

PHILANTHROPIC GIFTS AND DONATIONS POLICY

Introduction and overview

Philanthropic support from individuals, trusts and companies can be transformational in adding value to the work of Northumbria University, enhancing the student experience through the support these donations can provide.

The 2018 Ross-CASE Report stated that philanthropic giving to Higher Education in the UK has shown significant growth over the past 15 years. Donations typically support buildings, land, equipment, staff appointments, scholarships, bursaries and other academic activities. On this basis, it is important that HEIs have a clear and effective framework in place for the acceptance of philanthropic gifts.

Following the publication of the findings of the Woolf Report in 2011, HEIs are under increasing scrutiny in relation to the governance and ethical framework in place for the acceptance of gifts and donations. This has been made even more apparent since the introduction of additional legislation in relation to charities following the findings of the Etherington Report in 2015 and the introduction of the Fundraising Regulator and the new General Data Protection Regulations.

With an increased understanding of the value of philanthropic giving to UK Higher Education both by donors and the institutions, there is a need for adequate governance procedures, including due diligence, for the acceptance of philanthropic gifts.

Philanthropic gifts are made without any expectation of return by the donor, so it is important when accepting a gift that the University deals correctly with both the acceptance and investment of the funds received. It is also important that any limitations to the use of a donation are understood and agreed by both parties.

When accepting major gifts, the University needs to consider carefully who it accepts gifts from, and for what purpose, whether this is the fundraising professionals in the University's Advancement Office or other members of the University staff or volunteers.

There needs to be clear agreement on how the donation must be used. Advancement will draw up appropriate documentation, including a formal gift agreement where necessary, and ensure that the donor is stewarded, suitably acknowledged and updated on progress.

This Policy has been adopted pursuant to paragraph 42.2 of the University's Financial Regulations (October 2017) and will be reviewed every two years.

Section A: Definitions and legislative context

A1 Definitions

- A1.1 Philanthropy is defined as ‘the desire to promote the welfare of others, expressed especially by the generous donation of money to good causes’. Philanthropic gifts are made without any expectation of return by the donor, although this does not mean that the University has an obligation to accept a donor’s gift. If it turns out that the donor in fact wishes to receive a material benefit in return for the gift, Legal Services should be consulted.
- A1.2 The Council for Advancement and Support of Education (CASE) describes philanthropy as a ‘voluntary exchange in which values and aspirations of donors are matched with the values and aspirations of those they benefit’.
- A1.3 A range of items may be given to the University as philanthropic gifts including money, property, books, art/artefacts and stocks, shares and securities. The Guidance Notes for the Acceptance of Charitable Donations provide details of specific considerations around such items.
- A1.4 A “verifiable pledge” is a commitment to do something (in this case, donate a physical item or funds) that is signed and dated on a Northumbria University approved pledge form, by the person making that promise.

A2 Legislative and regulatory context

- A2.1 As a higher education corporation under the Education Reform Act 1988, the University of Northumbria at Newcastle is an ‘exempt’ charity as defined in Section 22 and Schedule 3 of the Charities Act 2011. Northumbria University is required to comply with requirements of charity law and other relevant legislation as well as its governing documents and the provisions of its own policies and procedures, including in relation to the receipt and expenditure of philanthropic gifts. Although the University’s principal regulator for charity law purposes is the Office for Students (rather than the Charity Commission), the Charity Commission’s published guidance is useful in setting out the relevant legal requirements.
- A2.2 Ultimately, the Board of Governors, as charity trustees of the University, must be able to demonstrate that they have (i) acted in the best interest of the University, including by managing any potential conflicts of interest, (ii) protected the University’s assets, including its name and reputation, and (iii) acted with reasonable care, skill and prudence. This therefore includes being able to demonstrate whether the University’s interest would be better served by accepting or refusing the donation, and acting accordingly.
- A2.3 Further relevant guidance is given in the document ‘Guidance Notes for the Acceptance of Charitable Donations’.

Section B: Scope and application of this Policy

B1 This Policy applies only to philanthropic gifts and does not cover small or token gifts received by the University or its staff, that are covered by the University's Gifts and Hospitality Policy. This Policy applies to:

- i. all staff, governors and third parties acting on behalf of the University and
- ii. all University activities undertaken in the UK and overseas.

Philanthropists may occasionally gift or donate items to the University for a specified time (e.g. under a Loan Agreement). In such cases, the due diligence protocols outlined in this Policy remain valid and should be applied.

The Policy does not apply to NU Nursery or Northumbria Students' Union.

