

**Ethical Business: Charitable Gifts Acceptance Policy**  
September 2017

POLICY

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Consultation via:	Director of Governance and Legal Services Head of Heritage and Information Governance and Research and Enterprise Services
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HERIOT-WATT UNIVERSITY  
ETHICAL BUSINESS: CHARITABLE GIFTS ACCEPTANCE POLICY

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POLICY

## 1. INTRODUCTION

In preparing this policy document, desk based research and benchmarking have been undertaken across UK and USA universities (see Annex A for details). The 2011 Woolf review and subsequent report and recommendations form an important context for UK universities in relation to charitable gift acceptance policies and procedures. Reference has also been made to the Council for the Advancement and Support of Education (CASE) which has published guidelines in relation to “Ethical Principles behind the Acceptance of Gifts. These recommendations and guidelines have been considered in the development of a policy around charitable gift acceptance at Heriot-Watt University.

Heriot-Watt University is a charity registered in Scotland (SC000278). Accordingly, it is subject to charity law in Scotland and to regulation by the Office of the Scottish Charity Regulator (OSCR). The members of the University Court are the governing body of the University and as such, they are the charity trustees and thus are ultimately responsible for operations of the charity.

In addition, the UK Bribery Act 2010 requires the University to ensure, through due diligence and risk controls, that the receipt of a charitable gift is not in relation to some inappropriate advantage that might be afforded the donor, such as the award of a contract or offer of a University place for a close relative.

It is imperative that the integrity of the University’s teaching and research activities be free from compromise or undue influence, including the perception thereof. The freedom to pursue academic inquiry wherever it may lead is integral to the University’s long-established values. This must be part of the shared vision of the University and its supporters. The support provided by donors has frequently been valuable to facilitate such academic activities, but in so doing it is important to maintain an appropriate separation between the receipt of a charitable gift on behalf of the University and the provision of academic services. The Development & Alumni Office plays a significant and effective role in ensuring that an appropriate degree of separation exists, while still providing donors with access to regular information about the activities that they have supported.

## 2. POLICY AIMS AND PURPOSE

2.1 The purpose of this **Charitable Gift Acceptance Policy** is to ensure the reputations of all parties i.e. donors and Heriot-Watt University be wholly protected from any real or perceived impropriety in the relationship that is established through the offer and receipt of a charitable gift.

2.2 This policy seeks to ensure that charitable gifts to Heriot-Watt are properly received, recorded and administered using appropriate internal controls and that the University’s acceptance and management of gifts are in compliance with external regulations and the Heriot-Watt’s fiduciary obligations to donors.

2.3 For the avoidance of doubt, philanthropic gifts are distinguished from research grants which are predominantly accessed via UK Funding Councils, EU and other publicly funded sources, the latter being administered by Research Enterprise Services (RES). These funds are excluded from this policy. Please refer to Section 12 re definition of philanthropic non philanthropic funds.

2.4 Charitable donations and gifts include, but not exclusively limited to, cash or cheques,

property, share or bonds, tangible personal property (gifts in kind), legacy gifts, corporate sponsorship and charitable foundation gifts (see Annex C for further information). In the case of legacy gifts left to the University but which have not yet been received, e.g. where probate is pending, recognition is required under FRS102.

2.5 All offers, loans and donations of works of art, artefacts, images, recordings and archival documents that may have potential heritage value fall within the scope of the University [Museum and Archive Collections Development Policy](#) and will be referred to the Heritage and Information Governance service for consideration in accordance with that policy.

### 3. SCOPE

**3.1 This Policy applies to all members of the Executive and governing body (the Court) and those serving on its committees, in particular, Governance and Nominations Committee as well as the Endowment Committee.**

3.2 The scope of this Policy is relatively wide in its coverage of activities that may give rise to conflicts of interest in relation to charitable gift acceptance. In particular, the policy establishes 'refusal of gifts; and sets out the principles that the University will follow when seeking and accepting gifts from individuals and companies and the commitments that it makes to donors and prospective donors. It is not possible for policy guidance in the area of interests to be all inclusive, therefore individuals must apply reasonable judgement and **comply with the spirit and not just the narrow letter of the Policy**. If in doubt governors should seek the advice of the Secretary of the University.

