



WHISTLEBLOWING POLICY

[applies to all Trust employees]

1. Introduction

Birmingham City University Academies Trust is committed to achieving the highest possible standards of service and the highest possible standards of openness, probity and accountability. To achieve these ends we encourage any employees who have serious concerns about any aspect of the Trust's work to report those concerns using the procedures set out in this Policy and Code of Practice, as well as the Whistleblowing policies held by each academy within the Trust.

2. Scope

This policy applies to all employees of Birmingham City University Academies Trust (BCUAT), including employees working in academies operating as part of the Trust and all Head Office employees. The policy also applies to other individuals working with the Trust, including independent contractors, work experience trainees and agency workers.

3. Purpose

The purpose of this Policy and Code of Practice is to provide clear guidance to employees and other individuals who have major concerns over any wrong-doing relating to unlawful conduct, financial malpractice or dangers to the public or the environment. The Policy lays out the procedures which should be used to raise concerns over actual or suspected malpractice at BCUAT, and also the way in which any concerns raised should be investigated and handled. Concerns relating to past, present or future events could include:

- a. A criminal offence (e.g. fraud, corruption or theft) has been/is likely to be committed
- b. Issues relating to safeguarding compliance/processes
- c. Failure to comply with a legal obligation
- d. A miscarriage of justice has been/is likely to occur
- e. The health or safety of any individual has been/is likely to be endangered
- f. The environment has been/is likely to be damaged
- g. Public funds are being used in an unauthorised manner
- h. The School's Governance arrangements are not being observed or are being breached by pupils, staff employed in or those working with or assisting the Academy
- i. Sexual or physical abuse of any employee or service recipient is taking place (subject to the Child Protection Procedure in the case of children)
- j. Discrimination is occurring to any member of staff or service recipient on grounds of sex, race or disability
- k. Any other form of improper action or conduct or unethical behaviour is taking place

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- l. Failure to comply with the Instrument or Articles of Government
- m. Information relating to any of the above is being deliberately concealed or attempts are being made to conceal the same

4. Aims

The Code aims to:

- Encourage employees to feel confident in raising serious concerns and to question and act upon their concerns
- Provide ways for employees to raise those concerns and get feedback on any action taken as a result
- Ensure that employees get a response to their concerns
- Ensure that employees are aware of how to pursue their concerns and the appropriate steps to take if they are not satisfied with any action
- Reassure employees 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

5. Principles

- All BCUAT employees are encouraged and expected to raise concerns about malpractice(s) at an early stage and in the right way – you are strongly encouraged to raise the matter when it is just a concern rather than to wait for appropriate evidence
- Allegations of malpractice will be investigated fairly and promptly and the outcome of such investigations will be reported to the person or body responsible and to the whistleblower
- Findings of malpractice will be acted upon quickly with the view to remedying the situation and ensuring that it cannot be repeated easily – where appropriate, disciplinary action will be initiated if there are grounds for believing the malpractice has occurred or is about to occur

6. Relationship to other policies and procedures

The Trust has a number of other, related procedures including the Anti-Bribery Policy, the Grievance Procedure and the Disciplinary Procedure (including rules relating to Gross Misconduct). This policy is intended to complement those procedures rather than replace them and should not be used where a more appropriate procedure is available. For example:

- If you have a personal concern about the way in which you are treated as an individual employee, you should refer to the *Grievance Procedure*
- If you are concerned about the propriety of the conduct of your colleagues you should normally report your concern to your line manager or if necessary to a more senior manager who will investigate the matter and consider whether action is required under the *Disciplinary Procedure*
- If you feel that yourself or a colleague is being bullied or harassed you should use the *Dignity At Work Policy*

All policies and procedures are available on the BCUAT website or individual academy websites.

This Whistleblowing Code is primarily for concerns where the interests of others or of the organisation itself are at risk. You should use this Code only if you have concerns about serious issues of malpractice and where the normal procedures as described in the examples above appear to be inappropriate or inadequate. For example, where you have concerns about the actions or conduct of individuals in authority and where, therefore, reporting your concerns through the management line might be inappropriate or where you genuinely fear reprisal.

