

## Policy on Acceptance/Refusal of Gifts

### 1 Policy intent

- 1.1 This is the University of Stirling's policy on the acceptance and refusal of gifts. It is intended to ensure that the University operates ethically in relation to the receipt of gifts, and that processes for scrutinising and accepting or refusing gifts are clear and transparent.
- 1.2 This policy:
- Clarifies how the University complies with legal regulations;
  - Clarifies powers of decision making in relation to the acceptance of gifts
  - Sets out procedures to ensure that decisions on the acceptance of gifts are based on a clear rationale, are consistent with the objectives of the University and are transparent.
- 1.3 It does not constitute the University's policy on personal gifts, gratuities and hospitality received by individual members of staff.

### 2 The University's responsibilities in relation to the receipt of gifts

- 2.1 The University is a charity registered in Scotland and observes the requirements of the charity laws and regulations of Scotland and the United Kingdom, including the expectation to self-regulate in matters of fundraising. The University follows the ethical practices in fundraising as documented by CASE (Council for the Advancement and Support of Education) [appendix 1], in accordance with the Donor Bill of Rights [appendix 2]. The adoption of good practice is mandatory for members of the Institute of Fundraising, as set out in their Code of Fundraising Practice and the best practice standards identified by the Fundraising Standards Board (FRSB), the independent self-regulatory body for fundraising in the United Kingdom. This is more pertinent than ever before in light of the results of the Woolf Inquiry (2011) into the ties between LSE and Libya and the lessons identified regarding the acceptance gifts from appropriate sources.
- 2.2 In Scotland, OSCR has no authority to grant an order authoring the refusal of a donation. Court is expected to act in the interests of the charity under section 66(1) of the Charities and Trustee Investment (Scotland) Act 2005.

### 3 The definition of a gift

- 3.1 For the purposes of this policy a 'gift' includes pecuniary gifts, shares, property, bequests/legacies, works of art, equipment or similar other gifts in kind. It does not

include volunteering activity through, for example, the alumni ambassador programme, pro-bono work or in-kind services.

- 3.2 'Ethical' donations are those which are considered to meet the standards, values and mission of the University of Stirling. 'Illegal donations' are defined as those which are considered to have arisen from national or international activities which would be considered illegal or meet 'tainted donation' criteria under UK laws. The University will never accept an illegal donation.

#### **4 Responsibility for deciding whether to accept or refuse a gift**

- 4.1 Decisions on acceptance/refusal of the majority of gifts are the responsibility of the Director for Advancement, in accordance with the principles set out in this policy.
- 4.2 Decisions on large scale or contentious gifts remain the responsibility of University Court. However, University Court may choose to delegate this responsibility to a 'donations review group.' The group would be expected to consult with the Directors of Finance and Advancement, and to take account of appropriate professional advice. The composition of the group, delegated limits of authority for approval/refusal of gifts, and definitions of small/large/contentious gifts are set out in University Court's Schedule of Delegated Authority and the University's Financial Regulations. For the avoidance of doubt, 'contentious gifts' are those which might adversely affect the University's reputation, or which might create an unacceptable conflict of interest. As noted in 3.2, illegal donations would never be accepted.
- 4.3 Those taking decisions must be able to demonstrate that they acted in the best interests of the University. If acceptance or refusal of a gift is likely to cause negative publicity or pre-empt a dispute, appropriate professional or legal advice should be sought. Judgements regarding the refusal of gifts must not be influenced by personal ethical viewpoints of this group.

#### **5 Procedures for acceptance/refusal of gifts**

- 5.1 In order to ensure best practice in relation to ethics and to ensure effective implementation of the policy, it is mandatory that all gifts are reported to and coordinated by Directorate for Advancement.
- 5.2 In cases where the University is making an approach to a potential donor, the necessary research must be completed under the leadership of the Director for Advancement. Staff must consult the Directorate for Advancement office at an early stage in their discussions with a potential benefactor in order to reduce the risk of uncoordinated approaches to potential donors and to identify potentially contentious donations at an early stage in the process.
- 5.3 When a potential benefactor makes an unsolicited approach to the University, the process is as follows:
- i. Potential benefactor approaches a member of University staff to discuss the intention to make a gift, award, scholarship etc.
  - ii. Staff member advises Head of School/Service Director.

- iii. Head of School advises Director for Advancement, who undertakes to carry out the due diligence on the potential donor and gift.
- iv. **Small gifts:** The Director for Advancement decides whether to accept or refuse the gift.

