

GIFT ACCEPTANCE POLICY

1. Purpose

- 1.1 The Community Foundation is proud that donors choose it as the route for their philanthropy. The purpose of this policy is to set out for donors the basis on which the Foundation accepts gifts to support them to give effectively.

2. Introduction

- 2.1 The Community Foundation is a registered charity (number 700510) and limited company (number 2273708) benefiting communities particularly, although not exclusively, in Tyne & Wear and Northumberland. It is governed by a board of trustee directors. A staff team led by the Chief Executive has delegated responsibility for day-to-day activities.
- 2.2 The Foundation nurtures philanthropy, engages partners and builds a culture of giving to benefit our area now and for generations to come. This is done mainly through donors establishing, growing or contributing to charitable funds at the Foundation.
- 2.3 The principal fund type is the **named fund** set up by an individual, a family or an organisation, often in the donor's name or that of someone or something with whom they feel closely associated. Alternatively the fund can be anonymous. **Theme and affinity funds** are an alternative type of named fund supported by one-off or regular gifts from a number of donors who share a common interest.
- 2.4 Donors may set up a named fund with a gift of a minimum value set by the board from time to time. There are two models for named funds:
 - **Endowment funds:** the gift is held as capital and invested within the Foundation's endowment. The investment return provides revenue which is used to support charitable activities each year in perpetuity.
 - **Annual (or flow-through) funds:** the gift is held as cash and treated entirely as revenue to support charitable activities in the year ahead.

3. Legal and fiscal context for gifts

- 3.1 A fund at the Community Foundation is not a distinct legal structure like a charitable trust. It is a vehicle for giving in line with donors' wishes without the administrative or regulatory requirements that would be required of a separately constituted charity. For a **named fund**, a donor gives assets to the Foundation which accounts for them in a separate fund. Depending on the fund's size, the donor may retain the privilege of

setting criteria for the fund's use and recommending grants from the fund's revenue. Depending on the donor's wishes and the fund's size, the fund may be legally restricted if it has specific purposes, or unrestricted if its criteria are general. For a **theme and affinity fund**, several donors' contributions are pooled, but within a fund restricted for an agreed purpose.

- 3.2 Assets donated to establish, grow or contribute to funds at the Community Foundation are irrevocable gifts. They become the Foundation's property (unless specific alternative provision is made in line with paragraph 5.4 below) and its Board carries the legal responsibility for ensuring that donations are used for charitable purposes in line with any restrictions agreed with donors.
- 3.3 Subject to compliance with HMRC regulations, cash donations from UK taxpayers are eligible for Gift Aid, which means that the Foundation can claim an additional 25% of the value of the gift (at current rates). Gift Aid received is added to funds alongside the original donation. Higher-rate taxpayers may be able to claim additional tax relief on their donations.
- 3.4 For the Community Foundation to claim Gift Aid, and for donors to benefit from other tax advantages relating to charitable gifts, the donor must part with ultimate control over the donated asset. Actual or perceived direct control by donors may jeopardise the basis on which gifts are made and the charitable status of the Foundation. Donors and fund advisors cannot therefore act independently of the Foundation in relation to their fund. Donors, fund advisors and related parties (e.g. donor's family members or business interests) also cannot receive any direct private benefit from support from their funds.

4. Advice for donors

- 4.1 The Foundation engages donors living, working or interested in its area of benefit. It recognises that donors have a range of interests, and wants them to make informed choices about their giving. However, its main purpose is to support philanthropy that benefits local causes, and it promotes the case for doing so through funds at the Foundation. However, the Foundation can provide independent advice to donors who want to give in other ways, subject to a consultancy fee.
- 4.2 The Foundation always respects the wishes of potential donors, and never pressures them into one course of action. It will disclose the key issues that could reasonably be expected to influence a donor's decision to make a gift. It will be made especially clear that all donations other than planned gifts (and those outlined in paragraph 5.4) are irrevocable, and that items such as market value and investment return can vary.
- 4.3 The Foundation also recommends that prospective donors obtain independent professional legal and/or financial advice regarding any proposed gift.

5. Types of gifts the Foundation can accept

5.1 The Foundation may accept a variety of donations of assets by living donors made on a one-off or regular basis. All are outright and irrevocable gifts unless the circumstances outlined in 5.4 apply. The Foundation can also accept planned gifts that take effect on the donor's death.