You may also use the Code of Practice on Whistleblowing where you have already made a report through the management line process and it appears after a reasonable period of time that the misconduct that you have reported is still continuing. If you have raised a genuine concern under the Whistleblowing Code you will be protected, providing:

- i. You raise your concern in good faith, reasonably believing it to be true
- ii. Your actions are not motivated by malice or the prospect of personal gain

Disciplinary action may be taken against you, however, if there are reasonable grounds for believing that the allegations you have made are vexatious or malicious or motivated by the prospect of personal gain.

7. 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 BCUAT to raise concerns. If an employee takes the matter outside BCUAT, 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 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 Whistleblowing Code or you want independent advice at any stage, you are advised to contact:

- If applicable, your relevant trade union
- The independent charity Public Concern at Work on 0207 404 6609 or email whistle@pcaw.org.uk – their lawyers can give you real confidential advice at any stage about how to raise a concern about serious malpractice at work

8. Confidentiality

The Trust recognises that it can be difficult to raise serious concerns which may implicate colleagues in suspected or actual malpractice and that you may 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.

9. How to report a concern

If you have concerns about an individual's financial conduct in relation to trust affairs, you should normally raise your concern with the Accounting Officer. If you feel that this is inappropriate, you should report your concern to the Chair of the Trust Board. If for any reason you consider that neither of these officers is appropriate, you should raise your concern with the Human Resources Consultant who may advise further.

If you have a concern about a non-financial issue, for example the behaviour of a senior academy employee or Trust officer or a member of the Board of Directors, or about the propriety of decisions made by a committee, you should raise your concern with the Trust Board Secretary, the Chair of the Trust Board or the Chair of the Local Advisory Board, as you consider appropriate.

If you are unsure who you should raise your concern with, please contact the HR Consultant for guidance.

Concerns may be raised orally or in writing, providing the following information:

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

You may be accompanied by a friend at any stage of reporting your concerns or of the investigation under this procedure or in any subsequent official action.

Your identity will be kept confidential until a decision is made to launch an investigation, after which it may be disclosed to the investigator(s). If no investigation is launched, your identity will remain confidential. However no guarantee of confidentiality can be given once the initial investigation has been concluded if a decision is taken to initiate official action.

10. Stage 1: investigation of concerns raised

The person who receives a report of an allegation of financial or non-financial misconduct shall make a record of its receipt and of what subsequent action is taken. He/she will normally initiate a preliminary investigation, either personally, or more usually by appointing a person or persons to conduct the investigation of their behalf. Depending on the nature and seriousness of the allegation, a range of individuals or agencies may be appropriate, such as a member of Trust staff, internal or external audit, a specialist consultant or the police. The person who initiates the investigation should take steps to ensure that the investigations are not carried out by the person who may ultimately have to decide whether there is a case to answer and what further official action should be taken.

Depending on the nature of the allegation, the person who initiates the investigation may rule that it be conducted in secret.

You will be told whether an investigation is to be conducted and, if so, whether rules of secrecy are to apply. You will be told who will be handling the matter, how you can contact him/her and whether your further assistance may be needed. If you request it, the relevant person will write to you summarising your concerns and setting out how these will be handled. Where no investigation is carried out and the allegation is effectively dismissed, you will be given the reasons and you will be provided with an opportunity to remake the allegation to some other person or authority in the Trust. You will also be told if it is considered that your concern would be better handled under another policy, for example the Grievance Policy.

Concerns raised anonymously may be reported, investigated or acted upon as the person receiving the complaint sees fit, having regard to the seriousness of the issues raised, the credibility of the complaint, the prospects of being able to investigate the matter and fairness to any individual mentioned in the complaint.

Investigations will be conducted as speedily as possible, having regard to the nature and complexity of the complaint.

11. Reporting and recording allegations

If an allegation of financial misconduct is made to the Accounting Officer, he or she should report it immediately to the Chair of the Trust Board. The requirements of the law and the Trust's Financial Regulations and insurance policies may dictate that further reports be made to appropriate agencies.

The person who receives a report of alleged non-financial misconduct shall decide to whom and when any further report of the allegation is to be made.

