

# TATE DONATIONS POLICY

Approved by the Board of Trustees on 21 March 2018

Date of Next Review: March 2020

## 1. Objective

The objective of Tate in this context is to raise funds by active and effective means while at all times balancing the benefits against the potential reputational risks, at all times asking the question: “are there any good reasons why Tate should not accept a donation from this source?”. This policy applies to donations of cash received by Tate; appropriate due diligence procedures concerning gifts of works of art or archives are set out in Tate’s Acquisitions and Disposals Policy and Due Diligence Policy.

## 2. Control

Control and co-ordination of all activities within Tate in connection with fundraising will be centralised in the executive staff in the Development office acting on delegated authority from the Board of Trustees, who retain overall responsibility for all decisions regarding the acceptance and refusal of donations. Development office staff will at all times bear in mind the legal principles underpinning the acceptance and refusal of donations, as set out in the advice given by Tate’s legal advisors, Withers LLP, dated May 2008 (as revised in February 2016) and all other advice that may be given from time to time by Tate Legal. Legal or other advice may be sought in matters relating to the acceptance of gifts where, for example, a donation is proposed which may provide a benefit to a donor or a person or business connected to the donor.

## 3. Research

Recognising that the objective of the Development office will be to achieve success through energetic fundraising and that the tendency will be towards acceptance rather than rejection, in particular after investment of time and resources, the main responsibility for research into potential funders will be undertaken by a dedicated Head of Research and Data who reports to the Associate Director, Strategy and Operations within Development and whose function and responsibility will be to ensure that investigations are appropriate, being as robust as circumstances will reasonably permit while upholding the highest standards of research practice. The Head of Research and Data will consider the results of such research dispassionately and express any findings and conclusions objectively.

### 3.1 Initial and further screening

For contributions of over £10,000, all potential funders will be subject to an initial screening which incorporates a standardised search of publicly available material designed to highlight potential areas of controversy or concern. This will normally employ a combination of adverse news searches on Google (or a similar web search engine) and LexisNexis (or a similar news aggregator), a registry check (both with Companies House data and reasonably available international registries) and checks in a PEPs and sanctions database (WorldCheck or similar). The results of the initial screening will be reviewed by senior staff (Director of Development or their delegate at the Associate Director/) who may request more detailed research and/or that a full ethical review should be undertaken. The Head of Research and Data may also decide that more detailed research is required or that a full ethical review should be undertaken. Professional search firms and international due diligence providers will be used as appropriate. The advice and opinion of individuals who have knowledge of the specific funders and/or context in which they operate, commercially or personally, will also be sought.

### **3.2 Corporate sponsors, partners and members**

All corporate sponsors, partners and members providing support of £5,000 or more will be subject to the initial screening of publicly available information mentioned above. This screening will be focused on the company and its activities, with particular reference to any activity that might be the source of reputational or ethical risk, such as pending major court cases and prominent allegations. Standard checks will be made in relation to the company's sector, its corporate register and listed company details in country of origin and of its parent or associated companies, if relevant, and more generally in relation to its regulatory jurisdiction.

### **3.3 Distinction between Allegation and Fact**

The Head of Research and Data and the Development office should distinguish between mere allegation or rumour or speculation on the one hand and confirmed fact or legal finding on the other, treating the former with caution although not disregarding the same if they consider that public perception alone carries a reputational risk for Tate irrespective of the underlying truth.

### **3.4 Records**

All advice and research material received in respect of individual donors, institutional funders, corporate sponsors, corporate partners and corporate members as well as any conclusions or views as *to the prudence of accepting* the potential funding expressed by the Director of Development or the Head of Research and Data and all information concerning countries or their regimes gathered in the context of this donations policy will be retained on file and notes will be made and retained if discussions have been oral and not in writing.

### **3.5 Reference to the Ethics Committee**

All individual donors and institutional funders over £100k are reviewed annually as mentioned in section 4.3. Potential donations from individual donors, institutional funders, corporate sponsors, corporate partners and corporate members above £100,000 shall be referred by the Development office for consideration by the Ethics Committee after the necessary initial research has been completed and recorded as mentioned in section 3.4 if they are likely to become pledges or payments and present possible or likely ethical or reputational risks.

Potential donations of less than £100,000 by individuals need not be referred to the Ethics Committee unless in the opinion of the Director of Development or any other Director of Tate there is a possible ethical or reputational risk to Tate which ought to receive the attention of the Ethics Committee.

### **3.6 Commitments to Programme and in Perpetuity**

All donations which include commitments to programme of any kind and all donations which involve commitments in perpetuity shall be referred to the Ethics Committee. This includes those referenced in section 6 below.

### **3.7 Timing of reference to Ethics Committee**

The stage at which a reference to the Ethics Committee should be made shall be at the discretion of the Director of Development. In exercising this judgment he/she shall have regard to the likely cost in time and resources of an investigation, the relative size of the potential donation and the likelihood or otherwise of reputational risk. He/she should also have regard to the fact that there is a considerable constraint on rejection of a concrete offer, particularly after Tate has expended time and resources in achieving that offer: in some cases, with hindsight, it may have been better to stop the process at an earlier stage. It will be a matter of judgment for the Director of Development as to when (and how often) a reference of a potential donation is made to the Ethics Committee.

