

Protected Disclosures Policy

September 2022

1. Introduction

RTÉ is committed to preserving the highest standards of integrity, transparency, probity and accountability, and recognises that staff members play a key role in achieving these aims.

This statement sets out the RTÉ Board's policy and procedure for staff to raise concerns (whether based on specific knowledge, or properly grounded suspicions) that they may have about actual, or potential irregularities.

- a) the running of RTÉ, or
- b) the activities of colleagues, contractors, suppliers or customers

in so far as such activities have a material adverse bearing on the work of these parties within RTÉ (commonly referred to as making a "protected disclosure").

A Code of Business Conduct for RTÉ Employees is available on the intranet. The code establishes the principles of honesty and integrity in the conduct of business activities, loyalty to RTÉ and confidentiality.

RTÉ's existing line management structure and system of internal control (both financial and operational) are the normal and correct mechanisms to detect and/or draw attention to irregularities of all kinds. However, in exceptional circumstances, it is sometimes necessary to have an alternative reporting line available to staff as a mechanism of last resort. In such instances this protected disclosures policy applies.

Persons making genuine, supported allegations should be assured that their concerns will be treated seriously and sensitively. RTÉ will provide support to all persons making any such allegations and will take steps to protect them from detriment, provided that at all times the person making the allegation has acted in good faith and that the allegations made are material and are properly grounded.

2. Objectives

The objectives of this policy are to:

- a) Encourage staff to report suspected wrongdoing, in the knowledge that their concerns will be taken seriously and investigated as appropriate;
- b) Provide guidance to staff as to how to raise those concerns; and
- c) Reassure staff that they should be able to raise genuine concerns without fear of reprisals.

For the purposes of this policy "staff" refers to:

- Employees of RTÉ
- Other third parties (contractors, agency staff and consultants) providing services to RTÉ
- Volunteers, unpaid trainees, board members, shareholders, members of administrative, management or supervisory bodies and job applicants (where information on a relevant wrongdoing – as defined in 6.3 – is acquired during the recruitment process or during pre-contractual negotiations)

3. Scope

RTÉ's existing policies and procedures in relation to grievances, harassment, disciplinary matters or other complaints are the appropriate procedures to use where these affect an individual personally and such matters are therefore outside the scope of this policy. These are "interpersonal grievances".

Allegations made by one member of staff against another should be dealt with under the procedures outlined in the Employee Handbook. Your attention is drawn to Section 4.1 (grievance procedure) and Section 4.3 (Dignity and Respect at Work Policy).

This policy should not be used for complaints relating to a staff member's own personal circumstances or arising out of their work, such as the way they have been treated at work or in the course of their employment.

However, allegations of systemic abuse of staff (e.g. mistreatment directed against a group of staff in a particular section, department, or division) shall be within scope of this policy.

This policy is not designed to be used to re-open any matters that have been addressed under other policies.

4. Confidentiality

RTÉ confirms that the reporting person's identity will be subject to strict conditions of confidentiality and will not be disclosed by the recipient of the report ("designated person") without their prior consent, except where:

- a) the designated person shows that he or she took all reasonable steps to avoid so disclosing any such information;
- b) the designated person reasonably believes that disclosing any such information is necessary for:
 - i) the effective investigation of the disclosure;
 - ii) the prevention of serious risk to security of the State, public health, public safety or the environment;
 - iii) the prevention, investigation or prosecution of a crime; or
- c) where disclosure is necessary in the public interest or is required by law, or where the disclosure is a necessary and proportionate obligation in the context of investigations or judicial proceedings.

In these circumstances, the individual will be notified in writing by the designated person outlining the reasons for the disclosure (*unless such notification would jeopardise the prevention, investigation or prosecution of a crime or the effective investigation of the relevant wrongdoing*).

Confidentiality protection is also extended to the person(s) who is referred to in the report as potentially involved in the wrongdoing.

Any breach of confidentiality may result in the invocation of disciplinary procedures which could result in sanction up to and including dismissal.

5. Raising a Concern

Staff may raise a concern under this policy in two ways:

- by contacting one of the individuals set-out in the policy statement below taking account of the guidance set-out in Appendix A.
- by contacting an independent company, Safecall, which RTÉ has engaged to provide a confidential reporting line to raise concerns.

