



## Organisational Policy

### Donations and Legacies Policy

#### ***Our Commitment***

*Argyll Community Housing Association is committed to provide equal opportunities across all services and to avoid discrimination. This policy is intended to assist ACHA to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit unlawful acts of discrimination.*

***This policy can be made available in other formats, for example in large print, audio-format or Braille: the document may also be available in other languages, in full or summary form, as appropriate.***

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#### Section 1 – Context

1.1 Argyll Community Housing Association Limited (the Association) is a co-operative and community benefit society (registration number 2661R (S)), a registered social landlord (registration number 360) and a registered Scottish charity (registered number SC042713). ACHAs Rules permit it to receive legacies and donations from benefactors. Rule 20.2 states “*We can accept donations from anyone towards our work*”.

1.2 The Association’s objectives are set out in its constitution and read as follows:

“To provide for the relief of those in need by reason of age, ill health, disability, financial hardship or other disadvantage through the provision, construction improvement and management of land and accommodation and the provision of care;

To undertake any activity allowed under Section 58 of the Housing (Scotland) Act 2001 (as amended by the Housing (Scotland) Act 2006 and SSI 2006/211 Registered Social Landlords (Purposes or Objects) (Scotland) Order which is charitable;

Without prejudice to the generality of the provisions of Rules 2 and 3, and without restricting any powers, the Association has power to provide land, amenities and services, or provide, construct, repair or improve buildings, for the benefit of the Association’s tenants, residents and others, with the charitable purpose of promoting economic, social and environmental regeneration in any of the areas in which the Association operates or will operate.”

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#### Section 2 – The law and good practice

- 2.1 No specific references to law or good practice required. The arrangements set out in the policy should ensure compliance with legal and good practice requirements.

#### Section 3 – Our policy objectives

- 3.1 The Association is committed to apply all donations and legacies, from whomsoever, in accordance with the applicable law, for the benefits of its customers, whether they are tenants and their families and / or owner occupiers and their families, or wider community, either directly or in implementation of projects that meet and comply with the Association's charitable objectives.
- 3.2 The purpose of this policy is to set out clear guidelines and procedures about:
- How the Association will attract and seek donations and legacies;
  - What the Association will not do to attract or seek donation and legacies;
  - How the donations and legacies will be utilised or directed to by the Association in accordance with, and in furtherance of, its charitable objectives;
  - Depending on the nature of the donations and legacies, how the Association will deal with the donations and legacies it may receive;
  - What procedures will be put in place to respect the donors' and benefactors' wishes and legacies;
  - Who, at senior level within the Association, will be responsible for dealing with donations and legacies.
  - In addition, the Association wishes to set out strict guidelines over donations and legacies it may deem to be contrary to its ethos or values.

#### Section 4 – Implementing our policy objectives

##### *Donations And Legacies*

- 4.1 The Association will encourage donations and legacies only via its website and through professional journals. The Association will not attract or seek donations or legacies through advertising in newspapers.
- 4.2 The Association will respond to potential donors' request for information and will offer guidance to potential donors. However, where a potential donor

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wishes to leave a legacy in a will the Association will liaise, if possible, with the donor through an independent body or person – for example a solicitor, doctor, or family member.

- 4.3 Where a legacy or donation is made towards the running costs of the Association, without any restriction as to its use, the Association will determine how best to utilise it.
- 4.4 The Association will set up a separate bank account to deposit all donations and legacies received, whether in cash, by cheque or otherwise. The Association will set up a procedure as to the most suited appropriate officer(s) of the Association who will be fully authorised to draw on the account.
- 4.5 In respect of fixed asset donations then the Association will arrange for the asset's legal title to be transferred to the Association at its cost.
- 4.6 The Association will not accept donation of fixed assets which run counter to the Association's legal, ethical and moral objectives, for example that a property is left to the Association for the sole use of accommodating one section of society precluding all others.
- 4.7 The Association may choose not to accept the donation of a fixed assets or properties whose condition is considered to be unacceptably poor warranting remedial work.
- 4.8 The Association may also choose not to accept fixed assets or properties which have restrictive covenants in place regarding change of use or development/improvement to meet modern housing standards. This includes listed buildings.
- 4.9 The Association may choose to dispose of a donated fixed asset or property subject to the price realized being applied according to the Association's objectives. Restrictive covenants preventing disposals may lead to a donation being declined
- 4.10 In respect of the donation of equity stock listed on any exchange then the Association may retain the equity or stock holding earning dividends and participating in corporate activity e.g. rights issue, associated with stock as a stock holder. Dividends or earnings on equities or stock are subject to them being applied according to the Association's objectives. Any corporate activity must be consistent with the Association's objectives.
- 4.11 The Association may decide to dispose of the stock at a value and at a time of its choosing subject to the price realised being applied according to the Association's objectives. Restrictive covenants preventing disposals may lead to a donation being declined.
- 4.12 The donation of chattels such as antiques or items of other value not used in the business operations of the Association may be retained or disposed of at

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a value and at a time of the Association's choosing subject to the price realised being applied according to the Association's objectives. Restrictive covenants preventing disposals may lead to a donation being declined.

4.13 Notwithstanding paragraph 4.4 above, where the Association receives cash donations, it will adhere to the following procedures:

- Only designated personnel of the Association will be permitted to receive cash donations;
- The designated personnel receiving a cash donation will seek to receive it in the presence of a colleague;
- Upon receiving a cash donation the designated personnel will issue a receipt and put the cash donation in the Association's safe;
- The designated personnel will notify the Director of Finance & IT of the Association (in his absence Finance Manager);
- Thereafter the Director of Finance & IT will proceed with transferring the donated cash to the Bank Account set up by the Association for the purposes of receiving donations and legacies.

