

PCCs Guide to Receiving a Legacy

Contents:

1. Terminology List	p2
2. Introduction to Receiving a Legacy	p3
3. Introduction to the Executors Role	p4
4. PCC's Response to Notification	p5
5. Check the Details are Correct	p6
6. Seeking Legal Advice	p7
7. Unrestricted and Restricted Gifts	p7
8. Receiving a Pecuniary Legacy	p8
9. Receiving a Residuary Legacy	p8
10. Other Types of Legacies Received	p12
11. Tax Matters	p14
12. In Remembrance	p15
13. Receiving Payment	p16
14. Contact Us	p16

Other Useful Resources:

PCC Meeting Following a Legacy Notification

<https://www.parishresources.org.uk/wp-content/uploads/PCC-Meeting-Legacy-Notification.pdf>

Guidance Notes for Lay Executors

<https://www.parishresources.org.uk/legacies/guidance-on-receiving-a-legacy/>

Charity Commission Charities and Litigation: a guide for Trustees (CC38)

<https://www.gov.uk/government/publications/charities-and-litigation-a-guide-for-trustees-cc38>

1. Terminology List

This resource provides guidance to PCCs on the process of receiving a legacy, as well as further information on charitable legacies.

We begin with a Terminology List for your reference:

TESTATOR/TESTATRIX:	A person who has made a will.
BENEFICIARY:	A person or organisation that is left a gift in a will.
EXECUTOR:	Person(s) appointed to carry out the terms of the will.
INTESTATE:	Used to describe someone who has died without a will.
PROBATE:	The official proving of a will.
ESTATE:	The total sum of possessions, property and money left at death after debts have been paid.
CODICIL:	A document used to change an existing will.
LEGACY:	A gift by will, usually money left to a person or organisation.
RESIDUARY LEGACY:	A gift of the remainder of the estate after all other gifts have been made, taxes paid and debts cleared.
PECUNIARY LEGACY:	A gift of a fixed sum of money.
SPECIFIC LEGACY:	A particular named item left as a gift in the will. For example, a piece of jewellery, furniture or painting etc.

2. Introduction to Receiving a Legacy

What is a Legacy?

A legacy is a gift made by will, usually an amount of money or property left to a person or organisation. Legacies are a lifeline for our parishes. Each year around 5,000 people leave a legacy to a Church of England parish; gifts to finance mission projects, maintain beautiful church buildings and grow faithful communities. If your church (technically the Parochial Church Council ('PCC') is the recipient of a legacy, it will be a charitable legacy.

Multiple Beneficiaries

There can often be more than one charitable beneficiary named in a will. Therefore, you should try to work together with other beneficiary charities to resolve any issues relating to the estate and you should consider working through one solicitor, where possible, to avoid incurring unnecessary legal fees. Although the PCC members may have known the deceased personally, it is important not to let any personal relationship impact on discussions and decisions surrounding the administration of the estate.

It can be helpful if a '**Lead Charity**' is identified and agreed upon. The Lead Charity will act as the main contact and represent all charitable beneficiaries thereby cutting down the number of letters both written and received, and inevitably speeding up the process. The Lead Charity may be the charitable beneficiary first named in the will, the largest charity to benefit or the charity which will receive the largest legacy from the estate. Many national charities have specialist legacy officers and are willing to act as Lead Charity to help smaller charities like PCCs. However, this should not be assumed, and it is important to confirm that they are happy to take on the role as Lead Charity and thank them for this.

Please note that if a Lead Charity manages estate administration, it is still appropriate to respond to the executor to offer your condolences, prayers and appreciation of both their time and the gift received.

Record Keeping

It is important to keep all letters, photocopies and papers relating to each legacy together in a file in chronological sequence. If you receive a residuary legacy, you are strongly advised to keep a diary sheet on which you can make a log of all actions, correspondence and phone calls received.

Timescales

There is a lot of paperwork involved in administering an estate and certain forms, documents and decisions must be submitted within certain time periods. If the executor is a lay executor (i.e. nonprofessional) they may be administering the estate alongside a full-time job. If it is a professional executor, chasing responses from beneficiaries can increase costs, which will reduce the overall value of the estate. Whilst recognising that PCC members are volunteers, responding to the executor in a timely manner should be a priority for the PCC.

