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FOR THE ATTENTION: OF:

**Officer Mr John Whitehall
Constable Tania Flaherty and
Detective Inspector Terry Walsh**

Fax -

To: Mr John Whitehall
Constable Tania Flaherty and
Detective Inspector Terry Walsh

From: Val Kerrison

Fax: 9265 4198

Pages:

Phone: 9265 4100

Date: 31 October 2001

Re: Follow-up to Meeting 6 Aug 2001 **cc:**

Urgent **For Review** **Please Comment** **Please Reply** **Please Recycle**

● **Comments:**

Dear Officer Whitehall

Thank you for your time and patience in this matter.

- 1 To reiterate part of our conversation, since 1995 I have never applied for any form of welfare payments such as the dole or sickness benefits.

I am currently working doing computer accounting and sometimes teaching. Businesses contact me and ask me to do this work.

Some places are aware of the full story and entrust me with keys to their premises and their most confidential business records.

Members of the public have fallen around laughing at TAFE's documents falsely claiming that I (a 62-year-old grandmother) is a potential homicide and suicide threat.

But that does not address the underlying issues which have accumulated and compounded for more than 9 years while government departments shuffle papers or fail to act.

- 2 In our telephone conversation one of the issues which arose was the question as to whether or not HealthQuest were legally empowered to retire me as a TAFE teacher.

In this regard, the Technical and Further Education Act is relevant, as is Public Sector Management Act. The wording of both these Acts is similar, and both show that there must first be a finding then recommendations/decisions made by THE DEPARTMENT.

- 3 Therefore HealthQuest can merely issue recommendations. They do not have statutory authority or power to hire/fire/terminate people outside HealthQuest. This was also confirmed to me in my conversation with Mr Harry Bauer Industrial Relations judge.

The Public Sector Management Act states in part:

s36 *Incapable officer may be retired (1979 Act, s 78)*

If:

- (a) *an officer employed in a Department is **found** [my emphasis] to be unfit to discharge or incapable of discharging the duties of the officer's position, and*
- (b) *the officer's unfitness or incapacity:*
- (i) appears likely to be of a permanent nature, and*
 - (ii) has not arisen from actual misconduct on the part of the officer, or from causes within the officer's control,*
- the Governor** [my emphasis] may, on the recommendation of the appropriate Department Head, cause the officer to be retired.*

The Technical and Further Education Act:states in part:

Incapable officer may be retired:

s20. *If:*

- (a) *a member of the staff of the TAFE Commission is **found** [my emphasis] to be unfit to discharge or incapable of discharging the member's duties; and*
- (b) *the member's unfitness or incapacity appears to be of a permanent nature and has not arisen from actual misconduct on the part of the member (or from causes within the member's control),*
- the **TAFE Commission** [my emphasis] may cause the member to be retired.*

- 4 As mentioned in our telephone conversation yesterday, the first step to a forced retirement has to be first a FINDING that the officer has failed to carry out his/her duties of office.
- 5 You will note on all the purported certificates that the GMO officers have merely stated an opinion:
- "I am of the opinion that she is in consequence unable to discharge the duties of her office. I am further of the opinion that her disability will in all likelihood prove permanent."*
- 6 As you will notice, these words, written on all the purported certificates, at first glance appear to fit the legislation.

However, they do not.

An opinion is not a finding. A finding is a conclusion reached following an inquiry of fact.

