DONOR DUE DILIGENCE POLICY AND PROCESS

1. Background

1.1. This Donor Due Diligence Policy and Process has been developed in accordance with the recommendations of the *Review of Philanthropy in UK Higher Education* (HEFCE 2012) that

   All universities should have clear processes and governance mechanisms for acceptance of gifts as part of their normal ethical and risk management frameworks.

   It is intended to ensure that the University of York has a clear, comprehensive and auditable process in place to satisfy itself, within the reasonable capacity of the organisation, that philanthropic funding does not derive from any activity that is illegal, or runs counter to its core values of impartial, independent research, scholarship and teaching.

1.2. In accordance with §3.8 of the University of York’s *Policy and Guidance on the Acceptance of Philanthropic Donations*, the University of York will therefore undertake all reasonable measures in order to:

   ● ascertain the sources of philanthropic donations\(^2\) from individuals, corporate entities, and other organisations;
   
   ● ensure that such donations are made for purposes consistent with the University’s ethical principles and strategic plan;
   
   ● determine that no legal or reputational issues are raised by the acceptance of such donations.

1.3. In developing this Policy and Process, reference has been made to the University of York’s *Policy and Guidance on the Acceptance of Philanthropic Donations*, the *Terms of Reference* of the University’s Ethics Committee, the University’s *Code of Practice and Principles for Good Ethical Governance*, and to the following University of York documentation:

   a) *Policy and Guidance on the Acceptance of Philanthropic Donations*
   b) *Framework for Ethical Consideration of Sources of Funding*
   c) *Our Promise to our Donors*
   d) *Guidance on the Treatment of Gifts as Permanent and Expendable Endowments*
   e) *University of York Delegation of Council Responsibilities Map*
   f) *University of York Scheme of Delegation and Decision-Making Powers (17 February 2014)*
   g) *Code of practice and principles for good ethical governance: Appendix A: Checklist of areas where ethical considerations are likely to arise.*

   Links to these policies can be found at Appendix 1. Existing Due Diligence policies and processes at comparable HEIs have also been consulted.\(^3\)

1.4. This Policy and Process is intended to conform with the ‘Know Your Donor’ principles developed by the

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\(^1\) Recommendation 7: [http://www.hefce.ac.uk/pubs/rereports/Year/2012/philanthropyreview/Title.92282.en.html](http://www.hefce.ac.uk/pubs/rereports/Year/2012/philanthropyreview/Title.92282.en.html), p10.

\(^2\) Defined in *Guidance on the Definition of Philanthropic Sources and Philanthropic Intent*. See Appendix 1 for link.

\(^3\) Universities of Aberdeen, Birmingham, Durham, Edinburgh, Leeds, Liverpool, Manchester, Nottingham and Sheffield.
Charity Commission:

The core elements of due diligence across each of the ‘Know Your’ principles involve trustees taking reasonable steps to ensure they:

- Identify – know who they are dealing with
- Verify – where reasonable and the risks are high, verify this
- Know what the organisation’s or individual’s business is and can be assured this is appropriate for the charity to be involved with
- Know what their specific business is with the charity and have confidence they will deliver what the charity wants them to
- Watch out for unusual or suspicious activities, conduct or requests.

1.5. The scope of this Policy and Process is limited to sources of philanthropic funding (ie, individual donors and organisations). Any due diligence required regarding the purposes and activities to which such philanthropic funding is directed will be carried out using the appropriate University of York processes.

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2. Policy

2.1. This Donor Due Diligence Policy and Process is designed for lifetime and institutional giving. Legacy and Planned Giving are governed by current probate legislation.

2.2. Due diligence is required regarding any donor from whom the University intends to either accept a gift over £25,000 or solicit a gift over £100,000.

2.3. The outcome of a Due Diligence Process is a Due Diligence Report, which identifies any potential issues relating to the donor under the ‘Know Your’ principles (see §1.4). There are two levels of Due Diligence Report: Basic and Enhanced (see Appendix 3).

2.4. Due Diligence Reports should be requested by the fundraiser or an OPPA Designated Approver (see Appendix 2). Exceptionally, a Due Diligence Report may also be requested by the approver of a Gift Agreement prior to signing.