5.2 The Foundation welcomes the following types of outright gifts.

- Cash of any amount, although donations to establish named funds must meet the minimum requirements as set by the board from time to time.
- Publicly traded shares at fair market values. The board will have full discretion over the sale of any gifted shares.
- Land and buildings as long as at the Foundation's discretion they may be sold and/or generate revenue for charitable purposes surplus to any costs.
- Personal property, as long as the items are saleable, and at a value which will offset any costs the Foundation incurs in selling.

5.3 The Foundation may also be named as the beneficiary of planned gifts.

- Residuary legacies – a gift made of some or all of the remainder of an estate after all other gifts have been handed out and debts paid off.
- A pecuniary legacy – a gift made of a fixed sum of money.
- A specific legacy – a particular named item left as a gift in a will, for example, shares, property, jewellery, furniture or a painting.

5.4 The Foundation may accept a donated asset with a condition that some or the entire amount may be returned in the exceptional case where the donor is an institution donating assets comprising its untraceable client/ dormant accounts in line with its own legal and regulatory requirements. In such circumstances, the Foundation can provide an indemnity stating that it will refund any monies that the institution might be liable to pay to a person or body. The indemnity is limited to the book value of the donation received.

5.6 The Foundation may also work with donors who wish to undertake social investment where their gifts are 'recycled' and some or all of the donated assets may ultimately be returned. Such arrangements will be subject to separate policies and agreements.

5.7 The Foundation reserves the right not to accept a gift if the Board determines that the restrictions, liabilities or reputational risks in doing so would be too great or if we have insufficient information on its provenance.

6. Fund options and philanthropy services

6.1 Donors who establish named funds may choose a level of involvement in line with their wishes and the minimum fund values set by the Board from time to time. The options for named funds are set out below.

- **Unrestricted** – the fund’s revenue supports the Foundation’s operating costs, or its general grant-making as determined by the Board.
- **Field of interest** – the fund’s revenue supports the donor’s preferred causes, localities or approaches with grant-making at the Board’s discretion.
- **Donor advised** – the donor, or a named advisor, may nominate groups to receive grants or make recommendations from shortlists prepared by the Foundation in line with their wishes.
- **Panel advised** – as above, but where the donor wishes a panel or committee to recommend grants on their behalf.
- **Agency** – where the fund is set up solely to benefit a named organisation.
- **Designated** – the fund’s revenue supports a series of named organisations each year agreed with the donor at the point it is founded.

6.2 The Foundation will advise on the most appropriate model depending on the level of gift, likely fund revenue and the amount of engagement the donor wishes. Gifts of legally permanent endowment (see 11.2) can usually only be accepted to establish unrestricted, field of interest, designated or agency funds.

6.3 The Foundation will then draw up a **philanthropy agreement** for the fund to cover some or all of the following as appropriate.

- Information and advice for donors on effective giving and local needs.
- A dedicated staff member who will manage the fund.
- Receiving and processing requests for support.
- Assessing and shortlisting suitable projects to receive grants.
- Servicing meetings with fund advisors/panels.
- Awarding grants, then monitoring and reporting on their impact.
- Visits for donors, fund advisors and panel members to funded projects to see the impact of their philanthropy.
- Invitations to take part in seminars on topics relevant to their philanthropy.
- Claiming any Gift Aid eligible and crediting it to the fund.
- Investing the fund capital through professional investment managers.
- Formal reporting on funds within the Foundation’s audited accounts.
- Annual fund statements and impact reports.
- Invitations to the Annual General Meeting and other events.
- Copies of Community Foundation publications, including the yearbook which describes the overall impact of the Foundation’s activities.

6.4 Arrangements may be varied through approved amendments to the philanthropy agreement, and will in any case be reviewed from time to time with the donor/fund advisor.

6.5 The Foundation seeks to assess the impact of its philanthropy and share learning with donors and grantees through reports, publications and seminars.

