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## Anti-Fraud & Bribery Policy & Procedure

WHEREAS, the Board of Directors have reviewed the Acts below and believes it to be in the best interest of the organisation to adopt policies and procedures of the Republic of The Gambia which promote, encourage, and facilitate the fight against Money Laundering, Terrorism, Fraud & Bribery, Sexual Harassment and Child Exploitation.

**THEREFORE, BE IT RESOLVED** by the Board of Directors of YAN TARO PROJECT at a meeting of the Executive Council of the above organisation which was convened on Thursday the 18<sup>th</sup> of March 2021, in accordance with the constitution of the Association adopt and work in line with the following act:

The Money Laundering ACT, CAP 13:03, VOL 3, LAWS OF THE GAMBIA

### PART I

#### 1 Scope of this policy

- 1.1 This policy applies to all relevant persons of YTP. Relevant persons include staff, board members, volunteers, and short-term contractors.
- 1.2 Part I includes sections that are useful for and made available to all relevant persons, as well as being publicly available on the website.
- 1.3 Part II includes sections that are used for the board and senior leadership team in responding to allegations and incidences of fraud, and building an anti-fraud culture.

#### 2 Definitions of corruption, fraud, bribery

- 2.1 Definitions of corruption, fraud and bribery are found in Appendix 1.  
YTP Anti-Fraud & Bribery Policy
- 2.2 It is also **bribery** to make unofficial payments (known as 'grease' or 'facilitation')

payments) to a public official to secure or speed up a routine action to which you may be entitled – for example, you pay a public official a small “fee” to speed up the issuing of a visa.

2.3 Some examples of fraud and bribery relevant to YTP are described in Appendix 2.

### 3 Zero tolerance on fraud or bribery

3.1 YTP’s position to fraud and bribery is to take a zero-tolerance approach and we are committed to pursuing this approach throughout its operational practices for the following reasons:

- YTP recognises the significant risk that fraud and bribery pose to the achievement of its aims and objectives. Any money that is lost to fraud or bribery is money that cannot be used to achieve our objectives.
- Corrupt behaviour also seriously damages our reputation. The eradication of fraud and bribery in the way we operate is of great importance to securing the trust and confidence of all our stakeholders.
- We owe it to the communities that we operate in not to condone fraud or bribery. Corruption creates unstable societies. It destroys public and business standards, and forces ordinary people to use resources that they can ill afford in their interactions with the government and other public bodies.

3.2 All members of staff and the board, together with volunteers and contractors are required to sign the zero-tolerance declaration form Appendix 3 during induction and annually thereafter on 1 July.

3.3 We support the application of the zero-tolerance policy by providing: • **Direction**

and rules to clearly establish appropriate and expected behaviour • **Effective deterrents** to inappropriate behaviour in the form of meaningful consequences

• **Prevention** measures to reduce the risk of fraud or bribery occurring •

**Detection** measures to identify fraud or bribery if it happens, including speaking up lines

• **Response** measures to ensure we react well to suspicions, allegations and proven incidents of fraud & bribery, including protection and fair treatment for accusers and accused.

- **Measurement** processes to evaluate the impact and success of our anti fraud & bribery policy and management of risk.
- Deliberate proactive steps to embed anti-fraud & bribery thinking into our **culture**, including staff training and awareness.

3.4 Anyone found guilty of fraud or bribery will be subject to disciplinary measures which will ordinarily include dismissal, prosecution and recovery of losses.

## 4 Anti-bribery policy

- 4.1 YTP employs all legal and safe tactics to avoid and resist paying bribes to Public Officials, even if it results in denials, delays, inconvenience, and increased cost to our operations.
- 4.2 No relevant person is authorised to pay a bribe on behalf of YTP, or using YTP funds.
- 4.3 In extreme situations, only the board may authorise payment of a bribe if all other options have been exhausted. In such a circumstance the meeting minutes must clearly document the circumstances and all steps taken before reaching this decision, as well as lessons learnt to avoid a similar situation arising in future. The payment must be properly and transparently recorded as such in the accounting system and appropriate parties (eg. donors) informed.
- 4.4 Individuals are not expected to resist bribery to the point of putting themselves or others at real risk of personal harm or injury. A payment under such circumstances is considered extortion rather than bribery.

## 5 Conflicts of interest

- 5.1 A conflict of interest exists where an employee or a Board Member has an interest, relationship, or friendship which could, or could be seen to, interfere with their ability to decide an issue in the best interests of YTP.
- 5.2 The purpose of this policy is to ensure that all conflicts of interest are **declared**, declared conflicts are **managed** to mitigate the associated risks, and that decisions and actions are **documented** to ensure transparency and accountability.
- 5.3 Examples of conflicts of interest include (but are not limited to):

- Relationships between members of the Senior Leadership Team, accounts staff, procurement staff, HR staff or board members and any other staff member.
- Relationships between any person and their line manager
- Relationships between YTP staff or board members and suppliers, donors, grantees, beneficiaries or job applicants.
- A 'relationship' in this context could include family, romantic relationships, being a bank signatory, advisor or board member.

5.4 The existence or discovery of a conflict of interest does not constitute a breach of policy as long as it is disclosed as soon as possible.

5.5 The following people are required to make annual conflict of interest declarations using the form in Appendix 4.

- Board members
- Senior Leadership Team members
- Staff in finance (accounting), procurement and HR

5.6 All staff (including those listed above) are required to disclose conflicts of interest as soon as they arise or the staff member becomes aware of the conflict of interest. Examples of such disclosures would include:

- A close friend of a staff member applies for a job with YTP.
- A potential supplier presented to the procurement committee is a company where a committee member is a board member.

5.7 The recruitment conflict of interest declaration form in Appendix 5 should be signed by all relevant persons involved in the development or design of selection tools, those with access to the selection tools, and those involved in the selection process. It should be signed as soon as all the applications are received and before any short listing.

5.8 The Procurement Committee meeting agenda should always include a clear listing of all suppliers on the approved suppliers list, as well as all those who have provided quotes for the purchases under consideration. All members present should be required to declare that they have no interests in any of the suppliers under consideration at that meeting, and this should be

recorded in the minutes.

5.9 If a conflict arises or is discovered, it should be immediately declared using the form in Appendix 6.

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#### YTP Anti-Fraud & Bribery Policy

5.10 Appropriate actions should be taken to resolve the conflict of interest, which may be temporary or permanent, for example:

- A procurement committee member being removed from a particular supplier selection decision in which they are conflicted.
- A staff member ceasing to act as board member, signatory or advisor which is causing the conflict
- A conflicted staff member is removed from all aspects of the recruitment and selection process
- One person in a romantic relationship within the YTP leaves.

5.11 The steps taken to manage the conflict of interest and mitigate the risk of conflicted decision taking should be documented on the declaration form

## 6 Gifts and entertainment

6.1 Gifts and entertainment should never be used or allowed to influence business decision making.

6.2 When offers of gifts and entertainment are made or accepted in situations where they are not appropriate, they can look like, or may in fact be, **bribes**. They can expose us to accusations of unfairness or even break the law, and can put at risk our reputation for ethical behaviour.

