

**Appendix D****SCHOOLS WHISTLE BLOWING CODE****A INTRODUCTION**

The Code is intended to help employees in or working with or assisting schools maintained by Birmingham City Council who have major concerns over any wrongdoing within such Schools relating to unlawful conduct, financial malpractice or dangers to the public or the environment. Specific examples could include: -

- A criminal offence (e.g. fraud, corruption or theft) has been/is likely to be committed.
- A miscarriage of justice has been/is likely to occur
- The health or safety of any individual has been/is likely to be endangered
- The environment has been/is likely to be damaged
- Public funds are being used in an unauthorised manner
- The School's Governance arrangements have or are not being observed or are being breached by students, staff employed in or those working with or assisting Birmingham Schools.
- Sexual or physical abuse of any employee or service recipient is taking place (subject to the Child Protection Procedure in the case of children)
- Discrimination is occurring to any member of staff or service recipient on grounds of sex, race or disability
- Any other form of improper action or conduct is taking place
- Information relating to any of the above is being deliberately concealed or attempts are being made to conceal the same.

The School's Governing Body, based on advice received from Birmingham City Council's Chief Legal Officer, has issued this Code so as to enable you to raise your concerns about such malpractice(s) at an early stage and in the right way. The School's Governing Body would rather that you raised the matter when it is just a concern rather than wait for concrete proof.

If something is troubling you, which you think we should know about or look into, please use this policy. If, however, you are aggrieved about your personal position, please use any appropriate Staff Grievance Policy – which you can get from your Head Teacher. This Whistle Blowing Code is primarily for concerns where the interests of others or of the organisation itself are at risk.

**If in doubt – raise it!**

**B AIMS OF THE SCHOOLS WHISTLE BLOWING CODE****The Code aims to:**

- Encourage employees in or working with or assisting Birmingham Schools to feel confident in raising serious concerns and to question and act upon their concerns;
- Provide ways for employees in or working with or assisting Birmingham Schools to raise those concerns and get feedback on any action taken as a result;
- Ensure that employees in or working with or assisting Birmingham Schools get a response to their concerns;
- Ensure that employees in or working with or assisting Birmingham Schools are aware how to pursue their concerns and the appropriate steps to take if they are not satisfied with any action;
- Reassure employees in or working with or assisting Birmingham Schools that if they raise any concerns in good faith and reasonably believe them to be true, they will be protected from possible reprisals or victimisation.

It is not intended to be used where other more appropriate procedures are available, for example

- Grievances – (see Grievance Procedure)
- Harassment – (see Anti-Harassment Policy and Procedure)
- Complaints of misconduct against Governors (for further information, please contact Birmingham City Council's School Support Section of the School Effectiveness Division)
- Complaints of misconduct against City Councillors (For further information, please contact Birmingham City Council's Chief Legal Officer)
- Child protection (see Child Protection procedures)

**C WHO IS COVERED BY THE SCHOOLS WHISTLE BLOWING CODE?**

All employees in or working with or assisting Birmingham Schools may use this Code. This includes permanent and temporary employees, and employees seconded to a third party. Any concerns relating to the third party, if relevant to the employees secondment, can also be raised under this Code.

This Schools Whistle Blowing Code has been drafted to help employees in or working with or assisting Birmingham Schools. It is based upon Birmingham City Council's Whistle Blowing Code and has been the subject of consultation with the relevant teacher and other professional associations and trade unions.

This Schools Whistle Blowing Code will be operative from 1<sup>st</sup> September 2003 and will be kept under review, on an annual basis, by the Head Teacher and the School's Governing Body.

**D WHAT ASSURANCE DO YOU GET?**

If you do raise a genuine concern under this Code, you will not be at risk of losing your job or suffering any form of retribution as a result. Provided you are acting in good faith, it does not matter if you are mistaken. Of course, this assurance is not extended to someone who maliciously raises a matter that s/he knows to be untrue.

The Governing Body and City Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, we recognise that you may nonetheless want to raise a concern in confidence under this Code. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), we will discuss with you whether and how we can proceed.

**E WHAT IS THE LEGAL BACKGROUND?**

The Public Interest Disclosure Act 1998 (hereinafter referred to as 'the Whistleblowers Act') protects employees against detrimental treatment or dismissal as a result of any disclosure of normally confidential information in the interests of the public. The Act only covers protected disclosures under six categories, namely; crime, illegality, miscarriage of justice, damage to health and safety, damage to the environment, and 'cover-ups' about these issues. To obtain protection, employees must first disclose the information to the employer.

Therefore this Code has been adopted to provide an avenue within the School to raise concerns. If an employee takes the matter outside the school, s/he should ensure that no disclosure of confidential information takes place and should take advice, if unsure, as the Public Interest Disclosure Act does not provide blanket protection and could leave employees in or working with or assisting Birmingham Schools vulnerable to disciplinary or other action, if they disclose confidential information in circumstances not covered by the Act.

If you are unsure whether to use this Schools Whistle Blowing Code or you want independent advice at any stage, you are advised to contact

- If applicable, your relevant trade union; or
- The independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you real confidential advice at any stage about how to raise a concern about serious malpractice at work.

