

CRYPTO & DIGITAL ASSETS

ESTATE PLANNING FOR
DIGITAL ASSETS



**“WE ARE COLLYER
BRISTOW - THE
LAW FIRM FOR
THOSE THAT VALUE
INDIVIDUALITY
CREATIVITY AND
COLLABORATION”.**

WHAT ARE DIGITAL ASSETS?

Fundamentally, digital assets are the possessions you access on a digital device. These assets are normally stored online and accessed via a personal online account run by a third-party provider such as Google, Facebook, Ebay, Amazon, Apple or Netflix. Examples include emails, social accounts, and cryptocurrency.

WHY DO I NEED TO CONSIDER MY DIGITAL ASSETS REGARDING ESTATE PLANNING?

It is critical your executors should know about the existence of the digital assets and understand how they should be administered on your death. This is not just important in the event that the digital assets have an intrinsic value, i.e. cryptocurrencies, but in the event that you have specific wishes regarding social media accounts or photographs kept on your mobile, for example. The risk of identity theft and hacking is greatly increased for inactive accounts left unmonitored.

WHY DO EXECUTORS FIND DEALING WITH DIGITAL ASSETS, BROADLY, DIFFICULT?

It should be noted that numerous Internet Service Providers' ("ISPs") terms of use prohibit the sharing of logins and passwords, and they often do not recognise the proprietary rights of executors. This is because most ISPs are based in the US which has complex laws around electronic communications and data protection. Under English law, accessing some else's data online without authority is in fact a criminal offence (in this context, the ISP's authority). Best practice would suggest that the ISPs' terms should not be breached, and that access should be sought by asking the ISP.

WHAT STEPS SHOULD YOU CONSIDER IN ORDER TO PUT YOUR DIGITAL ASSETS IN GOOD ORDER?

The first step to take is to review what assets and information you hold digitally in online accounts. Although not for everyone, a digital assets log can be a helpful tool to record these in their various categories. Collyer Bristow have compiled a template log which some clients find very helpful as a guide. Ideally, the list should be stored securely in hard copy, perhaps with your Will, or in your own home for ease of updating. It should be kept up to date, say, reviewed every six to twelve months. In the alternative, a commercial password manager may be preferable.

We recommend inserting provision within your Will for your digital assets. You may consider including specific instructions and requests to your executors in a separate letter of wishes concerning your digital assets, to be stored with your Will. For those assets with sentimental value, these might be included as part of the general gift of your personal possessions under your Will.

Additionally, it is useful to insert express power for your executors to access and control your digital assets. With this in mind, even if you have a Will in place, it is certainly worthwhile reviewing this position.

FOR MORE INFORMATION PLEASE CONTACT



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