



## GIFT ACCEPTANCE AND STEWARDSHIP POLICY

### **Purpose**

1. The Community Foundation serving Tyne & Wear and Northumberland (the Foundation) is proud that donors choose us as the route for their philanthropy. The purpose of this policy is to set out for donors the basis on which we accept gifts and steward our funds.

### **Introduction**

2. The Foundation is a registered charity (number 700510) and limited company (number 2273708) benefiting communities particularly, although not exclusively, in Tyne & Wear and Northumberland. We are governed by a board of trustee directors. A staff team led by the Chief Executive has delegated responsibility for our day-to-day activities.
3. We grow giving and philanthropy, matching generous people with our region's important community causes. We do this by enabling people from all walks of life to set up or support charitable funds. 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. **Collective Giving funds** are another type of named fund supported by one-off or regular gifts from several donors who share a common interest.
4. Donors may set up a named fund with a gift of a minimum value set by our board from time to time. There are two models for named funds (although some funds comprise elements of both):
  - a. **Endowment funds:** we hold gifts as capital and invest them within our endowment. The investment return provides revenue which we use to support charitable activities each year in perpetuity.
  - b. **Annual (or flow-through) funds:** we hold gifts as cash revenue to support charitable activities in the year ahead, though we expect that donors will commit to make gifts sufficient for the fund to exist for at least three years.
5. This policy also describes the acceptance and management of donations to our Collective Giving funds and our other discretionary funds.

### **Legal and fiscal context for gifts**

6. A fund at the 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.

7. For a named fund, a donor gives assets to the Foundation which we account for 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 (see 'Options for named funds' below). 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 more general.
8. For a Collective Giving fund, several donors' contributions are pooled, but within a fund restricted for an agreed purpose.
9. Assets donated to establish, grow or contribute to funds at the Foundation are irrevocable gifts. They become our property (unless specific alternative provision is made in line with paragraph 18 below) and our board carries the legal responsibility for ensuring that donations are used for charitable purposes in line with any restrictions agreed with donors.
10. Subject to compliance with HMRC regulations, cash donations from individual UK taxpayers are eligible for Gift Aid, which means that we can claim an additional 25% of the value of the gift (at current rates). We add Gift Aid to funds alongside the original donation as agreed with donors. Higher-rate taxpayers may be able to claim additional tax relief on their donations. Non-UK taxpayers should seek professional advice about tax-effective ways of giving to the Foundation as a UK-registered charity.
11. For the 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 our charitable status. 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.

### **Advice for donors**

12. We engage donors living, working or interested in our area of benefit. We recognise that donors have a range of interests and want them to make informed choices about their giving. Our main purpose is to support philanthropy that benefits local causes, and we promote the case for doing so through us. However, we can provide advice to donors who want to give in other ways, subject to a consultancy fee.
13. We always respect the wishes of potential donors, and never pressure them into one course of action. We will disclose the key issues that could reasonably be expected to influence a donor's decision to make a gift. We will make especially clear that all donations (other than where paragraph 18 applies) are irrevocable, and that items such as market value and investment return can vary.
14. We also recommend that prospective donors obtain independent professional legal and/or financial advice regarding any proposed gift.

## **Types of gifts the Foundation can accept**

15. We 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 paragraph 18 applies. We can also accept planned gifts that take effect on the donor's death.

16. We welcome the following types of outright gifts.

- Cash of any amount, although donations to establish named funds must meet the minimum requirements as set by our board from time to time (see paragraph 44).
- Publicly traded shares at fair market values. Our board will have full discretion over the sale of any gifted shares.
- Untenanted land and buildings as long as at our board'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 we incur in selling.

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

- Residuary legacies – a gift made of some or all 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, as long as the items are saleable, and at a value which will offset any costs we incur in selling.

18. We 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, we may provide an indemnity stating that we 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 we receive.

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

## **Refusing and returning gifts**

20. We reserve the right, in exceptional circumstances, not to accept a gift. The basis for such a decision would be because:

- we determine that the restrictions and liabilities attached to a gift would be detrimental to our work;
- acceptance would conflict with our values and mission to the degree that we risk reputational damage amongst current and potential donors, grantees or other stakeholders;
- we have insufficient information on the gift's provenance; or
- we have reasonable grounds to believe a donor lacks the capacity to decide.

