

# **Royal Free Charity Regulations for the use of Special Purpose (Restricted) Funds**

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## 1. INTRODUCTION

1.1 The Royal Free Charity (“the Charity”) was formed in 2000, when the Special Trustees for the Royal Free Hospital merged with the Special Trustees for the Royal National Throat, Nose and Ear Hospital. The term “Special Trustees”, whilst familiar, should not now be used, as it refers to two charities that no longer exist. The Charity has seven trustees (“the Trustees”), who are appointed by the NHS Appointments Commission, and are accountable to the Charity Commission for ensuring that the Charity’s funds are used in line with charity and tax law.

1.2 In 2011, the Friends of the Royal Free Hospital merged with the Royal Free Charity, to form one charity supporting all areas of the Royal Free Hampstead NHS Trust (“the NHS Trust”), and to eliminate any confusion that two NHS Trust-wide charities might cause to donors.

1.3 The Charity is statutorily authorised to hold charitable funds for the NHS Trust. These funds may be used to enhance and complement the work of the NHS Trust by funding research, items of medical equipment, and amenities for patients and staff. However, they add to basic NHS provision, and do not substitute for it.

1.4 There are three types of charitable fund:

- Unrestricted (general) – these may be used at the discretion of the trustees for any general purpose of the Charity, which in practice is usually within the hospitals of the NHS Trust. Grants made from these funds include those for the staff recreation club, achievement awards, retirement parties, and long service awards (which replaced retirement gifts) ;
- Restricted (special purpose or departmental) – these funds are donated for a specific purpose, eg, for the benefit of a particular ward, or for cancer research; and
- Endowment (capital in perpetuity) – these are funds whose capital element is preserved, and only the income arising from them may be spent.

1.5 The Trustees wish funds to be used as actively as possible. In the case of restricted funds, they recognise their duty to help fundholders use the funds for their stated purpose, in a manner consistent with charity law, and they are keen to help achieve this aim. The Trustees will delegate day-to-day management of these funds to fundholders, who are usually consultants or other senior members of staff. Fundholders, in turn, are accountable to the Trustees and must accept the charitable nature of these funds and the need to observe charity law at all times.

1.6 This guidance is intended to help fundholders apply the funds in line with the modern standards of governance expected of all charities. It also explains how funds are invested, and how management costs are borne.

## 2. OPENING A RESTRICTED FUND

2.1 Anyone wishing to open a fund must complete a standard application form and submit it to the Charity. The application will be validated to ensure that:

- The objectives of the proposed fund are compatible with the overall objectives of the Royal Free Charity; and
- There is not already a fund serving the same purpose. If there is, the trustees will not normally agree to open a second such fund.

2.2 A list of requests to open funds will be presented to the trustees for approval at their quarterly meetings. It is entirely at the trustees’ discretion whether or not they will agree to open a new fund: applicants will be informed of the outcome after the meeting.

2.3 If a new fund is opened, fundholders will be appointed to manage the fund on behalf of the charity. Fundholders must either be employed by the NHS Trust, or if employed by University College London (“UCL”), must hold honorary contracts with the NHS Trust.

2.4 All funds must have at least two signatories of a similar staff grade to each other. For instance, a consultant’s co-signatory must be another consultant or a senior manager. A consultant’s PA may **not** act as a co-signatory to a consultant.

2.5 Any reimbursement to a fundholder personally must be countersigned by another signatory to the fund.

**Fundholders may never authorise any payments to themselves.**

## 3. CEASING TO BE A FUNDHOLDER

3.1 The charity will cease to delegate authority to a fundholder if it believes that the regulations in this document are not being met. In such cases it will either appoint another fundholder or take direct control of the fund.

3.2 If funds are not being used, and are just accumulating, the fundholder will be asked to provide proposals for the use of the fund. If no suitable proposals are supplied, or funds have not been used effectively for two years without good reason, the charity reserves the right to assume direct control of the funds, and determine the best way to apply them for their intended purpose.

3.3 As fundholders near retirement or resignation from the NHS Trust, they should meet charity staff to arrange a smooth handover of their fundholding responsibilities to another person. After leaving the employment of the NHS Trust or UCL, they may not remain a fundholder without the Charity's approval, which will only be granted if the fundholder holds an honorary contract with the NHS Trust and is either carrying out research in line with the purpose of the fund, or is involved with treating NHS patients.

3.4 Retired consultants who only treat private patients may not continue as fundholders, because private practice is a commercial, not a charitable, activity.

3.5 Fundholders whose fund balance falls below £1,000 will be asked to either pay more money into the fund or use the remaining balance so as to close the fund. Funds below £500 which receive no ongoing donations must be spent within six months or the Charity will act to close the fund.