An official written record will be kept at each stage of the receipt, investigation and further pursuit of an allegation.

12. Action following an investigation

The investigation may indicate that the allegation should be dismissed or that further action of a disciplinary or another nature should be initiated. The decision as to whether there is a case to answer and what further official action is required should be taken by someone other than the person who has carried out the investigation.

Where further action is initiated, the person or persons against whom the allegation is made must be told of the allegation and the evidence supporting it and be given an opportunity to see, hear and challenge the evidence brought against them, and to submit evidence in their own defence before the action is concluded.

As the person who raised the complaint, you will be informed whether further action is to be taken or not. 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 there are legal constraints or where this would infringe a duty of confidence owed by us to someone else.

Concerns or allegations which fall within the scope of specific procedures, for example safeguarding, 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.

13. Reporting the findings on an investigation

The findings of an investigation into financial malpractice shall be reported to the Trust Board. This report may be made in confidence and the minute of the proceedings kept confidential. The public interest shall be the overriding factor which influences whether a report or a minute should be kept confidential.

14. What safeguards are there for the person raising the concern?

- The Trust 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. You may, of course, be represented, if you so wish
- The Public Interest Disclosure Act 1998 protects an individual who discloses suspected or actual malpractice – see Appendix A

15. How can a concern be taken further?

If you are unsure whether to use this Whistleblowing Code or you want independent advice at any stage, you may contact:

- If applicable, your relevant trade union
- 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

Employees who are not satisfied with the action taken by the Trust/the Local Advisory Board and feel it right to question the matter further, may consider the following possible contact points:

- Chair of Trust Board
- 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

16. Recording and monitoring

The Trust will maintain a Whistleblowing Register containing all concerns that are brought to their attention. Any staff receiving an allegation or allocated to look into the concern must ensure that BCUAT is provided with sufficient details for its accurate recording.

The Trust will prepare an annual report. The report will not mention any employees, only the concerns raised, the number of such concerns 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
- consistency of treatment within the Trust

For the avoidance of doubt, this Corporate Register will be available for inspection by Internal and District Audit, after removing any items which any employee of BCUAT has asked should remain confidential.

Appendix A:

Protection of employment under the Public Interests Disclosure Act 1998

The purpose of this Policy and Code of Practice on Whistleblowing is to provide you with clear advice on the procedures you should follow if you wish to raise a concern internally about serious malpractice at Birmingham City University Academies Trust. In addition to the guarantees given in this Code that your employment will not be jeopardised if you raise such concerns, the Public Interest Disclosure Act 1998 gives certain legal protections to workers against detriment or dismissal by their employers for raising concerns about matters that are in the public interest.

The Act gives legal protection to an individual who discloses malpractice to their employer under any of the areas covered by points a-e and point l of section 3 of this Code, provided the disclosure is made in good faith and in the reasonable belief of the person making the disclosure.

The Act also gives legal protection to an individual who makes a disclosure outside their employing organisation if:

1. You make the disclosure to a legal adviser in the course of seeking legal advice
2. You make the disclosure to one of a range of bodies prescribed by the Secretary of State (according to the nature of your concern), including among others: the Health and Safety Executive, the Inland Revenue, the Audit Commission, the Environment Agency, Customs and Excise and the Serious Fraud Office
3. You make the disclosure to someone other than the individuals/bodies listed in the points 1 and 2 above, provided you make the disclosure in good faith and you reasonably believe the information disclosed and the allegations contained within it to be substantially true and if you do not make the disclosure for personal gain and if one of the following also applies:
 - You reasonably believe you will be subjected to a detriment by your employer if you make the disclosure to your employer
 - You reasonably believe that any evidence will be concealed or destroyed
 - You have previously made a disclosure of the same information to your employer
 - In cases of exceptionally serious wrongdoing where it is reasonable to bypass internal procedures

This summary of the main terms of the Public Interest Disclosure Act 1998 is provided for general information only. It is not intended to be a definitive or comprehensive guide and we cannot guarantee its accuracy. You should seek professional advice about the terms of the Act if you need definitive guidance.