21. Likewise, we reserve the right to return a gift if any concerns of the type listed above arise retrospectively, subject to Charity Commission rules.

22. In all such cases, we will evaluate the situation on its merits, with all potentially contentious gifts referred to our board for consideration.

### Options for named funds

23. Donors who establish named funds may choose a level of involvement in line with their wishes and the minimum fund values set by our Board from time to time.

24. The options are:

- **Vital funds**<sup>1</sup> – revenue supports grant-making and other charitable activities entirely at the discretion of our board.
- **Field-of-interest** – revenue supports the donor’s preferred causes, beneficiaries or places, with grants awarded in line with those wishes but at our board’s discretion.
- **Donor-advised** – the donor, or a named advisor, makes recommendations for grants from shortlists we prepare in line with their wishes. They may also nominate organisations for support subject to the requirements of our grant-making policy.
- **Panel-advised** – as above, but where the donor wishes a panel or committee to recommend grants on their behalf.
- **Designated** – revenue supports one or more named organisations that we agree with the donor when the fund is set up, and review thereafter at agreed intervals.
- **Agency** – a type of designated endowment fund which provides a way for one charity to benefit forever, usually set up by the beneficiary charity itself.
- **Operating** – revenue supports the running costs of our charitable activities.

25. We can only accept gifts of legally permanent endowment to establish discretionary, field-of-interest, designated, or agency funds held as restricted capital in the Tyne and Wear Foundation Trust. More information is on our Investment Policy.

26. We will advise donors on the most appropriate option depending on the gift value, likely revenue and the level of engagement they wish to have. We will then draw up a **philanthropy agreement** for the fund, setting out its origin, type, operational arrangements, and succession plans. We will review agreements from time to time with the donor/fund advisor and may approve amendments.

### Fund advisors

27. Donors who establish **named funds** or provide **founding donations to Collective Giving funds** may designate themselves and/or anyone else over the age of 18 to be a fund advisor. A fund may have a maximum of three advisors.

28. Advisors’ privileges include agreeing and reviewing the fund criteria with us, agreeing succession arrangements and being engaged in our wider work. For donor-advised

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<sup>1</sup> Formerly known as ‘Unrestricted’ funds.

funds that continue to meet the minimum value set by our board, advisors may also make recommendations to us on grants. Advisors do not play any formal governance or managerial role relating either to the Foundation as a whole or to our funds.

29. For panel-advised funds that continue to meet the minimum value set by our 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.

## **Succession**

30. We recommend that donors with named endowment funds, and/or their fund advisors, determine arrangements for how they wish a fund to be managed when they are no longer willing or able to act as advisors. For businesses who are donors, this includes where the company ceases trading or is taken over.

31. Donors/advisors who wish the Foundation to continue to maintain a separate, named fund may choose one of the following options.

- i. Designate our Vital Community Fund, another collective giving fund, and/or our operating fund, to receive future revenue. We will honour such an arrangement by maintaining the separate named fund in perpetuity, but we may transfer the fund revenue to the closest equivalent fund should the one chosen close for any reason.
- ii. Give our board discretion to award grants on a 'field-of-interest' basis, as in paragraph 24 above. We will from time to time determine a fund value at which this arrangement can remain in perpetuity (currently £1m). Below this, we will honour the arrangement for 25 years, after which we will continue to maintain a separate named fund, but transfer revenue to our Vital Community Fund as in (i) above
- iii. Nominate a **successor advisor** (one per original fund advisor), to take over their advisory privileges. Successor advisors act in that role for up to 25 years, after which we will designate our Vital Community Fund, another Collective Giving fund, or our operating fund as the recipient of revenue. Subject to any legal restrictions on the original gift, successor advisors may request a change to the purpose of the fund. Following the 25-year period, further successor advisors can be nominated in the following circumstances:
  - where one or more of the successor advisors makes additional gifts to the fund at least equal in value to the current minimum amount set by our board to establish a named fund, they may nominate one further successor advisor each, to act in the role for a further 25 years;
  - where the fund value is over a minimum amount set by our board from time to time (currently £1m), successors can continue to nominate further successor advisors (one per advisor).

