

Charitable expenditure policy

Key Messages:

- **ACT shall ensure that charitable expenditure for charitable purposes satisfies the objects of the charity**
- **Approval of all grants (charitable expenditure) shall be given by authorised individuals, up to their designated threshold, as set out in the Authority Levels Policy, and ensure:**
 - **the expenditure is consistent with ACT's objects;**
 - **the expenditure is for a charitable purpose;**
 - **the expenditure shall result in public benefit; and**
 - **in the case of restricted funds, it must be consistent with the objects recorded for that fund and any conditions applied to the expenditure, by the donor**
- **This document describes how the policy is to be applied throughout ACT.**

Owner: Charitable Expenditure
Committee (on behalf of Trustees)

Maintainer: Chief Executive

Approved by: Board of Trustees

Approval Date: 10 August 2021

Document Version: 1.1

Applicability: ALL ACT

Next Review Date: August 2023

Charitable expenditure policy

1. Introduction

- 1.1 This document sets out the policy of the ACT Trustees concerning charitable expenditure from the funds of the charity.
- 1.2 In this policy, where we use '**must/shall**', we mean it is a specific policy, legal or regulatory requirement affecting trustees and the Charity. The Trustees and the Charity must comply with these requirements. We use '**should**' for items we regard as minimum good practice, but for which there is no specific policy requirement. Trustees and the Charity should follow the good practice guidance unless there is a good reason not to.

2. Definitions

2.1 Charitable Expenditure

Charitable expenditure relates to any expenditure for charitable purposes satisfying the objects of the charity. Costs such as operating costs or fundraising costs do not constitute charitable expenditure.

2.2 Grants

Grants refers to charitable expenditure recommended via one of the grant-making panels.

2.3 Grant Agreement

A formal agreement setting out the terms and conditions of a grant.

2.4 Authority Levels Policy

Charitable expenditure shall conform to the scheme of financial delegation as approved by the Board and set forth in the Authority Levels Policy.

3. Scope

This policy applies to all charitable expenditure from ACT funds. It may be supplemented by additional guidance for committees on grant-making policy and additional guidance to using charitable funds in the Charitable Funds Guide.

4. Management responsibilities

4.1 Board

The Board has responsibility for ensuring that there are clear criteria in place for approving charitable expenditure. The Board shall have approval over all Charitable Expenditure above a threshold as set out in the Authority Levels Policy.

4.2 The Charitable Expenditure Committee

The Charitable Expenditure Committee shall approve Charitable Expenditure in accordance with the thresholds set out in the Authority Levels Policy.

4.3 The Chief Executive Officer (CEO)

The CEO, or their delegate, shall approve Charitable Expenditure up to a threshold as set out in the Authority Levels Policy.

4.4 Fund Advisors

Fund advisors should approve all charitable expenditure from their funds. Approval thresholds shall be set out in the Authority Levels Policy.

5. Procedures and implementation

All expenditure from ACT funds must satisfy the following criteria to meet the requirements of charity law:

- the expenditure is consistent with ACT's objects; and
- the expenditure is for a charitable purpose; and
- the expenditure shall result in public benefit; and
- in the case of restricted funds, it must be consistent with the objects recorded for that fund and any conditions applied to the expenditure, by the donor.

In addition, expenditure from ACT funds should be used to:

- provide new additional services where the NHS body has no statutory obligation and insufficient resources to do so; or
- enhance existing services over and above the level that can be provided by exchequer funds; or
- maintain services on a time limited basis.

All charitable expenditure shall be in accordance with applicable legislation and charity law.

Approval of charitable expenditure is regulated by the ACT Authority Levels Policy, which must be adhered to at all times. Fund Advisors must follow this policy in making expenditure decisions under delegated authority.

Fund balances should not be accumulated within charitable funds unless there are clear and approved plans for the use of such funds for charitable purposes.

In circumstances where there is no significant expenditure for over a year (typically less than 20% of the fund balance) and Fund Advisors are not able to demonstrate future spending plans consistent with this policy, then the trustees may re-assign funds to other purposes, subject to any restrictions imposed by gifts. Fund Advisors are encouraged to plan for the strategic use of their charitable funds, both in terms of income and expenditure. As part of this planning, Fund Advisors are encouraged to actively engage with the charity and in grateful patient fundraising to help to sustain income and maximise the benefit of charitable expenditure.

5.1 Further explanation of criteria

This section provides further explanation of the criteria set out above. Each heading is marked as M (mandatory – legal requirements) or G (following Charity Commission guidance)

Consistency with ACT's objects (M)

'Objects' describe and identify the purposes for which a charity exists. ACT's objects, which are defined by statute, are:

- to further any charitable purpose or purposes relating to the general or any specific purposes of Cambridge University NHS Foundation Trust (CUH) or the purposes of the health service;
- to advance and promote all or any aspects of the health and welfare of the public; and
- to advance and promote knowledge and skills in health care, including by engaging in and supporting health-related research (and the dissemination of its useful results), education and training.