3. Introduction to the Executors Role

What is an Executor?

An Executor is the person appointed by the testator (person who makes a will) to administer the estate and carry out the terms of the will. Being an executor isn't easy, the role can be demanding but it can also be rewarding. Although it is an upsetting time, administering an estate will resolve all outstanding issues – leaving space and peace for those left behind.

Professional Executors such as Solicitors or Banks are paid for their services and their legal fees will be deducted from the deceased's estate.

Lay Executors are non-professionals and therefore may have little knowledge of how to administer an estate. However, through their voluntary time and effort little or no legal fees are deducted from the deceased's estate (unless, as is usual for larger or more complex estates, they instruct lawyers to administer the estate on their behalf).

Please be aware that a lay executor could have a full-time job, family responsibilities and often themselves be mourning the loss of the benefactor. Therefore, please be sympathetic and patient in such circumstances.

We also encourage the PCC to pray for the executor and the important work they have generously undertaken in administering the estate.

[Guidance is available for Lay Executors: Where a will contains a Legacy to a Church](#)

4. PCC's Response to Notification

Notification of a Legacy

The Executor will notify the PCC of the testator's death, and that the PCC is a beneficiary under the will of the deceased, at the start of the estate administration.

The executor usually includes the following in their introductory letter:

- The deceased's name and address.
- The deceased's date of death.
- Confirmation that the church/PCC benefits under the will of the deceased.
- Date when they expect to have Probate granted.
- Clarification of the PCC's charitable status.

As soon as you are notified, write to the executors including the following:

- Expressing the PCC's condolences, prayers and appreciation of the gift.
- Include up-to date contact details of the PCC Treasurer and/or Incumbent.
- Provide the PCC's bank details so that the executor can pay the legacy directly into the PCC's account.
- Confirm that the PCC is a charity and provide its Charity Commission Registered Charity Number (if applicable) or its HMRC charity tax number (if applicable).
- Request a photocopy of the will and any codicils.

Once you have received notification of a legacy, you may wish to bring the PCC together to prayerfully consider the various possibilities for using the legacy, depending on any restrictions on the use of the gift set out in the will. It may be helpful to view our resource [PCC Meeting Agenda: Legacy Notification Received](#).

Copy of the Will

Until Probate has been granted, a will is confidential, and the PCC must treat it accordingly. After the Grant of Probate is obtained, a will becomes a public document. To ensure that the PCC receives the full amount due, please check the will and any codicils carefully to understand the size and nature of the gift left to the PCC.

Once you have received a copy of the will, you can identify:

1. The type of legacy the PCC will receive (e.g. residuary, pecuniary, specific).
2. If there are any restrictions on the gift for a particular use or fund.
3. That the named details are correct (name, address, charity number, diocese).
4. If there are any other charitable beneficiaries named.

Establishing the Testator's Connection

The PCC may not know or remember who the testator is, but what is important is that the testator remembered the PCC.

The Executors may be able to shine some light on the testator's connection with the church or PCC. It can be a good idea to ask your PCC and congregation if anyone knew the testator. If not, check past records of your electoral roll, the visitor's book, baptisms and weddings, funerals taken and/or gravestones in the churchyard with the same family name.

5. Check the Details are Correct

St Mary's and St Mary's

If there is any ambiguity over the naming of the parish as the intended beneficiary, the executors may ask you to produce some evidence of the testator's connection to the church. The standard wording for a legacy clause asks for the name of the church, parish, address, registered charity number (if applicable) and name of diocese to avoid ambiguity. When you receive a copy of the will, it is important to check that these details are correct.

Proper Receiving Body

The PCC is the preferred recipient of any legacy gift. Before PCCs existed, gifts were often made to the vicar and churchwardens (V&C). If a legacy is made to the V&C, the gift is not held by the PCC.

