



IFF Research

Research Report

Understanding the consumer experience of will-writing services

Prepared for Legal Services Board, Legal Services Consumer
Panel, Office of Fair Trading and Solicitors Regulation Authority
By IFF Research

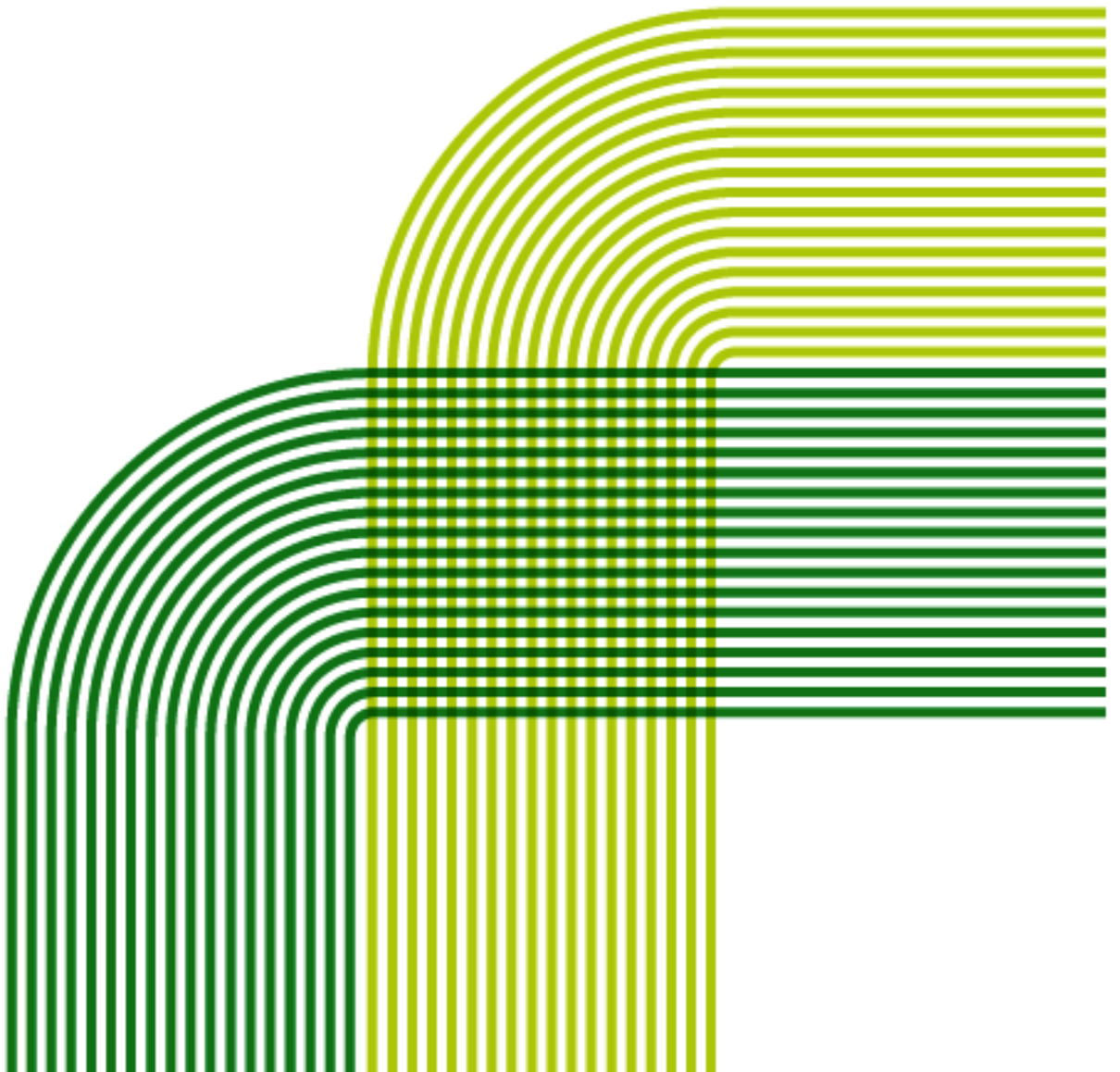




IFF Research

Contact details

Rob Warren and Lorna Adams
IFF Research Ltd
Chart House
16 Chart Street
London N1 6DD
Tel +44(0)20 7250 3035
Fax +44(0)20 7490 2490
rob.warren@iffresearch.com
lorna.adams@iffresearch.com



