

Philanthropic Gift Policy

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Approval History

Version	Reviewed by	Approved by	Date
1	Updated version of Philanthropic Gift Policy reviewed by Patrick Degg	Advancement Committee	04/12/2018
1	Updated version of Philanthropic Gift Policy reviewed by Patrick Degg	Executive Board	28/02/2019

1 Introduction

1.1 Purpose

- 1.1.1 This paper defines the University of Surrey's policy regarding philanthropic fundraising.
- 1.1.2 Advancement is responsible for co-ordinating and reporting on all philanthropic fundraising across the University. This function is central and core to the University's Corporate Strategy to diversify its income streams and significantly to increase philanthropic giving to the University, thus creating a sustainable and growing fundraising culture to support the University's vision.
- 1.1.3 Advancement also needs to be aware of the source of all donated income to the University to ensure the University complies with other policies of the University and ensure multiple approaches are not made to donors.
- 1.1.4 It is essential that fundraising is professionally co-ordinated across the University to ensure the most efficient and effective approaches are made and to safeguard the reputation of the University. Additionally, appropriate thanking and stewardship of donors and ensuring that their wishes carried out is a key to building and maintaining relationships with them. Advancement can provide professional advice and support in the ongoing thanking, reporting and stewardship of a donor through our Stewardship Programme and Gift Circles.
- 1.1.5 The University needs to account accurately for and record all gifts raised (pledged) or received to measure fundraising activity and income generation throughout the University, for audit purposes and both internal and external regulatory bodies.
- 1.1.6. The purpose of this policy is therefore to:
- Define philanthropic income and ensure all gifts are correctly recorded and reported in the University's philanthropic returns for both internal and external bodies, including the Ross-CASE Survey which is the annual survey of gifts and costs of voluntary giving to HE in the UK.
 - Maximise gift income by helping ensure the donor is giving in the most tax efficient way and the University is benefitting from Gift Aid where applicable.
 - Ensure donors are identified and stewarded correctly and all approaches are co-ordinated and professionally managed.
 - Ensure gifts are compatible with the University's objectives and consistent with the goals in the University Strategy and Corporate Plan.

1.2 Scope

- 1.2.1 This Policy applies to all University staff who are involved in any activity relating to fundraising at the university. Only legislation and statutory rules can override the provisions of this Policy.

1.3 Definitions

1.3.1 Definition of philanthropic funds: the University follows HE sector best practice by defining philanthropic funding according to the rules established for the Ross-CASE Survey, the annual sector-wide survey on philanthropic giving to Higher Education.

Gifts only be counted as philanthropic funds if they meet BOTH of the following criteria:

- The source of the funds is eligible
- AND**
- The nature of the gift meets the definitions of philanthropic intent (see section 4 onwards)

1.3.2 Eligible sources of philanthropic funds

These include:

- Gifts from personal donors, in the UK and overseas, of cash and other instruments of wealth, including shares, appreciated securities, bonds etc.
- Gifts-in-kind of physical items - property, art, equipment etc.
- Actual legacy income received in-year from deceased individuals (notifications of Legacy pledges from living donors should also be reported as a pledge with any other gift).
- Gifts from charitable trusts and foundations in the UK and overseas. This includes gifts from independent charities associated with NHS Trusts (but not direct from NHS Trusts).
- Grants made by affiliated support foundations such as 501(c)(3) organisations (exempt from US federal income tax) and similar organisations in other countries.
- Gifts from companies in the UK and overseas.
- Gifts from overseas governments or their agencies and foundations.
- Income from the National Lottery and similar sources (e.g. Heritage Lottery Fund, Sport England etc.).
- Funding through the Land Fill Scheme.

1.3.3 Note that qualifying as an eligible source as above is not enough to determine the eligibility of funds as philanthropic, as the gift must also be made with philanthropic intent (see below 1.3.5).

1.3.4 Ineligible sources of philanthropic funds

These include:

- All funding from HM Government and its agencies, including the Office for Students, Research England and the Research Councils.