Calls are handled by skilled staff and will be treated in confidence. A report of the call will be sent to a nominated RTÉ recipient (Head of Internal Audit or a nominee) and Safecall will not disclose an individual's name if he/she wishes to remain anonymous. Members of staff can contact Safecall at any time on the Freephone number below:



Alternatively, Safecall can be contacted via e-mail at rte@safecall.co.uk or via the web reporting portal at www.safecall.co.uk/report

Staff are not required, or entitled, to investigate matters to find additional proof of their suspicion and should not endeavour to do so. Staff should disclose the information that they have, based on a reasonable belief that it discloses a wrongdoing.

Staff are entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds. No staff member will be penalised simply for getting a suspicion wrong, provided it was based on reasonable grounds and not reported for vexatious or other reasons.

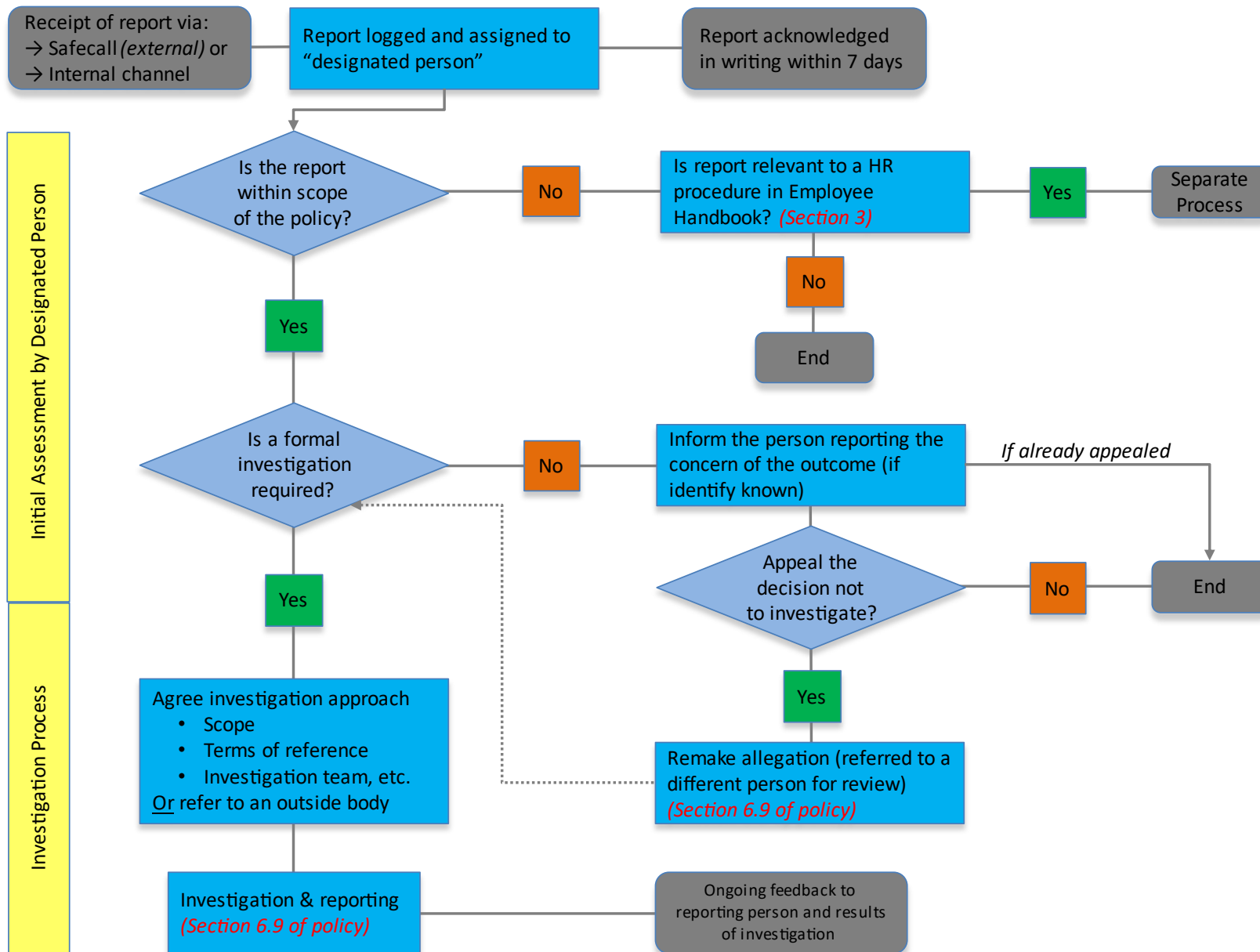
6. Policy Statement

- 6.1. RTÉ has a duty to conduct its affairs with propriety having regard for its role as a designated public service media organisation and its stated public service broadcasting commitments to its customers.
- 6.2. This policy describes the procedures for handling allegations relating to the running of RTÉ or to the activities of members of staff, contractors, suppliers or customers, where such activities adversely affect the interaction of these parties with RTÉ. RTÉ takes actual or alleged irregularities very seriously.
- 6.3. A protected disclosure under this policy involves the disclosure of relevant information which came to the attention of a member of staff (*as defined in Section 2*) in a work-related context and which they reasonably believe demonstrates a relevant wrongdoing. A relevant wrongdoing for the purposes of the Protected Disclosures (Amendment) Act 2022 may include information in relation to:
 - a. the commission of an offence
 - b. failure to comply with any legal obligation (other than arising under a contract of employment)
 - c. miscarriages of justice
 - d. endangering of the health and safety of an individual
 - e. damage to the environment
 - f. unlawful or improper use of funds and/or resources of a public body, or of other public money
 - g. an act or omission of a public body which is oppressive, discriminatory, grossly negligent or constitutes gross mismanagement
 - h. the occurrence of a 'breach', which is defined under the Act as an act or omission that is unlawful and falls within the scope of a broad range of EU acts, including in relation to public procurement, financial services, products and markets, and prevention of money laundering, or
