



10 December 2021

By Email: actreview@dlgsc.wa.gov.au

M/s Lanie Chopping
Acting Director General
Department of Local Government, Sport and Cultural Industries
PERTH WA 6000

Attention: Local Government Act Review Team

Dear M/s Chopping

Local Government reform package consultation

Thank you for the opportunity to make this joint submission on behalf of Crime Stoppers WA and national commercial law firm Piper Alderman in relation to the package of proposed Local Government reforms.

1. Introduction

Crime Stoppers

Crime Stoppers WA (**CSWA**) is one of the best known and trusted names in Western Australia, actively contributing to safer communities since 1995.

CSWA is an independent, not-for-profit community organisation and registered charity, working in partnership with the Western Australian Police Force to help members of the public play a key role in helping to report and solve crime.

The CSWA Impact Report 2017-2020 (**Impact Report**) states “*that the assurance of anonymity and confidentiality removes the fear of retaliation and empowers individuals to contribute to all stages of the crime prevention spectrum.*”¹

The Impact Report also states that:

- (a) “82% of people feel safer because Crime Stoppers exists;
- (b) there is 95% brand recognition and trust rate in CSWA; and
- (c) 30% of people would not provide information to anyone if CSWA was not there.”

Lawyers

**Adelaide . Brisbane
Melbourne . Perth . Sydney**

ABN 42 843 327 183

Level 29, Allendale Square
77 St Georges Terrace
Perth WA 6000
Australia

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¹ <https://www.crimestopperswa.com.au/cswp/wp-content/uploads/2021/06/CRI006-A4-IMPACT-REPORT-s-pages.pdf>

Piper Alderman

Piper Alderman is a premier commercial law firm, and has offices in Adelaide, Brisbane, Melbourne, Sydney and Perth. The firm works with clients in Western Australia and across Australia to achieve optimum legal and commercial solutions.

Piper Alderman's legal expertise has been built on nearly two centuries of industry experience. Piper Alderman has been a leading advisor to Australian commercial interests for more than 170 years and continues to advance in knowledge, skills and commitment. Piper Alderman listens to clients, responds to their needs and guides them through increasingly complex regulatory and business landscapes.

As a united, national partnership the firm is able to work in teams and collaborate in a manner that enables them to harness skills and network effectively for clients. The firm understands the importance of building enduring client relationships and is absolutely committed to advancing clients' interests and helping them achieve their business goals.

Piper Alderman has a proud history of being at the forefront of many emerging organisations and areas of law, from landmark rulings to new legislation.

The national firm has opened an office in Perth with well-known local people to serve the growing client base across all industry sectors, including the local government sector. Piper Alderman is in fact a preferred supplier to local government in WA by being on the WALGA legal services panel.

The Perth office offers a variety of expertise and services; including a unique, holistic employment and workplace health and safety law service.

This service includes advising clients on whistle blower policy, anonymous reporting and conducting a growing number of confidential and sensitive investigations on reported matters, including harassment, bullying, assault and inappropriate workplace behaviour.

2. Comments on the proposed reforms

Our submission is made in recognition of the recommended renewed focus on integrity, self-regulation, accountability and transparency in Western Australian local government authorities².

We particularly note Recommendation 59 to establish an Office of the Independent Assessor³ to receive, investigate and assess complaints against elected members and undertake inquiries.

In this regard, we anticipate that there will be a variety of workplace and other complaints that could be made, and not just those against elected members. Some of these will need to be appropriately addressed with sensitivity, and in some instances anonymously.

² Local Government Act Review

³ Ibid – page 43

To our knowledge this process is currently undertaken by public authorities (including local government authorities and other government agencies) through the *Public Interest Disclosure Act 2003 (WA)*⁴ and individual whistle blower policies.

Various public and local government authorities have publicly stated their desire to have effective whistle blower programs around the culture, working environment and values. However, they do not appear to have fully trusted and independent anonymous reporting processes in place to encourage complaints, including those of a general workplace nature (harassment, bullying, assault etc).

