

Fundraising in the medium/long term

A lifetime donation to a charity (as opposed to a legacy) is often a priority for a charity. Although preservation of funds was a priority during the Covid-19 pandemic, it is now a priority for a charity.

In that connection, a charity should consider legacy income (i.e. a specific sum of money left by supporters under their wills). Such donations will of course not be received by the charity only when the donor dies, which may be many years later.

Nevertheless, a charity can often generate income streams. There are indications that rising death rates will drive up the level of legacy income, so charities to actively encourage their supporters to leave legacies.

Charity supporters' willingness to leave legacies

It appears that during the Covid-19 pandemic, more individuals might have adequate means to leave legacies (as opposed to family inheritance under their wills) and therefore more likely to leave such legacies.

Charity legacy documents

The Charity & Non-Profit documents provide a template for a legacy document that a supporter wishes to give a legacy to a charity.

You could suggest to your charity that they wish to leave a legacy to you and provide a template for potential supporters together with the charity.

The benefits of doing so are:

- (1) to encourage individuals to leave legacies to your charity by including them in their wills rather than by providing them with ready-made legacy documents (which does not obviate the need for legal advice and to draft a will.)
- (2) by recommending specific wording, you can be confident that the legacy clause will be effective and that the charity will receive the sum that they intended.

The danger that wording might be ineffective

There is a danger that if your supporters are not given the recommended wording, it will not be effective. Problems arising from using legacy documents that are not recommended by the charity were illustrated in the case of *Knipe v British Racing Drivers' Club* which was decided in the High Court in December 2020.

In *Knipe*, the deceased's will left a residuary estate to four named charities. Of those four gifts, one was to the "British Racing Drivers' Club Benevolent Fund" but the wording was not recommended by the charity.

Legacy income for charities

A legacy (as opposed to a will) produces immediate income for a charity, which is often a charity's immediate concern and a priority for a charity. It is also a priority to think and plan for the longer term.

A legacy is a potential source of donations, namely a specific sum of money by supporters under their wills). It is a priority, given that a supporter's legacy income will only be received after the will is made and the donor has died.

Legacy income to supplement its other income streams. There are indications that rising death rates will drive up the level of legacy income, so charities to actively encourage their supporters to leave legacies in their wills.

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otherwise, with that name. Another example is “The Cancer Research Fund”, but there was no charity of that name.

If the Will had correctly named an existing charity, there would have been no dispute and no need to take the matter through the courts.

Fortunately in this case the matter was resolved by the court without either of these two problems arising from the wording of wills, and looking at the evidence and circumstances in the case.

- was able to identify that the gift was intended for the British Racing Drivers' Club, and that the gift would go to that charity.
- could decide, as to the gift, that there was no other particular charity in mind, the deceased intended the gift to be for a charity, and the Judge was therefore able to decide that the gift should go to one or more cancer research charities.

The case of Knipe is a salutary reminder that, if you do not correctly name an existing charity, an attempt by the testator to give a legacy may lead to legal uncertainty and an (often expensive) court case.

In Knipe, leaving aside the trouble and expense, the result was not satisfactory, but it might not have been in other cases, a court's task might be to decide whether a legacy gifted to a non-existent or misnamed charity receives that gift under the will.

The Simply-Docs legacy clause

Keeping in mind the situation illustrated above, the legacy clause in the Simply-Docs will, and the need to minimize any risk of your charity being involved in a court case, the legacy clause wording which we offer, if completed by a charity and used by a charity, can safeguard your charity's interests.

- (1) it can ensure that the charity is correctly identified by its official address and its registered charity number;
- (2) the optional wording included in the Simply-Docs will allows for the possibility of your charity changing its name or ceasing to exist by the date when the legacy is to be paid.

The optional wording assists by providing a fallback position for the legacy in an appropriate manner in the event that the charity named in the will is no longer appropriate, to the same charity or to one or more charities with the same charitable purposes.

Where your charity changes its name, the Simply-Docs will includes that optional wording in the legacy clause. This ensures that, if your charity ceases to exist, when your charity ceases to exist, the legacy will still be paid to the same purposes even if only some of the purposes still exist. Your charity might therefore wish to recommend that supporters of your charity complete the legacy clause in the Simply-Docs will.

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The court decided the gift of 50% to go to the British Racing Drivers' Club, an existing charity, and he decided that the gift would go to that charity.

The court decided that the named entity did not exist and that the deceased had in mind, the deceased intended the gift to be for a charity, and the court decided that the gift should go to one or more cancer research charities.

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