

Donations Approval and Refusal Policy

October 2021
Policy Review Date: Oct 2022

Background.

MICT is dependent on donations of money, property, or other items, from individuals, trusts, businesses, and others to carry out its work and benefit the people of Mull, Iona, and its associated islands.

Overall, our aim is to make sure our fundraising is effective, open, honest, and accountable, and in the best interest of MICT's beneficiaries and those who rely upon us.

We are obliged as a charity to make sure our fundraising activities are legal. Rarely, in some specific circumstances we may need to refuse a donation. This document explains to our Trustees, staff, Members, volunteers, and donors how MICT approaches encouraging, accepting, and refusing donations, and under what circumstances we would return money already given.

Throughout this document, the term 'donation' is taken to include cash, shares or other assets, property, gifts in kind, and any other item of monetary value made in the lifetime of the donor, or by an organisation, company, government body, or any other institution. It applies whether the donation is made directly to MICT, or via any third party such as an online giving portal.

The policy does not relate to legacies.

Above all, this document differentiates between Policy and Practice.

The **Policy** is brief and guided by our legal obligations.

Our **Practice** is our responsibility, and is guided by our own decision-making and how that best serves those we seek to benefit, and in whose names and best interest we act when we receive and use their donations.

We cannot guard against all future eventualities, and it may only be later that problems surrounding a particular source of funding become apparent. However, we must ensure that we have a robust decision-making process when considering prospective donations and conditions attaching to them.

We also differentiate between accepting a new donation and returning one already made.

Returning a donation already made is different from refusing it in the first place. This is because the MICT has already accepted the donation into its charity funds, and therefore the decision relates to distributing those funds other than for its beneficiaries.

The Trustees will still need to demonstrate why returning the donation would be in the best interests of MICT, and possibly how the circumstances have changed since previous acceptance.

There may also be specific circumstances where MICT will enter into discussions with a donor about the return of their gift. For example:

- If a specific appeal does not reach its target and it is no longer possible to spend the money in the way previously envisaged.

- If a restricted appeal raises too much money and particular measures need to be taken to direct the donation elsewhere.

In cases like the above, problems can usually be anticipated in the wording of appeal literature (as to what will happen to surplus or insufficient funds,) or through subsequent negotiation with the donor or their representatives/agents.

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 Trustees are clearly aware of the risk that the donor might be put off making the donation altogether, and if we explain the tax advantages accurately to the donor.

OUR POLICY REGARDING THE ACCEPTING OF DONATIONS

The Legal Position Regarding Accepting Donations.

Charity trustees (in MICT's case its Trustees/Directors) are under an overall legal duty to consider which course of action will be in the organisation's best interest, including the accepting or refusal of donations. The law allows criminal and ethical factors to be considered if they are relevant specifically to the charity and the donation/gift in question.

The law, and the Office of the Scottish Charity Regulator (OSCR), will only expect donations to be refused in exceptional circumstances. These reasons would fall into one of two categories:

- Where it would be unlawful to accept it.
- Where accepting the donation would be detrimental to the achievement of the purposes of the organisation as set out in its Objects and Powers.

1. Legal grounds for refusal.

MICT is required to not accept donations that would constitute an offence for example:

- The Charities and Trustee Investment (Scotland) Act 2005.
- The Proceeds of Crime Act 2002.
- The Terrorism Act 2000 (and related legislation).
- The Bribery Act 2010.
- The Finance Act 2011.
- Where attached conditions would breach the Equality Act 2010.
- Where acceptance of the donation would breach a court order under the Inheritance (Provision for Families and Dependents) Act.
- Where the donation is subject to bankruptcy proceedings.

2. Where the donation would be detrimental to the organisation's activities.

There are rare examples of when it may be appropriate for MICT to refuse a donation that would otherwise be acceptable in law.

-

- Where it would be inappropriate or damaging to MICT's reputation, for example to accept funding from sources that compromise our ethical position with respect to protection of the environment.
- Where the donation is provided for activities that fall outside MICT's Objects, for example the direct delivery of statutory public services.
- Where there may be a conflict of interest between the overall work of the organisation and the activities of the donor.
- Where the reputation, associations, or intentions of the donor are such that accepting the donation would undermine confidence in MICT's independence of decision making or adherence to its core values. This might include, for example: where the donor was seeking an undue benefit themselves from the work of the charity.
- The donor may be in vulnerable circumstances without any advocacy. (See associated policy).
- Where accepting the donation might impose onerous conditions on the charity, for example receipt of a property that is in such a poor state of repair that it would be unduly expensive to return it to a habitable state.
- Where the donation would for some other reason pose a risk to the reputation of the charity.

