

# Arts and Health South West (AHSW)

## ETHICAL DONATIONS POLICY

Registered in England Charity No. 1115339  
Registered Company No. 5420987

Policy Adopted September 2020

Procedures for the Ethical Review of Donations, Grants, Gifts and Corporate Giving

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### 1. INTRODUCTION TO THIS POLICY

These policy sets out the procedures and acceptance process for all gift donations and giving to Arts and Health South West (AHSW), in accordance with the guidelines set out under the **Ethical Approval Procedure**, and **Guidance for the Ethical Assessment of Grants and Donations**, and **Guidance on Acceptance, Refusal & Return of Donations**.

In addition, in accordance with this Ethical Donations Policy, no AHSW staff member or Trustee should request a grant or donation from an individual, foundation, trust, company, friends group or any other organisation without first consulting the Director of AHSW and/or the Chair of the Board of Trustees.

As a point of principle, AHSW treats public donations with the respect that individual donors deserve. We are compliant with the Data Protection Act and the rules of the UK's fundraising regulator, we inform individuals of how their data will be used, and do not pass on data to third parties, except in exceptional circumstances and with consent. We thank people for their donation and use those funds respectfully, efficiently and for the purpose they were donated. We evaluate our work and beneficial impact. Wherever we can, we report back on the beneficial impact that donations have achieved.

It is important to note Trustees are legally responsible for ensuring that charitable funds are properly used, adequately protected, and not misused for financial crime, terrorist or other criminal purposes. Trustees are publicly accountable, and have duties and responsibilities under charity law to safeguard their charity, its funds, property and beneficiaries. *Charity Commission Guide to Due Diligence (1.)* Trustees must therefore act prudently in the receipt and expenditure of charitable funds. They must ensure that the funds received by the charity are legitimate.

## **AHSW VISION**

Creativity at the heart of human flourishing

## **AHSW MISSION**

Arts & Health South West is a **learning, advocacy, networking, and development** organisation. We want more people to experience the arts and culture for the benefit of their health and wellbeing. We provide **learning** programmes and resources, **advocate** with decision-makers and funders, deliver **networking** events, and support the **development** of partnerships and collaborations.

## **OBJECTIVES**

- Information is made easily accessible and resources and evidence identified and created to support learning and development in the sector
- Advocacy with decision-makers and funders raises awareness of the value of the work and unlocks support
- Opportunities for networking and learning support the development of partnerships and collaborations across the South West and facilitate the regional strategy

Through a collaborative regional strategy, we are supporting arts and health organisations and practitioners to deliver arts and cultural activity in response to some of the most pressing issues facing the people of South West England. Our priority areas are Mental Health, Loneliness and Social Prescribing.

## **GOVERNANCE**

AHSW is a registered charity (no. 1115339) and company limited by guarantee (no. 5420987). It is governed by its membership that meets annually. AHSW membership is for any individual or organisation with an interest in or actively engaged in arts and health activity. By signing up to membership of AHSW, individuals and organisations are aligning themselves with the core values of AHSW.

Some members do participate in wider membership working groups, these remain 'advisory' – they are not steering groups, and as such are referred to as 'Advisory Groups'. Being part of an 'Advisory Group' does not confer voting rights, opportunities to claim special connection with AHSW or its networks without our explicit agreement, nor to influence policy or project activity decisions. AHSW 'Advisory Groups' are governed by Terms of Reference that set the parameters for managing conflicts of

interest, promoting good working relationships, and enabling AHSW to distance itself from inappropriate opinions or activities, should these emerge.

The membership votes on the election and re-election of all AHSW Board of Trustees. The Board of Trustees meets quarterly to guide the work of AHSW and to provide and support functions of good financial and organisational governance. AHSW Senior Management Team reports to the Board of Trustees and is responsible for implementing this Ethical Donations Policy.

## **1.1. AHSW APPROACH TO FUNDING**

Arts and Health South West is a registered charity. We need to raise money to pay staff salaries, relevant taxes and national insurance, as well as overheads including staff travel, training and expenses; to run project activities in-line with our regional strategy and associate costs associated to these activities including insurances, advocacy and development; pay for goods and services including costs for our yearly Spring School, and conferences; as well as to occasionally pass on financial support or resource to the audiences and partners we work with.

