

Mandatory Read

Whistleblowing Policy & SOP



Lead Director

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Date Reviewed

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Policy

1 Purpose and Objectives

Supporting children and young people with disabilities and their families requires care and skill. The reputation of The Children's Trust is built on the quality of the work we do.

Significant evidence exists from investigations into a small minority of UK healthcare organisations that where staff feel disempowered to raise concerns about patient care, the risk of poor standards is increased. The Francis Report, looking specifically at the failings at the Mid Staffordshire NHS Foundation Trust, clearly indicated that the staff did not feel safe raising their concerns about the patient care that was being delivered. A key theme of the report was that openness, transparency and candour (being honest and frank) about matters of concern was vital for organisations to avoid such risks and to enable them to continuously improve by learning from any setbacks.

The Children's Trust is committed to the highest possible standards of openness, truthfulness and accountability and takes its duty of candour very seriously, which extends across the full range of its activities both on site and off. The Children's Trust encourages colleagues to raise concerns they may have regarding any procedure or practice within the charity, or with activities being conducted on behalf of the charity, through systems such as IRAR (the incident reporting system).

The objectives of this policy are to:

- enable colleagues to raise concerns about any malpractice at an early stage and in the right way. This is alternatively known as "raising concerns", "whistleblowing" or "speaking up". The legislation concerned sets a requirement that any whistleblowing disclosures are raised with the reasonable expectation that the issues are "in the public interest";
- ensure that any colleague who makes a qualifying disclosure in the public interest, under this whistleblowing policy, will not be penalised or suffer any adverse treatment for doing so.

Relevant laws and regulations include but are not limited to:

- Public Interest Disclosures Act, 1998
- Human Rights Act, 1998
- General Data Protection regulation and Data Protection Act, 2018
- Equality Act, 2010
- The Fundraising Code of Practice
- Bribery Act, 2010

2 Scope

- 2.1 This policy applies to all colleagues across The Children’s Trust including employees, former employees, contractors, subcontractors, suppliers, self-employed people, agency workers and volunteers (“colleagues”).
- 2.2 We encourage former employees to raise concerns as set out in this policy within six months of the date of cessation of their employment with The Children’s Trust in order to ensure a full and proper investigation can take place.

3 Definitions

Unless otherwise stated, the words or expressions contained in this document shall have the following meaning:

the Charity/ organisation/
TCT means The Children’s Trust

Investigating Officer the person appointed pursuant to section 9.7

Reasonable belief a belief that is objectively reasonable whether or not the belief turns out to be correct

SOP Standard Operating Procedure

Whistleblowing when a person raises a concern about malpractice or wrongdoing within an organisation, or by those acting on behalf of the organisation (also known as “speaking up”)

Whistleblower the person raising a concern about the organisation, or by those acting on behalf of the organisation

4 Policy Statement

- 4.1 As an organisation we are committed to putting in place the necessary systems and processes and promoting a culture of honesty and integrity so that colleagues feel able to speak up, in confidence and without prejudice, if they become aware of wrongdoing or malpractice in the workplace.
- 4.2 The Public Interest Disclosure Act 1998 (PIDA) aims to promote greater openness in the workplace and, by amending the Employment Protection Act 1996, protects “whistleblowers” from detrimental treatment such as victimisation or dismissal, for raising certain types of concerns in the public interest, known as “protected disclosures”. In order to qualify under PIDA as a protected disclosure, it must be a disclosure of information about malpractice or failure, which, in the reasonable belief of the whistleblower, tends to show that one or more of the six specified types of malpractice or failure has taken place, is taking place or is likely to take place. These six specified types of disclosure are:
 - Criminal offences (including but not limited to; fraud, bribery and the sexual, emotional or physical abuse or ill treatment or exploitation of service users, staff or the public);