**Large/contentious gifts:** The Director for Advancement consults the Chair of Court, the Principal and the University Secretary.

- v. Directorate for Advancement staff will prepare evidence to present the case for acceptance and refusal of the gift. Professional/legal advice will be sought as appropriate.
- vi. **Acceptance of gift:** If it is decided to accept a gift, the procedure for accepting/stewarding gifts will be followed. If appropriate a gift agreement will be signed.

**Refusal of gift:** If it is decided to refuse a gift, the Director for Advancement will advise the prospective benefactor.

5.4 On occasion, the University may wish to delay the acceptance of a gift with a view to asking the donor to make the gift in the most tax efficient manner (e.g. by gift aid). In such cases, the tax advantages must be explained properly to the donor.

5.5 All donations to the University, from whatever source, must be accounted for in accordance with the relevant accounting standard.

## 6 Criteria to determine whether to accept or refuse a gift

6.1 In considering whether to accept or refuse a gift, the responsible officer(s) (defined in 4.3) will ascertain:

- Are the purposes of the gift compatible with the purposes of the University?
- Does the potential gift fit with University's mission and objectives, and is it consistent with the goals outlined in the Strategic Plan, Campus Masterplan or other Court-approved strategy?
- What additional costs or burdens, if any, would the acceptance of the gift create for the University? (If additional burdens are identified, the University Strategy & Policy Group (USPG) will be asked to comment on the suitability of the gift.)
- Is there credible evidence that the proposed gift will be made from a source that arises in whole or in part from an activity that:
  - Evaded taxation or involved fraud?
  - Violated international conventions that bear on human rights?
  - Limited freedom of enquiry, or encroached on academic freedom?
  - Suppressed or falsified academic research?
- Is there evidence that the proposed gift, or any of its terms will:
  - Require action that is illegal?
  - Seriously damage the reputation of the University?
  - Create unacceptable conflicts of interest?
- Is there evidence that acceptance of the gift or compliance with any of its terms will damage the University's reputation including deterring other benefactors?
- If the donation has a condition attached, is that condition acceptable to the University?
- If copyright or intellectual property issues are involved, are these clearly understood, and can the University comply with any associated requirements?

## **7 Gifts in Kind**

- 7.1 Gifts to the Art Collection should follow the guidelines above but must also comply with the Acquisition of Art policy. Similarly, gifts of book collections can be accepted where these comply with the approved Library's Collection Policy. Other similar gifts-in-kind will be considered on a case by case basis.

## **8 Stewardship**

- 8.1 The University is committed to transparency, accountability and best practice. In cases where a donor wishes to remain anonymous, such anonymity will be respected so far as is legally and practically possible. Requests to keep the amount of any donation confidential will be respected. The University's stewardship policy is outlined in the University of Stirling's Donor Charter. The Charter sets out the standards donors can expect from the University and adheres to the tenets of the Donor Bill of Rights. In summary it states that:

- (i) All communications made to potential donors concerning a project will be honest, truthful, and comply with the law;
- (ii) The donor's right to privacy will be respected in accordance with data protection legislation;
- (iii) The University will not accept an "anonymous" gift without at least two of the following people (Chair of Court; Principal and Vice-Chancellor; University Secretary and Chief Operating Officer; or Director for Advancement) being aware of the source of the donation;
- (iv) The gift will be applied for the purpose for which it was originally requested, unless explicit written consent is given otherwise by the donor, or, in the case of bequests, for the purposes described in the donor's will or for similar purposes agreed with the donor's executors;
- (v) The University will not normally return a gift which has been accepted in good faith. If a situation arises which give the need to review a previous decision to accept a gift, the matter will be referred to the University Court on recommendation of the Vice-Chancellor and Principal. If, following a solicitation, the University cannot honour the terms of the gift, and a compromise cannot be reached with the donor, the University will refund the gift to the donor, their estate or legal representative as appropriate.
- (vi) The gift will be handled responsibly, to the greatest advantage of the beneficiary and without disadvantage to the University;
- (vii) The donor's personal data will be respected, and there will be transparency in the University's communications with its donors;
- (viii) The University will thank and recognise the donor appropriately, including issuing official gift receipts where required. If appropriate a gift agreement will be signed.
- (ix) From time to time, the University may offer to recognise a gift or gift-in-kind by naming the object of the donation (i.e. part or all of a capital project) after the donor. Such offers will be subject to the guidelines of the University's Naming Policy.
- (x) Adequate records of all gifts will be maintained on the Raisers' Edge database to allow a proper audit trail.
- (xi) The University will not sell its donor list.
- (xii) Any concerns raised in relation to the above points will be dealt with swiftly and effectively by the Directorate for Advancement, in accordance with the institutional complaint handling procedures.