3.6 Money donated to the Royal Free Charity may not be transferred to another organisation when a fundholder leaves the NHS Trust to take up a post elsewhere.

#### 4. SPENDING PLANS

4.1 Whilst day-to-day fund management is delegated to fundholders, the trustees remain ultimately responsible for the use of charitable funds. So as to ensure that (a) funds are actively used, (b) the wishes of donors are met, and (c) the trustees are discharging their responsibilities, fundholders will be asked to produce spending plans and/or give occasional presentations to meetings of the trustees. This will apply to funds with balances exceeding £100,000.

4.2 In such cases, the Charity will also require a member of its staff to attend a departmental meeting at least annually, to discuss the activity of the relevant funds.

4.3 The Charity strongly encourages consultants and fundholders to hold full and open discussions about the activities of charitable funds with their colleagues, so that funds may be used to best effect to benefit departments of the NHS Trust. This approach meets the Charity Commission's public benefit regulations, which require charitable funds to be used to benefit the public as a whole, or a sufficient section of the public. **A purpose is not charitable if it is wholly or mainly for the benefit of specific individuals.**

4.4 In some cases funds may be retained, pending being used for a major project. However, funds should be spent within a reasonable time scale and if substantial funds are likely to be retained for more than four years, the Charity may seek further information from the fundholder.

#### 5. INCOME

##### 5.1 GENERAL

5.1.1 All income paid into a fund of the charity must be:

- charitable;
- not commercial; and
- given freely, under no obligation by the donor.

5.1.2 All donations received by members of staff in the course of their employment must be paid into a charitable fund. The NHS Trust's Standing Financial Instructions require all charitable money received by employees as a result of their employment to be paid into the charity. Employees who break this rule could face disciplinary action from their employer.

**5.1.3 Charitable funds may not be used merely as a banking facility – i.e. to deposit money at will and withdraw it on demand. They are to be used to accept charitable donations for spending on charitable purposes, as outlined below.**

##### 5.2 DONATIONS - Principles

5.2.1 Donations may be received from several sources. These include, but are not limited to:

- patients and their relatives;
- friends;
- fundraising groups;
- charities and corporations;
- pharmaceutical companies;
- private patient fees donated by consultants.

5.2.2 Donations may also be received by on-line giving facilities such as Giving.Com or Just Giving, and also under the Give As You Earn (GAYE) scheme. Information as to how these schemes operate may be obtained from charity staff (see contact details at the end of this document).

5.2.3 All donations over £5,000 to restricted funds are reported to each quarterly meeting of the Charity's trustees.

### 5.3 DONATIONS – Administration

5.3.1 If donations are paid by cheque, the cheque should be made payable to "Royal Free Charity". Cheques should be taken to the Charity office at the front of the hospital, and if possible, details of the payment (eg, a letter from a patient) should be provided. The Charity has issued donation envelopes to wards and other departments, and these should also be taken to the Charity's office.

5.3.2 Donations may also be made via the Charity's website ([www.royalfreecharity.org](http://www.royalfreecharity.org)), or by credit card.

### 5.4 THANKING DONORS

5.4.1 The Charity wishes to acknowledge all donations it receives. Therefore, members of staff should, wherever possible, obtain donors' names and addresses so that a letter may be sent and the donor invited to complete a Gift Aid form if this has not already been done.

5.4.2 If a consultant acknowledges a donation directly (eg, if it comes from a patient or a patient's relatives), it is always helpful to the Charity to receive a copy of any letter of acknowledgement.

### 5.5 MONEY PAID DIRECTLY INTO THE CHARITY'S BANK ACCOUNT

5.5.1 Increasingly, payments are not made by cheque, and donations (often from pharmaceutical companies) are sometimes paid directly into the Charity's bank account. When these sums appear on the bank statement, their purpose is not always clear. Therefore, if a fundholder expects money to be paid in this way, independent evidence from the donor (eg, a letter from a pharmaceutical company) must be produced before the money will be credited to an individual fund. **Any money not so identified after three months will be credited to the Charity's general fund.**

### 5.6 GIFT AID

5.6.1 Donors who are UK taxpayers should be encouraged to use the Gift Aid scheme, which increases the value of the gift at no cost to the donor. (For instance, a donation of £10 would be increased to one of £12.50, and one of £50 to £62.50). The donor should be asked to complete a Gift Aid form, an example of which is attached to this document.

