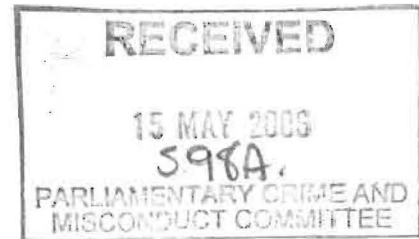


Your Ref: S 98
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Department of
**Local Government, Planning,
Sport and Recreation**

5 May 2006

Mr Geoff Wilson MP
Chairman
Parliamentary Crime and Misconduct Committee
Parliament House
George Street
BRISBANE QLD 4000



Dear Mr Wilson

Three Year Review of the Crime and Misconduct Commission ('CMC')

I refer to your letter dated 7 March 2006 to Mr Michael Kinnane, Director-General, Department of Local Government, Planning, Sport and Recreation seeking any comments the Department has in relation to the CMC's operations under the *Crime and Misconduct Act 2001* (the 'Act'). The Department appreciates this opportunity to provide feedback in relation to the CMC.

During the previous twelve months in particular, this Department has referred a number of cases of suspected misconduct to the CMC pursuant to section 38(1) of the Act. I understand that the majority of these allegations involve suspected misconduct by local governments and local government councillors. It is this Department's view that, typically, these referrals are dealt with by the CMC promptly.

The Minister for Environment, Local Government, Planning and Women and the Department in general does play a pivotal role in assisting local governments to function in an effective and efficient manner. Importantly, the Department aims to develop and maintain relationships with local governments and to build capacity and trust with them.

However, in line with the concept of the separation of powers, local governments are separate body corporates and the Minister and the Department do not play a regulatory role in the conduct of local governments. It is for this reason that the Department appreciates its ability to refer cases of suspected misconduct to an independent body, being the CMC, to investigate and deal with as deemed appropriate.

However, there is concern regarding the number of complaints which are referred back to the Department for it to deal with as deemed appropriate.

For reasons of independence, the Department's need to build trust with local governments and the need to have officers skilled in the areas of investigation and prosecution, the Department feels that the CMC is better placed (in addition to having the mandate and ostensible authority) to deal with allegations of suspected misconduct concerning local governments. To require the Department to investigate and prosecute allegations of suspected misconduct relating to local governments can lead to it playing a regulatory role in respect of local governments, a role it is not intended that this Department plays.

Accordingly, when undertaking this review, the Department invites the Parliamentary Crime and Misconduct Committee to consider the extent of the roles of the CMC and the referring agencies and whether the CMC can play a more active role, indeed the lead role, in the investigation and prosecution of serious allegations of suspected misconduct by local governments and councillors.

Bronwyn Nosse, A/Manager, Legal and Administrative Review Services had preliminary discussions with CMC officers on 15 March 2006 regarding the above concerns and I understand that an initial review of internal CMC procedures regarding local government referrals will take place.

If you would like to discuss the above comments or require further information to assist with your review, please contact Bronwyn Nosse on (07) 3235 4340.

Yours sincerely

[Original Signed]

Margaret Hoekstra
Executive Director
Corporate and Executive Services
Office for Women