

# Refusing donations and tainted donations policy



## Purpose

This policy sets out 2<sup>nd</sup> Acomb (St. Stephen's) Scout Group's approach to refunding and declining donations from individuals and how we will ensure compliance with charity law whilst taking into account the wishes of our supporters.

## Applies to

This policy and associated procedures apply to all 2nd Acomb trustees and volunteers involved in raising or managing fundraised income from individuals.

## Summary

This policy ensures that donations are accepted or refused on appropriate legal or ethical grounds. It prioritises transparency, fairness, and charitable objectives, and identifies specific scenarios and how the circumstances impact tax and Gift Aid.

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## Version control

Version	Author	Role	Release date
1.0	Charlotte Walker	Treasurer	25 September 2025

## Definitions

- **Donation:** a monetary gift, on a one-off or regular basis, freely given by an individual(s) without any resulting reciprocal expectation.
- **Refund:** the return of a sum of money donated
- **Refusal:** declining to accept a donation

## Background

Under charity law, charities are not ordinarily permitted to refund or refuse donations, other than in exceptional circumstances. The law allows practical and ethical factors to be taken into account as long as they are relevant to the specific charity and situation. This means that 2nd Acomb must only refund or refuse a donation if certain exceptional conditions are met - terms and conditions provide for a refund, it is legally required or is in the best interests of our charitable objectives and accepting it would be of more detriment than declining it.

Through this policy we will ensure compliance with regulators and legal requirements, provide a consistent and clear standard for our staff and our supporters, and protect the reputation of the charity.

## Policy principles

- 2nd Acomb is committed to treating all supporters fairly and transparently whilst upholding our legal obligations
- 2nd Acomb will always consider refusing donations and requests for a donation refund from a supporter on a case-by-case basis and follow our agreed process.
- We will not accept a donation:
  - if there is evidence of unlawful activity
  - if the acceptance of the donation is more detrimental to achieving our charitable purposes than declining it
- We are likely to refund a donation:
  - if there is evidence of an error
  - if there is evidence of fraud
  - if we are notified and provided with evidence that an individual did not have the mental capacity or had other exceptional extenuating personal circumstances at the time
  - if we are unable to fulfil the conditions of a restricted donation
  - there is a moral obligation such as grounds for an *ex-gratia* payment
- We will not refund a donation:
  - If a supporter subsequently changes their mind after donating
  - If there is no reasonable evidence to support an acceptable reason for a refund

## Training and implementation

All 2nd Acomb trustees and volunteers who are involved in managing fundraised income from individuals are required to be familiar with this policy and it should form part of an induction for any new trustees and volunteers.

## Breaches of the policy

Failure to comply with this policy may be managed in a number of ways, depending on the nature and consequences of any incident. In some cases a combination of response may be required.

- Additional support, guidance and/or training
- Terminating the role of the trustee/volunteer
- Raising risks for internal review i.e. trustee board
- Serious incident reporting to The Charity Commission where allegations meet the criteria set out in the Age UK Incident Management Procedures
- Requirements for changes in the working practices of an external agency
- Withdrawal of contract with an external agency

## Tainted Donation Rules

The Tainted Charity Donations' rules are based on a purpose test which considers the effects of, and circumstances in which the donor or someone connected to the donor, entered into arrangements to make the donation, and to whether those arrangements are deemed to obtain a financial advantage.

Three conditions must be met for a donation to be a tainted charity donation

Where all 3 conditions are satisfied, the donor loses any tax relief that they would have been entitled to claim, had the donation not been tainted.

An additional charge to tax may also arise where the donation would have been eligible for relief under the Gift Aid Scheme (for individual donors only).

The 3 conditions which must be met for a donation to be tainted are:

1. the donation to the charity and arrangements entered into by the donor are connected;
2. the main purpose of entering into the arrangements is for the donor, or someone connected to the donor, to receive a financial advantage directly or indirectly from the charity;
3. the donation is not made by a qualifying charity-owned company or relevant housing provider linked with the charity to which the donation is made.

All 3 conditions must be met for the new rule to apply.

These rules only apply to donations that are defined as "relievable charity donations".

Donations that are not defined as relievable charity donations are not affected by these rules.

A relievable charity donation is a gift or other disposal which is both:

- made by a person to a charity;
- eligible for tax relief.

A gift or other disposal is eligible for tax relief if one or both of the following apply:(ignoring the tainted charity donations rules) tax relief would be available in respect of it under the relevant relieving provision;

- the charity is entitled to claim a repayment of tax in respect of it.

The relevant relieving provisions are UK tax reliefs available to donors to charity of:

- Gifts of chargeable assets;
- Gifts of plant and machinery;
- Payroll Giving;
- Gifts of Trading Stock;
- Gift Aid and Gift of Shares, Securities and Real Property;
- Gifts of Trading Stock.

Where a donation is tainted (tainted donation), the donor is not entitled to claim tax relief that would otherwise have been due in respect of it, or in respect of any other donation that's associated with it.

## Tainted Charity Donations and Gift Aid

If the donation would have been a qualifying donation under the Gift Aid scheme if it were not a tainted donation, the charity will continue to be entitled to make a repayment claim to HMRC in respect of Income Tax. However, an Income Tax charge will arise in connection with this repayment. The amount of the Income Tax charge is equal to the amount of the repayment of tax that the charity would be entitled to claim in respect of the gift aid donation (whether or not the charity makes the repayment claim).

The tax charge may fall on the donor, a connected person or any other potentially advantaged person under the relevant arrangements in relation to the tainted donation, or the charity (or any connected charity). In practice HMRC will look to the donor and any other financially advantaged person first. In any event, HMRC would not seek to charge the charity unless the charity was party to, and aware of, the arrangements to obtain financial advantage.

There will be no liability to Income Tax where the repayment is repaid to HMRC under some other provision, for example if the charity is charged to tax on non-charitable expenditure in relation to the donation.

## Interaction with the Gift Aid benefit limits

The rules contain provisions that ignore a financial advantage if it's a benefit associated with a gift that is a 'qualifying donation' for Gift Aid. If a benefit associated with a gift is within the limits specified in the Gift Aid benefit rules the donation may be a 'qualifying donation'.

**Action:** If you can answer "YES" to both of these points, please refer the donation to the Treasurer for further investigation as it may be a "tainted" donation, with specific tax implications.

1. Is the donation given with "strings attached"?
2. Does the donor gain a financial advantage from 2nd Acomb by making the donation?