

<p>Policy HR 105</p> <p>Whistleblowing Policy (Public Interest Disclosures)</p>	 <p>The Children's Trust For children with brain injury</p>
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Summary of changes for FF&GPC

Review of an effective policy in place since May 2016

Broadening the scope of the policy to include those working on behalf of the organisation

Highlighting the importance of the Fundraising Code to The Children's Trust

Improving consistency of language across the policy

Updating the policy to reflect changes in roles, personnel and critical readers.

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Version control

Version	Prepared by	Date	Reviewed by	Date
1	Mike Maddick	May 2016	Jud Tidnam, Maggie Clancy	May 2019

Sign off: Version 1.0

Version	Prepared by	Date	Reviewed by	Date
1.1	Mike Maddick	March 2019	PF, MC	March 2019
1.2	Paul Farthing	March 2019	MM	March 2019
1.3	Mike Maddick	April 2019	MM	April 2019

1. Introduction

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

1.2 Experience elsewhere, shows that sometimes organisations fail because evidence of poor practice or misadventure was ignored, as in the case of the Mid Staffordshire NHS Foundation Trust.

1.3 The Francis Report 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 from learning from any setbacks.

1.4 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 onsite and off.

1.5 The Children's Trust encourages staff 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).

1.6 The Children's Trust also takes any form of malpractice very seriously and the aim of this policy is to enable employees to raise concerns about any malpractice at an early stage and in the right way. The legislation concerned sets a requirement that any whistleblowing disclosures are raised with the reasonable expectation that the issues are "in the public interest" and made in "good faith"

1.7 The Children's Trust will ensure that any member of staff who makes a qualifying disclosure in the public interest, under the Whistleblowing policy will not be penalised or suffer any adverse treatment for doing so.

2. Definitions

2.1 "**Whistleblowing**" is when an employee raises a concern about malpractice or wrongdoing within an organisation; or by those acting on behalf of the organisation

2.2 "**Whistleblower**" is the person raising a concern about the organisation.

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

2.4 “**In good faith**” means the disclosure is being made because it is clearly wrong. The whistleblowing is not motivated by the importance of the concern itself.

3. Scope of the Policy

3.1 This policy relates to staff, volunteers and those contracted to operate on behalf of The Children’s Trust. The Public Interest Disclosure Act 1998 aims to promote greater openness in the workplace and, by amending the Employment Protection Act 1996, protects “whistle-blowers” from detrimental treatment such as victimisation or dismissal, for raising concerns about matters in the public interest. These are known as ‘qualifying disclosures’ This policy is designed to deal with concerns raised in relation to the specific issues which are in the public interest.

These include:

- the unauthorised use of The Children’s Trust’s funds
- the behaviour of staff, volunteers and those acting on our behalf e.g. a third party agency
- possible fraud or corruption
- sexual, emotional or physical abuse or ill treatment or exploitation of service users, staff or the public
- any issue relating to the safeguarding of children and vulnerable adults
- Health and Safety risks (including risks to children, to the public and to other employees or the potential for harm)
- conduct which is an offence or breach of the law
- disclosures related to miscarriages of justice (where The Children’s Trust has acted improperly or unfairly)
- damage to the environment
- other unethical conduct, including any deliberate concealment of any of the above

3.2 This policy only applies to issues which fall outside the scope of The Children’s Trust’s other policies and procedures.

3.3 The policy will not 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.

3.4 Should, it become apparent to the Investigating Officer (during the course of any investigation into a Public Disclosure concern), that the concern relates more appropriately to another procedure, then that procedure will be invoked.

4. Procedure

4.1 If you have a concern relating to items falling under section 3.1, 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.

4.2 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 member of the Senior Leadership Team
or

the Head of Business Partnering in the People Team

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

the Chief Executive
or
a Trustee or Governor

A list of names and contact details for all of these people including the Senior Leadership team, Trustees and Governors 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.

