



Family Nursing & Home Care

Standard Operating Procedures The Administration of Legacy Donations

August 2024

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Introduction

The fundraising team is the primary contact for legacy fundraising. Legacies can often be of significant financial value and require additional oversight. Administering legacy donations is a complex process involving fundraising, finance, facilities, the SLT and the Committee. This SOP will clarify roles and responsibilities for administering legacy donations.

A legacy is typically an amount of money (Pecuniary legacy) or property (Residuary legacy) left to FNHC in a will.

In addition to money and property, a legacy may also include specific items (Specific legacy). Legacies may include pecuniary, residuary and specific gifts that are given to another benefactor in the first instance but will revert to FNHC after the initial benefactor has passed away (Reversionary legacy). Another type of legacy is dependent on certain events occurring which may or may not happen (Contingent legacy).

Most legacies received by FNHC are pecuniary or residuary. However, FNHC occasionally receives specific, reversionary and contingent legacies.

Legacy payments are a significant income stream for the charity. Due to the legal and financial oversight on these form of donations, managing legacy donations can be an administration intensive process.

SOP 1 Notification and Logging of a Legacy

Purpose

FNHC are usually notified about new legacies by postal correspondence from the executor of the will (normally the legal firm executing the will). The envelope from the executor will normally contain a full copy of the will and a cover letter from the executor.

In some cases FNHC will be notified about legacies by email, this is usually through the enquiries or the fundraising email inboxes.

Scope

All gifts left in wills to FNHC, this includes any sum of money (pecuniary legacy), a share of the deceased estate or a property (residuary legacy) and any of the less common types of legacies (specific, reversionary, contingent).

This SOP does not relate to in memorial donations.

This SOP does not relate to any legacy fundraising (e.g. legacy communications campaigns).

It is relevant to Reception staff, staff managing the 'enquiries' and 'finance' emails, the Grants and Legacies Officer, Director of Finance and the Head of Finance.

Core Requirements/Procedure

Notification of a legacy

Letters received by post will be received by reception and then forwarded on to the Grants and Legacies Officer.

For email notifications, the staff managing those inboxes will forward on the relevant messages to the Grants and Legacies Officer.

Logging notification of a legacy

It is the responsibility of the Grants and Legacies Officer to notify the Director and Head of Finance on receipt of a new legacy. The Grants and Legacies Officer must convey

- The legal firm handling the legacy
- The name of the person leaving the will
- The value of the legacy
- Whether the legacy is immovable or moveable
- The expected date for the arrival of funds.
- Whether the funds are restricted or unrestricted

If any of these details are not disclosed in the first instance, the Grants and Legacies Officer should contact the executor of the will for the missing information.

The Head of Finance has responsibility for recording the legacy in the financial ledger so that it may be recorded in the accounts as per accounting standards and charities SPOR (accounting statement of recommend practice for charities) for the financial period. Note that per accountancy standard, any notified income with “probable income flow” should be recognised once reliable estimate can be made and update if there are any changes to this estimate.

The Grants and Legacies Officer should open a new folder in the “active legacies” directory in the legacies sub folder of the fundraising directory.

The folder name for the legacy should be the full name of the person leaving the legacy followed by a hyphen and then the first line of their address if the legacy involves an immovable estate (e.g. Bilbo Baggins - Bag End).

Additionally, in the legacy directory there should be a spreadsheet named

“202XLegacyRAIDLog.xls”. It is important to list the new legacy in this raid log as accurately as possible. The date should be the date that the FNHC were notified about the legacy. The legacy column should be the full name of the person giving the legacy, if the legacy is an immovable estate then the address of the estate should also be listed. If there is a moveable and immovable legacies from the same person these should be listed separately as these will have very different delivery timelines. A summary of actions should be written and an estimate of the value should be provided, in the case of immovable estates a price may not be known yet so an estimate can be stated. Completion times may not be known and again can be stated as estimates based on current information.

New legacies should be added to Donorflex. To add a legacy in Donorflex, the legacy must be added to an individual's account. Note that the legacy number listed in Donorflex should correspond the unique legacy number in the raid log. The name of the legacy should be included in the person field, the legacy type should be given from the dropdown box. The legal firm and the primary contact at the legal firm should be listed in the comments.

In the section asking for key dates, add the following five key fields, the rest are not relevant in Jersey.

