

Digital Life after Death?

Private client practitioners, with their Wills Act 1837 and the Administration of Estates Act 1925, have never been viewed as members of the profession with cutting edge problems. But no longer, as those of us dealing with Wills and Estates are now coming across the relatively new issue of the digital estate.

Billions worldwide use the internet, a remarkable 70% of them do so every day. Those of us who are over 40 will remember when we didn't know anyone who used it, 'it'll never take off' many confidently predicted. But as we now know, the only constant in technology is change.

The advent of smart technologies, phones and tablets and the advent of online businesses has all contributed phenomenal changes in how people live their lives and by implication the nature of their estate at their death.

The addiction to social media presents an executor with new and difficult problems. They must deal with Facebook and Twitter etc on behalf of the deceased. There may not be an immediate financial risk, but there is huge sentimental value to the family.

As photo albums and diaries are replaced by digital photo sharing and blogs, the digital footprint will become the most important record of a life. All digital activities are password protected, causing access and preservation issues, but conversely this raises both privacy and ownership issues. Inactivity is not an option as some social media accounts will be deactivated due to inactivity, whereas other will continue indefinitely after death.

This opens the door to identity fraud, a deceased person's social media could be a relatively easy target for hackers. Social media is a very immediate activity, often sharing information without caution. An executor still has a clear duty to prevent loss.

Other digital assets can have a tangible value such as websites and domain names, the intellectual property needs protecting and this is a serious issue for the Wills draftsman.

Even a gaming avatar can acquire value through online successes. Also those producing original material for sites such as YouTube can generate significant advertising revenues.

Conversely where people see a valuable asset there may be none, for example thousands of pounds can be spent on downloads such as music or films, but commonly you have only acquired a licence which is revoked by death and therefore there is no legacy. Even whilst pondering this problem, the growth of subscription access services may render the ownership of a download irrelevant.

How this is managed is a new opportunity for the profession, but also to third parties, to add value for our clients and digital planning will become increasingly necessary. The provision of legal services has never been more competitive and any failure in the profession to act will create a vacuum to be filled by the commercially astute. In this technological age the acquisition, management and use of data is the key to the future marketing and the growth of the profession.

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Lifetime management of your social media accounts can assist any Executor as some facilities exist to add the relevant permissions and authorities to operate post death.

The moral of the story is to remember to mention your digital assets as well as your more tangible assets when planning for your future.

If you would like more advice on making a Will or any family matters, call our family team on 0191 388 1778.