2.5. When receiving a philanthropic gift, a Due Diligence Report should be requested if the agreed gift meets the criteria set out in the Due Diligence Triggers:

<table>
<thead>
<tr>
<th>Received Gift Amount</th>
<th>Level of Due Diligence</th>
</tr>
</thead>
<tbody>
<tr>
<td>£100,000+</td>
<td>Enhanced</td>
</tr>
<tr>
<td>£25,000+</td>
<td>Basic</td>
</tr>
<tr>
<td>less than £25,000</td>
<td>None (unless requested)</td>
</tr>
</tbody>
</table>

2.6. When soliciting a philanthropic gift, a Due Diligence Report should be requested if the proposed gift meets the criteria set out in the Due Diligence Triggers:

<table>
<thead>
<tr>
<th>Solicited Gift Amount</th>
<th>Type of Due Diligence</th>
</tr>
</thead>
<tbody>
<tr>
<td>£100,000+</td>
<td>Basic</td>
</tr>
<tr>
<td>£25,000+</td>
<td>None (unless requested)</td>
</tr>
<tr>
<td>less than £25,000</td>
<td>None (unless requested)</td>
</tr>
</tbody>
</table>

2.7. A Due Diligence Report will not normally be required for gifts under £25,000 or approaches under £100,000, except where requested by the fundraiser or OPPA Designated Approver.

2.7.1. Where the Due Diligence Trigger is ‘none unless requested’, the fundraiser should exercise their professional judgement either a) to accept the gift or make an approach; or b) to request a discretionary Due Diligence Report.

2.7.2. Where the fundraiser or OPPA Designated Approver believes that there is a need for an Enhanced Due Diligence Report despite only a Basic Due Diligence Report being indicated in the Due Diligence Triggers, they should request this of the Prospect Researcher, providing as much information as possible in order to assist with research.

2.7.3. If information comes to light during the Due Diligence Process which calls for an Enhanced Report when the Due Diligence Triggers envisage a Basic Report, the Prospect Researcher shall refer to the OPPA Designated Approver for a decision on whether an Enhanced Report is necessary.

2.7.4. Where due diligence is discretionary or a more detailed Report is requested, a specific justification should be provided by the requester. An OPPA Designated Approver will make the final decision as
to whether the additional due diligence should be carried out.

2.7.5. In all these cases, the University of York’s ethical framework, proportionality, the ‘Know Your Donor’ principles, the areas addressed in the Request Form, and OPPA capacity should be borne in mind when deciding if it is necessary to compile a Due Diligence Report or which type of Report should be compiled.

2.8. The following individuals, or their nominated deputies, shall authorise Due Diligence Reports:

<table>
<thead>
<tr>
<th>Solicited or Received Gift Amount</th>
<th>Authorising Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>£100,000+</td>
<td>Registrar and Secretary</td>
</tr>
<tr>
<td>£25,000+</td>
<td>Director of External Relations</td>
</tr>
<tr>
<td>less than £25,000</td>
<td>OPPA Designated Approver (see Appendix 2)</td>
</tr>
</tbody>
</table>

2.9. The Authorising Officer should not be the principal fundraiser who solicited, or who plans to solicit, a gift from a donor on whom the Due Diligence Report has been compiled.

2.10. Authorised Due Diligence Reports for gifts received above £4m will be shared with the University Council, in accordance with the University’s Scheme of Delegation arrangements.

2.11. Once a Due Diligence Report has been authorised, additional gifts can normally be accepted or solicited from the donor without completing additional due diligence, unless any of the following apply:

2.11.1. If the existing Due Diligence Report is Basic level, and the new gift to be accepted requires an Enhanced Report under the Due Diligence Triggers, an additional Enhanced Report will be prepared and authorised according to the usual process.

2.11.2. If the Authorising Officer of the existing Due Diligence Report is not able to authorise Reports to the value of the new gift, an updated version of the Due Diligence Report will be presented to an Authorising Officer at the correct level for their approval.

2.11.3. OPPA will maintain a ‘watching brief’ and will perform additional due diligence on donations from previously approved sources to maintain currency, or if significant new information comes to light.

2.12. With respect to existing and past philanthropic donations which have not been subject to this Due Diligence Policy and Process, retrospective due diligence will not automatically be carried out. However, due diligence will be performed on new donations from the same source if they meet the Due Diligence Triggers.

