

The dysfunction it brought was not an unfamiliar tale in service families. Janice would have the house running how best suited her and Rob's return, and efforts to become involved, would knock the routine out of kilter.

"It's definitely a hard life but then I haven't experienced married life as a civilian. That wasn't what I lived through."

Once he disengaged, there were always opportunities to trade civilian life for a brief return to uniform.

And that was how the next decade unfolded - with Rob leading NCO roles in intelligence, a posting to Bougainville in 1999 and then Afghanistan from November 2003 to May 2004.

The period over which Rob served was relatively low-tempo for New Zealand's military. He came in at the tail end of Vietnam and left before Bosnia kicked off, after which the tempo picked up hugely.

## Afghanistan - a chance to use years of training

When Afghanistan came around, he was so eager. “That he was going to be able to take all his training over all these years with the army and put it to use,” Janice said.

Those he left behind were nervous. He wasn’t. “This is what I trained for,” he told his family.

Janice said they believed Rob’s service in Afghanistan, and his constant exposure to electric and magnetic fields, was enough given scientific evidence that showed the links between EMF, military service, and motor neurone disease.

That stint in Afghanistan was his final service. Rob went on to do a short period of private security company soldiering then the couple travelled for a year before tackling their working future again. He learned to operate a digger developing the skills he was later able to use to find work in Australia.

There were signs he wasn’t well. At work, Rob would find himself tripping as he walked around even though there was nothing on which to trip. “We noticed it at home, too,” said Janice.

Rob had been working in the mines in Australia. When he came home for the 2012 Christmas break, they decided he wouldn’t go back. They thought it likely, with everything going on with his body, it would be difficult for him to get another job anywhere.

“He would be walking down the hallway and would be basically bouncing off the walls. He was so unsteady on his feet.”

It took over a year to pin down a diagnosis with much frustration doctors weren’t looking hard enough. Through 2012, Rob was suffering increasingly serious symptoms. Janice recalls a trip to the doctors during which she slammed her fist down. “You can damn well do something about this,” she recalls shouting.



Rob and Janice Smith, pictured in 2023. Photo / Supplied

When Rob was finally properly physically examined, his response to reflex testing led to a neurologist appointment within 48 hours. The medical system just seemed clumsy - when Rob finally did get an MRI, the follow-up specialist appointment wasn't set until months later.

"That's when I became a fighter," said Janice.

And she did fight, moving appointments and creating gaps in schedules which previously didn't exist. For Janice, there was a lot of anger at the health system.

And through all this, they had to manage the grief of a shared life taking a different direction than that planned, and talked about, for so many years.

"That's what we were going through when Rob put his application through for a war disablement pension."

## Veterans should be better served - ministers

The view that Veterans' Affairs is struggling to meet the needs of veterans crosses the political divide. [Former minister Peeni Henare](#) and [current minister Chris Penk](#) have both told the Herald that improvements must be made.

Most recently, that difficulty was highlighted when Veterans' Affairs restricted access to lawn mowing and gardening services that had been traditionally offered to those who served - like Rob - but didn't technically qualify as an injured veteran.

The VIP scheme, until now, had been seen as a way of acknowledging service and offering support to those otherwise excluded from the veterans' welfare system. Access was restricted, said Veterans' Affairs, so staff could focus on clearing the year-long average backlog of medical-related claims.

The biggest job facing Penk, and Veterans' Affairs, is dealing with the [fallout of a recent High Court decision that could impact on many veterans](#). If Rob Smith was seeking help now, after the court decision, it might be that his claim would have been treated very differently.

The High Court case came out of a claim made by Sir Wira Gardiner, who died in March 2022 of a brain tumour he believed was linked to Agent Orange in Vietnam.

Gardiner was urged to make the claim by Ross Himona, with whom he served in Vietnam. Himona has become the RSA's in-house expert on the law and it was his foresight that realised Gardiner's claim as a test case.

