



These dogs have been marked with non-toxic green paint to show they have been vaccinated. World Animal Protection is working alongside the Kenyan government to establish a pilot vaccination program in Makueni County, Kenya. Credit: World Animal Protection



## Gifts in Wills to charity

### Information for executors and administrators

**We are grateful to you for administering the estate in which our charity is a beneficiary.**

**To help you in your task, we have prepared this leaflet to guide you through the common areas of estate administration which need to be dealt with in a particular way where a charity is a beneficiary.**

Like the executor's obligation to maximise the estate for the beneficiaries, charities are under a similar legal duty to follow up on any bequests left to them, to ensure maximum benefit for their charitable cause. This means that most charities will keep in touch with you to enquire of the estates progress every few months.

If you encounter any problems during the administration, please inform the beneficiaries. Many years' experience may mean that they have already met a similar problem and may be able to help.

#### **Pecuniary gifts - a certain sum of money**

it is very useful to let the charity beneficiaries have a copy of the Will so that they can record the type of gift they have been bequeathed, and ensure they fulfil any obligations or wishes set out in the Will alongside their gift.

Pecuniary gifts will then usually be paid as soon as sufficient funds have been received by the estate.

If there is not going to be enough funds in the estate to pay all of the pecuniary gifts in the Will, the gifts will 'abate' meaning that they reduce based on the value of the gift compared with the size of the estate. please let the charities know at the earliest opportunity if this is likely. When you are ready to make payment of the reduced gift you will need to provide the charities with a copy of the Estate Accounts. This shows all of the assets and income of the estate and the payments made by the estate, along with how the final gift values have been worked out.

#### **Specific gifts - a specific asset such as jewellery, shares or property**

To help the charity understand the asset bequeathed to them, please let the charity beneficiary have a copy of the Will. Please also provide the charity with a valuation of the asset. The charity should then be able to tell you whether they wish to take the asset 'in specie' (in its present form) or whether they wish for the asset to be sold and to simply receive the proceeds. Please note that particular assets can carry tax implications.

## ► Capital Gains Tax (CGT)

Charities have an exemption from CGT. However, it may be payable when assets such as investments or property are sold which have gained in value since death. This is because the Executor is deemed to be selling as an individual, even though the assets will benefit charities.

During the tax year of the death and the following two years, there is an annual allowance of £11,100 for the executor to make a gain on an asset without needing to pay CGT. If the gain is more than the allowance, then CGT will be payable.

Accordingly, if there is a danger of Capital Gain which will exceed the annual exemption (and the funds from sale of the assets are not needed for administration purposes), you can use your power to appropriate. This is a simple book-keeping exercise. You do not need to transfer the assets to the charity(ies) before sale. Instead, you confirm to the charities that you will appropriate the assets on their behalves with their agreement, and then sell as agent (Bare Trustee) for the charities. The easiest way to do this is by a Memorandum of Appropriation. Some Legacy Officers may be able to provide you with a template Memorandum to use, which simply needs to be filled in and signed in order complete the exercise and use the charity's exemption.

If property is being appropriated, be aware that the legal procedures will be slightly different in that the property may need a special valuation be completed and that appropriation needs to take place before contracts are exchanged. Again, Legacy Officers will be able to advise you on how to proceed.

## Notes on specific gifts of property

If the specific gift includes any form of property, whether land or buildings, it would be helpful if you would consult the charity beneficiary over the marketing, sale price and offers received. To ensure that you get the best price for the property, you should obtain written valuation reports from at least two firms of estate agents. In certain circumstances, a property may have development potential, in which case the charity would expect to be closely involved in any decisions taken.

## Checklist of the information charities will ask for before they can give you proper receipt and discharge:

Pecuniary Gifts:

- A **copy of the Will** and any Codicils

Specific Gifts

- A **copy of the Will** and any Codicils
- A **valuation of the asset** (minimum of 2 valuations for property)
- Where a property is to be sold, a copy of the **Estate Agents' sales particulars**

**The role of Executor is not always a straightforward one, and we should like to express again our gratitude for your help and co-operation.**

*Please note: this guidance relates to the estates of people domiciled in England and Wales, but the principles (and all of the tax information) relates equally to Scotland. World Animal Protection accepts no responsibility for the information contained above, this is meant as helpful guidance only and is correct at the time of writing. If in doubt, please consult a solicitor.*