- Funding from NHS Trusts.
- All funding from the EU Commission or its agencies.
- Royalties and other funds generated by the exploitation of the University's intellectual property rights.
- Internal transfers within the University.

1.3.5 Definition of philanthropic intent

Giving to the University with philanthropic intent is defined as all giving which does not confer full or partial ownership of a deliverable, financial benefit, or control to the funder in return for the funding. The gift must be owned in full by the University once it is received.

1.3.6 Exclusions from philanthropic intent

If any one of the following exclusion criteria applies, the whole of the funding associated with an agreement is not considered philanthropic. The University may not deduct the known or estimated value of any such exclusion from the overall value of the funding associated with an agreement and report the net remaining balance.

- **Contractual relationship:** a contract exists which commits the University to provide an economic benefit for compensation, where the agreement is binding and creates a quid pro quo relationship between the University and the funder. Contract income, including income for clinical trials, is ineligible.
- **Exclusive information:** the funder is entitled to receive exclusive information, or other privileged access to data or results emerging from the programme of activity.
- **Exclusive publication:** the funder is entitled to exclusive rights to publication of research or other results through their own branded communication channels (website, report, etc.).
- **Consultancy included:** consultancy for the funder or a linked organisation is included as part of the agreement.
- **IP rights:** the agreement assigns to the funder any full or partial rights to intellectual property which may result from the programme of activity. This exclusion extends to the provision of royalty-free licenses (whether exclusive or non-exclusive) to the funder, and also to granting the funder first option or similar exclusive rights to purchase the rights to any subsequent commercial opportunities. If the written agreement includes any actual or potential future benefit of this kind, it must be excluded.
- **Other forms of financial benefit:** Any other direct financial benefits are required by the funder as a condition of the funding (e.g. discounted courses, training etc.).
- **Funder control:** the funder retains control over operational decisions relating to the use of funds once the gift has been made. This includes control over appointment and selection procedures to academic posts and student scholarships. It would not be accepted practice in

any case for a funder to have final say on the approval of a University appointment, though donors may be included (on the same basis as other participants) in interview panels.

This list is not comprehensive. There may also be other circumstances where service provision with a commercial value means that funding cannot be regarded as having philanthropic intent. If there is any doubt please contact Advancement for advice.

If any of the above exclusion criteria apply, and the funder is based in the UK, it is very likely that the University is providing a service which is subject to UK VAT.

In this context any reference to the funder also includes those people or organisations associated with the funder.

1.3.7 Separating agreements

In some circumstances it may be appropriate for philanthropic and contractual elements of a multi-faceted relationship with the University to be summarised in separate written agreements. In these circumstances the funding subject to the gift agreement may be treated as philanthropic, as long as none of the exclusion criteria as listed in 1.3.6 apply, and as long as the income associated with the gift agreement is not contingent on delivery of any activities included within the separate contractual agreement. (See also: 1.3.12 HMRC Substantial Donor Rules).

1.3.8 Corporate sponsorship

The first exclusion criteria (Contractual Relationship) dictates that in the vast majority of cases corporate sponsorship cannot be counted as philanthropic income, as sponsorship is based on a quid pro quo relationship.

Any corporate sponsorship which is subject to VAT as a chargeable supply according to HMRC definitions cannot be counted as philanthropic income. HMRC considers an agreement to take the form of sponsorship liable for VAT “if, in return, you are obliged to provide the sponsor with a significant benefit”.

HMRC advises that this significant benefit might include any of the following:

- a. Naming an event after the sponsor.
- b. Displaying the sponsor’s company logo or name.
- c. Allowing the sponsor to use the University’s name or logo.
- d. Participating in the sponsor’s promotional or advertising activities.
- e. Giving free or reduced price tickets.
- f. Allowing access to special events such as premieres or gala evenings.
- g. Providing entertainment or hospitality facilities.
- h. Giving the sponsor exclusive or priority booking rights.

