Serious incident reporting policy

1. Introduction

This Policy applies to the Red Trouser Day Charity (RTD)
The purpose of this Policy is to ensure that all Relevant People are able to identify Serious Incidents (as defined below), escalate them as appropriate and report them to RTD so that the Trustees can exercise adequate oversight and consider whether to make a serious incident report to the Charity Commission for England and Wales (the "Commission") among other potential actions.
All Relevant People must adhere to this Policy when undertaking work with or for, or otherwise engaging with RTD. This Policy relates to activities of RTD only.

2. Definitions

"Relevant People" means:

- RTD People
- Volunteers
- Supporters & Clinicians

who are undertaking work with or for, or otherwise engaging with RTD.

"RTD People" means all people who are authorised to represent RTD and are contracted to RTD, including but not limited to:

- Trustees
- Volunteers
- Contractors or consultants
- Donors
- Partners and suppliers
- Anyone representing or working on behalf of the charity

The defined terms above relate to the names of particular categories of people related to RTD and is separate from specific titles of roles.

3. Scope

3.1 This Policy may be amended at any time and will be available on the RTD's website for reference.

3.2 In particular, this policy sets out how RTD seeks to ensure compliance with the Serious Incident Reporting ("SIR") requirements of the Commission which are set out in guidance available on its website (the "SIR Guidance")

3.3 This Policy applies to all Relevant People. Failure to adhere appropriately to the Policy will be treated as a very serious matter and may result, in the case of staff, in disciplinary action for gross misconduct or, in the case of contractors or other Relevant People who are not staff, in our termination of your engagement with us.

3.4 RTD's Trustees remain ultimately responsible for ensuring that RTD reports any Serious Incidents and that it does so in a timely manner.

4. The duty to report a serious incident

4.1 Although there is no statutory requirement under charity law for charities to report Serious Incidents as they occur, registered charities with an income over £25,000 per year must confirm in their annual return that there have been no Serious Incidents or other matters that Trustees should have reported to the Commission but have not done so. The Commission also considers that, as a matter of good practice, all charities regardless of size or income should report Serious Incidents to the Commission promptly.

4.2 The RTD Trustees take Serious Incidents very seriously and consider that reporting Serious Incidents to the Commission and other relevant authorities comprises an important part of the effective and appropriate response to any such Serious Incident.

4.3 In particular, RTD understands that reporting a Serious Incident to the Commission demonstrates that it has the appropriate processes in place to manage risk and take the correct action. Where a report is made, it can also limit the likelihood that the Commission will take any formal regulatory or enforcement action where applicable.

4.4 If RTD fails to report a serious incident that subsequently comes to light, the Commission may consider this to be indicative of mismanagement in the administration of RTD as a charity and may ask RTD to explain why it was not reported at the time. The failure to report a Serious Incident could prompt or add to the seriousness of regulatory action, particularly if further abuse or damage has arisen following the initial Serious Incident.

4.5 The potential for reputational damage can also be lessened if RTD is able to show that any Serious Incident has been handled appropriately.

5. What is a serious incident?

5.1 The Commission defines a Serious Incident in its SIR Guidance as an adverse event, whether actual or alleged, which results in or risks significant:

- harm to a charity's beneficiaries, staff, volunteers or others who come into contact with the charity through its work;
- loss of a charity's money or assets;
  .1. damage to a charity's property; and/or
  .2. harm to a charity's work or reputation.
- Significant" means significant in the context of the charity, taking account of its staff, operations, finances and/or reputation. The SIR Guidance identifies the following main categories of reportable incidents:
- protecting people and safeguarding incidents – incidents that have resulted in or risk significant harm to beneficiaries and other people who come into contact with the charity through its work (this includes incidents of abuse or mistreatment (actual or alleged) and a breach of procedures or policies which has put people who come into contact with the charity at risk, including failure to carry out checks which would have identified that a person is disqualified in law from holding their position within the charity e.g. under safeguarding legislation, from working with children or adults);
- financial crimes: fraud, theft, cyber-crime and money laundering;
- large donations from an unknown or unverifiable source, or suspicious financial activity using the charity's funds;

