

The Care Trust Policy on Data Protection

The Care Trust (“TCT” or “the Company”) is committed to complying with the obligations of the Data Protection Acts 1988 and 2003 and with best practice in this area.

The Care Trust has been raising essential funds from the general public for nearly 50 years on behalf of its beneficiaries (The Rehab Group, The Central Remedial Clinic and The Mater Misericordiae University Hospital) - all of which provide vital services and support for children and adults with disabilities, those who are disadvantaged and/or those requiring medical care.

The general public typically contribute to The Care Trust on a monthly basis - primarily by direct debit, standing order, credit/debit card or to authorised Contributor Agents. To facilitate the processing of Contributor contributions, TCT only keeps personal data for purposes that are specific, lawful and clearly stated.

The Care Trust will not sell, trade, or otherwise transfer to outside parties personally identifiable information, except to trusted third parties who assist TCT operating its website, conducting its business, or servicing its Contributors, so long as those parties agree to keep this information confidential as part of their contract with TCT.

TCT undertakes to ensure that all personal data, in hard copy and/or electronic format, is stored securely and provides internal and external auditors opportunity to vet its security systems and procedures on a regular and planned basis.

The Board and the Chief Executive (“CEO”) of TCT take responsibility to:

- ensure compliance with data protection legislation
- have a clear procedure for handling requests for access to records
- ensure that appropriate procedures remain in place to support compliance including periodic review and audit and to
- examine the case for the establishment of databases and regulate such databases.

Data Protection law places obligations on The Care Trust and on all staff who keep personal information. Every individual has the right to know what personal information is held about him/her.

All TCT staff members are not expected to be experts in relation to data protection. However, the key aim of this Policy is that staff be aware of their responsibilities and can identify where a data protection issue has arisen for consultation with the CEO.

Introduction

Data Protection is the safeguarding of the privacy rights of individuals in relation to the processing, storage and security of their personal data. Staff and Contributors supply information about themselves (for example, monthly direct debit details) to TCT and thus, the legislation applies.

A Data Subject is an individual who is the subject of personal data, and this term covers both staff and Contributors to TCT. The Acts apply only to living persons.

Data is information in a form which can be processed (direct debits, credit/debit card data) and rights apply whether the information is held in electronic format, in manual form, or in photographs or digital images.

Further relevant definitions are attached in an Appendix to this document.

Principles

TCT recognises the principles set out by the Data Protection Acts, 1988 and 2003.

These are as follows:

1. Obtain and process information fairly

To fairly obtain data the data subject must, at the time the personal data is being collected, be made aware of:

- the name of the data controller, e.g., The Care Trust
- the purpose in collecting the data, e.g., The Care Trust fundraising on behalf of its beneficiaries
- the identity of any representative nominated for the purposes of the Acts
- the persons or categories of persons to whom the data may be disclosed, e.g., to trusted TCT third-party providers such as auditors
- whether replies to questions asked are obligatory and the consequences of not providing replies to those questions
- the existence of the right of access to their personal data
- the right to rectify their data if inaccurate or processed unfairly and
- any other information which is necessary so that processing may be fair and to ensure the data subject has all the information that is necessary so as to be aware as to how their data will be processed.

In addition, where the personal data is not obtained from the data subject, either at the time their data is first processed or at the time of disclosure to a third party, all the above information must be provided to the data subject and they must also be informed of the identity of the original data controller from whom the information was obtained and the categories of data concerned.

To fairly process personal data it must have been fairly obtained, and the data subject must have given **consent** to the processing; or the processing must be **necessary** for one of a number of reasons including but not limited to:

- the performance of a contract to which the data subject is a party
- compliance with a legal obligation, other than that imposed by contract **or**
- for the purpose of the legitimate interests pursued by TCT *except* where the processing is unwarranted in any particular case by reason of prejudice to the fundamental rights and freedoms or legitimate interests of the data subject.

To fairly process sensitive data it must have been fairly obtained and there are additional special conditions set out in the Acts in this regard.

2. Keep it only for one or more specified, explicit and lawful purposes

Data may only be kept for purposes that are specific, lawful and clearly stated and the data should only be processed in a manner compatible with that purpose(s). An individual has a right to question the purpose for which his/her data is held. TCT give a commitment to all Contributors that data will not be passed onto independent third parties.

To comply with this rule:

- the subject should know the reason/s why TCT is collecting and retaining their data, to process monthly direct debit contributions, for example
- the purpose for which the data is being collected should be a lawful one and
- TCT should be aware of the different sets of data that are kept and the specific purpose of each.

3. Use and disclose it only in ways compatible with these purposes

Any use or disclosure must be necessary for the purpose(s) or compatible with the purpose(s) for which TCT collect and keep the data. (This requirement can be lifted in certain restricted cases.) Any processing of personal data by a data processor on behalf of TCT must also be undertaken in compliance with the Acts.

