

Collaboration Arrangements for CUDAR/CRO Interface on Overlapping Case Work in Arts, Humanities and Social Sciences

Purpose of the document

To set out some general points for both teams to consider when trying to establish whether an approach from a potential funder is a philanthropic gift or a research grant. The potential complications of clarifying the nature of the award late in the discussion process from a contracting point of view are highlighted.

Overlapping cases are most likely to arise in the area of Trusts, Foundations and Corporates (but not exclusively).

1) Relationship management

Independently of whether a case turns out to become a research grant or donation for research, in principle, relationship management can be handled through CUDAR where there is a future giving and stewardship of a potential promising donor. Coordination should be managed at an early stage if there is a high possibility that funding could be non-philanthropic.

There are different financial reporting requirements in relation to philanthropic donations than research grants. For example, for research grants, funding is often received in retrospect against evidence of eligible expenditure. Should research funding include reporting requirements, these need to follow the standard reporting procedure (e.g. as per Google framework research agreement). Where reporting requirements are collaborative across CUDAR and ROO (i.e. where funding is set up on the Grants Module on CUFS as a Donation for Research) and ROO financial reporting need to be included, these can be requested with a minimum 4 weeks of notice from ROO, e.g. as appendix in CUDAR report.

In relation to Research Grants/Donations for Research, contract negotiations need to be direct between the contract negotiator within AHSS ROO team and the funder without intermediary. If a donation funded research project includes external collaborators please inform ROO AHSS Contracts to assess the requirement for appropriate contracts to be set up. AHSSContracts@admin.cam.ac.uk.

Potential complications if donor starts negotiating terms of a research agreement via CUDAR

- Expectations may have already been established by the academic or the outside party that terms have already been discussed and “accepted” by the University (e.g for costings, governing law, return of funds, liabilities). These would have to be revisited which may be difficult to realign and may damage the relationship with the funder and have financial and legal implications for the University.

Particular attention needs to be therefore given to expectation management.

2) Expectation management

Trusts, Foundations and Corporates are all organisations with their own set of rules and objectives. It is therefore useful to establish what the funder’s standard expectations are for the potential funding. The funder should not be surprised that the University also, whether CUDAR or Research Office, would have standard expectations. Terms and conditions should therefore be requested as early as possible in the process. Where the funder does not provide these outright

- (a) Check whether there was a precedent as donation vs research grant in the past that would indicate funder expectations and behaviour.
 - (b) Ask what the funder's expectations are around the funding (this might bring out some expectations that render the funding non-philanthropic (see Ross Case guidelines below)). It has been noted that US funders tend to have a broader definition of philanthropic giving than Cambridge uses for a 'donation'.
 - (c) Share CUDAR's definition and exclusion of philanthropic funding based on Ross Case criteria as appropriate – if the funder voices expectations beyond these the funding is likely to be non-philanthropic. Similarly the ROO contracts team can make available the relevant contract template depending on funder type and situation.
- ⇒ It is central to stress to all parties involved (PI, funder, Department) that CUDAR and ROO are working in support of the research and the University's charitable mission. Only once it is clear whether funding will be a donation or a research grant will it be possible to determine which University requirements and respective processes will apply, including timelines. Therefore, early determination should be the goal and will help speed up the process significantly where possible. A late shift, e.g. from supposed 'donation' into 'research grant', can bring about delays that need to be communicated early, understood and accepted by all parties (see incorrect assumptions about costings, governing law, return of funds, liabilities, etc.).

3) Costing implications

Funders often do not feel comfortable to 'subsidise' the University, but they are happy to cover the cost of the research. We should refer to indirect and estate costs (do not use the general term 'overheads') and describe that these are expenses that need to be covered in order to carry out the research, rather than a generic charge. Research grants therefore follow the [full economic costing](#) methodology.