- Breach of any legal obligation;
 - Miscarriages of justice (e.g. where The Children’s Trust has acted improperly or unfairly);
 - Danger to the health and safety of any individual (including risks to children, to the public and to other employees or the potential for harm);
 - Damage to the environment;
 - The deliberate concealing of information about any of the above
- 4.3 When an issue is raised and it can be more appropriately dealt with under one of The Children’s Trust’s other policies, then that other policy will be used in place of this whistleblowing policy.
- 4.4 This policy will not usually apply to personal grievances concerning an individual’s terms and conditions of employment or other aspects of the working relationship such as concerns of bullying or harassment or disciplinary matters. Such concerns will be investigated under the applicable policy or procedure.
- 4.5 Should, it become apparent to the Investigating Officer (during the course of any investigation under this policy), that the concern relates more appropriately to another policy or procedure, then that policy or procedure will be invoked.
- 4.6 The Children’s Trust is committed to respecting a whistleblower’s request for anonymity as far as is practical and legally permissible.
- 4.7 The Children’s Trust Employee Voice platform should not be used to raise whistleblowing concerns, it is important that you follow the steps set out in the policy and SOP to ensure that such concerns are properly addressed.

5 Stakeholder Consultation

Appendix 1 details the stakeholders who were consulted in the development of this procedure.

6 Related Policies

The following policies and procedures stated below support the effective application of this policy:

- Disciplinary Policy
- Grievance Policy
- Bullying, Intimidation & Harassment at Work Policy & Procedure
- Staff Handbook
- Incident Reporting and Investigation including Duty of Candour Policy
- Complaints Policy & Procedure
- Child Protection and Safeguarding Policy and associated SOPs
- Data Protection Policy
- Celebrating Equality, Diversity & Inclusion Policy
- Low Level Concerns – Policy for The Children’s Trust School

7 External References and Guidance

The following external resources and guidance were consulted in drafting this policy:

- Keeping Children Safe In Education 2022
- Protect best practice guidelines

Standard Operating Procedures (SOP)

8 Roles and responsibilities

- Investigating Officer

The Investigating Officer is responsible for:

- Investigating claims raised under this policy in a timely manner
 - Writing to the whistleblower to provide the information set out at 9.8 below
 - Providing a written report to the Board of Trustees detailing the whistleblowing claims, the investigation procedure, conclusions and recommendations.
 - Providing a written report to any third-party regulatory body as appropriate
 - Ensuring steps will be taken to minimise any difficulties which the whistleblower may experience as a result of raising a concern
 - Ensuring the results of the investigation are communicated to the organisation in an appropriate way
- Line Manager / SLT / Head of Business Partnering / Chief Executive / Trustees/ Governor

The Line Manager / SLT / Head of Business Partnering / Chief Executive / Trustee/Governor is responsible for:

- Ensuring an Investigating Officer is appointed in a timely manner to investigate any concerns raised directly to them pursuant to sections 9.1-9.3 below
- To understand, share and act upon lessons learnt from whistleblowing investigations

9 Procedure

9.1 If you have a concern relating to items falling under section 4.2, it is hoped that you will be able to raise it first with your Line Manager. This will obviously depend upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice.

9.2 Please refer to section 10 for guidance on how to raise concerns relating to safeguarding and child protection issues.

9.3 If you believe that your immediate Line Manager is involved or you feel for whatever reason unable to raise it with your Line Manager, you should then raise the issue with either:

- a Whistleblowing Champion
- a member of the Senior Leadership Team;
- the Head of Business Partnering in the People Team; or
- the Head of Audit, Risk and Governance (and Company Secretary)

Should you feel unable to raise the matter with any of the above then you can raise it with:

- the Chief Executive; or
- a Trustee or Governor

You also have the option at any time, through TCT's membership of Protect (the national whistleblowing charity), to contact the confidential Protect Advice Line to seek practical advice, further guidance regarding this policy and advice on the best way to raise a concern internally.

A list of names and contact details for all of these people including the Whistleblowing Champions, Senior Leadership team, Trustees, Governors and Protect is available on the Loop, which is the organisation's intranet. Names can be found in the People Directory and Trustee and Governor names are included in the Chief Executive's Office Department and the School department respectively.

9.4 It is preferable that concerns are raised openly using the model form at Appendix 2 with your name on the disclosure however you can also raise your concerns orally if preferred.

9.5 Anonymous concerns are covered by this policy but we would encourage you to provide your name when raising a concern as it is our belief that anonymous concerns can hamper the ability of The Children's Trust to deal with concerns fully and completely. If you raise a concern anonymously, we will be unable to ask follow-up questions to help investigate your claims and will not be able to update you with our findings. If you reveal your identity when you make your disclosure but wish this to be treated in complete confidence, the Investigating Officer will respect your wishes unless he or she is obliged to disclose your identity by law. If the situation arises where the Investigating Officer is not able to resolve the concern without revealing your identity, then an agreement will be reached about whether and how to proceed.

