

- GIFT ACCEPTANCE POLICY-

1. INTRODUCTION

In relation to fundraising, the Office of the Scottish Charity Regulator (OSCR) states that charities must follow the legal requirements relating to fundraising, and the fundraising standards set out in the Code of Fundraising Practice.

The support we receive from a variety of sources helps provide a world-class museums service that informs, educates and inspires. We value the gifts and sponsorship that make our work possible. However, there are circumstances which may prevent us from accepting gifts. Decision-making about the acceptance of gifts requires careful analysis of the benefit that will be obtained, balanced against the risks of accepting.

This Policy and its associated Procedure are in place to guide assessment of the ethical acceptability of monetary gifts and sponsorship. The broad nature of the terminology in this policy recognises the need for flexibility as we approach a wide range of prospective donors. Notwithstanding this flexibility, it ensures a clear framework to ensure both the financial sustainability of our organisation and protection of our reputation.

2. BACKGROUND

It is not straightforward for charities to refuse or return a gift. The Fundraising Code of Practice says it must only be done in exceptional circumstances and supported with rigorous due diligence, and record-keeping.

2.1 Gift Return

There is no clear process for returning a gift in Scotland: doing so and the return of a gift, once accepted, would require us to consult with OSCR and seek legal advice. This underlines the importance of diligence about the gifts we accept.

2.2 Gift Refusal

The specific circumstances in which gifts can be refused are:

- It would be unlawful to accept it, i.e. it comes from the proceeds of crime.
- It has been made by someone who lacks capacity to decide to make a gift.
- The cost of processing the gift exceeds the value of the donation.
- The gift consists of goods, services or property which the charity cannot lawfully use, convert, exchange or sell in direct support of its charitable objects.
- Accepting the gift would be detrimental to the achievement of the purposes of the organisation. This anticipated detriment must be set against the benefit of having the funds from the donor.

Damage to the charity's reputation or loss of public trust is considered a factor in gift acceptance because of the potential detriment it can cause, such as:

- The loss of other donations which could equate to the same or greater value than the gift in question.

- The loss of staff or inability to recruit staff, which could affect the charity's ability to function.

In addition, when donors place restrictions on gifts there are practical considerations which may permit a charity to refuse them. These include when any condition linked to the gift:

- Is contrary to the objectives of the charity.
- Is unreasonable in relation to the scale of the support or impact on the work of the charity.
- Will divert the charity from pursuing its current objectives, policies or work priorities.
- Is tied to a specific activity and that specific activity is not:
 - (i) charitable in nature
 - (ii) within the scope of legitimate action permitted by the recipient charity's constitution in order to achieve its charitable aim
 - (iii) practically achievable by the recipient charity.
- Ties the gift to a particular project or activity which is impractical for the recipient charity, e.g. where support is offered to purchase a building, but the charity has no resources with which to maintain it thereafter.

Although a misalignment with the organisation's perceived ethics and values can be taken into account, it cannot alone justify a gift being refused unless it meets one of the above criteria. Organisations are required to demonstrate a robust rationale for the refusal of a gift, otherwise the default position must be acceptance.

3. APPLICATION OF THE POLICY

- The procedures described below are in place to assess the acceptability of gifts. A gift is defined as a voluntary transfer of money or in-kind support by a donor, made with philanthropic intent. This policy applies to gifts, sponsorship and bequests.
- The policy will be applied to gifts with a value in excess of £5,000 unless there are clear risk indicators which suggest further review is necessary. £5,000 is lowest value to receive public recognition on our donor boards and this limit recognises the need to balance risk with staff resource.
- The policy is applicable to gifts from new donors and donors who have previously donated to the organisation.
- The policy is not applicable retrospectively. This means we would not review gifts which have been received in the past or seek to return them.

In assessing the acceptability of gifts and sponsorship, we will follow the procedure and guidelines described below:

4. GIFTS NOT ACCEPTED

We will not accept gifts or sponsorship that:

- Result from the proceeds of crime.
- Are made by individuals who lack the capacity to decide to make a gift, or to consent to a gift being made.
- Will damage our reputation, and thus be detrimental to or inconsistent with the achievement of our purposes.
- Are made by tobacco companies or the tobacco industry.

5. GUIDELINES FOR GIFT ACCEPTANCE

A gift should not be accepted if the potential detriment it could cause exceeds its benefit to the organisation, and its terms should not be impractical to meet or inconsistent with the achievement of our objectives. We consider each gift on an individual basis. The following guidelines are to be used to help us evaluate the acceptability of gifts offered to us:

- The gift must support the aims, mission and strategy of National Museums Scotland.
- Acceptance of the gift should not damage our reputation and thus harm our relationship with other donors, sponsors, partners, visitors and other stakeholders.
- The terms of the gift should not create unreasonable restrictions on our operations, or be impractical or undesirable to meet.
- The gift must not impinge on curatorial or academic freedom, or the freedom to publish or interpret.
- Processing the gift and fulfilling its terms should not present a financial cost to the organisation which exceeds the value of the gift.
- We will not accept gifts from anonymous donors through an intermediary who is not prepared to identify the donor to a senior member of staff on a confidential basis.
- The terms of the gift should not commit us to an activity or donor acknowledgement in perpetuity.
- Potential conflicts of interest must be considered as part of the gift acceptance procedure.

6. PROCEDURE

- Offers of financial support from donors are initially assessed and researched by the Development team.
- The use of a risk management matrix will identify donations which may cause concern and provide a framework for assessing the level of risk.
- If concerns are raised regarding a specific donation the Director of External Relations and the Head of Development will consult the Director, who will either make a decision or refer the matter to the Chair if appropriate.
- When deemed necessary, the final decision on the acceptability of a gift will rest with the Chair of the Board of Trustees.