

RE:SILIENT Whistleblowing Policy

Aim

This policy aims to help staff and volunteers to raise any concerns or incidences of malpractice or omissions about RE:SILIENT with confidence and without having to worry about being victimised, discriminated against or disadvantaged in any way as a result. For effective risk management, staff and volunteers need to be confident that they can raise matters of concern without suffering any detriment.

Whistleblowing can be an early warning system for RE:SILIENT. If employees voice concerns within the organisation rather than being forced to go to an external body, it means we can often tackle a problem before it becomes a crisis. Not dealing with problems early could have a devastating effect on RE:SILIENT with costly fines, compensation, higher insurance premiums, damaged reputation, regulatory investigation and lost jobs.

An effective Whistleblowing Policy can provide a clear framework for action and constructive problem solving in a reasonable, appropriate and controllable way for all employees of RE:SILIENT.

The legislation

In the UK, the Public Interest Disclosure Act 1998 protects those who 'blow the whistle' about wrongdoing, in the public interest, against unfair dismissal or being subjected to any other detriment by their employer/organisation (such as denial of promotion, deployment opportunities, pay rise or training).

If staff or volunteers are victimised for making a 'protected disclosure' they can make a claim for compensation. Dismissals of staff or volunteers for making a protected disclosure is automatically unfair. Compensation awards will be uncapped and based on the losses suffered. Any clauses in an agreement between staff or volunteers and the organisation which prevents the staff or volunteers from making disclosures protected under the Act will be void.

Previously whistleblowing protection under the Act was thought only available to employees in the UK however following the ground-breaking decision from the Supreme Court in Gilham v Ministry of Justice 2019 this protection is recognised as also extending to volunteers. Volunteers can rely on their right to freedom of expression under the Human Rights Act 1998 to ensure they are protected under Whistleblowing legislation.

'Speak up' culture

RE:SILIENT is committed to a culture of openness, honesty and accountability, encouraging staff to report internally and ensuring that concerns raised are dealt with speedily and effectively. We champion ethical behaviour, and celebrate a culture where people feel able to speak up, supported by a clear procedure for dealing with concerns, if they believe the principles we observe have been compromised. Our pledge is to properly investigate, identify and resolve any and all grievances raised by staff.

Whistleblowing is not the same as making a complaint or raising a grievance. Personal complaints such as harassment or discrimination made by staff and volunteers will be handled in accordance with the RE:SILIENT Grievance Policy.

Whistleblowing is therefore dealt with separately rather than an extension to, or part of, RE:SILIENT's Grievance Policy. This is partly because the level of risk to the organisation and to the staff and volunteers will generally be significantly greater in whistleblowing cases than in other matters.

What is Whistleblowing?

Whistleblowing, or public interest disclosure, is recognised as an effective means for staff or volunteers to communicate important messages to the organisation. It occurs when a staff member or volunteer raises concerns, usually to their organisation or a regulator, about a workplace danger or illegality that affects others.

The disclosure may be about the alleged wrongful conduct or omissions of the organisation, a colleague, volunteer, or any third party which may cause harm to others or to the organisation. A whistleblower is usually not directly or personally affected by the danger or illegality and therefore rarely has a direct personal interest in the outcome of any investigation into their concerns.

The disclosure should be made 'in good faith'. In other words, the disclosure must be made out of real concern about wrongdoing. The whistleblower should reasonably believe the information and allegation is substantially true, even if the information later turns out to have been incorrect. Staff and volunteers should note that they will not be protected from the consequences of making a disclosure if, by doing so, they commit a criminal offence.

Knowingly and maliciously making false accusations for ulterior motives is not whistleblowing and RE:SILIENT will take appropriate action in accordance with the RE:SILIENT Discipline Policy.

Types of whistleblowing concerns

The Act encourages employees to raise concerns about malpractice – dangerous or illegal activity – in the workplace. It does not matter whether the wrongdoing takes place in the UK or abroad. In order for it to be a 'qualifying disclosure' under the Act, the whistleblower should reasonably believe that there is

- ✓ a criminal offence
- ✓ a failure to comply with any legal obligation
- ✓ a miscarriage of justice
- ✓ a health and safety risk to an individual
- ✓ damage to the environment
- ✓ or concealment of the above.

