

Digital assets after death

It is sensible for every adult (the Testator) to write a Will, so that after their death, their affairs can be dealt with by people they trust (their Executor(s)) as simply as possible, with the assets directed to those they wish to benefit (the Beneficiaries).

Whilst property and investments are considered by most people, not everyone will think about Digital items such as ebooks, online photo albums, loyalty points and social media accounts. The named executor of a will has authority to deal with all aspects of an estate. Whilst it is not compulsory, separate digital executor may be useful where a testator wishes someone who is more comfortable with computers and the online world to deal with that aspect of their life after their death.

Computer Misuse Act 1990 makes it a criminal offence (a fine or an imprisonment for a term not exceeding two years or both) for anyone to gain unauthorised access to any computer device, and this includes using another person's password without their permission or prior authorisation. This can complicate the distribution of any digital assets in accordance with the deceased's wishes.

The Law Commission has recently acknowledged the challenges posed by accessing a deceased's digital assets and reforms such as Digital Devices (Access for Next of Kin) Bill are currently underway.

If you have any digital assets you should produce an up-to-date letter of wishes detailing all digital accounts and should specify what you want the digital executor to do with each account such as instructions for photos to be passed to family members.

The letter of wishes should be secure and easily accessible on death, but should not contain passwords. It should be kept with the Will or retained in a "digital vault" with

details of how to access the vault. The letter of wishes should not conflict with the content of the will.

Types of digital assets to consider

Cryptocurrency access requires a private key and for security reasons, this key should not be shared with anyone. (There are cryptocurrency insurance firms which offer a will service providing safe solutions to access your currency).

PayPay will only take instructions from the Executor of an estate.

Digital music/films/books cannot usually be sold or transferred. If digital photos are stored on a cloud, then you may be able to leave someone access to these. (Apple recently included a digital legacy program so that you can designate up to five who can then access your data and personal information stored in iCloud).

Email - Google's inactive account manager can be used to pass over your accounts such as email, YouTube, and Gmail when you die. It will send a notification to a chosen contact if your account has not been used over a certain period of time.

Facebook and Instagram, will allow you to choose a legacy contact who looks after your account if you want it memorialised after your death. These contacts can add a pinned post to your profile, update your profile and cover photo, and request the removal of the account. They won't be able to log in to your account, read your messages or remove any of your friends and make new friend requests. You might want your social media pages to be deleted, but unless you discuss this beforehand, your loved ones won't know what to do.