All of AHSW work is guided by values and principles which support our aim to help more people to experience the arts and culture for the benefit of their health and wellbeing. Hence, we aim to ensure that funds we accept reinforce our values and principles, and do not detract from them. We always strive to ensure that: “No funding is accepted from any source that would compromise, or appear to compromise, the organisation’s vision, mission or objectives.”

## **1.2.AHSW FUNDING SOURCES**

The sources of AHSW funding vary in relative proportion and balance at different times, but here we paint a picture of our typical funding situation at any one time. The following list is not comprehensive but seeks to characterise our main forms and sources of income. We routinely and transparently declare such sources of funding in AHSW’s annual accounts.

1.2.1. Currently the majority of AHSW funds come from Arts Council Funding, as a governmental funding body but also an organisation which invests money from the National Lottery, we hold an agreement with ACE on reporting and delivery.

1.2.2. The majority of AHSW funds also comes from trusts and charitable foundations, supporting specific projects or campaigns. In agreement with the funder(s), we acknowledge such funding on project or campaign materials, as well as hold agreements with them on reporting.

- 1.2.3. Occasionally, AHSW receives funds from public sector institutions such as local authorities, government or regional funds, usually for pilots, evaluation or project delivery work. In agreement with the funder, we acknowledge such funding on campaign or project materials.
- 1.2.4. As a free membership organisation, we do not charge to be a part of AHSW. Some members or member organisations make in-kind contributions towards successful implementation of projects or campaigns. These are typically between a few hundred pounds to a few thousand pounds in value and are in-kind support.
- 1.2.5. AHSW sometimes receives ‘Supporter’ donations from individual members of the public (the majority are under £10; occasionally for £50 or more; very occasionally larger) towards our charitable core costs. We do not actively vet the sources of such income, except of occasional larger amounts over 1% of our yearly income. ‘Supporter’ status confers no voting rights if the ‘Supporter’ is not a member, nor opportunities to claim special connection with AHSW or its networks without our explicit agreement, nor to influence policy or project activity decisions. We treat any such donations as charitable, unless a larger amount over 1% of our yearly income triggers the need to review the donation against our Ethical Approval Procedure and/or for final approval by the Board of Trustees.
- 1.2.6. AHSW receives occasional one-off donations from individual members of the public towards charitable core costs or strategic activities, in response to a fundraising appeal or campaign including the Big Give. It will be transparent in these campaigns what the donations will be strategically used for, and again, these donations by a ‘Supporter’ confers no voting rights if the ‘Supporter’ is not a member, nor opportunities to claim special connection with AHSW or its networks without our explicit agreement, nor to influence policy or project activity decisions. We treat any such donations as charitable, unless a larger amount over 1% of our yearly income triggers the need to review the donation against our Ethical Approval Procedure and/or for final approval by the Board of Trustees.
- 1.2.7. Occasionally, AHSW also receives and actively approaches corporate ‘Company and/or Organisational’ donations and sponsorship. Regular ‘Supporter’ donations through a payroll giving scheme towards our charitable core costs, will not be actively vetted unless a larger amount totalling over 5% of our yearly income triggers the need to review the donation against our Ethical Approval Procedure and/or for final approval by the Board of Trustees. However, all other corporate donations whether it is a one-off donation or a corporate donation or sponsorship following an approach should all be vetted by AHSW staff, and a larger amount of 5% our yearly income will trigger the need to review the donation against

our Ethical Approval Procedure and/or for final approval by the Board of Trustees.

1.2.8. Legacies will be treated the same as supporter donations and will be subjected to the conditions set out in 1.2.5. AHSW Senior Management Team and Trustees should refer to point 4. and especially 4.3 of this policy when dealing with Legacies as some donors may seek to attach conditions to the donations.

1.2.9. Any donations of cash or cash equivalents will be subject to due diligence in-line with our guidance for the Ethical Assessment of Grants and Donations point 3. and AHSW Senior Management Team and Trustees should refer especially to 3.4 of this policy when dealing with cash or cash or cash equivalents. These types of donations will be reviewed against our Ethical Approval Procedure and/or for final approval by the Board of Trustees.

