

Hamilton Community Foundation

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<b>Section:</b> <b>Asset Development</b>		
<b>ESTABLISHED:</b> April 10, 2001	<b>REVISED/REAFFIRMED:</b> January 25, 2022	<b>SUBJECT TO REVIEW:</b> Annually

**Preamble:**

A donation acceptance policy ensures that donations are used to further the mission of the Foundation and include appropriate consideration of donor interests and objectives. It provides clarification of roles, responsibilities and expectations of both the Foundation and its donors in relation to donations.

A donation acceptance policy sets out certain limitations to control risks associated with the acceptance of donations. It ensures that donations to the Foundation are made in accordance with legal and ethical regulations and guidelines. The policy enables the Foundation to respond consistently and on a timely basis, to anticipate potential issues with donations and for the Board to exercise its fiduciary responsibility. It protects the Foundation from potential liabilities related to donations that come with (sometimes unforeseen) financial consequences and reputational risk.

A donation acceptance policy can help to enhance long-term relationships with donors and encourage donors and Foundation representatives to work together to provide the most effective benefits to our community consistent with donors' broad philanthropic wishes.

**Policy Statement:**

For clarity, this policy will focus on donations to establish a new fund and complex donations. Donations that are not considered complex and that are being made to existing funds are considered routine and accepted as part of HCF's regular operation.

To determine if a donation should be accepted, all donations to establish new funds and complex donations will be assessed using the following factors:

1. **Values** – Would acceptance encroach upon any of HCF's stated values?

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2. **Compatibility** – Is there alignment between the donor’s stated goals and the mission/vision of HCF? Should the donor be directed to a different charity?
3. **Cost of accepting the donation** – Is the cost of accepting the donation excessive compared to the community benefit generated?
4. **Public relations** – Will acceptance damage the reputation of HCF?
5. **Consistency** – Is acceptance consistent with prior practices or would acceptance establish a precedent going forward? Does accepting this donation align with HCF’s policy 4.4 Establishment and Operation of a Fund, if it establishes a new fund?
6. **Form** – Is the donation in a form that HCF can use without incurring substantial expense or difficulty? Does it qualify for a tax receipt under CRA rules (legally a donation, etc.)?
7. **Effect on future donations** – Will this donation potentially influence future donations? Is it precedent setting?

The results of this review will be used to assess and inform the decision of accepting a donation or not.

Details related to these factors are further elaborated below in the specific comments on various matters related to acceptance of a donation.

1. **Protection of Donors’ Interests:** Foundation board, committees, volunteers and staff will always consider the interests of the donors as a high priority in fund development activities. HCF staff will confirm with the donor that HCF is the most appropriate vehicle to carry out the donor’s charitable goals. The Foundation will inform, serve, guide or otherwise assist donors who wish to support the Foundation’s activities, but under no circumstances pressure or unduly persuade a donor to make a donation which is inappropriate in light of the donor’s personal or financial situation or the donor’s known philanthropic interests. HCF staff will confirm that HCF is the most appropriate charity to match the donor’s goals. HCF staff will take all reasonable steps to ensure the donor is competent to make the decision to commit to a donation.

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2. **Donor Recognition:** The Foundation is prepared to provide donors with recognition to a degree consistent with the recognition afforded donors of similar amount (current or pledged), immediacy of effect (outright or deferred donation) and degree of restriction (imposed by the donor) in accordance with the Foundation's donor recognition practices and in accordance with the donors wishes. See also #12 below.
3. **Executor/Trustee:** The Foundation is not able, because of the potential for a conflict of interest, to serve as executor of a donor's will or as trustee of a charitable remainder trust. The Foundation will provide the donor with a list of possible institutions that are able to provide this service to the donor.

### THE NATURE OF THE DONATION TO BE GIVEN TO THE FOUNDATION

4. **Types of donations:** The Foundation encourages donors to make outright and/or deferred donations.
  - a) **Current donations:** The form of current donations accepted by the Foundation should be property that is readily marketable at reasonable cost. This would include cash, deposit instruments of a government in Canada or financial institution, publicly traded securities, life insurance policies, and any other property that the Foundation may invest in consistent with its investment policies.
  - b) **Deferred donations:** The form of deferred donations accepted by the Foundation may include bequests, donations of residual interests, charitable remainder trusts, donations of life insurance policies and proceeds, retirement income accumulations and such other donation arrangements as the Board of Directors may approve from time to time.
5. **Other Forms of Property:** The Foundation recognizes that donors may occasionally wish to donate property that is not described in the previous paragraph such as real estate, tangible personal property, shares in publicly traded corporations that are not listed on prescribed stock exchanges or dealing networks, shares in private corporations, residuary interests in trusts, debentures, digital currency, partnership interests or other property interests

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not readily negotiable or valued.

