



Whistleblowing Procedure

Owner	
Version	Draft v0.3
Date Approved	Input date
Date of Review	Input date

WHISTLEBLOWING PROCEDURE

1. This Whistleblowing Procedure (“the Procedure”) should be read in conjunction with our Whistleblowing and Serious Misconduct Policy. It explains how concerns will be handled and processes monitored to provide assurance they are operating effectively. This Procedure is not incorporated into any contract of employment and may be amended by the City Council from time to time.

Roles and Responsibilities

City Solicitor and Monitoring Officer

2. The City Solicitor and Monitoring Officer is accountable for ensuring our Whistleblowing and Serious Misconduct Policy and Procedure are operating effectively and ensuring independence and integrity. They chair the Whistleblowing Panel.

Director of People Services

3. The Director of People Services is accountable for ensuring our people processes and policies are aligned such that hand-off points from whistleblowing cases are clear and that any disciplinary matters which may flow from them are effectively managed in a timely manner. They are a member of the Whistleblowing Panel.

Professional Standards Team

4. PST manage all concerns raised under this Procedure. PST consists of the Assistant Director of Law and Governance, an administrative support officer from the Law and Governance team, and a nominated senior member of the People Services team. The Professional Standards Team (“PST”) report to the City Solicitor and Monitoring Officer.

Whistleblowing Panel

5. The Whistleblowing Panel oversees and approves investigations and consists of:
 - The City Solicitor and Monitoring Officer.
 - The Director of People Services.
 - A Strategic Director from outside the directorate where the concern relates (in the case of red risk cases) or a Corporate Director (all other cases).
6. If a concern is raised concerning the City Solicitor and Monitoring Officer or the Director of People Services a member of PST will refer the matter directly to the Chief Executive Officer who will chair an amended Whistleblowing Panel. The member of the Whistleblowing Panel to whom the concern relates will not form part of the panel. If the concern relates to the Chief Executive Officer, the matter will be referred by the City Solicitor and Monitoring Officer to the Leader who will chair the Whistleblowing Panel, assisted by the City Solicitor and Monitoring Officer and the Director of People Services.

Line Managers

7. Line Managers are responsible for engendering a safe, open culture in their teams where people feel able to speak up on issues of concern and be reassured those concerns will be taken seriously. This includes creating an environment where people feel able to share mistakes and bad news. They are also responsible for ensuring that those who speak up in good faith do not experience bullying or victimisation as a result.

8. Line Managers must also recognise when an individual is raising a concern that may be covered by our Whistleblowing and Serious Misconduct Policy and Procedure as the safeguards contained within them apply.

All Employees, Workers and Contractors

9. Everyone has a key role in maintaining trust in Birmingham City Council. This means speaking up if wrongdoing is seen or suspected. Individuals do not need to wait for proof before raising a concern. It does not matter if it turns out the individual raising the concern is mistaken – it is safe to speak up and everyone is encouraged to use our Whistleblowing Policy and Procedure. Our commitment to ensuring that employees are not victimised for raising concerns extends equally to other workers and contractors.

Definitions

10. This Procedure covers concerns about things at work which are “protected disclosures”. A protected disclosure is one where an individual reasonably believes that one of the following matters is happening, has happened or is likely to happen in the future:

- A criminal offence.
- Breach of a legal obligation.
- A miscarriage of justice.
- Danger to the health and safety of an individual.
- Damage to the environment.
- A deliberate attempt to conceal any of the above.

11. Importantly, individuals must make the disclosure in the public interest and in accordance with the steps set out in the Whistleblowing and Serious Misconduct Policy.

12. It is important to understand the difference between whistleblowing and a grievance. A grievance typically relates to how you are being treated as opposed to the treatment of others. This is known as the “public interest test” (see below for more information on this test). If an employee has concerns at their own treatment that matter must be raised through the grievance procedure.

How to raise a concern

13. Anyone wishing to raise a concern has several channels they can use:

- In the first instance individuals can raise concern with their Line Manager or a more senior Manager if they feel unable to do so. Any Manager who receives information that may be covered by this Procedure must seek advice from PST as soon as possible and in any event within two working days.
- They can report the matter, giving as much information as possible, to PST through their dedicated, confidential whistleblowing email address which is: whistleblowing@birmingham.gov.uk. PST can also be contacted by post at Whistleblowing, Professional Standards, Birmingham City Council, PO Box 15992, Birmingham B2 2UQ.