AHSW reserve the right to refuse and return any donation, at the discretion of AHSW Senior Management Team and/or Board of Trustees, if it might “compromise, or appear to compromise, the AHSW principles”. Procedures and guidelines for this is set out under the Guidance on Acceptance, Refusal & Return of Donations.

For AHSW, the principle of transparency is key. We prefer to publish openly and routinely our sources of funding. Occasionally, a funder may prefer to remain lower profile, which is their right – perhaps to avoid unsolicited approaches from other groups. However, AHSW has a statutory obligation as a charity to declare funding sources in our annual accounts, so all larger funders must understand and be able to comply with this. Additionally, if we were ever to find ourselves seeking to disguise a source of funding, then that should trigger us to question whether it is an appropriate source of funding for AHSW at all.

## **2. ETHICAL APPROVAL PROCEDURE**

AHSW Board of Trustees are under an overall legal duty to consider which course of action will be in the charity’s overall best interests, including the issue of accepting or refusing donations. The law allows practical and ethical factors to be taken into account as long as they are relevant to the charity and situation. However, donations to AHSW can, and should, only be refused in exceptional circumstances. That’s why it’s really important to have a clear policy such as this Ethical Donations Policy which lays out AHSW’s position and ensures that donations are only turned down for proper reason.

While it is true that the more money we have the more we can do, there can be times when it is right for AHSW to not accept certain donations, or to return those that have already been given. Raising money is crucial, but sometimes there are other considerations that can be more important. The value of a donation may not be worth the cost in potential loss of public trust and confidence in us as a charity, a detrimental impact to the reputation of AHSW, or a conflict with our ethics and values which could lead to a loss of support in the future. Therefore, AHSW Staff and Trustee's need to always be thinking about what is in the best interests of AHSW overall. When difficult situations arise there often isn't a straightforward 'right or wrong' answer. We have to weigh up the potential positive and negative consequences to make a judgement call about what will be in our organisation's best interests.

## **MANAGEMENT AND REPORTING**

It is the responsibility of Trustees to exercise reasonable care over the selection, use and monitoring of a charity's partners, donors and beneficiaries. However, while AHSW's Trustees have the overall responsibility for everything AHSW does, they can delegate power and authority to staff to deal with day to day tasks and decisions including on acceptance and refusal of donations. In accordance with this delegation, below lists the delegated authority and responsibility at every step of our approval process. Please note when setting any delegated authority, Trustees should be aware of the reputational risks inherent in decisions to accept, refuse or return a donation, and establish the terms of delegation accordingly.

For example, though staff who have a responsibility for fundraising maybe best placed to flag problematic donations and carry out due diligence for smaller donations, a decision on larger donations or a discussion over a potential return of a donation, would be best done independent of the person who manages many of the relationships with donors, to avoid one individual managing the whole process.

### **2.1. PROCEDURES FOR THE REVIEW OF GRANTS AND DONATIONS**

- 2.1.1.** Proposed grants and donations from the UK government, funding councils and related bodies will not be subject to the due diligence process and can be progressed to the signing of an appropriate agreement with the funder by any AHSW Staff Member in accordance with our Guidance for the Ethical Assessment of Grants and Donations.
- 2.1.2.** All proposed donations resulting in an association with a Trust or Foundation, will be subject to due diligence and review consistent with our Guidance for the Ethical Assessment of Grants and Donations by the Director of AHSW or Fundraising and Development Manager, and then can be progressed to the signing of an appropriate agreement with the funder.

**2.1.3.** Any proposed donations from close relatives or known associates with staff and Board Members that are acceptable according to the procedures set out in this Ethical Donations Policy, but which do not support the AHSW unrestricted funds, will be subject to due diligence and review consistent with the procedure set out in our Guidance for the Ethical Assessment of Grants and Donation by the Director of AHSW or Fundraising and Development Manager, and any problematic donations will be flagged and taken to the next stage for review based on the procedure for the proposed amount.

**2.1.4.** Any corporate donations whether it is a one-off donation or a corporate donation or sponsorship following an approach will be subject to due diligence and review consistent with the procedure set out in our Guidance for the Ethical Assessment of Grants and Donation by the Director of AHSW or Fundraising and Development Manager, and any problematic donations will be flagged and taken to the next stage for review based on the procedure for the proposed amount.