3.3 It must be noted that as the University operates internationally, both through its campuses in Dubai and in Malaysia and through arrangements with partners in other jurisdictions, the Policy shall pay due regard to non UK legislation that might be applicable. In particular the University shall ensure that its operations in Dubai and Malaysia meet any minimum statutory requirements of the host country. Where UK regulations are of a higher standard the University will also apply these where reasonably practicable.

### 4. REFUSAL OF GIFTS

4.1 The University will not accept philanthropic donations that are inconsistent with the University mission or charitable status

4.2 The University will not accept philanthropic donations if the proposed donation arises in whole or in part from any illegal activity

4.3 The University will not accept philanthropic donations if the terms of accepting the proposed donation may:

- Result in any legal action on the part of the University
- Lead to an unacceptable conflict of interest
- Be judged to present a significant risk to damage the reputation of the University
- Harm the University's relationship with its students, benefactors, research supporters, partners, local community or other external stakeholders
- Incur or is likely to incur on-going costs that cannot be met or demonstrated to be met from existing resources

4.4 The University will **refuse** gifts from organisations, the major part of whose business demonstrates the following characteristics: are deemed to be illegal; limit or compromise freedom of enquiry or academic integrity; are from companies that run counter to our charitable objectives; compromise the charitable status of the University; create an unacceptable conflict of interest or compromise the mission, vision and values of the University; damage the reputation of the University; cause other harm to the University.

4.5 Refusal of gifts will be recorded at each stage of the decision-making process and captured within the Development & Alumni database.

#### **4.6 Exemptions**

4.7 It should be noted that gifts which are exempt from this policy include any grants of any size from charitable foundations registered with the regulatory authorities in the UK, USA and Canada, or from funding councils or related bodies within the UK, USA or EU, will not be subject to ethical review and can be progressed to the signing of an appropriate agreement with the funder if such support does not contravene the stated 'refusal of gifts' element of this policy.

4.8 If the donor is a corporate or charitable body that is legally permitted to operate in the UK, then the source of funding will not normally be contested. The Development & Alumni Office relies on the UK charity regulators and Companies House for information and would not normally seek (or be a position) to conduct an independent investigation of funding sources.

4.9 Gifts from states or governments outwith the UK will usually be offered with conditions that require legal, reputational and cultural factors to be taken into account prior to acceptance. If normal diplomatic relations do not exist between the UK and the state in question, then the offer of a gift would not normally be accepted. Exceptionally, the offer may be referred to an advisory group of senior University staff (the majority of which are outwith the Office of the Principal) for consideration and a recommendation to the Assistant Principal Development.

### **5. General Principles and Procedures for Charitable Gift Acceptance (See also Annex B)**

The following principles and procedures apply to all kinds and sizes of charitable gifts.

5.1 The Development & Alumni Office will co-ordinate the University's efforts to seek philanthropic support, including that from alumni, parents, friends, trusts, foundations and corporates in the UK and abroad. It will also be the Office that will routinely receive gifts on behalf of the University, record them and arrange for their appropriate allocation. The University will only accept donations from students and parents if there is no personal or academic gain for making such a donation.

5.2 No individual, institute, department or school should request a charitable donation without first consulting the Development and Alumni Office. In the case of the Edinburgh Business School which has been established as a separate charity, fundraising should be discussed in advance with the Development and Alumni Office. Similarly no donations should be directly received by academic and/or Schools, unless previously agreed with the Development & Alumni Office. It is particularly important for the University to prevent any directness of influence (real or perceived) upon academic pursuits, processes or standards, including (in the case of gifts from family members) upon individual student outcomes.

5.3 The Development & Alumni Office will take all reasonable measures to ensure it is aware of the source of funding for gifts and will undertake due diligence to ensure that gifts are for purposes consistent with the University's mission and that no legal or reputational issues are raised by their acceptance. One such factor is the timing of a gift, if it may be construed as influencing or having influenced (for example) an academic outcome or a procurement process. The Development and Alumni Office will also ensure that the activity to be funded does not create unacceptable conflicts of interest for the University and that the nature or level of the gift does not result in unacceptable current or future financial liabilities for the University

5.4 Members of the University staff or Court must disclose immediately to the Assistant Principal Development any actual or apparent conflict of interest that a gift may pose.