- other significant financial loss;
- links to terrorism or extremism, including 'proscribed' organisations, individuals subject to an asset freeze, or kidnapping of staff; and
- other significant incidents, such as:
- a Trustee or a senior manager being disqualified from holding that position;
- something has happened to force the charity into insolvency or to wind up;
- forced withdrawal of banking services and difficulties securing alternative accounts;
- the charity is subject to a police investigation or a significant investigation by another agency/ regulator (the SIR Guidance states that a charity does not need to report routine regulatory inspections unless they resulted in significant adverse findings that place the future of the charity in doubt, are likely to damage the charity's reputation or public confidence in the charity, or relate to any of the other categories of Serious Incidents);
- major governance problems, such as mass resignation of staff or trustees, or other events, leaving the charity unable to operate;
- the charity's trustees or employees are the subject of criminal proceedings, in connection with the charity or their role in it;
- there has been a significant data breach or loss within the charity; and
- an incident has occurred involving one of the charity's partners in the UK or internationally which materially affects the charity, its staff, operations, finances and/or reputation (this includes delivery partners, subsidiary companies, funding recipients and organisations linked to the charity (for example as part of a federated structure).

5.2 The Commission recommends that any incident or matter which could get into the public domain or be reported in the media is reported to it as soon as possible (even if initially on an interim basis) so that the Commission can prepare its own public response and be in a position to say that it is already liaising with the charity in relation to it.

5.3 The SIR Guidance provides more details about the types of matters that should be reported and also includes a table of examples of matters that usually should or should not be reported. This Policy and the SIR Guidance are not exhaustive and matters may still constitute Serious Incidents if they do not fall within any of the categories identified above. If in doubt as to whether something constitutes a Serious Incident, you should discuss it with the Relevant Officer where applicable (see below) or otherwise with a Trustee.

6. Reporting principles and procedures

6.1 RTD will endeavour to provide training to relevant members of the Chairty so that they can identify serious Incidents and know what to do if one occurs.

Internal reporting by all Relevant People

6.2 Relevant People should not seek to make a Serious Incident report to the Commission themselves. Instead they should report their concerns internally in accordance with the relevant policy so that appropriate action can be taken.

6.3 The following are some of the RTD policies which relate to contexts in which serious incidents may arise. This is not an exhaustive list:

- Any policies relating to financial crime;

- Privacy Policy;
- Safeguarding (vulnerable adults) Policy;
- Complaints Policy;
- Tainted Donations Policy
- Conflicts of Interest Policy;

6.4 Where a Serious Incident is covered by a RTD policy, all Relevant People should use the mechanism set out in the relevant policy and report the incident to the individual named in that policy (the "Relevant Officer"). In the unlikely event that a Serious Incident is not covered by an existing RTD policy, staff should report the incident to the Chairman, copying in the Trustees as soon as possible and in any event within 24 hours.

6.5 Where a potential Serious Incident relates to the Relevant Officer or Chairman, Relevant People should report the incident or allegation directly to the head of Legal Trustee or an alternative Trustee if the nominated Trustee is not available or would be subject to a conflict of interests or loyalty in relation to its subject matter

6.6 Upon receiving a report, the Relevant Officer or Chairman will assess whether they think it may potentially be a serious incident and if so, will promptly (on the same day) report the incident to one or more of the RTD's Trustees.

6.7 The Trustee receiving the report will discuss the matter with the nominated Trustee in order to determine next steps. In most circumstances the report will be shared with the other members of the Board in-order for them to consider whether a Serious Incident report is required. However, there may be circumstances where this is not appropriate due to reasons of confidentiality, conflict of interest/loyalty etc, in which case the nominated Trustee or alternative nominated Trustee (if the nominated Trustee is not available or conflicted) will decide how to deal with the matter, taking account of any relevant policies. Consideration should be given as to whether any particular steps can be taken to address particular issues e.g. whether the report could be appropriately anonymised before sharing further and Reporting to the Commission.

6.8 The Trustees will respond to serious incidents promptly, in a comprehensive and systematic manner; will assure themselves that all appropriate steps have been or are in process; and will seek to prevent or minimise any further harm, loss or damage.