In practice, ACT's policy is to support CUH. The fact that the whole of the NHS is within the scope of the objects means that it would be within ACT's powers to support another NHS organisation or organisations which serve to benefit CUH and the wider NHS. This means that ACT may make grants to other charities or to wider health system partners. Such grants need not benefit CUH patients exclusively.

For charitable purposes (M)

The Charities Act 2011 defines a charitable purpose, explicitly, as one that falls within one of thirteen descriptions of purposes and is for the public benefit. This statutory list of purposes includes three that are of likely relevance to expenditure of ACT funds:

- The advancement of health or the saving of lives.
- The advancement of [the arts, culture, heritage] or science.
- The advancement of education.

In practice, most charitable expenditure associated with the work of the hospital will fall under one or more of these headings.

For public benefit (M)

For a charity to qualify for charitable status it must, in accordance with the 2011 Charities Act, serve purposes that are for the public benefit. There is no automatic presumption that expenditure with a stated aim that falls within one of the descriptions of purposes is charitable. To be a 'charitable purpose' it must also be for the public benefit. This has to be demonstrable in each case.

There are two aspects of public benefit: the 'benefit aspect' and the 'public aspect'. Both must be satisfied to pass the public benefit test.

To satisfy the **benefit aspect**, a purpose must be beneficial and any detriment or harm that results from the purpose must not outweigh the benefit.

As an example, clinical research is an activity which has the potential to harm as well as to benefit. Compliance with research governance policies and processes of CUH will ensure that this matter is appropriately addressed and is included as the host institution's obligations within the Grant Agreement. For other expenditure, ACT shall place obligations on the host institution to ensure adequate clinical governance.

To satisfy the **public aspect**, the purpose must benefit the public in general or a sufficient section of the public and not give rise to more than incidental private benefit (to an individual or an organisation). For this reason, ACT will typically not provide funding directly to commercial organisations or where the primary beneficiary is a commercial organisation (e.g. where a commercial organisation will own a share of new intellectual property generated from the Charitable Expenditure).

The question of incidental private benefit may arise in relation to expenditure on professional education, training, development, attendance at conferences and development of intellectual property. In these circumstances, the public benefit (e.g. the advancement of education through the presentation of new knowledge to a conference) must be weighed against the private benefit (advancement of personal profile, networks and career prospects) and the former *must* outweigh the latter for the expenditure to be charitable.

The question also arises in the case of support for staff. In order to demonstrate public benefit, any support for staff must be justified through its contribution to providing patient benefit by improving staff morale, staff skills and knowledge, improving staff retention or benefiting recruitment by improving the appeal of CUH as a place to work. Support for staff must be equitable and inclusive. Whole staff groups or the majority of a defined group of staff should be able to benefit, without staff time commitments being required outside of work time to benefit.

The following points apply:

- ACT will work with the hospital to coordinate a programme of activity to support staff that will aim to support all or the majority of staff;
- This programme of activity will aim to provide patient benefit by improving staff morale, improving staff retention and benefiting recruitment by improving the appeal of CUH as a place to work;
- Support for staff social functions (including Christmas parties and retirement parties) is not permitted because the expenditure is considered too far detached from any patient benefit.

Outside of the ACT programme of activity to support staff, departmental funds (or other funds that ACT may make available for this purpose) may be used on expenditure that supports staff where the following criteria is met:

- a) There must be a realistic connection between the purpose of the funding and patient benefit
- b) The support must be equitable and inclusive, and benefit all or the majority of the staff from the requesting department or a defined group of staff;
- c) It must be justified through its contribution to improve staff skills and knowledge, improve staff morale, improve staff retention and/or benefiting recruitment by improving the appeal of CUH as a place to work;

Note that in the case of learning and development, only points a) and c) apply.

In the case of team-building events, the objectives for the event and proposed schedule shall be required so that the link to patient benefit can be considered.

Funding may not be used for alcohol, cash or vouchers.

Most of ACT's expenditure will benefit a section of the public, rather than the public in general, because it will support the healthcare of a group of people with a specific disease, injury or long-term condition. In some cases, for example when dealing with rare diseases, the section of the public may be small in number. This satisfies the definition of 'a section of the public'.

Consistent with the objects of restricted funds (M)

In addition to the objects of ACT as a whole, the charity maintains a statement of fund objects for restricted funds. These typically restrict expenditure to a particular ward, clinic, group of patients, field of research etc. Expenditure from restricted funds must be consistent with the statement of fund objects that relates to that fund.

Consistent with the objects of designated funds (M)

The charity maintains a statement of fund objects for designated funds. These typically designate expenditure to a particular ward, clinic, group of patients, field of research etc. Expenditure from these funds should ordinarily be consistent with the statement of fund objects that relates to that fund. However, the Trustees reserve the right to divert the funds to other projects consistent with the Charity's objects.

