

7. Finding and getting money

7.6.2 Fundraising legacies

Definition

A legacy is, for the purpose of this information sheet, defined, as the use of any fundraising technique, whether by a charity or any external agency on its behalf, the purpose of which is to secure a gift of money or property from an individual in their will.

There are four main types of legacy:

- Specific – personal or household effects.
- Pecuniary – cash gifts.
- Residuary – a share of the balance of remaining funds after deductions for tax, debts, costs and previous pecuniary of specific legacies.
- Reversionary or life interest – applies where property has been left to an individual for life and reverts to a charity after that person's death.

Many charitable organisations ask their supporters to consider leaving a legacy. This may take the form of a mailing or through adverts in the charity's own newsletters or magazine. Some charities run workshops and events specifically targeted at raising awareness of legacies, others offer free will writing services for potential donors.

Legacy fundraising can be extremely beneficial both to those giving (testators) and those organisations which ultimately benefit – currently estimated to be worth £1.3 billion annually. However, it must be handled in a responsible manner and with full recognition of the confidentiality of the individual or individuals concerned.

Giving a legacy to a charitable organisation requires those giving to make a will (64 per cent of the population) or change their existing will (36 per cent). A will is a powerful legal document and should properly reflect the wishes of the testator. The courts have the power to overturn legacies where this is not the case. There must always be a balance between the needs for an organisation to maximise its income and freedom for the testator to provide for their other beneficiaries.

Organisational procedures

It is recommended that organisations wishing to benefit from legacy donations produce a written statement as to the procedures for dealing with this type of fundraising. These procedures should be open and transparent and freely available to any potential testator or other interested party.

If an organisation openly solicits legacies either through its own fundraising staff or other third party intermediaries, then it should ensure that all representatives receive appropriate training. The Charity Commission strongly advises that charity employees should never become directly involved in drafting an individual's will.

Incentives

Organisations can use a range of incentives to promote legacy giving. However, care should be taken when organisations contemplate recognition devices such as gifts to individuals who pledge a legacy, public acknowledgement during their lifetime or commemoration after their death.

Any such incentives or recognition should be of nominal value and publicly defensible. Charities should be aware of the potential for such activities to be viewed unfavourably by the general public and media.

Tax efficient giving

The current threshold is £325,000. This effectively means that all parts of the estate left over the threshold will be taxed at 40% (Inheritance Tax (IHT) rate).

Charitable bequests are free of IHT and capital gains tax. A common way of remembering a favourite charity in one's will is to leave the proportion of one's estate above the Inheritance Tax threshold to charity and thereby avoid paying any IHT.

Provision of legacy services

Organisations can provide potential testators with a number of services including the costs associated with creating a will.

Where a charity decides to provide such services at its own cost, it must measure the benefits obtained by the charity in relation to the costs incurred. Charities are encouraged to develop a measurement tool for use in judging the benefits it can derive.

Advice to testators

Organisations should ensure that potential testators seek independent advice, both legal and financial before committing funds. If organisations wish legacies to be made without restriction or conditions then this should be communicated to the testator.

By the same token, organisations should also be aware that legacies with reservations or conditions could have future legal or tax implications which outweigh the benefits of the original gift.

If testators wish their legacy to go to a particular aspect of a charity's work, then it should be clearly explained if this is either unreasonable or difficult to administer, and therefore of limited value, and this should be carefully explained to the testator.

If a testator's wishes cannot be met in full then there could be potential for the testator to fund a particular cause through a legacy service (see below).

There are a whole range of options open to a testator including a pecuniary (a set sum) and residuary (a proportion) legacy.

If a testator wishes to leave a legacy to more than one beneficiary organisation then there are agencies which offer legacy services to enable testators to alter the list of named recipient organisations and/or the amount of any legacy without having to amend their will.

Further information

Further guidance on what can be a difficult area of fundraising can be obtained from the following organisations:

Charities Aid Foundation (CAF)

CAF Legacy Account,
Family Philanthropy Team, 25 Kings Hill Avenue, Kings Hill,
West Malling, Kent ME19 4TA
Tel: 01732 520 198
family@cafonline.org
www.cafonline.org/family

The Charity Commission

PO Box 1227, Liverpool L69 3 UG
Tel: 0845 300 0218
www.charity-commission.gov.uk

Direct Marketing Association

DMA House, 70 Margaret Street, London W1W 8SS
Tel: 020 7291 3300
Fax: 020 7323 4426
info@dma.org.uk
www.dma.org.uk

Institute of Fundraising Cymru

14 – 16 Merthyr Road, Whitchurch, Cardiff, CF14 1DG
Tel: 02920 521 272
Fax: 02920 521 250
cymru@institute-of-fundraising.org.uk
www.institute-of-fundraising.org.uk

Law Society

Capital Tower, Greyfriars Road, Cardiff CF10 3AG

Tel: 029 20 645 254

Fax: 029 20 225 944

wales@lawsociety.org.uk

www.lawsociety.org.uk

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For further information contact

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Unit 3, Mold Business Park, Wrexham Road, Mold, Flintshire, CH7 1XP

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