## **4. The role and responsibility of the Ethics Committee**

The Ethics Committee shall consider the potential donations referred to it by the Development office in accordance with the principles of ethical fundraising set out in Tate's Ethics Policy approved by the Board of Trustees in May 2008 (as revised in March 2016) and advise Tate whether or not to proceed with any potential donation. The Committee shall not be responsible for conducting the necessary research and background investigation upon the basis of which such advice is to be based. The Committee will act and rely on the material put before it by the Development office but may require the Development office to conduct further research before it advises. The Ethics Committee will meet in person or by secure correspondence according to its terms of reference and as appropriate, to consider the matters referred to it. Minutes will be kept of its discussions and key points from the minutes will be presented to next subsequent meeting of the Board of Trustees together with the research material and reports and supporting documents.

### **4.1 Function advisory only**

The function of the Ethics Committee shall be advisory only. The decision whether to accept or reject a potential donation shall be made by the Board of Trustees, or by the Director of Tate (acting under the delegated authority of the Board of Trustees) in the case of a donation of less than £5 million where the Ethics Committee has recommended acceptance and has raised no ethical concerns. It is expected that the Board of Trustees, and where relevant the Director of Tate, will pay due regard to the recommendations of the Ethics Committee bearing in mind the Committee's opportunity to consider ethical issues in detail.

### **4.2 Procedure for urgent advice**

There may arise specific occasions when the urgent advice of the Ethics Committee will be required. In those exceptional circumstances, the Director of Development will ensure that the members of the Committee receive the research as set out in section 3 above by the most time efficient means possible. Members will be asked to respond by a given deadline. If, for whatever reason, it is not possible for all members to respond by the deadline, the judgment to accept a donation of less than £5 million may be made by the Director of Tate, taking into account the advice received from the member/members who have responded. The judgment to accept a donation of more than £5 million may be made by the Director of Tate, having first taken the advice of the Board of Trustees in line with the process available to him/her for securing such urgent advice outside the formal Board meeting schedule.

### **4.3 Reviewing previous recommendations**

The Ethics Committee will be called upon formally to review the complete list of individual donors or institutional funders who have given a donation of £100,000 or more and the complete list of corporate sponsors, corporate partners and corporate members at least once a year. This annual review will allow the Committee to review and, if necessary, reconsider previous decisions taken in good faith relating to the acceptance of particular donations if subsequent events or the subsequent availability of additional information requires it. The Director of Development or Director of Tate may also, as and when necessary, ask the Ethics Committee to review and/or reconsider a funder outside this annual review framework. Recommendations as a result of such reviews may be referred to the Board of Trustees together with all supporting material as deemed appropriate.

## **5. Roles and responsibilities of Tate staff and advisors**

All employees of and advisors to Tate involved in fundraising are encouraged to consult the Development office at an early stage in any discussions with a potential benefactor. Tate's policy is that no specific donation request shall be made by an individual or department without prior reference to Development. The Development office can advise on the use of these guidelines, and consultation will also reduce the risk of uncoordinated approaches to a single potential donor, spread familiarity with the process for accepting benefactions and may allow an early warning of anyone unknowingly approaching a potential benefactor whose donation is not likely to be acceptable.

## **6. Donations from Charitable Foundations**

Donations and grants of any size from charitable foundations registered with the regulatory authorities in the UK, North America and European Foundation Centre (EFC) affiliated organisations will not normally be subject to an ethical review in accordance with the procedures laid down in this Donations Policy and can be progressed to the signing of an appropriate agreement with the funder. For the United Kingdom this means charities regulated and scrutinised by the Charity Commission for England and Wales, the Office of the Scottish Charity Regulator, and the Charity Commission for Northern Ireland. For the United States of America this means tax-exempt, non-profit corporations or associations recognised under section 501(c) regulated and scrutinised by the Internal Revenue Service (IRS) and the relevant state Attorney General. For Canada this means charities regulated and scrutinised by the Canada Revenue Agency (CRA). In the absence of any equivalent regulatory framework covering Europe, the (EFC) has openly published its principles of good practice to which all affiliated organisations have to adhere.

Exceptionally, the Development office may refer a registered charitable foundation to the Ethics Committee where the results of the initial screening suggest to the Director of Development or any other Director of Tate that there is a possible ethical or reputational risk to Tate which ought to receive the attention of the Ethics Committee, in particular, any area of risk associated with any founder or trustee of such a foundation.

## **7. Restricted gifts**

Subject to the provisions of this policy, the Director of Development:

- may accept unrestricted gifts, including those made with an expression of wishes that the gift be used for a particular purpose within Tate's objects;
- may accept gifts for particular projects provided those purposes are within Tate's objects and capable of being carried out;
- will not accept gifts that are too difficult or costly to administer or gifts that are for purposes outside the purposes of Tate.

Where a gift is proposed to be made for restricted purposes, the Director of Development or their delegates will consider, prior to accepting such a donation, whether the proposed project would be an appropriate project for Tate in the circumstances including:

- whether the proposed project is an effective way of furthering Tate's objects;
- the intended impact of the proposed project;
- the anticipated financial cost of involvement in the proposed project;
- the impact the proposed project would have on Tate's reputation;
- whether the proposed project could be carried out in a manner that is lawful and consistent with relevant guidance; and
- the means by which useful results of any research will be disseminated.

If the Board of Trustees or their delegates are satisfied that the project proposed is eligible, they will consider whether in all the circumstances accepting such a restricted donation would be in the best interests of Tate.

## **8. Conclusion**

This Donations policy is designed to ensure due diligence and an appropriately documented, fast and efficient process which can be undertaken in a manner conducive to fundraising which is both effective and ethical.