Additional, enhanced and maintained services (G)

NHS charities are not prevented from funding items that the NHS are legally bound to fund. The Department of Health, in their 2012 publication *The regulation and governance of NHS charities* provide the following guidance.

...there is no hard and fast rule that charities must not subsidise or replace public services. The Charity Commission does however set clear criteria for decision making by trustees if they wish to spend in areas normally or previously paid for from exchequer funds. The Commission's view is that grant-making charities should only agree to subsidise public services or other public provision when there is clear justification for doing so. In addition, charities should act only within their objects and powers, and in the interests of the charity and beneficiaries, and they should ask questions and challenge assumptions about what public authorities are prepared to fund or have a duty to fund.

However, ACT must consider the perceptions of donors and the public when approving expenditure. Many supporters have an expectation that their gifts will fund items or activities that are 'over and above' the 'core service' that should be funded from exchequer sources, regardless of the difficulty in establishing precisely what an NHS body is legally bound to fund.

Charitable funds may therefore be used to:

- provide a new **additional** service or facility where CUH has no obligation to provide the service or facility and no exchequer resource to do so; or
- **enhance** an existing service or facility (where exchequer funds provide a certain level of service but additional funding could improve the level and quality of the provision); or
- **maintain** an existing service or facility on a time-limited basis, normally of no more than one year. This might be to 'bridge' a gap in research or service programme or to extend a 'pilot project' where there is a reasonable prospect of securing long-term exchequer funding.

Every spending decision should be patient-focussed and should address patient needs as directly as possible, although not every piece of spending will be directly on patient services or facilities.

- In the case of spend on staff salaries the Trustees shall not normally support employment costs for periods of longer than three years. Charitable Expenditure will only be approved by Trustees to cover employment costs where they receive adequate assurance as to the arrangements to meet any other costs arising from the Charitable Expenditure, including, but not limited to, the implications of any employment rights accrued.

The Trustees shall always consider the following issues, and expect those acting under delegated authority to do likewise:

- How far the spending is removed from the patients and the needs that have brought them into the care of the NHS body. Links to patient benefit from the proposed spending must not be tenuous.
- The value for money to be achieved by the proposed spending.
- Fit with donors' reasonable expectations of how their donations would be used. Would donors view some spending as substituting for exchequer funding, especially for core services? Or as frivolous or unlikely to be effective in benefiting patients?

5.2 Approach to unspent and underspent grants

Generally, grant monies shall be made available for a period of 12 months. If, after 12 months of the award date, remedial action has not been possible, the remaining sum shall be returned to the General Fund or the fund from which the funding originated. Allowance shall be made for the time of the award date of grants and the agreed start dates to accommodate issues such as recruitment etc.

5.3 Approach to making grants to other charities

An external charity may apply for funding from ACT. This is subject to the following conditions:

- a) A particular project may be funded for a maximum of three consecutive years.
- b) If a project has been funded for a maximum of three consecutive years, a further application may be made but only for funding to commence a minimum of twelve months after the previously agreed funding has come to an end.

- c) There shall be no limit to the number of projects that a charity may submit a funding application for.

The above conditions may be deviated from at the discretion and direction of the Chief Executive. Where these conditions are being deviated from and the expenditure meets the threshold for trustee approval, this deviation should be notified to trustees.

5.4 **Approval of Charitable Expenditure**

Charitable Expenditure shall be subject to a written agreement which sets out the agreed purpose of the funding and sets out the schedule and format for evaluation and reporting. This requirement is subject to the following conditions being met:

- That the charitable expenditure is being made through one of the formal grant streams, or;
- The charitable expenditure is over £5,000.
- The Chief Executive can deviate from this requirement if it is considered that this requirement is unnecessary or disproportionate.
- The Chief Executive can subject any charitable expenditure under £5,000 to a written agreement and a proposed schedule and format for evaluation and reporting in circumstances where this is deemed necessary.

All expenditure is also subject to approval from the requesting organisation. These approvals should be the same as if the purchase was being made with the requesting organisation's own funds.

5.5 **Progress and evaluation reporting**

Progress and evaluation reports will be ordinarily be required for all projects over £5,000. The timescales will be set out at the time of awarding the funding. Timescales for reporting may vary due to reporting obligations that ACT may have to a particular donor.

5.6 **Research funding**

The Trustees shall consider research applications from all groups of staff. They are, however, particularly keen to provide 'pump priming' for pilot projects that aim to strengthen clinical research applications to external funding bodies. Applications from junior doctors, nurses and professionals allied to medicine are especially welcome. In addition to the scientific merit, the Research Advisory Committee shall take into account the relevance of the research to strategic priorities within NHS Trusts and opportunities for research training.

6. **Related policies and guidance**

ACT Authority Levels Policy
ACT Charitable Funds Guide

7. **Monitoring and review**

Charitable Expenditure Committee review of charitable expenditure including grants,
Audit of Trustees Annual Report and Accounts

This policy was accepted by the Board of Trustees on 10 August 2021 and is due for review in TWO YEARS' TIME.