4.14 The Association may accept donations in kind but, unless directed otherwise by the donor, will exercise its discretion as to the suitability (for example whether it complies with the appropriate regulations, safety standards or law) or) of the donation in kind.

4.15 The Association may dispose of the donation in kind (for example by way of a sale - subject to the price realised being applied in accordance with the Association's objectives - or by way of discarding it) but only with the permission of the donor, where this is possible, or the donor's executors.

4.16 The Association may communicate and engage with donors with a view to facilitating a legacy, bequest or donation.

4.17 The Association will not:

- Collect cash by way of street collection;
- Tout or solicit for donations or legacies;
- Engage professional fund raisers; or
- Seek donations through raffle tickets.

#### ***Restricted Funds***

4.18 Where a donor wishes his donation or legacy to be directed towards a specific project, or to benefit a geographical area or a class of beneficiaries, the Association will assess the donation and / or legacy to ensure that the donor's

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wishes can be respected and implemented. Where this is possible, the Association will use the donation or legacy for the identified matter.

- 4.19 Where this is not possible (for example because the project is not, in the Association's view, any longer feasible or desirable, or the beneficiaries targeted by the donor do not fall within the Association's own beneficiaries), then the Association's approach will depend on whether the donation or legacy forms a "Restricted Fund" or not.
- 4.20 Restricted Funds are defined in charity law as property (including money) given to a charity for a specific purpose and in respect of which conditions have been imposed as to its use.
- 4.21 If the donation or legacy does not form a Restricted Fund, then ACHA will apply the donation or legacy to an alternative aim most closely aligned with and related to the donor's wish or legacy. In doing so, the Association will endeavour to consult the donor (if they are still available) or the donor's relatives.
- 4.22 If the donation or legacy is a Restricted Fund, then the Association will approach the donor (if possible) to ascertain the wishes of the donor and ensure that those wishes can be achieved, albeit in a slightly different manner from that originally envisaged by the donor. If the donor's wishes cannot be ascertained (for example, because the donor is now deceased) then the Association will consider whether an application to the Office of the Scottish Charity Regulator (OSCR) for reorganisation of Restricted Funds is appropriate. If so, the Association will follow OSCR's application procedure and comply with any decision of OSCR on such an application.

#### ***Register of Donors and Benefactors***

- 4.23 The Association will keep a register of all donations and legacies, which register will comprise:
  - The name of the donor [and all relevant details];
  - Whether the donation or legacy is to be publicised or kept anonymous – depending:
    - on the terms of the donation or legacy; or
    - the expressed wishes of the donor; or
    - whether the Association, in its absolute discretion, deems anonymity preferable to publicity;
  - The amount of the donation or legacy;

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- Whether the legacy is Restricted Fund or not and the type of restriction;
  - Whether the donation or legacy was in cash, assets, equities, chattels or kind;
  - The conditions, if any, (for example anonymity etc) attached to the donation or legacy;
  - Details of the agents or representatives of the donors;
- 4.24 Notwithstanding the above, the Association will also assess whether the donation or legacy should be accepted, rejected and / or returned.
- 4.25 In addition, where a donation or legacy is from an employee, a Board member or contractor, or a family member of any of them, the Association will verify whether such donation or legacy complies with the Association's internal policies, and the law, relating to the matter of gifts from an employee, a Board member or contractor, or a family member of any of them.

#### ***Exceptional Circumstances***

- 4.26 In exceptional circumstances the Association may agree to apply all or part of a donation or legacy over time or in instalments. However, strict criteria, which must be adhered to and met, will be applied by the Association's Board. Examples of exceptional circumstances may be where the amount is such that partial and regulated distributions are more appropriate.
- 4.27 In any exceptional circumstance the Association will use its best endeavours to obtain the donor's consent, where this is possible, or the consent of the donor's family or executors.

#### ***Delegated Authorities***

- 4.28 The Board delegates authority to the Chief Executive and Director of Finance and IT to determine the appropriateness of any acceptance or decline of a donation of any type of asset.
- 4.29 The Board delegates authority to the Chief Executive and Director of Finance and IT to determine any decision on disposals or retention of a donated asset, stock, chattel or equity in accordance with the terms of this policy document Section 2
- 4.30 The development of procedures and records required to comply with this policy document shall be the responsibility of the Chief Executive and Director of Finance and IT to establish and monitor.



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#### **Section 5 – Performance management**

5.1 Any donations or legacies received will be reported to the Board.

#### **Section 6 - Development and training**

6.1 No training or development issues identified

#### **Section 7 – Our positive action initiatives**

7.1 No specific positive action initiatives identified.

#### **Section 8 – Dealing with complaints**

8.1 ACHA treats complaints seriously and any complaints will be managed through its complaints handling procedures.

#### **Section 9 – Consultation and review procedures**

9.1 This policy will be reviewed on a 3 yearly cycle and will be subject to consultation with the ACHA senior management team, area committees, relevant consultation groups (eg Feedb@ck Forum) and via the website prior to consideration by the Policy Committee.

#### **Section 10 – Confidentiality and data protection**

10.1 ACHA will manage any data received in relation to its donations policy with appropriate confidentiality and subject to legal requirements relating to data protection and freedom of information.