

# What If Your Pet Outlives You?

(Part 1)

Most of us can barely cope with the passing of a beloved pet but almost none of us are prepared for what needs to be done for our pets if we pass away. Legally, a pet animal is considered tangible personal property like your car, furniture or stereo and if you have not made specific legal plans to be followed, your pets would pass to your beneficiaries or the heirs of your estate, which may mean relatives who might be unable or unwilling to deal with them.

This came home to Lisa and myself when her mother died suddenly last year on the eve of an overseas trip. Though she had a will, she had not left instructions on the disposition of her beloved animals, nor had she a plan and finance in place to take care of them on her passing. Her dog languished in a kennel for a few months as no-one in the family wanted to take the nine-year-old Maltese with health issues in until the kindly kennel owner managed to rehome it. The bird ended up with a daughter - probably not the way Mum would have wanted it, but there was little choice.

In planning for the care of a pet or pets in the event of the incapacitation or demise of a sole owner or the possible accidental death of a husband and wife, there are two things to consider - the long-term rehoming and care as well as the immediate needs. We'll outline ways to rest easy with both, but it takes advance planning and leaving behind documents that outline your desires.

You might have read of New York hotelier Leona Helmsley's decision to leave \$12 million in a trust to have her brother take care of her dog Trouble, which would be buried upon its passing next to her in the lavish family mausoleum. The money left over is destined for animal charities, but the conditions of care are very precise and thoughtful.

British singer Dusty Springfield stipulated that her cat Nicolas was to listen to her recordings each night at bedtime, to have his sleeping area lined with Dusty's nightgown and to be fed only imported baby food. Tobacco heiress Doris Duke left \$100,000 in trust for her dog with a caretaker. And Betty White, who played Rose in TV's "Golden Girls", is leaving her estimated \$5 million estate to her animals. Oprah Winfrey has made plans to assure her pets are cared for in luxury upon her death.

We're not millionaires but even they can make mistakes that result in tragedy for their pets. John F Kennedy Jr was known as a dog lover and had two beloved rare hounds with his wife Carolyn Bessette. The couple died in a plane crash in 1999, but when the four-page will was read nine months later there was no provision for the care of the two dogs. A family caretaker adopted them without any money being left for their care, feeding and eventual vet bills.

A California woman who passed away had two cherished parrots. The family had no idea what to do with them and could not take care of the birds. They had called local animal shelters but none took birds or could offer advice. So the adult grandchildren took the birds to the funeral and broke their necks, placing them in the coffin with her. Another sad story is of a man who had a cherished dog which upon his passing was taken care of by neighbours who thought it best the dog remain at home. But no-one knew he also had an indoor cat which had been hiding inside and wasn't discovered until a month later, when it was too late.

Estimates vary but anecdotal evidence is that less than 20% of pet owners mention their animals in their will (if they have one!), assuming family members will take care of them. Fewer than 2% of pet owners actually make any specific legal provision for funds to support their pets. Pets cannot be left money or property in a will - animals cannot be beneficiaries - the funds and instruction must be left to a person to carry out or to an organisation. In some cases, those supposed to care for the animals



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may predecease the pet owner, or an organization that has accepted care when approached before the person's death may have a change of policy subsequently under new management.

So with these stories in mind, there needs to be three sets of plans optimally to provide for the care of pets from the time of one's passing through the probating of a will and the execution of a pet trust. However, a pet trust can also be established that takes effect regardless of the probating of a will, providing it is funded and has a caretaker and trustee. It's not hard to do.

How long a pet can live and what the financial needs for its care might be are often overlooked, especially with increasing vet bills as it gets older and experiences limits to quality of life. While dogs might live to 11-18 years at most, larger parrots like the popular Eclectus and Amazon easily can live past 40. Cockatoos have been known to live over a hundred years, often passing through several generations of human families. Surprisingly, among the longest-lived pets are the humble turtle, which can live half a century, and the tortoise, with a lifespan of far more than a hundred years.

Lisa and I know we're not going to live forever. I'm 57 and might make 65 if lucky, while she is far younger and healthier than I was at that age. Yet since we drive and fly together all the time, there is a far greater likelihood than most couples that we might be unlucky enough to be in an accident. So we've had to draw up a plan that not only takes into account what might happen if one passes away, but also if we should die together, or even if one might linger for up to a month before joining the other (hopefully!) We're not morbid, nor anal, but in that potential final few minutes as the plane is hurtling to the water, we'd rather not be thinking, "Crap, what about the animals?!"

We've both had a plan in place for our duo of Dalmatians and pair of parrots - the latter of which we know will likely outlive both of us. But we had to change the will when Lisa's mother passed away as a primary beneficiary, and we had to rethink not only how we wanted our pets cared for in case of our mutual demise in an accident, but also how we wanted to structure our estate to benefit our chosen pet charities, since we are childless and parentless.

So the first thing we decided was not to leave the pets to family. We would have to choose a caretaker and a backup for the dogs and parrots separately. And we would have to leave some money to take care of them in a trust that would operate in the interim until our wills were probated, with money from the estate being directed to top up the trust for longevity.