5.6.2 All tax relief claimed in this way is credited to the same fund as the original donation.

### 5.7 TRADING ACTIVITIES – GOODS, SERVICES, CONFERENCES, COURSES

Charities may not carry out commercial trading, and so income from the sale of goods or services derived from an individual's employment (and which are generated either in NHS time or by using NHS facilities) must be paid to their employer (either the NHS Trust or UCL). The Charity cannot accept income from commercial trading activities.

Funds may not be used to organise large scale conferences where delegates are charged a fee, because these again are a commercial activity.

However, if the remit of a fund includes education, money may be accepted in respect of study days which are open to NHS Trust staff, and staff of other hospitals. In such cases, the profits from such a course must be used for educational purposes, and the associated costs of the meeting (mainly catering) must be borne by the fund.

### 5.8 PRIVATE PATIENT FEES

5.8.1 Currently, the charity's largest source of income derives from donations by consultants of their private patient fees (over £1 million each year is donated in this way). The Charity recognises the generosity of consultants who make these donations, and is very grateful to them. However, since the introduction of the current procedure for doing this, there has been much confusion and misunderstanding of the relevant tax and legal implications, and some serious legal problems have arisen. The position on these donations is as follows:

5.8.2 If the NHS Trust collects private patient fees on behalf of a consultant, who wishes to donate the fees to the Charity, the fees can be paid directly by the NHS Trust to the Charity, by Gift Aid. Appendix 1 shows how this works.

5.8.3 In such cases, the money remains the consultant's fee until the moment it is donated to the Charity. Once the money reaches the Charity, it is no longer the consultant's fee, and is, legally, a sum of money that the consultant has donated to the Charity. In law, there is no difference between a donation derived from private fees and one derived from any other part of a consultant's income.

5.8.4 Consultants who wish to donate private patient fees to a charitable fund may do so provided:

- The consultant wishes, freely, to donate the money, and has completed a Gift Aid form so that the tax implications of the donation can be correctly processed.
- Patients must never be told to pay money to the charitable fund, even if the consultant intends to donate the fee to the Charity. **Invoices to patients must always state that money is owed either to the hospital or to the consultant, and must not mention any charitable fund.**

**5.8.5 Consultants should note that donating private patient fees into a charitable fund can only claim tax relief if the Gift Aid procedure is followed. As the Charity does not wish consultants to risk incurring tax liabilities without realising it, donations of private patient fees from consultants who do not follow this procedure will not be accepted.**

**5.8.6 Consultants must also note that they are personally responsible for paying tax on all their private fees, and for claiming full tax relief on the amounts they donate to the Charity. They are not relieved of this responsibility just because they do not physically receive the money themselves.** (See Appendix 1).

5.8.7 It should also be emphasised that once a consultant donates money into a charitable fund, the money legally belongs to the charity and not to the consultant. A consultant donating money to the Charity obtains the privilege of Gift Aid relief upon the amount donated, but must also be seen to surrender ownership of the money. These are two sides of the same coin, and each depends upon the other.

5.8.8 It follows from this that a consultant may not be both the sole or principal donor to a fund, and also the sole or principal claimant upon it. So that no personal benefit is gained by the donor, and no tax liability arises, if a fund relies for its income upon donations from one particular consultant, the co-signatory to the fund must be a line manager who does not donate to the fund. If Gift Aid is claimed on the donations, the consultant may not obtain personal benefit from the fund (which would be seen as benefiting from the tax relief twice).

## 5.9 RESEARCH INCOME

5.9.1 Research income (often from pharmaceutical companies) may be accepted provided it is charitable, and not commercial, in nature. The distinction between these is as follows:

5.9.2 Research income is **charitable** if:

- the donor has no rights over the research and/or publication of its results: or
- it may be expected that the results are published so that the general public may derive benefit from it.

5.9.3 Research income is **commercial** if:

- the donor retains rights over the ownership and/or publication of its results, or derives any direct or indirect financial benefit.

5.9.4 Commercial research income **must** be paid to the NHS Trust and not the Charity.

5.9.5 In line with these definitions, commercial research may be funded by charitable trusts, and charitable research may be funded by commercial bodies (eg, pharmaceutical companies). The charitable or commercial nature of research is determined by how it is conducted, not by the identity of its financial sponsor.

## 5.10 FUNDRAISING INITIATIVES

5.10.1 Any member of staff wishing to raise money for a charitable fund should contact the Charity in advance to discuss the proposed activity. Besides organising events such as sponsored activities, this also applies to members of staff who wish to approach charitable trusts and foundations. This will avoid a possible conflict if two uncoordinated, or seemingly independent, approaches are made to the same company or grant giving body.

