

**THIS CONSTITUTES TWO SEPARATE AND FORMAL COMPLAINT AGAINST THE  
DEPARTMENT OF VETERANS AFFAIRS:**

**COMPLAINT 1:** IS AGAINST SIMON LEWIS FOR HIS DECEPTIVE, MISLEADING AND DISINGENOUS 10 APRIL 2018 RESPONSE TO MY ANALYSIS AS PRESENTED TO ESORT:

**COMPLAINT 2:** RELATES TO THE FALSE PUBLISHED MINUTES OF ESORT 9 MARCH 2018 MEETING AS NOTED ON DVA'S WEBSITE.

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**COMPLAINT 1:** DECEPTIVE, MISLEADING AND DISINGENOUS REPLY BY SIMON LEWIS IN HIS 10 APRIL 2018 RESPONSE TO MY ANALYSIS AS PRESENTED TO ESORT – SEE NUMEROUS DETAILS BELOW.

**BACKGROUND:**

As an interested participant and observer of veteran issues over close to four decades I decided to crunch some figures to see if the anecdotal evidence of the adversarial ways and declining performance of the Department of Veterans Affairs (DVA) was fake news or it was indeed correct.

My detailed analysis included reviewing specific performance measures as noted in the Annual reports of both DVA and the Veterans Review Board (VRB).

This analysis showed that all but one of DVA's key performance indicators (KPI's) has deteriorated significantly in the last five years.

My analysis, prepared in late 2017, was subsequently distributed to a wide range of parties including but not limited to the following:

- : Victorian Government Senators Fifield, McKenzie, Ryan and Hume.
- : Key figures in two Ex-Service Organisations (ESO's).
- : Opposition spokesperson for Veterans Affairs, Amanda Rishworth (presented in person).
- : The electoral office of the former and current Minister for VA (McCormack and Chester).
- : My Federal MP, Jason Wood, (who has been most helpful).
- : The new Secretary of DVA, Liz Cosson, and
- : Some media outlets.

Regrettably Senators Fifield, McKenzie and Ryan plus DVA's recently appointed Secretary, Liz Cosson have all failed, despite a follow up request, to respond to my correspondence on this matter.

It then came as a surprise to me that my analysis was presented at the March 2018 ESORT meeting. Despite this I am happy this information resulted in an even wider audience being in receipt of these facts.

It was only a few weeks ago that I received a letter from Minister Chester that included DVA's response to my analysis. Minister Chester's letter said in part, *'on 10 April 2018 Mr. Simon Lewis, Secretary of DVA, responded to this submission (to ESORT) in detail which I have enclosed.'*

## WHAT DID MY ANALYSIS REVEAL?

My one page analysis, as distributed to the above and presented to ESORT, said:

An article in the Canberra Times on 8 December 2014 reported that, ***'A Capability Review by The Australian Public Service Commission has found Veterans' Affairs has big problems with its culture, leadership and equipment, affecting the health and welfare of its clients, veterans and their families.'***

DVA's then Secretary, Simon Lewis, who had already been in this position for over 18 months, acknowledged the need for improvement. He is quoted as saying, ***'In particular, the findings from the report identify that DVA must take a fresh look at the foundation of its business, its operating model and by extension, its delivery model.'***

Since the above statement by Simon Lewis, except for a reduction on the time to assess veterans claims, (VEA decreased from 79 days to 72, SRCA from 171 to 110 and MRCA from 155 to 107), **ALL** other performance measurements as contained in DVA and the VRB's Annual Report have deteriorated, with some examples being:

- **A 51% increase in complaints** after adjusting for 8% less clients.
- **An increase in appeals being overturned at the VRB** (47.5% in 12/13 to 53.3% in 16/17). In 2001/02 it was 29.6%.
- A large increase in appeals overturned at the AAT, up significantly from **41% in 12/13 to 73% in 15/16**. Figures for 16/17 are incomplete.
- Decrease in client satisfaction level in the last two years, down from **89% to 83%** and a vote of no confidence by younger veterans of which only **49%** were happy with DVA's service.
- **A 29% increase in external legal costs**, \$5.6M to \$7.2M.
- **A significant decrease in the acceptance rate of new compensation claims**, MRCA now 70%, previously 80% and SRCA now 55%, previously 59%. (Note my original submission showed MRCA at 59% which was incorrect. The correct figure is 70%).
- While the improvement in the mean time to complete a compensation claim under SRCA and MRCA is welcomed **it has come at the expense of correctness in assessing initial liability claims.**

Under SRCA the **critical error rate** has more than **doubled from 5.4% in 12/13 to 12.9% in 16/17**. For MRCA it is even worse having more than **trebled from 2.4% to 8.7%**.