9.6 Concerns raised with The Children's Trust under this policy will always receive a response. This will entail either an investigation by management or an external regulating statutory body. However, if the concerns raised relate to issues which can be successfully dealt with using The Children's Trust's other policies and procedures then a whistleblowing investigation will not be commenced. A record of this decision and the reasons for it will be kept in the secure central database referred to at section 9.28 below.

9.7 A person will be appointed to investigate your concerns within five working days or as soon as possible thereafter. For the purposes of this policy, that person will be referred to as an Investigating Officer (however, they may have a different role if they are part of an external regulating statutory body).

9.8 The Investigating Officer will make all reasonable efforts to write to you within 14 working days:

- acknowledging the concern has been received
 - indicating how they propose to deal with the matter
 - giving an estimate of how long it will take to complete the investigations
 - providing any further information or response as applicable
- 9.9 The amount of contact between you and the Investigating Officer will depend on both the nature of the matter raised, the potential difficulties involved and the clarity of the information provided.
- 9.10 Steps will be taken to minimise any difficulties, which you might experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, arrangements will be made for you to receive advice about the procedure.
- 9.11 The details of the concerns raised, investigation and any other relevant information, including (where applicable) remedial actions, will be reported to the Board of Trustees for appropriate discussion.
- 9.12 If you feel that The Children’s Trust has not responded correctly at any stage, the issue can be raised to other levels mentioned in section 9.3.
- 9.13 While it cannot be guaranteed that all matters will be addressed in the way that you might wish, it will always be our intention to handle the matter fairly, properly and respectfully. By using this policy, you will help to achieve this.
- 9.14 The Children’s Trust will not tolerate harassment or victimisation and will do what it lawfully can to protect you if you raise a concern in the public interest. Any harassment or victimization experienced as a result of raising a concern under this policy should be immediately reported to the Investigating Officer or the Head of Business Partnering and will be treated as a serious disciplinary offence to be dealt with under The Children’s Trust Disciplinary Policy.
- 9.15 However, if a colleague makes an allegation without having reasonable grounds for believing it be true or makes it for purposes of personal gain or maliciously, they may be subject to disciplinary proceedings or have their status as a volunteer revoked.
- 9.16 Appendix 3 sets out a flow chart to provide further clarity on the procedure for raising a genuine concern as set out above.

Raising a concern/disclosure to an outside body

- 9.17 It is hoped that colleagues will feel confident and sufficiently supported to raise any genuine concerns internally using the options set out above in this clause 9. The aim of this policy is to provide a clear, fair and transparent internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace.
- 9.18 However the law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to anyone external. We have detailed various independent bodies that can provide guidance and advice at section 9.22 & 9.23 below.

- 9.19 Whistleblowing concerns will usually relate to internal matters, but they may sometimes relate to the actions of a third party, such as a supplier or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, we encourage you to report such concerns internally first. You should contact your Line Manager or one of the other individuals set out in section 9.3 or section 10 as appropriate.
- 9.20 If you are concerned about the response that you have received from The Children’s Trust, you are within your rights to contact a person or body, which has been prescribed by law for the purpose of receiving disclosures about the matters concerned.
- 9.21 This should be done in a timely matter (within 14 days of receiving your response from The Children’s Trust). You should also be aware that, when you are disclosing your concern to a third party, it is only protected provided that you;
- reasonably believe that the information, and any allegation it contains, is substantially true; and
 - reasonably believe that the matter falls within the description of matters for which the person or body has been prescribed. (For example, breaches of health and safety regulations can be brought to the attention of the Health and Safety Executive or appropriate local authority, or environmental dangers can be notified to the Environment Agency, breaches of care or safeguarding can be notified to the Care Quality Commission or Ofsted).
- 9.22 A list of prescribed persons, the description of matters for which they are prescribed and contact details, are shown in the following document available from www.gov.uk
<https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies>
The persons listed have statutory functions and can provide authoritative advice and guidance to workers about matters properly disclosed to them.
- 9.23 Additional advice and guidance may be available from the following bodies:
- A trade union/professional organisation
 - The independent charity ‘Protect’ on 0808 110 1026 (free phone) or whistle@protect-advice.org.uk
 - Department for Business, Energy & Industrial Strategy provides further information at www.gov.uk/whistleblowing
 - The Information Commissioner provides further information at www.ico.org.uk
 - The Audit Commission Public Interest Disclosure Line (0303 444 8346)
 - The Citizen’s Advice Bureau or a law firm that can provide advice.
 - Relevant professional bodies or regulatory organisations: Care Quality Commission, The General Medical Council, The Nursing and Midwifery Council, The Charity Commission, The Environment Agency
 - The Police
 - The Fundraising Regulator
 - NSPCC on 0800 0280285
- 9.24 In certain circumstances The Children’s Trust may decide that a concern is sufficiently serious that it should be reported to the Charity Commission. Appendix 4 sets out the process flow to determine if such a requirement is triggered.