 - i. the fact that information tending to show any matter falling within any of the above matters has been, is being or is likely to be concealed or destroyed or an attempt has been, is being or is likely to be made to conceal or destroy such information.

Certain matters are considered "interpersonal grievances" and not protected disclosures. These should be dealt with in line with other procedures, as outlined in the Employee Handbook. See Section 3 (Scope) above for details.

- 6.4. The reporting of protected disclosures is specifically addressed in the Protected Disclosures (Amendment) Act 2022 (the "2022 Act") and this policy shall be regarded as an "internal procedure" for the purposes of Section 21 of the 2022 Act. A staff member must make a disclosure in the manner set out in this Policy to gain the protections of the 2022 Act.
- 6.5. Allegations may be raised via the independent confidential reporting line (outlined in Section 5), or through one of the routes indicated in 6.6 or 6.7 below. A **decision tree** summarising the process is set out overleaf. (The investigation process is a more comprehensive than summarised overleaf and the format of each investigation will depend on the circumstances of the case.)

6.5 (Cont'd) Handling a report under the Protected Disclosures Policy – High Level Decision Tree



6.6. In addition to the confidential reporting line, allegations may be made to either the Office of the Director-General¹ or to the Head of Internal Audit². Examples of concerns (although these examples are by no means exhaustive) are set out in the table below.

Financial Conduct	Irregularities in the Running of RTÉ
<ul style="list-style-type: none"> • Collusion with suppliers 	<ul style="list-style-type: none"> • Concerns regarding potential criminal activities
<ul style="list-style-type: none"> • Misappropriation of assets 	<ul style="list-style-type: none"> • Serious failure of health and safety management procedures
<ul style="list-style-type: none"> • Excessive or fraudulent travel and subsistence claims 	<ul style="list-style-type: none"> • Improper departures from good governance
<ul style="list-style-type: none"> • Inappropriate ordering / financial commitments 	<ul style="list-style-type: none"> • Material breaches of procedures
<ul style="list-style-type: none"> • Fraudulent reporting of financial matters 	

6.7. Where, for any reason, the person making the allegation considers it inappropriate to refer the concern via the route in 6.6, allegations can be made to the Chair of the Audit and Risk Committee³, who shall decide what action to take, having regard for the particular circumstances. The Chair of the Audit and Risk Committee is an RTÉ Board member, independent of RTÉ day to day management and is contactable as set out in the footnote below.