B2 The University's approach to philanthropic gifts

B2.1 The University will operate and maintain procedures around the management of philanthropic gifts, to maintain a high standard of governance, by ensuring:

- a) clear roles and responsibilities regarding fundraising and the management of philanthropic gifts, including the application of ethical considerations as standard;
- b) conducting due diligence in accordance with the procedures detailed in the Guidance Notes on donors and items proposed for donation;
- c) that philanthropic gifts from anonymous donors are treated with caution, and that an appropriate level of ethical scrutiny and due diligence informs any judgement to accept or decline any gift from an anonymous donor;
- d) adequate training for key staff involved in prospecting and handling philanthropic gifts;
- e) that appropriate records are kept of all philanthropic gifts, including offers subsequently declined or withdrawn.

B2.2 A philanthropic/charitable donation made in support of University activity does not imply or require the promise or conferral by the University of any deliverable, financial benefit, or control to the donor in return for a gift. The gift must be owned in full by the University once it is received.

B2.3 Gift management is provided by Advancement, working closely with Finance and Legal Services, to ensure that the necessary audit trail is in place and relevant background research is undertaken.

B2.4 In undertaking due diligence, proportionality is key and linked to the factors including the standing and status of the individual or body making the donation, the type and level of donation and the necessary costs and resources associated with due diligence. The University will have regard to the rights of the prospective donors and will seek to distinguish between rumour or speculation about the proposed item or the donor (including those associated with the donor) and

matters of confirmed fact or legal finding.

B3 Implementing the Policy

B3.1 Policy responsibilities

Whilst the responsibility for the acceptance and refusal of gifts rests ultimately with the Board of Governors, in most instances decision making is delegated to the Vice-Chancellor and Chief Executive who will also in turn operate an onward scheme of delegation within the University.

- a) The Marketing Director is the University Executive member responsible for the management of philanthropic gifts, with executive management responsibility for the work of Advancement.
- b) The Assistant Marketing Director & Head of Advancement has delegated responsibility for the day to day operation of this policy, ensuring that due diligence is undertaken and providing all available relevant evidence for and against acceptance or rejection of a particular gift.
- c) Members of the University's Due Diligence Group, including representatives from Governance, Finance and Legal Services, will provide advice on (i) proposed gifts over £50K (including a series of gifts exceeding £50k in aggregate) and/or (ii) proposed gifts of any value which present higher or unusual risks (e.g. ethical or reputation risks, concerns over the source or provenance of donated items) or (iii) as otherwise required by the Marketing Director, Finance Director, Assistant Marketing Director & Head of Advancement or University Executive. The recommendations of the Due Diligence Group will be referred to the Head of Governance in the first instance to provide an independent steer to the Marketing Director or University Executive (depending on the value and potential risks associated with acceptance and refusal of gifts) on the outcomes of the due diligence. This may include working with the Marketing Director to consult with the Vice-Chancellor and Chief Executive, who may in turn choose to consult with the Board of Governors before deciding whether to accept or decline a particular gift.
- d) Finance Services will advise in respect of the supporting documentation required for finance and audit purposes and will also advise on how and where the gift should be recorded within the University's general ledger.
- e) Legal Services, where appropriate, will assist the Advancement Office with the preparation of Gift Agreements and/or similar legal documents.
- f) The University Executive has collective executive management responsibility for the acceptance of gifts and donations within the thresholds set out in **Schedule 1** (Appendix A) of this document. It is the responsibility of the Vice-Chancellor and Chief Executive to consult the Board of Governors in respect of gifts which exceed the £100k threshold (including any series of gifts exceeding £100k in aggregate), or on any other level of value of gifts where reputational or other legal risks are associated with acceptance or refusal of any particular gift.

B3.2 Recommendations will be made in line with the University's scheme of delegation for the acceptance of gifts as per **Schedule 1** (Appendix A) of this document.

- B3.3 Appropriate and proportionate due diligence arrangements are essential to ensure the University accepts philanthropic gifts only from those entitled to give them and where acceptance will not present unacceptable risks to the University's objectives or position. This includes taking appropriate and proportionate steps to identify the donor.
- B3.4 Circumstances may arise when the University is legally required or morally obliged to return any gift it has accepted. If such circumstances might reasonably arise, Legal Services should be consulted.
- B3.5 If appropriate, Legal Services may be asked to seek statutory advice or an order from the Charity Commission (having consulted with the Office for Students) advising or authorising the University to take or refrain from taking a particular course of action in relation to the acceptance, rejection or return of a particular gift or proposed gift.
- B3.6 Furthermore, if there are concerns about whether a donation is illegal or fraudulent, or whether the University is potentially being used for illegal or fraudulent purposes, Legal Services should be consulted so that, if appropriate, the University can review this in light of relevant policies (e.g. Counter Fraud and Bribery Policy) and/or report its concerns to the relevant authority.

