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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.

A finding in relation to performance of duties first needs a reference to the employees' Statement of Duties and identify the duties as a term of reference. That term of reference can then be used, both sides give evidence, followed by a finding that at on such-and-such a day the employee failed to discharge some identified duty.

If a duty (as set out in Statement of Duties) was identified, and there was then a FINDING and then an illness or disability identified which could have caused that finding of failure to perform that duty, these could then be linked to construct a RECOMMENDATION to be forwarded to the Department head. Then the Department head could decide to formulate a recommendation to the NSW Governor or someone else empowered (such as possibly the TAFE Managing Director). The very high person then makes the decision. HealthQuest psychs do not. It is either the NSW Governor or TAFE Managing Director empowered to hire the govt employees - and also empowered to terminate.

Then the relevant high-ranking person such as NSW Governor or TAFE MD may (or may not) make a decision to cause the employee to be retired.

In other words this process is similar to a lawful termination (for failure to carry out duties) under the Industrial Relations Act, but much more is required.

Instead HealthQuest employees simply write words similar to the Act. They put them on a piece of paper and head it "Retirement Certificate" and post it off. By choosing to use this document Departments have seemingly circumvented Industrial Relations requirements with the Acts' inherent rights and protections.

> The HealthQuest words, if standing alone, could cause people to wonder how such opinion could be formed, bearing in mind that HQ employees are far distant from the places of work where employees such as myself were currently capably performing all our duties unaware.
>
> This is where the distracter "medical" comes into its own.
>
> If a medical practitioner makes a pronouncement, how can a person without medical qualifications question it.
>
> So when a medical practitioner such as a psychiatrist applies a purported psychiatric label to the employee's (previously) good name people believe it. The medical qualifications create and air of authenticity and possible reason to a 'bolt from the blue'.
>
> And, lets face it, the very office itself as Government Medical Office, can be presumed to be above question.
>
> The beauty of applying a psychiatric label is that a psychiatric label is subjective. It cannot be measured such as high blood pressure. And one psychiatrist can (and does) consider/state that a person is psychotic while another psychiatrist can (and does) consider/state that this same person is normal and exhibiting exemplary behaviour. And neither (bought) opinion can be disproved.
>
> However, in the examples supplied, the psychiatric labelling was bought by the employer and applied to employee who may have simply opened their mouths to report apparent wrongdoing within their department.

As discussed with you I believe that the psychiatric/medical labelling is simply the distracter, and if one puts that aside, the Industrial Relations status can simply be observed.

One day the targeted employee is an employee and overnight s/he is retired.

And no-one in the Department saw it happen.

Then, apparently following oral or disposable instructions from higher up, the Department staff stop the wages, and change the employment status of the employee.

Fait accompli -

Previous reports of wrongdoing within the department are suddenly discredited as being the mere utterances of a psycho, and the psycho is suddenly history - shocked and without money, or a job. And with a psychiatric label, who is to give her a job.

7 Another question was motive. HealthQuest (unlike Ombudsman's office, ICAC etc) is self-funded. If employers do not contract HealthQuest's services its funds dry up and it could either fold or be downgraded - similar to businesses. HealthQuest charge its clients (mainly govt departments) a fee for service. Its fee for "Fitness to Continue" service is about $800 and when contracted to perform this service for their clients (Departments such as DET, Police, TAFE etc), if it does not deliver satisfaction it (as with businesses) risks not being contracted again in the future.

If HQ fails on the first round to deliver the desired 'service' to the Department, the Department can (and sometimes has) simply ordered the employee to again go to the HQ shrink under the guise of 'care and concern' for the employee.

If the targeted employee refuses to submit to HQ's psychiatrist the Department has in the past simply sacked the employee for refusing to carry out an order and used Crown Solicitor to fight it through the courts. (Ref. Marlese Zechner IR cases).

8 Officer Whitehall, I understand from our conversation that the PD would need to have a possible crime set out specifying who, what where when why etc.

9 This is made difficult because TAFE have attempted to prop up their purported termination since 1995, and have made all sorts of backdated changes to my employment status through the years in their efforts.

10 Much of the following is repetitive to a) my first complaint to the police officers Constable Tania Flaherty and Detective Inspector Terry Walsh on 6 August; b) my fax dated 30 October 2001; c) telephone conversation with yourself, Officer John Whitehall on 30 October 2001.

Please Note: I cannot know what is or is not understood and ask for assistance in this.

11 Another issue which arose was that the police require original documents. Again this is difficult but not impossible. At this stage, many of the documents which I hold are not originals as I have obtained them under FOI and only copies were supplied.