

WILLS MONTH

September is conversations about philanthropy

Helping your clients understand their options

BY **ELEANOR CATER**

It's starting to happen: the long talked about 'biggest intergenerational wealth transfer in human history' – from the baby boomer generation to the next – is beginning to take place.

It's a wealth transfer that, in New Zealand, is estimated to be over \$150 billion over the next 20 years.¹

Within families and within society, an immense amount of wealth is changing hands. It's also a significant moment in history for New Zealand: how we as individuals, and as a country, choose to channel this wealth could have a big impact on our nation's future.

It's also a moment in time where legal advice is key.

New research – bequests to charity are on the rise

At the same time as the baby boomers are asset and estate planning vis-à-vis their wealth, new research tells us that more people are leaving bequests to charity in their wills.

A recent study by the Fundraising Institute of New Zealand² found that around 5% of the public have already made provision for a gift in their will to charity, with a further 21% likely to or "considering doing so."

This trend is reflected overseas with bequests to charities growing across the world. New

data from the UK³ shows that charity legacies are growing at a rapid rate, rising 15% over the previous 12 months.

At the same time this research is becoming available, we are increasingly seeing, both in New Zealand and internationally, that will-making is on the rise⁴ and that baby boomers are becoming more strategic with their giving.

It's a moment in time that having informed and meaningful conversations regarding philanthropy are becoming an important part of the asset and estate planning service offered by lawyers.

The role of lawyers – informed conversations about philanthropy

In the current environment it's crucial that the legal sector is adequately informed and confident about having conversations regarding philanthropy.

In our line of work, it can be surprising at times to hear slight hesitancy from lawyers to start these conversations. Perhaps there is something in the Kiwi psyche which has us avoiding conversations about the trio of death, money and philanthropy. However, we find that most Kiwis do like to discuss, with a trusted professional advisor, the idea of leaving a legacy. And, while ethically lawyers certainly cannot advise clients which charities or causes to support, they can be discussing their clients' philanthropic hopes and dreams, and advising their clients about the giving options available to them.

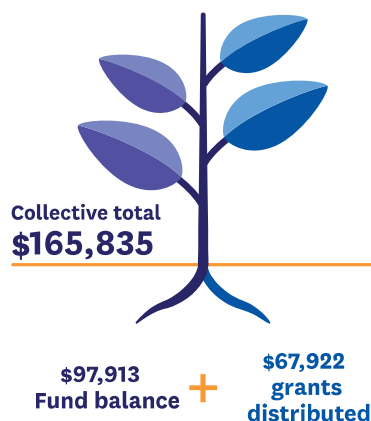
It is certainly part of any property, asset and estate planning lawyer's role to be listening for cues from their clients and to help them to make informed decisions regarding the philanthropic choices available to them.

The most common times to have conversations with clients about philanthropy are when a will is being written or

2003 - The Edna Brown Endowment Fund established



2021 - after 18 years



2033* - after 30 years



*Estimate growth rate of 6.5% for future years and annual distribution of 4%.

▲ An example of an actual invested endowment fund with Acorn Foundation, with actual and projections of how it can grow and give over time.

changed, which may be as part of routine asset and estate planning, or following life's milestone events (such as a house purchase, divorce, widowhood or diagnosis with a terminal illness).

The options to give to charity

Interestingly, research around the world consistently signals that the main reason people do not leave a bequest to charity in their will is because they "didn't know it was an option."⁵ Many people also do not know of any other options beyond traditional charity giving, or a direct donation to the charity itself.

In New Zealand, there are essentially three options for your clients when they are considering leaving a bequest to charity:

1. Direct donations to charities or causes of their choice;
2. Personal invested (endowment)

or other donor-advised fund (where the income can be directed to charities or causes of their choice); and

3. Establishment of their own charitable trust.

Option 2 above – personal invested endowment funds – are by far the least known option for charity bequests, and this is where Community Foundations, or a commercial Trustee Company, comes in.

What are Community Foundations?

Community Foundations are not-for-profit organisations that run a local service for personal philanthropy. Their model protects the capital, invests donations for the long-term and gives the income back to communities.

Community Foundations are a worldwide movement, which began in North America more than 100 years ago. Today, there are more than 1800 Community Foundations worldwide, with 17 of them across New Zealand, all with a mission to grow local philanthropy.

How does it work? Essentially, donations are invested in individual endowment funds and pooled together, with the investment income going back to communities, each year. Clients can choose areas of particular interest, or even specific charities to support on an ongoing basis.

For clients, Community Foundations provide a robust structure to set up their own personal invested fund, without commercial fees. Community Foundations have all the existing governance, management and distribution structures already in place; it's a bit like offering clients the option to have their own charitable trust, without any of the hassle of governance, compliance and succession.

Property, asset and estate planning lawyers will know that many New Zealanders struggle to find a home for their wealth, and to be informed

and (importantly) strategic about their giving. In many instances Community Foundations can offer a good solution, and peace of mind, during the asset and estate planning process.

Community Foundations are a relatively young movement in New Zealand, which only really started to take off around 20 years ago with the establishment of The Acorn Foundation in Tauranga.

The Acorn Foundation

At less than 20 years of age The Acorn Foundation already has over \$60m in invested funds and a 'pipeline of anticipated bequests' stretching into the hundreds of millions – this, in its youth, and all from local generosity (in the main, bequests).

It's a Foundation dedicated to working with generous locals to look after the current and future needs of the Western Bay of Plenty.

More and more Kiwis are taking up tailored philanthropy services through New Zealand's network of 17 Community Foundations, today with over \$230m invested in current funds and over 600 bequests already made, for future funds. Across New Zealand the Foundations are growing at a rapid pace – collectively at around 20% each year – and are now a network conservatively estimated to be worth over \$750m (including the 'pipeline of anticipated bequests').

What can lawyers do?

Lawyers are in a very privileged position, as part of the asset and estate planning process, to advise clients about philanthropy. However, legal education doesn't explicitly cover this specialist subject. At the very least lawyers should be in the position to start conversations regarding philanthropic options for clients, and

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then refer to an organisation such as the local Community Foundation for specialist expertise, when required.

Lawyers can, as part of the will-making process, start to have conversations about philanthropy by asking two simple questions:

1. "Have you considered leaving a gift in your Will to benefit a charity or cause that you care about? It's something other people do."⁶
2. "Do you know about the options to give?"
 - Direct charitable donations to charities of your choice;
 - Personal invested (endowment) fund (which you can set up with your local Community Foundation or via another donor-advised fund) to benefit charities of your choice, or
 - Establishment of your own charitable trust.

These two simple questions can lead to a big conversation, and help your clients consider something very meaningful, to think more strategically about their giving, and potentially make their generosity last well beyond their lifetime.

It doesn't take much more than a real interest in a client's hopes and dreams, and an understanding of the different giving options available, to have a meaningful conversation about philanthropy. Try it this Wills Month in September, and beyond – you might be surprised where the conversation leads, and the joy that giving well can bring to your clients. ■

Eleanor Cater is Director of Membership Services for NZ's Community Foundations network, and a local philanthropy advisor in Wellington. See more at www.communityfoundations.org.nz

1. Source: Philanthropy NZ
 2. 2021 research by FINZ and Perpetual Guardian
 3. UK Legacy Foresight's benchmarking programme March 2022 -<https://www.legacyforesight.co.uk/>
 4. 2021 research by FINZ and Perpetual Guardian
 5. Include A Charity Australia 2018
 6. UK 2016 Legacy Giving and Behavioural Insights Research showed that social framing (e.g. "it's something other people do") is a powerful prompt for enabling giving.