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1 Executive summary

- 1.1 The Legal Services Board (LSB) has been set up to reform and modernise the legal services market place in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales. The LSB asked the Legal Services Consumer Panel (the Consumer Panel) to examine the will-writing market following concerns raised by a number of professional bodies representing will-providers, anecdotal evidence of consumer detriment and recent developments in Scotland.
- 1.2 Currently there are five main routes to write a will in England and Wales: solicitors; specialist will-writers; banks; affiliate groups (such as trade unions and industry bodies); or by self completion, using an online service or published will-writing pack. Of these routes, only wills written by solicitors and financial services providers are subject to regulation. The focus of concerns of stakeholders has been on unregulated will-writing companies, although there is currently no evidence on the quality of wills produced via any of the five routes.
- 1.3 LSB and Consumer Panel together with the Office of Fair Trading (OFT) and the Solicitors Regulation Authority (SRA) have commissioned IFF Research to conduct a study to support the LSB's policy analysis on reserved activities and the Panel's advice to the LSB on will-writing. The study aims to develop a robust evidence base to support an assessment of the current treatment of customers of will-writing services. As a secondary consideration the research also seeks to improve the LSB's understanding of the market from the perspective of the providers of wills.
- 1.4 A multi-stage research programme was implemented incorporating three distinct but complementary strands to compare and contrast the views and experience of participants in the market. The three phases were:
 - A shadow shopping study (similar to mystery shopping but using real consumers rather than professional shoppers) consisting of 102 "shops" that resulted in the purchase of a will;
 - A retrospective survey of 500 consumers who had purchased a will in the last 12 months; and
 - A programme of 97 qualitative telephone depth interviews with solicitors and will-writing companies.

Pre-purchase

- 1.5 Consumers' reasons for choosing their channel of purchase varied according to the channel chosen: those who chose a firm of solicitors were more likely to report that they had used the organisation in the past for other services (45%) or that it had been recommended by a friend or family member (20%), while customers of specialist will-writers were more likely to state that the channel appeared to offer good value for money (21%). Value for money – and cheapness – were also cited by those who used a self-completion channel (24% and 26% respectively) but the most commonly cited reason among these consumers was that the will-writing process seemed simple and easy to understand (29%).
- 1.6 Around a third of respondents (35%) compared the will-writing services offered by different providers. Of those who made comparisons, just over half (51%) used a search engine to do so, while two-fifths (40%) contacted providers either by telephone or in person to obtain a quote, most commonly those who used a firm of solicitors (57%).
- 1.7 Price was an important factor in deciding which channel *not* to use: those who considered but decided against using a firm of solicitors were most likely to state that solicitors were too expensive (61%). This was also the most common reason for rejecting specialist will-writing organisations (40%),



although just over one-third (36%) of those who chose not to use a specialist will-writer cited concerns over their reliability. Concerns over reliability and whether wills would be legally binding were commonly voiced by those who considered but ultimately chose not to use a self-completion approach (more so among those who considered an online rather than paper-based self-completion approach). There was also an indication from the shadow shopping exercise that consumers are wary of services that appear *too cheap*.

