



How to leave a gift to a charity in your Will

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Deciding to make a gift to a charity in your Will is a commendable act. But there does need to be some consideration as to what you wish to achieve by the gift. Should it be for the charity to use at its discretion or are you intending that it only be used by the charity for a specific purpose? The wording in your Will is crucial to ensuring your gift to the charity achieves what you intended.

What types of gifts can I give to a charity in my Will?

There are a number of ways you could consider making a gift to a charity in your Will.

You may:

- gift a specific sum of money;
- gift a percentage of the entire value of your estate;
- gift a specific asset like a property, a collection, a share portfolio or a vehicle; or
- gift your entire estate.

If you choose to gift your entire estate, you need to consider the potential this may lead to a [contested estate](#). Your estate could be open to a family provision claim if you do not make any provision, or adequate provision, for an eligible person left out of your Will.

A general gift to charity in your Will

A general gift to a charity is very straightforward, and most charities have provision on their websites as to the wording they suggest if you were making a gift to that charity in your Will. A gift of that nature will then be paid by your estate to the charity and applied by the charity as it sees fit including applying it towards its operational costs.

Gifts to a charity for a specific purpose

If it is intended that your gift to the charity, in your Will, be for a specific purpose, such as to acquire equipment appropriate to the work that the charity performs, then this needs to be carefully considered as to how it may be provided.

As a first step, it is advisable that if you want to make the gift for a specific purpose, then you need to talk to the charity itself to ask whether the charity would be prepared to apply the gift only for that purpose.

In some circumstances, a charity may not be prepared to commit to an obligation to apply the gift directly to that specific purpose as against receiving the benefit of the gift and applying it as the charity considers appropriate.

It may be that the gift is insufficient to be applied specifically to a purpose. For example, you may be gifting \$1000 towards a machine worth hundreds of thousands of dollars. If the charity does not have the funds to make up the remainder of the amount required to purchase the machine, your gift cannot be used. Or, it may be too administratively difficult for the charity to ensure that the gift as received is applied to that specific purpose.

If the charity is prepared to only use the gift for the purpose specified, then it is important that there is a clear explanation as to what that purpose is. As a broad example, a gift for the purpose of providing support for struggling teenagers opens up questions such as:

- Who determines whether the teenager is struggling?
- What is meant by “struggling”?
- Who determines how much a struggling teenager should receive?
- Should the teenager be provided for by way of payments over a period of time or by way of a lump sum?

These are just some thoughts as it does depend upon the gift being provided and how it may be applied for the specific purpose.

What if the charity ceases to exist?

Whether the gift is general or specific, you should always consider provision as to what might happen with the gift if the charity nominated by you in your Will has ceased to exist at the time of your death.

Usually, a provision is made for the gift to be paid to the charity or organisation into which the original charity has been transferred. But if there is no such transfer to a similar charity, you may need to consider provision for that gift to pass to another charity or you may give your executor a discretion to pay it to a charity of similar nature.

Get help from a Wills and estates lawyer

As we said earlier, making a gift to charity in your Will is a commendable act, but it's important that you give consideration to what the gift will be, how it will be gifted and what should happen if the charity no longer exists (or has, for example, merged with another charity).

Our estate planning team are able to guide you on how best to deal with your assets, including gifting assets or money to a charity.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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