## **2.2. PROCEDURE FOR ALL MINOR GIFT DONATIONS**

All material donations and offers under 1% of our total yearly income will not be subject to due diligence, but will be reviewed, accepted or refused by the any of the AHSW Senior Management Team in-line with our Guidance for the Ethical Assessment of Grants and Donations.

## **2.3. PROCEDURE FOR ALL MEDIUM GIFT DONATIONS**

Initial due diligence will be conducted by the Fundraising and Development Manager for all proposed material donations and offers under 2.5% of our yearly income in-line with our Guidance for the Ethical Assessment of Grants and Donations, and any problematic donations will be flagged and taken to the next stage for review.

Any problematic material donations and offers below 2.5% of our yearly income or for any material donations and offers above 2.5% our yearly income will be subject to the following review;

The Director of AHSW will agree one of the following options and if required may consult with the Trustee Chair to advise on reputational risk prior to deciding either:

- i) approve the progression of the donation or funding
- ii) reject the progression of the donation or funding
- iii) refer the case to the Board of Trustees
- iv) request full due diligence or further research, as appropriate

## **2.4. PROCEDURE FOR ALL MAJOR GIFT DONATIONS**

Full due diligence will be conducted for all material donations and offers over 5% of our yearly income which will be subject to review by The Trustee Board via an 'expedited review' process.

Expedited review will be undertaken by the Finance Committee on behalf of the Trustees who will either

- (i) approve the acceptance of the donation or funding from the donor or funder
- (ii) reject the donation or funding from the donor or funder
- (iii) refer the case to full Board of Trustees

Proposed material donations and offers over 10% of our yearly income will automatically be reviewed at the next meeting of the Board of Trustees. The AHSW Board will either

- (i) approve the acceptance of the donation or funding from the donor or funder
- (ii) reject the donation or funding from the donor or funder. The decision will be reached based on majority agreement (according to its terms of reference) or may refer to it any other matter which raises particular difficulties setting out its recommendations and the reasons for them.

### **3. GUIDANCE FOR THE ETHICAL ASSESSMENT OF GRANTS AND DONATIONS**

AHSW wants to ensure that accepting a donation does not create a conflict with the values and mission of the organisation which is likely to result in reputational damage with current and potential supporters. Therefore, below we have set out our policy on decision making, due diligence, and funding exclusions which highlight when the reputational costs of accepting the donation would be detrimental to the purposes of the organisation.

#### **3.1. DECISION MAKING**

The timelines from receiving the donation to making a decision will vary depending on the nature of the relationship with the donor. But AHSW will do our best to follow these procedures;

3.1.1. Donation acceptance will form part of any initial research for any prospective donors approached by the organisation.

3.1.2. Unsolicited donations from new donors should be flagged from the Accounts Manager to the Fundraising and Development Manager within a week of receipt, so it can be decided if the donation requires reviewing. This is particularly important so we can either to rule out, or treat with caution, donations from specific industries or countries.

- 3.1.3. No matter who the donor is, any review should be considered and a decision made in reasonable time. Unless an urgent decision is required, we will allow up to two weeks for consideration of the review, depending on availability of AHSW Staff and Chair of Trustees and how they decide – in person or via email.
- 3.1.4. If a donation is referred to the whole Board of Trustees, we will allow up to three months for consideration of the review.

## 3.2. DUE DILIGENCE

In order to ensure that they are fulfilling their duty to manage their charity's funds properly, AHSW Trustees need to know where funds come from, how they are to be applied in accordance with our objects and who will be involved in delivering our services. It can be difficult to identify financial abuse as criminals may be adept at presenting their interests and activities as legitimate and lawful. Establishing the identity and legitimacy of any organisation can therefore help reduce some of these risks.

Due diligence is the range of practical steps that need to be taken by Trustees in order to be assured of the origin of charitable funds and confident that they know the people and organisations the charity works with, and able to identify and manage associated risks. 'Due diligence' means carrying out proper 'checks' on those individuals and organisations that give money to, or receive money from, our charity, including partners and others that are contracted to work with it. The appropriate level of checks carried out on a donor is likely to be proportionate to the size of the donation. It's also the case that different kinds of donations will present different levels of risk.