7. Fund advisors

- 7.1 Donors who establish named funds or provide founding donations to theme/affinity funds may designate themselves and/or anyone else over the age of 18 to be a **fund advisor**. A fund may have more than one advisor, but ideally no more than three. Advisors' privileges include setting and reviewing the fund criteria with the Foundation, agreeing succession arrangements and being engaged in the Foundation's wider work. For **donor advised funds** that continue to meet the minimum market value set by the Board, advisors may also make recommendations on grants. Fund advisors do not, however, play any formal governance or managerial role relating either to the Foundation as a whole or to its funds.
- 7.2 For **panel advised funds** that continue to meet the minimum market value set by the Board, donors may nominate fund **panel members** who must be over 18. **Panel members** may be involved with the fund advisor in making grant recommendations. They do not have the same advisory privileges relating to criteria and succession.

8. Succession arrangements

- 8.1 The Foundation recommends that donors with **named endowment funds**, and/or their fund advisors, determine arrangements for how they wish their fund to be managed following their death, or when they are no longer willing or able to act as advisors. This includes, for corporate donors, circumstances where the company ceases trading or is taken over.
- 8.2 Donors/advisors who wish the Foundation to continue to maintain a separate, named fund may choose **one** of the following options.
- i) Designate the Foundation's unrestricted Vital Funds for Tyne & Wear and Northumberland, another theme/affinity fund, or its operating fund as the recipient of future revenue. The Foundation will honour such an arrangement by maintaining the separate named fund in perpetuity, but it retains the right to transfer fund revenue to the closest equivalent theme/affinity fund should the one chosen be closed for any reason.
 - ii) Give discretion to the Foundation to continue awarding grants in line with the wishes and restrictions set out in the philanthropy agreement. The Board will from time to time determine a level of fund value at which this arrangement can remain in perpetuity (currently £1m). Below this level, the Foundation will honour the arrangement for 25 years, after which it will continue to maintain a separate named fund, but transfer its revenue to the Vital Funds as in (i) above.
 - iii) Nominate one or more **successor advisors**, who must be over 18 at the time they succeed, and willing to act in this capacity, to take over their advisory privileges. Successor advisors do not play a formal governance or managerial role and must accept that the original donation is irrevocable. Successors may not recommend changes to the fund purposes unless permission is explicitly given by the founding donors/advisors in the philanthropy services agreement.

8.3 Successor advisors, where appointed, normally act in the role for one generation. However, further generations of successor advisors can be nominated in the following circumstances.

- i) Where the first generation successor advisor makes **additional gifts** to the fund at least equal in value to the current minimum amount set by the Board to establish a named fund, they may nominate one further generation of successor advisors.
- ii) Where the fund value is over a minimum amount set by the Board from time to time (currently £1m), successors can continue to nominate further generations of successor advisors.

8.4 Succession arrangements must be detailed in the philanthropy agreement. Requests to modify arrangements must be communicated to the Foundation in writing, and a written acknowledgement received confirming the request has been approved. If a donor does not make any succession arrangements, the assets of the fund remaining following their death will transfer to the Foundation's unrestricted Vital Funds to support grant-making in line with community needs.

9. Regular and one-off donations

9.1 The Community Foundation welcomes gifts from donors who, rather than establishing named funds, wish to make one-off or regular gifts. The options are:

- to contribute to a particular theme or affinity fund;
- to designate support for one or more named charities;
- to make an entirely unrestricted gift.

9.2 Known donors who make one-off or regular gifts to support theme or affinity funds will receive a thank-you letter including the details of a staff member to contact about the fund and asking them if they wish to be kept informed, once a year, about the impact of grants made from the fund.

9.3 Unrestricted one-off or regular donations may be used by the Foundation to support its operating costs, theme or affinity funds or particular projects and programmes at the discretion of the Board.

10. Donor recognition and membership

10.1 The Foundation will acknowledge donors appropriately, and publicise their involvement in line with their wishes. Donors may remain anonymous if they prefer. In all cases, the Foundation will keep the details of its particular agreements with donors confidential, subject to its legal and regulatory accounting requirements.

10.2 As a limited company, the Foundation has a formal membership structure. Individuals, voluntary groups, businesses and public bodies in Tyne & Wear and Northumberland are all eligible to become members. Members have the right to elect/nominate

representatives to sit on the board and vote at Annual General Meetings. Donors who establish named funds, or who make major donations to theme/affinity funds, are invited to become members and their membership fees are waived. In accordance with the memorandum and articles, all members must undertake to pay a maximum £1 in the unlikely event the Foundation is wound up.