However, if the vicar and churchwardens feel it is more appropriate for the PCC to be the recipient of the gift, a scheme can be applied for from the Charity Commission to enable the V&C to pass the legacy to the PCC. Once the Scheme is made, the legacy itself, as well as the responsibility to ensure that the testator's wishes are carried out, will be held by and rest with the PCC. In such situations, legal advice should be sought, initially through your Diocesan Secretary or Registrar.

A Registered Charity Number

All PCCs are charities. However, only those PCCs whose annual income exceeds £100,000 are currently eligible for registration with the Charity Commission. All smaller PCCs are "excepted charities" and are not currently eligible to register with

the Charity Commission. As a result, only those PCCs which are registered with the Charity Commission will have a Registered Charity Number. It is important to provide the executor with the PCC's registered charity number if you have one. If not, smaller PCCs may have a charity tax number from HMRC which you should provide instead. If your PCC has neither registration number, you should confirm that the PCC is an excepted charity.

Smaller unregistered PCCs should be aware that, if the legacy gifted is large, it may increase the PCC's income in the accounting year it is received to above the £100k threshold. In such a situation, the PCC will need to register with the Charity Commission.

6. Seeking Legal Advice

When a PCC is notified of a legacy, the executor may indicate that the will has been or might be contested. Although a will is a binding document, there has been a surge in the number of disputes around people's estates in recent years.

When considering whether to take or defend legal action, the PCC should be aware of what the risks might be and plan how to handle them if they occur.

To carry out their duty of care PCC members, as charity trustees, must take specialist legal advice in such a situation as they may need to seek the Charity Commission's consent before embarking on any course of action. Therefore, if you are contemplating legal proceedings, or agreeing any settlement of a claim against the estate, you should contact your Diocesan Registrar straight away.

For further information, please read the Charity Commission Charities and Litigation: a guide for Trustees (CC38)

<https://www.gov.uk/government/publications/charities-and-litigation-a-guide-for-trustees-cc38>

7. Unrestricted and Restricted Legacies

Establishing the Testator's Interests

Many PCCs have a Legacy Policy on how potential legacy income will be spent. Since needs change over the years, many PCCs encourage gifts to be left for the general purposes of the parish rather than a restricted purpose.

Unrestricted Legacy: Most legacies to churches/PCCs do not contain any restrictions on how the PCC can spend the gift. Depending on the testator's connection with the church, you may want to discuss possible uses with the executor and, if appropriate, any surviving family members.

You may wish to ask the executor if the donor had expressed any non-binding preferences about how the gift might be spent, or whether it would be particularly appropriate to remember the testator's connection in some way based on the deceased's known areas of interest in the church and the church's priorities at the time. For example, if the testator was involved in the musical ministry of the church, and new choir robes or hymnbooks were currently needed.

Letter of Wishes: A Letter of Wishes may have been included alongside the will. These expressed wishes do not legally bind the PCC; however they should be met where feasible. In such a situation it may be helpful to speak to the executor and/or surviving family members about how to use the gift to honour the deceased's wishes in a way that meets the church's current funding priorities.

Restricted Legacy: If the gift is restricted, the PCC will need to ensure that the gift can be used in line with the restriction. If the PCC cannot use the gift in accordance with the specific terms outlined in the will, you should seek specialist charity law advice to consider whether and how the terms of the gift could be changed, to enable the gift to be used for broadly similar purposes that may be undertaken by the PCC.

The PCC may well need to apply to the Charity Commission for a "scheme" to widen or alter the purposes for which the PCC can apply the legacy funds. For more information, please click here

<http://www.parishresources.org.uk/wp-content/uploads/restrictedfunds.pdf>

8. Receiving a Pecuniary Legacy

Legacies of a fixed amount (pecuniary legacies)

If the legacy is a specified lump sum, the PCC simply needs a photocopy of the will. Pecuniary legacies tend to be paid by the executors within a few months of the death. The executor will usually send a cheque (made out to the PCC) or make a bank transfer for the correct amount, with a covering letter confirming the deceased's name, address and any other helpful information. Before providing proof of receipt, ensure the PCC has checked a copy of the will and any codicils to check that the amount of the pecuniary legacy received matches the terms of the gift left in the will.

