

ILM FACTSHEET


Guidance for lay executors

This factsheet
has been
prepared by
ILM

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The role you have been given as an executor is a huge responsibility and it can seem overwhelming, especially during this difficult and emotional time.

We are here to help, and we hope this factsheet will provide you with valuable information to guide you through the process.





Thank you

The role you have been given as an executor is a huge responsibility and it can seem overwhelming, especially during this difficult and emotional time.

We really appreciate your support. Without your valuable help, vital charity work simply wouldn't be possible.

Pulling together all the relevant documents can seem complicated but you are not alone. We've put together two handy factsheets to help you understand what information charities may need from you, and why they need it.

If the will specifies that the charity should receive a gift of a fixed sum of money, then the process is very straightforward, and you can simply get in touch with the relevant charity and make payment whenever you are ready to do so. They will send you a receipt and a letter of thanks.



Please make sure that you contact the team that deals with gifts in wills before you make payment, because only that team can give you a valid receipt for the legacy. Please do not make payment over the charity's website or hand a cheque into a shop or to a local fundraiser. Our members are required to account specifically for legacies, and they may not be able to do so if payment has been made to another part of their organisation.

If the will specifies that the charity should receive a share of the estate, or a more complicated gift, and you would like some assistance, please read on.

Probate agents

The government licenses a firm of Probate Agents to inform charities if they have been left a gift in a will. This system has been in place since the 19th century and explains why the charity may have contacted you before you have had a chance to contact them. It isn't widely known, but once a Will has gone through Probate it is a public document, and anyone can view the contents by paying a small fee on the .gov website. Many charities will purchase every will that contains a gift to them to satisfy their auditors that they are receiving every gift that they should.

Instructing solicitors

Acting as an executor can be an onerous task, and it is perfectly possible for you to instruct a solicitor to deal with aspects of administration that you are finding difficult or excessively time consuming without being required to hand the whole process over to them.



Why is the charity asking for such specific information?

Firstly, it's important to understand that although it can seem as though charities are asking you for a lot of detailed information, they are not trying to be difficult but are simply subject to strict legal and accounting regulations which they must comply with.

Gifts in wills, particularly a share of the estate (also known as a residuary legacy, because it is a share of what is left in the estate once debts etc are paid, hence the 'residue') are also a vital income stream for charities so it's important for them to be able to estimate the value of each gift for long-term project planning.

Responsibilities – who is responsible for what?

It can be hard to know who is responsible for what. Below is a list of the key responsibilities held by Executors, Charities and Auditors:

Executors

Executors are responsible for distributing the estate as detailed in the will and need to produce a full account as set out in the Administration of Estates Act 1925.

Charities

Charities need to provide you with a receipt and, where appropriate, an indemnity. They also need to confirm bank details for payment. They need to account for legacies in accordance with the SORP (see glossary below) and provide evidence to support their method.

Auditors

The charities Auditors must confirm that legacy income has been accounted for correctly and that the amounts shown on their accounts and received are correct. They pay particular attention to gifts in wills because it is such a large income stream for some charities.

Documents you may be asked for

We've put together a useful checklist which outlines the documents a charity should hold and where these can be sourced from, should you be asked for them. The checklist is divided into three categories: **Essential Documents**, **Documents to provide if possible**, and **Documents that may be required dependent upon circumstances**. You can read more about these categories in the glossary on the next page, and can see a full list of required documents in the document checklist factsheet in the *Guidance for Executors* section on our website..

Our members and charities work together very closely in this area, so to save you time we recommend you contact one of the charities named in the will and ask them to act as a 'postbox', distributing correspondence to the other charities. This is known as the '**Lead Charity**' system.



Glossary of key terms and their definition

Essential Documents

Failure to hold these documents may result in the file being questioned by auditors.

Documents to provide if possible

We advise our members to hold these documents in their files but this is not a legal requirement and it shouldn't result in the file failing audit. Please do not worry if you cannot access these documents easily.

Documents that may be required dependent upon circumstances

You will only be asked to source these documents if they are relevant to the circumstances of the gift.

Lead Charity System

You can ask one of the charities named in the will to act as a 'postbox', distributing correspondence to the other charities and gathering responses to any queries you have.

Residuary Legacy

What remains to be given out from an estate after all debts, taxes and other legacies have been paid. Also known as a share of the estate.

The SORP

The accounting regulatory framework that governs charities. It recommends that charities (especially larger charities) show legacy income on their balance sheets as soon as possible so they can understand the value of the legacy to the charity.

How we can help you

The Institute of Legacy Management (ILM) is here to help you in whatever way we can.

We are the professional body for charity staff who deal with the administration of gifts left in wills. With more than 600 members working in more than 400 charities, we have a wealth of knowledge and experience.

If you have a question or need support, please don't hesitate to contact us at ceo@legacymanagement.org.uk

We are enormously grateful for your support. Thank you.