

Grievance Policy And SOP

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Approval Body

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POLICY

1 Purpose and Objectives

- 1.1 The Children's Trust is committed to ensuring a positive and effective working environment where people are treated fairly and with respect, in line with our values. We recognise however, that there may be occasions where employees may have concerns about their work, working environment, relationships with their colleagues or behaviour of others towards them.
- 1.2 It is expected that the majority of concerns will be resolved informally. We encourage employees to resolve issues informally in the first instance through discussions with their manager. If an employee feels unable to approach their manager directly, they should either approach another manager or seek support from the HRBP team, who will discuss ways of dealing with the matter and outline support mechanisms. Where attempts to resolve the matter informally have been unsuccessful or if the matter is so serious, it may be appropriate for a formal grievance to be raised under this policy.
- 1.3 It is our policy to ensure that all employees have access to a procedure to help deal with any grievances relating to their employment fairly and without unreasonable delay.
- 1.4 This policy does not form part of any employee's contract of employment and we may amend it at any time. The Children's Trust reserves the right to modify, withdraw or initiate any rules or procedures it deems necessary, and will undertake to review the policy in the light of changing working practices or legislation. Any changes will be made available via The Loop.

2 Scope

- 2.1 This policy applies to all employees regardless of length of service. It does not apply to agency workers or self-employed contractors.
- 2.2 If your complaint relates to bullying or harassment on the part of a colleague, the matter should be dealt with under the Bullying, Intimidation and Harassment at Work Policy.
- 2.3 Complaints that amount to an allegation of misconduct on the part of another employee will also be investigated and dealt with under the Disciplinary Policy.
- 2.4 We operate a separate Whistleblowing Policy to enable employees to report illegal activities, wrongdoing or malpractice. However, where you are directly affected by the matter in question, or where you feel you have been victimised for an act of whistleblowing, you may raise the matter under this Grievance Policy.

3 Definitions

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

the Charity/ organisation/ TCT The Children's Trust

HRBP The People Team HR Business Partner

| | |
|-----------------------|--|
| Investigator | The individual, usually a manager at The Children’s Trust, who will investigate grievances |
| Line Manager | A manager with direct day to day managerial responsibility for a specific employee |
| Manager | A Children’s Trust employee with responsibility for managing other employees within the organisation e.g. Manager, Senior Manager, Director or CEO |
| Pastoral Care Manager | A manager who is separate from the investigation and is responsible for providing support and pastoral care to the employee |

4 Policy Statement

We aim to investigate any formal grievance you raise, hold a meeting to discuss it with you, inform you in writing of the outcome, and give you a right of appeal if you are not satisfied.

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 support the implementation of this policy

- Bullying, Intimidation & Harassment at Work Policy
- Disciplinary Policy
- Whistleblowing Policy

7 External References and Guidance

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

- XpertHR
- Acas
- Simpson & Millar

Standard Operating Procedure (SOP)

1. Roles and responsibilities

- The Organisation

The organisation is responsible for complying with the principles set out in the Acas Code of Practice on disciplinary and grievance procedures when handling a grievance.

- The Employee

The employee is responsible for complying with the terms of this policy and take all reasonable steps to attend the grievance hearing and any appeal.

- HRBP

The HRBP is responsible for:

- Assisting the line manager in appointing an investigator and pastoral care manager (if any)
- Keeping the employee regularly updated should there be any delays
- Providing templates to the investigators to assist with investigations
- Assisting the manager with reviewing the Investigation Report and communicating their decision after the grievance meeting

- Investigator

An investigator is responsible for:

- Completing the investigation within a reasonable period of time
- Making arrangements for a 'companion' to be present during meetings with the employee where requested
- Collating evidence by conducting interviews with the employee and other witnesses
- Compiling the 'Investigation Report'

- Line Manager

The line manager is responsible for:

- Consulting with the People Team and appointing an investigator and pastoral care manager (if any)
- Reviewing the Investigation Report and reaching a decision after the grievance hearing
- Communicating their decision in respect of the grievance to the employee

- Pastoral Care Manager

The pastoral care manager is responsible for:

- providing pastoral care to an employee who is affected by a grievance process.

The pastoral care manager is not expected to provide advice on any procedural questions, such as how the process works or timescales, and any such questions should be directed to the HRBP.

2 Formal Grievance Procedure

2.1 Raising a Grievance

2.1.1 Grievances may be concerned with a wide range of issues, including:

- terms and conditions of employment;
- health and safety;
- work relations;
- bullying and harassment;
- new working practices;
- working environment;
- organisational change; and
- discrimination.