5.5 The University recognises that perceptions of what is acceptable and factors affecting reputations may change over time. In its acceptance of gifts, the University will act in good faith according to the standards prevailing at the time of receipt.

5.6 The Development & Alumni Office will maintain appropriate records to enable tax to be reclaimed under the UK Gift Aid scheme. This will be an auditable record for every gift and donor (individual, trust or corporate), held in an electronic database. Regular audits will be carried out, and information may be required by bodies such as HM Revenue & Customs in respect of gift aid claims.

5.7 With the approval of RES, and for the purpose of complete and consistent reporting, income received through the RES from trusts, foundations, companies and other organisations, which may be categorised as philanthropic (in accordance with generally accepted definitions), may be recorded on the Development Raiser's Edge database. All philanthropic income will contribute towards annual returns submitted as part of the Ross Case Survey.

5.8 Philanthropic gifts are normally kept distinct in terms of reporting from corporate sponsorship. All sponsorship proposals must be discussed in full with the Assistant Principal Development prior to final agreement.

5.9 A donor's right to remain anonymous in terms of external donor recognition will be respected, but full details will be recorded in the Raiser's Edge database. If a gift is offered anonymously, so that the donor is unknown to anyone in the University, the Development & Alumni Office will be charged with seeking such information from the donor's representatives so as to ensure that it would be appropriate for the University to accept the funds. This will involve consideration of the principles outlined in previous sections of this document and any other possible influence that might be exercised by or any potential benefit that might be derived by a donor who seeks to remain anonymous. Where gifts arrive with no paperwork and it is impossible to return the gifts, the funds will normally be retained and credited to a student scholarship or access bursary fund.

At the time of the donation, the Development & Alumni Office will liaise with the donor, or where appropriate, the representative acting on behalf of the donor to obtain documented confirmation of the donor's wishes with regard to anonymity. The names of individual personal donors, details of their gifts, such as their value and any other personally identifiable information about them are the personal data of the individual and must not be published without the individual's explicit, written consent.

For publicity purposes, or in response to Freedom of Information requests, the total value of gifts from individual donors within a given period may be disclosed, subject to review by the

Heritage and Information Governance service to ensure that any information provided cannot be used to identify individuals.

5.10 Where conditions are attached to the offer of a gift, other than designating use for a specific University project for which fundraising is taking place, the Development & Alumni Office will discuss with the donor any issues of concern in relation to those conditions so that an agreement can be reached by all parties prior to the University's acceptance of the gift. The University will not normally accept a gift prior to ensuring that any imposed conditions are appropriate and can be satisfactorily met by the University.

5.11 Donors may expect to receive appropriate acknowledgement of their gifts and to be assured that their gifts will be used for the purposes for which they are given. Unrestricted gifts will be allocated to projects or other University uses at the discretion of the University. To this effect, the Development & Alumni Office will ensure that donors of unrestricted gifts are informed of the allocation of their gift through an initial letter and, thereafter, by on-going communications from the Development & Alumni Office, as appropriate.

5.12 The University will not raise funds on behalf of another charity - other than on behalf of or in partnership with Edinburgh Business School (EBS) which is also a charity registered in Scotland, SC026900, and a member of the Heriot-Watt Group. This is necessary to ensure the University's charitable status is maintained by OSCR.

## **6. Gift acceptance and due diligence**

The following procedures are proposed in relation to due diligence and gift acceptance decision-making. A more detailed due diligence process is currently being finalised by the Development and Alumni Office and will be completed in early 2017. This document effectively summarises the various information checks involved and takes account of delegated authority levels outlined below:

### **6.1 Gifts up to £5,000**

Gifts up to £5,000 will normally be accepted by the Development & Alumni Office without further investigation if (i) they are given without conditions in support of an existing fundraising project or programme and (ii) are received from donors already known or on the donor's database. In other cases, the Assistant Principal Development or his/her delegate will judge whether to accept the gift, conduct a more extensive process of due diligence, or liaise with the donor regarding any concerns.

### **6.2 Gifts between £5,000 and £50,000**

All such gifts will be notified to the office of the Assistant Principal Development on their offer or receipt, which will initiate an appropriate process of due diligence and assign a named contact within the Development Team.

