



Bequest Policy

Document number: PO2021-044

Approval

Policy owner	Executive Director, Commercial Enterprise, Fundraising and Communications		
Approved by	Executive Leadership Team State Council		
Date approved	ELT: 18.03.2021 SC: 19.06.2021	Review date	18.03.2026

Purpose

1. The St Vincent de Paul Society NSW, and the Trustees of the Society of St Vincent de Paul (NSW) (together referred to as the Society) receives gifts in wills to assist with the delivery of their work. This policy and its procedures set the standards for the Society's management of gifts in wills.
2. This policy and its procedures ensure that the Society can demonstrate the appropriate use of gifts in wills.
3. This policy and its procedures ensure that the Society follows a clear, accountable, transparent, and consistent process when managing gifts in wills.

Scope

4. This policy applies to all Society Personnel.
5. This policy and its procedures apply only to gifts left in wills to the Society.

Related policies and procedures

6. Related policies and procedures include:
 - *National Bequests Policy*
 - *Investment Policy*
 - *Delegations of Authority Policy*
 - *Asset Management Policy*
 - *Conflict of Interest Policy*

Policy Principles

7. The Society generally accepts gifts in wills including, monetary gifts, personal or household items, gifts of land and buildings, gifts of shares in companies, and gifts in the form of endowments to be paid to the Society.
8. The Society generally does not accept gifts that would require the Society to establish and administer an endowment fund.
9. The Society will always endeavor to respect and uphold the wishes of the deceased regarding gifts in wills.
10. The Society will maintain accurate records regarding the receipt and use of gifts in wills so that it will be able to demonstrate the funds have been allocated as per the wishes of the deceased in their will.
11. The Society may decline a gift left in a will if the Society reasonably believes it will not benefit from the gift or it is unable to meet the conditions associated with the gift.
12. Society Personnel must direct any Executors, Solicitors or Trustee Companies contacting the Society regarding the provision of a gift in a will to the Manger, Gifts in Wills and Estates.

13. The Society will seek all gifts in wills to be received within a year of the grant of probate.
14. The Society complies with the applicable legislation in the receipt and management of all gifts in wills.
15. The Society will retain records for the following periods:
 - Estate files – 22 years
 - Accounting records – 7 years
 - Deeds – 12 years.
16. The Society complies with the Fundraising Institute of Australia Code of Practice.

Engagement with prospective donors

17. The Society may engage with members of the public to discuss the potential of including a gift in their will to the Society.
18. Society Personnel must always act in a highly ethical manner in all engagements with bequest donors and their families to maintain and enhance the reputation of the Society.
19. Society Personnel must always act in a respectful and empathic manner with anyone considering leaving a gift in a will, and the family members of those who have left a gift in their will.
20. Society Personnel must refer any person/s enquiring about leaving a gift in their will to the Gifts in Wills and Estates Team. The Gifts in Wills and Estates Team will provide the necessary support to anyone who enquires about leaving a gift in their will to ensure that they have all the information they require.
21. Society Personnel must ensure that any Executors or Solicitors enquiring about the administration of a will are directed to the Gifts in Wills and Estates Team.
22. Society Personnel must not encourage a person to leave a gift in their will or estate when they have a reasonable belief that the person lacks the capacity to make a decision to leave a gift in their will.
23. Society Personnel must not unduly influence or coerce a person to leave a gift to the Society in their will. The Society does not provide any legal or financial advice to people considering a bequest to the Society.
24. The Society will maintain a record in its database if they are notified that a person intends, is considering, or confirms that they have left a gift in their will. Records relating to gifts in wills are held in confidence with access limited to Society Personnel with a need to know.
25. The Society will make available on their website and in writing to anyone who enquires about leaving gifts in a will, the Society's preferred wording for gifts in wills.

Specific Purpose Gifts

26. The Society prefers gifts in wills to be for general purposes.
27. The Society also welcomes gifts in wills that are left for a specified purpose and the Society will make every reasonable effort to respect the wishes of the deceased as described in the will.

28. The Society will apply any gifts in wills left for a specific purpose as specified unless it is impossible or impractical to do so.
29. The Gifts in Wills and Estates Team will ensure a Conference, Council, or Business unit and Finance Team are advised of any specified uses of gifts in wills for their department.
30. A Conference, Council, or Business Unit must use all bequeathed funding in accordance with their delegation of authority, any specified wishes in the will, and any relevant Society policies and procedures.
31. A Conference, Council, or business unit spending a bequest will report to the Manager, Gifts in Wills and Estates on the spending of significant gifts in wills for specified purposes until the funds are exhausted.
32. The Society will include in a bequest file reporting of significant bequests on the allocation and spending of significant gifts in wills.
33. The Executive Director, Commercial Enterprise Fundraising and Communications in Consultation with the Director, Legal, subject to delegations of authority, will determine when the Society undertakes litigation, makes an application to the Attorney-General or accepts a settlement.