Even more worrying is in 16/17 the mean time to complete compensation claims is virtually unchanged while the critical error rate under SRCA and MRCA increased significantly, from 6.8% in 12.9% for SRCA and 6.9% to 8.7% for MRCA, and remember this is just in the last **year**.

- The most damning and tragic statistic is that veteran suicides have increased from **17 in 2012 to 86 in 2017**. This is a **fivefold increase in just five years**. I note that 48 of the 86 veteran suicides in 2017 were clients of DVA and a few more, like Jesse Bird, had claims for war caused medical conditions lodged but wrongly denied by DVA. In some cases DVA, due to their negligence and maladministration, may as well have provided the means for the likes of Jesse Bird to end their life.

To repeat, Simon Lewis is on the record in late 2014 as saying, ***'In particular, the findings from the report identify that DVA must take a fresh look at the foundation of its business, its operating model and by extension, its delivery model.'*** With his failures as outlined above I urge the Minister to clean out the whole Senior Management team who have clearly failed our veterans.

## **HOW DID SIMON LEWIS RESPOND TO ESORT TO MY SUBMISSION?**

The Secretary's response on 10 April 2018 was distributed to all ESORT representatives. Unfortunately his five page response to my one page analysis of DVA's declining performance is disappointing to say the least. Simon Lewis appears to be in either in denial or trying to defend the indefensible.

Simon Lewis addressed only some of the issues I raised. For several issues he has cherry picked an occasional improving year, which is welcomed, despite a significant deterioration over the last 5 years.

He has also tried to muddy the waters by including other issues that were not part of my appraisal. He has also, for reasons only Simon Lewis can explain, failed to respond to other key KPI's, complaints to the Ombudsman, Compensation for Defective Administration claims and veteran suicides.

DVA have changed the way they now report a number of KPI's, e.g. appeals to the AAT and acceptance rates for new compensation claims. This makes it impossible for an outsider to make any meaningful comparisons and there is no option but to accept the comments on Simon Lewis at face value. Hopefully the ANAO will be better able to comment on this when their review, due by 30 June 2018, is released.

When presenting data on statistical issues it is important to keep it as simple as possible. His response, by including other information not relevant to the key issues raised, is disappointing and an attempt to cloud the fact that DVA's KPI's, by their own published figures, have deteriorated big time.

I now make specific comment on the response to ESORT by Simon Lewis, former Secretary of DVA, to my now published analysis.

## **COMPLAINTS – SOME SIMON LEWIS SPIN ON DECLINING PERFORMANCE:**

I highlighted **a 51% increase in complaints** over the last 5 years after adjusting for 8% less clients.

One would think this figure was indisputable but no Simon Lewis, DVA's most senior person, hasn't got the courage to acknowledge this. Instead he states,

*'DVA has seen a 24% decrease in the number of complaints received 2014/15 to 2015/16, and an increase of 2% from 2015/16 to 2016/17.'* and

*'There was a 37% increase in the number of compliments received from 2015/16 to 2016/17.'*

The undeniable facts are that complaints over the 5 years has increased by 51% after adjusting for 8% less clients. Over the last two financial years the number of complaints, after adjusting for less clients, remains unchanged.

There is a significant error in Simon Lewis' claim of, *'an increase of 2% from 2015/16 to 2016/17.'* The stated figure of 2% is incorrect. In that period complaints increased from 2,288 to 2,845. This is an increase of 24.3% and not 2% as claimed in the response to ESORT by Simon Lewis.

Should the reader only look at the written comments by Simon Lewis, as opposed to the table of figures, they would conclude there has been a significant decrease in the number of complaints over the last 2 years. This would be great if it was correct, but it is NOT true.

To restate the facts as listed in DVA's Annual reports, there has been a 51% increase in complaints over the last five years after adjusting for 8% less clients.

### **COMPLIMENTS - SIMON LEWIS USES SELECTIVE DATA TO AGAIN HIDE DECLINING PERFORMANCE:**

What do the various DVA Annual reports say about the number of compliments? Well the facts are there has been a 7% decrease in compliments over the 5 year period after adjusting for less clients.

Despite this slight decrease over 5 years Simon Lewis decided to highlight just one year by stating, *'there was a 37% increase in the number of compliments received from 2015/16 to 2016/17.'* Again this is cherry picking one good year whilst completely ignoring the declining trend over 5 years.

His response also included the average time to resolve complaints that is well under the target time. This is welcomed but was not one of the issues raised in my analysis.

