

## RESEARCH COUNCIL WHISTLEBLOWING POLICY

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# RESEARCH COUNCIL WHISTLEBLOWING POLICY

## Policy Statement

The Research Council will not condone any form of malpractice in the workplace and is committed to creating a safe, fair and honest working environment.

The Research Council's Whistleblowing policy encourages and enables employees to speak out when they encounter or suspect malpractice.

No one who raises a genuine concern about malpractice will be at risk of losing their job or suffering any form of retribution or detriment as a result of doing so including harassment or victimisation from another employee.

This Policy applies to all employees of the Research Council. It also protects those workers who are on secondment to the Council, pursuing a doctoral degree, on a temporary contract or employed through an agency to work for the Council, an independent consultant to the Council and contractors or suppliers of services to the Council.

People in management positions throughout the Research Council are expected to recognise their responsibilities and to adopt and implement the Policy and adhere to the corresponding Procedures.

The Whistleblowing Policy is agreed with the Trade Union Side and complies with legislation.

The UK Shared Business Services (UK SBS) provides HR Services across the Research Councils. However some employees are deployed at establishments/facilities/ships that do not access services from UK SBS. In these cases references to the UK SBS or System (Employee Self Service) will not apply and employees should refer to their Research Council HR team for assistance.

## 1. Principles

- 1.1 If an employee has any concerns regarding the behaviour of others (including illegal, improper or unethical acts), they can take confidential action to raise their concerns.
- 1.2 The employee will be protected from any detriment if:
  - they raise a genuine concern in accordance with the procedures set out below, and
  - their concern is covered by one of the categories set out in the Public Interest Disclosure Act (PIDA), and
  - it is made in the public interest and they have a reasonable belief that the behaviour in question is occurring, has occurred, or is likely to occur.
- 1.3 If the employee feels unable to raise their concerns with a member of staff internally, they may also raise them with the nominated person/people for their organisation. Please refer to the Council's Delegation Framework available from Knowledgebase or by contacting the Research Council HR Team

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- 1.4 Further information on the PIDA and guidance on whistleblowing can be found at [www.direct.gov.uk](http://www.direct.gov.uk)
- 1.5 If an employee is found to have raised a concern maliciously or vexatiously, they will lose the protection of the Whistleblowing Policy and may be subject to disciplinary action under the Research Council's Disciplinary Policy.
- 1.6 All concerns will be treated in confidence and every effort will be made not to reveal anyone's identity in so far as this is consistent with the proper examination and investigation of the matter. If it is necessary to reveal the employee's identity, this will be discussed with them at the earliest possible stage of the procedure.

### **2. Before taking action**

- 2.1 Employees should not normally disclose confidential information or concerns relating to the Research Council or the establishment's business or other employees without first raising them in accordance with the procedures set out in this policy. If an employee feels uncomfortable using the internal procedure there are external contacts to whom they can make a disclosure (see section 7).
- 2.2 A procedure already exists for employees to raise personal employment-related grievances. In addition the Research Council Code of Conduct sets out the standards of personal behaviour to which employee's must conform. The procedure in this policy complements but does not replace these existing procedures; employees should use the procedures in this section when the others are not appropriate.
- 2.3 A protected disclosure is different to a grievance in that it will concern the conduct of another person in the workplace (whether or not that conduct affects the complainant personally) in circumstances where the complainant genuinely believes that the conduct in question amounts to a criminal offence, a breach of a legal obligation, or something likely to endanger health or safety or damage the environment.
- 2.4 A grievance will concern an employee personally, e.g. the individual may have a complaint about:
  - their pay or working hours
  - the amount of work that they are expected to do
  - working conditions, or
  - being bullied by fellow workers

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<b>Examples of the difference between a grievance and a protected disclosure</b>	
<b>Grievance</b>	<b>Protected Disclosure</b>
An employee's complaint about the type of work that they are being asked to do, for example if it is not covered by their contract	A disclosure that an individual has been instructed to carry out actions that they genuinely believe to be illegal, e.g. to falsify tax returns
An employee's complaint that they have received insufficient safety training	A disclosure that safety rules within the workplace are routinely being flouted, thus endangering safety
An employee's complaint about the hours that they are expected to work	A disclosure that the requirements imposed by the company on a group of staff represent a breach of the working time legislation

- 2.5 Allegations of misconduct in research should be raised in accordance with the Research Council's policy on that matter.
- 2.6 If an employee is in any doubt about the way in which they should raise their concern on a matter of public interest they should contact the local HR team or a senior manager.
- 2.7 The employee may be accompanied by a trade union representative or work colleague at any stage of the informal or formal procedure.

