



Are we now truly living in the digital age? Whilst the answer to that question may be no, it is the case that we are living more and more of our lives online and this is only likely to increase in the future. What impact does that digital life – our digital footprint – have on death and how do we manage it?

What we refer to as ‘digital assets’ can be divided into four distinct categories:

1. Digital assets with financial value: Paypal accounts, Ebay accounts, online bank accounts; share trading accounts, Bitcoin etc.
2. Digital assets with sentimental value: Fliker, YouTube; Photobucket; Picasa, all manner of online storage of photographs; Gmail; Hotmail; Yahoo etc.;
3. Digital assets with intellectual value: personal websites and blogs; DropBox; and
4. Digital assets with social value (which divulge personal information): Facebook, LinkedIn, Twitter, Google+

What happens to these digital assets when we die? Who knows what assets we hold online and what should happen to them? There will not always be a paper trail for them.

To further complicate matters current laws which have covered traditional property, contract and estate issues do not adequately provide the necessary guidance and structure to address digital assets. The position is changing in the US where they tend to lead the way on such matters and in fact where the vast majority of digital assets derive.

Some service providers are now putting in place processes to deal with our digital footprint on death. For example, a Facebook account can now be memorialised which, subject to the privacy settings of the account, can enable friends and family to share memories on the memorialized Timeline but will not allow reminders to be sent from that account or appear as a public profile under ‘People you may know’. Google has put in place an inactive account manager system which you can set up whereby after a predetermined period of inactivity of a Google account, Google will notify up to ten ‘beneficiaries’ before the account is deleted. Those nominated will be able to access the account prior to its deletion. However, there is no uniformity between service providers and, more importantly, many of the service providers operate in different jurisdictions which are subject to their own laws and regulations.

So what can we do now to manage our digital assets on death?

1. Ironically the starting point is to create a log of all your digital assets ideally in paper form which should be kept safely with your important documents.
2. Consider leaving details of usernames and passwords; this could be done in written form or via a password manager app on your phone, however keep these up to date. Importantly your executor should not access these accounts until they have obtained a Grant of Probate otherwise they could be in danger of intermeddling which is a criminal offence under Jersey law.
3. Give some thought as to what you would like to happen to your digital assets on death – do you wish your Facebook page to be memorialised or deleted? Set out your wishes in writing. These could be held with your Will.
4. If you have substantial digital assets give some thought to who you should appoint as your executor. Will that person be tech savvy enough to manage the winding up of your digital footprint? Again,



the US is leading the way with some states now giving authority to a digital executor being named in a Will specifically to deal with digital assets.

5. Consider updating your Will to include digital assets.

Voisin's Estate Planning & Capacity team provide expert guidance in all matters concerning capacity issues. If you would like to have an informal discussion about these matters, please contact Kylie Young, Eliana Lennon and Angela Roscouet at [probate@voisinlaw.com](mailto:probate@voisinlaw.com).

*This note is intended to provide a brief rather than a comprehensive guide to the subject under consideration. It does not purport to give legal or financial advice that may be acted or relied upon. Specific professional advice should always be taken in respect of any individual matter.*