The current processes to deal with complaints may be intended to be treated as confidential, but in practice and reality they are not. They should be anonymous unless the complainant wishes to divulge their identity.

We consider it vitally important for public authorities, including local government authorities, to have robust mechanisms in place for deploying and monitoring the effectiveness of their internal complaint reporting processes, ensuring compliance with legal workplace health and safety obligations; and approach to whistle-blower policies and legislative requirements.

This should include having systems in place to provide oversight and reporting arrangements for ensuring it's Council, Executive or Audit / Risk Committee⁵ are kept informed about the effectiveness and integrity of the entity's reporting policy, processes and procedures, whilst preserving confidentiality and, where necessary, anonymity.

In addition, most entity's claim that their internal system is anonymous or at least confidential. Unfortunately, the reality is that workers / complainants have a lack of trust in internal entity systems and tend not to believe the claims of anonymity, as they are generally traceable. This lack of trust of internal systems is a global phenomenon. While workers / complainants can play a critical role in detection of misconduct or inappropriate behaviour, it is well established that most remain silent due to fear of being traced and faced with some sort of retaliation.

Instead of reporting, many workers / complainants develop an "ethical blindness" to protect themselves. The most common reason cited that deters workers / complainants from speaking out and sharing what they know is the 'shoot the messenger' phrase. In short, they are afraid to report.

This deficiency can be significantly enhanced by deploying the system in a considered way, with deliberate decisions being taken in relation to investigations, whether conducted by internal staff or by third-parties, such as the proposed Office of the Independent Assessor, Western Australian Police Force, regulators, or the Piper Alderman team who are highly experienced legal advisors, investigators and workplace health and safety auditors.

⁴ The *Public Interest Disclosure Act 2003* promotes accountability within government agencies by facilitating the disclosure of public interest information involving misconduct, offences, misuse of public resources or risks to public health or safety. The Act also serves as a means to protect those who make disclosures to appropriate authorities, and those who are the subject of disclosures.

⁵ Local Government Act Review - page 8.

Furthermore, under the existing *Occupational Safety and Health Act 1984 (WA)* and the soon to be enacted, *Work Health and Safety Act 2020 (WA)* employers also have a general duty of care to provide a work environment without risks to health and safety.

In addition, under the *Work Health and Safety Act 2020 (WA)*, “officers” have a duty to exercise ‘due diligence’ to ensure that these provisions are met by the entity (including a local government authority), and the individual officer (as Persons who Conduct a Business or Undertaking – PCBU). There are significant fines and penalties for legislative non-compliance.

3. Access to an anonymous and confidential ‘best practice’ two-way integrity reporting platform (IRP)

In order to improve integrity, avoid legislative non-compliance and provide a safer working environment, it is crucial that employees, workers, contractors, complainants and family members have access to an anonymous and confidential two-way integrity reporting platform.

Over the last two years Crime Stoppers WA (including significant input from Piper Alderman Partner, Shane Entriiken) has been developing and testing a new two-way integrity reporting platform for the public sector, private and not-for-profit organisations, which has resulted in the **Safe2Say Reporting Platform (Safe2Say)**.

Safe2Say is a Crime Stoppers WA initiative with Ninja Software commissioned to develop the website and application.

Leveraging on the Crime Stoppers experience and expertise, **Safe2Say** has been developed to enhance organisational culture, reputation and employee well-being by providing a safe, external, trusted and anonymous platform to report misconduct or inappropriate behaviour.

Piper Alderman has also successfully trialled **Safe2Say** and can confirm its anonymity and operational features.

We all know that it takes a great deal of courage for workers to share the information they may have regarding misconduct or inappropriate behaviour in an organisation.

Even though most workers / complainants have a high willingness to report misconduct and other wrongdoings, for a number of reasons this willingness does not result in action. However, it has been well established that workers / complainants are more likely to share the information if they completely trust the reporting platform. While internal reporting platforms are the norm, workers / complainants are likely to prefer to use a trusted and independent third-party Platform, such as **Safe2Say**.