Receiving less than expected on a pecuniary legacy

It is possible that the testator has spent most of their wealth before death (e.g. on nursing home fees), and the estate may not be large enough to pay all the legacies in the will. In such situations, the estate undergoes a process known as "abatement", which reduces any pecuniary legacies in proportion to the available estate. In such circumstances you should ask the executor for a schedule of assets and liabilities and estate accounts, as well as an explanation as to how the reduction to the legacy was calculated during the abatement process. The PCC should not approve the estate accounts or provide receipt for the legacy until you have checked the amount received carefully against the will and codicils and estate accounts etc. and you are satisfied that the full amount due to the PCC in the circumstances has been received.

9. Receiving a Residuary Legacy

Legacies of a share of what is left (residuary legacies)

The residue of an estate is that which remains after all the testamentary debts, tax due, pecuniary legacies and administration costs have been paid. Residuary legacies can take several months or years for complete payment, as the estate may take some time to administer and wind up.

If the PCC is the beneficiary of a residuary legacy, the PCC should ask the executor for certain basic estate documents and for more detailed information in due course as the administration unfolds.

The documents the PCC should ask to see include:

- **A Photocopy of the Will** with your first letter, if possible.
- **A Copy of the Schedule of Assets and Liabilities.** These include real estate, shares, valuable antiques, art and jewellery.
- **Valuations of Significant Assets** – such as property or land.
- **Estate Accounts** – these are a requirement under law for any beneficiary who requests them.
- **Tax Deduction Certificates**

As the administration proceeds, the executor should inform you of any significant problems such as claims on the estate, unforeseen or relatively large costs, any litigious or contentious disputes, or any simple requests by the family which are not covered by the will but could quickly be dealt with.

If you have not heard anything within what is considered to be a reasonable period (6 – 9 months), you may wish to enquire on how matters are progressing. Where the executor is lay and not professional, you may wish to ensure that enquiries do not come across as the PCC seeking to put undue pressure on the executor, but rather that the PCC is seeking reassurance that everything is moving along satisfactorily.

Assets and Liabilities

If the PCC is the recipient of a residuary legacy, it is in the PCC's best interests to ensure that the value of the residuary estate is maximised.

Assets

The main assets are likely to be property, investments and savings. You should ask for independent valuations of significant items (e.g. property or valuable possessions) and if there is any doubt, ask for two independent valuations.

Property: If there are significant property assets, which are not to be sold immediately, you should check that the executors are insuring and maintaining the property adequately and ask for evidence if necessary.

Stocks and Shares: If there are significant holdings of stocks and shares in the estate, the executors may have to pay Capital Gains Tax (CGT) on any rise in value since the death of the testator. This can reduce the value of the estate. The executors can appropriate the relevant proportion of the stocks or shares to any charitable beneficiaries, including PCCs, as charities, do not pay CGT.

Possessions: It often happens that the testator has not left any specific instructions about the disposal of household items such as furniture, photographs and jewellery. Most charities have a policy agreeing that items of sentimental (but not material) value may pass directly to close relatives and friends providing that the executor approves. However, any individual items thought to be worth more than £100 should be independently valued and offered to relatives for purchase at that valuation.

Liabilities

Any estate has a number of liabilities which must be paid before the residuary value of the estate can be ascertained. Common liabilities of an estate include:

- Funeral expenses, death certificates and related fees.
- Debts, mortgages and outstanding bills owed at the time of death.
- Taxes on Inheritance, Income and Capital Gains (see section 11).
- Professional Fees.
- Legacies itemised in the will.

You can find details of the liabilities in the schedule of assets and liabilities, and in the final estate accounts. Whilst the PCC should seek to ensure that the value of any liabilities is minimised, where possible, you should only challenge liabilities that appear to be significantly excessive or unreasonable.

Ex-Gratia Payments

Executors can be approached with requests to agree a payment to someone (usually a family member) who has not benefitted under the will of a deceased. There may appear to be a very good moral reason why the payment (known as an 'ex gratia' payment) should be made. However, it is important to recognise that as a charity, the PCC does not have the same freedom and discretion as a private individual to give away part of its legal entitlement.