4. Keep it safe and secure

Appropriate security measures must be taken against unauthorised access to, or alteration, disclosure or destruction of, the data and against their accidental loss or destruction. The nature of security used by TCT may take into account what is available technologically, the cost of implementation and the sensitivity of the data in question.

5. Keep it accurate, complete and up-to-date

It is in the interests of TCT to ensure accurate data for reasons of efficiency and effective decision-making. In addition, TCT may be liable to an individual for damages if they fail to observe the duty of care provision in the Act applying to the handling of personal data which tends to arise substantially in relation to decisions or actions based on inaccurate data. (The accuracy requirement does not apply to back-up data.)

6. Ensure that it is adequate, relevant and not excessive

It is essential that TCT seek and retain only the minimum amount of personal data needed to achieve their purpose(s).

The information sought and held by TCT is:

- adequate in relation to the purpose/s for which you sought it
- relevant in relation to the purpose/s for which you sought it and
- not excessive in relation to the purpose/s for which you sought it.

7. Retain it for no longer than is necessary for the purpose or purposes

Under the legislation, personal data collected for one purpose cannot be retained once that initial purpose has ceased. Equally, as long as personal data is retained the full obligations of the Acts attach to it. If TCT no longer holds the information, then the Acts don't apply.

The Care Trust applies a policy of retaining all documents for **six years**, in line with Irish Revenue guidelines for financial records. Where there is a need to retain Contributors' data after this period e.g., to analyse payment trends, TCT employ appropriate anonymisation of personal data, as permitted by the Acts. This involves the removal of any and all personal sensitive data that would allow Contributors to be identified.

Destruction

Once the period of use expires, TCT have processes in place for the secure destruction and disposal of data. This involves the following:

- All **hard copy documents** containing personal data are shredded.
TCT avails of a contracted shredding service at least six times per year (or more frequently, if required), whereby hard copy documents for disposal are confidentially shredded on-site.
- All **electronic personal sensitive data** is redacted/deleted from the IT systems and the computer recycle bin emptied.
- All **portable and home computers** are checked regularly to ensure that no personal data is retained in this way.

8. Give a copy of his/her personal data to that individual, on request

On making an access request, any individual about whom TCT keep personal data is entitled to:

- a copy of the data maintained about him or her; for example, a scanned copy of the Contributor's direct debit mandate
- know the categories of their data and the purpose/s for processing it
- know the identity of those to whom you disclose the data
- know the source of the data, unless it is contrary to public interest
- know the logic involved in automated decisions and
- data held in the form of opinions, except where such opinions were given in confidence and even in such cases where the person's fundamental rights suggest that they should access the data in question it should be given.

Clear co-ordinated procedures, which are available for internal and external auditor scrutiny, are in place in TCT to ensure that all relevant manual files and IT systems are checked for the data in respect of access requests.

Data access requests

To make an access request the data subject must:

1. apply to The Care Trust **in writing** (including email)
2. give any **details** which might be needed to help identify him/her and locate all the information maintained about him/her **and**
3. pay an **access fee** (not in excess of €6.35) if TCT wish to charge one.

Every individual about whom TCT keeps personal information also has the right to have inaccurate information rectified or erased, to have personal data taken off a direct marketing or direct mailing list and has the right to complain to the Data Protection Commissioner.

In response to an access request TCT will:

- supply the information to the individual promptly and within 40 days of receiving the request
- ensure that any changes to the data requested are implemented within 40 days of receiving the request and will
- provide the information in a form which will be clear to the ordinary person

Where no information is kept, the individual making the request will be informed within the 40 days. TCT is not obliged to refund any fee charged for dealing with the access request should they find they do not, in fact, keep any data. However, the fee must be refunded if TCT does not comply with the request, or if they have to rectify, supplement or erase the personal data concerned.

If the individual's right of access is restricted in accordance with the Acts, TCT will notify the data subject in writing within 40 days and will state reasons for refusal. TCT will inform the individual of his/her entitlement to complain to the Data Protection Commissioner.

Redaction

Where it is deemed that not all the content in a particular document is of relevance to the individual making the data request, TCT may redact certain information in the records being disclosed. Redaction is carried out on the original/scanned document and must be applied thoroughly and consistently.

Details of all redactions identified and agreed with the CEO are recorded, and a copy of the original/scanned document retained. Legislation also permits that a summary of the document can be prepared, if the extent of redaction renders the resulting document incomprehensible. TCT accept that the data subject can appeal such redaction decisions.

Use of CCTV systems

The Care Trust is aware that recognisable images captured by CCTV systems are personal data and therefore are subject to the provisions of the Acts. TCT does not currently use CCTV in any aspect of its business. TCT will only install a CCTV camera/system if satisfied that the use of such a camera/system is necessary, relevant and proportionate.

