

Fund Development Code of Conduct

Acceptance and Refusal of Donations

Ultimate responsibility in respect of the acceptance or refusal of all donations, even when decision making has been delegated to staff, rests with the Trustees of Cheshire Community Foundation (CCF).

The Trustees have a duty to carefully consider, on the basis of the evidence available to them, whether the interests of Cheshire Community Foundation will be better served by accepting or refusing the donation and to act accordingly.

In making these judgements, Trustees and their delegated decision-makers must not allow individual or collective personal, political or commercial interests, or personal views on political or ethical issues, which are not directly related to the interests of the Foundation, affect their decision.

They are, however, permitted to take practical and ethical factors into account as long as they are ones that are likely to affect the specific interests of CCF.

Purpose

The purpose of this Code of Conduct is:

- To allow the Trustees of CCF, and the staff who support them in relation to fund development, to make clear and consistent decisions regarding the acceptance or refusal of donations, that comply with legal regulation.
- To avoid confusion between Trustees, fund development staff and volunteers as to who has the authority to take decisions in differing circumstances.
- To help to ensure that decisions are not made on an ad-hoc basis but are grounded in the mission and charitable objects of CCF.
- To provide a clear objective standard against which external regulatory bodies can judge the actions of the Foundation in cases of potential or actual dispute.
- To provide a clear unambiguous policy statement making decisions intelligible, easier to justify and credible to the public at large.
- To protect the reputation of Cheshire Community Foundation against adverse public reaction from existing or potential supporters.

Principles

The following principles will be used to determine when a donation might be refused:

- Where Trustees, or their delegated decision-makers, would derive personal benefit (individually or collectively) from donations, loans or other material support offered to the charity and where material benefit is tied to support, the Trustees **MUST** decline the support, the benefit or both.
- Where the Trustees, or their delegated decision-makers have reason to believe that the donation consists of money, goods, property or services obtained by unlawful means the Trustees **MUST** decline the donation.

- where the offer of support is dependent on conditions placed on it, the fulfilment of which would require the Foundation to take any action which is unlawful the Trustees **MUST** decline the donation.
- Where it is clear that the activities of a donor are directly contrary to the charitable objects of the Foundation, the agreed policies of the Foundation or to the beneficiaries of the Foundation, the Trustees **CAN** refuse the donation.
- Where it can be shown clearly that the cost to the Foundation of accepting a donation will be greater than the value of the donation itself, the Trustees (in promoting the best interests of CCF) **CAN** refuse the donation.
- Where the Trustees can demonstrate that they have reasonable grounds to believe that acceptance of the donation will itself directly lead to a net decline in the asset base of the Foundation, they **CAN** refuse the donation. The only reason we would not take money is if the reputational damage led to fewer funds being raised offsetting the value to communities of a donation.
- Where the offer of support is dependent upon the fulfilment of certain conditions placed upon the Foundation, the trustees **CAN** refuse that support. Such cases might exist where:
 - any condition linked to the support is, in itself, contrary to the objectives of the Foundation.
 - any condition linked to the support is regarded as unreasonable in relation to the nature of the support in terms of its size or impact on the work of the Foundation.
 - conditions linked to the support will divert CCF from pursuing its current objectives, policies or work priorities as a necessary result of the fulfilment of the conditions alone.
- Where an offer of support is itself dependent upon CCF first spending its own money or resources in order to facilitate the execution of the original offer of support, great care **SHOULD** be taken by the trustees who may be placing charitable assets under undue and inappropriate risk.
- Where a donation is made of a value of less than £10,000, which is restricted to a specific project or programme of work not already identified and prioritised by CCF, the trustees **CAN** refuse the donation on the ground that it will not be in the Foundation's best interests to accept a donation that requires work to be carried out that would not otherwise have taken place. In such circumstances the donor will be asked to re-direct their donation towards discretionary funds.
- Practical considerations may mean that an otherwise acceptable donation is refused. Such cases might exist:
 - where support is tied to a particular project or activity which, whilst reflecting the Foundation's objects, is nevertheless impractical, given the current standing of the organisation.
 - where the support is presented in an unconventional manner and the cost of processing the donation exceeds the value of the donation.
 - where the support consists of goods, services or property which the Foundation cannot lawfully use.

Decision-making Process

The following decision-making process clarifies where decisions are made in relation to the acceptance and refusal of donations, and what the process is for ensuring that potentially contentious donations are appropriately investigated.

Examples of what may constitute a 'contentious' donation are:

- A donation that is made by a company defined by our own criteria as 'high risk'.
- A donation that is made with unconventional restrictions, conditions or caveats.
- A donation that is less than £10,000 but which is restricted to a specific project or programme of work.

Day-to-Day Decisions

Day-to-day decisions about the acceptance and refusal of donations will be made by the Chief Executive, who solicits donations and handles income.

The CEO will be expected to proactively elevate any donation that they consider, on the basis of the evidence available to them, may be contentious.

Elevation process: Step 1

The first point of elevation for potentially contentious donations is the Chair of the Board. If the Chair is unavailable the CEO will defer to the Treasurer. The Chair or Treasurer should be alerted of any contentious donations within 24 hours of them being received, and prior to them being accepted. The Chair or Treasurer will make a decision on the refusal or acceptance of the donation, on the basis of the evidence available, in light of the principles contained within this Code of Conduct and following consultation with at least one other member of the Finance and Audit Committee. If the Chair is unable to make a decision they will elevate the decision to the Board of Trustees.

Elevation process: Step 2

If the Chair or Treasurer is unable to make a decision about a donation they can elevate the decision to the Board of Trustees. The Board will convene an emergency meeting, at which at least four members must be present, to discuss the donation and to make a decision on the basis of the evidence available to them and in light of the principles contained within this Code of Conduct.

In order to pre-empt possible disputes and/or negative publicity in complex or potentially difficult cases, the Trustees may wish to apply to the Charity Commission for an order authorising the Foundation to refuse a donation. Circumstances where such an order might be of particular benefit are those where:

- it is not immediately clear what the 'best interests of the Foundation' are in relation to the proposed donation.
- large sums of money or property are involved.
- the Trustees have reason to believe that a decision taken by them might be subsequently challenged in the courts.
- the Trustees wish to use the 'authority' of a Charity Commission order to mitigate against the threat of negative publicity engendered by the refusal of a donation.

Returning a Donation

Where a donor requests the return of all or part of a donation made to Cheshire Community Foundation, the decision will be immediately elevated to the Chair. If the Chair is unavailable

the CEO will defer to the Chair of the Treasurer. The Chair or Treasurer may consider returning the donation if:

- The terms and conditions of the gift provide for it to be returned in particular circumstances which have demonstrably been met.
- The law specifically provides for the gift to be returned in particular circumstances.
- It is by way of an ex-gratia payment to discharge a compelling moral, but not legal, obligation.
- Its refusal or delay is with a view to persuading the donor to make the gift in a more tax-effective manner (e.g. by Gift Aid), provided that the Foundation explains the tax advantages accurately to the donor.

In cases where the value of the donation to be returned is greater than £100,000 the Chair or Treasurer **MUST** elevate the decision to the Board of Trustees.

Prevention of Unauthorised Fundraising

Whilst Cheshire Community Foundation will generally welcome and support those who seek to fundraise on behalf of the Foundation, the Charities Act 1992 does permit all charities to obtain a court order preventing unauthorised fundraising where an individual is using fundraising methods to which the charity objects, or where the charity believes that the individual is not fit and proper to raise money on their behalf.

If CCF was to pursue a Court Order of this kind, a delegated group of Trustees would be asked to approve the decision.