6.3 Positive, healthy, normal business practices can include accepting and making offers of gifts and entertainment, which develop and maintain positive and strong business relationships. We should be able to accept and make offers of gifts and entertainment **ONLY** when they are **appropriate**, ie when they:

- are proportionate in the context; and
- do not create any sense of expectation or obligation on the recipient or the giver.

6.4 The following gifts may never be offered or accepted, and will always be deemed inappropriate.

- Cash of any amount
- Any gift with a value exceeding \$50 (or equivalent in local currency)
- Any entertainment worth more than \$100 (or equivalent in local currency)
- Any gifts or loans from existing suppliers or prospective suppliers while a tender process is underway
  - Any gifts or loans to staff involved in supplier selection decisions (eg Procurement Officer or member of Procurement Committee)
  - Entertainment involving gambling, anything of a sexual nature or exploitation of others.

6.5 It is never allowed to request for a gift or entertainment.

6.6 Gifts or entertainment below the limits above [6.4] are not necessarily appropriate.

6.7 In some circumstances an element of judgment is required to decide whether a gift is appropriate or not. If any staff or board member is in any doubt, they should consult an SLT member (or the board chair in the case of the Vice - President) and obtain written permission before accepting or offering a gift.

#### YTP Anti-Fraud & Bribery Policy

6.8 The following circumstances imply the giving or receiving of a gift or entertainment offer may be appropriate:

- The giving and receiving of the gift or entertainment strengthens a genuine business relationship
- The gift or entertainment does not constitute an attempt to apply undue influence, and does not create an undue obligation
- The gift or entertainment is given or accepted in the open rather than in secret
- The gift or entertainment is given to celebrate a recognised cultural event such as Christmas or New Year.
- The gift or entertainment is given to the organisation or a group of people (department) rather than an individual
- The gift or entertainment is branded marketing materials (pens / notebooks

etc)

- The value of the gift or entertainment is not excessive or abnormal in social context
- The timing of the gift or entertainment is not suspicious

6.9 The following circumstances imply the giving or receiving of the gift or entertainment may be inappropriate:

- The timing, nature or circumstances of the gift means it could be perceived as an attempt to influence a business decision
- The value of the gift is excessive in the circumstances (despite being below the limit on 6.4)
- The receiver feels obligated, or the giver feels entitled
- The gift is given or received in secret

6.10 If any staff or board member is offered an inappropriate gift they should politely decline it and inform their line manager or board chair.

6.11 In the event that declining an inappropriate gift in the moment that it is given might be culturally inappropriate or embarrassing, it should be returned within no less than a week, with appropriate documentary evidence to prove that the gift was returned.

6.12 In the event that an inappropriate gift is received publicly, steps should be taken to restore the reputation of the organisation, in addition to returning the gift.

6.13 In the event that inappropriate gifts are received without consent (such as courier deliveries, bank or mobile money transfers), these should be declared immediately using the conflict of interest declaration form. Steps should be taken to return the gift, or notify authorities if money laundering is suspected.

6.14 Inappropriate gifts received by employees and subsequently declared should not be received into the organisation's funds – rather they should in all cases be returned.

6.15 Appropriate gifts, given to the organisation as a whole, or to a particular team, should normally be enjoyed or shared by all relevant staff members (eg hampers or flowers). Where an appropriate item is not easily sharable, it should be raffled by some random and transparent means.

## 7 Speaking Up

7.1 YTP's policy on speaking up is designed to build confidence of relevant persons to report genuine concerns about fraud, bribery or other types of misconduct. For many cases of misconduct, someone reporting it is the only way it can be discovered and dealt with.

7.2 A genuine concern is sincerely felt and based on information the reporting person believes to be true or trustworthy. Upon further investigation, a genuine concern may or may not turn out to be true. The motivation of the person reporting a genuine concern is not relevant to its definition as a genuine or not.

7.3 A false accusation is when the reporting person knowingly fabricates information or reports information they know to be false.

7.4 YTP's speaking up lines should be used by all relevant persons to raise any genuine concerns.

7.5 YTP has zero tolerance to anyone who is found to have wilfully and deliberately abused a speaking up line to knowingly make false accusations. Appropriate disciplinary measures will be taken.

7.6 A genuine concern should be reported when there is evidence or a strong suspicion of misconduct in any of the following areas:

- Fraud or bribery
- Sexual misconduct
- Harassment
- Any illegal act

7.7 Concerns may be reported, either in person or by email using any of the speaking up lines below:

- Person A- leasha Prime ([ieashaprime@gmail.com](mailto:ieashaprime@gmail.com)) or +17036355175

7.8 All relevant persons are strongly encouraged to report genuine concerns using the above lines. They should report as much detail as possible, including who, when, where, and how and whether they have evidence or the basis for their suspicion.

7.9 Concerns may be reported anonymously, but people are encouraged to give their name and / or contact details as it is easier to investigate allegations when it is



possible to follow up for more details from the reporting person.

7.10 YTP will address any concerns raised with the reporting person within 72 hours, assuming contact details have been provided.

7.11 Information about the speaking up lines will be made available: •

On the website, and findable by site search

- Within this policy, located in a searchable directory on the organisation's electronic filing system

## 8 Supporting reporting persons

8.1 YTP has zero tolerance to any form of retaliation against reporting persons (also known as 'whistleblowers').

8.2 All relevant persons who report genuine concerns will be properly protected and supported.

8.3 Details of any allegations or suspicions raised should be recorded on a fraud, bribery & misconduct report form Appendix 7 and submitted to the President.

8.4 YTP commits to take the support of reporting persons seriously by:

- Taking care not to underestimate or disregard the risk that a reporting person may be exposed to, or the level of fear or anxiety they may be experiencing.
- Appointing someone with responsibility for supporting the reporting person (the 'support person'). Usually this will be their line manager.
- Providing the support person with relevant information to share with the reporting person, unless they are a member of the Fraud Response Team.
- Assuring the reporting person that their concern is being handled and taken seriously.
- Explaining that their identity will be protected to every extent possible but cannot be guaranteed.
- Answering questions as appropriate and provide emotional support but do not share confidential information with the reporting person.
- Informing the person of any decision to investigate or not, investigation outcome, and actions taken as appropriate.

- Taking necessary steps to ensure the safety of any reporting person, even if there is a cost implication, in cases where the person experiences or fears retaliation or harassment.

## PART II

### 9 Fraud Response Team

9.1 Once a concern has been reported or otherwise identified, the responsibility to respond to that allegation will fall to the Fraud Response Team.

9.2 The Fraud Response Team will be convened by the Vice - President, or a board member in the event that the Vice - President is involved. The Fraud Response Team should comprise 3 individuals from the Senior Leadership Team or Board of Directors. Any relevant person implicated in an allegation may not be a member of the Fraud Response Team.

9.3 The roles and responsibilities of the Fraud Response Team are to: •

Update the Fraud & Bribery Register in Appendix 9

- Document meetings, decisions and learning
- Maintain confidentiality, especially with respect to the reporting person and the person accused of alleged misconduct
- Ensure the reporting person is supported and protected from harm (see Section 8)
  - Take urgent steps to protect assets or information as needed
- Communicate with donors (see Section 10) and manage other internal and external communications as appropriate
- Make preliminary investigations
- Decide whether or not to conduct a full investigation (See Section 11) •

Set up the Terms of reference and/or contract for the investigation •

Act on the findings of the investigation

9.4 The Fraud Response Team will use the checklist in Appendix 8 as an aide memoir of the issues to consider when responding to an allegation of misconduct.