TCT staff members working in an environment with CCTV will be advised that CCTV is to be installed. Storage and retention of material collected by means of CCTV will be in accordance with TCT's Data Retention Policy for all other documents.

Direct Marketing

Individuals are only to be contacted by electronic mail / automatic calling machine for the purpose of direct marketing once **their express prior consent has been obtained agreeing to same** (i.e., the Contributor has '**opted-in**').

Express prior consent to contact existing Contributors by e-mail is not necessary if

- a) the Data Protection Acts were complied with when the individual's personal data were collected originally
- b) the products or services marketed are similar to those which the individual bought previously and within the past 12 months and
- c) the individual is given the opportunity to object in a cost-free easy manner every time he/she is contacted.

Individuals may be contacted by other means (e.g. post or phone call) **without obtaining their consent beforehand** once:

- a) they have not previously objected to the receipt of marketing communications by such means (i.e. they have not '**opted out**') and
- b) each time they are contacted they are given the opportunity to object to same in a cost-free easy manner, i.e. in the manner easiest for them.

If a Contributor objects this must be noted on the appropriate file by staff and the Contributor must not be contacted again.

Every time a TCT staff member proposes to make unsolicited calls to individuals for marketing purposes, s/he is legally required to consult the **Irish National Directory Database** to ensure that none of the proposed recipients has registered a preference, **more than 28 days previously**, not to be contacted.

Appendix 1: Definitions

Data is information in a form that can be processed and this can be manual or automated. Automated data is any information on computer, or information recorded with the intention of putting it on computer. Manual data is information that is kept as part of a relevant filing system, or with the intention that it should form part of a relevant filing system.

Data Controller is a person or entity (such as TCT), which, either alone or with others, controls the contents and use of personal data.

Data Subject is an individual who is the subject of personal data; e.g., a TCT Contributor.

Personal data means data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of TCT – e.g., data relating to TCT Contributors which is collected by TCT on direct debit mandates.

Sensitive personal data relates to specific categories of data which are defined as data relating to a person's racial origin; political opinions or religious or other beliefs; physical or mental health; sexual life; criminal convictions or the alleged commission of an offence; trade union membership. There are additional rights in regard to this.

Relevant filing system is any set of information that, while not computerised, is structured by reference to individuals, or by reference to criteria relating to individuals, so that specific information is accessible.

Data Processor is a person who processes personal information on behalf of TCT, but does not include an employee of TCT who processes such data in the course of his/her employment.

Processing means performing any operation or set of operations on data, including:

- obtaining, recording or keeping data
- collecting, organising, storing, altering or adapting the data
- retrieving, consulting or using the data
- disclosing the information or data by transmitting, disseminating or otherwise making it available
- aligning, combining, blocking, erasing or destroying the data.

Redaction is the separation of disclosable from non-disclosable information by blocking out individual words, sentences or paragraphs or the removal of whole pages or sections prior to the release of the document.

Appendix 2: Use of Images by The Care Trust

Any photograph, video or audio recording of a person constitutes their Personal Data and may, therefore, be subject to the provisions of the Data Protection Acts.

Images created purely for **personal use** are exempt from the Data Protection Acts.

Photographs, videos or audio recordings taken of people for **official use** may be covered by the Data Protection Acts, and those people (and, where applicable, their parent/guardian) should be advised and consent sought.

Official Use of Images may include:

- Photographs of staff/stakeholders taken for **identification purposes**.
These are likely to be stored electronically with other personal data and the terms of the Data Protection Acts apply.
- Photographs of staff/contributors/stakeholders taken for **public use** e.g., for promotional purposes. These are likely to be stored electronically and shared with the public and the terms of the Data Protection Acts apply.

In all instances where a photograph is taken, or a video and/or audio recording is made for official use, the **explicit and informed consent** of the person (and, for minors, their parent/guardian) should be sought for its use or publication in any medium, e.g., company website, annual report, newspaper advertisement.

Informed consent is a process whereby participants are informed and asked for agreement prior to their data (including images) being collected and used. The individual should be given any other information required to ensure fairness and transparency. Informed consent includes providing the individual with the opportunity to withdraw consent previously given, if desired.

Consent should be obtained for each intended use of the images. Individuals should be informed of the purpose for which their data will be used and the bodies/people to whom the data might be transferred.

If it is intended to share the data with a third party (e.g., giving photo to a local newspaper) specific consent to transfer the image must be obtained in advance of any transfer.

Where photographs are stored by TCT, they may be held on a computer system for a maximum period of six years, in line with TCT's Data Retention Policy, after which they should be deleted from the system.

Stock Images

TCT may, from time to time, use stock images from authorized sources. In such instances, TCT will abide by the terms of the licensing agreements in place.