## 5.11 LEGACIES AND BEQUESTS

5.11.1 The Charity has, over the years, benefited greatly from legacies. Notably, Ernest Gruenwald left the hospital over £1.5 million, which helped fund the major refurbishment of the front entrance of the hospital, and Dorothy Beckett left £850,000 to fund the salary of a lecturer in medicine.

5.11.2 If a specific fund is stated in a legacy, the money will be credited to that fund, but if no fund is stated, control of the money will stay with the trustees. This includes bequests “for cancer research” or “for cardiac research” etc, even if the deceased is known to have been a patient of, or personally known to, a particular consultant. However, the charity will, in such cases, note any requests from the consultant concerned, and will ensure that the legacy is used for the stated purpose.

5.11.3 If legacy income is credited to a fund managed by a fundholder, the fundholder may be asked to specify a use for the money so that, if appropriate, the deceased’s next of kin can be informed. (This is specific to legacies and does not relate to spending plans that fundholders may be asked to submit.) It is intended to give assurance to a legator’s relatives – particularly if they feel aggrieved, or surprised, at how much the hospital might have gained from their loved one’s estate.

5.11.4 Wills are important legal documents, and can cause serious problems if their wording is unclear. Any member of staff who is approached by a patient wishing to make a will should consult charity staff for advice. This will help to ensure that the donor’s wishes are clear and achievable.

5.11.5 Fundholders should note that the Charity is advised, independently, of legacies it is due to receive, so that it can contact the executors (the people responsible for sorting out the deceased’s affairs). Therefore, if executors have already contacted the relevant department of the NHS Trust, fundholders must notify Charity staff, so as to reduce the risk of executors (and especially the deceased’s relatives) receiving two seemingly unrelated approaches at what could well be a very distressing time for them.

## 6. EXPENDITURE

### 6.1 GENERAL

6.1.1 It must always be remembered that the charitable nature of these funds, and the good name and governance expected of the charity, demand that expenditure should be:

- Reasonable, without being lavish;
- In accordance with the specific charitable objectives of the fund;
- **In line with any necessary charity and tax legislation.**

6.1.2 There is a claim form on the Charity’s section of Freenet which should be used for submitting any claims to the Charity.

6.1.3 It is important that all invoices to be paid from restricted funds are addressed to the NHS Trust and not to the Charity. This will enable VAT to be reclaimed on contracted out services.

### 6.2 SALARY RECHARGES

6.2.1 Salary recharges must be allowable within the specific purposes of the fund. They may only be charged to a fund if the person involved is undertaking work that falls within the remit of the fund.

6.2.2 All salary payments to employees must be paid via the payroll (NHS Trust or UCL), so that the appropriate tax and national insurance deductions may be made and accounted for to HM Revenue and Customs. **Charging a salary to a charitable fund does not affect the obligation to make these statutory deductions.**

6.2.3 Before authorising salaries to be charged to a fund, the fundholder must firstly verify with charity staff that funding is available to bear the salary costs, and must then obtain authorisation from the Human Resources Department to make the appointment.

6.2.4 If a charitable fund is used to augment a person's NHS salary, the extra payments must relate both to extra work beyond the person's NHS duties, and to the charitable purpose of the fund. Charitable funds may neither be used to increase a person's NHS salary above that deemed appropriate under Agenda for Change, nor may they be used to fund work of NHS staff relating to private patients (see section 6.9).

6.2.5 An individual whose salary is wholly funded by a charitable fund will be paid the same salary as if the NHS were funding the post. Charitable funds may not be used to give individuals a "pay rise by the back door".

## **6.3 EXPENSES**

### **6.3.1 TRAVELLING EXPENSES - GENERAL**

6.3.1.1 The Charity will match the NHS Trust's policy on travel and subsistence expenses.

6.3.1.2 The comment at the outset of the Expenditure section is worth repeating: It must always be remembered that the charitable nature of these funds, and the good governance expected of the charity, demand that expenditure must be:

- Reasonable, without being lavish;
- In accordance with the specific charitable objectives of the fund;
- In line with any necessary tax legislation.

6.3.1.3 Fundholders and their staff should obtain value for money and use discounted travel and accommodation arrangements where possible.

6.3.1.4 All expense claims must be authorised by a fundholder. Receipts must be produced at all times and failure to provide them will normally lead to non-reimbursement. Full and accurate details must be given of all journeys – where they start and end, and their purpose. It will not suffice to produce a taxi receipt and state "taxi to meeting", nor will narrative such as "home to airport" be appropriate.

6.3.1.5 Sums paid shall not exceed the amounts spent by the claimant.

6.3.1.6 Payment will **NOT** be made on the basis of a credit card statement. Individual documentation for each relevant item must be provided.