6.3 Screening information will be carried out by the Development Office. It will be based on information that is available in the public domain and therefore cannot be exhaustive.

6.4 All philanthropic donations where the request for spend is restricted and/or beyond the current financial year must be approved by the Head of School and/or Deputy Vice Principal

6.5 To manage the balance between the need to know and the right to privacy, in its due

diligence investigation the Development & Alumni Office will typically focus on reviewing and noting only information that is relevant to the funds or donor and that is in the public domain (which is often considerable). All searches will be undertaken and documented in compliance with relevant privacy law and with the recognition that individual donors and prospective donors have the right to request personal data held about them by the University, including reasons for declining gifts.

6.6 Donors offering pledges valued at over £5,000 will be asked to complete a gift agreement that outlines the details of the gift, the project to be supported (if designated), a pledge payment schedule and naming rights (if applicable). The agreement up to £50,000 will be signed by the donor and (on behalf of the University) by the Assistant Principal Development. For gifts over £50,000 refer to the next section. Oral pledges are not officially logged until confirmed in writing.

### **6.7 Financial thresholds and decision-making and approval processes**

6.8 In any cases of concern, and for gifts between the following thresholds, the Assistant Principal Development will normally seek input and approval as follows:

£50k to £100k Secretary

£100k to £250k Vice Chancellor

£250k to £1m Vice Chancellor on recommendation from Governance and Nominations Committee

£1m University Court

6.9 The Development and Alumni Office will be responsible for providing decision-makers with sufficient facts pertaining to the donation in question, to enable the Committee to come to a fair and informed decision on acceptance.

## **7. Return of Gifts**

7.1 Gifts made to the University will not normally be returned to the donor.

7.2 In cases where a gift with agreed restrictions has been received by the University in good faith but where circumstances have changed so that the original purposes of the gift cannot be fulfilled in whole or in part, then the University will normally seek to use the funds in a way that closely corresponds to the original objectives of the donor, consulting the donor or the donor's representative wherever possible.

7.3 Gifts that are paid in error by the donor's bank, and bank overpayments, will be refunded to the donor.

## **8. Rights of Donors and Prospective Donors**

8.1 Heriot-Watt University is committed to its donors and remains dedicated to treating alumni, friends and all supporters with the highest level of care and respect. The following donor charter has been produced to assure donors and prospective donors of the integrity and



accountability of the Development Team and of their commitment to the highest professional standards at all times.

8.2 Donors and prospective donors may expect:

- To be treated by members of the Development & Alumni Office, volunteers and other University staff involved with the solicitation and receipt of gifts in a fair, transparent, accurate and honest manner in accordance with all applicable laws and the professional code of fundraising ethics and good practice.
- To be informed in all fundraising solicitations of the University's name, contact details and charitable status.
- To be informed whether those seeking gifts are volunteers, employees of the University or financial / legal advisors.
- To receive fundraising solicitations and stewardship reports from the University that are truthful, accurately describing the University's activities and the intended / actual uses of donated funds.
- To receive prompt responses to questions relating to gifts or any other aspect of the Development & Alumni Office's work.
- To receive appropriate and timely acknowledgment, recognition, and publicity for their gifts unless donors indicate a preference for privacy.
- To remain anonymous in terms of external donor recognition, if requested
- To be assured that donors' rights to privacy and confidentiality will be respected, with all donor records being kept securely and in full compliance with the Data Protection Act of 1998 and other applicable privacy legislation. Donors will have the right to see their own donor record and to challenge its accuracy.
- To be asked in writing for permission to be cited in case studies and other promotional material (including photographs) prior to publication.
- To be consulted, where possible, about alternative uses of a donation if their gift cannot be used for its originally intended purpose.
- To be kept informed of the impact of their philanthropy and the University's evolving needs and priorities. This includes receiving progress reports on supported activities and invitations to attend relevant events to see first-hand the benefits their support brings the University.
- To have their details removed from the University's alumni and fundraising databases or to have the number/type of solicitations limited upon request.
- To be assured that the University will not sell or give its donor list to a third party.
- To have access to the University's most recent published financial accounts and be assured that the University's financial affairs are conducted in a responsible manner, consistent with the obligations of stewardship and legal requirements of the Office of the Scottish Charity Regulator.

