

# Whistleblowing Policy and Procedure

Approved by **RET Board**

Approved on **November 2023**

SLT contact **CEO**

Revision due **Every 2 years**



RUSSELL EDUCATION TRUST

**This policy and procedure has been adopted by the Trust following consultation with recognised trade unions.**

## 1. Introduction

- a. Russell Education Trust is committed to ensuring the highest standards of probity in the Trust and in its individual schools, and that decision-making and administration is conducted in such a way as to be above any suspicion of malpractice. In line with the Trust's commitment to openness, probity and accountability, members of staff are encouraged to report concerns, which will be taken seriously, investigated and appropriate action taken in response.
- b. Clear policies, standards and procedures for making decisions, particularly those which entail significant expenditure, or decisions which significantly affect employment at the Trust and School are essential elements in creating and sustaining an atmosphere of openness and trust.
- c. Under the Public Interest Disclosure Act (PIDA) 1998 employees who are 'whistle blowers' are offered protection from detriment and unfair dismissal.
- d. The Trust believes that by adopting and publishing this Procedure it is demonstrating its commitment to maintaining the highest standards of conduct in its affairs, and to establishing a basis on which its employees can properly raise genuine concerns without prejudice to their personal position.

## 2. Definition

- a. The Public Interest Disclosure Act 1998 introduced new provisions giving legal protection to employees against suffering a detriment as a result of disclosing certain information (a 'disclosure').
- b. A whistle blowing disclosure is the reporting by employees or ex-employees of information about alleged wrongdoing including but not limited to:
  - Criminal activity
  - Breach of any legal obligation or regulatory requirement
  - Miscarriages of justice
  - Danger to the health and safety of an individual
  - Damage to the environment
  - Bribery financial fraud or financial mismanagement
  - Gross negligence
  - Unauthorised disclosure of confidential information that breaches GDPR
  - Examination practice
  - Deliberate concealing of information about any of the above
- c. Employees can use this Procedure if they have a reasonable belief that the information disclosed is evidence of wrongdoing, and that such a disclosure is in the public interest. In making the disclosure the whistleblower must
  - be acting in good faith,
  - believe in the truth of the allegation they are making; and
  - have reasonable grounds for believing that the information disclosed indicates the existence of one of the issues identified above.
- d. If employees are unsure whether this Procedure is applicable to the concerns they hold, and whether the protections of the Procedure therefore extend to them, they may wish to discuss the matter with an individual appropriate to the situation. This may include their line manager, headteacher, HR manager, trade union representative, professional association or third parties named in section 9.
- e. Nothing within this Procedure is intended to prevent staff from complying with their statutory obligations in accordance with Keeping children safe in education applicable at the time and the Trust's Safeguarding Policy. If a child is in immediate danger or is at risk of harm a referral should be made to children's social care and or the police immediately; anyone can make a referral.

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## 3. Purpose of the procedure

- a. This Procedure establishes a way in which concerns about malpractice may properly be raised within, and if necessary, outside the Trust or School.
- b. It also sets out the safeguards that the Trust will offer to any employee who makes a disclosure in the recommended way and in good faith.

## 4. Procedure for making a disclosure

- a. Concerns within an individual school should be made to the Headteacher. If the concerns involve the Headteacher, then the Trust's CEO should be the first point of contact. Concerns by centrally employed staff at the Trust should be raised with the Trust's CEO. If the disclosure relates to child protection, employees should refer to the Child Protection policy. Alternatively, an individual that wishes to raise whistleblowing concerns may address them to the Chair of the Board.
- b. Where possible, a disclosure should be made in writing. A whistleblower should normally identify themselves and should make it clear that they are making a disclosure within the terms of this Procedure. Concerns raised in casual conversation do not constitute a disclosure.
- c. It is not necessary for a whistleblower to produce conclusive evidence to support their disclosure. Suspicion may be valid grounds for raising a concern. However, the whistleblower should normally have direct information about, or knowledge of, the malpractice alleged or know where such evidence is located. The whistleblower's concern should be based on more than hearsay, gossip, or the reports of others.
- d. Upon receipt of the concerns, the Headteacher will notify the Trust's CEO (the "Assessor") Where concerns are expressed directly to the Trust's CEO, the Assessor will be the Chair of the Trust Board.
- e. Where the whistleblower feels unable to raise their concerns with the Headteacher, they may make direct contact with the Assessor including offering a meeting to discuss the matter. In such instances the whistleblower will be asked to explain why they feel unable to raise their concerns with the Headteacher.
- f. The Assessor will interview the whistleblower as soon as is reasonably possible (normally within one week, or earlier if there is an immediate danger of loss of life or serious injury), with a view to obtaining sufficient information to recommend one or more of the following to the Headteacher:
  - That the matter be investigated internally by the School or Trust;
  - That the matter be investigated by the external auditors appointed by the School or Trust;
  - That the matter be reported to the Department for Education;
  - That the matter be reported to the Police;
  - That no further action is necessary;
  - That the whistleblower should pursue an alternative route in relation to the matter (the matter does not fall within this procedure).
- g. The Assessor will normally aim to submit their recommendations within two weeks of the concerns having been raised, although this timeframe may be subject to variation depending on the context and urgency of the matter. The grounds on which a recommendation by the Assessor for no further action include:
  - The Assessor is satisfied that, on the balance of probabilities, there is no evidence that malpractice has occurred, is occurring or is likely to occur; or
  - The Assessor is satisfied that the whistleblower is not acting in good faith; or
  - The matter is already, or has been, the subject of proceedings under one of the Trust/School's other procedures; or
  - The matter is already the subject of legal proceedings, or has already been referred to the Police, the external auditors, the Department for Education or other public authority.
- h. The recipient of the Assessor's recommendation will ensure that it is implemented unless there is good reason for not doing so in whole or in part.

