# Understanding your loved one's digital legacy

## What can be inherited and what cannot

When someone dies, their family and executors must navigate not only the traditional aspects of estate administration but, increasingly, the complex world of digital assets. From cryptocurrency holdings to social media accounts, streaming subscriptions, valuable media to online media libraries, the digital footprint we leave behind raises important questions about what happens next. This short guide explains what constitutes inheritable digital property, what does not, and how you can prepare for managing these matters.

### The crucial distinction: digital property versus digital rights

The starting point for understanding a deceased person’s digital legacy is recognising a fundamental legal distinction. On one hand, there are “digital assets” which qualify as legal property in the traditional sense. These are things that are permanent, readily definable, individually identifiable, and by their nature transferable from one person to another. On the other hand, there are digital items which lack these qualities, such as personal licences granted by service providers and what might be called digital ephemera, the transient traces of our online lives.

This distinction matters enormously because only items that qualify as legal property will form part of the deceased’s estate. These assets can be inherited by beneficiaries according to the terms of a Will, or under the intestacy rules that apply when no valid Will exists. Understanding which category a particular digital asset falls into will determine whether it can be passed on to loved ones or whether it simply ceases to exist upon the account holder’s death.

### What counts as inheritable digital property

Several categories of digital assets are now firmly recognised as legal property capable of being inherited. The first, and perhaps most familiar, category is intellectual property belonging to the deceased. This includes copyright in photographs they took, videos they recorded, voice recordings, and original written works such as blog posts or creative writing. However, there is an important caveat here. These rights only remain with the estate if they have not been transferred or permanently licensed to social media platforms or other services as part of the terms and conditions the user agreed to when signing up. Many platforms require users to grant extensive licences over content they upload, which can significantly affect what rights remain to pass on.

The second major category is blockchain-based assets, most notably cryptocurrency tokens and the contents of digital wallets. English law has, for some time, recognised this as legal property despite the fact they lack material permanence in the traditional physical sense. Any remaining uncertainty on this point was definitively resolved by the Property (Digital Assets etc) Act 2025, which placed the legal status of digital assets beyond doubt.

The courts continue to grapple with the boundaries of digital property. In a very recent criminal case, R v Lakeman [2026] EWCA Crim 4, the Court of Appeal held that in-game currency in a popular online video game, specifically the "coins" earned through gameplay, constituted "property" under the definition in the Theft Act 1968. This represents a significant expansion of what the law considers capable of being owned and, therefore, stolen. However, whether this criminal law principle extends fully to civil matters such as inheritance remains somewhat uncertain and is likely to depend on the specific terms of service of the game platform in question.

### What cannot be inherited: licences and subscriptions

A substantial portion of what we think of as our digital lives does not actually constitute property in the legal sense at all. Instead, it represents a bundle of contractual rights derived from the dozens, if not hundreds, of individual agreements a typical person will have entered into over recent years. Every time we click "agree" on a pop-up notification, we are entering into or amending a contract with a service provider.

These contracts are characteristically one-sided arrangements that tend to benefit the service provider whilst minimising the rights of individual users in exchange for access to the platform. Crucially, they typically terminate automatically upon the death of the user, leaving no continuing rights to purchased content that can pass as part of the estate. This is generally the case with streaming services such as music and video platforms, software-as-a-service products, and the content stored within social media accounts. The extensive digital library you have built up over years may have no value whatsoever once you are gone. However, unhelpfully, whether any rights can be transferred by way of inheritance on the death of the user has to be considered on a case by case basis – as individual terms of service agreements will determine the issue.

### How platforms are responding

Until relatively recently, social media platforms and digital storefronts made little provision for the administration of digital estates. Families often found it challenging and emotionally draining to persuade these businesses to recognise that a user had died, to remove distressing posts, or to delete accounts altogether. There was a widespread sense that the rapid pace of technological development had simply not kept up with the inevitable mortality of its user base.

This situation has improved considerably in recent years. Many online businesses have now established formal policies and processes to assist with winding down or preserving a user's digital legacy. Social media platforms, for instance, may offer to "memorialise" accounts, freezing the profile wall and preventing any new posts whilst preserving existing content as a tribute. This shift has occurred partly because the platforms themselves are maturing, but also because inactive accounts present a genuine security risk. Fraudsters increasingly target dormant accounts, seeking to impersonate deceased users for malicious purposes.

Many platforms, including Apple, now offer family account features that allow users to designate a trusted family member as their "digital executor." This nominated person is pre-authorised to manage the user's digital affairs on that platform following their death, significantly streamlining what can otherwise be a frustrating administrative process.

### The growing importance of cryptocurrency planning

The question of digital estate administration becomes particularly pressing when it comes to digital wallet providers and cryptocurrency holdings. The value of cryptocurrency is readily ascertainable and often comparatively high compared to other digital assets. Current estimates suggest the average UK citizen now holds approximately £2,000 in cryptocurrency, largely through mainstream digital wallet providers, and this figure continues to rise steadily.

With the growing popularity of stablecoins and their imminent regulation by the Financial Conduct Authority and the Bank of England, the ease with which these assets can be administered following death will come under greater scrutiny. Service providers will need to develop their processes rapidly to meet both regulatory expectations and consumer demand for straightforward estate administration.

### Planning ahead: the rise of digital estate planning

For individuals with substantial digital property portfolios, such as social media influencers who monetise their online presence or cryptocurrency investors and traders, there is an increasing trend towards comprehensive digital estate planning. This involves cataloguing digital assets, securing access credentials, and putting arrangements in place to ensure smooth and less stressful management of digital affairs following death or, indeed, divorce.

We can expect to see considerably more of this kind of planning in the coming years as the generation who pioneered these relatively new forms of valuable business grows older. This is particularly true of “digital natives” such as social media influencers, whose stock in trade is their content, as well as cryptocurrency investors. Taking time now to understand what digital assets you hold, which qualify as inheritable property, and how your loved ones would access them, could spare your family significant difficulty and distress in the future.

### Contact us

To find out more about our Wills, Tax, Trusts & Probate team and how we can help you, please get in touch.

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