Confidentiality

- 9.25 If you do raise a concern outside of The Children’s Trust, you must ensure absolutely that you do not disclose confidential information.

Qualifying Disclosure

- 9.26 A qualifying disclosure will be a protected disclosure if it is made to a legal adviser in the course of obtaining legal advice. There are no further conditions attached.

The DBS, Professional Bodies, Professional Codes of Conduct and Referral to External Bodies

- 9.27 The rights and obligations of TCT in respect of disclosures and notifications to external bodies as set out in section 2.12 of Disciplinary Policy SOP apply equally to (i) colleagues who have been suspended on clinical or professional grounds, (ii) practitioners whose practising privileges have been suspended, restricted or withdrawn on professional or clinical grounds, and (ii) to any alleged safeguarding issue which becomes apparent, as a result of a concern raised under this policy and procedure.

Data Protection

- 9.28 A confidential record of your concern will be kept in our secure, password protected central whistleblowing database. This will be held in accordance with relevant data protection legislation.

10 Child Protection & Safeguarding

- 10.1 Safeguarding issues raised will be handled in line with our child protection and safeguarding procedures. This section should be read in conjunction with The Children’s Trust Child Protection and Safeguarding Policy (the “Safeguarding Policy”). Clear pathways for raising and reporting child protection & safeguarding concerns about a child or adult at risk or about a person who works with adults and/or children are set out in the Policy and associated SOPs. Local Authority Contact details for safeguarding referrals are also clearly provided in the Child Protection and Safeguarding Policy.
- 10.2 All staff and volunteers must comply with the latest version of ‘Keeping Children safe in Education’ and ‘working together to safeguard children’ which includes taking action to protect a child who may be at risk of harm or in need of services, and to make appropriate referrals to children’s social care. Any member of staff should press for re-consideration if they believe a child is not being safeguarded, as indicated below.
- 10.3 If after following the reporting procedure set out in the Child Protection and Safeguarding Policy, you believe at any stage that your concerns are not being taken seriously or the appropriate action is not being taken you should raise your concern with at least one of the following persons listed below and the provisions set out at clause 9.4 above onwards shall apply:
- A Whistleblowing Champion
 - The Chief Executive
 - The Governor/ Trustee with responsibility for safeguarding

- The Chair of the Board
- The Local Authority Designated Officer (DO) 0300 123 1650 or LADO@surreycc.gov.uk.

- 10.4 If it is believed that the organisation is failing to prevent serious harm to staff or children, you can also contact the Charity Commission by e-mail at whistleblowing@charitycommission.gov.uk
- 10.5 Any professional with concerns about child protection or safeguarding can also contact the NSPCC whistleblowing helpline on 0800 028 0285.
- 10.6 As stated at Clause 9.3 above you can contact the confidential Protect Advice Line to seek practical advice, further guidance regarding this policy and advice on the best way to raise a concern internally. However it is important to note that as this is a confidential legally privileged service, Protect will **not** notify TCT of your concern so you must also raise any safeguarding concerns by following the procedure set out in this clause 10.