The focus was the Statement of Principles system brought in with the Veterans' Support Act 2014. The Statement of Principles is a set group of medical conditions that are accepted as being service-related along with an accepted set of causes. The idea is to streamline the claims process when dealing with known conditions, rather than litigating the same condition over and over again.

So, when a veteran fits into specific claim categories and their injury or illness was a result of specific criteria, then their claim is fairly straightforward. For example, a retinal burn is a specific category with specific criteria - such as laser radiation or arc welding - which for the most part is automatically accepted.

But when conditions sit outside that pathway, like Rob's, the system was seen by many veterans as leaving little room for the "principle of taking a benevolent approach to claims", which is enshrined in law.

That concept of benevolence in the new law was intended to grasp the old law's intent that a veteran's pathway to a claim shouldn't be cluttered with hurdles. A legal opinion obtained by the Returned and Services' Association, from Robert Fisher KC, pointed to the old law's requirement that the Crown needed proof "beyond reasonable doubt" to dismiss a veteran's claimed injury.

The veterans' community largely considers that onus of proof to have flipped, requiring them to provide it.

A memorial service for Wira Gardiner at the Wellington Cathedral in 2022 with members of the New Zealand Army honouring his service to New Zealand.

Photo / NZDF

That was the target - Gardiner's claim did not neatly fit into the Statement of Principles system. As such, it was rejected by Veterans' Affairs. That refusal was upheld in the review process.

But when the case was appealed to the Veterans' Entitlement Appeals Board, it found in Gardiner's favour and granted a disability pension (although the High Court later said some of its reasons for doing so were unclear). In a bid for clarity on the law, Veterans' Affairs went to the High Court for clarification on the law and how it was applied.

During the hearing, the High Court heard arguments that the Statement of Principles "should not be seen as a procedural straitjacket" that saw cases rejected if they did not meet prescriptive criteria.

The court agreed. Justice Helen McQueen said claims should be decided through a lens of "substantial justice and the merits of the claim" and not any legal fishhooks or technicalities, she said.

In relation to evidence from abroad, of which much was provided in Gardiner's case showing links between Agent Orange and brain tumours, the High Court said it was open to Veterans' Affairs to consider any evidence put before it.

The High Court said the appeal board should take another look at Gardiner's claim. It remains under consideration, nine months on. The ministerial briefing to Penk on assuming office included a large redacted section on the issue.

It is likely under the redacted text is guidance on how the judgment could increase the number of successful claims going forward. It, perhaps, offers a fresh chance at support for those whose claims were previously declined.

For Rob Smith, perhaps, it could be different.

## Who is a veteran?

Other big issues also sit with Penk. He told the Herald his top priority was answering the fundamental question: Who is a veteran?

The issue is vexed because of how New Zealand defines "veteran" - that is, someone who has served on one of the operational deployments approved as conferring "veteran" status.

As Penk told the Herald, he would be considered a veteran in Australia but not in New Zealand. Australia has adopted an inclusive definition which encompasses anyone who has served. It's a position underscored by a "covenant" through which those who served receive a "Veteran card" that provided benefits and a lapel pin.



There was a strong push for New Zealand to follow this path following a 2019 report from the Independent Veteran Advisory Board. It recommended the definition of veteran be changed to mean “any person who is or has been an attested member of the armed forces”.

In it, the board said the change would increase the number of “veterans” from an estimated 35,000-40,000 people to around 120,000 people with an additional cost of around \$144 million a year. That’s a big chunk of change for a low-ranking minister to push through Cabinet, even with arguments that this money is already spent on the same people by other agencies.

Also listed as a priority by Penk was the long-running sore that is the ignorance around the actual number of veterans. Penk was optimistic it would be resolved quickly when speaking to the Herald. The same issue was also a priority for NZ Defence Force in 2018 when the lack of data was raised in Sir Ron Paterson’s inquiry into veterans’ issues.

It’s a lack of knowledge that has hampered the ability of Veterans’ Affairs to meet veterans’ needs - Penk agreed with the proposition that you can’t target the right level of services at a community the size of which you don’t know.