6.9 Assessing whether a reportable Serious Incident has occurred is a matter for the Trustees to determine, having reviewed and considered the SIR Guidance and any related Commission documents or other guidance, and they may seek advice from professional advisers before doing so.

6.10 The Trustees will report Serious Incidents to the Commission promptly. The urgency of reporting will depend on factors including the nature and seriousness of the incident, the potential impact on RTD and whether it is likely that there will be media coverage of the potential Serious Incident.

6.11 The SIR Guidance notes that it is important to provide enough detail in the report to give the Commission a clear picture of what happened and when, the extent of any loss or harm, how the charity is dealing with it and the planned/possible next steps (see below for further details of the information to provide in the report). The Trustees will liaise with

relevant staff to gather the appropriate information required to report the matter to the Commission.

6.12 It is important to balance the fact-finding exercise with the need to report Serious Incidents promptly. Some discretion may need to be exercised in these circumstances. It will always be open to RTD to make an initial report to the Commission covering those facts that are known to RTD to date and provide further updates to the Commission following internal investigation or as matters develop, including regarding the actions which have been taken to respond to and manage the potential Serious Incident. RTD notes that the SIR Guidance says that if, having submitted a report to the Commission, the charity becomes aware of any material changes to the facts reported or significant developments, the charity must inform the Commission as soon as it becomes aware of them.

6.13 Unless a specific reporting framework has been agreed with the Commission, the following information should be included in the Serious Incident Report:

- the individual submitting the Serious Incident Report and their connection to RTD;
- the authority they have to report on behalf of the Trustees if not a Trustee;
- who within the Trustee body is aware of the Serious Incident, for example all Trustees, some of them or only the nominated Trustee;
- what happened and when RTD first became aware of it – to the extent that information may identify individuals in sensitive circumstances, the level of detail may be tailored accordingly. It is not necessary to provide names of individuals involved in the initial Serious Incident Report – the Commission will request this information if it needs it. However, the account should otherwise be fully candid and should not be expressed in general terms or euphemistically;
- the effect of the Serious Incident on RTD or its beneficiaries or both;
- action being taken to deal with the Serious Incident and prevent consequential risks and future occurrences (this will likely include details of any investigations by RTD (whether complete or underway); whether RTD has any policies or procedures that apply to the Serious Incident in question and whether they were followed including any reasons why they were not followed (if applicable); and whether as a result the Trustees have determined that current policies or procedures need to be revised, or new ones put in place if they do not already exist);
- whether and when it was reported to the police or another regulator/statutory or other agency (including official reference numbers) and any action taken, whether any guidance was offered and the extent to which it has been followed. In circumstances where, upon careful risk assessment, it has been determined that it would not be appropriate to report to external authorities (such as, but not limited to, the wishes of the victim/survivor/complainant; potential harm to the victim/survivor/complainant; justifiable concerns in relation to the due process with which the matter would be treated), a summary of the reasons for that determination should be included in the Serious Incident Report and the decision and reasons should otherwise be carefully documented;
- media/donor/patron/public relations handling plans that have been or will be prepared by RTD, if any;

- insurance coverage, if any, and notification to and/or correspondence with the insurers where relevant;
- any other review or investigation that will take place as a result of the Serious Incident, including in respect of governance arrangements, contracts with third parties or policies and procedures; and
- specifying whether the information is confidential and/or may risk identification of individuals if disclosed externally.

6.14 RTD will endeavour to prepare a communications plan covering what it will say to all Relevant People, beneficiaries, members, supporters, patrons, the public and the media.

6.15 Consideration should be given to whether it is appropriate to obtain external advice, such as legal and/or communications advice.

6.16 RTD will review what happened and identify and take steps to prevent it from happening again - this may include strengthening internal controls and procedures, and/or seeking appropriate help from professional advisers.

6.17 Consideration must also be given to whether a Serious Incident should be reported to RTD's insurers in accordance with the relevant insurance policy (if any).