6.3.1.7 The cost of business telephone calls, but not of telephone line rentals, may be reimbursed.

6.3.1.8 For claims for attending conferences, whether in the UK or overseas, details of the conference attended and certificates of attendance should be produced in addition to details of the journey.

6.3.1.9 Any claim which is discovered to be fraudulent will immediately be reported to the NHS Trust's local anti-fraud officer, who will advise on any further action to be taken (possibly including reporting the matter to the police).

### **6.3.2 CAR AND TAXI EXPENSES**

6.3.2.1 Mileage allowances will match those paid by the NHS Trust, as outlined in Annex L of the Agenda for Change terms and conditions of service.

6.3.2.2 Subject to the production of receipts, car parking, toll and ferry charges may be claimed if incurred on official journeys. However, parking, speeding or other fines may not be claimed.

6.3.2.3 Taxi fares and reasonable associated gratuities may be paid only when other modes of transport cannot reasonably be used. For instance, journeys in London should generally be by train, underground or bus: taxis should be used as a last, not a first, resort. If it appears to the Charity that taxis are being used in preference to other modes of transport with no good reason, fundholders might be asked to justify their use of taxis.

6.3.2.4 The use of taxis may be justified on cost grounds if several people are travelling together, or if heavy equipment has to be transported.

6.3.2.5 Under no circumstances may any part of travel from home to work during normal working hours be reimbursed.

6.3.2.6 Car hire for meetings in the UK or abroad will be paid only for the duration of the meeting and in cases of awkward journeys, several passengers travelling to the same meeting or where heavy equipment is involved.

### **6.3.3 AIR AND RAIL EXPENSES**

6.3.3.1 For members of staff attending conferences in the UK or overseas, the Charity will reimburse flights at economy or other bargain rates. For flights involving overnight travel, Business Class may be used where reasonably necessary. First Class travel will not be reimbursed without prior agreement from the charity.

6.3.3.2 First Class rail travel will not be reimbursed for journeys of less than two hours, unless it is cheaper than standard rail fares. Fundholders should obtain any discounts to which they personally may be entitled, for instance by using a Senior Citizens Rail Card. If an employee incurs travel expenses to go to an overseas meeting, and combines the overseas travel with a holiday, the extra costs of the holiday may not be claimed from the charity.

6.3.3.3 The Charity will reimburse flights, or train journeys, booked some time in advance of their being made, if a cheaper rate can be obtained. However, if a claimant is subsequently unable to attend the conference (eg, because of illness), the Charity should be notified immediately.

6.3.3.4 If spouses or partners accompany individuals on overseas visits, the charity will not meet their expenses. For instance, if a single room costs \$90 and a double \$120, the charity will only reimburse at a rate of \$90.

### **6.3.4 HOTEL AND OVERNIGHT EXPENSES**

6.3.4.1 Where an individual stays overnight in a hotel or similar accommodation on fund-related business, reasonable expenses will be reimbursed on the production of receipts.

6.3.4.2 The charity will only reimburse 5-star accommodation if the claimant is attending a conference held in such accommodation.

6.3.4.3 Hotel costs while attending conferences may be claimed for the duration of the conference and, where reasonably necessary, a night before the conference begins, or after it ends.

### **6.3.5 MEALS AND ASSOCIATED EXPENSES**

6.3.5.1 Receipts will be required in support of all claims. Claimants will normally be reimbursed in line with the guidance of Annex N (Subsistence allowances) of the Agenda for Change terms and conditions of service.

## **6.4 HOSPITALITY**

6.4.1 Hospitality is the friendly reception and entertainment of guests and visitors. It relates to people not employed by the NHS Trust, and may be claimed if it relates to tangible benefits in furtherance of the objects of the funds. This might include payments in respect of visiting researchers or lecturers, who provide research or educational value in support of the fund.

6.4.2 Hospitality must be connected to bona fide meetings or seminars that disrupt normal meal arrangements, or may be provided when it would be discourteous to fail to offer it (e.g. if speakers or guests from elsewhere visit the hospital).

6.4.3 The following allowances should be observed in connection with hospitality:

Breakfast: Up to £10 per person  
Lunch: Up to £20 per person  
Evening meal: Up to £40 per person  
Alcohol: Up to £20 per person

6.4.4 The costs of hospitality for partners, friends or family will not be reimbursed.

## **6.5 EMPLOYEE WELFARE AND ENTERTAINING**

6.5.1 Certain funds allow for employee welfare and entertaining. Such funds may be used for these purposes, but funds whose purposes exclude these activities may not be so used.

6.5.2 Staff entertaining is not itself a charitable purpose, but if the employee's work falls within the charitable purposes of the fund, employee welfare and entertaining will be accepted.