In all cases, successor advisors must be over 18 at the time they succeed, and must accept that the original donation is irrevocable.

32. Succession arrangements must be detailed in the Philanthropy Agreement. Requests to modify arrangements by the founding donor must be communicated to us in writing, and a written acknowledgement received confirming the request has been approved.
33. If a donor does not make any succession arrangements, and subject to any legal restrictions on the gift, the assets of the fund remaining following their death will transfer to our Vital Community Fund or a Collective Giving Fund at our board's discretion.
34. We will honour other succession arrangements agreed with donors/advisors based on previous versions of this policy<sup>2</sup> and/or as set out in their Philanthropy Agreement.

### **Regular and one-off donations without establishing a named fund**

35. We welcome gifts from donors who wish to make one-off or regular gifts rather than set up a named fund. The options are:
- to contribute to one or more Collective Giving funds;
  - to make an entirely unrestricted gift which we may use to support our operating costs, a Collective Giving Fund or particular initiatives at our board's discretion.

### **Donor recognition and membership**

36. We will acknowledge donors appropriately and publicise their involvement in line with their wishes. Donors may remain publicly anonymous if they prefer. We will keep details of our particular agreements with donors confidential, subject to our legal and regulatory reporting requirements.
37. The Foundation has a formal membership structure. Individuals, voluntary groups, businesses and public bodies that meet the eligibility requirements may become members. Members have the right to elect/nominate representatives to sit on our Board and vote at Annual General Meetings. We invite donors who establish named funds, or who make one-off or regular donations of sufficient value, to become members and we waive their subscription fees. In accordance with our governing Articles, all members must undertake to pay a maximum £1 in the unlikely event the Foundation is wound up.

### **Management of investments**

38. We hold donations to establish or increase endowment funds at the Foundation as capital and invest them according to the powers set out in our Articles and in line with our Investment Policy (which includes separate provisions for the management of legally permanent endowment and Community First Endowment Match Challenge funds).
39. Most endowment funds are held in a general, legally expendable endowment, allowing us to operate our total return policy. This means our board sets a level of cash to be withdrawn each year from dividends and capital. The withdrawal rate, which is available on request, is reviewed regularly to ensure we produce as much as possible for distribution and maximising the long-term real value. Funds are pooled and allocated

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<sup>2</sup> Version 1 was produced in 2011 and version 2 in 2016.

units within the overall portfolio and credited with their income quarterly. It is our policy not to spend capital other than in maintaining the withdrawal rate.

40. 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 in the part of our portfolio which has ethical exclusions which set out in our Investment Policy.
- Advisors/successors may request that our board reinvests some or the entire amount withdrawn from a named fund for a period of usually no longer than two years rather than use it for grants, to grow the capital value.
- In the case that we acquire a major endowment fund gift with significant involvement from a professional advisor, the donor may request that we consider investing the capital with that advisor's firm. Such arrangements are exceptional, entirely at our board's discretion and subject to our normal investment policies.

### **Cost contributions**

41. The Board applies a cost contribution to all funds at the Foundation. Current rates are available from our office.

42. Our aim is to cover the running costs of our charitable activities while offering donors and partners options and encouraging additional gifts. To achieve this, our board sets contribution rates that vary depending on the size of funds and the level of involvement the donor wants. The more discretion our board has, the lower the contribution rates. As funds increase rates also reduce though tiered 'price-break' points.

43. Contribution rates for endowment funds are based on market values. Those for annual funds are based on a percentage of the cash donation.

44. Each fund option has a different minimum value. The greater the board's discretion, the lower the minimum. For designated funds, there is also an indicative maximum value. With our agreement, donors may build up to the appropriate minimum over a set period.

45. Where a donor has set up more than one fund with us that we can run in combination, we normally base cost contribution rates on the consolidated value of the funds.

46. We apply cost contributions towards our operating costs without further recourse to donors. Interest earned on unallocated revenue balances in a fund also accrues to us to support costs, except where our board has agreed specific alternative provision.

47. Some funds and activities usually have separate cost contribution arrangements.

- Operating funds where the entire revenue supports the Foundation's running costs.
- Vital funds where contributions are set separately by the Board.
- Legally permanent endowment funds which use the revenue contribution structure.
- Community First funds, which are in effect held as permanent endowment.
- Community benefit funds, which are agreed based on long-term contracts.
- Programmes, partnership projects or other initiatives involving third party funders.

