



## 7. Finding and getting money

### 7.6.2 Fundraising legacies

The legacy fundraising market in Wales is growing quickly, benefiting both large and small charities. Uniquely to Wales, small charities have a larger share of the legacy market than their UK counterparts, with a share of 11% compared to less than 1% in the other nations. <sup>1</sup>

In 2017, the top 70 legacy fundraising organisations in Wales had a combined legacy income of £19.8m, an average of £283,000 each. <sup>2</sup>

Legacy fundraising is a long term activity that is difficult to monitor; whilst some donors who are known to you will tell you about their intention to leave a gift, other known donors will not, and some people not known to your organisation will leave a gift. The return on investment in legacy fundraising, whilst potentially very high, is delayed due to the nature of the gift. Legacy fundraising should therefore form part of your long term income generation plans, and you should consider how you can maintain relationships with people (and their families) who have made their intention to leave a legacy or who have already put the legacy gift in place.

#### 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. Legacies are also often referred to as 'Gifts in Wills'.

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 can take many forms;

- Specific mailings or adverts in the charity's own newsletters or magazine.

<sup>1</sup> Welsh Legacy Fundraising Market 2019, Remember a Charity

<sup>2</sup> Welsh Legacy Fundraising Market 2019, Remember a Charity

- Some charities run workshops and events specifically targeted at raising awareness of legacies
- Offering free will writing services for potential donors
- A broader marketing campaign highlighting how leaving a gift to your charity can make a difference to your beneficiaries
- Include a paragraph about legacy giving on all fundraising materials (where appropriate). It could be as simple as “Did you know you can also leave us a gift in your will?” with signposting to where your stakeholder can find more information.

Legacy fundraising can be extremely beneficial both to those giving (testators) and those organisations which ultimately benefit. 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. However, you could work with a solicitor to provide some suggested wording or clauses for your supporters to add to their wills – making the process less daunting for them.

## **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**

UK registered charities are exempt from paying Inheritance Tax, Capital Gains Tax and Income Tax.

## **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. One way to ensure your legacy giving, especially if you are offering a will writing service, remains cost effective is to develop a partnership with a local solicitors firm who are willing to provide this service in return for your recommendations/guaranteed business.

## **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)** [www.cafonline.org/family](http://www.cafonline.org/family)  
Legacies - [www.cafonline.org/charities/legacies](http://www.cafonline.org/charities/legacies)

**The Charity Commission** [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)  
Legacies - [www.gov.uk/guidance/wills-and-charitable-legacies](http://www.gov.uk/guidance/wills-and-charitable-legacies)

**Institute of Fundraising** [www.institute-of-fundraising.org.uk](http://www.institute-of-fundraising.org.uk)  
Legacies - [www.institute-of-fundraising.org.uk/guidance/fundraising-with-individuals/legacies/#payingforwills](http://www.institute-of-fundraising.org.uk/guidance/fundraising-with-individuals/legacies/#payingforwills)


**Law Society** [www.lawsociety.org.uk](http://www.lawsociety.org.uk)

**Remember a Charity** - [www.rememberacharity.org.uk/](http://www.rememberacharity.org.uk/)  
Membership body for charities interested in developing their legacy work.

### Disclaimer

The information provided in this sheet is intended for guidance only. It is not a substitute for professional advice and we cannot accept any responsibility for loss occasioned as a result of any person acting or refraining from acting upon it.

### For further information contact

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