Experience has shown that if an internal reporting system is only provided; workers / complainants tell you what they think you want to hear. When an independent external reporting platform is used; they will tell what you need to hear.

Safe2Say can be the basis for a ‘best practice’ integrity reporting system, or it can simply supplement what the entity might already have in place.

The innovative two-way reporting platform allows:

- (a) Workers / complainants to anonymously report organisational misconduct or inappropriate behaviour with 100% confidence. That said, they can also provide their personal details if they wish;
- (b) The entity, or their legal or other representative, to be first to get important information regarding workplace malpractice or inappropriate behaviour. A decision is then made by the entity on what action is to be taken in accordance with their internal policies;
- (c) Allows the entity to offer support and assistance to the complainant making the report;
- (d) The entity to ask for more information relating to the report while still maintaining the complainant's anonymity (or confidentiality if they choose to provide their details); and
- (e) The entity to take appropriate action and respond to the complainant.

Safe2Say provides a clear direction to complainants that their actions will be taken seriously and anonymously.

We consider that the availability and use of **Safe2Say** will overcome any perceived concerns on anonymity of the whistle-blower, and provide a trusted reporting source using proven Crime Stoppers WA's intellectual property, and a leading third-party Platform.

Subject to internal policies and protocols this may extend to the Western Australian Police Force, regulators, the proposed Office of the Independent Assessor, or the Piper Alderman team who are highly experienced workplace legal advisors, investigators and workplace health and safety auditors.

4. Conclusion

We consider that the Review Team should be made aware of the unique 'best practice' package being offered through Crime Stoppers WA, Ninja Software and national commercial law firm Piper Alderman, comprising:

- (a) The guaranteed two-way anonymity integrity reporting platform provided by **Safe2Say**;
- (b) Set up, help desk and maintenance support by Ninja Software; and
- (c) The availability of specialist legal advice, implementation and investigation support services from the Piper Alderman team.

The Review Team should further note that:

- (a) As **Safe2Say** is a Crime Stoppers not-for-profit initiative, any profits from annual licence fees are returned to the community; and
- (b) **Safe2Say** has no geographical boundaries, and can be applied for use throughout the community, industry and other sectors.

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Since the soft launch of **Safe2Say** we have made a submission and appeared before the WA Government Inquiry into Sexual Harassment in the Mining Industry, and made numerous presentations and briefings to a range of public and private entities with strong support being expressed, including a Victorian local government authority.

We also made a submission in July 2021 to the Independent Review into Commonwealth Parliamentary Workplaces by the Australian Human Rights Commission.

That Review recently released its Set the Standard Report⁶ with Recommendation 20(c) stating: *“Establish a clear pathway for anonymous reporting, including through a digital platform”*. This recommendation was supported by numerous references in the Report to the *‘lack of confidence to report and the need for anonymous reporting.’*⁷

The **Safe2Say** platform provides a ready-made, cost-effective solution that can be implemented immediately throughout the local government sector, and other public authorities.

We would be pleased to meet the Review Team, and other key stakeholders, in order that we can provide a briefing and answer any questions to support our submission.

In the meantime, the Review Team can refer to the following link to obtain a better understanding of the functionality of the **Safe2Say** platform (<https://youtu.be/L0E6riIMUGI>).

Yours sincerely

Handwritten signature of Shane Enriken.

Shane Enriken
Partner, Head of Perth Office
Piper Alderman

Handwritten signature of Dr Vince Hughes.

Dr Vince Hughes
CEO Crime Stoppers WA

Cc Hon John Carey MLA, Minister for Local Government

Sharyn O’Neill, Western Australian Public Service Commissioner

Emily Roper, Director General, Department of Premier and Cabinet

Nick Sloan, Chief Executive Officer, WA Local Government Association

⁶ <https://humanrights.gov.au/set-standard->

⁷ Ibid - Report pages 221, 225, 226, 234 and 248.