11. Management of investments

- 11.1 Donations to establish or increase endowment funds at the Foundation are held as capital and invested according to the powers set out in its memorandum and articles of association. The majority of endowment funds are held in a general, legally expendable endowment, allowing the Foundation to operate a **total return policy**. This means the board sets a level of cash to be withdrawn each year from dividends and capital. The withdrawal level is reviewed regularly to ensure the Foundation is producing as much as possible for distribution and maximising the long-term real value. The current withdrawal rate is 6% a year. Funds are pooled and allocated units within the overall portfolio and credited with their income quarterly. It is the Foundation's policy not to spend capital other than in maintaining the withdrawal rate.
- 11.2 Some funds are part of the Community First Trust within the Community Foundation. The Trust was established as part of a government endowment match challenge scheme which ran from February 2012 to October 2014. It was a condition of the scheme that matched donations were held in the Trust and invested by one body. The Foundation receives direct income from Community First Funds quarterly and may also withdraw any total return over inflation (using the retail price index) annually. Although the match scheme has closed, it is the Board's policy that gifts may be added to funds in the Trust unless they are at a level to establish a separate named fund within the general portfolio.
- 11.3 The Foundation can also receive gifts of legally permanent endowment from charities whose trustees have chosen to wind up their affairs; these are held in a separate but wholly controlled charitable body, the Tyne & Wear Foundation Trust, for this distinct purpose. Permanently endowed funds are allocated the direct income received from dividends and interest.
- 11.4 Donors, fund advisors and successors do not have direct control over the investment of donated assets, but they may express preferences as follows.
- At a donor's request the capital of their fund may be invested ethically.
 - Advisors/successors may request that the board reinvests some or the entire amount withdrawn from their named fund for a period (usually no longer than two years), rather than use it for grants, to grow the capital value.
 - In the case that a major endowment fund gift is acquired with significant involvement from a professional advisor, the donor may request that the Foundation considers re-investing the capital with that advisor. Such arrangements are exceptional and entirely at the board's discretion. They will be subject to the Foundation's normal investment policies.

12. Cost contributions

- 12.1 All funds take a share of the overall costs of the Foundation carrying out its charitable activities. These include grant-making from funds, engagement of donors, developing new philanthropy and sharing expertise on issues affecting our communities. The contribution made by each fund depends on the level of engagement the donor requires, and the size of their fund. Contribution rates are lower for unrestricted and field-of-interest funds, and higher for donor- and panel-advised funds. Contributions are also lower the larger the fund.
- 12.2 The current annual contribution rates are available separately. Irrespective of fund criteria or restrictions, the Foundation applies these contributions towards its operating costs and general purposes without further recourse to donors. Interest earned on unallocated revenue balances in a fund also accrues to the Foundation to support costs, except where specific alternative provision has been agreed by the Board for funds operating under national models or partnerships.
- 12.3 Where a named fund has additional requirements above the normal support work done by the Foundation, there will usually be additional contributions made towards the direct costs of such further charitable activities.
- 12.4 The board will review cost contribution rates from time to time and reserves the right to vary them if necessary.

13. Fundraising activities and fund expenses

- 13.1 The Foundation in general does not undertake direct fundraising activities. However, occasionally it may be appropriate for donors/advisors to use fundraising approaches to grow named or theme/affinity funds. Any such fundraising by donors/advisors should be pre-approved by the Foundation as it will require the use of its name and charity number. The Foundation can provide donors with information on how best to advertise their fundraising efforts in order to generate donations, but it cannot manage the fundraising itself. The Foundation also cannot reimburse donors, advisors or any other parties for expenses relating to fundraising activities they undertake.
- 13.2 No other expenses incurred by donors/advisors can be paid from a fund's revenue unless explicitly stated in the philanthropy agreement.

14. Fund inactivity and closure

- 14.1 If fund/successor advisors do not make recommendations to the Foundation on the fund's distribution, and if there is no other arrangement in place, then the fund will be deemed inactive. The Foundation will attempt to contact fund/successor advisors at least three times in writing/by email. If contact cannot be made after a year, the board will agree distribution of resources in accordance with the fund criteria. If another two years pass without contact, any remaining assets will transfer to the Foundation's unrestricted or discretionary funds at the Board's discretion.