Case law has shown that the second reason for a qualifying disclosure, a failure to comply with any legal obligation can be interpreted broadly. For example, this includes breach of a contract of employment, but for the disclosure to be protected there must be a real legal obligation not just a belief that there is one.

Raising a whistleblowing concern

Employees should in most cases, first report their concern to their line manager/team leader immediately if they become aware of wrongdoing happening (or have happened or are likely to happen) in the organisation.

Employees are encouraged to raise their concerns in writing where possible, setting out the background and history of their concerns (giving names, dates and places where possible) and indicating the reasons for their concerns.

Employees can make a claim anonymously but it may be difficult to take the claim further if there is insufficient information required. Employees can ask for their concerns to be treated in confidence and RE:SILIENT will respect those wishes.

The relevant manager is expected to respond to all matters reported to them. If the relevant manager cannot deal with the matter, they will refer the concern to the person designated to handle whistleblowing concerns which is the MD of RE:SILIENT and shall be known as the Whistleblowing Officer.

Dependent on the seriousness and sensitivity of the matter, and who is suspected of the wrongdoing, the individual can, if necessary report directly to the Whistleblowing Officer, the CEO of RE:ACT Group, or a Trustee on the Board, bypassing lower levels of management.

If the matter is not dealt with internally by RE:SILIENT, whistleblowers can disclose to appropriate external bodies. The Act protects disclosures made to prescribed bodies such as the Health and Safety Executive, the Inland Revenue,

the Audit Commission, the Charity Commission, the Commission for Social Care Inspection, the Financial Services, General Social Care Council, the Housing Corporation, the Information Commissioner and the National Care Standards Commission (full list can be found at www.pcaw.co.uk/law/lawregulatorses.htm).

Protecting the staff member raising the concern

Once a disclosure has been made in good faith to RE:SILIENT it will be protected under the Act. This should normally be the first route for employees, rather than having to disclose the concern externally. However, it does mean that the matter should be dealt with by RE:SILIENT, quickly and thoroughly.

If an employee raises a concern which they believe to be true, RE:SILIENT will take appropriate action to protect the individual from any harassment, victimisation or bullying. Employees who raise a genuine concern under this policy will not be at risk of losing their job/role in the organisation, nor will it influence any unrelated disciplinary action or redundancy procedures.

The matter will be treated confidentially if the employee requests it and every effort will be made to protect their identity, unless RE:SILIENT has to do so by law. If in other circumstances the concern cannot be resolved without revealing the individual's identity, the Whistleblowing Officer will discuss with the staff or volunteer whether and how to proceed.

Concerns raised anonymously tend to be far less effective but the Whistleblowing Officer will decide whether or not to consider the matter taking into account:

- ✓ the seriousness of the matter;
- ✓ whether the concern is believable;
- ✓ whether an investigation can be carried out based on the information provided.

How RE:SILIENT will deal with whistleblowing concerns

How the concern will be dealt with, will depend on what it involves. It is likely that further enquiries and/or investigation will be necessary. The concern may be investigated by RE:SILIENT's Whistleblowing Officer, the Trustees, through the disciplinary process or it may be referred to the police, other agencies such as Social Services, or another regulator, an external auditor or an independent investigator.

It may be necessary for the employee to give evidence in criminal or disciplinary proceedings. RE:SILIENT will give the reporting individual feedback on the progress and outcome of any investigation wherever possible.



If the suspicions are not confirmed by an investigation, the matter will be closed. Employees will not be treated or regarded any differently for raising the concern, and their confidentiality will continue to be protected.

Policy Review

This policy will be reviewed annually, or sooner if there has been a breach. The review will ensure the policy remains up-to-date in line with UK legislation and best practice, as well as assessing the effectiveness of how the policy is working in practice and taking action to address any identified issues.