2.1.2 If it is not possible to resolve a grievance informally, you should raise the matter formally and without unreasonable delay with a manager who is not the subject of the grievance. This should be done in writing and should contain a brief description of the nature of your complaint, including any relevant facts, dates, and names of individuals involved. In some situations we may ask you to provide further information.

2.1.3 The manager should notify the HRBP team upon receipt of a grievance as soon as possible and ideally within one working day. Where the grievance concerns the safeguarding of children or vulnerable adults, the Head of Safeguarding and any appropriate Designated Safeguarding Lead must be notified as soon as possible.

2.1.4 In certain circumstances the information provided in the grievance may make it necessary for an external third party to be notified. Such a third party may include, amongst others, the Local Authority Designated Officer (“LADO”) if there are safeguarding concerns, the police if there are concerns about a criminal offence, the Charity Commission if the allegations may constitute a “serious incident”. A serious incident is an adverse event, whether actual or alleged, which results in or risks significant:

- harm to beneficiaries, staff, volunteers or others who come into contact with The Children’s Trust through its work
- loss of money or assets
- damage to The Children’s Trust’s property
- harm to The Children’s Trust’s work or reputation.

The involvement of such a third party may affect the timeframes set out in this policy as they follow their procedures and may limit the information which we are able to disclose to you. Your manager will keep you informed.

2.1.5 The role of the People Team is to oversee the grievance process and it may also provide support and advice to all parties and seek external / legal guidance if required. They will support the investigation process and in addition will assist the chair of the grievance hearing and any appeal. They will work to ensure that this policy is followed and that all issues are dealt with fairly, transparently and consistently.

2.2 Confidentiality and records

2.2.1 The Children’s Trust aims to deal with all grievances raised sensitively and with due respect for the privacy of any individuals involved. **All** employees must treat as confidential any

communication communicated to them in connection with an investigation or grievance and are reminded of the confidentiality clause in their employment contract. Failure to maintain confidentiality may result in a disciplinary process.

- 2.2.2 In particular, the employee and any witnesses must not discuss the details of the grievance with anyone at The Children's Trust other than those people outlined in this policy who have a legitimate reason to be aware. The employment contract clause regarding confidentiality is ongoing while in employment and after employment at The Children's Trust.
- 2.2.3 When documents, such as the investigation report, are shared under this policy or SOP either by The Children's Trust sending to the employee or the employee sharing with a Trade Union official, documents should be sent by a secure method such as Egress or registered post/ hand delivery due to the confidential nature. Under the ACAS Code of Practice (Time off for trade union duties and activities), union representatives must respect and maintain the confidentiality of information they are given access to.
- 2.2.4 Requests for audio and/or visual recordings of the proceedings are not acceptable at any stage of the grievance procedure and are not admissible within this process, unless agreed as a reasonable adjustment for an employee with a disability or condition covered under the Equality Act.
- 2.2.5 The HRBP team will ensure that they create appropriate secure folders on The Children's Trust server for saving all documents relating to the grievance process with access limited to those who require it. There will be separate secure folders for documents required by:
- the Investigator (if any),
 - the Line Manager,
 - the Chair of the Grievance Hearing (if separate) and,
 - the Appeal Manager (if relevant).

Access and relevant passwords will be arranged by the HRBP. Where hard copies are prepared they must be handed directly to the relevant individual (not through internal post) and must be kept secure.

- 2.2.6 Written grievances will be placed on your personnel file along with a record of any decisions taken and any notes or other documents compiled during the grievance process and will be kept in accordance with the Record Keeping and Document Retention Policy.

2.3 Pastoral Care

- 2.3.1 The Children's Trust recognises that the grievance process can be difficult for all those involved. In grievance cases, the line manager should give consideration to whether any individuals may be affected and require pastoral support and then either they or an appropriate manager should signpost them to available support. In particular:
- Employees affected by a grievance matter should seek pastoral support:
 - from their line manager, or
 - by their line manager, or them, contacting the HRBP team and requesting an independent pastoral care manager (as set out in paragraph 2.3.2), and/or
 - by contacting The Children's Trust's Employee Assistance Scheme, Workplace Options, who are external specialists in providing employment and emotional

support. Workplace Options advice is provided completely confidentially. It is free for employees to use.

Should an employee feel they require or would wish to have pastoral support in respect of a grievance process but have not been approached, The Children's Trust would encourage them to actively seek support in the ways set out above.