6.5.3 Many departments will wish to use charitable funds for Christmas parties. The charity certainly wishes to encourage an atmosphere conducive to a happy working environment, but expenditure at Christmas, as at other times of the year, must still be reasonable and not lavish. The Charity will notify fundholders annually of the amount per head that may be spent on Christmas functions.

6.5.4 Any staff entertaining must be accessible to **all** staff eligible to benefit from the fund. **This is an area in which HM Revenue and Customs has recently shown considerable interest.**

6.5.5 The benefits should be compatible with what a good employer would normally provide. The Charity advises that details of any payments in this area should be checked with the finance staff before making any commitment.

## 6.6 GIFTS AND PRESENTS

Subject to de minimis limits, HM Revenue and Customs sometimes regard hospitality and gifts as taxable benefits. Some donations are received especially to provide extra comforts or entertainment for nursing and other staff, but so as to escape any potential tax liability, any expenditure in this area should be reasonable but not excessive.

Gifts and presents must therefore be limited as follows:

- To in-patients (e.g. on their birthday) - £10 per person
- Leaving presents - £50 per person (this applies whether a member of staff leaves, retires, marries or has a baby)

Leaving gifts must be either tangible items or gift vouchers. They may not be in cash.

If departments hold a "whip-round" for someone who is leaving, and pay the money thus collected into a charitable fund, it becomes charitable money, and is subject to the above regulation and others outlined in this document. Therefore if members of staff wish to buy more expensive gifts for leavers, they should make separate arrangements to collect, and bank, money from colleagues. .

## 6.7 RESEARCH EXPENDITURE

6.7.1 Research expenditure will be allowed if it falls within the objects of the fund.

6.7.2 If the materials and services (chemicals, analysis of samples etc) for which payment is requested are applied to the primary objective of the fund they will be qualifying expenditure.

6.7.3 Items such as attendance at training courses and conferences, and subscriptions to scientific journals can be included with research expenditure.

## 6.8 SUBSCRIPTIONS

Subscriptions to publications will be allowed provided the publication relates to the main objective of the fund. However, the publications must be accessible to all members of a department

Personal subscriptions to institutions may **not** be claimed from a charitable fund, as they cannot be transferred from one person to another and are seen as a personal expense. However, many such subscriptions are allowed by HM Revenue and Customs as deductible from an individual's income. This is usually so if the subscription is:

- a statutory condition of holding an NHS position (e.g. a consultant surgeon must belong to the Royal College of Surgeons): or
- directly relevant to the person's employment.

A list of all institutions whose subscriptions are tax deductible is at [www.hmrc.gov.uk/list3/index.htm](http://www.hmrc.gov.uk/list3/index.htm). It includes the Medical Royal Colleges, and many other bodies such as the British Cardiac Society, British Institute of Radiology, or their equivalents, both in other clinical disciplines, and overseas, notably in Europe and America.

## 6.9 PRIVATE PATIENTS - INSURANCE AND OTHER EXPENSES

6.9.1 In line with legal advice given to the Charity, expenses relating to private practice may **NOT** be claimed from the Charity. This includes:

- Medical defence union fees associated with private practice;
- Salaries of secretarial or technical staff working for private patients (including enhancements to members of NHS Trust staff in respect of private work performed over and above their NHS work);
- Any other costs incurred specifically in relation to private practice.

6.9.2 Consultants wishing to meet these expenses from private fees earned must do so from private patient fees before, and not after, the fees are donated to the Charity.

6.9.3 The system used by the NHS Trust to pass fees directly to the Charity was not set up with this in mind. It is therefore being modified so that such expenses can be claimed before any sums are donated to the Charity.

6.9.4 This change will not increase consultants' tax liabilities: the costs listed above are part of the cost of running a private business, and are tax deductible from the consultant's private income. It will, however, mean that the tax relief comes via the route of business expenses rather than charitable donations. Consultants who are unclear about this should speak to their own tax advisers. The Charity's staff cannot offer tax advice to individual consultants.

6.9.5 Both in the case of private patient expenses, and subscriptions, fundholders should note that claiming expenses against their taxable income, when possible, leaves more charitable money available to be used for charitable purposes.

## 6.10 EQUIPMENT

6.10.1 Some funds allow for purchasing equipment. All equipment bought with charitable money must be ordered via the NHS Trust's Supplies Department, so that if possible, bulk discounts may be obtained and VAT zero rating claimed. VAT zero rating is obtainable for medical, computer, refrigeration, video or scientific equipment which (a) becomes the property of the NHS Trust, and (b) is used for medical purposes (research, training, diagnosis or treatment).

