

INVESTIGATION INTO WILL WRITING

CALL FOR EVIDENCE

Investigation scope

Will writing is not one of the legal activities that can only be done by regulated lawyers. Figures suggest that solicitors continue to write the vast majority of wills, but consumers may use other options including will writing businesses, banks, independent financial advisers, trade unions and charities. Particular concern has focused on unregulated will writing businesses, which are estimated to prepare approximately 7% of all wills.

The Legal Services Board has asked the Panel to provide evidence on all of the different problems, both current and potential, experienced by consumers wishing to write a will. The investigation will seek to find out how widespread each problem is, or could be, why it happens and what the impacts are on the testator and their executors and beneficiaries. It will also consider whether existing consumer protections are capable of addressing any consumer harm or whether new solutions are needed, including what the advantages and disadvantages of various ways of regulating will writing may be for consumers.

Possible areas of consumer harm

Early work has identified the following problems that consumers may experience, but the Panel would welcome evidence on other issues:

- Wills are of poor quality because they are either invalid or do not reflect the testator's wishes after taking account of their circumstances
- Unfair commercial practices, such as pressure selling tactics or when consumers are deliberately drawn in by a low advertised price but the final price turns out to be much higher ("bait advertising")
- Cross-selling of related services, which may be unnecessary, unsuitable or expensive; one area of focus is naming the will provider as executor of the estate
- A lack of transparency means consumers do not make informed choices or do not realise the consequences of their purchase decisions
- Problems related to storage of wills and their location by beneficiaries
- Consumers fail to make a will because of barriers to access, for example cost, lack of awareness and unnecessary jargon or complex English
- Fraudulent activity linked to wills or related services

Evidence required

Responses to this document will form an important part of the Panel's evidence base. Some key questions on which we would welcome views and evidence are:

- What are the key outcomes for consumers that we should aim to achieve?
- What evidence is there of consumer harm in the areas identified above?
- Is it always necessary to use a qualified professional to prepare a will or are there occasions when professional skill is not required?
- What solutions would help to address consumer harm?
- Is self-regulation, general consumer and criminal law or other alternatives to traditional forms of regulation, capable of addressing consumer harm?
- If will-writers were regulated, what form of regulation should this take, and what are the key protections that the regulatory system should include?
- Could regulation have any negative impacts on the desired outcomes for consumers, such as limiting choice of providers or higher prices?

Information on the size and characteristics of the market is also welcome.

A unique feature of the market is that problems with the technical quality of wills are unlikely to be discovered until the testator has died. Subject to securing the necessary funds, a mystery or shadow exercise will be commissioned to fill this gap in the evidence base. However, we would also welcome evidence from members of the public or lawyers who have come across badly written wills or unfair sales practices.

How to provide input

The Panel would welcome input from members of the public, legal businesses and stakeholders. The deadline for evidence is **5pm, 15 December 2010**.

If you are providing a written submission, we would prefer to receive this electronically (in Microsoft Word format), but hard copy responses by post or fax are also welcome. Submissions or other comments should be sent to:

Email: contact@legalservicesconsumerpanel.org.uk

Post: Legal Services Consumer Panel
7th Floor, Victoria House,
Southampton Row
London WC1B 4AD

Phone: 020 7271 0077

Fax: 020 7271 0051

The Panel will publish responses to this call for evidence on its website as they are received. **Please state if you would prefer your response to remain confidential**, although bear in mind that the Panel may be required to publish any response in full or in part following a request under the Freedom of Information Act.