- 2.3.2 A pastoral care manager is a manager (or in the case of pastoral support for the Chief Executive, a Trustee) appointed by the line manager, with assistance from the HRBP, who is independent of the investigation and is there to provide pastoral care and support for an employee affected by the grievance process in accordance with People Team guidelines. Should a pastoral care manager be appointed, they will be available to the employee until the conclusion of the grievance process, including any Appeal. The appointment of any pastoral care manager is at the discretion of the Line Manager and the HRBP.
- 2.3.3 Any discussions between an employee and a pastoral care manager are confidential and will not form part of the investigation or the grievance process. However, if the pastoral care manager believes information they have been given shows a potential risk to children or young people, the individual employee, other people or The Children's Trust they must immediately inform the Head of Safeguarding and if appropriate the Designated Safeguarding Lead and the HRBP. Additionally, in certain circumstances the pastoral care manager's requirement to maintain confidentiality may be overridden by a legal or regulatory requirement, e.g. if there are criminal proceedings or an investigation by the relevant professional regulatory body such as the NMC. The pastoral care manager is not expected to provide advice on any procedural questions, such as how the process works or timescales, and any such questions should be directed to the HRBP.

2.4 Investigations

- 2.4.1 Depending on the nature of the case, it may be necessary to carry out an investigation into the grievance. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. If necessary, an investigator will be appointed by the manager in consultation with the People Team following the People Team process for appointing investigators. The appointed investigator will come from the list of suitably qualified investigators maintained by the People Team. The investigator will be independent of the issue but will have appropriate experience and professional knowledge to enable them to fully and fairly investigate.
- 2.4.2 Where a grievance has been raised against a member of the Senior Leadership Team the matter will be referred to the Chief Executive. The Chief Executive may appoint another member of the Senior Leadership Team to investigate but shall retain overall responsibility for the investigation. The Chief Executive may, if they feel the allegation warrants it and in their absolute discretion, appoint an external HR consultancy firm to advise them. If a grievance is raised against the Director of People & Culture, they shall recuse themselves completely from the matter and any HR advice shall be given by the HR Business Partner or if the Chief Executive chooses an external HR consultancy firm.
- 2.4.3 Where a grievance is raised against the Chief Executive, the Chair of Trustees shall take responsibility for the investigation. The Chair of Trustees shall notify the Board of Trustees of the grievance at the earliest opportunity. The Chair of Trustees, if they feel the allegation warrants it and in their absolute discretion, may appoint an external HR consultancy firm to advise them. They may seek guidance from the Director of People & Culture and/ or an external law firm if they feel it is appropriate. The Chief Executive may, due to the nature of

their role, seek assistance from their Executive Assistant when responding to the grievance process. The Chief Executive shall clearly explain the confidential nature of the matter to their Executive Assistance prior to asking them to undertake any work in relation to the grievance. For the avoidance of doubt, the Chief Executive is entitled to request guidance on the process and procedure from the People Team.

- 2.4.4 You are expected to co-operate fully and promptly in any investigation. This may include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending interviews, as part of our investigation.
- 2.4.5 We may initiate an investigation before holding a grievance meeting where we consider this appropriate. In other cases, we may hold a grievance meeting before deciding what investigation (if any) to carry out. In those cases, we will hold a further grievance meeting with you after our investigation and before we reach a decision.

2.5 Right to be accompanied

- 2.5.1 You have the right to be accompanied by a fellow worker or trade union official but not a legal representative at any grievance meeting or subsequent appeal under this policy. You must inform the person holding the grievance meeting and your HR Business Partner who your chosen companion is, in good time before the meeting.
- 2.5.2 At the meeting, your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may talk privately with them at any time during the meeting.
- 2.5.3 Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 2.5.4 If your chosen companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, we may ask you to choose someone else.
- 2.5.5 We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help overcome a disability, or if you have difficulty understanding English.
- 2.5.6 In some circumstances we may not be able to allow you choice of companion for example anyone who may have a conflict of interest or whose attendance may prejudice the meeting.

2.6 The Grievance Hearing

- 2.6.1 The hearing will be held as soon as is reasonably practicable and, subject to any need to carry out prior investigations, normally within two weeks of receiving your written grievance. On occasion processes may take longer and this is acceptable so long as the process is not unreasonably delayed by either side.
- 2.6.2 You and your companion (if any) should make every effort to attend grievance meetings. If you or your companion cannot attend at the time specified, you should inform us immediately and we will try, within reason, to agree an alternative time. If you are consistently unable or

fail to attend without good reason and/or prior notice a written decision may be made in your absence.

2.6.3 The purpose of a grievance meeting is to enable you to explain your grievance and how you think it should be resolved, and to assist us to reach a decision based on the available evidence and the representations you have made. Where appropriate, the meeting may be adjourned to allow further investigations to take place.

2.6.4 A summary report of the investigation findings and its recommendations will be provided to relevant parties. The Children's Trust recognise that it is a fundamental part of a fair process for an employee to have access to this information. However limited redactions may be made in the following circumstances:

- where, due to exceptional circumstances, a witness's identity is to be kept confidential, although as much information as possible will be provided while maintaining confidentiality;
- where information is confidential to another member of staff (eg a disciplinary process) and
- in all cases, where the names of children and young people in the care of The Children's Trust appear they will be redacted from the report and supporting documentation to protect the interests of the children and comply with data protection law requirements.