## 9.0 Complaints Procedure

9.1 Heriot-Watt University will seek the opportunity to set right anything a donor feels has been done wrongly and will do its utmost to discuss and resolve such issues. In the first instance any complaints should be raised with the Assistant Principal Development for investigation. If a donor remains dissatisfied with the initial response, then the complaint will be addressed in accordance with the University's relevant complaints procedure. See point 6 of policy <https://www.hw.ac.uk/students/doc/complaint-policy.pdf>

## 10. Gift acceptance and policy review

10.1 This policy will be reviewed by the Development and Alumni Office every two years or more frequently should legislative requirements change on approval by the University Court. Such reviews to be formally reported to the University Court.

## 11. RELATED POLICIES, PROCEDURES AND FURTHER REFERENCE

### Policies

Ethical Business: Bribery Prevention Policy

<https://www.hw.ac.uk/documents/ethical-business-bribery-prevention-policy.pdf>

Ethical Business: Conflict of Interest Policy

(Policy for University Court and Court Committee members)

<https://www.hw.ac.uk/services/docs/ethicalbusinessconflictinterestpolicy.pdf>

Ethical Business: Gifts and Hospitality Policy

<https://www.hw.ac.uk/documents/ethical-business-gifts-hospitality-policy.pdf>

Museum and Archive Collections Development Policy

<https://www.hw.ac.uk/documents/collections-development-policy.pdf>

Data Protection Policy

<https://www.hw.ac.uk/documents/heriot-watt-university-data-protection-policy.pdf>

<http://www.hw.ac.uk/policy1>

<http://www.hw.ac.uk/policy2>

### Procedures

Procedures for Responding to Requests for Personal Data

<https://www.hw.ac.uk/documents/data-protection-responding-to-requests.pdf>

<http://www.hw.ac.uk/procedures>

## 12. DEFINITIONS

### Eligible sources of philanthropic funds

- 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 with any other donation)
- Donations from charitable trusts and foundations in the UK and overseas. This includes donations from independent charities associated with NHS Trusts (but not direct from NHS Trusts)
- Grants made by affiliated support foundations such as North American 501(c) (3) organisations 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.

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 annex B).

#### **Ineligible sources of philanthropic funds**

- All funding from HM Government and its agencies, including the Research Councils
- Funding from NHS Trusts
- All funding from the EU or its agencies
- Royalties and other funds generated by the exploitation of the University's intellectual property rights
- Internal transfers within the University

### **13. FURTHER HELP AND ADVICE**

Nuala Boyle, Assistant Principal, Development – [n.boyle@hw.ac.uk](mailto:n.boyle@hw.ac.uk)

### **14. POLICY VERSION AND HISTORY**

<b>Version No</b>	<b>Date of Approval</b>	<b>Approving Authority</b>	<b>Brief Description of Amendment</b>
V. 2	15.09.17	Court	

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### **Annex A – Desk based research**

