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Digital legacy – what happens to our online presence after death? | 1

Many of us have established an extensive cyber existence yet few consider what happens to it when we pass away.

Sarah Hope, Chartered Legal Executive at Voisin Law, discusses the growing issue of our digital legacies and what we all need to consider to reduce the risk of losing financial and sentimental online assets.

Do you find clients are aware of their digital legacy?

Before the internet existed, dealing with a deceased estate was a relatively simple affair; the physical belongings could be carefully sorted and paperwork could be found to ascertain the assets and liabilities of the estate.

In the digital age things are becoming a little trickier. Banks no longer send physical account statements, companies no longer wish to invoice us by post, and we are increasingly trying to reduce our carbon footprint by storing data online. Most of us now also have a cyber-self on social media and store photos and documents online.

The majority of clients I speak to haven't considered their 'digital legacy'. Law Society research indicates that at the end of 2014, only 27% per cent of 16-54 year olds have a Will to deal with their main assets, and I would estimate that less than 1% of those people have done anything to deal with their digital legacy.
Does your profession provide guidance on how to handle digital within wills?

The legal profession can give general guidance but there isn't a clear solution to dealing with a person's entire digital legacy. By definition, a "digital legacy" can encompass a broad range of accounts and data, from bank accounts to social media profiles.

Clearly any financial assets, such as an exclusively online bank account, would be dealt with within the terms of a Will and would form part of a person's legal Estate. The difficulty is ensuring that your Executors know that the account exists; without paper bank statements, assets such as these could easily be missed

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Social media profiles and other data (such as photographs) stored online are much trickier and the process of dealing with those varies dramatically from company to company.

Some companies have begun to put procedures in place to deal with these issues. Google, for example, launched its Inactive Account Manager, but even this requires a user to consider the issue in the first place and then take the time to set it up. There are also many more companies who have done nothing to prepare for what is a growing issue.

Can your digital accounts and passwords be left to people through your will?

Most "digital accounts" aren't things we 'own' so we cannot leave them to another person in our Will.

You should never provide another person with login details to an online account. There are formal procedures to be complied with before another person can deal with your assets upon death and it is an

offence to do so without the appropriate legal authority.

Would you advise customers to register all usernames and passwords in their will?

The Will itself wouldn't be an appropriate place to record these details although some clients have provided us with a separate list which we store with their Wills. The issue that arises is the frequency with which these details can change.

Have you worked with families who have had problems getting access to deceased family members online accounts?

Unfortunately, yes, and I have experienced these difficulties myself in practice. The biggest issue is often ascertaining where the asset is actually situated (i.e. in Jersey, Switzerland, America or otherwise) and finding an appropriate contact within the organisation who is able to assist in the transfer or closure of the account.
Do you expect wills for the younger generation to look very different to that of this generation?

There is definitely a growing market for "Digital Wills" which are designed to operate alongside a Last Will and Testament. Several websites have recently sprung up to deal with the issue of our online data, usernames, passwords and assets for which we no longer have a clear paper trail. The basic principle of these websites is that for a small subscription fee, they will securely store all your vital information and send this information direct to specific individuals whom you pre-nominate, following a trigger event (i.e. inactivity over a set period of time or on production of a death certificate).

It is important to note that the idea of creating a "Digital Will" is by no means a replacement for a Last Will and Testament – which will always be necessary to ensure that your Estate passes to the people you wish upon death – but it may be a useful tool to have alongside your Last Will & Testament.