While the Foundation is generally pleased to accept donations, it has to be careful to evaluate whether there may be hidden costs in accepting such property. HCF, therefore, reserves the discretion to decline a donation of property because of the nature of the property that is being offered.

Matters the Foundation will take into account are:

- (a) The difficulty in valuing the property or the likelihood that the value of the property will be a matter of differing opinions. The Foundation does not wish to become involved in valuation disputes with Canada Revenue Agency;
- (b) The possibility that the property will not sell in a reasonable period of time;
- (c) The potential carrying cost and environmental risk associated with owning the property;
- (d) The potential for controversy associated with owning the property; and
- (e) Whether a satisfactory arrangement can be made with the donor with respect to the absorption of the costs of valuation, maintenance and disposition of the property.

6. **Source of Property:** The Foundation also reserves the right to refuse to accept property the origin of which may bring the Foundation into disrepute.
7. **Donations that Create Liabilities:** The Foundation is unable to accept the following types of donations.
  - (a) Donations of Annuities, whether reinsured or reserve based.
  - (b) Property that is required to be paid back (such as an interest free loan).
8. **Donation Expenses:** All expenses associated with making a donation, such as the cost of an appraisal, legal and accounting expenses, the cost of an environmental report and the like, shall be paid for by the donor. Expenses incurred by the Foundation in accepting a donation, such as legal expenses, costs of maintenance and disposition of the property, shall be charged against the fund when the fund is established.

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- 9. Property Valuation:** While the donor is responsible for providing an independent appraisal of the property being offered as a donation, the Foundation reserves the right to secure and rely on its own appraisal in determining the acceptability of the donation and the value for the receipt for income tax purposes.
- 10. Timing of Issuance of Receipt:** The Foundation cannot issue a receipt for a donation until it is legally the property of the Foundation and must issue the receipt for the value of the property as of the date it becomes the Foundation's property. In the case of publicly traded securities, the receipt will be determined by the closing price on the day the securities are received into the Foundation's brokerage account which is generally the day notice of the donation is received by the Foundation.
- 11. Disposition of Donations:** All donations of property will be sold as soon as possible and the proceeds invested in accordance with the Foundation's investment policy, unless an express agreement has been made with the donor concurrent with the transfer of the property. Donations of marketable securities may, on the recommendation of the professional investment manager, be added to one of the HCF investment portfolios.
- 12. Requests for Anonymity:** Donor's requests for privacy or anonymity will be honoured on a "best efforts" basis. However, the President & CEO may choose to confer with the Donation Acceptance Committee regarding the acceptance of such a donation. If this consultation is required, it will be disclosed to the donor. [See Appendix A for background paper on anonymity\_and refer to policy 4.1 Financial Accountability, Ethical Fundraising and Donor Relations Policy].

### GENERAL PROVISIONS AND AUTHORIZATIONS

- 13. Fit with Foundation Mission:** All donations must be consistent with the overall vision/mission/values and strategic intents of the Foundation and must not in any way compromise the Foundation's integrity and non-partisan status in the community or its classification as a registered public foundation under the regulations of the Income Tax Act of Canada.

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**14. Delegation of Authority:** The President & CEO is responsible for the decision to accept donations and to negotiate straightforward donation agreements. When donations are unusual or have a reputational risk, the President & CEO will consult the Donation Acceptance Committee.

**15. Donation Acceptance Committee:** The Donation Acceptance Committee will be an ad hoc committee providing advice and counsel to the President & CEO. The Committee will be comprised of the Board Chair and at least one other member with the appropriate skills and knowledge for the circumstances.

**16. Consultation:** The President & CEO may choose to consult with the Donation Acceptance Committee before undertaking to accept the following:

- Donations from donors requesting anonymity from the Board as a whole
- Shares in privately-owned companies
- Shares in publicly-traded companies that are not listed on prescribed exchanges or dealing networks
- Real estate
- Tangible personal property
- Partnership interests
- Other property interests that are not readily negotiable or valued
- Residual interest trust
- Charitable remainder trusts
- Debentures
- Mortgages
- Donations of significant size
- Donations-in-kind
- Digital currency
- Any other donation where there is reason to question the validity of the donation, the liability that might come with it, the wisdom of accepting it or that falls outside the stated policies of the Foundation.