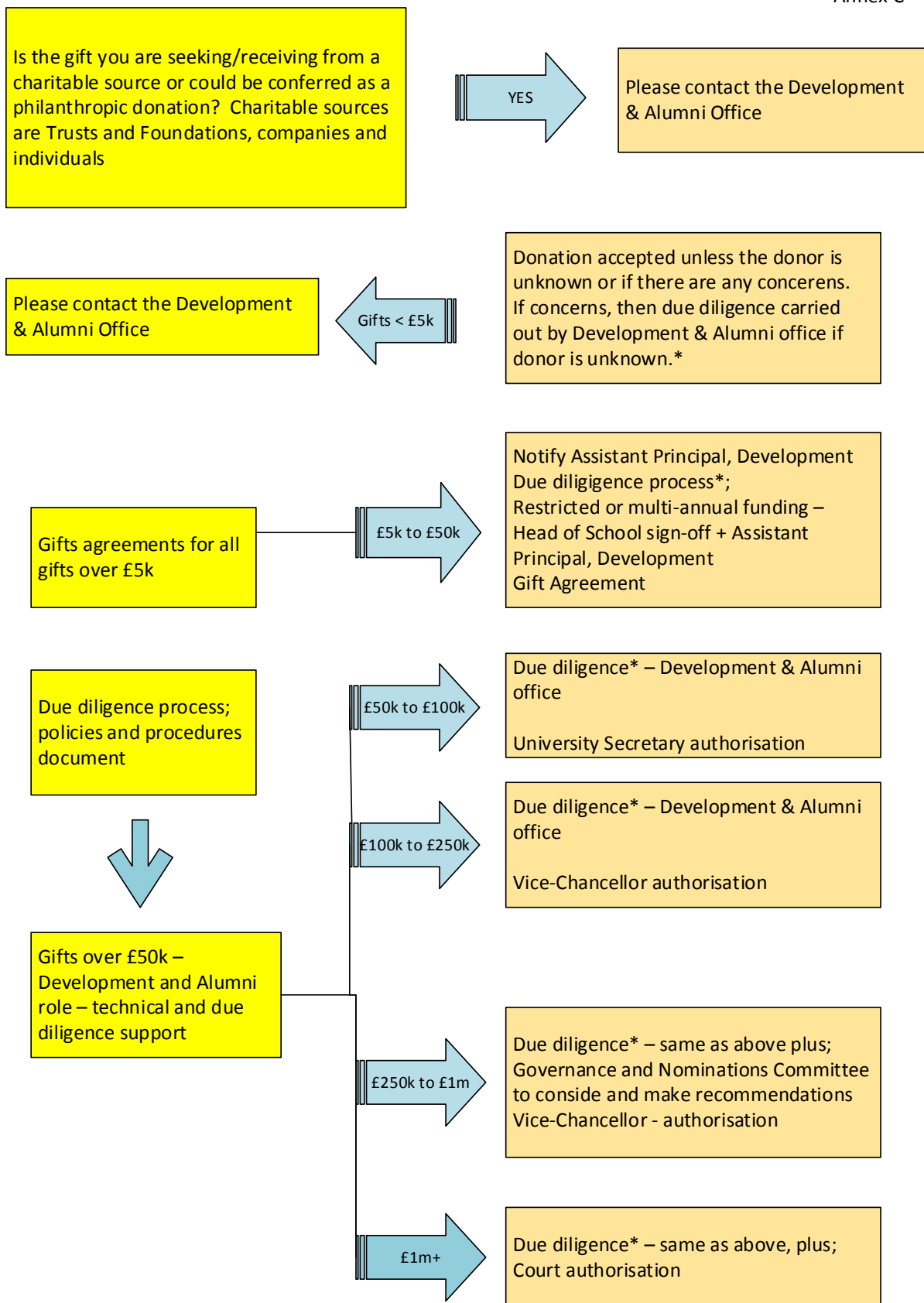
The following gift acceptance policies and Donor Charters were reviewed as part of the policy development process and desk based research undertaken for the following universities:

University of Surrey – Donations Policy and Accounting Procedures  
Royal Holloway, University of London – Donation Acceptance Policy  
University of Essex – Fundraising Codes of Practice and Acceptance of Donations Policy  
University of Brighton – Donations ethics – acceptance and disbursement  
Brunel University Policy for the Acceptance of Donations  
LSE Donor Charter  
Institute of Fundraising – The Acceptance and Refusal of Donations Code of Fundraising Practice  
Napier University – Ethical Fundraising Guidelines  
CASE Statement of Ethics  
University of Bristol – Code of Ethical Fundraising Practice September 2011  
Santa Clara University – article re 4 questions to guide discussions of gift acceptance  
Article from thetablet.co.uk – The price of a gift – Ethical Fundraising July 2011  
University of St Andrews Donor Charter

### **Annex B - Exclusions from philanthropic intent**

If any one of the following seven 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.

1. **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.
2. **Exclusive information:** The funder is entitled to receive exclusive information, or other privileged access to data or results emerging from the programme of activity.
3. **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.).
4. **Consultancy included:** Consultancy for the funder or a linked organisation is included as part of the agreement.
5. **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.
6. **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.).
7. **Funder control:** The funder retains control over operational decisions relating to the use of funds once the gift has been made.



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\*Refusal of gifts will be documented at each stage of the decision-making process and formally recorded on the Development & Alumni database