Will-writing process

- 1.8 Nine-tenths (91%) of respondents in the consumer retrospective survey reported that an explanation of the process had been provided to them by their will-provider (or the information provided with the self-completion pack/ software) before the process began. The vast majority of those respondents who received an explanation agreed that it was clear, comprehensive and accurate; those who chose solicitors were most likely to agree strongly. Where concerns arose, these tended to relate to a lack of clarity around executor services and concerns that will-providers were concentrating more on selling additional services than explaining to their clients how the process would work.
- 1.9 The large majority of respondents (85%) agreed that there were enough opportunities to ask questions. Consumers who used a firm of solicitors were more likely to agree strongly (71%), compared with 60% who purchased via a specialist will-writer, while only 18% of those who completed the will themselves agreed strongly with the equivalent statement: “there was a facility for me to ask any questions or gain clarification on any issues easily”.
- 1.10 Respondents to the retrospective survey were provided with a list of issues that one might need to consider when writing a will (including, but not limited to: children; property ownership; marital status; assets and liabilities; and the implications of Inheritance Tax). In respect of the two face-to-face approaches to writing a will (solicitors and specialist will-writers), there were few differences in the proportions of customers who were asked about each issue. However, the proportion of consumers using a self-completion approach who were instructed to consider that issue was considerably lower than the proportion of consumers asked about it by a solicitor or specialist will-writer.
- 1.11 The majority (73%) of will-providers (especially specialist will-writers – 83%) use a ‘testator’ or ‘fact find’ questionnaire to help them gather information about clients’ personal circumstances at their first meeting. Will-providers reported that some clients have difficulty answering questions about their personal circumstances (most commonly a reluctance to reveal information that they would otherwise have wished to keep secret from their spouse or partner), calculating the value of their assets and answering questions about funeral arrangements and guardianship.
- 1.12 Customers of specialist will-writers tended to spend longer discussing their personal circumstances with their will-provider: 41% spent over an hour compared with 16% of solicitors’ customers, while 53% of solicitors’ customers spent half an hour or less, compared with 34% of specialist will-writers’ customers.
- 1.13 Three-quarters of respondents (76%) reported that their will-provider (or the guidance material which accompanied their self-completion pack) explained to them why their personal circumstances can affect their will; a much lower overall proportion (46%) were told that their personal circumstances could affect the cost of their will. While there was little difference between the experience of those who used solicitors or specialist will-writers, the proportion of self-completers to whom these issues were explained (either in the accompanying materials or via the website) was much lower.
- 1.14 Almost nine-tenths (86%) of consumers felt that they could fully understand the content of their will when they received it; the remainder required further explanation.



- 1.15 Respondents who wrote their wills themselves were asked whether they were able to go through the content with someone such as a solicitor. Fifty per cent of respondents were offered this service, although only one-fifth of them took up the offer. There is some indication that those who had used an online self-completion route were much more likely to be offered – and to use – this service than those who used a paper self-completion route.
- 1.16 Nine-tenths of respondents were provided with guidance on how to sign the will themselves (91%) and how to have the will legally witnessed (91%). The vast majority of will-providers (79%) reported that they have guidelines for both signing and witnessing wills, while a small but significant minority state that they ensure the act of signing and witnessing takes place under their supervision (6%).

Additional services and cost

- 1.17 One in eight (12%) consumers appointed their will-provider as the executor of their will. Solicitors were far more likely than any other mode to become the executor: 19% of respondents who used a solicitor to write their will also appointed a representative of that organisation to be their executor (compared to 7% who used a specialist will-writer and 4% who chose the self-completion route).
- 1.18 Just over a third of respondents (35%) who appointed their will-provider to be their executor had this idea suggested to them by their will-provider (in three-quarters of these cases the will-provider was a solicitor). The shadow shopping exercise shows very little evidence of will-providers' applying pressure on customers to appoint them as executor, although there was evidence of some hard selling, or playing on the customer's conscience. The qualitative interviews with will-providers reinforce these findings: only a minority of will-providers offer to be the executor *as standard* and this is particularly rare among specialist will-writers, many of whom state that they never offer to be the executor and that they don't wish to.
- 1.19 Around a third of respondents (32%) purchased additional services. Will storage was the most popular additional service – 32% who were offered additional services chose to pay for will storage, while Power of Attorney was the next most frequently purchased service (17%). The views of will-providers themselves broadly align with the findings of the consumer survey and the shadow shopping exercise: solicitors stated that clients are most likely to take up Power of Attorney (56%), while specialist will-writers stated that Power of Attorney (49%) and document storage (38%) are the most popular.
- 1.20 Three-quarters of respondents who purchased an additional service (75%) felt under no pressure from their will-writer to do so. Where concerns arose, these were that providers were concentrating more on selling additional services than explaining to their clients how the process would work. Customers of specialist will-writers were considerably more likely to feel pressured than those of solicitors, however (36% vs. 17%). There were also a small number of instances (4%) where respondents felt they were given no choice over the purchase of additional services and these were added to their bill automatically.
- 1.21 None of the will-providers interviewed reported that they make take-up of these additional services compulsory. However, around half (45%) recommend one (in most of these cases) or two (in a minority of these cases) of these services – most commonly Power of Attorney and/or document storage. Solicitors' and specialist will-writers' behaviour was similar in this respect.
- 1.22 Specialist will-writers are more reliant on these additional services for income than solicitors. For around half the solicitors interviewed (48%), these services make up less than 10% of their total income, while around half the specialist will-writers (44%) stated that these additional services make up at least one third of their income. Of course, it is likely that the majority of solicitors will offer a much wider range of services, so we should expect their reliance on additional services to will-writing to



make up a far lower proportion of their income than for specialist will-writers. There is evidence to suggest that there is a stronger focus among specialist will-writing companies than solicitor firms on selling their services to consumers: approximately a quarter of specialist will-writing companies offer commission to incentivise staff compared to only one out of the 50 solicitor firms interviewed.