Roles and responsibilities

34. The Manager, Gifts in Wills and Estates is required to:

- acquire and update their knowledge of estate and bequest matters
- ensure that all estate bequest processes comply with relevant legislative acts and regulations
- ensure appropriate records are maintained
- be aware of procedures involved in processing bequests in conjunction with Executors including NSW Trustee and Guardian and their solicitors
- ensure that all estate bequest processes comply with relevant legislative acts and regulations.

35. The Group Financial Controller is required to:

- be aware of procedures involved in processing the financial transactions associated with bequests
- ensure that all estate bequest financial processes comply with relevant legislative acts and regulations
- ensure that all bequests for specified purposes are appropriately allocated and tracked for expenditure year on year.

36. The Director, Property and Facilities is required to:

- be aware of procedures involved in processing the property transactions associated with bequests
- ensure that all estate bequest property processes comply with relevant legislative acts and regulations

- ensure that all property gifted for specified purposes is utilised in accordance with the specified purposes.

37. The Manager, Internal Audit is required to:

- Audit bequest files annually.

Review

38. This policy is scheduled for review every five years, or more frequently as needed to align with legislative or practice changes.

39. The effectiveness of the operation and circulation of this policy is to be evaluated and reviewed by Executive Director Commercial Enterprise, Fundraising, and Communications.

Further assistance

40. The Manger, Gifts in Wills and Estates can provide advice about the communication and implementation of the policy.

References

- *Succession Act 2006* (NSW)
- *Probate and Administration Act 1898* (NSW)
- *Charitable Trusts Act 1993* (NSW)
- *Charities Act 2013* (Cth)
- *Family Provision Act 1982 No 160* (NSW)

Approval and amendment history

Version	Approval authority	Date	Amendment summary
Doc #	Executive Leadership Team	18.03.2021	Update combine and replace:
PO2021-044	State Council	19.06.2021	<ul style="list-style-type: none"> - Bequest Accounting Procedures (16.07.13) - Estate and Bequest Procedures Version 7 - Share Guidelines for Estates (27.09.2018)

Appendix 1: Definitions

41. Relevant definitions include:

[To ensure that the Society uses terms consistently across its policies and procedures refer to the *Policy Definitions Glossary* (insert hyperlink) for commonly used Society definitions.]

Term	Definition
Bequest	A gift of personal property by will. Property is anything that is capable of ownership (for example money, shares real estate personal belongings), including a right of ownership.
Employee	An employee is a person who is hired to provide services in exchange for compensation (pay) (Australian Taxation Office, 2012). An employee is a paid member of staff – this can be on a full-time, part-time, fixed-term, or casual basis. The Rule (Part III, 2012, Article 26) describes the role of employees in a way that clearly refers to paid persons as ‘employees’.
Endowment¹	An endowment is normally a fund (amount of money), which is established to provide an income for 'beneficiaries'. The fund is usually invested in 'perpetuity', which means there is no time limit for its end. Only the income is distributed, not the original capital amount. So, the endowment fund will be set up with a sum of money, and this money is then invested by the trustees (managers) of the fund, and a 'dividend' or a distribution is paid to those beneficiaries under the terms of the fund.
Estate	An estate is the assets and liabilities left by a person at death.
Executor²	The person who has been given the duty of carrying the provisions of a will into effect by the testator. The executor has important duties, including obtaining a grant of probate, collecting the estate, paying debts in their proper order, paying the legacies, and distributing the residue of the estate to the persons entitled.
General purpose	A bequest left to the Society without specific instructions on how it should be used. This is often expressed as a gift for the Society's "own purposes", "its general charitable purposes" or "its general purposes".
Gift³	A gift is personal property voluntarily transferred to the Society by someone that is to the advantage of the Society. The person giving the Society the personal property does not receive anything in return. A gift may include but is not limited to: <ul style="list-style-type: none"> • real-estate

¹ Gifts, wills, bequests and endowments, Justice Connect, cims-nsw.infoxchangeapps.net.au/home.php

² Gifts, wills, bequests and endowments, Justice Connect, cims-nsw.infoxchangeapps.net.au/home.php

³ Gifts, wills, bequests and endowments, Justice Connect, cims-nsw.infoxchangeapps.net.au/home.php

	<ul style="list-style-type: none"> • shares • money in bank accounts • contents of a property <p>the whole or a part of the residue of the estate.</p>
Legacy	A gift of personal property by will. The person to whom the property is given is called the legatee, and the gift or property is called a bequest. The legatee's title to the legacy is not complete until the executor has assented to it.
Manager	A Manager is a Society employee responsible for the supervision of a particular Society employee.
Residue	That which remains of the deceased person's estate that remains after payment of debts, funeral expenses, administration expenses (including legal and accountancy fees and other costs of selling assets), and specific gifts have been distributed.
Society Personnel	Any person (or group of people) engaged by the Society to assist in its works. This includes members, volunteers, employees, contractors, and consultants.
Specific purpose	A bequest left to the Society with conditions as to how it should be used.
Will	A disposition or declaration by which the person making it (the testator) provides for the distribution or administration of his or her property or estate after death. A will should comply with the legal requirements found in section 6 of the Succession Act 2006 (NSW).