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- i. The outcome of any investigation will be reported in writing by the Assessor to the whistleblower, normally within 2 working weeks of the outcome being determined.
- j. Where the whistleblower has not received a response within the above time limits, they may appeal to the Chair of the Trust's Board but will inform the Assessor before doing so.
- k. All whistleblowing incidents will be reported to the Board who will be given an update on the progress and outcome of investigations. If whistleblowers wish to escalate concerns, for example in relation to the investigation process and investigation outcomes, these should be referred to the Chair of the Board.

## 5. External Sources

- a. The aim of this procedure is to provide an internal mechanism for reporting investigating and remedying any wrongdoing in the workplace satisfactorily. In most cases we hope that those raising whistleblowing concerns should not find it necessary to alert anyone externally as the Trust wants to ensure its internal mechanisms are sufficient to address the matter. The law recognises that in some circumstances it may be appropriate for the employee to report their concerns to 'prescribed persons' which is a defined list of external bodies such as a regulator. It will very rarely, if ever, be appropriate to alert the media.
- b. Employees are strongly encouraged to seek advice before reporting a concern to anyone external. If the whistleblower is not satisfied with the Trust's response the nominated contact dealing in the case will notify the employee with whom they may raise the matter externally including:
  - the Local Authority's Designated Officer
  - Children Social Care
  - the NSPCC
  - the health and safety executive
  - the Environment Agency
  - the Information Commissioner the Department for Education
  - the Police
  - the Office for Standards in Education, Children's Services and Skills (Ofsted)
  - the Office of Qualifications and Examinations Regulation (Ofqual).
- c. If following discussion with the nominated contact the whistleblower chooses to raise the concern outside the Trust, it is responsibility of the whistleblower to ensure that confidential information is not disclosed to third party in whatever format.

## 6. Safeguards for whistleblowers

- a. The Trust and its Schools will ensure the whistleblower's employment rights are protected, including from any form of victimisation or harassment, if the whistleblower meets the criteria below:
  1. that they made a qualifying disclosure in good faith;
  2. that they reasonably believed the information was substantially true;
  3. that it was a qualifying disclosure as per the PIDA;
  4. this Procedure was followed;
  5. if the disclosure was made outside the Trust, that it was made to a 'prescribed person or body', rather than another third party such as the media.
- b. Whistleblowers who are themselves the subject of investigation or action under other formal procedures (e.g. capability) should not necessarily expect actions under that procedure to be discontinued as a result of the disclosure.

## 7. False or malicious allegations

- a. Deliberately false or malicious allegations, or disclosures made by employees for personal gain, will be considered as disciplinary offences and will be dealt with under the Disciplinary Procedure.

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## 8. Confidentiality

- a. Normal protocols regarding confidentiality will apply until this Procedure is exhausted. This does not preclude the right of key parties to this process to seek professional advice (e.g. legal advice or advice from a trade union or professional association).
- b. In addition, the whistleblower's identity will be kept confidential unless the whistleblower otherwise consents or there are grounds to believe that the whistleblower has acted maliciously. In the absence of such consent or grounds, the Assessor will not reveal the identity of the whistleblower except:
  1. Where the Assessor is under a legal obligation to do so; or
  2. Where the information is already in the public domain; or
  3. On a strictly confidential basis to a solicitor for the purpose of obtaining legal advice; or
  4. Where it is essential that the whistleblower provides evidence at a disciplinary hearing or other proceedings.

## 9. Anonymous complaints

- a. Where a whistleblower is unwilling to identify him/herself, the person receiving the complaint about malpractice should log the incident with the Assessor who will decide whether or not any investigation should be undertaken.
- b. In so deciding, the Assessor may consult with the Headteacher (or where the Assessor is the Trust's CEO, with the Chair of the Trust Board), as appropriate.
- c. Where whistleblowers do not wish to be identified to others in the course of an investigation, that wish will be respected in so far as it is reasonably practicable. However, anonymity cannot be guaranteed. The process of investigation may reveal the identity of whistleblowers and, especially in serious cases, whistleblowers may be required to give evidence, either by the Trust/School, or the Police. Any person subject to disciplinary action or prosecution as a result of a disclosure would have access to such evidence. Whistleblowers who are subsequently required to give evidence will be given all reasonable and practicable support and protection from reprisals.

## 10 Representation rights and third party support

- a. The whistleblower may be accompanied by a trade union representative or work colleague (or, in the case of persons external to the school, a friend) at any meeting either with the person to whom a disclosure is being made or who has been authorised to conduct an investigation into an allegation of malpractice.
- b. The Trust recognises that staff may wish to seek advice and support from their professional association or trade union before raising a matter under the Whistleblowing Policy.
- c. Whistleblowers may also wish to seek advice from 'Protect, an organisation which is entirely separate from the school. Protect have lawyers who provide confidential advice, free of charge, to people concerned about wrongdoing at work. Their contact details are on their website <https://protect-advice.org.uk>.
- d. It is recognised that raising concerns can be difficult and stressful. Employees can access support through the confidential employee assistance programme. For further details see Health Assured's website at the following link: <https://www.healthassured.org/>.

## 11. Disclosures to the press and other external bodies

- a. Other than in very exceptional circumstances, disclosures should not be made to the press, radio, television or other media. Employees have certain rights under the Public Interest Disclosure Act where they report malpractice to specified external agencies (e.g. reporting a criminal act to the Police). However, whistleblowers would normally be expected to make a disclosure within the School or Trust in the first instance, as set out in this Procedure.

## 12. Relationship with the grievance and other procedures

- a. This procedure is not intended as a substitute for the grievance or other relevant employment procedures through which employees may raise specific concerns relating to their treatment at work, including those regarding alleged bullying, harassment and discrimination.