HMRC adds the following note: “This list is not exhaustive and there are many other situations in which your sponsor may be receiving tangible benefits. What matters is that the agreement or understanding you have with your sponsor requires you to do something in return.”

Circumstances where HMRC considers corporate support is outside the scope of VAT, and therefore can be considered as philanthropic income, is where support is freely given and secures nothing in return for the donor. A taxable supply is not created where the recipient provides an

insignificant benefit such as a minor acknowledgement. Examples include:

- a. Giving a flag or sticker.
- b. Naming a building or University chair after the donor (without the use of a logo).
- c. Putting the donor's name on the back of a seat (e.g. in a theatre).
- d. Acknowledging the donor in a list of supporters.

These HMRC guidelines should be applied in assessing the eligibility as philanthropic income of all corporate sponsorship, including sponsorship income from overseas companies not subject to UK VAT.

Further guidance is available at <https://www.gov.uk/guidance/sponsorship-and-vat-notice-70141>

1.3.9 Approaches from donors/funders

Some companies, trusts or individuals may approach the University about a potential gift or invite the University to apply for grants. This has no bearing on the philanthropic intent involved, and any gifts or grants gained on that basis are philanthropic if none of the exclusion criteria apply as detailed in 1.3.6.

1.3.10 Requests for reports to funders

The donor/funder often requests or requires an accounting of the use of funds and of the impact of the programmes or projects undertaken. Any such request/requirement from the donor for regular status or other reports does not negate the philanthropic intent underlying a specific gift or grant, so agreements with reporting requirements are philanthropic if none of the exclusion criteria apply as detailed in 1.3.6.

1.3.11 Donor stewardship

Donor stewardship strategies (e.g. providing update reports on the progress of students supported by donors, or informal contact between donors and those supported by their gifts), do not of themselves represent a benefit to the donor. Stewardship of this kind is considered best practice and is actively encouraged.

1.3.12 University priorities and activities typically supported by philanthropic funds

- Philanthropic funds can support buildings and land, staff appointments, equipment and other assets, scholarships and bursaries, endowment of lectures and other academic activities, core funding of academic activities, and in some circumstances funding of research programmes. (NB none of the exclusion criteria as detailed in 1.3.6 must apply, irrespective of the activity funded.)
- Funding for buildings, land and equipment will typically be considered philanthropic, as long as the facilities funded will remain the property of the University.
- Funded staff appointments are philanthropic, but if the agreement states that the member of staff will allocate time to specific activities which would not meet the philanthropic intent definitions within this document (i.e. any of the exclusion criteria e.g. consultancy or work on research contracts) then none of the funding can be counted as philanthropic.

- Funding for scholarships and bursaries is philanthropic, as long as the student recipient is not required to undertake specific activities of economic benefit to the funder (e.g. research projects, work placements, etc.), in which case none of the funding can be considered philanthropic.
- Research funding. The exclusion criteria described above mean that the major proportion of research funding for the University, whether in the form of contracts with business and industry or from grant-awarding bodies (even if they themselves are charities), should not be counted as a philanthropic gift. In some cases grants for research programmes from trusts and foundations may be eligible, but these will need to be assessed closely against the exclusion criteria on a case-by-case basis, given the differences in grant conditions between grant-making bodies.

1.3.13 HMRC tainted charity donation rules

The University may have multi-faceted relationships with some donors and funders, some of a philanthropic, some of a contractual, nature. HMRC has issued anti-avoidance guidance (known as “tainted charity donation rules”), to ensure that the usual tax reliefs are not available where donors enter into arrangements to obtain a financial advantage from a charity for themselves, or someone else involved in the arrangement, in return for their donation. As institutions enjoying charitable status, universities should take appropriate measures to ensure that they do not become party to such arrangements.