B4 Expectations of University staff and third parties

- B4.1 General expectations of university staff and third parties acting on the University's behalf include:
- a) All University staff and volunteers who are seeking to raise funds in the University's name must work in partnership with Advancement.
 - b) To follow the University's guidance on ethical acceptance of philanthropic gifts and to undertake all training associated with this Policy;
 - c) To maintain confidentiality about philanthropic gifts to the University, including any proposed gifts which are subsequently withdrawn or declined, unless otherwise required by law.

Section C: Record Keeping considerations

C1 Record Keeping

- C1.1 Appropriate written documentation will be prepared for all accepted gifts. A formal gift agreement, between the donor and the University, which clarifies ownership issues and confirms the terms and conditions of the donation, will be prepared as required with assistance from Legal Services. This will be signed in accordance with the Approvals Process outlined at **Schedule 1** (Appendix A) of this document.

Copies of all gift agreements will be held by Advancement, with Legal Services retaining the original copy of any Gift Agreements over £25K.

Advancement will keep a register of all philanthropic gifts, whether accepted, withdrawn or declined, and the purpose for which these were offered to the University. An audit trail of the rationale for the decision to accept or reject a gift should be maintained.

- C1.2 Records of all due diligence checks undertaken will be kept for a minimum of six years.
- C1.3 Records will generally be subject to the Freedom of Information Act 2000 and therefore (subject to any statutory exemption) disclosable to the public on request. Documents and information may also be disclosable to the University's regulators or the courts, for example. If it is decided to accept a potentially sensitive gift or a donor reasonably requests privacy, Legal Services should be consulted about whether and, if so, how to reduce the reputational risk of public disclosure or to protect a donor's privacy insofar as is legally possible.

Section D: Further guidance about the Ethics Policy for Philanthropic gifts

For general guidance on the application of this Policy, please contact:

- Assistant Marketing Director & Head of Advancement or
- Fundraising Managers

Related University Policies

Other relevant policies linked with this Policy include:

- a. Financial Regulations
- b. Counter Fraud and Bribery Policy
- c. Anti-Money Laundering Policy
- d. Disclosure and Conflicts of Interest Policy
- e. Naming of Buildings Policy
- f. Gifts and Hospitality Policy
- g. Special Collections Policy

Relevant External Policy Guidance

- Woolf Report October 2011 <http://www.woolfse.com/dl/woolf-lse-report.pdf>
- Charity Commission, Charity fundraising: a guide to trustee duties <https://www.gov.uk/government/publications/charities-and-fundraising-cc20/charities-and-fundraising>
- CASE Europe: ethical principles behind the acceptance of gifts http://www.case.org/Public_Policy/Europe.html
- Institute of fundraising, Acceptance, refusal and return: A practical guide to dealing with donations <https://www.institute-of-fundraising.org.uk/library/iof-acceptance-refusal-return-guidance/>

- Fundraising Regulator, Code of Fundraising Practice and Legal Appendices
<https://www.fundraisingregulator.org.uk>

**** Associated Procedure & Guidance Notes**

- Donation Form for cash gifts/verifiable pledges (Advancement)
- Guidance Notes on the Acceptance of Charitable Donations (Advancement)
- Art Provenance Questionnaire (Advancement)

Schedule 1 - Approvals Process

The Assistant Marketing Director & Head of Advancement is responsible for day-to-day governance processes, including due diligence, for the acceptance of philanthropic gifts (see **Guidance Notes for the Acceptance of Charitable Donations**).

Every individual gift/verifiable pledge will be subject to standard background research and Standard Due Diligence undertaken by the relevant Fundraising Manager within Advancement. Such gifts will be recorded on a donation form, saved on the Advancement database and copied to Finance.

If the Development Co-ordinator (Prospect Research and Proposals) identifies questions or concerns about the donor or donation, these will be raised with the appropriate Fundraising Manager to decide on the next action.

Examples of areas of concern might include:

- Companies or individuals involved in arms manufacture, tobacco, alcohol, gambling, pornography, fossil fuels and others
- Companies or States which have attracted widespread public criticism such as child labour, human rights or environmental responsibility
- Significant gifts from current or prospective students and/or persons known to be in a close familial or personal relationship with a current or prospective student or partner.

Any gift that is not recommended for acceptance will be taken to the Head of Governance and Assistant Marketing Director & Head of Advancement by the Fundraising Manager and the concerns articulated so that a plan of action can be decided upon.