14.2 Fund advisors/successors may themselves close an endowment fund by transferring its assets to another fund at the Foundation. Annual funds may be closed by the donor/advisor recommending grants of the remaining fund balance, less any cost contributions, to support charitable organisations/activities, or by nominating that the balance be transferred to the Foundation's operating fund, unrestricted Vital Funds or another theme/affinity fund.

15. Ultimate responsibility and resolution of disputes

15.1 The Foundation's board has the ultimate responsibility for awarding grants and for the management of donated assets once given. In particular the board:

- will not agree to requests to spend capital from endowment funds unless there is specific provision to do so in a philanthropy agreement;
- reserves the right **not** to approve fund/panel/successor advisors' recommendations if it determines that they are not charitable, would conflict with the Foundation's stated policies, or damage its reputation.

15.2 Any problems must be dealt with between the donor/advisor and the staff member managing the fund. In the case that a dispute arises, the matter may be referred to the Chief Executive and/or the Chair of the board, who will seek to resolve it through further discussion. However, this policy is overriding and ultimately the Foundation's decision regarding any dispute is final.

16. Variations to this policy

16.1 The Community Foundation may vary the terms of this policy from time to time. Changes will be notified to current fund/successor advisors.

Version 2.1 approved by the Board 7 December 2016

Explanation of terms used in this policy

- *Annual funds*: named funds established by donors who give an amount each year to be spent on grant-making, rather than invested to generate a return.
- *Community philanthropy*: a general description of planned giving by donors with the specific intent of supporting beneficiaries with whom they share a common interest, which may be geographic, ethnic, social or cultural.
- *Designated fund*: a general term used at the Foundation to describe a fund which is restricted in supporting one or more specific charities.
- *Endowment funds*: funds which are invested by the Foundation in its endowment and whose return is used to support grant-making.
 - The majority are held as long-term capital, but in a legally *expendable endowment*, which allows the Foundation to apply a total return investment policy (see below).
 - A minority of funds are held as legally *permanent endowment* where they have been transferred from other charitable bodies where the former trustees did not have the power to spend the capital invested. These funds receive only the direct income received from dividends and interest.
- *Cost contributions*: the sums retained from funds to support the running costs of the Foundation's charitable work, including support to enable donors to be involved at the level they wish
- *Flow-through fund*: an alternative name for annual funds (see above).
- *Fund advisor*: a person over 18 with privileges in relation to a fund which may include setting and reviewing criteria, making recommendations on grants and agreeing succession arrangements. The role has no formal part in either the governance or management of the Foundation as a whole or of its funds.
- *Gift Aid*: a scheme whereby the Government increases the value of donations by UK taxpayers to UK registered charities by allowing the beneficiary to reclaim basic rate tax on the gift. Higher-rate taxpayers can also claim extra relief on donations.
- *Grant*: a financial award made by the Foundation from its funds to support charitable activities, usually to registered charities or charitable community groups, but sometimes to public bodies or individuals.
- *Memorandum & Articles of Association*: the Foundation's governing document as a registered charity and company limited by guarantee.
- *Named funds*: annual or endowment funds set up by donors at the Community Foundation.
- *Operating fund*: the income which supports the Foundation's staffing and overheads.

- *Panel member*: an individual over 18 who is nominated by fund advisors to be involved in making recommendations on grants from a fund.
- *Philanthropy Agreement*: a document agreed with donors who establish named or theme/affinity funds setting out how the fund will be managed, what activities the Foundation will undertake and how the donor(s) will be involved.
- *Restricted fund*: a legal and accounting term describing a fund which the Foundation must use for certain specific purposes defined by the donor.
- *Successor advisor*: a person who is nominated by a donor or fund advisor, in certain circumstances set out in this policy, to take over fund advisor privileges when they are no longer willing or able to do so.
- *Theme and affinity funds*: a type of named fund founded and/or supported by gifts from a number of donors who share a common interest.
- *Total return*: the investment policy applied to the Foundation's expendable endowment funds whereby the Board sets a level of cash to be withdrawn each year from dividends and capital.
- *Unrestricted fund*: a legal and accounting term for funds which the Foundation may use at its discretion to support its charitable purposes.
- *Vital Funds*: the main unrestricted funds for Tyne & Wear and Northumberland held by the Foundation which are used at the discretion of the Board of trustees to support its charitable purposes.