Due to resources, it is difficult for AHSW Staff to vet and carry out due diligence on all sources of funding to the degree that would guarantee complete compliance with our values and principles. Additionally, opinions may vary as to the extent of the discontinuity between a funder's source of funds or activities and AHSW Ethical Donations Policy, as well as to the extent to which this might compromise, or appear to compromise, AHSW values and principles. Sometimes it will be a matter of judgement.

However, AHSW Staff and Trustees will do our best, working on well-documented information accessible in the public domain, as well as through informed debate and transparent dealings. Also, we will always judge the quality and completeness of initial information obtained and then decide whether further checks or enquiries are necessary. In addition, we will refer to and utilise The Charity Commission's [dedicated toolkit](#) on carrying out due diligence as required, to ensure our best efforts to confirm the identity, credentials and good standing of our beneficiaries and associates, and undertake our best efforts to document the identity of our significant donors.

AHSW Board of Trustees puts trust in the experienced AHSW Senior Management Team to pursue funding opportunities under the terms of this Ethical Donations Policy. The management team will bring any unresolved queries about compliance to the Board for discussion. Should questions arise, these are discussed by the Board of Trustees, and if a decision is needed this can be resolved through discussion or – where a consensus cannot otherwise be reached – put to a vote, in line with the procedures set out in AHSW’s Memorandum and Articles of Association.

### **3.3. RISK MANAGEMENT**

As a risk management tool, we will make it clear to funders to insert a clause into funding contracts (where we are able to do so, and where a clause fulfilling a similar function does not already exist). The purpose will be to enable AHSW to withdraw from a funding arrangement if the Board of Trustees deems this necessary to protect AHSW integrity. The preferred wording of such a clause is as follows: “AHSW reserves the right to withdraw from a funding arrangement, with due notice and open communication with the funder, if the arrangement is later deemed by AHSW Board of Trustees to compromise, or appear to compromise, the AHSW values and principles, with reference to AHSW Ethical Donations Policy and routine risk management process.”

#### **As additional risk management tools, AHSW will also;**

- 3.3.1. Carry out due diligence and report concerns and suspicious activities to the police/and or other appropriate authorities, including the Charity Commission.
- 3.3.2. Not accept a restricted donation if the incurring additional costs beyond the initial donation or conditions, makes it undeliverable or incompatible with the purposes, priorities and activities of the charity.
- 3.3.3. Any donations from potentially vulnerable donors i.e those who lack the capacity (as covered in the Mental Capacity Act) to make the decision to give money, should be refused or returned.
- 3.3.4. Ensure all staff and Trustees are aware of the Funding Exclusions stated in this Ethical Donations Policy which are at odds with our charitable objectives.
- 3.3.5. Ensure all staff and Trustees read this Ethical Donations Policy and make any final decisions based on the guidance and procedures set out in the policy.

- 3.3.6. Always make sure there is a chance for staff or other relevant stakeholders to state an opinion or appeal a decision.
- 3.3.7. Keep a record of the process of reviewing donations, when key decisions were reached and the reasons why.
- 3.3.8. Record the value of any cumulative donations from one donor over a set time period, and review overall donation amounts in-line with our Ethical Approval Procedure.
- 3.3.9. Make this Ethical Donations Policy publicly available

### 3.4. AHSW FUNDING EXCLUSIONS

AHSW aims to ensure that the funds we accept reinforce our values and principles, and do not detract from them. We always strive to ensure that: “No funding is accepted from any source that would compromise, or appear to compromise, the AHSW values and principles.” We therefore exclude funds, donations and sponsorship from but not limited to:

- 3.4.1. The fossil fuel industry and those associated with large-scale extractive or environmentally destructive industries such as mining, unsustainable forestry and unsustainable marine activities.
- 3.4.2. Companies that derive profits from the manufacture or sale of arms, landmines, pornography, modern slavery, or from activities resulting in human rights abuses.
- 3.4.3. Tobacco and large alcohol companies\* (see note below).
- 3.4.4. Trusts and foundations that blur the boundaries between charitable donation and corporate brand building. There is no hard-and-fast rule, but for example if a Trust’s name is closely linked to a brand, or if there are conditions of a grant that require commercial brand promotion, then AHSW would need to question that relationship before considering accepting funds, and such limitations are more than likely to lead us to decline, politely, what is essentially sponsorship.
- 3.4.5. Trusts and foundations that receive substantial funds from, or invest substantially in, activities at odds with AHSW values and principles.
- 3.4.6. Pharmaceutical manufacturers and private medical insurance which appear to compromise the AHSW values and principles, particularly on health-related issues in relation to their ethical principles and structure.

