



**PUBLIC TRUSTEE
AND GUARDIAN**

PETS AND WILLS

Australians love their pets. In fact we have one of the highest rates of pet ownership in the world! It is no surprise then that people consider pets as part of the family, yet many of us have not given thought to what might happen to our pets if they outlive us.

So how can you make sure that your pet is looked after when you die?

Under Australian law animals are classified as property therefore you can state in your Will how your pet is to be cared for.

Look at the options discussed below and think about what would best suit you and your pet.

Create a pet care plan – and share it

Write a detailed list of everything associated with caring for your pet. Include dietary restrictions, favorite toys and even temperament issues. All of this information will help identify friends or family members who may be up for the task.

Ways to provide for your pet in your Will

If you do not make provision for your pet in your Will the residuary beneficiary will inherit

your pet. If you do not have a valid Will when you die your pet will go to your next of kin.

You can specifically provide for a pet in these ways:

1. gift your pet to a friend or charity;
2. give your pet and a sum of money to a friend or charity ;
3. gift your pet to a friend or charity and establish a trust under your will where your trustee holds funds to be used for the benefit of your pet throughout your pet's lifetime.

Gift of your pet

The simplest provision for a pet under a will is to gift a pet to a trusted friend or charity.

You may consider coupling this gift with a request that your friend or charity either look after your pet in a particular way or make arrangements for your pet to be re-homed. Your request is not binding, it's more like guidance.



**PUBLIC TRUSTEE
AND GUARDIAN**

Gift of pet and money

If you gift your pet and money you need to consider whether you give any direction about how that money is to be used.

You may give the money with a request that the money be used for the care of your pet or used to care for your pet in a particular way. A request is not binding - you trust that your friend or charity will follow your guidance.

You may give the money on the condition that the friend or charity first agrees to use the money in the way that you have directed. A prudent Executor of your Will would then ensure that the beneficiary does agree to use the money in the required way but at a practical level there would be no continuing supervision ensuring that the agreement is adhered to.

The gift of money can be made through a legacy programme with an animal charity. Under these programmes a gift of money is made to the charity to either re-home your pet or to place them in a facility that these charities operate.

You must contact the charities to find out the requirements for you to take advantage of their "pet legacy programme". For your peace of mind you may also wish to visit their facilities

to ensure that your pet would be happy with the accommodation.

Testamentary Trust

The most secure way of ensuring your gift of money is used to provide for the continuing needs of your pet is to establish a Trust under your Will for the care and maintenance of your pet.

A trust must comply with certain legal rules which your Public Trustee and Guardian advisor will discuss with you. However there are a few practical matters you should think about if you wish to set up a trust in your Will for your pet as follows -

Putting aside sufficient money in the trust to cover your pet's lifetime needs, with further instructions about what happens to any unspent funds once your pet passes away;

Naming someone reliable who is prepared to care for your pet and obtaining the consent of this person. You may also wish to consider appointing a substitute carer in case the first carer cannot or will not take on the role;



**PUBLIC TRUSTEE
AND GUARDIAN**

FACTSHEET

The identification of your pet over the term of the Trust;

Animals are classified as property under Australian law and a trust for the maintenance of a pet will not be enforced by an Australian court if the trustee is not prepared to carry out its terms. It is important that you choose a trustee who is wise and dependable and will genuinely carry out the terms of the trust; and,

Remember to give your trustee relevant written information about your pet's behaviour and needs (including any veterinary needs).

Practical Tips

To calculate a suitable gift of money, consider the breed, then estimate life expectancy times annual expenditure, and remember that older pets are more expensive,

Create an emergency contact list that includes friends or neighbours who can quickly reach your pets. Carry a copy in your wallet or purse just in case and inform the Executor of your Will.

Consider the impact on your pet if you were to lose capacity to care for them. It may be a good idea to leave your Attorney appointed under an Enduring Power of Attorney with instructions as to how to care for your pet in the event you no longer have the capacity to do so.