

Your Digital Legacy

As more and more people conduct an ever increasing amount of their private lives online, the question that is beginning to be asked is what happens to your 'digital life' when you die.

The average person now has a number of online profiles, ranging from internet banking accounts, to social networking profiles, blogs and internet email accounts. During a person's lifetime, this vast amount of information is protected by the Data Protection Act 1998 ("DPA"), which prevents such information being published or transferred to third parties. However, when an individual dies, information about that individual ceases to be "personal data" under the DPA and so will not be afforded the protection the DPA provides.

Also, an increasing number of people are transferring from traditional media formats such as books, CDs and DVDs and are turning to digital books, music and films. Taking into account online games such as World of Warcraft, people are beginning to accumulate not only online information but also digital assets which have an identifiable value.

The issue when they die is how friends, relatives and your executors will be able to gain access to your digital life. Under English law, your digital assets will revert to your executors or personal representatives, but whilst the law is clear, this is not that helpful if nobody can gain access to these assets.

There is also an emotional aspect to these issues. It may be difficult for a grieving relative or loved one to be unable to close down a social networking profile or, conversely, be able to access sympathy messages emailed from friends.

As things stand, there are several options to deal with these problems.

Leaving a letter of wishes

Firstly, you could leave a letter of wishes with your Will which sets out what you would like to happen with your online information and how it can be accessed. Such a letter of wishes could be addressed simply to your executors or to specific friends or relatives.

This may be helpful as it could outline exactly what you would like others to access and what you want to be kept private or simply destroyed. There may,

for example, be some embarrassing photos, emails or blogs which you are happy to share with your friends but not with your family.

Using a "Death Site"

Due to the complicated policies used by internet service providers (ISPs), there has been a rise in new websites which, in return for a fee (monthly or lifetime membership) allow you to safely store data such as email account passwords, internet banking codes and social network passwords so that, on your death, this data will be released to nominated friends and relatives.

Some of these sites even allow you to upload a "goodbye video" which can then be played to those you leave behind.

The obvious problem with such sites though, is security and whether you are prepared to divulge highly sensitive information to a third party and for it to be stored online where it is potentially vulnerable to hackers and fraudsters. Another consideration is that some third parties (for example, banks) strictly forbid the sharing of information such as passwords and account details as part of their terms and conditions and this is important to be aware of.

Making specific provision in your Will

If you think that these sorts of issues either affect you or are likely to affect you in the future, it may be advisable to make specific provision for your digital assets and online information in your Will.

For example, you may wish to make a gift of specific digital assets such as music, books and films to a particular person or persons, or provide that only a named individual has access to your social networking profile or email accounts etc.

Also, it can significantly ease the process for your executors by enabling them to access items such as internet bank accounts, online email accounts and numerous other types of account.

Next steps...

If you think that any of the above issues are relevant to you, Taylor Walton can provide you with technical advice and guidance, tailored to your personal circumstances and the particular digital assets and online information which you possess.

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