



## Consumer Panel Briefing – Will-writing and estate administration

### What is the issue?

Currently anyone can provide will-writing services. Solicitors prepare around two-thirds of wills, but unregulated providers, banks, internet firms and others also offer these services.

Following concerns over the quality of wills and poor sales practices, the Legal Services Board asked the Consumer Panel to investigate the problems experienced by consumers. We issued a call for evidence and commissioned research in partnership with the Legal Services Board, Office of Fair Trading and the Solicitors Regulation Authority. This included:

- A shadow shopping exercise (a form of mystery shopping) involving 101 wills
- A survey of 500 recent will purchasers
- Nearly 400 case studies from members of the public, lawyers and others
- Written submissions to our call for evidence from a range of organisations
- Interviews with will-writing businesses
- Complaints data from the Legal Ombudsman

### The Panel's view

The study found defective wills on a shocking scale and evidence of bad sales practices. One in four of the wills in the shadow shop were failed. The same proportion of wills prepared by solicitors and will-writing companies were failed. Wills were almost as likely to fail whether the client had simple or complex circumstances. There were problems with wills not being legally valid or not meeting the client's requirements. There were also issues with poor sales practices like lack of transparency over costs, poor storage practices and pressure selling.

In light of the evidence and the unavoidable risks that consumers face when buying a will, the Panel proposed that will-writing should become a reserved activity – in other words, a service which only persons authorised by one of the legal regulators are permitted provide. This led the LSB to carry out a statutory investigation into the regulation of will-writing, which they expanded to cover probate and estate administration services. The Panel therefore looked at this market as well, and in 2012 we recommended that probate and estate administration services should be regulated alongside will-writing.

Our recommendations would not have meant that only solicitors could write wills. Instead anyone would be able to, as now, but the difference is they would need to be regulated.

## What is the Consumer Panel doing about it?

The Legal Services Board recommended to the Lord Chancellor that will-writing (although not estate administration) should be added to the list of reserved activities. However, in a surprise announcement, despite the strong evidence of consumer detriment and a wide range of organisations supporting regulation, the Lord Chancellor decided not to regulate. The Panel was deeply disappointed by the Lord Chancellor's decision and we have not given up our battle for both these activities to become regulated in future.

However, it would be wrong to sit back and do nothing while consumers are still losing out. Therefore, our focus will shift to trying to make self-regulation work better, even though the will-writing industry is itself sceptical this will succeed. Moreover, it is clear that will-writing standards need to be improved among solicitors as well.

During the next period, we will:

- Push for the Legal Ombudsman's voluntary jurisdiction to be set up quickly so that consumers at least have somewhere to complain to when things go wrong
- Participate in efforts led by the Legal Services Board towards better self-regulation
- Include the Law Society's Wills and Inheritance Quality Scheme in our assessment of whether accreditation schemes are a reliable indicator of quality standards

## For more information:

[Regulating will-writing](#)

[Probate and estate administration](#)

[Consumer research: Understanding the consumer experience of will-writing](#)

## About the Legal Services Consumer Panel

The Legal Services Consumer Panel is a central feature of a regulatory framework in England and Wales which is designed to transform the legal services market around the needs of its users. Created by the Legal Services Act 2007 we are an independent arm of the Legal Services Board. As a permanent, discrete champion for consumers we have an essential responsibility to ensure that regulators are able to consider and act on the user perspective.



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