

# BIRMINGHAM CITY UNIVERSITY

## BOARD OF GOVERNORS

### DEVELOPMENT COMMITTEE

#### GIFT POLICY

##### 1. Introduction

Birmingham City University is a Higher Education Corporation, an exempt charity under the meaning of the Charities Act 2011. Its Board of Governors are its charitable trustees, and are responsible for ensuring compliance with charity law.

- 1.1 To help the University to fulfil its mission to transform the prospects of individuals, employers and society through excellence in practice-based education, research and knowledge exchange, donations from UK and international donors are welcomed. While private giving is vital to the University, it is important that the source of the donation and its proposed purpose are carefully considered before any gift is accepted.
- 1.2 This document sets out the University's policy in relation to the acceptance and refusal of donations, gifts, endowments, pledges and legacies.
- 1.3 The ethical decision making process set out in this policy enables all involved in the donation procedure to make assessments that reflect the University's mission, values and long-term goals, as well as the Development Committee's terms of reference.
- 1.4 On behalf of the University's Board of Governors, the Development Committee oversees all donations and endowments. The Committee delegates responsibility for some aspects of assessment and decision making, up to certain financial limits and within certain criteria. However, the Committee retains overall responsibility and accountability.

##### 2. Donations

The University may accept gifts and donations of the following, subject to the principles set out in sections 3 and 4:

###### 2.1 Cash

Cash gifts will be valued on the date of receipt and require no further action for acceptance. Cash donations of any size may be made by cheque, credit or debit card, or bank transfer. Cash donations made in notes and coins will only be accepted up to the value of £100.

###### 2.2 Stocks and shares

The University can accept both publicly held and closely held securities. Publicly traded securities may be gifted to the University, subject to the completion of the necessary transfer formalities and the payment of any Stamp Duty. Securities are valued at the time the donor surrenders control. In general, all marketable securities will be sold upon receipt unless otherwise directed by the Director of Finance and Resources acting on the advice of University appointed advisers.

Acceptance of a gift of securities that do not meet the technical HMRC definition of publicly traded securities (which may include debt and equity positions in non-publicly traded companies and interests in limited partnerships and limited liability companies) will require the approval of the Director of Finance and Resource Allocation, acting on any necessary advice.

### 2.3 Tangible assets and gifts in kind

Tangible assets could include works of art, artifacts, books, jewellery, equipment, musical instruments, vehicles and any other property item owned by a donor excluding real estate. The University will assess any potential gift of tangible property before acceptance in terms of its financial value, its potential use to the University, any ongoing liability associated with accepting it and how quickly the item could be sold and converted into cash if appropriate.

### 2.4 Real estate

Gifts of real estate may include developed property and undeveloped land. The University will require a structural survey or equivalent to ensure there are no significant ongoing financial or environmental risks or costs associated with a gift of real estate, which would usually be at the expense of the donor. Any gift of real estate will require approval by the Director of Finance and Resource Allocation acting on any such professional advice (s)he deems necessary.

### 2.7 Legacies and bequests

The University will accept legacies and bequests. The University will encourage donors wishing to leave a bequest or legacy to execute an appropriate codicil in their will. The University is unable to provide legal advice in any circumstances.

### 2.8 Corporate sponsorship

The University will assess potential corporate sponsorships against all of the general principles in section 4. Corporate sponsorships which contravene the University's financial procedures in relation to procurement and inducement will not be considered until after any such procurement activity is complete.

## 3. Authorisation to accept gifts

3.1 Any University staff approached by a potential donor or contacted by the executors of an estate in relation to a donation shall notify the Development and Alumni Relations Office as soon as reasonably practical.

3.2 The Development Committee retains overall responsibility for accepting all gifts and donations. Authorisation to accept gifts and donations up to levels set and periodically reviewed by the Development Committee is delegated as follows:

- The Vice-Chancellor or his/her designates will be authorised to accept all unrestricted revenue donations which fulfil the general principles of this policy (as set out in section 4).