Further guidance is available from the Finance Department and at <https://www.gov.uk/government/publications/charities-detailed-guidance-notes/annex-viii-tainted-charity-donations>

2 Policy principles

2.1 Procedure for all gifts, endowments and legacies

- 2.1.1 Advancement will co-ordinate fundraising across the University; maintain details of all gifts on its database, for reporting and audit purposes; ensure any contact made with donors is relevant and any future approaches are co-ordinated. If Advancement is aware of all gifts then they can ensure they are consistent with the goals and policies of the University and refer anyone who wishes to approach a donor to the Faculty/Department who holds that relationship with the donor, ensuring no conflicting requests or multiple approaches from different parts of the university are made. All intentions to approach existing or potential donors should therefore be notified to Advancement before contact is made.

2.2 Responsibility

- 2.2.1 The University’s Scheme of Delegation provides for the acceptance and refusal of philanthropic gifts of different sizes, as outlined below. In addition to this, the Advancement Committee, in accordance with its Terms of Reference, has responsibility to provide oversight over risk management and the implementation of the gift acceptance policy, seeking to protect the integrity and reputation of the University.

2.3 Acceptance/refusal

- 2.3.1 In considering the acceptance of any gift, endowment or legacy the University will consider if the gift is compatible with the purposes of the University and consistent with the goals outlined in the Corporate Strategy. The University will also ensure that any gift complies with any relevant, current legislation.
- 2.3.2 The University will not accept any gift or pledge which is deemed, following thorough research, to have been funded through activities which:
- Are unlawful (including any form of theft, fraud, tax evasion, money laundering or terrorist activity), whether in the UK or under the jurisdiction of the country from which the pledge is made.
 - Violate international conventions that bear on human rights.
 - Limit freedom of enquiry, or encroach on academic freedom.
 - Are listed on the UK Financial Sanctions List.
 - Are listed by Office of Foreign Assets Control (OFAC).
- 2.3.3 In addition, the University must be able to confirm that acceptance of a gift will not:
- Lead to a conflict of interest with the ethics and principles of the University of Surrey.
 - Require an action or actions on behalf of the University or its staff which are deemed illegal.
 - Harm the University's reputation and relationship with other benefactors, partners, potential students or research supporters.
 - Constitute any form of bribery.
- 2.3.4 As part of the due diligence involved in accepting a gift, the University will identify if there are any present or upcoming University tenders that may be of interest to the donor. If there is a possible link no gift will be accepted or discussed until the University has ensured that there is no possible conflict of interest.
- 2.3.5 The University will accept gifts from parents of current students but will make it clear within the gift agreement and related communication that the gift will in no way have any bearing or influence on how the University will treat their child as a student.
- 2.3.6 The University will accept gifts from University staff. As such, becoming a donor to the University will not confer benefit or preferment to the member of staff, beyond receiving standard donor stewardship as outlined in 2.6.5.
- 2.3.7 In line with the Criminal Finances Act 2017 (CFA), the University will seek to identify any potential or existing donors who seek to give philanthropic gifts to Surrey for tax evasion purposes.
- 2.3.8 The University's Scheme of Delegation applies for acceptance of philanthropic gifts:

- Below £50,000 Director of Advancement
- £50,000 - £250,000 Senior Vice-President, Advancement and Community
- £250,000 - £500,000 Vice-Chancellor
- £500,000 - £1,000,000 Vice-Chancellor, on the recommendation of Advancement Committee
- For pledges in excess of £1,000,000 the Advancement Committee will make a recommendation for gift acceptance which will be referred to Council.

2.3.9 Any potential gift or pledge, regardless of value, which, in the opinion of the Director of Advancement, has a controversial dimension to it, should be reported to the Senior Vice-President, Advancement and Community for further action and escalation to higher authority if appropriate.

2.3.10 Ongoing research and due diligence will be maintained on all high value donors to the University following the gift.

2.4 Due diligence

2.4.1 The University has a clear, comprehensive and auditable process in place to satisfy itself, within the reasonable capacity of the institution, that philanthropic funding does not derive from any activity that is illegal, or runs counter to its core values of impartial, independent research, scholarship and teaching.