For clarity, the following must be considered in assessing the appropriateness of accepting any donation:

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- Alignment with the HCF mission, vision and values
- Results of the review using factors listed in this policy
- Consistency with the overall Strategic plan
- Consideration of any issues outlined in the discussion paper in Appendix B

In addition to receiving advice and counsel from the Donation Acceptance Committee, there may be circumstances when acceptance is still questionable. In such cases, the President & CEO may choose to request the Board of Directors make the decision.

#### **MONITORING**

This policy is to be reviewed annually by staff, with substantive changes brought to the Board of Directors for approval. It will be reviewed every three years by the Board of Directors.

## **Introduction**

We appreciate when donors make financial contributions and we always ask them about their wishes regarding the level of recognition with which they would be comfortable. For some of our donors, they prefer to limit those who might know about their donation. They may choose to be anonymous in a variety of ways and in varying degrees.

Think of society as various concentric circles. At the centre is the donor and HCF spreading outward as follows:

- President & CEO
- Donation Acceptance Committee
- Development staff
- Board Executive
- Other Board members
- Other staff

A donor may choose to limit any knowledge of their donation to within one of these concentric circles, meaning that anyone outside that circle should not be privy to the information.

Outside the HCF circle, circles would continue in the following order,

- Grantee of the fund
- Stakeholders of the grantee (staff, Board, public)
- General public

## **In the past, HCF has had experience with the following levels of anonymity.**

- Donor is known only to CEO (and accounting)
- Donor is known only to Development staff (including CEO)
- Donor is known only within HCF (staff and/or Board)
- Limited information of donor's donation known outside HCF

## **Different methods are used to protect the donor's privacy depending on the level of desired "anonymity"**

- Putting a name on the fund that does not include the family's name (Dream weaver, Angel fund, etc.)
- When grants are distributed to recipient organizations, letter specifies an "anonymous donor" has established the fund
- Not being listed in the annual report as a "contributor"
- Fund name is listed in annual report but no amount is shown



## **Background**

The Donation Acceptance Policy delegates the responsibility to the President & CEO for the decision to accept a donation, and the negotiation of donation agreements.

The CEO may choose to seek advice from a Donation Acceptance Committee comprised of the Board Chair and one other senior board member. If the decision is still uncertain, the issue would be taken to the Board for their decision. This working paper outlines the parameters to be considered in making the decision to accept donations in these circumstances.

## **Approach**

- 1. Components:** When designing a fund, it is usually helpful to differentiate between the donation and the fund. This may be helpful in these consultations. In addition, there can be circumstances about the donor that require consideration. Refer to policy 4-4 Establishment and Operation of a Fund for more information about establishment, acceptance and operation of new funds.
- 2. Risks:** In general, board approval means that risks have been reviewed and considered to be within acceptable limits. What are the risks associated with accepting a new donation? What are acceptable limits for those risks?
- 3. Other factors:** What other factors need to be considered? Are there any that preclude acceptance? Are there any factors that should be considered by the Board for their judgment in each instance?

The following charts set out a checklist of issues or concerns regarding donations and donors to guide the review process.

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 Overview of Risk Factors related to Donation and Fund acceptance  
 Discussion paper

**Appendix B**

**1. Donation**

<b>Description</b>	<b>Checks and balances in place</b>	<b>Potential issues</b>
Routine donation (eg. cash, marketable securities, bequest, RSP's, insurance)	Finance controls tax receipting	Size of donation could put HCF offside on public foundation test
Donation with some degree of complexity (eg. CRT, residual value of asset, private company shares, real estate, personal property)	Finance involved in negotiations	Valuation, moving parts, liquidity, first time for type of donation, potential liability associated with donation
Contributions from third party events	Policy in place	Principals not willing to comply with policy. Volume and size of contributions not manageable for reasonable fee.
Other (eg. annuities)		CF not allowed to receive by provincial law

**2. Donor**

<b>Description</b>	<b>Checks and balances in place</b>	<b>Potential issues</b>
Existing donor, volunteer, well known to HCF	Stated philanthropic values appear to align with those of HCF Donor is working with registered charity Donor has capacity to make decision	Concerns over decision making capacity of individual
Known to HCF	As above	As above
New to HCF and referred by PA <u>known</u> by HCF	As above	
New to HCF and referred by PA <u>not known</u> by HCF	As above plus reference check of PA is reasonable	

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New to HCF	As above 'Reference' check of individual is reasonable	No credible reference Source of funds is unknown or suspect 'Media review check
Anonymous to HCF- donation through lawyer's trust account	Lawyer provides adequate explanation for desired anonymity	Lawyer not known or vague reasons for anonymity_adequate explanation not obtained