- 1.23 Over four-fifths (84%) of consumers interviewed in the retrospective survey reported that they had received a formal quote for, or an estimate of the cost of, their will. Only 5% reported that there had been no mention of cost. In line with the consumer survey data, the vast majority (89%) of solicitors and specialist will-writing organisations interviewed stated that they provide cost estimates (or offer fixed prices for will-writing services) as standard.
- 1.24 As expected, solicitors and specialist will-writing companies charged noticeably more for wills than self-completion companies (62% of consumers who made the will themselves paid £50 or less for their will, compared with 7% among those who used solicitors and 16% among those using specialist will-writing companies). Solicitors' customers also tended to spend more than customers of specialist will-writing organisations: those using specialist will-writers were more likely to pay £50 or under for their will (16%) than solicitors' customers (7%), while those who used solicitors were more likely to pay more than £50 but less than £150 (45%) than those who used specialist will-writers (37%). One third of consumers who used a solicitor or a specialist will-writer paid over £150 for their will.
- 1.25 Four-fifths (84%) of those who were provided with a formal quote or estimated cost reported that their will cost the same or about the same as the initial estimated cost. Customers of specialist will-writing companies were more likely than solicitors' customers to state that they were charged more than had originally been quoted (19% vs. 9%). The vast majority also reported (84%) there were no additional charges in addition to the cost of their will. Those who used a solicitor were less likely to incur additional charges (90%) than those who used a specialist will-writer or an online self-completion method (both 74%).

Satisfaction

- 1.26 Respondents to the consumer retrospective survey were invited to rate their satisfaction – overall, and with various aspects of – the will-writing process. Four-fifths (79%) of respondents were satisfied with the quality of their will (8 or more out of 10). Satisfaction among solicitors' customers (84%) was higher than that of those who used a self-completion approach (71%). There was a notable difference in satisfaction levels between respondents who had reviewed the content of their will (mean score: 9.0 out of 10) with the will-writer and those who had not (8.0).
- 1.27 There were no aspects of the will-writing service where there were statistically significant differences between customers of solicitors and those of specialist will-writers.
- 1.28 Participants in the shadow shopping exercise were asked how their service could have been improved. Those who chose the self-completion route were generally in favour of receiving more guidance such as a glossary of terms, a helpline or a face to face meeting, while those who used solicitors were worried that their will-provider had eschewed pertinent questions over personal circumstances and had confused them with legal terms. Those who chose a specialist will-writer gave a variety of areas for improvement such that none stood out prominently.
- 1.29 Regardless of which method of will-writing survey respondents used, they generally found the will to be good value for money (8.3 on average) and there appeared to be a sense that consumers recognised that 'you get what you pay for'.
- 1.30 Two-thirds of respondents in the consumer retrospective survey (66%) would be happy to recommend the company they used if asked, with a further 23% reporting that they would pro-actively do so



without being asked. Respondents who used solicitors or specialist will-writers were more likely to recommend their chosen approach than those who completed the will using a paper-based self-completion pack.

- 1.31 Solicitors and specialist will-writers held similar views about the challenges they faced when writing wills. The main challenge – taking accurate instructions to ensure a will addresses all the client’s personal circumstances and needs (mentioned by 57% of providers) – presents itself in two forms: exhausting every potential avenue of questioning and obtaining unambiguous and complete information from the client.
- 1.32 Solicitors and specialist will-writers’ approach to dealing with these challenges is broadly similar and comprises three key elements: using a ‘fact find’ or testator questionnaire (mentioned by 22% of providers); reviewing draft wills internally (mentioned by 10%); and sending a draft to the client with an accompanying letter of explanation (mentioned by 47%).