**F HOW SHOULD A CONCERN BE RAISED?**

As soon as you become reasonably concerned you should firstly raise the issue with your Head Teacher and/or Chairman of Governors (unless s/he is the potential transgressor, in which case write to the Strategic Director for Children's Services, for the attention of the appropriate Schools Support Manager in the School and Governor Support Section, and/or the Chief Legal Officer).

Concerns may be raised orally or in writing. Employees who wish to make a written report should use the following format.

- The background and history of the concern (giving relevant dates).
- The reason why they are particularly concerned about the situation.

**G HOW WILL THE GOVERNING BODY RESPOND?**

The relevant person and/or the Departmental Personnel Officer will also ensure that, in the most serious of concerns, the Strategic Director for Children's Services and/or the Chief Legal Officer receives adequate details of the employees using this code for the purpose of corporate recording and monitoring purposes.

Once you have told the Governing Body of your concern, the Governing Body will look into it to assess initially what action should be taken. This may involve an internal inquiry or a more formal investigation. You will be told who may be handling the matter, how you can contact him/her whether your further assistance may be needed. If you request it, the Governing Body or Head Teacher will write to you summarising your concern(s) and setting out how it will be handled.

When you raise the concern you may be asked how you think the concern(s) might best be resolved. If you do have any personal interest in the matter, we do ask that you tell us at the outset. Should your concern fall within another policy of the School) for example, the Grievance Policy), we will tell you.]

While the purpose of this Code is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe a duty of confidence owned by us to someone else.

Concerns or allegations which fall within the scope of specific procedures (for example child protection) will normally be referred for consideration under that relevant procedure. Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.

Where appropriate, the matters raised may:

- Be investigated by management, Internal Audit, the Strategic Director for Children's Services, the Chief Legal Officer or through the disciplinary process.
- Be referred to the police.
- Be referred to the external auditor
- Form the subject of an independent inquiry.

Usually, within two weeks of a concern being raised, the person looking into the concern will write to the person raising the concern:

- Acknowledging that the concern has been received.
- Indicating how the School propose to deal with the matter
- Giving an estimate of how long it will take to provide a full response
- Saying whether any initial enquiries have been made
- Supplying information on support available to you; and
- Saying whether further investigations will take place and if not, why not.

Subject to any legal constraints, the relevant employee will normally be informed of the final outcome of any investigation.

## **H WHAT SAFEGUARDS ARE THERE FOR THE PERSON RAISING THE CONCERN?**

- The Governing Body will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect employees who raise a concern in good faith.
- Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures already taking place concerning the employee.

- No action will be taken against anyone who makes an allegation in good faith, reasonably believing it to be true, even if the allegation is not subsequently confirmed by the investigation.
- Every effort will be made to ensure confidentiality as far as this is reasonably practical.
- Help will be provided to you in order to minimise any difficulties, which you may experience. This may include advice on giving evidence if needed. Meetings may, if necessary be arranged off-site with you and for you being represented, if you so wish.

## **I HOW CAN A CONCERN BE TAKEN FURTHER?**

If you are unsure whether to use this Schools Whistle Blowing Code or you want independent advice at any stage, you may contact

- If applicable, your relevant trade union; or
- The independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

Employees in or working with or assisting Birmingham Schools who are not satisfied with the action taken by the Governing Body and feels it right to question the matter further, may consider the following possible contact points:

- Birmingham City Council's Strategic Director of Children's Services and/or Chief Legal Officer
- Birmingham City Council's Internal Audit and/or the District Auditor
- The employee's Trade Union
- The Citizens Advice Bureau and/or law centre/firm
- Relevant professional bodies or regulatory organisations
- The Local Government Ombudsman
- The Information Commissioner
- A relevant voluntary organisation
- The Police and/or Health and Safety Executive

## **J     CORPORATE RECORDING & MONITORING**

The Governing Body will ensure it has sufficient internal arrangements to address the requirements of the Code, including appropriate support for the Head Teacher in implementing the Code and the Strategic Director of Children's Services shall ensure that Personnel Officers are sufficiently trained to support schools in implementing this Code and offer training to Head Teachers.

The Strategic Director of Children's Services will maintain a Schools Whistle Blowing Register containing all concerns that are brought to his attention. All Head Teachers and/or officer(s) allocated to look into the concern arising from or related to a School must ensure the Strategic Director of Children's Services is provided with sufficient details of the concern for Birmingham City Council's Corporate Register, which is maintained by the Chief Legal Officer.

The City Council's Monitoring Officer will review the Corporate Register and produce an annual report for the Chief Executive and any other relevant member/officer forum. The report will not mention any employees, only the concerns raised, the number of such concerns, the fact that the concern relates to a school or other education service, and the nature of the job held by the person over whom the concerns were raised (if not confidential). The report will also note any issues arising from the same with the intention of: -

- preventing the occurrence of similar concerns in future; and
- consistency of treatment across schools and the education service

For the avoidance of doubt, the Corporate Register – along with any annual reports referred to above – will be available for inspection by Internal and District Audit, after removing any items which any employee in or working with or assisting Birmingham Schools has asked should remain confidential.