- the date of the will
- optional - the last codicil (last change to the will if the will has been changed)
- the date of death
- the date which FNHC were notified
- the date reviewed by trustees

In the section labelled financial, the following should be added:

- Bequest and estate value (£)
- Estate share (% if known)

- A full list of charities who are sharing the legacy (if appropriate)
- The finance type should be marked as legacy income
- The legacy should be marked as restricted or unrestricted (unless specifically stated as restricted, mark as unrestricted as default).

SOP 2 Confirming Receipt of a Legacy

Purpose

For the legacy to proceed, the executor will ask for confirmation from FNHC that we have received the documentation and are happy for the executor to continue executing the will.

Scope

This SOP is relevant to the Director of Finance and the Grants and Legacies Officer. This SOP details how to confirm the receipt of a legacy.

Core Requirements/Procedure

In most cases it should be sufficient to confirm receipt of the notification of the legacy to the executor via email. This email will:

- Confirm the receipt of the executor's cover letter/email and deceased's will
- State our understanding of the contents of the will
- State our expected entitlement as detailed in the will
- State that confirmation has been authorised by our named signatory
- Provide the bank details for which the money will be transferred to at completion of the legacy
- State clearly our contact details, this being the phone number and email address of the Grants and Legacy Officer.

If the executor has enclosed a cover letter that must be signed and dated by an FNHC signatory (often be the Director of Finance), then scanned and attached to the email.

If the executor has requested a signed letter on headed paper, it must be on a formatted letter template and headed paper should be used, the contents of the letter should clearly state the same information as included in the other bullet points above. This must be signed and dated by an FNHC signatory (often be the Director of Finance), then scanned and attached to the email.

In some cases, the executor may ask for the original physical copy of the executor's cover letter or the headed letter to be returned to them in the post as confirmation of receipt. Before posting any documentation it is essential that the signed executor's cover letter and the signed headed letter are scanned and saved into the newly created folder for this legacy. The postage envelope should be sealed and delivered promptly to reception for franking. In addition to sending documents by post, an email should be sent including the attached documents and the date of postage of the physical copies. The Director of Finance should be cc'd in on all emails confirming receipt and execution of a legacy. Sending the confirmation email is important as it is a contingency against letters becoming lost in the post.

Some executors may wish to do a security check to confirm our identity and the details they have been sent, this is usually done over the phone. When this occurs, ask the identity of the caller and ask what their call is concerning before divulging any personal or legal information about the legacy.

SOP 3 Legacy Management

Purpose

Pecuniary legacies are usually quickly resolved. In the case of other moveable and immoveable legacies this process often takes much longer and requires the involvement and input of FNHC.

Scope

This SOP is relevant to the SLT, the Committee, Head of Finance, Facilities and Premises Manager, the Grants and Legacies Officer, and covers the handling of moveable and immoveable legacies as well as management of residual properties.

Core Requirements/Procedure

Moveable legacies

Moveable legacies include pecuniary legacies (sum of money) and residual legacies (% total value of remaining estate).

Pecuniary legacies are typically processed by legal firms with no issues as these usually only require confirming details and arranging a bank transfer.

Residual legacies can often take longer to process as the legal firm needs to identify all the assets that make up the estate including bank accounts, investments and belongings. This can take a considerable amount of research depending on how well information about the estate was recorded. Where the estate includes many belongings that could have a significant value (e.g. an antiques collection), more involvement may be needed. It may be appropriate to ask for specialist valuations of items and collections, it may also be appropriate to look for specialist buyers for certain items rather than putting items up for sale at a general auction. The value of the estate may change as the estate is being executed, e.g. new investments/property is discovered, if FNHC are notified about any change in the value of the estate this should be communicated to the finance team using the update of legacy tracker which is regularly shared.

As beneficiaries of the estate, FNHC do have some say about how the residual estate is administered by the executor as if the executor is a legal firm all work done by the legal firm to administer the estate is deducted from the value of the final estate. With this in mind, it is important to consider when instructing a legal firm whether the high hourly rate of the legal firm will cost more than the extra income that could come from looking for remaining bank accounts/investments and maximising the sale value of any belongings. The Director of Finance in consultation with the Grants and Legacies Officer will make these decisions for small items and consult with SLT for any significant judgements,

Another consideration is in relation to the cost of legal firms administering an estate comes with requesting updates around administering the estate, as the time taken to respond to such

requests is also paid for by the charity. In general it is felt that making contact every three months is a reasonable compromise for keeping apprised about the status of an estate. Seeking updates on legacies every three months means that updates can be provided to the Committee on a regular basis. More frequent requests for updates should only be made sparingly unless there is a real concern about the handling of the legacy.