2.4.2 The University will, taking into account the size of any proposed gift, undertake all reasonable measures in order to:

- Ascertain that the source is eligible to make philanthropic gifts in accordance with section 1.3.2 (Eligible sources of philanthropic funds).
- Confirm that the gift is given with genuine philanthropic intent in accordance with section 1.3.5 (Definition of philanthropic intent).
- Ensure that such gifts are made for purposes consistent with the University's ethical principles and strategic plan in accordance with the University Ethical Conduct: Bribery, Fraud, Gifts, Hospitality and Conflict of Interests Policy.
- Determine that no legal or reputational issues are raised by the acceptance of such gifts.

2.4.3 In carrying out due diligence, the University follows the "know your donor" principles outlined in the Charity Commission's advice on "Protecting Charities from Harm".

2.4.4 In considering acceptance of a gift in accordance with section 2.3, the relevant person or body will give due consideration to the due diligence undertaken by the person soliciting the gift, supplemented by research undertaken by the Advancement Research team.

2.4.5 For gifts in excess of £1m the University will also engage an appropriately qualified third party to carry out due diligence supplementary to that carried out by Advancement.

2.5 Recording and reporting

2.5.1 It is Advancement's responsibility to develop a donor gift agreement in conjunction with the donor and any individuals in the Faculty/Department who might have a relationship with the donor.

2.5.2 In some circumstances donors might discuss the possibility of making a gift directly with Faculty/Department staff. In these circumstances, Advancement should be advised and involved as soon as practicable, and provided with all support information and relevant paperwork. The minimum information required by Advancement is as follows:

- Name and address of donor.
- Name of Faculty/Department staff member(s) involved.
- Amount and purpose of gift including project/department the gift is to support.
- The account and project code to which the gift to be credited.
- Copies of supporting letters, proposals, communication with and from the donor.

2.6 Stewardship

2.6.1 All donors should be properly thanked and acknowledgement of the gift should be sent from the most appropriate person at the University. This can vary from Advancement, to academics in the Faculty/Department (that holds the relationship with the donor) or the Vice-Chancellor. A copy of the thanks should be shared with Advancement who will log this in the gift record in the database.

2.6.2 When a donor asks that he or she remain anonymous in relation to a gift, Advancement must determine the appropriate level of anonymity. For some donors, it is acceptable for University officials and internal entities to know about a gift. Their primary request is that their names and their gift not be discussed in any public setting or included in any published honour roll of donors. In this case, the gift will be recorded to the donor's individual entity record but will not be published in any University materials, nor recognised in any public fashion.

2.6.3 All donors will be listed in the Annual Donor List, unless anonymity has been requested.

2.6.4 As part of Advancement stewardship programme, donors can be invited to appropriate University events throughout the year, receive email newsletter updates, specific donor reports and meetings with relevant individuals at the University. Gift Circles can also be applied to all relevant individual donors. Please contact Advancement for further details.

2.6.5 Appropriate thanking and stewardship will be carried out for each gift received by the University. This will vary based on the gift amount and how the gift is used.

Gifts given to the Forever Surrey Fund will receive communications reporting back on the wider

use of the Forever Surrey Fund and how the fund has impacted on students and the University.

As gifts increase in size and therefore their use more specifically defined, the stewardship will reflect this in the more personalised thanking and stewardship given. This can involve relevant individuals from Advancement, faculty and students who have received direct benefit from the gift.

2.7 Other considerations

- 2.7.1 It should be noted that the University is an exempt charity under Schedule 3 of the Charities Act 2011. As such, the University does not have a registered charity number and, if required, the number X3967 should be described as the University's 'HMRC Charity Repayment reference' NOT its charity number. Details of the University's Charitable Status can be found at:

<https://www.surrey.ac.uk/about/governance/charitable-status>

2.8 Tax efficient giving for UK tax payers

- 2.8.1 Gift Aid is a way for the University to increase the value of monetary gifts from UK tax paying individuals by claiming back the basic rate tax paid by the donor. It can increase the value of gifts by a quarter at no extra cost to the donor. Gift Aid declarations once returned should be sent to Advancement who will process the claim and ensure the tax refund received is credited to the original project code. If you are unsure if Gift Aid can be claimed, please refer to Advancement.

