

23 APRIL 2012

## **WRITING A WILL WITH CONFIDENCE**

### **BETTER PROTECTION FOR CONSUMERS**

The LSB is today announcing proposals to deliver greater protection to consumers of the legal services of will-writing and estate administration. These would see the services brought within the scope of legal services regulation, regardless of who provides them.

The decision on whether or not to regulate will-writing and estate administration services has long been debated. In line with its statutory responsibilities, the LSB has reviewed all of the available evidence about the problems suffered by some consumers in these areas, and conducted original research, to identify what the risks to consumers are and why they emerge.

The LSB's investigations found systemic problems with the services delivered by many different types of provider. We found consistent patterns of sloppiness, simple errors and poor communication. This often resulted in an unacceptable service. Too often consumers were subjected to unfair sales practices. There have also been well-documented examples of fraud and deception.

The proposals announced today would, for the first time, see all providers of these services regulated and brought within the list of 'reserved activities'. This means that:

- everyone who provides services in these areas will be regulated;
- a variety of different types of providers will continue to be allowed to operate; and
- the regulation of those already providing regulated advice will be improved.

Alongside the proposals on will-writing and estate administration, the LSB is also issuing two related publications:

- the announcement of the approach the LSB will take to examine other gaps in legal services regulation starting with general legal advice for individual consumers;

- a related-review of how and when non-commercial providers of reserved legal services should come within the scope of regulation.

For all of the proposals announced today, the LSB's priorities are to ensure:

- a baseline of protection for consumers;
- effective regulation; and
- to enable competition and innovation.

**Chairman of the Legal Services Board, David Edmonds,** said:

*“Making a will is something everyone should do. It is one of the most important actions that individuals take. We all should have a high degree of confidence in those entrusted with the task of writing our wills, advising us on the most appropriate actions, and ensuring that our wishes are carried out.*

*For many people, the service they receive from their lawyer or will-writer meets their needs. But our research shows that there are significant numbers of people receiving poor service and poor outcomes.*

*We found too many examples of providers - lawyers and will-writers alike - not listening to their clients or being sloppy in their work - meaning those taking the important step of writing a will were also, unfortunately, leaving problems to their beneficiaries. The prevalence of poor sales practices, and indeed the incidence of fraud, was also disappointing.*

*On the other hand, large parts of the will-writing and estate administration market are working well with a variety of different types of suppliers and services that are valued and appreciated.*

*In proposing ways to make sure all consumers receive a service that they can have confidence in, we want to keep this variety of provision. The development of alternative business structures will encourage further competition and innovation in this market.*

*Ultimately, people must be able to write a will with confidence, not fear. For that to be possible, everyone offering such services must deliver a baseline of consumer protection. This is not about extending regulation for the sake of it; it is about maintaining public confidence in an important legal process; enhancing the environment for reputable providers; and protecting consumers at particularly vulnerable times in their lives.*

*The measures announced by the LSB today should reassure consumers that they will be more effectively protected. And legal service providers will see another example of our evidence-based approach to regulation.*

*I believe that this is a true public interest initiative.”*

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**Notes for editors:**

1. The Legal Services Act ("The Act") created the Legal Services Board as a new regulator with responsibility for overseeing the regulation of legal services in England and Wales. The new regulatory regime became active on 1 January 2010.
2. The LSB oversees eight approved regulators, which in turn regulate individual lawyers. The approved regulators, designated under Part 1 of Schedule 4 of the 2007 Act, are the Law Society, the Bar Council, the Master of the Faculties, the Institute of Legal Executives, the Council for Licensed Conveyancers, the Chartered Institute of Patent Attorneys, the Institute of Trade Mark Attorneys and the Association of Costs Lawyers.
3. In addition, the Institute of Chartered Accountants in Scotland and the Association of Chartered Certified Accountants are listed as approved regulators in relation only to reserved probate activities.
4. The list of '**reserved legal activities**' (those that only qualified lawyers, such as a solicitor or barrister, can undertake) includes conveyancing, litigation, probate and advocacy. However, it does not include other common services such as will-writing, employment law or general legal advice.
5. The LSB's announcement on **will-writing and estate administration** continues a process begun in summer 2010, when the Board asked the Legal Services Consumer Panel to provide it with advice on consumers' experiences of the will-writing market. Since then, it has worked alongside the Panel (including through generating original research co-sponsored by the Solicitors Regulation Authority and the Office for Fair Trading) to develop a greater understanding of the way the will-writing market operates and problems that consumers face, including a mystery shopping exercise on the quality of wills produced by different types of provider.
6. The LSB's announcement on its approach to examining other gaps in legal services regulation follows a consultation issued in July 2011 "[Enhancing consumer protection, reducing regulatory restrictions](#)". The LSB is addressing this area because there are concerns about differing levels of consumer protection between different legal activities, without any clear rationale. The outcome of the LSB's work will

be a consistent approach to deciding whether a legal service warrants 'reservation' and the consumer protection levels that go alongside that status.

7. The LSB is required to consider how and when to bring non-commercial bodies provided reserved legal activities into the scope of regulation. This is because the Legal Services Act 2007 allows certain categories of bodies – including not-for-profit organisations, community interest companies and some trade unions – to carry out reserved legal activities without a licence for a transitional period only. The introduction of alternative business structures means that where these bodies provide reserved legal services (because they have non-lawyer owners or managers) they will need to be licensed in order to conduct reserved legal activities going forward.
8. The legal profession currently consists of 15,309 barristers, 119,641 solicitors and 12,145 individuals operating in other aspects of the legal profession such as conveyancing. The sector is currently valued at £25.49 billion per annum (total turnover in 2010).