

Murdoch University Foundation Regulations

1. Objective

- 1.1 The objective of these Regulations is to establish the Murdoch University Foundation.
- 1.2 The Fund is created to act as successor to the Trust following the wind up of the Trust. Accordingly:
 - 1.2.1 the Fund has the same purpose as the Trust; and
 - 1.2.2 as the successor of the Trust, it is the intention that if any gift or property is left to the Trust in a Will, such gift or property should form part of the Fund Assets.

2. Authorising Provision

These Regulations are made pursuant to section 26 of the *Murdoch University Act*.

3. Establishment of the Fund

- 3.1 The Murdoch University Foundation (“**Fund**”) is established.
- 3.2 The Fund is not a trust or separate legal entity.

4. Purpose

The Fund Assets must be used solely for the purpose of:

- 4.1 providing money, property or benefits to or for any of the University and any Associated Charities; or
- 4.2 the establishment of Associated Charities,
as the University may determine in order to assist in the advancement of learning and knowledge and the provision of university education, and generally for the advancement of the functions and purposes of any of the University and any Associated Charities.

5. Financial

5.1 Receipt

- 5.1.1 All money held, received or raised for the Fund, and all accumulations from the investment of such money, must be:
 - 5.1.1.1 held by the University in its bank account; and

5.1.1.2 recorded in a separate University ledger account code in the name of the Fund.

5.1.2 The ledger account code referred to in Regulation 5.1.1.2 may contain sub-codes relating to specific Fund Assets. Fund Assets recorded in those sub-codes form part of the Fund and do not constitute a separate fund. The University may at any time cease to maintain any such sub-codes and account for the associated Fund Assets in the general ledger account code referred to in Regulation 5.1.1.2 (this will not limit Regulation 5.3.2.1 and the requirement to consider any relevant Preferences under Regulation 5.3.3).

5.2 Investment

5.2.1 Money held for the Fund may only be invested by the University, either separately or in common with other funds of the University.

5.2.2 If money held for the Fund is invested in a common fund the investment must be identified as a separate sub-fund of the common fund.

5.3 Dealing with Fund Assets

5.3.1 Only the University may dispose of, apply or otherwise deal with Fund Assets.

5.3.2 The University must dispose of, apply or otherwise deal with Fund Assets:

5.3.2.1 consistent with any relevant Condition; and

5.3.2.2 in accordance with the purpose of the Fund as set out in Regulation 4.

5.3.3 Notwithstanding the establishment of the Committee, but subject to Regulation 5.3.2 and the University considering any relevant Preferences, the University will have complete discretion to dispose of, apply or otherwise deal with Fund Assets, including:

5.3.3.1 expending the capital component or income component of any money held for the Fund;

5.3.3.2 selling or disposing of any property held for the Fund; and

5.3.3.3 expending any money held for the Fund for costs, charges, commissions, duties, imposts, outgoings and expenses of or incidental to Fund Assets or the management of Fund Assets.

5.3.4 The University will maintain records of Conditions and Preferences as required by law.

6. **Committee**

6.1 Role

The Committee's role is to:

- 6.1.1 consider each Application and make a recommendation in respect of each Application to the Director of Advancement;
- 6.1.2 if an Application is successful, verify that the associated money, property or other benefit distributed from the Fund is used:
 - 6.1.2.1 for the purpose for which distribution occurred; and
 - 6.1.2.2 consistent with any requirements imposed by the University as a condition of such distribution,
 and report to the Director of Advancement if this has not occurred; and
- 6.1.3 support such things or activities that are necessary, incidental or conducive to the advancement of the Fund's purpose and functions as reasonably requested by the Director of Advancement.

6.2 Composition

The Committee comprises:

- 6.2.1 the Director of Advancement or nominee;
- 6.2.2 a person appointed by Senate; and
- 6.2.3 at least one and up to two additional persons appointed by the Vice Chancellor at the Vice Chancellor's discretion.

Committee members appointed under Regulations 6.2.2 and 6.2.3 will subject to Regulation 6.3, hold office for three years and may be reappointed.

6.3 Vacancies

The position of a Committee member becomes vacant if:

- 6.3.1 in the case of the member specified in Regulation 6.2.1, the member ceases to hold that office;
- 6.3.2 the member retires or resigns from the Committee, or the member's term of office expires and the member is not reappointed;
- 6.3.3 in the case of the member specified in Regulation 6.2.2, a person willing to act as a member cannot be found despite reasonable efforts;
- 6.3.4 in the case of the member specified in Regulation 6.2.2, the Senate removes the member; or
- 6.3.5 in the case of a member specified in Regulation 6.2.3, the Vice Chancellor removes the member on the ground that the person is no longer suitable or the most appropriate person for the position.

6.4 Meetings

- 6.4.1 The Committee must meet at least twice per calendar year and as otherwise required.
- 6.4.2 The quorum of the Committee is three members.

