

MANDATORY READ

Whistleblowing Policy (Public Interest Disclosures)



Lead Director

Mike Maddick, Director of People & Culture

Date Reviewed

April 2021

Lead Author(s)

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Date Drafted

April 2021

Recommending Committee

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Approval Body

Board of Trustees

Ratified Date

29 May 2021

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Next Review Date

29 May 2024

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. 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.

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.

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 (subject to the limitations set out at clause 2.2) contractors, subcontractors, suppliers, self-employed people, agency workers and volunteers ("colleagues").

2.2 Former employees must raise their concern as set out in this policy within six months of the date of cessation of their employment with The Children's Trust. The Children's Trust retains the right to extend this deadline in extenuating circumstances and at its sole discretion.

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 6.5 of SOP HR105 Whistleblowing Policy
Reasonable belief	Means 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 serious 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.

5 Stakeholder Consultation

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

6 Related Policies and Procedures

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
- Safeguarding Children and Young People Policy
- Data Protection Policy
- Celebrating Equality, Diversity & Inclusion Policy

7 External References and Guidance

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

- N/A

8 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. Adding new definition of Investigation Officer. Expanding definition of persons to whom this policy applies.	Marguerite O’Malley and Mike Maddick	07/10/20

2.2	Draft	<p>Policy to be noted at Clinical Governance & Safeguarding Committee. Replaced “young adults” with “young people”.</p> <p>Updated legislative reference. 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.</p>	<p>Jayne Cooper</p> <p>Olivia Rowntree</p>	<p>12/10/20</p> <p>15/10/20</p>
3.0	Final	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. Removal of requirement for concerns to be raised in good faith. Insertion of new clause 2.2	Marguerite O’Malley	April/May 2021
4.0	Final	To be approved at Board of Trustees. Approved subject to rewording of Clause 4.3 and addition of EDI policy at 6.		29/05/21

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	Have you consulted with a representative of those who will be directly impacted by the policy?	N/A	
9	Please detail any other stakeholder groups consulted, if applicable.	Yes	Board of Trustees