6.18 In addition to making a Serious Incident Report to the Commission, if the incident occurred in the UK, it may be necessary to inform or make reports to other relevant regulators or agencies. RTD should report:

- crime, or suspected crime, to the police and obtain a crime reference number;
- any incidents of harm or risk of harm to children or vulnerable adults (including any concerns, suspicions or allegations) to the relevant local authority and obtain a reference number;
- incidents of fraud and cyber-crime that take place in connection with the Charity to Action Fraud and obtain a crime reference number;
- any serious data breaches to the Information Commissioner's Office in accordance with RTD's relevant data protection policies;
- any incidents relating to possible terrorist financing offences to police or the National Crime Agency ("NCA") and obtain a reference number.

6.19 Where there is actual or suspected criminal activity or other Serious Incident that has occurred in another country, RTD will ensure that it is made aware of the requirements of local law and regulation, including in respect of reporting as well as other relevant guidance. RTD will carefully consider, and risk assess the making of such a report to the police and/or to any other regulators or authorities to which RTD is accountable or which otherwise have jurisdiction in relation to the matter. This will include consideration of the risk of harm to others (such as the victim and alleged offender) if the incident is reported and cultural differences and sensitivities. To the extent that it is determined, after careful consideration, not to report an incident to the national or regional authorities of another country, the decision will be carefully documented, and reasons provided to the Commission when the Serious Incident Report is made. Where an alleged offender is a UK national or resident, consideration will be given to reporting to the NCA.

7. What happens next

7.1 The Commission will typically acknowledge receipt of the Serious Incident Report. It is understood that it will assess the risk and look at how RTD is dealing with the incident, and may take steps to verify the details, for example and where relevant, by contacting the police. The Commission may also follow up if it:

- needs more information about the Serious Incident;
- considers RTD needs regulatory advice and guidance;
- has to use its legal powers to protect RTD and/or the people who come into contact with it through its work;
- decides to request updates on future development; and
- needs to monitor RTD's progress in dealing with it.

7.2 In very serious cases the Commission may take steps to exercise its enforcement powers, for example, issuing a warning or opening a statutory inquiry into RTD, though it is rare that it would do so without some form of preliminary communication or dialogue.

8. Data protection and confidentiality

8.1 When Trustees report serious incidents, some of the information provided may be of a sensitive nature. The Commission is obliged to handle this responsibly, with care and only for the purposes of carrying out its statutory functions.

8.2 As a public authority and a 'controller', the Commission is subject to the Freedom of Information Act 2000, and relevant data protection legislation. and any other law and related guidance as may subsequently be in force.

8.3 The Commission's SIR Guidance states that the Commission does not routinely guarantee that information provided will be kept confidential, because information sharing is often necessary in order for the Commission to further its statutory functions and objectives and in some cases it is required by law to share information (e.g. to other relevant public authorities).

8.4 Despite this, all serious incident reports should be marked as confidential (unless the information is already wholly available in the public domain, which is highly unlikely). In addition:

- any personal data should be removed to the greatest extent possible and, if appropriate, the risk of identification of individuals (though unnamed) should be highlighted;
- any particularly sensitive information in the report should be identified;
- any specific exemptions from disclosure (such as an exemption under the Freedom of Information Act) should be specifically referred to and relied upon; and
- the report should contain a request that it is not disclosed to third parties and that the Commission notifies RTD if it receives a request to disclose information to third parties (e.g. the media or individuals).

9. Learning from serious incidents

It is important that RTD appropriately manages and responds to a serious incident. This includes learning from the incident and taking steps to minimise further harm in consequence of the incident and to prevent similar incidents from occurring in the future.

Senior employees and Trustees should consider whether RTD has taken appropriate steps to respond to a serious incident and ensure that sufficient controls and procedures are put in place to mitigate and manage any future risks to RTD and its beneficiaries. This should be documented.

10. Review and Monitoring

This policy will be reviewed annually by the Board of Trustees to ensure it remains current, effective, and proportionate for our charitable activities.

RTD Policy Framework

Policy Area	Lead Policy	Linked Policies
Risk	Risk Management	***SIR***, AML, Anti Bribery, Safeguarding
People	Safeguarding	***SIR***, Complaints
Finance	Anti Money Laundering	Tainted Donations, Anti Bribery
Conduct	Conflict of Interest	Complaints, ***SIR***, Data Protection, Privacy
Information	Privacy	Acceptable IT Use, Complaints, Social Media, Data Protection

SIR – Serious incident Reporting AML – Anti Money Laundering