- The Vice-Chancellor or his/her designate will be authorised to accept planned gifts (e.g. legacies, gifts of assets) and restricted gifts that fulfil the general principles of this policy (as set out in section 4).
  - The Vice-Chancellor or his/her designate will be authorised to accept any unrestricted donation or bequest which may be added to an existing endowment fund at the University's discretion, or any expendable endowment.
- 3.3 The Development Committee must approve any donation or legacy intended to create a new permanent endowment.
- 3.4 Where a donation or bequest does not fulfil the general principles of this policy, a due diligence report in relation to the donation or bequest will be prepared for consideration by the Development Committee.

The level of due diligence required will depend on the size and nature of the donation but should always include:

- The name of the donor;
  - The address of the donor (or in the case of a corporate donor, registered address);
  - An understanding of the source of funds forming the donation;
  - Whether the donor has a previous affiliation with the University
  - If the donation is to be a revenue donation or is to be used to create a permanent or expendable endowment;
  - If the donation has any performance conditions attached;
  - What restrictions the donation has as to purpose;
  - A report addressing all general principles set out in section 4 below.
- 3.5 Where a donation or bequest does not fulfil the general principles of this policy, the decision to accept or decline a donation shall be made by the Development Committee at its next appropriate meeting or by Chair's Action, and the due diligence report must be circulated to all members of the Committee in advance. The acceptance or refusal of a donation must be included in the Committee's annual report to the Board of Governors.
- 3.6 Where a new endowment will be created as a result of a donation, a Gift Agreement Form must be completed.
- 3.7 Where appropriate, for instance as a result of a change in circumstances or public perception of a donor, the Development Committee may review past decisions as to the acceptance or refusal of a donation.

#### 4. General Principles

The University will apply the following general principles to all potential and actual donations and endowments:

- 4.1 Donations are sought and accepted only for programmes and purposes compatible and complementary to the objectives and values of the University.
- 4.2 Donations with a restricted purpose must be in accordance with the policies and purposes of the University. Donors shall be encouraged to include alternative purposes for the use of narrowly restricted or designated gifts at

the time the donation is made. Donors shall also be encouraged to consider their wishes should the donor's original intention for the donation cease to be applicable at a future date, and to authorise the Development Committee to change the restriction if necessary. Alternative future use of funds will be specified in all Gift Agreement Forms.

- 4.3 Donations will not generally be accepted where the source of funds is not aligned with the University's ethical policy, mission, values and long-term goals.
- 4.4 Donations will not generally be accepted where they are not financially beneficial to the University, or where they represent actual or potential liability against the University's assets or resource, for example a gift of property with substantial mortgages, environmental hazards or substantial operating costs beyond the asset's inherent ability to cover such risk or costs.
- 4.5 A donation may be refused if there is any available, credible evidence or suspicion that the donation will be made from an individual or organisation that:
  - is, or takes part in activities that are, detrimental to the objectives of the University;
  - has evaded tax;
  - has violated international conventions that bear on human rights
  - has limited freedom of enquiry or academic freedom
  - has suppressed or falsified academic research; or
  - has been involved in illegal activities or infringed money laundering requirements.
- 4.6 A donation may be refused if the source of the funds cannot be adequately verified.
- 4.7 A donation will, in all circumstances, be refused if it will:
  - require action by the University that is illegal, including gifts which discriminate based on protected characteristics;
  - seriously damage the reputation of the University;
  - create any conflicts of interest;
  - place unmanageable or inappropriate demands on the University;
  - place conditions on the University that are contrary to the University's objectives/values, or tie the donation into an activity that is contrary to the University's objectives/values; or
  - deter donations or gifts from other potential donors, unless a valid reason for exclusivity is agreed in advance with the donor.
- 4.8 Gifts or donations may or may not attract Gift Aid for the benefit of the University or other tax deductions or benefits to the donor, depending on the tax status of the donor, but these benefits will not influence any decision to accept or decline a gift.

## 5. Donors' Rights

5.1 Donors and prospective donors are entitled to the following information upon request:

- the most recent annual report and financial statements of the University and Development Committee;
- confirmation of the charitable status of the University; and
- a copy of this policy.