Quality of the will

- 1.33 Approximately one-quarter of all wills collected failed the assessment, primarily because they were deemed to be of insufficient quality (that is, they failed to meet the needs and circumstances of the client) and less frequently because they were deemed not to be legally valid. There was little difference between solicitors and specialist will-writers in terms of the proportion of wills that failed, while the proportion of fails among self-completion wills was considerably higher.
- 1.34 In line with the overall assessment, the highest scores for the quality of the will were achieved by banks or affiliate groups (3.30 on a five-point scale where 1 is “Poor” and 5 is “Excellent”), solicitors (3.28) and specialist will-writers (3.14); self-completion wills (paper: 2.67; online: 2.46) received considerably lower quality scores.
- 1.35 While wills were assessed to have ‘failed’ on one of two criteria, and sometimes both (not being legally valid or receiving a grade of ‘poor’ or ‘very poor’ for the quality of the document), there were nevertheless a variety of specific reasons behind these failures, which are summarised below:
 - **Inadequacy** – where the content of the will does not account for an estate fully, fails to make adequate provision or neglects to take certain outcomes in to consideration. It also includes wills which are legally invalid;
 - **Requirements** – where the client’s requests have not been met (as specified in the testator questionnaire) through omission or conflicting specification;
 - **Legality** – where the actions specified in the will are potentially illegal;
 - **Inconsistency** – where the language, logic and/or content of the will is contradictory;
 - **Detail** – where items, people and requests are described in insufficient detail; and
 - **Presentation** – where the language and format of the document is lacking.
- 1.36 While wills were considered to have passed or failed for the purposes of the research, the extent of consumer detriment arising would vary significantly among those wills that failed. While in some cases the level of detriment to the consumer might be relatively small, in others mistakes could lead to high levels of consumer detriment, whereby beneficiaries might fail to receive all or part of their intended inheritance.



Practitioner views

- 1.37 While the majority (78%) of solicitors and specialist will-writers interviewed were positive or neutral about the **choice** of will-providers available in the market for consumers, there was a considerable degree of negativity about the **quality** of wills available in the market, both among solicitors and specialist will-writers.
- 1.38 Specialist will-writers' concerns tended to revolve around the difficulty consumers face in identifying quality providers with relevant qualifications, and the impact of a segment of the specialist (i.e. non-solicitor) will-writing market that does not provide bespoke or face-to-face services. Solicitors also believe that problems are caused by the presence of inadequate specialist will-writing organisations in the market, which provide an unregulated and poor quality service, although they tend to consider that this applies to the non-solicitor market as a whole rather than to a subset of it.
- 1.39 Will-providers (solicitors in particular) are generally more positive in their assessment of the **value for money** consumers receive (77% held a positive opinion), although both types of provider believe that a great deal of overcharging goes on in the market, by solicitors as well as specialist will-writers. In terms of **consumer protection**, solicitors (28% negative) were more likely to hold negative opinions than specialist will-writers (19% negative), again pointing to a lack of regulation of specialist will-writers (although the specialist will-writers who gave a negative opinion agree with this diagnosis).
- 1.40 Those solicitors and specialist will-writing organisations with concerns about the will-writing market's **ability to meet the needs of consumers** attribute the market's shortcomings to 'rogue' elements within the specialist will-writing industry (or rather 'non-solicitor' industry, as it is clear that many specialist will-writers' negative views focus on self-completion methods as much as other face-to-face providers).
- 1.41 The solicitors and specialist will-writers are almost unanimous in their belief that regulation of the will-writing industry is needed (90%) – many spontaneously cited regulation as the single most important improvement to the will-writing process that the market should make. This can be seen both as a reaction to ABS and an indictment of the 'rogue' elements of the specialist will-writing community that many of the solicitors and specialist will-writers interviewed perceive to be operating in the market.



2 Introduction

2.1 The LSB has been set up to reform and modernise the legal services market place in the interests of consumers, enhancing quality, ensuring value for money and improving access to justice across England and Wales. The LSB will achieve this pursuing its own regulatory objectives and providing regulatory oversight for the eight approved frontline regulators¹.

The legal framework

2.2 Existing regulation of legal services consists of a number of branches of the profession, some with protected titles; other branches do not have reserved titles but are allowed to practice one or more of the six reserved legal activities set out in the Legal Services Act 2007:

- The exercise of a right of audience
- The conduct of litigation
- Reserved instrument activities
- Probate activities
- Notarial activities
- The administration of oaths.