2.13. The Information and Philanthropy Operations Manager will monitor the functioning of this Policy and Process, and if necessary make modifications, in consultation with the OPPA management team. An annual review will commence in June 2018 and, if deemed necessary, a biennial internal audit will be carried out. Should the relevant legislative framework(s) alter, this Due Diligence Policy and Process will be revised accordingly.

2.14. All OPPA staff and other relevant University of York staff will be made aware of this Policy and Process, and will be given appropriate training.
3. Process

3.1. The Due Diligence Process comprises five stages:

Request → Research → Report → Recommendation → Authorisation

3.2. The Due Diligence Triggers, as set out at §2.5 and §2.6 above, dictate that a Due Diligence Report is required when a gift of a certain level is either solicited or received. Gifts of less than £25,000 will not normally be subject to due diligence checks, but there may be certain circumstances in which it is appropriate to carry this out (see §2.7 above).

3.3. A Request for a Due Diligence Report should be made to the Prospect Researcher using a Report Request Form, which can be found online at www.york.ac.uk/staff/external-relations/oppa/. As much information as possible should be provided, in order to assist with research.

3.4. Due Diligence Reports should be requested with the following lead times:

- Basic Due Diligence: 2 weeks
- Enhanced Due Diligence: 3 weeks

3.5. Due diligence research will be carried out by the Prospect Researcher or another trained member of University staff, who will record the request in the Due Diligence Log and generate either a Basic or an Enhanced Due Diligence Report, depending on the level of gift or the type of request as set out in §2.5 and §2.6 above.

3.6. Once a Due Diligence Report is completed by the Prospect Researcher, it will be reviewed by an Authorising Officer for their acceptance, rejection or referral.

3.6.1. The Authorising Officer may accept or reject the recommendations of the Due Diligence Report, request a more detailed Due Diligence Report, or refer the Report to a higher-level Authorising Officer, if they deem it necessary.

3.6.2. The Authorising Officer may refer the Report to the University Ethics Sub-committee in strictest confidence for advice and guidance, prior to accepting or rejecting the recommendations, if they deem it necessary.

3.7. Where a higher-level Authorising Officer than the OPPA Designated Approver is required by the Due Diligence Triggers, the Report will first be passed to an OPPA Designated Approver, who will check the Report and append a Recommendation as to whether to authorise the gift or approach.

3.8. Authorisation of Due Diligence Reports and the decision to accept a philanthropic donation are two separate actions which should, where possible, be carried out by different actors, in order to enable flexibility and cross-checking in the system.

3.9. The Due Diligence Log, Report Request Forms and Reports will be stored securely by the Prospect Researcher at all times within OPPA, and may only be shared with individuals within the University of York designated by the OPPA Designated Approver(s) or the UEB, in the course of the performance of their duties and proportionately to those duties.

3.10. The Due Diligence Log, Report Request Forms and Reports will be held and managed by OPPA in accordance with the provisions of the Data Protection Act 1998. These documents may only be shared using secure means.

3.11. Should an individual who is the subject of a due diligence check wish to submit a Subject Access Request, information contained in the Due Diligence Report will be disclosed to them, and they will be given the opportunity to challenge the accuracy of the information contained therein, including the right to erasure of
3.12. Should a request to view this Policy and Process, or any details of individual checks, be made under the Freedom of Information Act 2000, the requester will be provided with a copy of the Due Diligence Policy and Process. Due Diligence Reports, in full or redacted form, will only be released subject to the University’s legal obligations in respect of data protection and confidentiality.

Approved by University Executive Board 20 June 2017.