Donations for Research need to include ICC on staff costs. A research grant from a charity would not contain ICC and may be therefore 'cheaper' for the funder than a 'donation'.¹ The University's baseline expectation for a charity research grant is that all direct costs need to be covered. Where some indirect and estate costs can be recovered, this should happen. We need to avoid funders engaging in game-playing, following standardisation of university fundraising principles and procedures (RMC H.24 January 2020). Where it is unclear whether something will end up as a research grant or as a donation from a charity, it would therefore be financially prudent to cost with ICC included. Where a charity funder questions the inclusion of ICC the option is for the academic team/department to (a) scale back the project and therefore the commitment or (b) run it as a research grant, which may have tax implications for the funder, ideally recovering indirect costs.

Costing implications are particularly severe where funding is to be received from business or business foundations that want to receive a benefit from their investment. From HMRC tax perspective a business does not provide gifts without the expectation of something in return. This

¹ Whether Charity QR funding applies to an individual income from a charity is insignificant in this regard. Charity QR is an indirect recovery of costs for the Chest, determined by the Finance Division and Research Office against award charity registration, and selection criteria such as competitive assessment and external peer-review.

means that it is likely that [VAT is chargeable](#) on the funding received from the business. Furthermore, the business' expectations with regard to access and even ownership of results has significant impact on the pricing of the research project under the [industry pricing policy](#) and can reach a minimum expectation of 140% full economic costing.

4) Ross Case Guidelines

The Ross Case Guidelines define philanthropic intent “as all giving which does not confer full or partial ownership of a deliverable, financial benefit, or control to the funder in return for the funding. The gift must be owned in full by the receiving institution once it is received.”

Ross Case Exclusion Criteria for Philanthropic Donations (version 2022) are the following:

No.	Exclusion Criteria	Description
1	Contractual relationship	A contract exists between the two parties which commits the recipient institution to provide an economic benefit for compensation, where the agreement is binding and creates a quid pro quo relationship between the recipient institution and the funder. <i>Contract income, including income for clinical trials, is ineligible.</i>
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 <i>actual or potential future</i> 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. This includes control over appointment and selection procedures to academic posts and student scholarships (for detailed rules and examples on funder control of gifts see Appendix Z). Note that this clause has nothing to do with a donor's right to know that a gift will be used for a designated purpose, where applicable, which is entirely consistent with a philanthropic gift.

Appendix Z: Rules and examples relating to donor/funder control of funds

The definition of philanthropic funds confirms that the recipient institution must retain complete ownership of any resultant work or product. This dictates that an individual, charitable trust or corporate funder/donor may not retain any explicit or implicit control over a gift after acceptance by the institution.

A donor/funder can make a restricted gift to a department or area to which the recipient institution should apply the contribution and has the right to expect that restriction to be honoured. Both parties may wish to engage in discussion of shared aims as a part of a programme of activity funded, and recipient institutions also often wish to involve donors informally in the activity they are funding as part of good stewardship. However, certain forms of donor involvement or influence undermine the recipient institution's control over the gift. Specifically, funder control over candidate selection precludes the counting of a gift within the survey.

The appointment process for donor-funded student scholarship recipients or staff appointments must remain under the control of the recipient institution.

Example A

A donor establishes a scholarship fund but requires that (s)he be able to select the recipient. This cannot be counted as philanthropic funds. The selection of the student must rest with the recipient institution, which may nonetheless choose to involve the donor at an appropriate level in the student selection process. But if the donor has a majority or a casting vote, or the power of veto in that process, the funding must not be counted.

Example B

A donor makes a restricted contribution to a professorship while requiring the institution to award a professorship to a specified individual. This cannot be counted as philanthropic funds. As for example A above, the institution may elect to involve the donor at an appropriate level in the selection process but if the donor has a majority of casting vote or power of veto, the funding cannot be counted for the purposes of the survey.

Previous cases have shown terms have sometimes led to exclusion such as in the following non-finite listed items:

- whether this is part of a larger research-based initiative for the donor with terms
- Precedent already exists with the donor for research funding
- Terms and conditions will apply
- Limitations for accepting other funding for research in the same area
- Donor expects to control the funding or activities in some capacity
- Donor expects to retain an interest in the outputs/results/intellectual property produced
- Payment of fund tranches is dependent on sponsor deciding at its own discretion that the University has fulfilled its obligations under the agreement
- The donor expects detailed finance and research reports to be provided as a condition of funding
- Requirements around use of business funder's logo