Trustees/Directors must be able to demonstrate how the acceptance of the donation would not be in the material interest of MICT. Whilst a breach of MICT's ethics and values might not be in question and will be an important factor in decision making it cannot be the decisive factor. (See *Acceptance, Refusal & Return – A practical guide to dealing with donations* – Institute of Fundraising). It will also be necessary to show how acceptance would lead to a practical decline in the achievement of MICT's purposes. This might include:

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

OUR PRACTICE

MICT must undertake due diligence on potential partners before donations or any gifts are accepted.

It is recognised that in many cases there is not a simple right answer and decisions may be finely tuned and made under external pressure, such as press coverage or the opinion of Members.

It is therefore important that trustees are properly informed, and the factors considered in deciding are properly considered and documented, particularly if there is disagreement about the best course of action.

We accept donations on a good faith basis. Our initial presumption is that the donation is acceptable unless there is evidence to the contrary.

MICT takes a risk-based approach to due diligence. And we carry out an appropriate level of activity to mitigate risk to an acceptable degree.

Assessing the risks.

Our risk assessment process exists to enable relevant volunteers and staff to make assessments and be able to show that there either is or is not a reasonable expectation that MICT would suffer as a consequence of a gift being accepted.

Overall, our approach follows accepted ‘know your donor’ principles (Charity Commission for England and Wales):

- Know your donor.
- Know your beneficiaries.
- Know your partner.

Essentially, this means knowing the people and organisations you work with so that you can identify and manage any associated risks.

The same guiding principles cover unsolicited or solicited gifts, and should be applied before MICT seeks a major gift or grant from any individual or organisation.

Assessment of risk should be proportional to the size of the donation. We do not need to know the identity (or try to find out the identity) of each small cash donor.

Unless particularly damaging circumstances are indicated, the greater level of risk is assumed to relate to donations above £5,000, or where the donor has a high local or national profile and their activity, background or personal reputation, or the scale or type of donation is likely to attract significant media or local interest.

Responsibility for making decisions on accepting donations varies depending on the assessed risks as set out in the tables below:

- Table 1: Donation Acceptance Risk Indicators For Seeking Clarification
- Table 2: Donation Acceptance Responsibilities

Trustees review delegated decisions, and consider all cases where refusal is recommended.

Decisions on high-risk cases recommended for acceptance also rest with Trustees.

Where there is any confusion, or where the trustees require further guidance as to whether to accept a donation or not, MICT should seek independent legal advice.

Next policy review date: October 2022

TABLE 1

The donation is anonymous	The donation is from the proceeds of gambling arranged offshore
The donation is from an overseas source	There is concern that the donor may be vulnerable or in vulnerable circumstances
The donor is connected to an industry that damages the health or interests of the people of Mull & Iona	There are other concerns about accepting the donation
There is some allegation of illegal activity	The donation is given with particular conditions attached (excluding normal recognition)
The donation is made through an intermediary, e.g., a solicitor or family member	The donor or their close relatives/associates are regarded as high profile and the donation will raise public interest
The donor has not previously given more than £5,000 to MICT	There is evidence that the donor's behaviour or attitudes conflict with MICT's Objects, values, objectives, or ethical principles
Accepting the donation would place onerous cost obligations on MICT	

TABLE 2

Assessed Risk Level	Value of Donation	Donation-Specific Written Report Required	Accountable Position	Trustee/Director Involvement
No risks identified	Less than £5,000	No	TBC	Standard Donor Board Report
Risks identified but benefits exceed risk	Less than £5,000	No	TBC	Standard Donor Board Report with risks identified
No risks identified	Above £5,000 but less than £10,000	No	TBC	Standard Donor Board Report
Risks identified but benefits exceed risk	Above £5,000 but less than £10,000	Yes	TBC	Specific Donation Report to Board
No risks identified	Above £10,000	Yes	TBC	Specific Donation Report to Board
Risks identified but benefits exceed risk	Above £10,000	Yes	TBC	Trustee/Director Approval Required to Accept or Refuse
Risks identified and refusal	Any level	Yes	TBC	Trustee/Director Approval Required to Refuse