6.8. RTÉ will acknowledge reports made in line with this policy, in writing, to the reporting person within 7 days of receipt of the report. The report will then be assigned to a designated impartial person ('designated person').

The designated person will be tasked with maintaining communication with the reporting person, requesting further information where necessary and will be required to diligently follow up on the report. Diligent follow-up includes the provision of feedback within a reasonable period and, in any case, within 3 months, and if requested by the reporter in writing, at 3-month intervals, until such time as the procedure relating to the report is closed. It also includes the carrying out of an initial assessment.

An initial assessment will be carried out to determine whether the report falls within the scope of this policy, having regard for the provisions of the 2022 Act, and whether it is necessary to carry out an investigation into the disclosure.

Some reports could involve a mix of different issues (some involving a protected disclosure and some involving a personal employment complaint). The report will be assessed to determine the nature of the information disclosed and the procedure that is most appropriate to be used to

¹ Allegations should be addressed, in writing, to the Director-General, 3rd Floor Admin Building, RTÉ, Donnybrook, Dublin 4 or dee.forbes@rte.ie

² Allegations should be addressed, in writing, to the Head of Internal Audit, 2nd Floor Admin Building, RTÉ, Donnybrook, Dublin 4 or Peadar.faherty@rte.ie

³ Allegations should be addressed, in writing, to Anne O'Leary, Chair of the RTÉ Audit and Risk Committee, c/o Office of the Group Secretary, 3rd Floor Administration Building, Donnybrook, Dublin 4 or contact companysecretary@rte.ie for a direct email address

investigate the matter. It may be necessary to separate the different elements of a disclosure and determine whether any specific disclosure of information relating to a relevant wrongdoing has taken place.

If it is unclear whether the disclosure qualifies as a protected disclosure, the designated person should treat the disclosure as a protected disclosure (and protect the identity of the discloser) until satisfied that the information is not a protected disclosure.

- 6.9. If, on preliminary examination, the allegation is judged to be wholly without substance or merit, the allegation may be dismissed. The person making the allegation will be so informed in writing by the designated person and may re-make the allegation to the Chair of the Audit and Risk Committee or, if they have previously been involved in the matter, to the Chair of the Board⁴. (Please note, in the case of anonymous allegations, it may not always be possible to contact the individual making the allegation).

If the initial assessment finds that there is prima facie substance to a complaint:

(i) the matter may:

- a) be the subject of a formal investigation (the scope and terms of reference will be determined prior to the investigation being carried out); and/or
- b) be considered under the appropriate stage of the disciplinary procedures; and/or
- c) be referred to an outside body including the Garda Síochána.

(ii) the person or persons against whom an allegation is made must be informed of the allegation and the evidence supporting it and must be allowed full opportunity to comment before the investigation is concluded.

All material, genuine allegations, including those dismissed after preliminary examination, and the results of their investigation, will be reported to the Audit and Risk Committee.

- 6.10. Individuals making allegations shall (if their identify is known) be informed by the designated person of the general outcome of the investigation and of the person and/or Committee to whom the report of the investigation is issued, but are not entitled to receive a copy of the report. The report is confidential to the investigator, the Director-General, the members of the Executive with managerial responsibility for the area in question, RTÉ's legal advisers, the appropriate disciplinary authority (if relevant) and the Audit and Risk Committee. The person against whom the allegation is made will be informed of the outcome of the investigation and will be entitled to receive a copy of the report.

⁴ Allegations should be addressed, in writing, to Chair of the RTÉ Board, c/o Office of the Group Secretary, 3rd Floor Administration Building, Donnybrook, Dublin 4 or by e-mail to companysecretary@rte.ie

7. Protection and Support

The 2022 Act sets out protections and prohibits penalisation of workers who make a protected disclosure.

A person who is mistaken in raising a concern will not suffer any form of retribution as a result of raising that concern. However, this assurance will not apply to someone who maliciously raises a matter that he/she knows to be untrue. The 2022 Act makes it an offence to make a report containing any information that the reporting person knows to be false.