Document Change Control

Version	Status	Description (of changes)	Reviewed by	Reviewed/ Issued Date
2.1	Draft	Reformatting into new Policy & SOP template. Adding reference to Bribery Act 2010. Expanding definition of persons to whom this policy applies. Adding new definition for Investigation Officer and new responsibility. Updating links to and contact details for outside bodies. Adding new section to cover external reporting requirements.	Marguerite O'Malley and Mike Maddick	07/10/20
2.2	Draft	Policy & SOP to be noted at Clinical Governance & Safeguarding Committee. Replaced "young adults" with "young people". Added "respectfully" to 6.11. Changed to "working" days in 6.6. Amended definition of "in good faith". New clause 4.1. & 4.6. Using statutory definition of protected disclosures. Clarified non-application of policy at 4.3 & 4.4. Added Head of Audit, Risk and Governance (and Company Secretary) as a person to report to at 6.2. Rewording of 6.3.	Jayne Cooper Joanna Gillespie Olivia Rowntree	12/10/20 15/10/20 15/10/20

		Added reference to “safeguarding issues” in clause 6.28 and updated clause reference to new Disciplinary Policy.	Marguerite O’Malley	16/10/20
3.0	Final Issued –	Approved at FFGPC, noted at the ARC & CGSC		10/11/2020
3.1	Draft	Removal of members of the public from scope and inclusion of former employees. New clause 2.2 Removal of requirement for concerns to be raised in good faith. Added option to contact Whistleblowing Champions and Protect at clause 6.2. Added timeline for appointing investigating officer. New Data Protection clause. Removed old clause 6.14 as unenforceable. New Appendix 2, 3 & 4.	Marguerite O’Malley	April/May 2021
4.0	Final	Approved at Board of Trustees meeting subject to adding a new responsibility at clause 5, rewording clause 6.19 and adding the EDI policy to clause 7		29/05/21
4.1	Draft	KCSIE Safeguarding amendments	Marguerite O’Malley	12/01/22
4.2	Draft	KCSIE Safeguarding amendments	Sarah Baker	14/02/22
5.0	FINAL	Approved by Board of Trustees via Convene Review Room		May 2022
5.1	Draft	Removed 6-month limit on former employees at 2.2 as not legally enforceable. Clarified that Employee Voice is not an appropriate channel for whistleblowing concerns at 6.2 Clarified that notifying Protect is not sufficient in safeguarding cases at 6.7 Reformatted the Policy and SOP into the combined template.	Marguerite O’Malley	December 2022
5.2	Draft	Ensured correct reference to Child Protection and Safeguarding Policy is within policy. KCSIE 2022 safeguarding amendments were referenced. Anonymous concerns are now covered by this Policy as per the	Launa Randles Marguerite O’Malley	March 2023 Feb 2023

		recommendations in the Internal Audit Report.		
6.0	FINAL	Approved by Board of Trustees via Convene Review Room		06 May 2023

Appendix 1 – Stakeholder Engagement Checklist

Review and complete the following checklist to indicate which stakeholders were consulted in the development of this policy.

#	Question	Yes/ No	Stakeholder(s) to be consulted
1	Is there a statutory requirement to have in place this particular policy/ does the policy need to comply with detailed legislation?	No	Audit, Risk and Governance team
2	Is implementation of the policy (or any element of it) dependent on the use of new or existing information technology?	No	Head of IT
3	Does implementation of the policy (or any element of it) place any demands on/ or affect the activities of the Estates and Facilities teams (e.g. does it impact the provision or maintenance of premises, equipment, vehicles or other TCT assets)?	No	Head of Estates
4	Does implementation of the policy or any element of it involve/ impact the processing of personal data?	Yes	Data Protection Officer
5	Does implementation of the policy require significant unbudgeted operational or capital expenditure?	No	Finance Director
6	Does implementation of the policy (or any element of it) directly or indirectly impact on the delivery of services / activities in other areas of the organisation? E.g. a policy written by a clinical lead in CF&S might impact on the delivery of care for CYP attending the School.	Yes	Relevant, impacted OLT members
7	Is there a need to consider Health and Safety or potential environmental impacts in developing and implementing the policy?	No	Health and Safety Manager
8	Other stakeholders consulted?	Yes	Board of Trustees

Appendix 2 – Model Form for staff who raise a whistleblowing concern internally

STRICTLY CONFIDENTIAL - RAISING CONCERNS DISCLOSURE FORM

This form is to be completed by individuals who want to raise a genuine concern under The Children’s Trust Whistleblowing Policy. Please forward when complete to your line manager or one of the persons set out in section 9.3 or 10.3 of this Policy and SOP in an envelope by hand or via email marked Private and Confidential.