- They can report the matter through the external Vivup whistleblowing service. Vivup is a specialist, independent, external provider who record the concern and pass it to the City Council to be investigated. Vivup can act as an intermediary if required. Vivup can be contacted 24 hours a day, 7 days a week by phone on [insert number], by email at [email address] or through their website at [website address]. A protocol for how the Vivup service operates has been agreed and is attached at Annex F.

14. Individuals can give their name or choose to remain anonymous. We prefer people to give their name as it means it is easier to investigate the concern and protect the whistleblower. Where an anonymous concern is raised, we will exercise our discretion as to whether to investigate it taking into account the seriousness of the issue, credibility of the concern and whether we would be able to confirm the allegation from attributable sources. Where an anonymous concern is not investigated that will be recorded on the triage record (Annex B).
15. Independent advice on whether a concern would be disclosable under this Procedure can also be sought from the whistleblowing charity Protect. They can be reached at www.protect-advice.org.uk or by phone on 020 3117 2520. Advice can also be sought from a trade union representative.
16. In certain circumstances, a concern can be raised externally to another body. You can make a disclosure to the City Council's external auditor or to the Comptroller and Auditor General. Details of our external auditor can be found on the whistleblowing intranet page.
17. The Comptroller and Auditor General deal with concerns about the proper conduct of public business, value for money, fraud and corruption in relation to the provision of public services. They can be reached at: The Comptroller and Auditor General, National Audit Office, 157-197 Buckingham Palace Road, London SW1W 9SP or by phone on 020 7798 7999.

How a concern will be considered

18. All concerns will be acknowledged by PST within two working days. Where further information or clarification is needed a meeting may be arranged with the individual raising the concern. Two members of PST will triage the concern using the template at Annex A. The triage will decide if the concern is in scope of this Procedure by applying the following criteria:
- Does the concern meet the definition of a protected disclosure?
 - If so, has it been made in the public interest?
19. In considering the question of whether a disclosure has been made in the public interest, four factors will be considered:
- The numbers in the group whose interests the disclosure served. Generally, the more people affected the more likely it will engage the public interest.
 - The nature of the interests affected and the extent to which they are affected by the wrongdoing disclosed. If a disclosure directly affects a very important interest, it is more likely to be in the public interest than where it is trivial or where the impact is marginal or indirect.

- The nature of the alleged wrongdoing disclosed. Deliberate wrongdoing is more likely to be in the public interest.
- The identity of the alleged wrongdoer. The more senior the wrongdoer the more likely the issue is to be in the public interest.

20. Where a concern would be properly handled through an alternative procedure, such as the grievance procedure, the individual raising the concern will be advised appropriately. The concern will be logged for statistical purposes, but no further action will be taken. This stage should be concluded within five working days starting with the day all information that is needed has been received.

21. Any concern that is in scope of this Procedure will then be risk assessed by the two members of PST. Any case assessed as a red risk must be brought to the attention of the Whistleblowing Panel urgently and in any event by the end of the current working day. The following risk assessment criteria will be used:

Rating	Illustrative Indicators
Red	<ul style="list-style-type: none"> • Information which alludes to an ongoing risk to a child, vulnerable adult or to the safety of any other person (with consideration to be given on raising safeguarding concerns immediately with the appropriate team on a confidential basis). • Information which could present a very significant financial (£1m plus), legal or reputational risk to the City Council.
Amber	<ul style="list-style-type: none"> • Information which suggests a serious and significant breach of the Code of Conduct which meets the criteria of a protected disclosure.
Green	<ul style="list-style-type: none"> • All other reports.

22. Records of all triage decisions will be retained for a period of seven years. On a quarterly basis the Whistleblowing Panel will review the triage records for that period to assure itself that the decision-making process is robust.

Investigation

23. If a concern is in scope of this Procedure, it will be brought to the attention of the Whistleblowing Panel who will be supported where necessary by a legal or other professional adviser.

24. The Whistleblowing Panel will agree the terms of reference for an investigation and appoint an independent Investigating Officer using the template at Annex B. They also approve the investigation report once it has been prepared.