## **9 Monitoring**

9.1 The Director for Advancement will report regularly on gifts accepted and refused to the University Strategy & Policy Group and University Court.

## **10 Review**

- 10.1 This policy will be reviewed every three years or sooner if necessary as a result of changes to legislation or related policy. **Appendix 1**

## **Principles of Practice for Fundraising Professionals at Educational Institutions (CASE)**

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Philanthropy is a voluntary exchange in which the values and aspirations of donors are matched with the values and aspirations of those they benefit.

Educational fundraising professionals work on behalf of those served by their institutions during this exchange of values and represent their universities, colleges and schools to donors, volunteers, and the larger public. In doing so, they also represent the integrity of the institution and of the fundraising profession. They must, in discharging responsibilities, observe and promote the highest standards of personal and professional conduct and continually strive to increase their knowledge of the profession.

The following principles are consistent with [CASE's position on commission-based compensation](#) developed by the Commission on Educational Fundraising (now the Commission on Philanthropy) in 1991 and reaffirmed in 2005, and the [Donor Bill of Rights](#). They are intended to provide guidance and direction to educational fundraisers and volunteers as they make ethical choices during the philanthropic exchange of values. The principles are not, and cannot be, an exhaustive list of rules to be applied to every decision in which ethical principles may be involved.

These ethical principles go hand-in-hand with the expectation that educational fundraising professionals are expected to comply with the letter and the spirit of all laws relevant to charitable giving.

### **Ethical Principles**

#### **Personal Integrity**

Individuals will:

- be fair and honest and conduct themselves with integrity;
- not maintain any vested interest in a professionally related activity that could result in personal gain without prior full disclosure and approval;
- respect that their relationships with prospective donors, donors, volunteers, and employees are professional relationships and may not be exploited.

#### **Confidentiality**

Individuals will:

- safeguard and respect donor and prospective donor information;
- honour the wishes of an individual and/or organizational constituent with regard to how directory information and/or giving history is used;
- record and keep only information relevant to cultivation, solicitation, and stewardship;
- identify the source of retained information;

- safeguard prospective donor, donor, and other constituent lists compiled by the institution as the property of the institution; these lists may not be distributed or used for unauthorized purposes or for personal gain;
- make every effort to ensure that volunteers, vendors, and external entities with access to constituent information understand and agree to comply with the organization's confidentiality and public disclosure policies.

### **Public Trust**

Individuals will:

- ensure donated funds are used in accordance with donors' intentions;
- obtain specific instructions from a donor before altering conditions of a restricted gift (consistent with applicable law);
- provide prompt, responsive and truthful replies to donor and public inquiry in accordance with the organization's stated policies;
- place the mission and interest of the institution and its donors above personal gain;
- pursue only gifts that fall within, or advance, the institution's mission and/or approved priorities.

### **Disclosure**

Individuals will:

- be truthful about the institution's mission, intended use of funds, and capacity of the institution to use donations effectively for the intended purpose;
- be truthful and specific about the identification of the organization they represent and their employment or volunteer status;
- understand and disclose their areas of expertise and will give appropriate advice regarding the involvement of the donors' legal, accounting, financial and tax advisors;
- help ensure appropriate and consistent accounting, budgeting, and reporting methodologies.

### **Compensation**

Individuals will:

- not accept commission-based compensation or compensation based on a percentage of funds raised;
- not accept external compensation for the receipt of a gift or information leading to a gift;
- not agree to pay compensation to individuals in respect of a gift or information leading to a gift.

**Approved by the CASE Board of Trustees in November 2005. These principles are intended to supplement and complement the [CASE Statement of Ethics](#) adopted by the CASE Board of Trustees in 1982.**

## Donor Bill of Rights

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Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support, we declare that all donors have these rights:

1. To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.
2. To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.
3. To have access to the organization's most recent financial statements.
4. To be assured their gifts will be used for the purposes for which they were given.
5. To receive appropriate acknowledgment and recognition.
6. To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.
7. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.
8. To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.
9. To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.
10. To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.

**The text of this statement in its entirety was developed by the American Association of Fund-Raising Counsel (AAFRC), Association for Healthcare Philanthropy (AHP), Council for Advancement and Support of Education (CASE), and the Association of Fundraising Professionals (AFP), and adopted in November 1993.**