9.5 A case file should be opened to hold all emails, meeting minutes, reports, and other information relevant to the case. The file should be held in a safe and secure place.

9.6 All reported or otherwise identified allegations, suspicions or concerns should be brought to the attention of the board, maintaining confidentiality but updating them about actions taken until the issue is closed.

## 10 Reporting fraud & bribery to donors

10.1 YTP takes its contractual and fiduciary responsibility to report fraud and bribery to donors very seriously.

10.2 The Fraud Response Team's duty for communicating with donors should include the following actions:

- Appoint a donor contact person to channel all communication with the donor with respect to the suspected fraud or bribery.
- Consult the donor agreement with respect to terms and conditions about reporting suspected fraud or bribery, and ensure that they are met. If in doubt, communicate within 48 hours, if the fraud may have an impact on a particular donor's funds.
- Protect the identity of the suspect and reporting person. Avoid sharing any confidential details.
- Reassure the donor by explaining the process being followed to handle the allegation.
- Confirm verbal communications in writing.
  - Keep the donor updated with progress, and the outcome of the investigation.

10.3 The full investigation report or disciplinary report should not be shared with the donor unless required to do so, and if so, only in an anonymised form.

10.4 Fraudulent losses that are disallowed by donors can only be financed from unrestricted funds.

10.5 YTP will take out a fidelity insurance policy to mitigate the impact of losses from fraud or bribery.

## 11 Conducting investigations

11.1 The purpose of conducting an investigation is to gather evidence and facts to establish whether suspicions or allegations are true, and whether any proven incidents are isolated or more widespread.

11.2 All investigations should be impartial, thorough, timely and confidential.

11.3 Any relevant persons investigated will be considered innocent until proven guilty. False or mistaken accusations are not uncommon.

11.4 All reported allegations or suspicions of misconduct should normally be investigated. This includes even cases where:

- There is belief that the genuine concern may have been reported due to malicious motives.
- The allegation relates to attempted fraud or bribery.
- The accused staff member has since left the YTP.

11.5 The Fraud Response Team may decide not to investigate only in exceptional cases where a reported allegation or suspicion:

- Is frivolous, trivial or has clearly arisen from a misunderstanding.
- Is wholly unbelievable, i.e. there is no conceivable way the facts it related to could have occurred.
- Has been raised anonymously and there is insufficient information to investigate.

11.6 Investigations may be carried out by in-house staff, senior staff from another country office or sister organization, the internal auditor (which may be an outsourced function), an audit firm, donor, or a specialist investigation firm, depending on the case.

11.7 Investigators should be objective and unbiased, thorough, able to maintain confidentiality, competent in investigative techniques, empowered with sufficient seniority and confidence, honest persons of integrity, and independent of any possible subsequent disciplinary process.

11.8 The Fraud Response Team should set out a clear terms of reference for the investigator including background, allegations made, scope of investigation, and the timeline for expected work and reports.

11.9 Care should be taken not to compromise admissibility in court of all evidence collected. This might include for instance:

- Taking two full backups of hard drives / electronic files – one which is left untouched and the other which is used for the investigation.
- Keeping documents in the files they were filed in, in the order they were filed in. If documents are removed, take a note of where they were located.
- Adding hole punches to or writing comments on documents which may be admitted as evidence.
- Considering fingerprint contamination if appropriate.

11.10 The following factors should be considered in deciding whether or not to suspend staff:

- Could the staff member's presence in the office result in risk of loss or damage to evidence, influencing of witnesses, or interfering with the investigation in any way?
- Would the impact on other staff or operations be excessive? • Are there local labour laws regarding the maximum length of any formal suspension?
- Have other alternatives been considered, such as sending the staff on a training or work trip, or requiring them to take leave?

11.11 The legal and other rights of interviewees should be considered when conducting interviews during an investigation. This might include among other things ensuring that:

- All interviews are completely and accurately documented
- There is a complete ban on coercion or coercive techniques •

The assistance of a translator is provided if necessary

- The date, time and location of interviews are unless required within office norms
- The interviewees' wish or right to have a witness or lawyer present is respected as appropriate.

11.12 A formal documented investigation report should be submitted to the Fraud Response Team, according to the timing agreed, which outlines the findings, facts and conclusions of the case.

11.13 The investigation report should make recommendations about weaknesses. It should avoid making any recommendations associated with disciplinary consequences.

## 12 Reporting and acting on findings of investigations

12.1 The Fraud Response Team will agree on the appropriate actions to be taken in light of the findings of an investigation.

12.2 Where fraud is collusive and involves more than one staff member, junior employees should never be used as a scapegoat to protect more senior employees.

12.3 The Fraud Response Team may choose to offer concessions to witnesses who are prepared to give information or evidence about other staff, provided the evidence is proved correct and leads to disciplinary action against those other staff.

12.4 On receiving the investigation report, the Fraud Response Team may choose to take the following actions, as appropriate to the case:

- Take legal advice
- Pass the matter to the HR department to take action against guilty individuals, in accordance with the disciplinary policy, which should usually be dismissal.
- Organise appeal hearings in accordance with disciplinary policy, in case individuals appeal
- Clear the reputations of those accused but found to be innocent of wrong doing
- Recover losses from individuals
- Prosecute in courts of law
- Make improvements to internal control systems to ensure that similar frauds do not happen again
- Implement recommendations from investigation report
- Communicate with donors, staff, and public as necessary
- Discuss with donors with respect to treatment of fraudulent losses, making repayment if required.

- Make a claim against fidelity insurance policy
  - Initiate the recruitment to replace terminated staff (by HR department) •
- Initiate the revision of budgets and cash flow forecasts (by finance department)

12.5 All decisions and actions of the Fraud Response Team shall be documented and filed on an incidence file.

12.6 A one-page summary of the case (allegation, response and outcome) should be prepared, shared with the board and filed on the front of the incidence file.

## 13 Induction, training and awareness

13.1 All relevant persons should receive training in the following elements (starred items at induction):

- Definitions of fraud & bribery, with relevant examples
- Relevant sections of this policy (zero tolerance, conflicts, gifts, speaking up)\*
- Reporting suspicions\*
  - What to report
  - How to report
- Confidentiality and protection
- Signing declarations (code of conduct, conflict of interest, zero tolerance etc)\*
- Fraud triangle & Zero tolerance principle
  - Role play reporting a fraud to explore associated emotions
  - Building confidence to report by explaining key steps of how reported suspicions are handled, eg fraud response team commissions fair and unbiased fact-finding investigation, and appropriate action taken.

13.2 In addition, the following topics should be covered for every manager (starred items should be covered as part of the manager's induction):

- What to do if someone reports a suspicion to you\*

- Maintaining confidentiality\*
- Supporting and protecting people who speak up\*
- Communication with donors, staff, public, suspect/s, reporting person\* •

Roles and responsibilities of the fraud response team

- Documentation (incidence report, fraud register)
- Investigations
- Actions to take after an investigation

13.3 Refresher training will be organised for all staff at least every 2 years

13.4 [The HR department] will monitor to confirm everyone has received appropriate training

13.5 Part 1 of the anti-fraud & bribery policy shall be available from our website, stored in a shared location on the organisation's server, and emailed to all staff at induction and before trainings.

