

## Channel Island Wills for non-Jersey domiciliaries

**Briefing Summary:** We provide a comprehensive Will drafting service for clients who are domiciled outside Jersey and Guernsey but who have movable assets situate in the Islands. Jersey and Guernsey movable assets can include bank accounts in the Islands, stocks and shares in companies incorporated in, or with their Registrars based here in the Islands and other tangible assets. Jersey and Guernsey are not part of the United Kingdom and are separate independent jurisdictions for probate purposes.

**Service Area:** Private Client, Trusts and Private Wealth, Estate Planning, Wills and Inheritance

**Sector:** Trust and Company Business

**Location:** Jersey

**Created Date:** 05 December 2023

### Do I need a Channel Island Will?

It is not essential for you to have a separate Will to cover your Channel Island assets especially if you already have a validly executed Will which covers your entire estate, including Jersey and Guernsey, and which is validly executed. However, there are certain benefits to having a separate Channel Island Will in place.

When a person dies leaving assets in the Islands with a value over £10,000, the asset holder will require a Jersey or Guernsey Grant of Probate or (if the deceased did not leave a Will) Grant of Letters of Administration to enable them to release the assets to the Court appointed personal representative/s of the deceased. The Grant provides assurance to the asset holder that they are accepting instructions from and releasing the funds to the correct and legally entitled person and it protects them against claims from other sources.

In Jersey, the person entitled to apply for the Grant of Probate or Letters of Administration is required to make a personal appearance in the Royal Court of Jersey in order to swear the necessary Oath. If this person is unable or unwilling to travel to Jersey in order to do so, they will need to appoint a local agent to attend the Court appointment on their behalf.

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If there is a Channel Island Will in place that appoints a local executor, this process is much easier and is therefore a more time and cost effective way of dealing with the Channel Island estate. If we are the local executor appointed in the Will and hold the original Will in our safe custody facility here in Jersey, we will only need a death certificate and details of the Channel Island assets before we can then make the Court application, obtain the Grant and realise the assets – all done within a few weeks.

If a person passes away leaving only one Will covering his worldwide estate, the normal procedure is for this Will to first be admitted to Probate (or equivalent) in the Court of his country of domicile. The original Grant (or equivalent) issued by this Court, or a Court sealed and certified copy, will need to be obtained for use in the Jersey or Guernsey application. A number of other documents are also required before the application can be made. This adds time and expense to the probate procedure. If a person has multiple Wills, these can be admitted to Probate concurrently in the jurisdictions in which the deceased person holds assets which can make the administration of the whole estate easier and quicker.

## What can the Will cover?

A Will prepared by Carey Olsen will cover your assets in both Jersey and Guernsey. It can also be extended to cover other offshore jurisdictions in which you may have assets such as the Isle of Man. If you wish us to extend the Will further to cover assets situate in jurisdictions outside your country of domicile, we can offer additional advice when we know the nature and location of these assets.

If you own immovable property (real estate) we strongly advise that you instruct a lawyer qualified in the law of the country in which the property is located to prepare a Will to cover that property. The succession of immovable property is generally governed by the law of the country in which the property is located rather than the law of your country of domicile so it is important to ensure your Will is properly valid to deal with your property.

## Domicile

It is advisable to record your legal domicile in your Channel Island Will. If you are domiciled in Australia, Canada or the United States of America, we will need to know which state or province you are domiciled in.

Your domicile for probate and legal purposes may be different from your residence. It is where you consider your permanent home to be, and will usually be where you intend to retire to and spend your final days.

It is important to properly establish your country of domicile as the rights to inherit and gift assets are usually governed by the provisions of the law of your country of domicile and will also determine the validity of any claims that may be made against your estate after you die. The laws of your jurisdiction of domicile may also determine the taxes that are payable on your worldwide estate.

## Executors

An executor is the person named in the Will and who is charged with the responsibility of collecting in your assets, paying any debts and distributing the balance of the estate to your beneficiaries. You can appoint one or more individuals to be your executors and they may be members of your family and/or beneficiaries of your Will and/or family friends or professional persons.

Carey Olsen Executors Jersey Limited is our in-house executorship company and provides an independent executorship service if required. If the Will is dealing with your Channel Island assets, it is recommended that we are appointed as executor to simplify the process of obtaining probate in the Islands.

## Beneficiaries

We will require the full names and addresses of all your beneficiaries, their ages and dates of birth if they are under 18 and the maiden names of any married women mentioned in your Will. Your beneficiaries may consist of individuals, charities or trustees of a trust.

It is usual to name one or more primary beneficiaries (such as spouse or children) and then substitutional beneficiaries (such as grandchildren, parents or siblings) who will inherit in the event of your primary beneficiaries predeceasing you.

If any of your named beneficiaries change their address or name due to marriage, it is useful for us to be informed in order to ensure our records are kept up to date but your Will does not need to be updated.

## Client identification

Anti-money laundering legislation in Jersey requires us to obtain client identification for our clients in the form of a certified copy passport or driving licence (photographic ID) and a utility bill or bank statement confirming your residential address for our file.

## Assets

It is useful for us to have a list of your assets and where they are situated to ensure that your succession needs are fully covered. We do not list these in your Will as they are subject to change but they are a useful starting point for your executor when it comes to administering your estate.

Any assets that are in joint names will normally pass automatically to the survivor but without Wills in place it can be uncertain who inherits if joint asset holders die together, for instance in a common accident.

## Digital assets

The internet is increasingly becoming the main storage point for our financial and personal lives. Digital assets include financial and social media resources, blogs, auction sites, gaming, bitcoins, copyright and image rights, domain names, websites and cloud storage.

We encourage our clients to prepare a digital asset log together with written instructions for their executor about what should be done with their digital assets following death. The log and instructions may be stored safely and confidentially alongside your Will.

## Costs

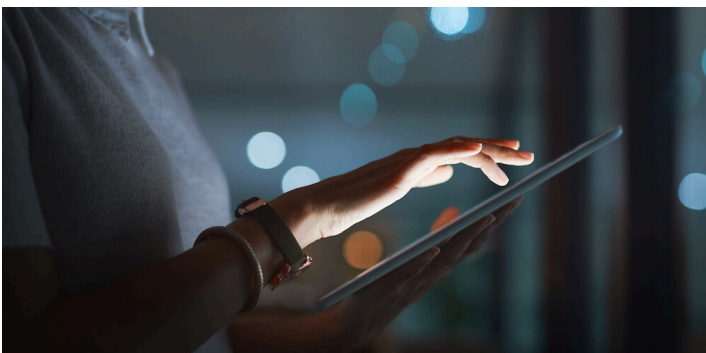
Our fees for drafting a Will are time-costed at the fee earners hourly rate. For a straightforward simple Will the cost is likely to be from £800. If the Will is more complex, requires trust clauses to be inserted, or if extensive legal advice is sought, the cost may exceed this. The drafting of a Discretionary Trust or Will Trust is likely to cost approximately £1,500.

## Storage of Wills

We have a safe custody facility in our offices where we can keep your Will at no extra charge. It is inadvisable to store your Will at home where it could get lost, stolen or inadvertently destroyed.

*Carey Olsen Jersey LLP is registered as a limited liability partnership in Jersey with registered number 80.*

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