For the purpose of this policy retribution includes, but is not limited to, the following:

- a) suspension, lay-off or dismissal,
- b) demotion or loss of opportunity for promotion,
- c) transfer of duties, change of location of place of work,
- d) imposition or administering of any discipline, reprimand or penalty (including financial penalty),
- e) coercion, intimidation or harassment,
- f) discrimination, disadvantage or unfair treatment,
- g) injury, damage or loss,
- h) threat of reprisal,
- i) withholding of training,
- j) a negative performance assessment or employment reference,
- k) failure to convert a temporary employment contract into a permanent one, where the worker had a legitimate expectation that he or she would be offered permanent employment,
- l) failure to renew or early termination of a temporary employment contract,
- m) harm, including to the worker's reputation, particularly in social media, or financial loss, including loss of business and loss of income,
- n) blacklisting on the basis of a sector or industry-wide informal or formal agreement, which may entail that the person will not, in the future, find employment in the sector or industry,
- o) early termination or cancellation of a contract for goods or services,
- p) cancellation of a licence or permit,
- q) psychiatric or medical referrals.

Action by a manager or others to inappropriately deter a member of staff from raising valid concerns about an irregularity or other significant malpractice shall result in the invocation of disciplinary procedures, ranging from suspension without pay until the concern has been resolved to dismissal against the manager or other person concerned.

Likewise, staff abusing the process by raising unfounded, unsupported and / or immaterial allegations or repeating allegations investigated within the previous eighteen months and found to be false will also be subject to the invocation of disciplinary procedures action, ranging from sanctions to ensure that RTÉ and the accused recoup the cost of processing and responding to the complaint up to dismissal. However, staff making a genuine, supported complaint in good faith, in ignorance of the fact that the same complaint has already been investigated and proven to be false, need have no concerns in this regard. As per section 5, staff are entitled to be mistaken in their belief, so long as their belief was based on reasonable grounds.

8. Anonymous Notifications

While the 2022 Act provides that there is no obligation to accept and follow-up on anonymous reports, RTÉ acknowledges that, in certain limited cases, a staff member may wish to raise a concern on an anonymous basis, without identifying himself / herself to the individual receiving the complaint. Anonymous complaints are therefore also permitted under this policy. However, members of staff should note that anonymity may impede a quick or thorough investigation, or the success of any later prosecution.

9. External Disclosures

In the first instance, members of staff are encouraged to raise their concerns under the internal disclosure procedure, set out above, or via the confidential reporting line. However, the Protected Disclosure (Amendment) Act 2022 provides for external reporting channels to prescribed persons, to the newly established Office of the Protected Disclosures Commissioner and to others. This is expected to apply only in very rare cases and if certain conditions are met.

For the purpose of Section 8 of the Act, where the staff member is employed by RTÉ, he/she can make a disclosure to the Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media.

A list of other prescribed persons and or bodies for reporting certain types of concerns is available from the Department of Public Expenditure and Reform, in addition to further general independent and advice.

In some specified circumstances it may be appropriate or required to report concerns to an external body such as a regulator or An Garda Síochána.

10. Updates

Any changes to this Guidance shall be notified to staff on the RTÉ Intranet or using such other method as may be determined from time to time.

The Board of RTÉ approved this policy at its meeting on 22 September 2022.

Appendix A – Guidance to Assist in Disclosure

The individual making the disclosure will need to be able to demonstrate and support the reasons for their concerns and provide evidence of their concerns where such evidence is available. Any reports should be factual (to the best of their knowledge) and should, as far as possible, address the following key points to the extent that such information is known to the individual in relation to a wrongdoing that has occurred, is occurring or is likely to occur:

Details that should be included in a disclosure:

It is recommended that, at a minimum, disclosures should include the following details:

- what has occurred (or is thought to have occurred)
- when it occurred
- where it occurred
- who was involved?
- how RTÉ has been put at risk or suffered a loss as a result
- has it been raised with anyone else either within RTÉ or externally? If so, details of when/whom?
- are there any other witnesses?
- is there any supporting information or documentation?
- Where applicable, the discloser's name, position in the organisation, place of work and confidential contact details