13.6 Part 2 of the anti-fraud & bribery policy shall be shared with, and accessible to all relevant managers, but should not be shared publicly or with all staff.

13.7 Day to day awareness of anti-fraud & bribery culture will be encouraged by the following:

- Standing item on SLT meeting agenda of 'fraud risk'
- Anti-fraud & bribery posters in the office

## 14 Disciplinary process

14.1 Where evidence of fraud or bribery is discovered, YTP's disciplinary policy should be followed.

14.2 In accordance with YTP's zero tolerance policy, the usual outcome for committing, or attempting to commit fraud or bribery, or deliberate abuse of the speaking up lines, will be dismissal.

14.3 In the event of collusion or coercion, consideration may be given to a degree of leniency if it results in information against a more senior staff member.

## 15 Grievance process

15.1 If staff feel they have been unfairly treated during a fraud or bribery



response, they may take recourse in line with the Grievance Policy.

## 16 Contracts

16.1 All standard staff contracts should include a clause which allows YTP to terminate the agreement with immediate effect if the employee commits any act of gross misconduct, including fraud, bribery or theft.

16.2 YTP supplier application form or contract should overtly discourage any form of misconduct. The following clauses will be included.

- We will provide quotations at best value when requested
- We will accept payment by cheque or bank transfer
  - We will not offer or pay any incentive to the NGO or its officers, either to win bids to supply goods or services, or as personal gifts or loans.
- We will not provide quotations in return for favour or payment from the NGO or its officers.

16.3 The sub-grantee application form and sub-grantee grant agreements or contracts should include the following clauses:

- YTP awards grants and contracts on a free and fair basis, without requesting or accepting any payment or favour. In the event that a partner is requested for any kind of payment or favour as a condition or implied condition for being awarded a grant or contract, the partner should contact the Vice – President via [email] immediately.
- The partner must notify YTP as soon as it becomes aware that a fraud is likely to have occurred which may have an impact on the project and / or funds of YTP.
- The partner is responsible to refund any fraudulent losses

Appendix 1-

**Glossary  
Terms**

**Definition**

**Attempted fraud or**

An unsuccessful effort to commit fraud or bribery.

**bribery**

**Bribery** The unlawful act of offering or receiving any gift, loan, fee, reward or other advantage (taxes, services, donations etc.) to or from any person as an inducement to do something which is dishonest, illegal or a breach of trust, in the conduct of one's duties.

**Corruption** The abuse of entrusted power for private gain

**Embezzlement** To steal money that people trust you to look after as part of your work.

**Entertainment** Invitations to attend events with a social aspect, such as meals & conferences, as well as entertainment events such as shows or games, which are offered free of charge or at reduced rates.

**Error** An accidental mistake, for example in a calculation or a decision

**Extortion** Act of utilizing one's access to a position of power or knowledge, either directly or indirectly, to demand unmerited cooperation or compensation as a result of coercive threats.

**Fraud** The act of intentionally deceiving someone in order to gain an unfair or illegal advantage (financial, political or otherwise)

**Gift** Goods, services or cash offered to or by staff or board members, or their friends or family or associates, at free or preferential rates.  
Unpaid loans are considered gifts for the purposes of this policy.

**Money Laundering** The concealment of the origins of illegally obtained money, typically by means of transfers involving foreign banks or legitimate businesses.

**Negligence** Failure to give care or attention, especially when this causes harm or damage.

**Nepotism** Form of favoritism based on familiar relationships whereby someone in an official position exploits his or her power or authority to provide a job or favor to a family member, even though he or she may not be qualified or deserving.

**Public Official** Any person holding any legislative, executive, administrative or judicial office, whether he/she is appointed or elected, permanent or temporary, paid or unpaid.

**Robbery** The crime of taking money or property illegally, often by using threats or violence.

**Theft** The crime of stealing.

## Appendix 2 – Examples of fraud and bribery

The following are examples of fraud and bribery relevant to YTP's context. The list is by no means exhaustive.

- A grant officer requires or accepts kick-backs from partners for grant awards or payment remittances
- A staff member submits fake receipts in an expense claim
- A manager requires a payment for authorising an expense claim
- A staff or board member fails to disclose a conflict of interest with a partner, supplier or other staff member
- A staff member bribes an auditor to ignore or fail to report an audit finding
- A staff member colludes with a supplier to get a kickback on overpriced goods or services
- An accounts staff member records transactions in the accounting records they know to be false

- An accounts staff member knowingly posts entries to incorrect codes in order to conceal fraudulent payments
- A staff member driving on YTP business makes an unreceipted cash payment to a traffic officer to avoid a traffic offence fine, whether or not the expense is charged to YTP
- An unofficial payment is made to a Government Officer to be allowed access to work in a particular District
- An unofficial payment is made to the police or judiciary to facilitate the release from detention or dropping of charges against a YTP employee or board member

## Appendix 3 – Zero tolerance declaration form

### Zero tolerance declaration

This form should be completed by new employees when they join the organisation and by all employees before 1 July each year.

I, \_\_\_\_\_, understand that YTP has a zero tolerance policy on fraud and bribery.

I understand that fraud includes a wide range of dishonest behaviour, including theft, making false statements, falsifying data, and using, for my own purposes and without permission, property that does not belong to me.

I understand that bribery includes a wide range of dishonest behaviour, including accepting or paying kickbacks and making unofficial payments to public officials.

I understand that, at YTP:

- Fraud and bribery are never acceptable.
- All activities that YTP undertakes in furthering its mission must be done with integrity.
- Resources must be protected and maximized for the benefit of our beneficiaries.
- Any employee found to have committed fraud or bribery will be subject to serious disciplinary action or termination of employment.

I understand that YTP strongly encourages me to speak up and report any genuine

concerns or suspicions of fraud or bribery, sexual misconduct, harassment or illegal acts in the workplace.

I understand that I can report those suspicions verbally or in writing by contacting:

- Ieasha Prime
- Kamilah Khabir
- Zachary King

I understand that I may report anonymously, but I am encouraged to give my name to make investigation possible.

Signed: Name: Date:

## Appendix 4 – Annual Conflict of Interest Declaration

### Form Annual conflict of interest declaration

#### form

This form should be completed before 1 July each year by all board members, senior leadership team members, and staff members with roles in finance (accounting), procurement and HR.

Your name: Your position:

I understand that a conflict of interest arises if an employee or a Board Member has an interest, relationship, or friendship which could, or could be seen to, interfere with their ability to decide an issue in the best interests of YTP.

I understand that the existence of a conflict of interest does not constitute a breach of policy, so long as it is declared, so that it may be properly managed.

I have been shown a list of current board members, staff members, suppliers and partners, which is attached to this declaration.

I hereby declare that I have no known personal or business relationships or interests with any other staff member, board member, current supplier or contractor, except for:

Name	Nature of relationship
1.	
2.	
3.	

I further state that I will declare any conflict or interest arising during the year as soon as I become aware of it.

Name: Sign: Date:

The signed form should be filed on a conflicts declaration file, with a copy on the personal file. The individual may retain a copy of the lists if they wish.

## Appendix 5 – Recruitment Conflict of Interest Declaration

### Form Recruitment conflict of interest

#### declaration form

This form should be completed by anyone involved with access to the relevant recruitment selection tools or involved in the selection process.