**\*Additional note on tobacco, alcohol, pharmaceutical, and medical companies**

Our intention is clear – to exclude funding, donations or sponsorship from large corporations that manufacture products harmful to human health (in the case of tobacco and alcohol), or whose funding might compromise or appear to compromise the AHSW values and principles, particularly on health-related issues (pharmaceutical and medical insurance companies are in this category)

We add this note to clarify the purpose of the above exclusions. However, we recognise that – for example – some organisations, independent retailers, and companies may sell tobacco, alcohol, pharmaceutical or medical products as a small part of their wider range. Our exclusion therefore does not necessarily exclude organisations or companies that may sell tobacco, alcohol, pharmaceutical or medical products as a part of their offer, however, we will still treat such connections with care and will be review against our Ethical Approval Procedure.

## **4. GUIDANCE ON ACCEPTANCE, REFUSAL & RETURN OF DONATIONS**

Trustees have a responsibility to act in the best interests of their charity in pursuing its purposes, as set out in its constitution. This means that, when deciding whether to refuse a donation, AHSW Staff and Trustees must only do so if to accept it would be more detrimental to the charity being able to achieve its objectives than rejecting it.

### **4.1. CHOOSING WHETHER TO ACCEPT OR REFUSE A DONATION**

Making a decision whether to refuse a donation should involve a careful analysis of the risks of accepting a donation, balancing this against the benefit that will be obtained. These matters should be decided on a case by case basis. Donations should only be rejected in exceptional circumstances, when:

4.1.1. It would be unlawful to accept it (e.g. we know that the gift comprises the proceeds of crime);

**OR**

4.1.2. Accepting the donation would be detrimental to the achievement of the purposes of AHSW, as set out in its constitution. This anticipated detriment must be set against the benefit of having the funds from the donor, which would enable us to pursue our purposes.

There may be instances in which offers of donations from sources may not in line with the AHSW values, and are contrary to our organisation's ethics and values. Although ethics and values will be important in reaching the decision whether to accept such a donation, these cannot be the decisive factors.

AHSW needs to be able to demonstrate that acceptance of the donation would be detrimental to the achievement of its purposes, including evidence that the acceptance of a donation would most likely lead to:

- The loss of donations from other supporters or funders at least equivalent, over the long term, to the value of the donation
- The loss of volunteers whose services would be at least of as great value as the donation
- The loss of staff or inability to recruit staff.

#### **4.2. RECEIVING AN ANONYMOUS DONATION**

It is always good to review and check on unsolicited donations, especially if AHSW Staff and Trustees are unable to satisfy themselves about the credentials of the people involved, or the propriety of the donation or loan. Trustees should of course remember that the donor might be entirely legitimate, but they should not rule out the possibility that somebody is trying to exploit the charity. There have been cases in the past where donations to charities have been used to facilitate criminal activity such as money laundering

Here are some situations which may indicate higher risks:

- Unusual or substantial one-off donations or a series of smaller donations or interest-free loans from sources that cannot be identified or checked by the charity
- If conditions attached to a donation mean that the charity would merely be a vehicle for transferring funds from one individual or organisation to another without the trustees being able to satisfy themselves about the appropriateness of their use and that they have been used as intended
- where a donation is made, the charity is told it can keep it for a certain period of time, perhaps with the attraction of being able to keep any interest earned whilst holding the money, but the principal sum is to be returned at the end of a specified, short, period
- where donations are made in a foreign currency, and again unusual conditions are attached about their use, including a requirement that the original sum is to be returned to the donor in a different currency
- where donations are conditional on particular individuals or organisations being used to do work for the charity where the trustees have concerns about those individuals or organisations
- where a charity is asked to act as a conduit for the passing of a donation to a second body which may or may not be another charity
- where a charity is asked to provide services or benefits on favourable terms to the donor or a person nominated by the donor

To avoid enabling this, AHSW where possible will operate in line with the 'know your donor' principles as set out by the Charity Commission. Essentially, this means we know the people and organisations we work with so that we are able to identify and manage any associated risks.