In many cases FNHC may be sharing the residual estate with other charities. In these cases it is important that FNHC works collaboratively with the other charities to find a compromise solution for decisions relating to the estate. It is important to consider that other charities may have overriding priorities, e.g. they may want to release estate funds as soon as possible whereas others may wish to maximise the value of the estate.

When an estate is taking a long time to finalise, the legal firm may offer to release some of the funds early as an interim distribution. FNHC and all other charities will need to confirm that they agree to an interim distribution. FNHC does not have a default position in interim distributions, the Director of Finance in consultation with the Grants and Legacies Officer may use their discretion to agree to an interim distributions if they feel it is in the best interest of the charity. If any interim distributions are received, these should be added to Donorflex as donations on the financial tab of the legacy. The Donorflex number for the transaction should be included in the 202xLegacyRAIDLog.xls. All donations should be marked as legacy income and either restricted or unrestricted. The comments should clearly identify that this donation relates to this legacy.

All correspondence by email regarding the legacy will be saved to the folder for this legacy.

Immoveable legacies

Immoveable legacies usually take longer to progress as they require a property to be sold.

How immoveable legacies progress depends on a number of factors such as if the immoveable estate is shared with other charities, whether there are sitting tenants in the property and the state of the property.

If FNHC is the sole beneficiaries of the immoveable state, the executor must Register FNHC as the title holder by applying to Public registry. Registry requires certain documentation, a valuation and the payment of stamp duty before the registration can be granted. If the property is shared between multiple beneficiaries then the executor must arrange for beneficiaries to have co ownership of the property through the court.

If the property has an existing tenant or a named individual has life enjoyment of the property, then FNHC are legally obliged to honour any commitments made in the deceased's will in relation to the tenant or occupier. If the deceased will stipulates keeping on a tenant, then FNHC will become a landlord, the landlords responsibilities sit with the Committee of FNHC. FNHC has responsibility for tenants, the Director of Finance will ensure that all relevant legislation is followed by employing professional managing agents to liaise with tenants. FNHC must pay any fees or

bills associated with maintaining a property in Jersey including standing charges (e.g. for water) and parish rates. As long term landlords, if FNHC are able to there may be justification to charge rent to tenants, this should be negotiated by the Director of Finance. The Grants and Legacies Officer and Facilities and Premises Manager will be able to advise about any known bills. The Director of Finance has responsibility for ensuring that the property is insured during the period of ownership.

In Jersey, the sale of a property cannot begin until 1 year a 1 day after registration with the public registry. FNHC's current position is not to hold on to immovable assets, these should be sold at the first available opportunity. With that in mind, each property should still be reviewed individually based on the current housing market. This position reduces FNHC's responsibility for maintaining a portfolio of properties. The Committee are provided quarterly updates on the status of all ongoing legacies within the Finance reports.

Sole ownership of immovable estate

FNHC will employ a professional estate agent to find a buyer for the property and a professional solicitor to legally sell the property. The estate agent and solicitor should be chosen at the discretion of the Director of Finance and the Grants and Legacies Officer based on cost, performance and professionalism.

The estate agent will remain in contact as the sale of the property progresses. The estate agent will evaluate the value of the property, they will produce a valuation report and will consult the Director of Finance regarding the price that the property will be put on the market. The estate agent will be in touch regarding interest in the sale of the property, if there is not a lot of interest it may be necessary to review the market price with the Director of Finance. The estate agent will report any offers to the Director of Finance who will seek consent from the Committee.

Once the sale has been agreed, the solicitor will be responsible for managing the sale of the property through the court. FNHC must abide with all onboarding requirements of the legal firm. The Grants and Legacies officer is responsible for collating all the necessary paperwork for legal onboarding and sale. The Facilities and Premises Manager may be required to provide information on the state of properties that have been managed by FNHC (e.g. those that have had a sitting tenant). The solicitor will confirm once all the necessary paperwork has been collected. All keys should be returned to solicitor's offices and final meter readings should be sent to the solicitors.

The solicitor will confirm court dates for the sale of the property. FNHC's most recently ratified constitution dictates FNHC's representation in court. The most recent constitution at the time of writing (2022), indicates that the chair of the committee with the full approval of the Committee is the only individual who can represent the charity in court.