The delegated limits for acceptance are:

<i>Level of Donation</i>	<i>Approval body/individual(s)</i>	<i>Involved Parties</i>
<i>More than £100k</i>	<i>Board of Governors consulted at the discretion of the Vice-Chancellor and Chief Executive</i>	<i>Enhanced Due Diligence required.</i>
<i>More than £50k up to 100k</i>	<i>University Executive</i>	<i>Enhanced Due Diligence required. See B.3.4 of the Policy</i>
<i>More than £10k up to 50k</i>	<i>Marketing Director</i>	<i>Standard Due Diligence required</i>
<i>£5k up to £10k</i>	<i>Assistant Marketing Director & Head of Advancement</i>	<i>Standard Due Diligence required</i>
<i>Less than £5k</i>	<i>Assistant Marketing Director & Head of Advancement</i>	<i>-</i>
<i>Gifts of any value which present concerns following due diligence checks</i>	<i>Considered by Head of Governance, who will decide on required approval route and any additional due diligence requirements.</i>	<i>Enhanced Due Diligence may be required even if value is not more than £50k.</i>

<i>Gifts of any value which are proposed to be made subject to onerous, unusual or extreme terms and conditions</i>	<i>Considered by Head of Governance (having consulted with Legal Services), who will decide on required approval route and any additional due diligence requirements.</i>	<i>Enhanced Due Diligence may be required even if value is not more than £50k.</i>
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Where a donor or linked donors have made, or propose to make, a series of gifts, it may be appropriate to consider the aggregate value of those gifts for the purposes of approving those gifts or the latest gift.

Where background research and/or due diligence raises any concerns in respect of the risk to the University of accepting the gift, the matter should be referred to the Head of Governance regardless of value. Similarly, where a donor proposes to make a gift but subject to onerous, unusual or extreme terms and conditions, the matter should be referred to the Head of Governance regardless of value, who will consult with Legal Services.

The approval body/individual(s) will ensure that a written or electronic copy of the signed minutes, email or document recording the approval is retained in accordance with this Policy.

Subject to approval, any or either of the individuals identified above as the approval body/individual(s) shall be authorised to sign the Gift Agreement and/or similar legal documentation. All requests for signature should be addressed within two weeks apart from the largest level of gifted items.

Schedule 2 – Due Diligence Levels

The level of due diligence to be carried out (i.e. either Standard or Enhanced) will depend on the circumstances but the following risk factors will trigger the application of Enhanced Due Diligence:

- all donations greater than £50K;
- donors (or persons associated with any donors) who are identified as PEPs (Politically Exposed Persons);
- donors who are domiciled in a high Anti-Money Laundering (AML) risk territory or which is subject to international sanctions (including UK, EU, UN or US sanctions) or who are based in a country suffering from war including civil war
- donors (or persons associated with any donors) who may be personally subject to international sanctions.

Where sums of £5k or above are involved, prospects will be subject to **Standard Due Diligence**. This shall include:

- Identity checking - a review using sources which confirm a prospect's identity e.g. Raiser Edge (for alumni), TraceSmart, Charity Commission, Companies House and FAME
- Checking for high risk indicators – an internet search using the prospect's name and the following terms: tax evasion, fraud, human rights, falsification, falsification of academic research, bribe, bribery, controversy, crime

- Biographical information search – desk research looking at standard biographical information e.g. family members, career history
- News source review – broader reading of news sources regarding the prospect, seeking background information and any indications of controversy
- Business database check – a check on business databases (e.g. FAME and Hemsco) to analyse how a prospect acquired their wealth, including analysis of subsidiary companies, and to identify potential conflicts of interest
- Charity Commission review – a check of the charitable organisations linked to the prospect using the Charity Commission website
- Public records check – a search of online court papers for outcomes of legal proceedings involving the prospect and/or associated companies
- Bankruptcy and court judgement check – a search using databases e.g. Tracesmart to locate any bankruptcy or court judgements

Where sums in excess of £50k are involved or other risk factors are apparent, prospects will be subject to **Enhanced Due Diligence** (in addition to Standard Due Diligence). This shall include:

- A compliance check report, available from Finance;
- Further internet search – further search engine research to locate possible connections to persons of disrepute e.g. fraudsters, criminals or controversial figures

For the avoidance of doubt, the “know your donor” principle does not mean that the University cannot accept anonymous donations. This is acceptable provided that the University takes reasonable steps, as set out in this Policy, to look out for suspicious circumstances and puts adequate safeguards in place. Similarly, the University’s responsibility is not to work out whether a donation is illegal or if it is being asked to accept a donation for illegal purposes. However, the University should carry out good due diligence, escalate concerns internally and report suspicious activities to the relevant authorities in accordance with this Policy.

Version Control			
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