### **APPEALS TO THE VRB – SIMON LEWIS FAILS TO REALISE THE SYSTEM HASN'T CHANGED:**

The Annual Reports of the VRB highlight there is an ever increasing success rate for Veterans winning their appeal at the VRB. It was 47.5% in 2012/13 increasing to 53.3% in 2016/2017. There has been a massive increase over the last 15 years considering that in 2001/02 it was 29.6%.

His response of a detailed table and nearly one page of written point form comments is I believe designed to confuse the reader by including total determinations, (as opposed to VRB hearings), the number of internal reviews and Alternate Dispute Resolution cases.

Simon Lewis notes some of the reasons the VRB identified for cases to be set aside or varied that include:

*'additional information provided at a hearing'.....'new contentions or a new hypothesis presented by the advocate or applicant' and 'a consequence of passage of time from the date of primary decision to the hearing.'*

Lewis then states, *'Therefore, a VRB decision to set aside or vary does not necessarily indicate an incorrect decision was made by the delegate at the primary level.'*

He is correct with this last statement but the prior ones are not relevant in explaining the massive increase over the last 15 years in the percentage of appeals being overturned at the VRB.

This is because the *'additional information'* and *'new contentions'* have **always** been the same year on year. For Lewis to then list, *'a consequence of passage of time from the date of primary decision to the hearing,'* defies the facts that since 2001/02 until now the time taken to finalise appeals to the VRB has been very constant, at close to 12 months.

For none other than the head of DVA, Simon Lewis, to rely on and using his words, *'additional information'....'new contentions' ....* and, *'the passage of time'* to try and justify the continual increase over the last 15 years, is very disappointing and designed to discredit my analysis. It is also dishonest and in no way, abiding mb their motto of 'Saluting their Service'.

May I restate information as detailed in the Annual reports of the VRB that note **an increase in appeals being overturned at the VRB** (47.5% in 2012/2013 to 53.3% in 2016/2017). In 2001/2002 it was 29.6%.

These are clear facts that Simon Lewis and the Department he represented cannot deny, but try to justify.

## **APPEALS AT THE AAT: MORE SIMON LEWIS SPIN AND SOME WOULD CALL BEING DEVIIOUS:**

His response contains words like, *'information in Annual report was quite limited,' ....the statistics in the Annual report did not include data of cases that were withdrawn, dismissed, settled by consent, or set aside.'* He also notes a new way of reporting and, ***'often this is a result of new evidence or information received during the course of the AAT proceedings.'***

I note that new evidence or information received as part of the AAT hearings is nothing new and has been happening ever since the AAT was set up. In trying to discredit my analysis he is again being deceitful to none other than the members of ESORT.

Because of the change in the way calculations are made by DVA, it makes it difficult to make comparisons year on year. Despite this, published figures confirm that, in percentage terms, significantly more decisions are being varied at AAT level.

## **CLIENT SATISFACTION: – IF ONLY DVA WOULD LEARN AND CHANGE:**

It is a reported fact that client satisfaction level in the last two years is down from **89% to 83%**. Even more worrying for DVA is a vote of no confidence by younger veterans of which only **49%** were happy with DVA's service.

That less than half of younger veterans were happy with DVA's service is a damning indictment of their service levels. It should be noted that no survey of Centrelink clients has ever had a satisfaction rate as low as DVA has with our younger veterans.

For Simon Lewis to claim, *'the Survey is an important measurement tool to learn about clients experiences with DVA. It provides valuable data for business change and reform.'*

One must ask if the survey *'provides valuable data for business change and reform,'* why have DVA's key performance indicators continued to decline. One must ask what have Simon Lewis and DVA learnt, if anything, from these surveys?

## **EXTERNAL LEGAL COSTS - TYPICALLY ONE GOOD YEAR IS HIGHLIGHTED WHILE IGNORING THE TREND:**

My analysis highlighted there has been a **29% increase in external legal costs**, from \$5.6M to \$7.2M in the last 5 years. This is despite an 8% reduction in clients.

So what does Simon Lewis do? Again, one year, 2016/17 has been cherry picked, that shows a reduction on the previous year, but fails to acknowledge or comment on the 29% increase over the last 5 years.

This is another example of avoiding explaining why there has been a significant increase over the last 5 years.

## **CLAIM PROCESSING TIME AND CRITICAL ERRORS – A MASSIVE BLOW OUT OF THE LATTER:**

There has been a welcomed improvement in the time to finalise a veteran's claim. Under all 3 Acts it is now under the target time. This improvement is most welcomed and hopefully an indicator the tide is slowly turning in processing injured veterans claims.