As a charity, the PCC can only lawfully apply its funds for its charitable purposes. If, after due consideration of the specific case by the PCC, it is considered that the PCC has a moral obligation to make the ex-gratia payment, the PCC would need to apply to the Charity Commission for permission to make this payment.

[For more information please download and read the Charity Commission's booklet CC7 Ex Gratia Payments by Charities.](#)

Professional Fees

Professional executors are allowed to charge reasonable professional fees for their services. Most solicitors charge between 2.5% and 4.0% for the gross value of the estate (plus VAT and expenses), and the proportion may be higher for small or more complex estates. Banks tend to charge around 5%. If you believe the fees to be excessive, ask for an explanation. Lay executors are only allowed to charge for out-of-pocket expenses (e.g. travel, postage, legal fees), but not their time.

Estate Accounts

Where a PCC is a residuary beneficiary, you are entitled to (and should) request a set of estate accounts at the end of the administration of the estate. This will enable the PCC to clarify that there is no outstanding matter that would create a liability on charity trustees and that the PCC has received what it is entitled to under the will. Estate accounts should comprise the following:

- The capital asset and liabilities at the date of death
- An expenditure account, to include:
 - Any Inheritance Tax, administration expenses and pecuniary legacies
- An income account, details of payments since death (ideally by tax year)
 - Interest, dividends, rents paid
- A distribution account, i.e. how the estate has passed to all beneficiaries

Estate accounts should be sent to the residuary beneficiaries for their approval. If you are not sent a copy, you should ask to be sent one.

10. Other Types of Legacies Received

A Specific Legacy

A specific gift (or specific legacy) is a gift of a particular asset for example jewellery, furniture, a painting, a bible etc. It is important for the PCC to understand if there are any restrictions, conditions or terms attached to the specific legacy (i.e. are they able to sell the item) and then to have it valued externally and check if any particular insurance policy will be required. If the PCC is happy and able to accept the specific legacy, it may be appropriate to speak with the executor, or the testator's surviving family, about the PCC's proposals for using and/or displaying the gift.

Capital Endowments

Sometimes legacies provide a gift of capital for investment, from which only income can be used (known as “endowment funds”). Under the Parochial Church Council (Powers) Measure 1956 and its successors there is a requirement for all permanent endowments benefiting parishes through PCCs to be held by the Diocesan Board of Finance (DBF). This means that if your PCC is the beneficiary of a legacy establishing a permanently endowed fund from which income only can be used (whether for general or specific purpose), the diocese should be notified, and arrangements made for the money to be passed to the DBF as trustee. The income is then paid to the PCC.

Reversionary Legacies

A charity may be left a reversionary interest in an estate when a legacy to the PCC is subject to the interest of one or more individuals (life tenants). An example of this is where the testator leaves the house of their spouse for the duration of their life, with the house being gifted to the PCC on the spouse’s death. In these situations, the PCC may not receive the legacy money until many years after the original testator’s death. As well as properties, such legacies can include investment portfolios and other assets.

Life Tenant: It is important that the PCC maintains contact with the executors during the life tenancy, particularly if the likely value of the legacy is significant. If not already known, enquire the age of the life tenant. If the life tenant is financially unable to maintain the property or asset, the PCC should seek advice as to whether and how it may be able to provide financial assistance to ensure its long-term interests are reasonably protected.

In the case of a property, you should try to establish:

- Whether it is registered with the Land Registry.
- Where the deeds (if the land is unregistered) are stored.
- Whether it is freehold or leasehold.
- Who is responsible for the buildings insurance and the cover provided.
- Who is responsible for building maintenance and how is it funded.
- Whether the life tenant actually resides at the property.

In the case of an investment portfolio, you should try to establish:

- Details of the investments and the value at death.
- Whether the portfolio is actively managed, and if so by whom.
- If professional investment managers are used.
- The trustee’s actual powers over capital and income.

11. Tax Matters

Inheritance Tax (IHT)

Inheritance Tax (IHT) is a tax on a person's estate that is left behind after he or she has died. The estate includes money, property and possessions. IHT is therefore a tax on the transfer of assets from one individual to another. IHT is only owed if the value of the deceased's estate exceeds the Inheritance Tax Threshold (£325,000 in 2018 tax year), when he or she dies. The Executor or Personal Representative usually pays the tax from the deceased's estate within 6 months after the death.