6.10.2 It is important to order equipment via the Supplies Department, because it will be used in the NHS Trust, alongside NHS equipment with which it must therefore be compatible, and medical equipment will be used to treat NHS patients according to NHS standards. NHS regulations also require all electrical items (medical or otherwise) to be tested in-house before use.

**6.10.3 All equipment purchased with charitable funds will become the property of the NHS Trust. The charity will not normally pay for equipment which will not ultimately belong to the NHS Trust.**

6.10.4 If equipment (especially computers) is not purchased via the official NHS supplies route, the Charity reserves the right not to make reimbursements, or if it does so, to reimburse net of VAT (which could have been saved).

6.10.5 NHS regulations require equipment costing over £5,000 to be entered into the NHS Trust's Asset Register. Usually, the NHS Trust is liable for ongoing maintenance and ultimate replacement of the equipment. Fundholders wishing to purchase equipment of this magnitude should therefore obtain the agreement of the relevant Clinical Director before placing any order.

## 6.11 APPROVALS/AUTHORISATIONS

6.11.1 All requests for expenditure, other than research salaries, must be signed and countersigned as follows:

- Up to £1,000 – one fundholder.
- Above £1,000 and up to £5,000 – two fundholders.
- Above £5,000 – two fundholders plus approval of Clinical Director.
- Above £20,000 – as above plus one trustee.
- Above £50,000 – as above plus two trustees.

6.11.2 All items of expenditure exceeding £5,000 are reported to each quarterly meeting of the Trustees.

## 7. STATEMENTS

7.1 Each month, statements are sent by email to the principal signatory of each fund, who should check that the information is accurate. Any queries or discrepancies should be reported to the Charity's finance staff.

7.2 Fundholders are also responsible for ensuring that funds are not overdrawn. If an overdraft arises, and the fundholder does not give an adequate explanation, the charity reserves the right to stop future payments from the fund until a credit balance is restored.

## 8. CONFLICTS OF INTEREST

8.1 A conflict of interest is a situation in which a fundholder's personal interests, or interests that they owe to another body, and those of the fund, arise simultaneously, or appear to clash. The Charity realises that conflicts can arise, and is concerned that they be managed so as to protect the integrity of a fundholder's role in respect of charitable donations.

8.2 Fundholders should comply with their employer's policy on disclosure of interests. They must also disclose to the Charity any interests relevant to the management of their fund, including involvement in any body making donations, or receiving payment or any other benefit from the fund. They should notify the Charity if they (or a close relative) hold a position in any organisation donating to, or doing business with, the fund managed.

8.3 Although not an exhaustive list, positions with such organisations might include:

- Directorships in private companies or PLC's
- Ownership or part ownership of private companies, businesses or consultancies
- Majority or controlling shareholdings in organisations
- A post of authority (eg, a trustee) in a charity or voluntary organisation.

8.4 Conflicts of interest may also arise if a fundholder's family members, or friends, are personally supplying services relevant to the fund's charitable object and the fundholder wishes to pay them from the fund. The fundholder should notify the Charity of this in advance. If approved, their expense claims must be counter signed by the fundholder's line manager.

8.5 Any disclosures of interest will be reported to the charity's trustees, who will take a view as to whether the conflict of interest is properly and openly managed. The Charity will maintain a register of any fundholder interests, which will be reviewed annually.

8.6 Should the Charity become aware of any breach of these provisions, a report will be made to the trustees, who may decide that the person concerned should be removed as fundholder.

## **9. ACKNOWLEDGEMENT AND PUBLICITY**

9.1 The support of a fund must be acknowledged where the fund has made a contribution to a project described in any publication, presentation, poster or Annual Report.

9.2 Fundholders should contact both charity staff and NHS Trust Communications staff before making any comment to the media about any project to which a restricted fund makes a significant contribution. However, fundholders should obtain advance authorisation before issuing any invitations or other document in the name of either the NHS Trust or the Charity.

9.3 Wherever possible, major building work or high value equipment purchased from restricted funds should display a plaque or similar item indicating the fund's support.

9.4 Any plans to refer to the Charity, or use its name or logo in any publication, website or other publicity medium must be approved by the Charity in advance. This especially applies to fundraising initiatives.

9.5 If a project supported by a charitable fund leads to products or processes that generate commercial value, the fundholder, NHS Trust/UCL and the Charity will form an agreement regarding patents, copyrights, designs and other intellectual property, and including the sharing of any profits between the organisations involved.

## **10. INVESTMENT OF THE FUNDS**

10.1 With the exception of some of the largest funds, restricted funds will be invested in a portfolio biased towards low risk investments such as cash and bonds. This will give a reasonable return on the investments, without exposing the funds to the more volatile risks of stock market investments.