Next we had to decide what to do with our personal property, real estate and proceeds from the sale of our business interests, and where we wanted this money to go. For me, with no family, I didn't have to worry about it - Lisa would get it all with the exception of a few gifts to close friends. She, with four sisters, nieces and nephews, would leave some personal gifts including treasures from her handbag, sunglasses and shoe collection (OUCH! She just hit me!!) to her relatives.

But the most important aspect of our will structure was what to do with the money. We needed to be careful in our dispersal of it so that there would be no challenge from some family member feeling slighted enough by not getting a share as to mount a protest. We elected to give most of the proceeds to a variety of charities, with the remainder funding our pets' happy lives through the trusts. We weren't wacky about this at all, just precise in planning to take in all eventualities.

For example, a significant amount of the estate will go to the University of Sydney Veterinary Hospital near us. It has done a lot of pro bono work and endeared itself to us in the care and passing of Mick, our first Dali together, which was honoured with a mounted memorial bowl in their garden. Another amount is set aside for a rescue organisation that was instrumental in saving Lilly, our current lead Dali. We chose it over the RSPCA since it is not as visible as its bigger counterpart and we are more in tune with its mission.

So, how to do this? You will need a lawyer, as a will, power of attorney in case of incapacitation, and trusts must be set up right to be probated properly. It may sound complex, but it's surprisingly easy to do. If you are planning to donate a bequest to a charity, you may find that they have consulting legal representatives who can assist with the donation as part of a will structure.

The first thing to start out with is a pet identification system that can easily be used to differentiate your animals from any others. Carry a laminated pet card for wallet or purse that gives instructions in case of your injury, incapacitation or death.

The pet identification system is relatively simple. You can start by taking pictures of your pet and labelling each shot with their names, approximate age or date of birth, recording the microchip number also if you have it. Bring out the video camera and tape a running commentary on the idiosyncrasies of the pet, its habits, special dietary requirements, any medical info and what anyone might need to know about its demeanour, likes, dislikes, exercise routine, favourite toys, sleep patterns, etc. Mark the video with the pet name(s) and keep with photos in a Pet File.

The Pet File is a folder that is easy to access and contains quite a bit of paper information. This should also be entered on your computer, as should copies of records from vets or other data. Information that should be included is emergency phone numbers and names of veterinarians, pet sitters or boarding kennels you have used, plus contact information for friends or neighbours you trust that could be called to assist with your companion animals. Does the pet have any special medical or dietary requirements? Are there any social or behaviour issues? What type of food does the pet eat and how often? These records need to be updated in print as well as on a computer file - yearly if the pet is relatively young and biannually if it is a senior.

There is a product called a USB drive that can contain the data and is small enough to be attached to the dog's collar. This also helps if the pet is lost. It can be plugged into any computer to access the files for identification or care details.

Of course, basic information should be in the file, such as a pet vaccination records, microchip details, and pedigree, registration or other details that will identify it, including whether the pet has been neutered and any relevant medical records. Then you need to have this file easily accessible to those you would choose and who would agree to take care of your pets in case of your incapacitation. You might also put a note on the fridge or house noticeboard indicating where the pet file is, with photos and video.

The next step is the pet card to carry with you. On one side you would have the following information and on the other the location of the pet file in the home.



**ATTENTION: IN CASE OF EMERGENCY**

I, \_\_\_\_\_, have pet(s) that are in need of immediate attention located at \_\_\_\_\_.

If I am unable to return home to take care of my pets due to death or hospitalisation, I ask that you please contact at least one of the following people as soon as possible and provide them with any information concerning my condition and whereabouts:

Name: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Not getting morbid here, but you will find these liberating steps to assuring yourself you are ready for any eventuality. And either you will die or your pet will. It's just a matter of time. So now you have to elect the person (or possibly organisation) that will make sure your wishes are adhered to if you go first.

The next step is to nominate a pet caretaker who agrees to take on the responsibility - temporarily or permanently - and who you trust is physically and emotionally capable as well as compatible with the pets and their needs. And one question to think about carefully is will they be able to handle your pets in 10 years time or longer? You need to prepare your caretaker just as you have with the file so that they are fully aware of their responsibilities and confident they can take over.

This is where the first outlay of money is going to happen. You need to calculate a reasonable amount for a period of time, whether you are hospitalised or pass away, in which initial expenses for a caretaker can be covered. It takes about six months to probate a will, so you need to compute the amount to be left behind in a trust (we'll get to constructing that in the next issue) that can be accessed during this period, or if you are not able to care for your pets, for the same period if you are hospitalised.

In our case, the initial amount per animal is about \$100 a month for food and \$500 annually for vet bills as a contingency. One of our dogs is insured, the other not, and our birds can't get pet insurance. So reasonably, we have a fund of \$5,000 set aside which would easily cover six months, with an extra 20% contingency which might be for short boarding or transport expenses. If properly set up in a power of attorney or as part of a trust, this amount is not subject to probate of a will.

This article will be followed in the next issue with more detailed information on setting up a trust structure and will. You can do this now, having read the first piece, by seeking qualified legal help. If you have a current will, consult with your family solicitor about changing it and incorporating a trust fund. Do not attempt to do this yourself using form wills or templates.