Position being recruited:

Your name:

Your role in selection process:

I hereby declare that I have been shown a complete list of the applicants for the above position and that I do not personally know any of them except for:

Name	Nature of relationship
1.	
2.	
3.	

I further declare that I have not and will not provide any assistance, favor or guidance to any applicant during the selection process.

Name:

Sign:

Date:

The signed form should be filed on the recruitment file, with a copy on the above named staff member's personal file.

## Appendix 6 – Declaration of Conflict of Interest Form

### Conflict of interest declaration form

This form should be completed by any staff or board member who becomes aware of a conflict of interest arising during the year. It should be filed as soon as the individual becomes aware of the conflict.

Name:	
Position:	

I understand that a conflict of interest arises if an employee or a Board Member has an interest, relationship, or friendship which could, or could be seen to, interfere with their ability to decide an issue in the best interests of YTP. I understand that the existence of a conflict of interest does not constitute a breach of policy, so long as it is declared, so that it may be properly managed.

I hereby declare the following conflict of interest:

Name of person or organization	
Nature of conflict	
Date conflict arose	

Sign: Date:

To be completed by SLT member:

Actions taken to mitigate risk of above declared conflict:

Name: Sign: Date:

The signed form should be filed on a conflict declaration file, with a copy on the personal file.

## Appendix 7 – Fraud, bribery & misconduct report form

### Fraud, Bribery & Misconduct Report

#### Form

The information contained within this form is highly confidential. Only authorized persons should have access to the form and the information recorded here. This form must be securely stored.

This form should be completed by a line manager, Senior Leadership Team member or Board member who has received a report about a suspicion of fraud, bribery or misconduct

Date report made	
Who reported (name and job title)	
Date/s of incident/s triggering suspicion	
Nature of suspicion	
Suspect (name and job title)	
Evidence/witnesses (if any)	



Estimate of Loss	
Other relevant information	
Completed by Name:	
Job Title / Org:	
Signature:	
Date:	
Received by ED Sign:	
Date:	

## Appendix 8 – Allegation or concern response checklist

### Checklist – responding to an allegation or concern

The Fraud Response Team is responsible for deciding the appropriate course of action on a case by case basis, in line with the policy. This checklist is an aide memoir only.

Issues to consider	
1. Obtain relevant facts from reporting person	
2. Re-assure reporting person their concern will be handled in confidence	
3. Document details on standard fraud incidence report	
4. Inform Country Director or equivalent	
5. Record incidence in Fraud Register	
6. Convene Fraud Response Team	
7. Ensure urgent safeguarding of assets / evidence	
8. Decide whether to investigate	
9. Obtain legal advice	
10. Communicate with Head Office	
11. Communicate with donor	
12. Communicate with, and consider rights of, accused	

13. Communicate with reporting person	
14. Communicate with staff? Public?	
15. Decide whether or not to suspend staff member	
16. Provide support to reporting person	
17. Appoint and engage investigator with clear TOR	
18. Conduct investigation	
19. Report to police (may be necessary to acquire evidence)	
20. Take corrective action to right any wrongs in this incident	
21. Take preventative action to prevent similar incidents in future	
22. Document and act on any other learning from the case	

## Appendix 9 – Fraud & Bribery Register

### Fraud & Bribery Register

Year	Month	Day	Category	Description	Investigator	Status	Resolution	Preventative Action	Learning





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## COUNTER-TERRORISM POLICY

### BACKGROUND

As a non-profit organization operating in two countries, Yan Taro Project (YTP) recognizes that there may be a risk of its donor funds being diverted by staff, contractors, financial service providers and partners to finance or support terrorist activities.

**YTP** recognizes that, as other sectors (e.g. profit sector) are tightening their safeguards against terrorist abuse, there is a risk that terrorist organizations may focus more attention on non-profit sector.

**YTP** recognizes that different countries have different approaches and levels of regulation and safeguards and has therefore developed the present policy to ensure that YTP is consistent in its approach.

**YTP** believes that strong effective governance, financial and partner management are key to preventing abuse. This policy highlights the mechanisms in place. The issue of diversion of aid and contravention of counter-terrorism legislation is viewed as an internal control and risk management issue alongside fraud, bribery and corruption.

**YTP** has developed this policy to ensure that **YTP's** and donor funds and resources are not being used directly or indirectly to support terrorist activities and to provide a clear guide on what to do if terrorist activity is suspected. More broadly, this policy will enable **YTP** to support sustainable development and reputation in delivering sustainable overseas aid, as well as ensure continued community support for overseas aid projects.



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Our donors have extensive legislation around anti-terrorism and national security. International and national bodies impose strict obligations on funding recipients to ensure that funds do not support terrorist activities. **YTP** will use its best practices and principles to ensure that our programs are conducted in the context of these laws and obligations.

Failure to comply with donor requirements could significantly impact the reputation of **YTP** as well as expose the organization to potential penalties. This policy therefore articulates **YTP's** commitment to avoid involvement in terrorist activities and terrorist financing and outlines processes and procedures aimed at preventing, stopping, and punishing terrorism financing that can potentially lead to the diversion of humanitarian aid or assistance.

## POLICY STATEMENT

**YTP** renounces all forms of terrorism and will never knowingly support, tolerate or encourage terrorism or the activities of those who embrace terrorism. Consistent with numerous United Nations Security Council resolutions, including S/RES/1269 (1999), S/RES/1368 (2001), and S/RES/1373 (2001), **YTP** is firmly committed to the international fight against terrorism, and in particular, against the financing of terrorism. It is the policy of **YTP** to seek to ensure that none of its and its donor funds are used, directly or indirectly, to provide support to individuals or entities associated with terrorism. In accordance with this policy, **YTP** undertakes to use reasonable efforts to ensure that none of its or its donor funds are used to provide support to individuals or entities associated with terrorism.



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## SCOPE

This policy applies to all **YTP** board members, staff, volunteers, financial service providers and contractors (suppliers, service providers and consultants) This policy also applies to all partner organizations, their board members, staff, volunteers, financial service providers, contractors and sub-grantees implementing projects with **YTP** funding.

## SOURCES OF AUTHORITY

International and national regulations: **YTP** recognizes the regulations by which donor countries abide. **YTP** also recognizes relevant legislation related to data protection (refer to Annex 1).