SECTION 1 – Details of the person raising the concern

If you wish to remain anonymous, please go straight to section 2.

However please note that it will be much more difficult for the Trust to look into the matter or to protect your position or to give you feedback if you remain anonymous.

Name

Contact number & email

Date disclosure form submitted

SECTION 2 – Details of the disclosure

Please provide as much detail as you can and use additional sheets of paper if required

What is your concern about?

.....

.....

Who is involved? Please list witnesses and anyone carrying out the act causing your concern, and the date(s), time and place(s) the act occurred:

.....

.....

.....

Please describe what happened/what you think will happen.

.....

.....

.....

.....

SECTION 3 – Personal involvement/personal interest

Please declare any personal interest you may have in this matter (i.e. does the outcome of this matter have the potential to affect you personally in any way?)

.....

.....

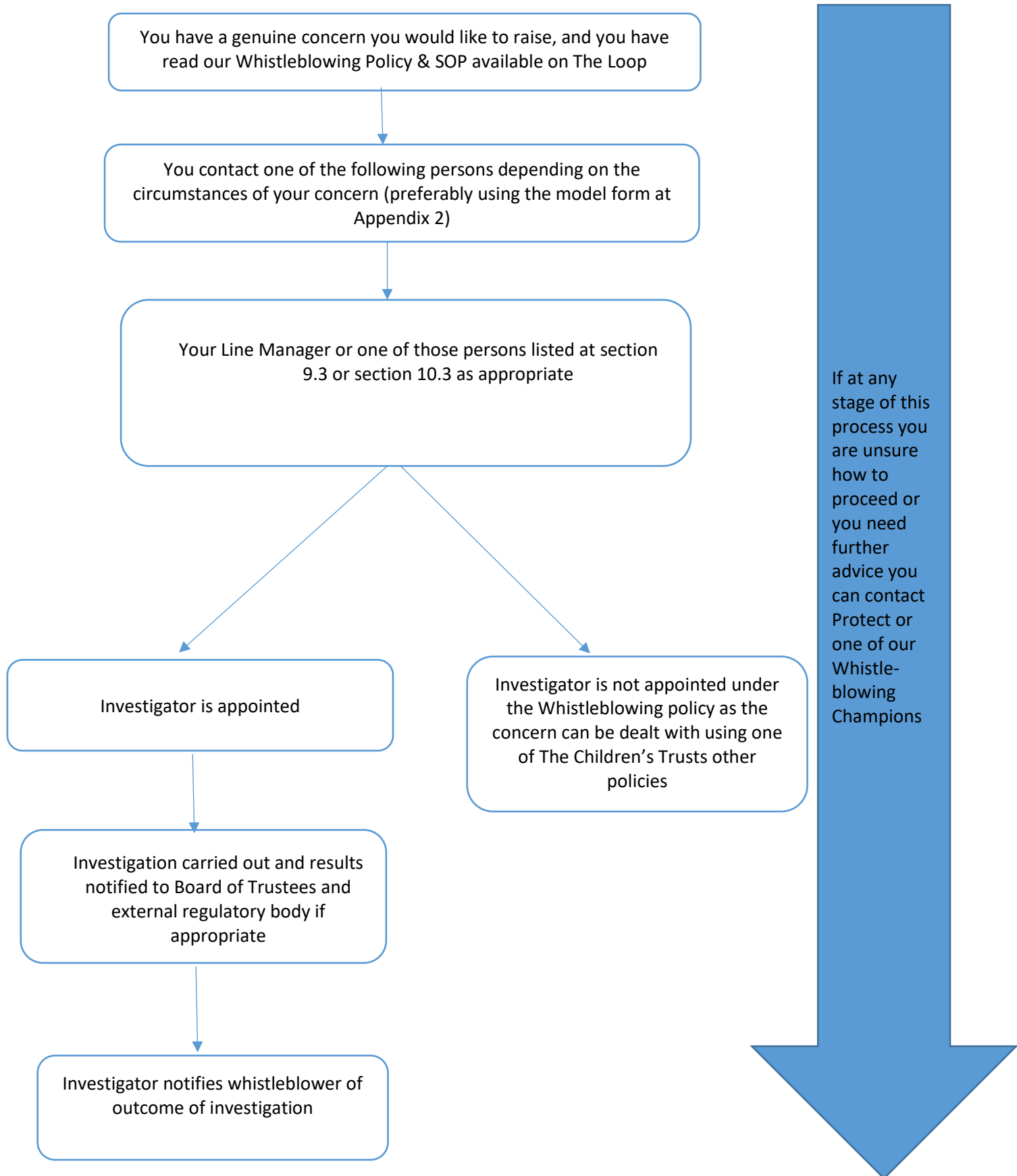
Have you personally been involved in this matter previously? Yes ♦ No ♦ (please delete as appropriate)