Unfortunately the big improvement in processing time for claims under SRCA and MRCA in 2016/17 has come at the expense of a massive blowout in DVA's critical error rate. This is not someone making this up, it comes from none other than DVA's Annual reports.

So how does Simon Lewis explain this massive blow out? He has noted that, *'the 2012/13 figures quoted for MRCA and SRCA claims relate to the error rate for liability claims, while the 2016/17, figures quoted are the combined correctness rate for claims under the MRCA and SRCA.'* This means DVA have again changed the way they report making it difficult for comparison over the 5 year period.

It is important to note that Simon Lewis has **NOT** disputed the massive blow out in critical error rate from 2015/16 to 2016/17 under both SRCA and MRCA. With reference to DVA's Annual report 2016/17, page 113, the table clearly shows the critical error rate under SRCA was 6.8% in 2015/16 and 12.9% in 2016/17. For MRCA the critical error rate was 6.9% in 2015/16 increasing to 8.7% in 2016/17.

This is a massive increase in DVA's critical error rate and substantiates my submission that said in part, *'While the improvement in the mean time to complete a compensation claim under SRCA and MRCA is welcomed (in 2016/17) **it has come at the expense of correctness in assessing initial liability claims.***'

#### **COMPLAINTS TO THE OMBUDSMAN:**

Simon Lewis has failed to make comment on my paper regarding complaints to the Commonwealth Ombudsman. DVA ceased reporting on this KPI several years ago. Despite this I have recently been able to establish it has increased by 16% from 2012/13 to 2016/17 after adjusting for 8% less clients.

#### **COMPENSATION FOR DEFECTIVE ADMINISTRATION CLAIMS:**

Simon Lewis has failed to comment on this. We are none the wiser on this important performance measurement. Why?

#### **VETERAN SUICIDES:**

It is disappointing the response to ESORT by Simon Lewis failed to address the most damning and tragic of all statistic, that of veteran suicides. The figures supplied by The Warriors Return has shown a massive increase in the last 5 years. They also noted the majority of those veterans who took their life were already clients of DVA. There were also more potential clients like Jesse Bird whose claims had been rejected, plus others awaiting determination/finalisation with DVA, the VRB or AAT.

#### **CONCLUSION:**

To repeat, the head of DVA, Simon Lewis is on the record saying nearly four years ago, *'In particular, the findings from the report identify that DVA must take a fresh look at the foundation of its business, its operating model and by extension, its delivery model.'*

The above clearly highlights that DVA's performance on almost EVERY KPI's has deteriorated significantly in the last five years. Under the current Management they have clearly failed our veterans and their families. Interestingly DVA's motto is 'Saluting Their Service.'

#### **WHAT OUTCOME AM I SEEKING?:**

The new head of DVA, Liz Cosson be required to issue a new response to ESORT, one that FULLY acknowledges **EACH** of the failures and shortcomings highlighted above in my analysis and to provide me with a copy of that new response. The new response be tabled at the proposed August 2018 ESORT meeting.

**COMPLAINT 2: DVA'S COMPLETELY EXCLUDED THE ABOVE ISSUE OF DECLINING PERFORMANCE FROM THE ESORT MARCH 2018 MINUTES AS PUBLISHED ON DVA'S WEBSITE:**

What do the minutes as published on DVA's website say:

***Member Submissions***

*A range of issues important to ESORT members were also discussed under various submissions which included the future of Advocacy, the need to prioritise strategic issues for consideration of ESORT, the complexity of collaboration across Ex-service organisations and the request for regular updates on the progress of recommendations from the Senate Inquiry into Veterans Suicide.*

So it is crystal clear from the above that DVA, by failing to accurately reflect the issues discussed at the March 2018 ESORT meeting have deliberately tried to hide their deteriorating performance from the representatives of key ESO's, veteran and their families plus the Australian public.

This **deliberate** concealment by DVA highlights they are all about covering up their declining performance instead of being true to their motto of 'Saluting their Service.

**WHAT OUTCOME AM I SEEKING?:**

**That DVA issue amended minutes that acknowledge the issues raised and the amended minutes be published on DVA's website. For Simon Lewis to issue a 5 page response is absolutely clear proof this was a significant issue raised at ESORT, yet for reasons that can only be explained by DVA, the minutes completely ignore this issue.**

**SUMMING UP:**

As the contents of the above two complaints are about to become a feature article in the print media I require that you comply with the outcomes I am seeking within the required timelines.

Thanking you in anticipation.

Yours faithfully,

ALAN ASHMORE