**YTP** has endorsed the Red Cross and Red Crescent codes of conduct (since 2021) and the CHS Alliance (since 2021);

## PROCEDURES APPROACH

**YTP**'s procedures have a strong emphasis on “deter, detect, prevent, and respond”. To minimize the risk of aid diversion, and in particular terrorism financing, **YTP** employs the following approach:

1. Conducts regular risk analyses concerning anti-terrorism activities. The risk analysis typically includes a review of the relevant legal requirements of donor governments, transit governments (e.g., territories through which goods or services are transferred), and host state governments, as well as donor policies and industry standards (if any) from other sectors. It also includes security analyses, including stakeholder analyses



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- (armed groups, state and non-state actors), to determine the risk of terrorism targeting or undermining YTP's operations.
2. Enforces a strict code of conduct among its staff and staff of partner organizations with a strong reference point to anti-diversion and a statement on financial transactions with armed groups.
  3. Maintains comprehensive financial records which account for all expenditure and publishes annual financial statements with detailed breakdown of incomes and expenditures.
  4. YTP produces a yearly audit performed by a major auditing company, certifying the transparency and consistency of accounting, organization and procedures in the course of the various financial years. Control monitoring by the auditing company has been extended to effectiveness of on-site activities. As partner of the European Commission YTP is subject every three years to a procedural and organizational review at headquarters and field level Countries. This review is carried out every three years by ECHO (European Commission's Humanitarian Aid and Civil Protection). It happens similarly with USAID, which monitors the Foundation's economic and financial situation on a yearly basis. Furthermore, there are routine inspections and final reviews conducted on the great majority of projects.
  5. Regularly trains its staff and partners on anti-fraud and corruption, procedures and practices.
  6. Conducts an in-depth due diligence of partners and sub-grantees, including Third Party Reference Check to ensure the partner/sub-grantee does not appear on the US Office of Foreign Asset Control (OFAC) list, UK Treasury lists, EU proscribed lists and UN sanctions lists. The check is performed manually comparing the references with the main international control lists.
  7. Applies a "know your supplier" principle for procurements for all national, international and restricted tenders.





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## ENFORCEMENT

The security measures in The Gambia/in the field and at headquarters are applied as per YTP's operating structure; the **President**, to the Head of Project Department, to the Area Desk together with the Heads of Mission.

**The President** are responsible for:

- Ensuring that YTP and all staff members, volunteers and contractors comply with all relevant legislation, YTP Code of Conduct and YTP policies;
- Ensuring that all partner organizations and their board members, staff members, volunteers and contractors implementing aid and development projects funded by or through YTP comply with all relevant legislation and policies.

**The Heads of Mission are responsible for:**

- Ensuring compliance with relevant legislation and YTP policies;
- Communicating this policy to all partner organizations and their board members, staff members, volunteers and contractors implementing projects funded by or through YTP and ensuring that they comply with all relevant legislation and policies; 6
- Approving activities after all conditions have been met;
- Providing the General Direction with all relevant information which relates to breaches of this policy

**All employees and volunteers are responsible for:**

- Complying with this policy and other relevant legislation.

**YTP HR Unit is responsible for:**

- Recruitment of employees and volunteers, and any additional Third-party reference checks which may be employed in sensitive and/or high risk countries;
- Ensuring that each member of staff abides by YTP Code of Conduct and Ethical Code; - Ensuring adherence to relevant data protection legislation;
- Providing support to managers and other staff during any complaint or dismissal process.



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**YTP Security Unit is responsible for:**

- Ensuring that up to date risk assessments and context analyses are undertaken for each area of intervention to identify risks (of aid diversion).

**YTP Administrative and Finance Unit:**

- Receives from the field updated accountancy and the cash/bank reconciliation items (digital and pdf) that allow correct account keeping and continuously monitoring of all the transactions. YTP maintains a multi-currency accounting system that allows tracking of all transactions with a unique reference (voucher number) in the system at country level. Every transaction, and in particular every expense, is linked to a specific project with the accounting paperwork and other documents (contracts, procedures, invoices, receipts);

- Is responsible for monitoring the use of YTP's funds: through internal control mechanisms at area, capital and HQ levels. The HQ performs a daily check on the project financial flows. In the field the controls are carried out weekly in the cash reconciliation phase and monthly in the bank reconciliation phase. These tools and procedures are explained in detail in the Foreign Office Administrative Manual (currently being developed). The local office makes available the accountancy documents monthly to enable a timely monitoring of financial flows, expenses and incomes;

- Is responsible for the selection of banks/financial institutions: following a due diligence check, including third party reference check, evaluating together with the HQ the various banks present and available in the country;

- Is responsible for the bank management: authorized levels to carry out financial operations, segregation of duties, signatures (with mandate from HQ) and monthly bank reconciliations all contribute to giving a clear picture on the use of funds and to preventing misuse;



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- Is responsible for cash management: cash keeping processes, segregation of duties, weekly cash monitoring and monthly reconciliations contribute to giving a clear picture on the use of funds and to preventing misuse;

- Is responsible for money transactions:

- Checking is done before payment: as defined in YTP's Finance Manual, no

commitment to purchase can be made without authorization from the responsible person. The purchase must be documented with both internal (prior approval of the expense, including purpose of the transaction and reference to the budget line of the donor's contract, procedure and contract) and external documentation (invoice, bill, receipt, delivery note or other proof that the goods or service have been provided). Then payment can be made and booked in the system.

- Bank transfers are preferred. In case of payment to be done in cash, a specific

procedure as to be followed with identity check of the person coming to collect the payment at the office.

- Following any payment by YTP, a confirmation of the receipt of funds is

systematically requested.

- Donations can only be accepted - as any other source of funding going through YTP – upon HQ review and validation.

- No donation can be done by YTP to an external entity without HQ review and

validation, due diligence of the entity and signature of a contract.

- Is responsible for procurement and contractor/supplier management based on the “know your supplier” principle which includes Third Party Reference check to ensure that contractors does not appear on the US Office of Foreign Asset Control (OFAC) list, UK Treasury lists, EU proscribed lists and UN sanctions lists;

- Is responsible for administering Ethical Procurement Policy for suppliers. - Is responsible for controlling the use of YTP assets and stocks through internal control mechanism at area, capital and HQ levels and performed on a daily basis and reported from field to HQ on a monthly basis as detailed in the Logistics Manual.



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YTP Project Unit is responsible for

- Due diligence and selection of partner organizations;
  - Training and oversight of partner organizations (with support of above departments); - Project cycle management, incl. monitoring and evaluation to improve the relevance, quality and accountability of YTP's programs;
  - Ensuring beneficiaries are screened and vetted in line with pre-established beneficiary selection criteria;
  - Management of the beneficiary complaints and response mechanism. YTP Legal Department is responsible for:
    - Compliance with YTP procedures including Anti-Fraud and Corruption Policy. YTP Audit Department is responsible for:
      - Monitoring of this policy and adherence by staff, volunteers, partner organizations and contractors to this policy;
      - Providing an independent assurance perspective with regard to all YTP operations. 8
- REPORTING In case of suspected terrorism related activity any YTP staff member is encouraged to report to: [admin@yantaro-project.org](mailto:admin@yantaro-project.org) or to the Supervisory Body that will:
- Investigates according to YTP's Anti-Fraud and Whistleblowing Policy and take action accordingly;
  - Notifies the donor immediately if any link is discovered between funds, an assisted organization and terrorist related organization.