2.9 Tax efficient giving for non-UK tax payers

- 2.9.1 USA tax payers can give to the Friends of the University of Surrey, Inc, which is a non-profit organisation established in the United States to support teaching, research and student achievement at the University of Surrey. The organization is a 501(c)(3) not-for-profit charity and is governed by an independent board of directors comprised of US alumni and University representatives. Please refer to Advancement for more information.
- 2.9.2 Tax efficient giving outside of the UK and US can be facilitated through Transnational Giving Europe (TGE) who cover a network of 20 countries (Austria, Belgium, Bulgaria, Croatia, Estonia, France, Germany, Great Britain, Hungary, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Switzerland) and enables donors, both corporations and individuals, resident in one of the participating countries, to financially support non-profit organisations in other Member States, while benefiting directly from the tax advantages provided for in the legislation of their country of residence. Please refer to Advancement for more information.

2.10 Returning a gift

- 2.10.1 The University will not normally return a gift which has been accepted in good faith in compliance with this policy. Exceptionally, subsequent events or the subsequent availability of additional information may give rise to the need to review a previous decision to accept a gift.
- 2.10.2 The decision to return a gift will follow the same scheme of delegation applied for gift acceptance:
- Below £50,000 Director of Advancement

- £50,000 - £250,000 Senior Vice-President, Advancement and Community
- £250,000 - £500,000 Vice-Chancellor
- £500,000 - £1,000,000 Vice-Chancellor, on the recommendation of Advancement Committee
- For gifts in excess of £1,000,000, Advancement Committee will make a recommendation to Council.

2.10.3 Where the University has a historic gift or endowment that was given to support an activity or course that the University no longer provides, and therefore cannot fulfil the original intentions of the donor, the University will seek to utilise the funding in a way that is as close as possible to the donor's original intentions. Where possible the University will first seek the agreement with the donor or donor representatives. Where the gift is being reallocated the same decision making thresholds outlined above will apply.

3 Governance requirements

3.1 Implementation / communication plan

3.1.1 This policy is communicated to all staff as part of the University Policy website. University staff who regular work with Advancement and those new to our activity will be routinely directed to the policy. Relevant information is also published on the Advancement pages of SurreyNet.

3.2 Exceptions to this policy

3.2.1 Only legislation and statutory rules can override the provisions of this Policy.

3.3 Review and change requests

3.3.1 This Policy is regularly reviewed by the Director of Advancement. Minor changes will be reviewed and agreed by Advancement Committee. Major changes will be reviewed through Advancement Committee and submitted to Council for approval. Review will generally be every three years.

3.4 Legislative context

3.4.1 The University is acting within the guidelines of the General Data Protection Regulation (GDPR) as highlighted in the Data Protection Policy.

3.4.2 This Policy and the Accounting Procedures have been drawn up in the context of the following: [HMRC Guidance http://www.hmrc.gov.uk/charities/](http://www.hmrc.gov.uk/charities/)

3.5 Stakeholder statements

3.5.1 In addition to Advancement staff, several stakeholders have been consulted on this revised Philanthropic Gift Policy. This includes Finance, Research and Innovation, Legal, Internal Audit.

3.5.2 Equality

The University is strongly committed to equality of opportunity and the promotion of diversity for the benefit of all members of the University community. The University's approach is to promote equality across the full range of its activities, in employment, teaching and learning and as a partner working with and within local, national and international communities. Equality analysis is a process which examines how the impact of the policy has been considered on the diverse characteristics and needs of everyone it affects.

3.5.3 Health & Safety

For further information please see the University Health & Safety policy <https://www.surrey.ac.uk/about/our-policies>