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Three Year Review of the Crime and Misconduct Commission

Attention:
CEO Cardwell Shire Council
Mark Kelleher

Mark,

Subject: Comments/Submission by Cr. Barry Lansdown

I believe the government should be canvassed to change the way complaints are to be made to the Crime and Misconduct Commission (CMC) in particular frivolous or vexatious complaints against councillors. It is a proven fact that the greater percentage of complaints made against councillors have been dismissed on the grounds the complaint was frivolous or vexatious.

This is a topic that I have experienced first hand and found it to be very unpleasant and unethical to say the least.

When a complaint is made to the CMC there are a number of factors that should be considered;

- a. Confidentially.
- b. Breaches of confidentiality.
- c. Frivolous or vexatious complaints.
- d. Sanctions or cost of pursuing complaint awarded against complaint for frivolous or vexatious complaints.

Considering the above, the government should have a far stricter policy for the lodgement of complaints to the CMC when lodging a complaint against councillors. The LGAQ has already identified the problem in their discussion paper forwarded to councillors a month or so ago.

The steps I put forward when submitting a complaint to the CMC are as follows;

- a. **Lodging a Complaint.** When a complaint is received by the CMC the complainant should be notified immediately the complaint has been received and asked if the complainant has forwarded a copy of the complaint to any other person or persons. Failing to answer the question within a specified time or if the complainants answer is in the affirmative then the following should occur;
 - (1) **Confidentially not Maintained.** The complainant should be notified that confidentiality has not been maintained and should the complainant wish to continue with the complaint the CMC has an obligation now to inform the alleged offender that a complaint has been made against them and the context of the complaint. (I would not expect this to be the case with more serious allegations, eg, criminal or sexual offences).
- b. **CMC Action - Confidentially Maintained.** Complainant notified that it is their responsibility to maintain confidentiality of the complaint and it will be dealt with in due course. CMC should be obligated to inform the Chief Executive Officer of the Shire in which the alleged offender is a sitting member.

- c. **CMC Finding** - If in the opinion of the CMC the complaint is substantiated or a fair and genuine complaint, the CEO of the Shire is to be notified of CMC finding and the proposed action to be taken against the offending Councillor. No cost awarded against complainant.

- d. **Frivolous or Vexatious Finding.** - On the other hand if a complaint is found to be frivolous or vexatious the CMC should seek to recover all costs from the complainant which are incurred from the time of submission up until the determination of the finding. These costs should include cost of wasted time by other agencies who may have had to provide information to the CMC, eg CEO of Shire Councils. Further, the alleged offender should be notified by the CMC that the complaint was not substantiated and found to be of a frivolous or vexatious nature.