### 3. Matters of concern

- 3.1 To be protected the employee needs to make a 'qualifying disclosure' about alleged or actual malpractice. This could be:
- That a criminal offence has been committed, is being committed or is likely to be committed;
  - That a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject or has failed, is failing or is likely to fail to uphold professional standards or practice and/or behaviour (for example a breach of the Modern Slavery Act 2015);
  - That the health and safety of an individual is being or is likely to be endangered;
  - That the environment has been, is being or is likely to be damaged;
  - That a miscarriage of justice has occurred, is occurring or is likely to occur;
  - That a person is receiving or has received unlawful bribes, financial incentives or inducements for personal gain or that a person is involved (or generally suspected of being involved) in fraud;
  - That information on any of the above has been, is being or is likely to be concealed.
- 3.2 For the employee's disclosure to be protected by the law it should be made to the right person and in the right way. The employee must reasonably believe that the information is substantially true.
- 3.3 If the employee feels unable to raise their concerns internally they must also reasonably believe that they are making the disclosure to the right 'prescribed person'.

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3.4 Anyone wishing to raise a concern is encouraged to put their name to their allegation. Anonymous disclosures are less powerful and more difficult to investigate, but will be considered by the Research Council in the context of the following:

- The seriousness of the disclosure
- The credibility of the concern
- Fairness to the individual who may be the subject of the concern raised
- Whether there is a likelihood that the allegation can be confirmed using
- reliable sources

### 4. Informal procedure

- 4.1 If the employee has a concern about wrong doing under any of the categories listed at paragraph 3.1 above, they can initially seek to resolve the matter informally and in confidence. The employee can request an interview with their line manager (should this be inappropriate because the line manager is implicated in the matter, they can ask for an interview with a more senior manager) or with the Head of HR.
- 4.2 The employee should set out their concerns and the reasons why they are a matter of public interest. The manager will promptly consider whether there is substance in the employee's concerns and if so how they can be resolved, where necessary seeking advice from local HR. There will be no record made of informal concerns or any reference to them on official files etc., including any action taken to address them.

### 5. Formal procedure

- 5.1 If the employee believes that the matter of concern is of a more serious nature, and/or that it cannot be or has not been resolved satisfactorily through the informal procedure, they can raise it formally (verbally or in writing) and in confidence with their line manager or a more senior manager. If the employee's concerns involve, or may involve, an individual employee it will be dealt with by a senior manager who is at least one pay band higher than the individual complained about.
- 5.2 The employee's line manager or the senior manager will meet with the employee as soon as possible to ascertain the details of their concern. The employee may be accompanied by a work colleague or trade union representative at the meeting. The employee will be asked if they want to disclose their identity. If the employee does not wish to make a written statement the manager will write a brief summary of the meeting. The employee will be given an opportunity to comment on the note, which should be agreed by both parties.
- 5.3 It may be necessary for the manager to carry out an investigation and make an objective assessment of the concern. If the investigation reveals circumstances in which disciplinary action against individuals would be appropriate, the manager (in consultation with the Head of HR) will take the necessary procedural steps.
- 5.4 In some cases the manager may refer the matter to a more senior manager/Director because the resolution of the concern does not rest within their authority.
- 5.5 The employee will be advised of progress and of the outcome of their complaint. Although it may not always be possible to provide the employee with a full account, as much information as possible will be provided about the actions taken to deal with the employee's cause for concern.

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- 5.6 The specific circumstances of the employee's establishment may necessitate local arrangements to be in place. In some circumstances, it may be appropriate to refer the employee's concerns to the Chief Executive/Chairperson of the Governing Body/an independent external person as specific by these local rules; this individual will take whatever steps are necessary to consider the case in the spirit of this policy and resolve the problem. These steps will normally involve a formal investigation of the facts and include interviewing the employee and any other individuals involved in the case. A work colleague/trade union representative can accompany the employee at any meeting.
- 5.7 It will not be possible to protect an employee's anonymity if they discuss the case with others outside the investigation.