To be reviewed June 2018.
Appendix 1: Links to Associated Policies/Codes

1. University of York Ethics Committee Terms of Reference
   (http://www.york.ac.uk/about/organisation/governance/sub-committees/ethics/)

2. University of York Code of Practice and Principles for Good Ethical Governance
   (https://www.york.ac.uk/staff/research/governance/policies/ethics-code/)

3. Policy and Guidance on the Acceptance of Philanthropic Donations
   (http://www.yorkspace.net/file/Policy-and-Guidance-on-the-Acceptance-of-Philanthropic-Donations.pdf)

4. Framework for Ethical Consideration of Sources of Funding
   (https://www.york.ac.uk/media/abouttheuniversity/governanceandmanagement/documents/sources-funding-framework.pdf)

5. Our Promise to our Donors (http://www.yorkspace.net/file/Promisetoourdonors.pdf)

   (http://www.yorkspace.net/file/Guidance-on-the-treatment-of-endowments.pdf)

   (http://www.york.ac.uk/media/abouttheuniversity/governanceandmanagement/governance/council/Delegation%20of%20Council%20Responsibilities%20Map%20May%202015.pdf)

8. University of York Scheme of Delegation and Decision-Making Powers (17 February 2014)
   (https://www.york.ac.uk/media/abouttheuniversity/governanceandmanagement/governance/Scheme%20of%20delegation%20v21%2017%20Feb%202014.pdf)

9. Code of practice and principles for good ethical governance: Appendix A: Checklist of areas where ethical considerations are likely to arise
   (https://www.york.ac.uk/media/staffhome/research/documents/researchgovernance/codeofethics/Appendix%20A%20-%20Checklist%20of%20areas%20where%20ethical%20considerations%20are%20likely%20to%20arise.pdf)

10. Guidance on the Definition of Philanthropic Sources and Philanthropic Intent
Appendix 2: Donor Due Diligence Triggers and Authorising Officers

When accepting a gift:

<table>
<thead>
<tr>
<th>Agreed Gift Amount</th>
<th>Level of Due Diligence</th>
<th>Due Diligence Authorising Officer</th>
<th>Presented for Information To</th>
<th>Gift Agreement Signed By</th>
</tr>
</thead>
<tbody>
<tr>
<td>£4m+</td>
<td>Enhanced</td>
<td>Registrar and Secretary</td>
<td>Council</td>
<td>Vice-Chancellor</td>
</tr>
<tr>
<td>£100,000+</td>
<td>Enhanced</td>
<td>Registrar and Secretary</td>
<td></td>
<td></td>
</tr>
<tr>
<td>£25,000+</td>
<td>Basic</td>
<td>Director of External Relations</td>
<td></td>
<td>** Registrar and Secretary / Director of External Relations</td>
</tr>
<tr>
<td>Under £25,000</td>
<td>None (unless requested)</td>
<td>* OPPA Designated Approver</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

When soliciting a gift:

<table>
<thead>
<tr>
<th>Proposed Gift Amount</th>
<th>Level of Due Diligence</th>
<th>Due Diligence Authorising Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>£4m+</td>
<td>Basic</td>
<td>Registrar and Secretary</td>
</tr>
<tr>
<td>£100,000+</td>
<td>Basic</td>
<td>Registrar and Secretary</td>
</tr>
<tr>
<td>£25,000+</td>
<td>None (unless requested)</td>
<td>Director of External Relations</td>
</tr>
<tr>
<td>Under £25,000</td>
<td>None (unless requested)</td>
<td>* OPPA Designated Approver</td>
</tr>
</tbody>
</table>

* The OPPA Designated Approvers are:
  - Director of Philanthropic Partnerships and Alumni
  - Information and Philanthropy Operations Manager

** Principle 3.8 must be applied here which requires authorisation of Due Diligence Reports and the decision to accept a philanthropic donation must be two separate actions which should, where possible, be carried out by different actors, in order to enable flexibility and cross-checking in the system ie. if the Registrar and Secretary signs the Gift Agreement then the Director of External Relations approves the Due Diligence report.
Appendix 3: Levels of Due Diligence Report

A BASIC Report will provide the following information:

- identification of potential donor/donor
- brief background information on potential donor/donor
- any issues with reputational risks which can be uncovered through an electronic search of the potential donor’s/donor’s name (and variants) against a list of keywords and phrases
- conclusion and, if appropriate, Recommendation by the Authorising Officer on whether to approve the approach/gift.

An ENHANCED Report will contain the same information as a Basic Report, with the addition of the following elements:

- potential influence on/involvement in University and/or academic decision-making and activities
- fuller statement of potential donor’s/donor’s financial and legal background, including any links to activities which may risk reputational damage to the University
- fuller statement of any media coverage which may risk reputational damage to the University
- nature of any previous or current relationships between the potential donor/donor and the University.