25. The Whistleblowing Panel will ensure that the Investigating Officer, who may be from within the City Council or external to it, is truly independent, has no conflict of interest and has the skills and experience required to properly conduct the investigation. The Investigating Officer will be supported by a member of PST. The PST team member will:

- Provide the Investigating Officer with a copy of the City Council Whistleblowing and Serious Misconduct Policy, this Procedure, and the terms of reference for the investigation (Annex B) along with any relevant correspondence or documents.
- Inform the individual raising the concern of the identity of the Investigating Officer.

They will be asked to give their permission to pass their details to the Investigating Officer.

26. The Investigating Officer will:

- Contact the individual raising the concern, using any special communications methods that have been agreed.
- Conduct the investigation within the timescale contained in the terms of reference.
- Prepare an investigation report for the Whistleblowing Panel to consider using the standard format template at Annex C (which can be amended as required). Where appropriate, the Panel can agree an alternative format for the report.

27. Investigations should start within ten working days of the concern being assessed as within scope of this Procedure. All employees are required to assist the Investigating Officer if requested to do so. Once the report has been submitted the Whistleblowing Panel will review its conclusions and ensure the investigation has been conducted in line with this Procedure.

28. Where the Whistleblowing Panel feel there are unresolved issues, they will highlight their observations and return the report to the Investigating Officer for further work to be conducted.

29. If it appears to the investigating officer that the investigation may be delayed for any reason, they should inform the Whistleblowing Panel without delay. Where appropriate, a revised timeline for completion of the investigation will be agreed. It is important to keep the individual who has raised the concern regularly updated on timescales as well; and the member of PST assisting the investigating officer should ensure this takes place. Once the report is accepted the Whistleblowing Panel will decide whether to accept it, consider any lessons learnt or other issues arising, and ensure the appropriate action to follow up any findings are put in place.

30. Where possible, the individual raising the concern will be informed of the outcome by a member of PST. However, the report and details of actions taken against individuals cannot be disclosed. The dates and content of all updates should be recorded.

31. On a quarterly basis the City Solicitor and Monitoring Officer will provide a report to the Chief Executive Officer and Head of Paid Service detailing:

- All concerns in scope of this Procedure – excluding details of the individuals raising the concerns.
- The outcome of investigations.
- A summary of lessons learnt, or other actions taken as a result.

32. The same report will be provided and presented to the Audit Committee.

Confidentiality

33. The City Council will seek to treat all disclosures in confidence and will endeavour to avoid disclosing information identifying any individual who raises a concern. However, there may be situations where, due to the circumstances of the alleged serious misconduct, it may be impossible to avoid disclosing information identifying an individual. In these

circumstances, the Council will consult with the individual prior to the disclosure taking place.

34. The City Council may also be required to disclose the identity of the individual raising a concern to third parties, where necessary for the purposes of undertaking investigations, for example where the disclosure relates to criminal offences where the City Council considers that the Police should investigate.
35. There may also be situations where the City Council is obliged to disclose information, such as where there are legal proceedings following on from investigation of the disclosure. This may require the disclosure of witness statements or correspondence, and there is also the possibility that the individual raising the concern may be expected to give evidence at any hearing. In these circumstances, the City Council will discuss the implications for the individual and, where appropriate, discuss appropriate support arrangements.

Concerns that cross into potential disciplinary action

36. There are cases where in the course of an investigation conducted under this Procedure potential disciplinary offences are revealed. Where it appears to the Investigating Officer that may be the case they will:

- Bring the matter to the attention of the PST officer working with them.
- The PST officer will raise the matter with the Head of the Employee Relations Advisory Team in People Services.
- A decision will be made, in conjunction with the Whistleblowing Panel, as to whether to pass the matter to be investigated under the City Council's disciplinary procedure immediately, or to await the conclusion of the whistleblowing investigation. Any such decisions should be recorded along with the rationale for them on the investigation key decisions template at Annex D.
- Where a disciplinary offence may have been committed, that matter must be separately investigated in accordance with the City Council's disciplinary procedure. However, a significant amount of investigatory work may have already been undertaken and relevant extracts from the Investigating Officer's report may be used for that purpose.
- Steps must be taken where possible to preserve the identity of the original whistleblower.
- Whether there is a case to answer for a disciplinary offence is a separate issue to the outcome of a whistleblowing investigation.