**This policy was endorsed by the YTP Executive Board on 18 March 2021 9**



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## ANNEX 1

### **International**

UN Security Council Resolution (UNSCR) 1373 obliges Member States to prevent terrorist financing (freezing assets, criminalizing fund-raising and economic support to terrorist activities) and improve judicial cooperation and border controls. The Resolution also created the new Counter-Terrorism Committee (CTC) to monitor its implementation. - UNSCR 1267 (sanctions list covering Al Qaeda, Taliban and associates)

[http://www.un.org/sc/committees/1267/aq\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml) - International Convention for the Suppression of the Financing of Terrorism (the “Terrorism Financing Convention”) - Financial Action Task Force (Special Recommendation 8 in International Standards On Combating Money Laundering And The Financing Of Terrorism & Proliferation: The FATF Recommendations, February 2012)

### **United States of America (USA)**

- Note: UN terrorist lists apply for sanctions. National list of Foreign Terrorist Organizations (FTOs) maintained. Individuals and organizations subject to two specific Executive Order sanctions regimes: Executive Order 13224 and Executive Order 12947. Sanctions administered by OFAC (Office of Foreign Assets Control)  
<http://www.treasury.gov/resourcecenter/sanctions/SDN-List/Pages/default.aspx> ♣  
USA Patriot Act
- The USA (Uniting and Strengthening America) Act 2001 is an expansion of the Foreign Intelligence Surveillance Act (FISA) 1978.
- Executive Order 13224 Blocking Property and prohibiting transactions with persons



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Certification (ATC) confirming that they do not provide material support or resources to any terrorist individual or entity. (The ATC derive from Executive Order 13224) •

Executive Order 12947 Prohibiting Transactions with Terrorists who Threaten to Disrupt the Middle East Peace process

### **The Gambia**

- In 2012, The Gambia enacted an Anti-Money Laundering and Combating of Terrorism Financing Act.
- In 2014, The Gambia ratified the United Nation's 1999 International Convention for the Suppression of Financing Terrorism.

### **International Regulations**

#### United Nations

The strategic lines of the fight against financing international terrorism, in the guiding principles, have been defined by the UN in 1999 in the New York Convention, with which for the first time the distinctive importance of the subject was recognized; in drawing up the Convention, the bases were established for the penal repression of the phenomenon, and for the extension to the same of the preexisting system of units for overseeing and contrasting of money laundering.

In the same year the UN Security Council Resolution n. 1267/1999 introduced as an added measure, specific to the fight against terrorism, a procedure for “freezing” the funds and economic resources held by people linked to the Al-Qaeda terrorist network, according to a black-list managed by a specific committee (Sanctions Committee); later the 1373/2001 Resolution widened the scope of the freezing lists system, extending it to further lists, managed directly by the member States, of people suspected of belonging to or supporting terrorist organizations.



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The UN adopted two new resolutions against Al-Qaeda (1989/2011 Resolution) and the Talibans (1988/2011 Resolution), formerly governed by a single Security Council Resolution (1267/1999). Procedural guarantees protecting people listed were reinforced, increasing the transparency of the procedures of listing and delisting, and the role of the Ombudsperson was reinforced whose remit includes the evaluation of requests for delisting.

The UN Resolution 2178/2014 of the 24th September, S/RES/2178 (2014), Threats to peace and international security caused by terrorist acts, resolution against Daesh, obliges the States to adopt a series of measures to face up to foreign terrorist fighters and requires the signatories to “prevent and suppress the recruitment, organization, transport and equipping” of foreign fighters, in order to dismantle the organization of Daesh.

#### Community Regulations.

The UN Security Council Resolutions have been adopted by the European Union with two distinct Council measures: the CE n.337/2000 Regulation (later abrogated by the CE n.467/2001 Regulation, in turn substituted by the CE n.881/2002 Regulation) issued to enact the 1267/1999 Resolution, for the names designated by the UN Sanctions Committee; the CE n.2580/2001 Regulation, issued to enact the 1373/2001 Resolution, for further designated names within the jurisdiction of the European Union, proposed by the relevant authorities of the various countries.

In the following years, freezing measures analogous to those envisaged for terrorists have been applied by the European Union, following input from the UN, to sanction the governments of countries accused of serious violation of Human rights, or of threatening international peace and security; this latter case includes countries involved in proliferation of weapons of mass destruction, at the heart of a wider packet of restrictive measures (see the section dedicated to opposing proliferation programs).

- EU Regulation n.2015/847 concerning informational data included in fund transfers, to the end of guaranteeing uniform application of the international regulations in the fight against money laundering and financing terrorism (in abrogation of (CE) n. 1781/2006).





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- EU directive N° 2015/849, dated 20 May 2015, by the European Parliament and Council, establishes common regulations to prevent the use of the Union's financial system for money laundering or financing terrorism. Besides this preventive measure, financing terrorism should be punishable in the member States. Not only financing of terrorist acts should be classified as crime, but also financing terrorist groups as well as other crimes connected to terrorist activities, such as recruitment and training, or travel for terrorist purposes. Such measures could contribute to the dismantling of support structures that facilitate commission of terrorist crimes.

- EU Directive 5 July 2016, COM(2016)/450 Final – which modifies the (EU) directive 2015/849 concerning the prevention of use of the Union's financial system for money 13 laundering or financing terrorism. The aim of the directive is to reinforce the fight against money laundering and financing terrorism.

- EU Directive 15 March 2017 n. 2017/541/UE - GUUE 31 March 2017, n. L 88, on the prevention and repression of international terrorism. The objectives are drawn up on the subject of the fight against terrorism for the member states. Member States must commit to introducing specific crimes in the fight against terrorism.

### GAFI Recommendations

In the course of the plenary session held a few days after the 11 September attacks on New York (29 and 30 October), GAFI widened its mandate on contrasting the financing of terrorism, developing the regulations and guiding principles to fulfil the UN resolutions. On that occasion it released 8 Special Recommendations (9 from 2004) specifically concerning financing of terrorism. The Special Recommendations, as well as supplying guidelines for implementing the UN Resolutions, have defined a few regulatory standards to better safeguard on a regulatory level those sectors considered to be most exposed to the risk of financing terrorism (money transfer services, cross border credit transfers, cash transfers, nonprofit Organization's operations). The Special Recommendations were merged in February 2012 in the new 40 Recommendations which include in their field of application the prevention and opposition to



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money laundering, to financing terrorism and to financing proliferation programs of mass destruction weapons.



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## **Child Abuse and Neglect Policy**

### **1. Purpose**

To inform all employees of the YTP of the requirement to report suspected child abuse (including sexual abuse and/or exploitation) or neglect and to inform employees of their immunity from civil liability or criminal penalty for reporting. To establish procedures to be used by all employees of the School in making oral and written reports to the appropriate authorities of suspected cases of child abuse or neglect. To protect children from abuse and neglect.

### **2. Who Must Report**

Any employee of the YTP (the “Reporter”) who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child (as defined below) by any parent, guardian, adoptive parent or other person who has permanent or temporary care or custody or responsibility for the supervision of a child (including, without limitation, school employees), or any household or family member of such child, shall make a report as directed below.

Such a report must also be made if a Reporter knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being the victim of sexual abuse or attempted sexual abuse as prohibited by the Childrens Act, 2005 of The Gambia. Code; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute; or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, An employee must act on the basis of any reasonable information and belief. The law gives the Reporter very little latitude.

Any report required to be made under this Policy shall be made as follows:

1. The Reporter shall immediately notify and give all information required below to the person in charge of the institution (the “Head”) or, if the Head is unavailable, to his or her designated agent (the “Designee”). [NOTE: The YTP could choose to have more than one designee.] a. If the Head and the Designee are not immediately available but will be available later during that same school day, the Reporter shall wait to make the report required above to the Head or the Designee as soon as they are available.

b. If neither the Head nor the Designee will be available later during that same school day, the Reporter shall follow the directions in Step 3 below.

