

GIFT ACCEPTANCE POLICY

1. Purpose

1.1 South Yorkshire's Community Foundation (the 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 Foundation is a registered charity (number 1140947) and limited company (number 7545536) benefiting communities particularly, although not exclusively, in South Yorkshire. 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 acts as a hub for community philanthropy. It enables effective giving that supports people to overcome disadvantage, creates stronger communities and makes the area a good place to live. This is done mainly through donors establishing, growing or contributing to charitable grant-making 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.

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 four models for named funds:

- **Endowment Funds:** the gift is held as an asset, and invested within the Foundation's endowment. The investment return provides revenue, which is used to support charitable causes each year.
- **Acorn Funds:** are Endowment Funds that build up through gifts made over a number of years, to the point when the fund 'matures' (currently with assets of £25,000) and the revenue from the investment return can be used for charitable causes.
- **Distribution Funds:** the gift is treated entirely as revenue to support charitable causes.
- **Combined Funds:** the gift is held partly as Endowment Funds and partly as Distribution Funds.

2.5 Themed or Area Funds are an alternative type of fund supported by one-off or regular gifts from a number of donors who share a common interest.

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 having regard to 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 **Themed Fund** several donors' contributions are pooled, but within a fund restricted for an agreed purpose. For a **Combined Fund** the Foundation will establish two separate funds (an Endowment Fund and a Distribution Fund) with the same purposes.
- 3.2 Assets donated to establish, grow or contribute to funds at the Foundation are irrevocable gifts. They become the Foundation's property (unless specific alternative provision is made in line with paragraph 5.4 below) and the Foundations 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 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 directly benefit from support from their funds.

4. Advice for donors

- 4.1 The Foundation engages donors living, working or interested in its geographical area of benefit. It recognises that donors have a range of interests and wants them to make informed choices about their charitable giving. However, its main purpose is to support philanthropy that benefits local causes and it promotes the case for doing so through funds held by the Foundation.
- 4.2 The Foundation always takes account of the wishes of potential donors. It will seek to disclose key issues that could reasonably be expected to influence a donor's decision to make a gift. Donors need to be aware 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.

For the avoidance of doubt, the value of any asset donated to the Foundation can go down as well as up, in accordance with market conditions and other factors.

4.3 The Foundation 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 gifts. All are outright donations of assets by living donors made on a one-off or regular basis, 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, (currently a minimum donation of £25,000).
- 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 the Foundation's board has discretion to sell and/or generate revenue from them 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.
- Letter of wishes – this is an informal letter, signed and dated by the legator. Although not legally binding, it provides guidance on how the deceased would want their life to be celebrated and ensures the gifts they wish to make from their estate are applied.

5.4 Donations from individuals that have been subject to Gift Aid and/or tax refund claims cannot be repaid under any circumstances. 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.

5.5 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 to the Foundation for further application to its charitable purpose in line with any restrictions agreed with the donors. Such arrangements will be subject to separate policies and agreements.

5.6 The Foundation may carry out appropriate due diligence and regulatory checks on those individuals and organisations that make gifts to it, in order to identify and manage any associated risks. 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.

6. Fund options and philanthropy services

6.1 Donors, who establish Named Funds, may choose to make one or more of the following recommendations as to how they would wish for their fund to be used:

- **Unrestricted** – the fund's revenue supports the activities of the Foundation, or its general grant-making at the discretion of the Foundation.
- **Field of interest** – the fund's revenue supports the donor's preferred causes or localities and allows the Foundation discretion to make grants in line with local needs and requests for support.
- **Donor advised** – determine the purpose of the fund and recommend but not determine, grant recipients 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 but not determine, grants on their behalf.
- **Donor nominated** – recommend, not determine, charities to be beneficiaries of grants from the fund each year.
- **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 to have. 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 Services 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.
- An annual fund statement and report.
- Invitations to the Foundations events. (Note: you can opt out of receiving invitations).
- Copies of the Foundations publications, including the Annual Review. (Note: you can opt out of receiving publications).
- Meeting staff or Board members for an annual review of the fund.

6.4 Arrangements may be varied through approved amendments to the Philanthropy Services 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 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 fund criteria and succession arrangements.