10.2 If spending plans suggest that significant levels of money will be held in the fund for some time, the funds may be invested more in long-term assets.

10.3 The returns on the investment portfolio will be distributed across the funds at the end of each financial year, with reference to the average balance of the fund during the year.

## **11. MANAGEMENT AND ADMINISTRATIVE COSTS**

11.1 The management costs incurred by operating charitable funds are shared between general and restricted funds. The charge to each fund will be based upon its average annual balance, as follows:

- 1.5% of the first £5,000
- 1.0% of the next £20,000
- 0.75% of the next £25,000
- 0.5% of any balance over £50,000

11.2 The level of these charges is subject to review, but it aims to reflect the amount of charity staff time spent upon administering the funds. On this basis, a fund with an average balance of £10,000 would be charged £125, and one of £25,000 would be charged £275. However, the charges are typically more than offset by the investment income credited to the funds.

11.3 In addition, investment management charges, currently some £50,000 per annum, will be apportioned across all the funds.

11.4 This structure has the following implications:

- it reflects the fact that much of the financial work relating to these funds comprises paying invoices of relatively small value from funds with relatively small balances, and claiming gift aid upon all relevant donations;
- it encourages departments to hold fewer funds with larger balances, rather than more funds with smaller balances, as the percentage charges fall as the value of the fund increases (i.e. one fund of £20,000 would be charged £225, but two funds of £10,000 would be charged £125 each, giving a total of £250).

## 12. CONTACT DETAILS

The Charity's staff, emails, and internal telephone extensions, are:

Chief Executive – Chris Burghes ([christopher.burghes@nhs.net](mailto:christopher.burghes@nhs.net)) – 31488

Grants Administrator/PA to Chief Executive – Fay Dawes ([fay.dawes@nhs.net](mailto:fay.dawes@nhs.net)) – 31903

Head of Finance – Stephen King ([stephenking1@nhs.net](mailto:stephenking1@nhs.net)) – 31848

Assistant Accountant – Barbara Paclawska-Coltman ([Barbara.Paclawska-Coltman@nhs.net](mailto:Barbara.Paclawska-Coltman@nhs.net)) – 31847

Fundraising Manager – John McCarthy ([john.mccarthy1@nhs.net](mailto:john.mccarthy1@nhs.net)) – 31937

Database Manager – Diane Ryan ([diane.ryan1@nhs.net](mailto:diane.ryan1@nhs.net)) – 34582

## APPENDIX 1 – THE GIFT AID SCHEME

### Introduction

Charities can recover income tax on donations made to them by UK taxpayers under the Gift Aid scheme. Income tax is recovered at the basic rate (currently 20p in the £), and this increases the value of the donation to the Charity. Higher rate taxpayers can recover further tax by recording any charitable donations on their annual tax return. There is therefore a significant benefit to the Charity, and sometimes to the donor.

The scheme is extremely simple. All the donor needs to do is sign a Gift Aid form (which is available from, the Charity's office) and return it to the Charity. Donors can sign a form each time they make a declaration, or they can sign one form to apply to all future donations.

The Charity will recover basic rate tax from HM Revenue and Customs, and the donor need take no further action. However, higher rate taxpayers should enter any payments made by Gift Aid on their tax return, which will enable them to claim relief at the higher rate.

### Gift Aid and donations by consultants of private patient fees

Some consultants may, perhaps justifiably, have believed that by simply paying private patient fees into a charitable fund, they have no tax liability. It is important to realise that this is not so, even if it might have been in the past. However, the Charity has agreed with HM Revenue and Customs how private patient fees can be paid directly by the NHS Trust to the Charity and still remain tax neutral.

If a consultant charges a patient £1,000 and wishes to donate that amount to a charitable fund, the procedure is as follows:

- (1) NHS Trust charges the patient £1,000. This will be described on the patient's invoice as the consultant's professional fee (NOT as a donation to the Charity).
- (2) The patient pays £1,000 to the NHS Trust. The patient's liability is then fully discharged.
- (3) The NHS Trust pays £800 to the Charity. This represents £1,000, less basic rate tax of £200. The £200 is paid to the consultant.
- (4) The Charity, having received a net donation of £800, claims Gift Aid of £200 to bring the total up to the gross value of £1,000.
- (5) The consultant's tax return should show private income of £1,000, and a gift aid donation to the Charity of £800.
- (6) The consultant will be taxed in full on £1,000. The cheque for £200 discharges the basic rate tax liability: the consultant him/herself claims the higher rate relief directly from HM Revenue and Customs.