



Renaissance Legal

Helpful definitions

A quick-reference guide to some of the key aspects of what we call digital assets.

Cryptocurrency

a digital asset designed to work as a medium of exchange that uses strong cryptography to secure financial transactions.

Social media

websites and applications that enable users to create and share content or to participate in social networking.

Internet service provider (ISP)

an organisation that provides services for accessing, using, or participating in the Internet.

Digital Executor

the person who manages your digital assets when you die.



Digital Assets

As we move to a more tech-focused society, the majority of people will have a number of digital assets that will need to be taken into consideration when they die.

In terms of the law, this is still a developing area that has not been updated in line with the rapid growth of our digital use. As a result, there is no textbook answer on how a person's digital assets should be dealt with following their death, however in this information sheet we will explain some of the key issues that need to be considered.

What are digital assets?

Digital assets can be divided into three aspects:

1. Digital assets with financial value such as accounts with PayPal, eBay, cryptocurrencies (Bitcoin), gaming credits and domain names;
2. Digital assets with social value including Facebook, Twitter, LinkedIn or Instagram; and
3. Digital assets with sentimental value such as iTunes, family photographs and videos.

Making a Will

When making a Will, as well as reviewing your digital assets, you will have the chance to:

- State your funeral wishes;
- Say who will administer your estate and any trust created;
- Appoint guardians for children under the age of 18;
- Provide for family, friends and charities;
- Make specific gifts;
- Create trusts;
- Tax plan.

Should I include digital assets in my Will?

Digital assets that you own and have financial or tangible value will form part of your estate when you die and you should set out in your Will who you would like to benefit from these assets. You can include a specific legacy clause in your Will to deal with these assets.

For digital assets that have intellectual property rights, such as literary, music or artistic work, you may wish to appoint a separate Digital Executor to administer these assets and any royalties received. Alternatively, you may just need to ensure that one of your appointed Executors are digitally literate.

Usually, digital assets with no financial or tangible value will not be included in your Will as you do not have the right to transfer them. Examples include digital assets with social value, domains that are licensed, subscriptions and memberships.

Despite this, some online services allow you to make arrangements for what happens to them when you die. For example, accounts such as Facebook provide you with the option to appoint a legacy contact to manage your account, this could be your Executor. You can then leave instructions in the form of a Letter of Wishes for your Executors to either shut down or memorialise your social accounts and leave a specific message from you to your friends and followers.

Your Executors will need information on how to access your digital accounts in order to follow your expressed wishes.

How can your digital assets be accessed

In some cases, a person's digital assets may be difficult to access or even find. The Law Society recommends making a digital inventory detailing online assets, social media accounts, logins, password and keys for cryptocurrency accounts. This should be kept up to date and a hard copy can be stored with your Will allowing your Executors to trace your digital assets and pass them on to your loved ones.

Password management services allow you to store your usernames and passwords which can only be made available to a nominated person after your death. This type of service is offered online for a fee.

Complementary Services

When making a Will it is a good opportunity to review your financial circumstances, any tax planning you have in place and consider making a Lasting Power of Attorney.

As lawyers we are not permitted to provide you with financial planning advice.

Renaissance Financial, our dedicated financial services company, provides tailored financial advice for families, individuals, Trustees, Deputies and Attorneys.

A separate, FCA-regulated company, the expert team at Renaissance Financial provide investment and wealth management services, including retirement and Inheritance Tax Planning, as well as the financial management of Trusts.

There is a commercial arrangement between the shareholder of Renaissance Legal and Renaissance Financial, however there is no obligation on our clients to use the services of Renaissance Financial.

Our team of welfare benefit experts can help with benefits including Disability Living Allowance (DLA), Personal Independence Payment (PIP), Employment and Support Allowance (ESA), Universal Credit, Carers Allowance, and others.

Also, Google has an Inactive Account Manager which allows a Google user to authorise someone to download emails and other information if, for example, the email account has not been accessed for six months.

So that your digital assets with sentimental value such as family photographs and videos are not lost after your death, it would be practical to have back-ups and hard copies for your family to keep.

Most people nowadays have a digital aspect to their life which is why it is important to leave arrangements for your Executors to know how to deal with them and access your accounts.

Security

With some online services, we tend to agree to their terms and conditions without really considering what we are agreeing to. This can restrict our use of that particular digital asset or service. Whether or not the ownership of that asset can be transferred to a loved one is dependent on the policy of the Internet Service Provider (ISP) in which the account is held.

You should check their terms, which should cover leaving your account details to others. For example, an iTunes or Kindle account does not give you ownership of the content, you are effectively leasing this during your lifetime. You can leave your iPod or Kindle under your Will, however, you cannot leave the details to access your account. The risk is that you could breach the ISP agreement which could result in the ISP suspending the account completely.

Also, certain subscriptions and memberships online can be difficult to cancel or close down if your Executors are not permitted to access your accounts. It would be sensible to review your rights on death and your responsibilities as the account holder when putting in place your Will.

Unfortunately, leaving your digital accounts unattended following your death could lead to the account being hacked or used to spread spam messages or generate false content which could be upsetting for your family and friends.

Declaring values to HRMC

Assets with a financial value, such as the cryptocurrencies or gaming credits will need to be included in the total value of a person's estate, particularly if the estate is subject to Inheritance Tax. They will need to be valued correctly as the values are submitted to HM Revenue & Customs for approval. This may not be as easy as it sounds as you will need to consult a specialist valuer.

How can Renaissance Legal help?

Leaving instructions for your digital assets can remove uncertainty for your loved ones and enable your Executors to follow your final wishes.

We will guide you through the provisions that can be put in place to specifically document what you would like to happen to your digital assets and who you would like to leave them to when you die. Please contact us on 01273 610 611 or email us at info@renaissancelegal.co.uk

This information sheet is intended as guidelines for clients and other readers. It is not a substitute for considered advice on specific issues. Any action taken depends upon your individual circumstances. Consequently, we cannot accept any responsibility for action which may be taken as a result of reading this information sheet or for errors or omissions contained in this information sheet.