4.3 Any concern should be raised openly with your name on the disclosure. We do however recognise that you may wish to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, your identity will not be disclosed without your consent unless we are obliged to do so under law. If the situation arises where we are not able to resolve the concern without revealing your identity, then an agreement will be reached about whether and how to proceed.

4.4 Concerns raised with The Children's Trust under this procedure will always receive a response. This will entail either an investigation by management or an external regulating statutory body.

4.5 A person will be appointed to investigate your concerns as soon as possible. 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).

4.6 The Investigating Officer will make all reasonable efforts to write to you within a 14 day timeframe:

- 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

4.7 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.

4.8 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.

4.9 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.

4.10 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 4.2.

4.11 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 and properly. By using this policy, you will help to achieve this.

4.12 The Children's Trust will not tolerate harassment or victimization and will do what it lawfully can to protect you if you raise a concern in the public interest. Any harassment or victimization as a result of raising a concern under this policy will be treated as a serious disciplinary offence to be dealt with under The Children's Trust Disciplinary Policy and procedures.

4.13 However, if a member of staff or a volunteer does not act in good faith or makes an allegation without having reasonable grounds for believing it to be true, or makes it for purposes of personal gain or maliciously, may be subject to disciplinary proceedings or have their status as a volunteer revoked.

5. Non substantiated concerns

5.1 If The Children's Trust concludes, as part of their investigation, that your concern is not substantiated, you should not take any subsequent action or make any disclosure to anyone other than those persons referred to above.

6. Treatment of anonymous concerns

6.1 Anonymous concerns are not covered by this procedure, but may be investigated or acted upon as the person receiving the concern believes to be appropriate, having taken into account the seriousness of the issue raised, the credibility of the concern, the prospects of being able to investigate an anonymous concern and fairness to any individual mentioned in the concern.

6.2 While appropriate anonymous concerns may be investigated, The Children's Trust does not encourage raising concerns anonymously.

6.3 Our belief is that anonymous concerns can hamper the ability of The Children's Trust to deal with concerns fully and completely.

6.4 It is also important that anyone or any group who is accused of misconduct understands all of the evidence against them and has a reasonable right to review and respond to that evidence.

7. Raising a concern/disclosure to an outside body

7.1 The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally.

7.2 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 7.6 below.

7.3 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 4.2.

7.4 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.

7.5 This should be done in a timely matter (within 14 days of receiving your response from The Children's Trust). You must also make sure 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)

7.5 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/uploads/system/uploads/attachment_data/file/360648/bis-14-1077-blowing-the-whistle-to-a-prescribed-person-the-prescribed-persons-list-v4.pdf) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/360648/bis-14-1077-blowing-the-whistle-to-a-prescribed-person-the-prescribed-persons-list-v4.pdf

The persons listed have statutory functions and can provide authoritative advice and guidance to workers about matters properly disclosed to them.

7.6 Additional advice and guidance may be available from the following bodies:

- A trade union/professional organisation
- The independent charity 'Public Concern at Work' on 020 7404 6609 or whistle@pcaw.org.uk; their lawyers can give you free confidential advice at any stage in relation to raising a concern about serious malpractice at work.
- Department of Trade and Industry provide further information at www.dti.gov.uk
- The Information Commissioner provides further information at www.ico.gov.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

8. Confidentiality

If you do take the matter outside of The Children's Trust, you must ensure absolutely that you do not disclose confidential information.

9. Making a qualifying disclosure to a legal adviser

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.

10. Related Policies

- Disciplinary Policy and Procedure
- Grievance Procedure
- Bullying and Harassment Procedure

- Staff Handbook
- Incident Reporting Policy
- Complaints procedure
- Safeguarding children and Young People policy
- Data protection Policy

11. Compliance with statutory requirements

This policy aims to ensure that The Children's Trust complies with the requirements of The Human Rights Act 1998; Public Interest Disclosure Act 1998; Data Protection Act 1998, Equality Act 2010 and the Fundraising Code of Practice.