The variability is such that NZDF doesn’t know how much money to put aside for veterans’ needs in the future, resulting in a \$1 billion variance in Crown accounts.

Veterans’ Affairs has not stood still. It is halfway through a major piece of work launched in mid-2023 called Te Arataki mō te Hauora Ngākau mō ngā Mōrehu a Tū me ō rātou Whānau - The Veteran, Family and Whānau Mental Health and Wellbeing Policy Framework. It set out a list of tasks needed to create an informed and structured pathway for veterans over an 18-month period.

Key focus areas are data and research; prevention and wellbeing promotion; transition processes and support; and professional and service development.

That included, for example, building links with the Office of Suicide Prevention to try to discover how common self-harm was among the veterans’ community. In Australia, where this information is collected, the results were so awful it led to a royal commission of inquiry.

The information missing - both overall veteran numbers and those who have taken their lives - particularly affects those who served in modern conflicts from the mid-1990s onwards.

It's a group whose service is very different from previous generations and which is least understood. This has led to a proliferation of "grassroots" organisations trying to find solutions to their own problems, with those groups saying traditional avenues simply aren't fit to understand the impact of their service or to provide treatment.

Contemporary veterans often speak of a disconnect with Veterans' Affairs, perhaps reflected in the agency's annual surveys between 2018 and 2022 when it carried out 4843 interviews with its clients, interviewing only 66 people who were veterans aged under 60.

Contemporary veterans speak of a similar disconnect with some RSAs, seen as the traditional home for those who served. Cheap beer and pokies is at odds with the activities sought after by the mostly-active cadre of younger veterans. One RSA president told the Herald last year he didn't consider there were any veterans since Vietnam.

It comes amid [an attempted overhaul of the Royal New Zealand Returned and Services' Association](#). Rather than a national organisation with branches, the RSA is a disparate collection of more than 100 separate, independent clubs.

Their number was once much greater but a reducing population, and a lack of engagement with younger veterans, have seen clubs collapse. Current board chairman Martyn Dunne told the Herald he estimated \$100m in equity had been eaten away as clubs consumed assets and savings in a bid to stay open.

National RSA president Buck Shelford told the 41 RSAs who met in February that New Zealand created veterans every day. "We owe it to them and the sacrifices they make to ensure support is there when they need it.

"And to be a member of the RNZRSA, to display that badge on your building, or wear the badge on your jacket, means that regardless of the business you operate, or how you connect with your community, the reason we are all here, our why, is to support New Zealand's veterans of military service and their whānau."

## The hurdles faced by veterans

Rob Smith applied to Veterans' Affairs towards the end of 2015. The application was rejected in January 2016 and the appeals board backed that up towards the end of 2017.

The appeals board decision showed the reasoning applied to the new system Statement of Principles section introduced in the new Veterans' Support Act. In doing so, it bypassed the more permissive 1954 legislation which Rob and Janice believe should have applied.

The application was handled under the new process which first required the service person - Rob - to have "qualifying service". This means he had to have been deployed on a specific mission that had been designated as opening the door to veterans' benefits. For Rob, those were Afghanistan and Bougainville.

The next hurdle was for the condition he had - motor neurone disease - to be among conditions that were accepted as potentially caused by service.

It was, so Veterans' Affairs then checked to see if the deployment and specific incidents occurring during that service matched up with what was called a "Reasonable Hypothesis" - the accepted cause-and-effect.

For motor neurone disease, the accepted causes were 10 years of a pack-a-day cigarette smoking, 250 or more blows to the head or other severe trauma to the brain.

Rob's claim of having received at least 250 blows to the head over his years of service was not reflected in his medical or military records. It also clashed with NZDF's medical expert's assessment that the blows to the head described were not enough to cause the damage claimed.

Rob and Jan's final effort went into submissions to the Veterans' Entitlement Appeal Board, this time with the support of then-Invercargill MP Sarah Dowie.

