



# Charity Legacy Protection

Legacy income is essential to many charities. However, it can also be complex.

Our Legacy Protection Team understands that charities face a balancing exercise between maximising income from legacies and managing their reputation. Our experience, strategic approach and sensitivity to your needs make us ideally equipped to assist your charity.

## The Team

Our Legacy Protection team comprises both contentious probate and trust practitioners and estate administration specialists, who are all nationally recognised as leaders in their field. The team is led by the highly-rated Michelle Rose.

The team has a proven track record of excellence in a range of probate matters and is supported by our charity sector knowledge.

The team works closely with our nationally acclaimed charities team, who act for over 900 charities, including high profile household names, independent schools, higher education institutions, faith charities and community organisations.

Our legacy protection work builds on the extensive work we do with charities in relation to their legacy fundraising, aimed at helping charities to maximise their legacy income, making sure standard Will documentation is watertight and spotting issues before they arise.

Many of the team are members of ACTAPS and others have worked as legacy officers, having on-the-ground experience of managing the challenging situations charities face.

We have substantial experience in dealing with a range of legacy matters, working with charities and their in-house teams providing advice on the smaller non-contentious issues charities may face, through to more complex contentious matters. Some examples of the key areas of our work are given overleaf.

## Protecting Your Reputation

We recognise the difficult balancing act which charities can face when realising a legacy due to them from an estate. They have duties under charity law to realise the full entitlement due to them and are subject to active regulation by the Charity Commission, but at the same time need to seek to protect their reputation.

We understand the regulatory approach taken by the Charity Commission and can help to navigate the legal issues while mitigating the risks of negative public perception and PR.



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### Have You Been Left a Gift in a Will?

Whether your charity is the recipient of a modest sum, or a significant share of a residuary estate, our Legacy Protection team can guide you through the stages and advise on all aspects of realising your charity's entitlement. Starting from help with interpreting the Will and what benefit is, or should, be payable to you, and advising on the inheritance tax implications, through to corresponding with executors about the distribution of the gift. We will consider reputation management every step of the way.

### Are You an Executor in a Will?

Increasing numbers of charities are finding themselves appointed as an executor of an estate, in which they are also a beneficiary. One example of our work, is acting for a large university that was named as both an executor and a beneficiary in a multi-million pound estate. We provided technical and strategic advice throughout the estate administration, ensuring that our client could successfully navigate these two roles and avoid any conflict of interest arising.

### Are You Concerned About the Way an Estate Is Being Dealt with?

Frequently, charities find themselves involved in slow or deadlocked administration. We advise charities on the options available to them, from prompting the executors into action through to applying for the removal of executors, if they are breaching their legal duties.

Recently, we enabled a national charity to negotiate an earlier payment out to them from an estate, whilst also policing and driving the protracted administration in which the executors were not performing adequately.

### Are You Involved in a Will Dispute?

We are experienced in challenging and defending Wills and dealing with claims challenging the validity of Wills.

We act for a charity that is named the executor and sole beneficiary of an estate in which the deceased died in tragic and high profile circumstances. Problems arose when the deceased's family produced a later, conflicting Will. We are working with the charity to manage and resolve this dispute. We approach these high profile cases with pragmatism and sensitivity to the importance of risk management.

Mindful of the wider considerations that charities face, we treat court litigation as a last resort in seeking resolution of claims, often negotiating these claims successfully out of court through mediation. However, if this is not possible, the team has highly experienced litigators to defend claims through the courts.

### *Ilott v Mitson* - Good News for Charities Defending Inheritance Act Claims

This relatively recent decision of the Supreme Court caught the attention of the national press, with the Court's consideration of a claim brought by the estranged daughter of the deceased for a greater share of her late mother's estate. The case is important for charities as the Supreme Court specifically emphasised the importance that testamentary gifts constitute for charities. It also recognised that gifts to family members do not automatically take precedence over gifts made to charities.

We ensure that charities are fully aware of their legal position, keeping them up to date with the latest case law in this area.

### Further Areas of Advice

- Advice on legacy fundraising
- Applications for estate/trust inventories and accounts
- Challenging estate accounts
- The process for appointment of charities as executors
- The appropriation of assets for charities, including tax implications
- 'Death in service' benefits being used to make gifts to charities
- Bringing and defending statutory Will applications in the Court of Protection
- Actions to recover losses to an estate arising out of negligent Will drafting
- Defending challenges to the Will and issues surrounding undue influence, lack of capacity and lack of knowledge and approval
- Defending claims brought under the *Inheritance (Provision for Family and Dependents) Act 1975*.

**If you would like any more information about the work we do or how we could assist your charity, please contact Michelle Rose at [mrose@vww.co.uk](mailto:mrose@vww.co.uk) or on 0117 314 5246.**

## Other Team Members

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## What Others Say...

*"VWV is a high quality and professional firm providing really good advice."*

Legal 500

*"The competent and professional firm is...on point with current issues and able to find practical solutions."*

Legal 500

*"VWV is one of the best for contentious probate matters... Practice head Michelle Rose is a bright, tough litigator and excellent with clients."*

Legal 500

*"Michelle Rose is a 'very highly regarded' litigator who specialises in representing clients in Wills, probate and trusts disputes. 'She is very, very good indeed.'"*

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