### **6. Appeals procedure**

#### **6.1 Principles**

- 6.1.1 All employees have the right to appeal against the outcome of the original investigation.
- 6.1.2 Details of the person to whom the appeal should be sent will be included in the decision letter.
- 6.1.3 The appeal should indicate the full grounds upon which it is made and must be sent in writing within seven working days of receipt of the decision letter.
- 6.1.4 An employee can submit new evidence or information that they consider relevant to the appeal, raise procedural issues, or comment on those matters they believe have received insufficient consideration. The employee should enclose copies of any new documentation to support their case. If the employee requires assistance to put their appeal in writing they should seek advice from their Trade Union representative or Research Council HR team.
- 6.1.5 Employees have the right to be accompanied by a work colleague or represented by a recognised Trade Union representative.
- 6.1.6 The purpose of the appeal is to review the outcome of the original investigation and basis upon which the original decision was made.

#### **6.2 Appeal Hearing Process**

- 6.2.1 The appeal will be heard by a person who has had no previous involvement in the case. In exceptional cases the appeal may be heard by someone outside of the Research Council. The person hearing the appeal will be accompanied by an HR professional, who may be external to the Research Council.
- 6.2.2 The manager should act as Chair and decision maker.
- 6.2.3 The employee will be invited to attend a meeting at which they can be accompanied by a work colleague or Trade Union representative.
- 6.2.4 A note of the meeting will be taken. The employee will have the opportunity to comment but this will not delay a decision. Any disagreements will be recorded.

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6.2.5 The person hearing the appeal will notify their decision in writing, normally within 10 working days.

6.2.6 The possible outcomes are as follows:

- a) **Uphold the current decision**- i.e. confirm the outcome of the original investigation, thereby rejecting the employee's appeal
- b) **Amend the current decision** i.e. substitute an alternative form of action. The decision could be changed in some way, for example, any actions required might be redefined in some way.
- c) **Overturn the current decision** i.e. set aside the original decision, thereby upholding the employee's appeal.

### 7. Protection outside this procedure

7.1 The employee should use this procedure to raise concerns which affect the public interest. However, the employee can make a disclosure to the Research Council's nominated person for the Whistleblowing Procedure without following this procedure, or at any point in the procedure, if:

- They reasonably believe that they will be victimised if they raise the matter internally or have suffered an identifiable detriment
- They reasonably believe that evidence is likely to be concealed or destroyed
- They have previously raised their concern internally without success.

7.2 The Research Council is required to make known widely the name of its nominated person for the Whistleblowing procedure.

7.3 If the employee has concerns about raising issues internally they may contact the independent person identified locally to whom such concerns should be addressed. Please refer to the Council's Delegation Framework available from Knowledgebase.

7.4 The employee should provide an overview of the issue(s) and

- Any action they have taken to date to resolve the issue or to follow the whistleblowing procedures
- Why they feel they cannot, or are unable to continue to, raise the issue internally

7.5 If the employee feels unable to use the internal procedure or to contact the nominated person, there are other prescribed people they can make the disclosure to. For a list of the prescribed people/bodies the employee can make a disclosure to refer to [www.direct.gov.uk](http://www.direct.gov.uk)

### 8. Outside organisations

#### 8.1 Wrong-doing discovered while working for an outside organisation

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8.1.1 If an employee suspects wrongdoing while working for or based at an outside organisation, they should use the internal procedures of that organisation, contacting the organisation's HR team if necessary. The employee may also contact the Research Council HR team for advice.

### 9. Policy Review

This policy will be regularly reviewed to incorporate any legislation changes. The TU may request that a policy is reviewed.

### 10. Amendment history

Version	Date	Comments/Changes
2.0	01 November 2014	Para 1.3 provides information on where to find the RC Delegation Framework
2.0	01 November 2014	Para 7.3 provides information on where to find the RC Delegation Framework
3.0	01 August 2017	Para 7.3 remove reference to contacting Research Council HR Team
3.0	01 August 2017	Para 3.1 add reference to Modern Slavery Act 2015.