- Daily staff rates are normally used for donors seeking advice and support on their giving but without setting up a fund.
- There may be a set-up contribution in some circumstances e.g. where there is match element on a gift which requires additional administration.

48. Normally we do not take additional contributions from donations to grow the capital of existing endowment funds except where the Board has agreed a set up cost as in the case of match schemes. However, contributions may be taken on donations to add to the available revenue of endowment funds.

#### **Fundraising activities and fund expenses**

49. We do not normally undertake direct fundraising activities. However, occasionally it may be appropriate for donors/advisors to fundraise themselves to add to funds. We must pre-approve such fundraising and it must be done in line with our Fundraising Guidelines, including the use of our name and charity number. We can provide donors with information on how best to advertise their fundraising to generate donations, but we cannot manage the fundraising itself. We also cannot reimburse donors, advisors or any other parties for expenses relating to fundraising activities they undertake.

50. No other expenses incurred by donors/advisors can be paid from a fund's revenue unless explicitly stated in the philanthropy agreement.

#### **Fund inactivity and closure**

51. As a registered charity, the Foundation must use the cash income available to us to meet our charitable purposes. So, our aim is to spend out the revenues accrued in our endowment and annual funds every year, or to have agreed plans to do so.

52. For donor- and panel-advised funds, effective engagement with fund advisors is key to ensuring high levels of distribution. In the absence of such engagement, we reserve the right to take action to facilitate grant-making in line with our responsibilities as follows.

- If less than 50% of a donor- or panel-advised fund's available revenue has been spent for two consecutive financial years, no spending plan has been agreed, and no mitigating circumstances have been notified to us by the original or agreed successor advisor, we will at our board's discretion run the fund on a temporary 'field-of-interest' basis from the end of that two-year period.
- If at any time in this two-year period the advisor makes contact and we agree a spending plan that results in more than 50% of the revenue available across the two years being spent, we can run the fund again on a 'donor-advised' basis.
- If a further year passes with no effective engagement with the advisor, we will at our board's discretion, and subject to any legal restrictions on the gift, transfer the fund in its entirety and permanently to our operating fund, Vital Community Fund, or a Collective Giving fund with a similar purpose to the original fund.

53. Fund donors/advisors may 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 our operating fund, Vital Community Fund, or another Collective Giving fund. All fund closures are subject to any legal restrictions on the original gift(s).

54. Where a fund was established prior to the date of this policy, we will honour approaches to fund inactivity as set out in previous versions<sup>3</sup> and/or in a Philanthropy Agreement.

### Ultimate responsibility and resolution of disputes

55. Our board has the ultimate responsibility for awarding grants and for the management of donated assets once given. In particular our board:

- will not agree to requests to spend capital from endowment funds unless there is specific provision to do so in a philanthropy agreement; and
- 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 our reputation.

56. 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.

### Variations to this policy

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

Date originally approved by Board	2011
This version	3.0 December 2020
Date last updated	2016
Reason for this update	Revised in line with review based on aspiration to streamline the suite of documents donors receive, reflect changes in the Board's stance on ethics of gift acceptance (and responsible investing), and simplify the approach to successor advisors.
Next review due	2023
Owner	Rob Williamson
Job title	Chief Executive
Related procedures (if applicable)	Current cost contribution rates Cost contribution procedure

<sup>3</sup> Version 1 was produced in 2011 and version 2 in 2016.

## **Appendix - Explanation of terms used in this policy**

*Annual funds:* funds established by donors who give an amount each year to be spent on grant-making, rather than invested to generate a return.

*Collective Giving fund:* a type of named fund founded and/or supported by gifts from several donors who share a common interest.

*Cost contributions:* the sums retained from funds to support the running costs of the Foundation's charitable work.

*Designated fund:* a fund set up to support 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 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.

*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.

*Articles:* 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 Collective Giving 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.

*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 Community Fund:* the main unrestricted fund for Tyne & Wear and Northumberland held by the Foundation which the Board of trustees may use entirely at its discretion to support charitable purposes.