2. After being notified, the Head or Designee shall immediately make an oral report of the case to the Children's Courts in all Divisions and Police Child Welfare Units a. The Head or Designee shall also make a written report of the case if requested by the agency or the police department or if the abuse involves drug-related activity. b. The fact that the Reporter notified the Head or Designee does not relieve the Reporter from his or her duty of having a report made promptly to the police department or the agency. Therefore, the Head or Designee shall inform the Reporter immediately after making the report to the agency or to the police department. If the Reporter does not hear from the Head or Designee by the end of the school day that such a report was made, the Reporter shall check with the Head or Designee to see if such report was made. If the Head or Designee did not make such report, the Reporter shall make the requisite oral report. 3. If neither the Head nor the Designee will be available during that same school day, the Reporter shall make the requisite oral report without waiting to notify the Head or the Designee.

### 3. Contents of Written Report

Each oral or written report made under this Policy shall include, but need not be limited to, the following information if it is known to the person making the report:

- The name, age, sex, and address of the following individuals:
  - o The child who is the subject of the report;
  - o Each of the child's siblings and other children in the household; and
  - o Each of the child's parents or other persons responsible for the child's care;
- The nature and extent of the abuse or neglect of the child and any previous abuse or neglect, if known;
- All other information which the person making the report believes may be helpful in establishing the cause of the abuse or neglect and the identity of the person responsible for the abuse or neglect; and
- If the source was required to report under this Policy, the identity and occupation of the source, how to contact the source and a statement of the actions taken by the source concerning the child.

### 4. Immunity

Any person participating in good faith in the making of a report pursuant to this Policy shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report. Any such participation shall have the same immunity with respect to participation in any judicial proceeding involving the report. In all civil or criminal

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proceedings concerning the child or resulting from the report good faith shall be presumed unless rebutted.

5. Penalty Gambia law penalizes the willful failure to make a required report, including a fine of not more than D50,000 or imprisonment for not more than 90 days or both.

## 6. Definitions

Under this Policy, an abused or neglected child means a child (i.e., any individual under the age of eighteen (18) years) who has experienced the following: the failure to provide proper supervision, control, subsistence (including food, clothing, shelter, or medical care), education as required by law, or other care necessary for healthy development;

See the following 2 pages for more information regarding definitions and punishments

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## THE CHILDREN'S ACT, 2005

The Children's Act of The Gambia has been effective since 2 August 2005. This landmark piece of legislation brings together all the laws relating to children, sets out the rights and responsibilities of children and provides for their care, protection and maintenance.

The Act says a child is any person under the age of eighteen years and regards child abuse as any violation of the rights of a child which causes physical or mental harm to the child.

The Act aims to protect children through several important provisions or Articles which the public should know about:

- The best interest of the child should be the primary consideration in any matter concerning him or her.
- The act applies to all children residing in The Gambia, regardless of nationality. ➤ stipulates the responsibilities of children towards their parents, elders, community and country
- prohibits social and cultural practices that affect the welfare, dignity, normal growth and

development, and life and health of a child or are discriminatory to the child on the grounds of sex.

- provides for the establishment of Children's Courts in all Divisions and Police Child Welfare Units Prohibits the engagement of a child in exploitative labour and hazardous work, or labour that deprives the child of his or her health, education or holistic development
- prohibits the media from publishing the identity of a child whose case is before the Children's Court.
- a company, organisation, any body corporate, or its members of staff can be punished for aiding or abetting the sexual abuse and exploitation of children in any form. ➤ makes the protection of children everyone's responsibility.

### **PENALTY FOR THE OFFENDER**

The Children's Act also aims to prevent the sexual abuse and exploitation of children in every form. Therefore, the Act stipulates severe penalties or punishment for any person who plays a part, small or big, in the sexual abuse and exploitation of children.

These penalties are as follows:

- For a person who exports or imports children for the purpose of prostitution (Section 26)

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The punishment is life imprisonment for any person who seduces or forces a child into having sexual intercourse with another person or for immoral purposes (Section 27)

The punishment is 10 years imprisonment without an option of a fine.

- For any person who takes away a child or detains that child so that he or she will be sexually assaulted or married off (Section 28)

The punishment: is imprisonment for ten years without an option of a fine.

For any parent, guardian, custodian or carer who encourages or causes the seduction, prostitution of, sexual assault, or indecent assault on a child under his or her care (Section 29)

The punishment is ten years imprisonment

For any person who procures a child for prostitution or to have sexual intercourse with anyone within or outside The Gambia (Section 30).

The penalty is imprisonment for fourteen years without an option of fine.

- For any person who organises, promotes or encourages foreign travels which promote child prostitution (Section 32)

The penalty is a fine of not less than D200, 000 or imprisonment for a term not exceeding ten years, or both the fine and imprisonment.

- For any person who detains or confines a child in order for him or her or other person to sexually abuse or assault that child (Section 33).

The punishment is ten years imprisonment.

- Any person who, through threats, deceit, or intimidation procures a child for sexual intercourse with someone or an animal, uses a sex gadget or device on a child or administers drugs or a substance to a child with the intention to overcome and have sex with that child (Section 34)

The penalty is a fine of D500, 000 or ten year imprisonment or both the fine and

imprisonment. ➤ For a person who buys, sells or hires a child for immoral purpose (Section 37)

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The punishment is fourteen years imprisonment

- For any person who causes or encourages the seduction or prostitution of a child, keeps a brothel, permits the defilement of a child in a person's premises; allows a child to be in a brothel; trades in prostitution; procures, uses or offers a child for the production of pornography or for pornographic performance; or procure a child into prostitution (Section 38)

The punishment is ten years imprisonment.

- For a person who traffics a child for sexual exploitation or for any other form of exploitation (Section 39)

The punishment is life imprisonment

- For any person who exploits a child in any other form or way that is prejudicial to the welfare of the child (Section 58).

The punishment is a fine not exceeding D50, 000 or imprisonment for a term not exceeding five years, or to both fine and imprisonment.

For a person who imports any harmful publication such as a book, magazine, film, picture, video

or audio tape which is bad for the moral development of children (Section 60)

The punishment is a fine of not less than D50, 000 or imprisonment for a term of not less than three years or more than five years or to both fine and imprisonment.

For any person who prints, publishes, sells, hires or possesses any harmful publication, commits an offence (Section 61)

The punishment is a fine of D50, 000 or imprisonment for a term not exceeding three years or to both the fine and imprisonment.

Any corporate body that commits or whose director, manager, secretary, or any officer is found guilty of the sexual abuse or exploitation of a child in any form will be punished accordingly (Section 65)

Remember that.....

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The Children's Act defines a child as any person under the age of 18 years of age.

The Children's Act protects all the children in The Gambia without discrimination.

The best interest of the child shall be the primary consideration in any matter that affects or concerns a child.

Everyone has a duty to report to either the Police or Department of Social Welfare any case of child abuse or the violation of the right of any child that he or she knows about.

It is against the law to sexually abuse or exploit a child in any form or even encourage it, to keep a brothel or allow a child to be in your brothel.

The Children's Act takes child abuse and exploitation very seriously and punishes **WITHOUT MERCY OR RESPECT FOR POSITION IN THE SOCIETY. BE VIGILANT: CHILD PROTECTION IS EVERYONE'S RESPONSIBILITY. YOU HAVE A CHOICE - PROTECT OR GET PUNISHED.**