Shared ownership of immovable estate – additional considerations

If multiple charities share a legacy this can also increase the time for the legacy to complete. In these cases key differences from sole ownership is that FNHC do not have sole power to pick the acting law firm or estate agent. In many cases the legal firm administering the deceased immovable estate may offer to sell the immovable estate and liaise with an estate agent. Agreeing the market price and the sale price is more difficult for shared property, as with the management of the moveable estate it is important that FNHC works collaboratively with the other charities to find a compromise price for the sale of the property. It is important to consider that other charities may have overriding priorities, e.g. they may want to release estate funds as soon as possible whereas others may wish to maximise the value of the estate. Another consideration for the sale of a shared property is less flexibility in relation to the court date, the FNHC representative in court is expected to do their best to find an agreed date.

In the case of shared property it is possible for FNHC to buy out other beneficiaries or be bought out by other beneficiaries. Buyouts can speed up the sale and reduce conflict between co-owners. Buyouts are at the discretion of the Director of Finance and the finance subcommittee.

All correspondence by email regarding the sale of the house will be saved to the folder for this legacy.

SOP 4 Settling of Accounts, Final Approval and Receipt of Funds

Purpose

Financial oversight and due diligence

Scope

Responsibilities when a property is sold; agreeing terms of service; approval of accounts and receipt of funds.

This SOP is relevant to the Grants and Legacy Officer, Director of Finance and Head of Finance.

Core Requirements/Procedure

Once a property has been sold FNHC are responsible for cancelling any insurance and utilities on the property. Also note that FNHC may also still be expected to pay parish rates for properties that the charity no longer owns if FNHC were owners on January 1st of that year.

The executor of the moveable estate (for residual legacies) and or the solicitor (for the immoveable estate) will determine all incurred costs in the processing the legacy, including their own fees and estate agents fees and any taxes/bills. The executor/solicitor will get in contact regarding the final standing of accounts and will state any deductibles that have been applied, a record of the final costings should be saved to the folder for this legacy. The executor/solicitor will seek final approval from FNHC that FNHC are happy with all costs. The Grants and Legacy Officer should seek approval from the Director of Finance before confirming that FNHC are happy with the terms of service.

Once final approval has been given by FNHC, the funds from the legacy will be transferred to FNHC. The legal firm may wish to confirm bank account details before funds are deposited. At this stage the Grants and Legacy Officer will inform the finance department to look out for the deposit of these funds into the account. The finance team will then confirm to the Director of Finance and the Grants and Legacy Officer that the funds have been received. If funds are marked as restricted in the legacy, this will be communicated to the Head of Finance so these funds can be marked as restricted.

The receipt of funds is effectively the formal end of the legacy and the legacy should then be filed as completed.

SOP 5 Closing the legacy

Purpose

The final process in the management of legacies is the closing of the legacy.

Scope

All legacy payments.

This SOP is relevant to the Grants and Legacies Officer, the Director of Finance and anyone involved in the financial audit.

Core Requirements/Procedure

The entry in the 202xLegacyRAIDLog.xls raid log should be updated. The entry should be marked as complete, all information such as the final amount received should be updated here. The entry in the raid log should not be deleted and instead should be archived in the spreadsheet.

The folder detailing all of the information for the legacy to be closed should be moved into the completed legacies folder.

L:\FNHC\Support\Business\Administration\FundraisingandCommunications\Fundraising\0.Legacies\Completed

The files should be reviewed to check for completeness. There should be:

- a copy of the will
- a copy of the original cover letter from the legal firm (signed – Director of Finance)
- a copy of return letter sent as confirmation of the receipt of the legacy
- copy of the transaction detail report from the FNHC bank account
- all correspondence from finance confirming the receipt of payment
- all correspondence with the legal firm

Immovable only:

- A copy of the valuation report for the sale of a property
- A copy of the Royal Court of Jersey document for the sale of a property
- A copy of the tax invoice from the legal firm
- A copy of the form of receipt (signed – Director of Finance)
- All correspondence with the legal firm including court dates, property offers, etc

Received legacy payments should be added to Donorflex as donations on the financial tab of the legacy. All donations should be marked as legacy income and either restricted or unrestricted. The comments should clearly identify that this donation relates to this legacy. Once the final payment has been received, the legacy should be marked as closed on Donorflex. The Donorflex number for the transaction should be included in the 202xLegacyRAIDLog.xls.