In the summary report of the investigation, given its confidential nature, staff are usually referred to by their initials but this should be sufficient for parties who need to identify said staff to do so.

2.6.5 The hearing will be chaired by a manager and may include another member of staff in order to take contemporaneous notes of the hearing. (Please note contemporaneous notes will be taken but these are not intended to be detailed minutes.) It is the responsibility of the Chair to ensure that an accurate record of all discussions is maintained. The contemporaneous notes will be available to the employee after completion of the grievance process.

2.6.6 We will write to you, usually within one week of the final grievance meeting, to inform you of the outcome of your grievance and any further action that we intend to take to resolve the grievance. We will also remind you of your right of appeal. Where appropriate we may hold a meeting to give you this information in person.

2.6.7 In some circumstances during the investigation of the grievance it may become apparent that there is a matter that should be investigated under the Disciplinary Policy. If this occurs, the investigation into the grievance may be suspended whilst the disciplinary investigation is under way. Whilst we will inform you of the outcome of your grievance once the grievance investigation has been completed, in such circumstances it may not be possible to inform you of all details relating to the disciplinary investigation due to the confidentiality owed to the employee being investigated.

2.7 Appeal

- 2.7.1 If the grievance has not been resolved to your satisfaction you may appeal in writing to your manager or HR Business Partner, stating your full grounds of appeal, within one week of the date on which the decision was sent or given to you.
- 2.7.2 We will hold an appeal meeting, normally within two weeks of receiving your written appeal. This will be dealt with impartially by a more senior manager who has not previously been involved in the case and will be appointed by the HRBP. The appeal manager will consider the grounds that you have put forward to assess whether or not the conclusion reached in the original grievance hearing was appropriate. They may ask anyone previously involved in the grievance to be present. You have a right to bring a companion to the meeting (see paragraph 2.5).
- 2.7.3 The appeal manager will confirm their final decision in writing, usually within one week of the appeal hearing. This is the end of the procedure and there is no further appeal.
- 2.7.4 Where the appeal relates to a grievance raised in relation to a member of the senior leadership team, any appeal shall be heard by a Trustee appointed by the Chair of Trustees. The Trustee may in their absolute discretion appoint an external HR consultancy to advise on the appeal should they feel it is warranted. Should advice in respect of the matter have been sought previously from an external HR consultancy, the Chair of Trustees is under no obligation to use external advisers for the appeal but if they so choose, they shall ensure that the appeal is conducted by HR consultants who were not previously involved in the matter and that if the same HR consultancy firm is used that it maintains appropriate segregation of information and personnel. If the appeal relates to a grievance raised against the Director of People & Culture, they shall recuse themselves completely from the matter and any HR advice shall be given by the HR Business Partner or if the Trustee chooses an external HR consultancy firm.
- 2.7.5 Where the appeal relates to a grievance against the Chief Executive, the appeal shall be conducted by an appointed HR consultancy acting for The Children's Trust and overseen by the Chair of Trustees. Should advice in respect of the matter have been sought previously from the external HR consultancy, the Chair of Trustees shall ensure that the appeal is conducted by HR consultants who were not previously involved in the matter and that the HR Consultancy firm maintains appropriate segregation of information and personnel. The Chair of Trustees may seek guidance from the Director of People & Culture in respect of the appeal if they feel it is appropriate and external legal guidance if required. The Board of Trustees shall be notified of the appeal and subsequently its outcome as soon as reasonably practical.

Document Change Control

| Version | Status | Description (of changes) | Reviewed by | Reviewed/ Issued Date |
|---------|----------------|---|-------------|-----------------------------|
| 0.1 | Draft | Formatting Policy & SOP into new TCT templates. | CEJ / JG | 1 April 2021 |
| 0.2 | Draft | Changes from JG and MM | CEJ | 4 May 2021 |
| 0.3 | Draft | Changes from DL and revised into new TCT format | JG / CEJ | 25 May 2021 |
| 0.4 | Draft | Comments from Anne Walker | JG/ CEJ | August 2021 |
| 1.0 | Final - Issued | Approved and uploaded to the Loop | | Sept 2021 |

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? | Yes | 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? | No | |
| 9 | Is there a need to consider Equity, Diversity and Inclusion in developing and implementing the policy? | Yes | EDI Lead |
| 10 | Is there a need to consider sustainability and potential environmental impacts in developing and implementing the policy? | Yes | Lead for Responsible Organisation |
| 11 | Please detail any other stakeholder groups consulted, if applicable. | No | |