

Who will inherit your home? Important things to consider

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If you aren't familiar with the intricacies of Jersey property law, the issue of property inheritance can be a confusing one. Many people simply don't realise that special provisions may need to be made and certain procedures followed, to ensure that their house or flat will be inherited by the correct people.

Firstly, it's important to realise your Jersey home can be classed as either a movable asset or as an immovable asset. Most people presume that their home is an immovable asset, but if you purchased your home via a share transfer agreement, then it will actually be a movable asset. This is because under a share transfer arrangement, you own shares in a company and these give you the right to occupy your home, rather than you owning the home directly. Any lease shorter than ten years is also classed as a movable asset.

Property that is considered to be an immovable asset on the other hand includes freehold property (where you own the property and the land it's built on), flying freehold property (where you have sole ownership of a 'lot' or 'unit' and a ownership in common of the common areas of the building such as shared access ways and the building's structure) and long-term leases (that is, leases in excess of nine years).

It is crucial that you establish whether your home is classed as a movable or immovable asset, because this has a significant impact on the succession of it. If you die without leaving a will (known as dying intestate), the people who inherit your home may differ according to whether it is classed as a movable or immovable asset and may not be who you would wish to inherit.

If you own both movable and immovable assets in Jersey then you should make two separate wills, one for your immovable assets and a separate one for your movable assets, to ensure that your entire estate is inherited by the people that you want to be your beneficiaries. Making a will of Jersey immovable estate has additional elements to consider as in order for it to be valid it must be read out loud to the person making the will (the testator) by a qualified Jersey Advocate or Solicitor or if the will is signed outside of Jersey, it must be read out loud to the testator by a notary. This quirk dates back to when literacy was nowhere near as common as it is today, but it must nevertheless be observed, otherwise the will is invalid.

If you do not have a valid will to cover your home then the Wills and Succession (Jersey) Law 1993 will determine to whom it will pass upon your death and it should be noted that this law does not currently make provision for step-children or a common law partner to inherit.

This isn't an area that you should leave to chance. It's important to spend some time getting your affairs in order, so that you can have the peace of mind that your wishes will be carried out after you're gone.

For property law advice call the Ogier property team on 01534 514111 or email info@ogierproperty.com. Alternatively, visit us online at www.ogierproperty.com

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