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 **Thriving Communities Fund**, another themed 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 services agreement.

iii) Give discretion to the Foundation to continue awarding grants in line with the wishes and restrictions set out in the philanthropy services agreement, on the understanding that the Board will from time to time determine a level of fund value at which this arrangement can remain in perpetuity (currently £250,000). 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 Thriving Communities Fund as in (i) above.

iv) 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 writing to the Foundation. Requests to modify arrangements should be communicated to the Foundation in writing, and a written acknowledgement received confirming the request has been approved. If, for any reason, nominated successor advisors are unable or unwilling to continue to act as Fund Advisors, or if no succession arrangements are made to replace the current advisors, then discretion to continue awarding grants will be transferred to the Foundation under its delegated powers. The name of the Fund will be maintained and grants will be awarded in line with the original purpose and focus of the Fund, unless the original donor or existing advisor has specified differently in a written expression of wishes in relation to succession arrangements.

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 area fund;
- to make an entirely unrestricted gift.

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.

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 and the Foundations investment policy as reviewed by the Board from time to time. The capital sum is invested to maintain and if possible enhance the value whilst generating income for grant making. Details of the current investment policy are available on request. Funds are pooled and allocated units within the overall portfolio and credited with their income. It is the Foundation's policy not to spend capital, unless instructed by the donor under the Philanthropy Services Agreement.

11.2 The majority of new Endowment Funds are held as a legally expendable endowment.

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, for this distinct purpose.

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 taking into account ethical considerations.
- 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.

12. Management costs

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, which we call our 'fee', depends on the level of engagement the donor requires, and the size of their fund. Core cost endowment funds to support the core work of the Foundation are particularly welcome.

- 12.2 The current annual fees are available (separately). Irrespective of fund criteria or restrictions, the Foundation applies fees 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 fees 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 Themed 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 Services 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.
- 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 fees, to support charitable organisations/activities, or by nominating that the balance be transferred to the Foundation's Operating Fund, Thriving Communities Fund or another theme/affinity fund.

15. Ultimate responsibility and resolution of disputes

15.1 Although it will always take account of the wishes of donors, the Foundation's Board has the ultimate responsibility for awarding grants from all funds held by the Foundation (subject to any restrictions agreed with donors) and for the management of donated assets once given. In particular the Board:

- reserves the right not agree to requests to spend capital from endowment funds unless there is specific provision to do so in a philanthropy services 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 areas of dispute 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. Variation of gift restrictions

16.1 Donors accept that the Foundation must be able to be flexible in meeting community needs in the future. Donors agree that the Trustees of the Foundation may at any time at their sole discretion amend restrictions applying to use of the fund if they believe that those restrictions:

- Cannot be satisfied, or are not in accordance with the original wishes of the donor or the original spirit of the donor's gift; or
- Have become impractical, unsuitable, irrelevant, obsolete or undesirable.

16.2 The Trustees will not amend any restrictions applying to use of funds if those amendments would allow the fund to be used for any purposes that are not charitable under English Law.

17. Data Protection

17.1 Each party shall comply with all relevant laws, legal requirements and guidance relating to the processing of personal data (as defined by the Data Protection Act), together with all reasonable requirements of the other party. Please refer to our Data Protection & Confidentiality Policy and our Privacy Policy.

18. Variations to this policy

18.1 The Community Foundation may vary the terms of this policy from time to time. The revised policy will be published on the web site of the Foundation for the time being.

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.
- *Board*: Trustee Board of South Yorkshire's Community Foundation.
- *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, some in a legally *expendable endowment*, which allows the Foundation flexibility to apply a total return investment policy at a future point as agreed by the Board (see below).
 - Some 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.
- *Fees*: the contribution funds make to the running costs of the Foundation's charitable work, including support to enable donors to be involved at the level they wish.
- *Distribution 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 Foundation.

- *Operating Fund*: the income which supports the Foundation's staffing, overheads and development.
- *Panel member*: an individual over 18 who is nominated by fund advisors to be involved in making recommendations on grants from a fund.
- *Philanthropy Services Agreement*: a document agreed with donors who establish Named or Themed 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.
- *Unrestricted fund*: a legal and accounting term for funds which the Foundation may use at its discretion to support its charitable purposes.
- *Themed and area funds*: a type of Named Fund founded and/or supported by gifts from a number of donors who share a common interest.
- *Thriving Communities Fund*: the main unrestricted fund held by the Foundation which is used at its discretion to support its charitable grant making activities.
- *Total return*: an investment policy whereby the Board can set a level of cash to be withdrawn each year from dividends and capital.