Rob and Janice Smith at their wedding in 1977. Photo / Supplied

Dowie argued that there was evidence in Rob's own medical files - he reported tingling in his fingers experienced in Afghanistan in 2004. There were "symptoms of MND contracted during his deployment to Afghanistan, which went undiagnosed" the appeal panel was told.

And there was a link, she said, presenting evidence from military partners, that during service in Afghanistan, Rob “wore radio transmitting headgear for a minimum of 12 hours per day for seven months”.

“This radio headgear emits Electro Magnetic Frequencies (EMF). EMF is a well-documented causal factor of MND.”

Dowie argued “just because there is a presumptive list, it doesn’t mean that the list is exhaustive”. In Rob’s case, she said, “it is obvious that this comes back to his wearing a [radio] headset for 12 hours a day”.

Not so, said the appeal board, pointing out the Statement of Principles did not feature EMF as triggering the condition. It rejected, again, the claim of blows to the head or the alleged 2004 missed diagnosis.

Janice: “Although they said it couldn’t have been caused by service, we didn’t believe they showed it couldn’t be.”

## ‘You feel cheated’

For the Smith family, the claim was motivated in part by a need for assistance. As Rob’s ability to live life as he had faded, there were changes needed to the house. And, at that stage, he had yet to retire and the disablement pension would have helped offset his lost earnings.

But there was another reason, too, said Janice.

“Part of it was the recognition, or acknowledgement, that what happened to Rob was quite probably caused by his military service and they would look after him.”

That was November 2017. Two years of knocking on doors seeking help followed, from the Office of the Ombudsman to then-Minister of Defence Ron Mark. In all, six years passed before they gave up on Veterans’ Affairs.

“Veterans’ Affairs is there for the veterans but during that whole process it felt like Veterans’ Affairs was doing everything they could to not support veterans.”

Deputy head of Veterans' Affairs Alex Brunt said the process of the Veterans' Support Act 2014 allowed the Smiths to make a fresh claim. The prior claim was not able to be considered as it had been through the review and appeal system and no new information had been raised.

Brunt said there had been an amendment to the Statement of Principles for motor neurone disease but it did not relate to electromagnetic frequencies.

The rejection left Janice feeling angry and let down. "There's so many studies and so much evidence that show a really strong correlation between motor neurone disease and military service. You feel cheated. It's a life-changing thing."



Rob and Janice Smith in 2003, around the time he was posted to Afghanistan.  
Photo / Supplied

A decade on, Rob and Janice's planned retirement has taken on a different shape. The trips they had planned, the adventures that had stayed on hold for so long, never took place. The money they had saved for that time together was needed to support Rob as the need for care became so great that in December 2022 he moved into a rest home after suffering a stroke.

It wasn't what Rob wanted. He had been so adamant about not going into care, Janice said. After a year in care, the couple also lost access to the small support Veterans' Affairs did provide - the lawnmowing and external cleaning of their home - because he no longer lives there.

Janice has always considered Rob to have taken a pragmatic approach to the creeping relentlessness of the disease. Or perhaps philosophical, she said, adopting the attitude: "This is how it is."

She said: "He's never really talked about how he feels about how this affected him. It has to be hard. Especially now he can't move."

It's been demanding, too, on Janice. "It's taken a huge toll on my health. It's been extremely stressful. There has been so much to deal with the last 10 years it sort of swamps everything."

She pauses, chokes up a little, and won't go on. The reason? "Because Rob will read it."

Rob Smith spent his life protecting New Zealand. He even warned Janice when he proposed that there would be times when this duty came before others.

And now, aged 70, it is Janice who is the protector. Seeing her husband trapped in his body and living in a wheelchair in a rest home brings the kind of heartbreak she can't bear to have him see.

**David Fisher is based in Northland and has worked as a journalist for more than 30 years, winning multiple journalism awards including being twice named Reporter of the Year and being selected as one of a small number of Wolfson Press Fellows to Wolfson College, Cambridge. He joined the Herald in 2004.**