If yes, please outline your involvement:

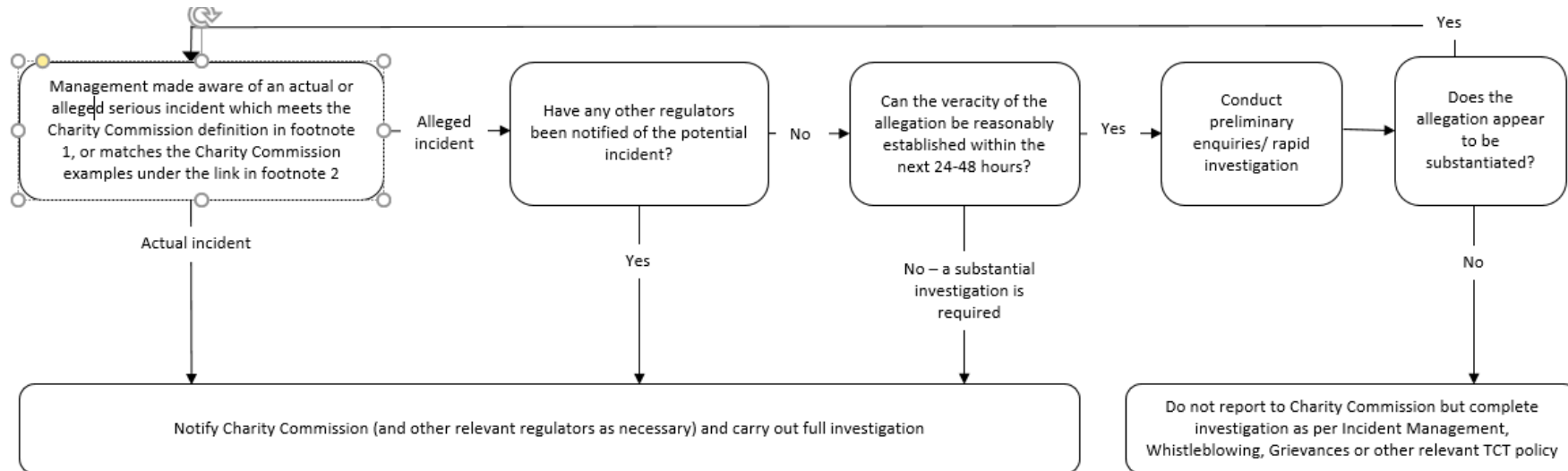
SECTION 4 – Expressed preferences

Do you wish your identity to be kept confidential (bearing in mind that, depending on the nature of the investigation or disclosure, it may become necessary to disclose your identity)? Yes ♦ No ♦ (please delete as appropriate)

Appendix 3 – Raising a Whistleblowing Concern Internally: Flowchart



Appendix 4 – Decision Tree for determining when to notify the Charity Commission



1 A **serious incident** is an adverse event, whether actual or alleged, which results in or risks significant harm to the charity's beneficiaries, trustees, volunteers, staff or anyone who comes into contact with the charity through its work or loss of money or charity assets or damage to the charity's property or harm to the charity's work or reputation. The term "significant" here should be interpreted in the context of TCT. Trustees should also consider reporting any other sort of incident which risks significant reputational damage.

2. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752170/RSI_guidance_what_to_do_if_something_goes_wrong_Examples_table_deciding_what_to_report.pdf