We will always review and carry out due diligence on any anonymous donations we receive. As well as refuse, return and report concerns and suspicious activities to the police/and or other appropriate authorities, including the Charity Commission.

#### **4.3. ACCEPTING DONATIONS THAT HAVE CONDITIONS ATTACHED**

Where donors seek to attach conditions to the donations they give to AHSW, we should consider whether the condition is compatible with the purposes of AHSW as well as our current priorities and planned activities. If the conditions are so rigid that they could undermine our independence, AHSW Staff and Trustees may need to refuse the donation. In such circumstances, we might wish to seek advice or authority from the Charities Commission in order to provide AHSW Staff and/or Trustees with comfort that their decision has been properly taken.

As the legal requirement states: the law requires charity trustees, in deciding whether to accept or refuse a particular donation, to consider the charity's best interests, taking an overall view. The law allows practical and ethical factors to be taken into account as long as these are likely to affect the specific interests of the charity.

Decisions made to refuse donations and accept high risk donations should be recorded as this will demonstrate that we have identified and properly considered the risks and is transparent about the decision-making process. This is important for being able to show that AHSW Staff and our Board of Trustees have acted responsibly.

#### **4.4. DELAYING A DONATION TO MAKE SURE IT'S TAX EFFECTIVE**

Occasionally we may wish to refuse a donation, or delay its acceptance, with a view to explaining how the donor can make the gift in a more tax-effective manner (e.g. by Gift Aid). We can decide to do this provided that the AHSW Staff and Trustees are clearly aware of the risk that the donor might be put off making the donation altogether, and provided that we explain the tax advantages accurately to the donor.

#### **4.5. COMMUNICATING A REFUSAL**

In the first instance the Director of AHSW should be responsible for communicating with the donor the final decision that the organisation has arrived at, and any refusal based on this Ethical Donations Policy. If the decision has been reviewed and made by the Board of Trustees, the responsibility falls to the Chair of Board of Trustees to communicate the refusal.

The Director will also make sure any donation refusals, proposed refusals or returns are reported to AHSW senior staff and trustees, and ensure staff members are adequately briefed to handle any questions that come in, either privately or through public channels such as the press, website and social media.

We may wish to consider giving key stakeholders an opportunity to contribute an opinion, but there is no legal requirement to do so. However, we should be aware of anyone who is unhappy with a decision resulting from the donation acceptance and refusal, and this should be recorded. This may include the staff involved, the donor, or other stakeholders.

#### **4.6. CONTINGENCY PLANNING**

There is always a risk inherent in adopting a particular policy, so contingency planning should be considered to deal with any potential problems or holes, therefore below we have established a list of 'what ifs'. However, these are just a few illustrations of potential situations in regard to our guidelines on Acceptance, Refusal and Return which we may need to think about, and is not a comprehensive set of examples.

##### **WHAT WOULD WE DO IF?**

###### **Someone who lacks mental capacity gives us a donation**

As the donor lacked capacity to make the decision to give money to AHSW, then we can and should return the donation because the original donation was invalid based on the Mental Capacity Act.

###### **We didn't raise enough money for a specific appeal**

To avoid this happening with specific appeals, we should clearly state what will happen to any donations if not enough funds are raised for this specific aim, as well as what will happen in the event that we raise surplus funds.

###### **A donor asks for their money back**

The person who gave a donation has no legal right to ask for it back, and as a charity AHSW has an overall duty to put all of their assets towards achieving that organisation's charitable objectives. The starting position is usually that we should not give donations back, however, there may be exceptions, and we may feel the risk of damage to AHSW's reputation may outweigh returning the donation.

###### **Someone makes a donation which was intended for another charity**

Any donations not intended for AHSW, should be returned.

**We're worried that accepting a particular donation will impact on our ability to achieve our objectives**

We should be thinking carefully about which donations to accept and refuse in these kinds of circumstances. We need to look at all the information and assess whether to accept the donation or not. For example, it's important that we conduct due diligence checks so we can make an informed decision, as well as follow all the guidance and procedures within this policy, so we can ask the right questions and think about what is ultimately in AHSW's best interests.

**5. REVIEW SCHEDULE**

Review Interval – Every 3 years

Most recent review: September 2020

Next Review Due: September 2023

Next Review Start: