

Time to take a different approach to protecting whistleblowers.

By [Glenn Birrell](#)

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The Iraq prison abuse scandal now engulfing the US military and its administration was brought about initially by Joseph Darby, a 24-year-old reservist in the 372nd Military Police Company, who slipped an anonymous note under a superior's door.

Daily we read of courageous individuals who speak out at potentially huge personal cost. Like in the "Trial of Lies at Shell", in which oil reserves were audited by a part-time former employee who went along with Shell's alleged attempt to conceal over estimates because he feared for his job.

Even here in Australia, the rogue trading in foreign exchange options came to light by a whistleblower - but why did it take so long? It is time for us to look at the ability people have to speak out.

The Australian Institute of Criminology puts [the cost of fraud at \\$5.88 billion](#). Fraud is the largest category of crime, representing 31 per cent of all crime committed. This equates to \$1600 for every man, woman and child in the country.

Are we equipping people with the necessary tools and protection to speak up?

As a community we have a responsibility to do something about it. Our governments and legislators need to look seriously at the mechanisms people have at their disposal to report illegal conduct or inappropriate behaviour.

So what have the various state governments and federal government done?

All Australian states have enacted whistleblower-protection legislation to support the reporting of corrupt conduct in the public sector. However, there is no uniformity in the legislation. Some states' legislation doesn't even allow the whistleblower to remain anonymous.

The *Victorian Whistleblower Protection Act 2001* is by far the strongest in terms of protection and provides the option of anonymity for the whistleblower.

The Victorian government's [Inquiry into Fraud and Electronic Commerce report](#) (pdf, 1.8MB), released in January 2004, recommended extending the scope of the Whistleblower Protection Act 2001 to cover the private sector as well as the public sector.

Whistleblowers in the private sector are provided with no statutory protection against reprisals.

So what reporting tools or mechanisms are available to people to confront bad behaviour in the private or corporate sector? Nothing is provided in any legislation enacted to date.

How then are we going to, in the words of National Australia Bank CEO John Stewart, encourage “brave people ... to confront bad behaviour”?

The traditional methods of having an open-door policy and internal hotlines are not working. A US study showed that about a third of American employees have witnessed unethical or illegal conduct in their workplace. Of these, over half did not disclose what they observed for fear of reprisals or being ostracised. Eighty-five per cent of all fraud is committed by employees.

Organisations in the private sector need to have structures in place to not only encourage but to facilitate reporting both internally and externally.

In the 20th century it is a ludicrous situation where people are forced to put notes under doors or to ring a hotline and potentially face an inquisition.

Are we not losing sight of what is important – the information? Why are we so quick to condemn the messenger?

One solution is to use new technology to make tip-offs more effective and safer for the whistleblower by providing a secure website for the purpose. People who witness dishonesty, fraud, unsafe environments, unethical and other inappropriate behaviour in the workplace or in respect of business relationships and transactions could submit their information securely, confidentially and anonymously by completing an online form. This would have tremendous advantages over current hotlines and internal reporting. Hotlines can be expensive, particularly if manned by experienced staff, and the times of operation are generally limited. Many operate only during business hours.

A web-based solution would operate 24 hours a day, 365 days a year and be accessible anywhere to any person who has access to a computer and an Internet connection.

This would give the complainant the opportunity to make the report in their own time and in their own words. No face-to-face interview, no interrogation over the telephone, no fear of voice recognition and no misinterpretation as to what was said or not said. Just a promise that their information will be received and investigated.

Such a site would have the potential to be a powerful tool for management and employees. It would give executive management the ability to access the eyes and ears of their employees. It would give employees a mechanism that would provide them with an immediate voice so that their concerns can be received as soon as they hit the submit button.

This is not mere “what if” conjecture. The US Securities and Exchange Commission has such a site at www.sec.gov/complaint.shtml. In Australia our firm, Your-Call, has built another such site at www.yourcall.com.au. Our proposition to businesses is that it is best to contract this activity out to a neutral third party in whom employees will have a greater degree of trust, and who has the technical expertise to run such a site successfully.

KPMG, PwC & Ernst & Young surveys place notification by employees as the most effective means of fraud detection. The Internet provides new and more effective ways to make this happen.

Glenn Birrell is CEO and Managing Director of Your-Call Disclosure Management Services.

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