5.2 The privacy of donors will be respected. Any donor records that are maintained by the University will be kept confidential and the donor will have the right to see their own donor record. No public announcement of donations will be made without the approval of the donor.

The University will not accept donations from anonymous sources (See 4.6). However, in cases where the donor wishes to remain publicly anonymous, the University will respect this wish as far as legally and practically possible. The University may disclose details of a donor where it is required to do so for example by law or by governmental or regulatory authority.

5.3 The University will honour a donor's request:

- to limit the frequency of solicitations from the University;
- not to be solicited by telephone or email; and
- not to receive printed material concerning the University.

5.4 The University will not give donors legal or taxation advice.

5.5 The University is committed to a high level of stewardship and donor relationship management regarding the acknowledgement of all gifts and will comply with all UK legislation as well as the Code of Conduct of the Institute of Fundraising.

5.6 Subject to agreement by the donor, the University will publicly recognise donors as agreed and set out in Gift Agreement Forms, including recognition in online and printed material and on campus. Where any space, programme, scholarship or post within the University is to be named in recognition of a gift or sponsorship, the Gift Agreement will specify the terms of any such naming, in accordance with the University's Building Naming Policy, and whether the naming is to be in perpetuity or for a fixed period of time.

Head of Development and Alumni Relations

Approved by the Development Committee: 21 April 2016

## ANNEX 1:

### **CASE Europe: Ethical Principles Behind the Acceptance of Gifts Guidelines for UK Higher Education Institutions**

1. Universities should seek philanthropic support which is aligned with their values, strategic goals and financial needs, as a legitimate, sustained and vital component of their income.
2. Ethical guidelines for the acceptance of such gifts in any institution should be available in the public domain.
3. Impartial, independent research, scholarship and teaching are the basis for the furtherance of knowledge. Universities should not accept philanthropic gifts if this is not clearly understood and accepted by all parties.
4. Universities are charitable bodies and must observe the requirements of charity law and other relevant legislation in relation to the receipt and expenditure of funds. Ultimate responsibility regarding the acceptance and refusal of donations rests with the governing body of each university.
5. Where the authority for the acceptance of donations is delegated to the Vice-Chancellor and other senior academics or officers, that authority should be explicit and the responsibility of those accepting gifts to implement the institution's detailed ethical policies and procedures on donations must be clearly understood and consistently applied.
6. Universities should take all reasonable steps to ensure that they are aware of the source of funding for each gift, and have processes in place to satisfy themselves that the funds do not derive from activity that was or is illegal, or runs counter to the core values of impartial, independent research, scholarship and teaching.
7. Discussions with potential donors that are likely to give rise to significant public interest, or which raise complex questions with regard to acceptability, should be considered at the earliest stage possible by the appropriate decision makers who should be fully informed of the purpose and the background to the donation and the source of funds.
8. The legal and reputational rights of potential donors should also be considered as part of any due diligence undertaken in assessing the acceptability of a proposed donation. In this regard, a clear distinction should be drawn between rumour or speculation and matters of confirmed fact or legal finding, whilst also accepting that institutions may wish to consider the reputational risks that could be incurred through public perception of any particular donor.
9. Donors must accept and, for significant gifts (as determined by individual institutions), sign appropriate gift agreements to confirm that the management and governance of programmes funded through benefaction rest solely with the university. Individual institutions typically choose, without undermining this core principle, to offer donors opportunities for continuing engagement with the activities that they have funded. Universities should employ their standard procedures relating to recruitment, admissions, hiring, promotion, procurement, management and governance for all research, teaching, outreach, capital development, or student scholarship programmes funded by gifts.

10. Universities should have procedures in place for reviewing and reconsidering previous decisions taken in good faith relating to the acceptance of particular gifts if subsequent events or the subsequent availability of additional information require it. The response to such circumstances should be transparent and proportionate to the particular circumstances that have arisen.

*Last updated: 20 Sept. 2011*