- 6.4.3 The Director of Advancement will act as chairperson of the Committee. If the Director of Advancement is absent from a meeting of the Committee then the Committee will elect one of its members to act as chairperson for that meeting.
- 6.4.4 Each member present at a meeting of the Committee is entitled to one vote.
- 6.4.5 All questions arising at a Committee meeting must be determined:
 - 6.4.5.1 by a majority of votes; or
 - 6.4.5.2 in the case of an equality of votes, by the chairperson casting a second or casting vote.
- 6.4.6 The Committee can deal with a matter by circulation without a meeting if all members entitled to vote on the matter sign an identical document, or send a confirmatory email, containing a statement that they approve the resolution set out in that document.
- 6.4.7 The Committee must cause minutes to be kept of all Committee meetings and of matters dealt with by circulation.
- 6.4.8 The Committee members may meet in person or by telephone, telex, radio, conference television or any other form of audio or audio-visual instantaneous communication technology that is appropriate.
- 6.4.9 Subject to this Regulation 6.4, the Committee will regulate its own proceedings.
- 6.5 Validity of decisions unaffected by defects in appointment or vacancy
 - 6.5.1 The validity of decisions of the Committee is unaffected by:
 - 6.5.1.1 any defect in the appointment of Committee members; or
 - 6.5.1.2 the unwillingness of a person to act, or vacancy in, an *ex officio* position.
 - 6.5.2 If there is a vacancy on the Committee, the remaining Committee members may continue to act and the validity of the Committee's decisions is unaffected by the vacancy.
- 6.6 Limitations
 - 6.6.1 The Committee must not attempt or purport to:
 - 6.6.1.1 make decisions on behalf of the University; or
 - 6.6.1.2 bind the University to any course of action, agreement or undertaking.
 - 6.6.2 The University holds and manages all gifts and property it receives and the Committee does not exercise primary fiduciary or compliance functions on behalf of the University in respect of such matters, or for gifts and property generally.

6.7 Payment

A Committee member is not entitled to be paid any remuneration in respect of her or his role as Committee member. However, Committee members who are not employees of the University may be reimbursed for reasonable expenses incurred in attending Committee meetings or otherwise in connection with carrying out their role as Committee members.

7. **Reports**

- 7.1 The University must, by 31 March each year, cause to be submitted to the Director of Advancement:
 - 7.1.1 a report on the investment of money held by the University for the Fund for the previous calendar year; and
 - 7.1.2 a report showing the activities of the University in respect of the Fund for the previous calendar year.
- 7.2 The Director of Advancement must, by 30 April each year, cause to be submitted to the Senate a report on the activities of the University in respect of the Fund for the previous calendar year.

8. **Audit**

All the activity of the University in respect of the Fund will be audited by the Office of the Auditor General as part of the annual audit of the University.

9. **Distribution if objects cannot be carried out**

If the Senate determines that it is illegal, impracticable or impossible to carry out the purpose of the Fund then, subject to any relevant Conditions, it may apply Fund Assets for the purposes that the Senate considers most closely accords with the objects and functions of the Fund.

10. **Definitions**

- 10.1 “**Application**” means an application for the distribution or advancement of any money, property or other benefit from the Fund for a purpose that is within the purpose specified in Regulation 4.
- 10.2 “**Associated Charity**” means any fund, authority or institution that is associated or affiliated or connected with the University during any period that it is: (a) charitable at law; (b) an exempt entity as defined in section 995-1(1) of the ITAA; and (c) entitled to receive gifts that are deductible under item 1 of the table in section 30-15 of the ITAA.
- 10.3 “**Committee**” means the management committee for the Fund established under Regulation 6.
- 10.4 “**Condition**” means any binding condition that:

- 10.4.1 is contained in a Will and applies to a testamentary gift or testamentary property forming part of Fund Assets; or
- 10.4.2 the University agreed to be bound by as part of or as a result of accepting a gift or property forming part of Fund Assets.
- 10.5 “**Director of Advancement**” means the University’s Director of Advancement or, if that position ceases to exist, the University director whose office or department has primary responsibility for seeking and facilitating gifts to the University.
- 10.6 “**Fund**” means the *Murdoch University Foundation* established under Regulation 3.1.
- 10.7 “**Fund Assets**” means all money and other property held by the University for the Fund, all investments representing such property and any consequential investment income.
- 10.8 “**ITAA**” means the *Income Tax Assessment Act* 1997, including any amendment or replacement of that Act.
- 10.9 “**Preference**” means any written, non-binding preference as to the use of a gift or property forming part of Fund Assets, contained in:
- 10.9.1 an associated Will or agreement; or
- 10.9.2 other documentation associated with that gift or property (for example a completed donation form).
- 10.10 “**Senate**” means the Senate established pursuant to the *Murdoch University Act* being the governing body of the University.
- 10.11 “**Trust**” means the *Murdoch University Foundation* established under a trust deed dated 6 December 2002 settled between Graham Linton Harrison (as settlor) and Geoffrey Bolton, John Yovich, Gaye McMath, Ralph Simmons and Richard Alder (as trustees), as had been varied from time to time.
- 10.12 “**University**” means *Murdoch University*.

Approval and Implementation:

Approval Authority:	Senate
Responsible Officer(s):	University Secretary

Revision History:

Version	Date Approved	Effective Date (if later than 'Date Approved')	Next Review Date	Resolution No. (if applicable)
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Approved subject to clarification of clause 5.1.2 by Professor Edwards	26/04/2018	27/04/2018	26/04/2021	S/10/2018

Note: All enquiries relating to Legislation should be referred to the University Secretary's Office.