

Digital Assets: What are they and what happens to them on death?

Digital assets can make up a significant part of a person's estate, but they are often not fully understood. This factsheet explains what digital assets are, and what happens to them after someone dies.

What are digital assets?

Generally speaking, a digital asset is anything that someone owns that exists in a digital format rather than a physical one. This could include:

- Digital photos and videos
- Cryptocurrencies (including bitcoin and online gaming credits)
- Documents saved on a computer or in a cloud account
- Software
- Social media accounts
- Loyalty points
- E-books
- Graphics and digital artwork
- Digital music files
- Websites and domains
- Emails
- Other online accounts (including selling and gambling accounts)

Digital assets vary a lot in terms of both type and value. Some types might only have sentimental value, such as photos or family videos. Others might have significant monetary value, such as cryptocurrency, monetised social media accounts or unpublished manuscripts.

Considering digital assets when making a Will

Digital assets should be considered just as much a part of an estate as physical ones. Any digital assets that aren't specifically mentioned in a Will are considered part of the residuary estate and will pass to whichever beneficiary is entitled to inherit it.

If you were to die without leaving a valid Will, your digital assets would pass with the rest of your estate to whoever was entitled to inherit via the intestacy rules.

It is helpful to consider your digital assets when making a Will. This is particularly important for people who own digital assets with significant monetary value. Not only will you want to make sure that you have left valuable digital assets to the person of your choice, you may also want to make stipulations about how those assets should be managed in the event of

your death.

You might want to leave instructions with your Will about what to do with your social media accounts, blogs and/or websites. Some people request to have their social media accounts memorialised (Facebook offers this option) while others would prefer their loved ones to take down any accounts or websites soon after their death. Equally, some individuals might want to leave instructions for all digital files and records to be destroyed, especially if they include things they'd rather keep secret from loved ones.

What are the executor's responsibilities for digital assets?

An executor or other personal representative is responsible for administering the whole estate of the person they are representing. This includes any digital assets.

When an executor assesses the extent and value of an estate, they will need to take the digital assets into account. In many cases, this will be a case of determining if any of the digital files will be of any interest to family or friends, deleting any that aren't and closing online accounts as necessary.

In other cases, executors will need to value digital assets and distribute them among beneficiaries.

If the person who has died had business-related digital assets such as online storefronts, monetised social media accounts or digital art files, this may be a big responsibility. The executor may need to consult experts on how to value and sell these digital assets.

Right to access digital assets and accounts

Legally speaking, anything that a person owns becomes part of their estate when they die. This includes digital assets. Personal representatives should be able to access digital assets in order to access and distribute them among beneficiaries.

However, this is not always straightforward in practice. If the person who has died has not left instructions on how to log in or to access digital assets, their personal representatives will have to follow the policies of each company with whom the person who has died had an account. These policies will not necessarily make it possible for loved ones to access accounts, which can mean that digital assets of sentimental value such as emails, photographs and written text might be lost.

Planning in advance for these eventualities can avoid this. When you make a Will, you can choose to include instructions on how to access your digital accounts after your death.

Some digital accounts also allow you to add a 'legacy contact' or 'inactive account manager' who would be authorised to manage your account should you no longer be able to.

How Roche Legal can help

Dealing with legal issues can be confusing and stressful. We understand this, and we're always on hand to untangle jargon and offer support.

If you need advice on any of the issues raised in this factsheet, please don't hesitate to [get in touch](#). Roche Legal is an award-winning legal practice, offering practical and caring advice.

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