Following up

37. A member of PST will follow up with all individuals who raise concerns (where there are means of contact) 12 months following the conclusion of a case which is investigated under this Procedure. The purpose of this follow up is to ensure they have not been the subject of victimisation or any other detriment for making a protected disclosure.

38. A member of PST will follow up on all findings, lessons learnt, and recommendations made in investigation reports to ensure they have been appropriately actioned or implemented. This follow up will take place one month, three months, six months and one year on from

publication of the report. The findings of these reviews will be included in the quarterly report to the Chief Executive Officer and the Audit Committee.

Support for individuals raising concerns

39. An individual raising a concern under this Procedure may be accompanied to any meeting by a colleague or a trade union representative. This does not apply to witnesses who should not be allowed to be accompanied.

Annex A



**Whistleblowing Procedure
Triage Record**

A: Details of Triage

Case Reference Number:	
Date received:	
Date triage conducted:	
Members of PST conducting triage:	1. 2. 3.

B: Summary of Concern

Summary of concern:	
Directorate:	
Department:	
Location:	
Category: (Please select one or more)	<input type="checkbox"/> A criminal offence. <input type="checkbox"/> Breach of a legal obligation. <input type="checkbox"/> A miscarriage of justice. <input type="checkbox"/> Danger to the health and safety of an individual. <input type="checkbox"/> Damage to the environment. <input type="checkbox"/> A deliberate attempt to conceal any of the above.

C: Anonymous Concerns (complete if appropriate)

What is the seriousness of the issue?	
What is the credibility of the concern?	
Could the concern be confirmed from attributable sources?	

Investigation decision:	Investigate / No further action

D: Public Interest Test

Numbers in the group whose interests this disclosure served:	
Nature of the interests affected and the extent to which they are affected by the wrongdoing disclosed:	
The nature of the alleged wrongdoing:	
The identity of the alleged wrongdoer:	

E: Decision

Is the concern accepted for handing under the Whistleblowing Procedure?	Yes / No
If not accepted, date the individual raising the concern was advised on appropriate steps and method of communication:	

F: Risk Assessment

Risk Rating:	Red / Amber / Green
Justification:	
If red risk, date the issue was raised to the Whistleblowing Panel and method of communication:	

G: Next Steps

Date concern raised to the Whistleblowing Panel:	
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This record must be retained for a period of seven years along with all other records and communications.

Annex B



Birmingham
City Council

Whistleblowing Procedure
Investigation Terms of Reference

A: Details of Case

Case Reference Number:	
Members of Whistleblowing Panel:	1. 2. 3.

B: Details of Investigating Officer

Name:	
Position:	
Name of firm if not a City Council employee:	
Member of PST assisting:	

C: Terms of Reference

1. The investigating officer named above is appointed to conduct an investigation in accordance with the Birmingham City Council Whistleblowing and Serious Misconduct Policy and Procedure.
2. The terms of reference for this investigation are as follows:
 - Term 1
 - Term 2
 - Term 3
 - Term 4
 - Term 5
3. The investigation report must start by [date] and be submitted to the Whistleblowing Panel by [date].

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Annex C



**Whistleblowing Procedure
Investigation Report**

A: Details of Investigation

Case Reference Number:	
Name of investigating officer:	
Name of firm if not a City Council employee:	
Member of PST assisting:	
Date investigation started:	
Date of this report:	

B: Findings

<p>1. Introduction/Background:</p> <p>2. Witnesses: [name and role of each witness interviewed, date and time of interview] <i>Note: The person raising the concern must not be named this report.</i></p> <p>3. Documents and other material reviewed:</p> <p>4. My findings against each of the terms of reference is as follows:</p> <p>Term 1</p> <p>Term 2</p> <p>Term 3</p> <p>Term 4</p> <p>Term 5</p>

C: Lessons learnt, recommendations for further action and other observations

5. In concluding this investigation, I make the following recommendations:
[Indicate if there are no further recommendations].

This report must be retained for a period of seven years along with all other records and communications.

Annex D



**Whistleblowing Procedure
Investigation Key Decisions**

A: Details of Investigation

Case Reference Number:	
Name of investigating officer:	
Name of firm if not a City Council employee:	
Member of PST assisting:	
Date investigation started:	
Date of this update:	

B: Details of key decision

This report must be retained for a period of seven years along with all other records and communications.

Annex E
Operating protocol – Vivup whistleblowing service

[To follow]