

### 6.3 The Care Trust Policy on Fraud

#### Policy Statement

The Care Trust DAC ('TCT' or 'the Company') has a commitment to high legal, ethical and moral standards. All Members of the Board and staff of TCT are expected to act honestly and with integrity and to safeguard the resources for which they are responsible. Fraud is an ever-present threat to resources and hence must be a concern to all members of staff and the Board.

The purpose of this statement is to set out the responsibilities of TCT and of staff with regard to the prevention of fraud, thus underpinning a continuous culture of honesty and integrity within TCT - with the ultimate aim of maximizing the value of TCT's fundraising outcomes for its beneficiaries (The Rehab Group, The Central Remedial Clinic and The Mater Misericordiae University Hospital).

The Company has put procedures in place that reduce the likelihood of fraud occurring. These include documented financial procedures, documented systems of internal control / risk assessment and controls relating to data access, security and encryption. In addition, the Board tries to ensure that a risk (and fraud) awareness culture exists within TCT.

#### Definition

The term **fraud** is defined as the use of deception with the intention to obtain an advantage, avoid an obligation or cause loss to another party. It is used to describe a whole range of activities such as deception, bribery, forgery, extortion, corruption, theft, conspiracy, embezzlement, misappropriation, false representation, concealment of material facts and collusion.

The UK Fraud Act 2006 created a new general offence of fraud and identified three possible ways of committing it:

- **Fraud by false representation:** where an individual dishonestly makes a false representation and intends by making the representation to make gain for him / herself or another, or to cause loss or expose another to risk of loss
- **Fraud by failing to disclose information:** where an individual dishonestly fails to disclose to another person information which s/he is under a legal duty to disclose and intends, by means of abuse of that position, to make a gain for him / herself or another, or to cause loss or expose another to risk of loss and
- **Fraud by abuse of position:** where an individual occupies a position in which he is expected to safeguard, or not to act against, the financial interests of another person, and he dishonestly abuses that position, and intends, by means of the abuse of that position, to make a gain for himself or another, or to cause loss or expose another to a risk of loss.

### **Anti-Fraud Objectives**

TCT requires the Board, Senior Management and all staff to act honestly and with integrity towards the Company and each other at all times and to safeguard the resources for which they are responsible with the ultimate aim of maximizing the value of TCT's fundraising outcomes for its beneficiaries. TCT's Policy is that:

- any level of fraud or corruption in or against TCT will not be tolerated
- every attempt will be made to deter and prevent fraud
- opportunities for fraud and corruption will be reduced to the lowest possible level of risk
- staff will be made aware of the obligation to report suspicions of fraud
- mechanisms are in place for staff to report fraud
- any suspicion of fraud will be thoroughly investigated and dealt with appropriately
- any evidence of criminal activity will be reported to the Gardaí and
- mechanisms are in place for seeking redress in respect of money defrauded.

The Care Trust also expects that individuals and companies (e.g. suppliers, contractors and service providers) that it interacts with will act towards TCT with integrity and without thought or actions involving fraud. Where relevant TCT will include appropriate clauses in its contracts about the consequences of fraud, bribery and corruption; evidence of such acts is likely to lead to a termination of the particular contract and may lead to prosecution.

### **Responsibilities**

The **Chief Executive, with oversight from the Board**, is responsible for:

- developing and maintaining effective controls to prevent fraud
- carrying out vigorous and prompt investigations if fraud occurs
- taking appropriate legal and/or disciplinary action against perpetrators of fraud and
- taking disciplinary action against staff where supervisory failures and / or negligence have contributed to the commission of the fraud.

The **Senior Management Team** is responsible for:

- identifying the risks to which systems and procedures are exposed
- developing and maintaining effective controls to prevent / detect fraud and
- ensuring that controls are being complied with
- reporting any and all suspected/attempted/actual fraud cases.

**Individual members of staff** are responsible for:

- acting with propriety in the use of official resources and in the handling and use of corporate funds whether they are involved with cash or payments systems, receipts or dealing with the public or suppliers and
- reporting details immediately (to their line manager or next most senior manager) if they suspect that a fraud has been committed or note any suspicious acts or events.

Advice for staff in relation to 'Do and Don't' regarding fraud can be found below.

## **Reporting Fraud**

The Board is committed to maintaining an honest, open and well-intentioned atmosphere within TCT. It is therefore also committed to the elimination of any fraud within TCT, and to the rigorous investigation of any such cases.

The Board wishes to encourage anyone having reasonable suspicions of fraud to report them. Therefore, it is also the Board's policy, which will be rigorously enforced, that no employee will suffer in any way as a result of reporting reasonably held suspicions.

All members of staff can be confident that they will not suffer in any way as a result of reporting reasonably held suspicions of fraud. For these purposes reasonably held "suspicions" shall mean any suspicions other than those that are raised maliciously and found to be groundless. TCT has a Whistleblowing Policy and will deal with all occurrences in accordance with the Protected Disclosures Act (2014).

## **External Reporting**

It is the policy of TCT that all known or suspected criminal activity will be reported to the Gardaí for their investigation. Other breaches discovered may also be reported to other relevant authorities, including the Revenue Commissioners or the Data Protection Commissioner.

## **Reference Documents**

- Protected Disclosures Act 2014
- Criminal Justice (Theft & Fraud Offences) Act 2001
- Criminal Justice Act 2011
- Companies Act 2014
- Fraud Act 2006 (UK)
- Fraud Advisory Panel: Fraud Policy Statements

## Appendix 1

### Advice for staff in respect of fraud: Do and Don't

DO	DON'T
<p data-bbox="328 465 727 499"><b>Make a note of your concerns</b></p> <p data-bbox="252 539 802 763">Record all relevant details, such as the nature of your concern, the names of parties you believe to be involved, details of any telephone or other conversations with names dates and times and any witnesses.</p> <p data-bbox="252 813 802 882">Notes do not need to be overly formal, but should be timed, signed and dated.</p> <p data-bbox="252 931 802 1077">Timeliness is most important. The longer you delay writing up, the greater the chances of recollections becoming distorted and the case being weakened.</p>	<p data-bbox="874 465 1321 499"><b>Be afraid of raising your concerns</b></p> <p data-bbox="826 539 1377 651">The Law provides protection for staff who raise reasonably held concerns through the appropriate channels.</p> <p data-bbox="826 701 1377 846">You will be positively applauded as a result of following these procedures and the matter will be treated sensitively and confidentially.</p>
<p data-bbox="296 1209 759 1243"><b>Retain any evidence you may have</b></p> <p data-bbox="252 1323 802 1469">The quality of evidence is crucial and the more direct and tangible the evidence, the better the chances of an effective investigation.</p>	<p data-bbox="839 1209 1358 1279"><b>Convey your concerns to anyone other than authorised persons</b></p> <p data-bbox="826 1323 1377 1514">There may be a perfectly reasonable explanation for the events that give rise to your suspicion. Spreading unsubstantiated concerns may harm innocent persons.</p>
<p data-bbox="312 1583 743 1617"><b>Report your suspicions promptly</b></p> <p data-bbox="252 1697 802 1921">In the first instance, report your suspicions to your line manager, or the CEO. If this action would be inappropriate, report your concerns directly to a Member of the Audit Committee.</p>	<p data-bbox="839 1583 1358 1653"><b>Approach the person you suspect or try to investigate the matter yourself</b></p> <p data-bbox="826 1697 1377 1888">There are special rules relating to the gathering of evidence for use in criminal cases. Any attempt to gather evidence by persons who are unfamiliar with these rules may destroy the case.</p>