Gifts left to charities (also referred to as legacies) are exempt from IHT. All Charities have an HM Revenue and Customs (HMRC) charity reference number. This exempts them from paying tax on any gifts they receive. Legacies left to the Church of England's 16,000 churches are also exempt from IHT as all Parochial Church Councils (PCCs) are charities.

[For more information click here to view A PCC Guide to IHT](#)

Capital Gains Tax (CGT)

Gifts to charities are exempt from Capital Gains Tax (CGT). To secure the exemption, executors can appropriate the assets into the name of the charity, and then sell the assets as "bare trustee" on behalf of the charity.

Appropriating is simply a note on the estate file that the executors have appropriated the assets and are now holding them as agents of the charity. For appropriation of land (as opposed to stocks or shares) a Declaration of Trust may be required, and appropriation must be carried out before exchange of contracts.

Variations

A Deed of Variation can vary the gifts in the will where it is in the interests of all affected beneficiaries to do so. The most common reason is to minimise tax payable.

12. In Remembrance

In Remembrance

Some legacies will specify anonymity; of the gift, the giver or sometimes both. However, many are happy for their generosity to be known and most importantly celebrated. For many people leaving a gift in their will is a final opportunity to make a lasting gift to God. It is also a way to make a difference to the future of their church and community.

The PCC should discuss the best way to honour the gift received. Each church is different; some churches have a Book of Remembrance, whilst others are able to erect more permanent memorials such as plaques, plant trees or engrave candles.

The PCC may wish to hold a special service in memory of the deceased, which the executor and family are invited to. If the PCC hold a thanksgiving or remembrance service, it may be appropriate to celebrate the gift then.

Keep in Touch

If the legacy is used to fund a specific project or role or if the church plans to hold a memorial/thanksgiving/remembrance service, why not invite the executor and family (if appropriate) to a celebratory service?

Continue to pray for the deceased, the family of the deceased and the executor. As a named beneficiary, the church should be truly grateful, not only to the deceased, by whose generosity their work can continue to grow God's Kingdom, but also to the executor, by whose time and effort the deceased's generosity may take effect.

Legacy Prayer

“Lord of the living and dead, we thank you for all those who have walked before us in the way of Christ; those who have shared their faith and love with us, and those who have been generous benefactors of the church, nation and world, by the way they have lived, and the inheritance they have left to us who come after.

May we, with them come to share the joy of your heavenly banquet and the blessings of life. Amen.”

13. Receiving Payment

Receipt of Payment

A cheque will be made out to the Parochial Church Council of the parish and/or a BACS transfer to the Parochial Church Council Bank Account. The executor should already have asked about your preferred method for receiving the legacy (when responding to the notification of the legacy) however if requested again, please provide in a timely manner. Please ensure that you provide a receipt of payment including the date, payee and payer's details, the amount received and signature of Vicar and/or Treasurer.

Thank you

It is appropriate to write to the executor and personally thank him/her for their services provided. The PCC should acknowledge the time and effort non-professional executors give to administer the estate.

Indemnified Payment

Once paid, the executor may ask the PCC to indemnify them against future claims on the estate (for example if previously unknown liabilities come to light, or someone contests the will).

Where appropriate, PCCs are encouraged to resist such requests by crossing out such requests on any receipts the executors provide you with. However, if the executors refuse to pay over the legacy unless indemnified, you must ensure that the indemnity includes a restriction which limits the PCC's liability under the indemnity to the value of the legacy paid and to its fair share within the entire estate.

14. Contact Us

Receiving a legacy in a will can throw up lots of queries, questions and sometimes nuances and we want you to feel supported throughout the process. If you have any questions, please do not hesitate to contact the National Legacy Officer Eleanor Stead via the [Church Legacy Website](#) or telephone the Legacy Information Line on 08445 870875. Alternatively, please do not hesitate to contact your Diocesan Secretary for free and friendly legal advice.