2.3 Other activities that are not reserved under the Legal Services Act 2007 but are subject to separate statutory regulatory regimes include immigration work (Immigration Act 1999) and claims management services (Compensation Act 2006). While will-writing is not a reserved activity in England and Wales, the Scottish Parliament recently started the process of making will-writing a reserved activity in Scotland.

2.4 In England and Wales following parliamentary debate in the run up to the Legal Services Act 2007 the decision was taken not to include will-writing within the reserved activities. Parliament considered that evidence had not shown statutory regulation in this area to be necessary, and favoured voluntary regulation instead. The issue was also considered by Lord Hunt in his report² on the regulation of legal services, who believed that will-writing, along with other legal activities, should be reserved.

2.5 The LSB asked the Consumer Panel to examine the will-writing market following concerns raised by a number of professional bodies representing will-providers, anecdotal evidence of consumer detriment and recent developments in Scotland. In particular the Consumer Panel was asked to consider:

- 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, i.e. "bait advertising";

¹ The Law Society, General Council of the Bar, Council for Licensed Conveyancers, The Institute of Legal Executives, The Chartered Institute of Patent Attorneys, The Institute of Trade Mark Attorneys, Association of Law Costs Draftsmen, Master of the Faculties.

² <http://www.legalregulationreview.com/files/Legal%20Regulation%20Report%20FINAL.pdf>



- 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 on price and other issues so that consumers do not make informed choices or do not realise the consequences of their purchase decisions;
- Problems related to storage of wills, charges for such storage 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; and
- Fraudulent activity linked to wills or related services.

2.6 The LSB is also carrying out wider research separately to this project on the basis of reserved activities and the types of outcomes consumers would like to see from legal services. This research will be used, along with the advice received from the Consumer Panel to help develop the LSB's specific conclusions on the need for reserved activities in the area of will-writing. If the evidence suggests that there may be a case for reservation there is a statutory investigation process set out in Schedule 6 of the Legal Services Act 2007. This will then be followed by a period of consultation before the LSB can conclude its study.

The will-writing market

- 2.7 Currently there are five main routes to write a will in England and Wales: solicitors; specialist will-writers; banks; affiliate groups (such as trade unions and industry bodies); or by self completion, using an online service or published will-writing pack.³
- 2.8 Of these routes, only wills written by solicitors and financial services providers are subject to regulation: in practice the SRA regulates solicitors for all legal activities, irrespective of whether they are reserved or not. The focus of concerns of stakeholders has been on unregulated will-providers, although there is currently no evidence on the quality of wills produced via any of the five routes.
- 2.9 The cost of wills is known to vary significantly depending on the complexity of the individuals' needs. Individuals with simple circumstances, such as those who have not been divorced, have no children from previous partners and have assets worth less than the inheritance tax threshold (£325,000) are likely to be able to get a will at relatively low cost. Those who have divorced partners, children from previous relationships, properties abroad, business interests and assets above the inheritance tax threshold are likely to have much more complex needs and so are likely to be charged much more for their will.
- 2.10 The will-writing market is further complicated by its close connection to other services such as estate administration and probate. Executors are required as, when a person dies, it is necessary for somebody to deal with their estate (the money, property and possessions left). A will can identify the executor(s), which may be an individual or corporate body. Their role is to collect in all monies, pay any debts and distribute what is left to those people legally entitled to it, as set out in the will. In order for an executor (or executors) to get the required authority to do this, they usually need to obtain a legal document called a Grant of Representation (either a Grant of Probate or a Grant of Letters of Administration) from the Probate Registry. This process is referred to as probate and is a reserved legal activity (but the rest of the estate administration process is not).

³ An additional layer of complexity is added by the fact that an individual who approaches a solicitor to make their will may have their will drafted by a specialist will-writer (or vice versa), while those who approach a bank or affiliate group may have their will written by a solicitor, specialist will-writer or may complete it themselves. Those who use a self-completion approach may also have their will reviewed by a solicitor or specialist will-writer once they have drafted it.



2.11 Often a person buying a will will be offered executor and/or probate services at the same time. While the cost of the will may be fairly low, probate or execution services can be significantly more expensive and often charged as a percentage of total assets included in the will. There are concerns that in some cases a will is advertised at a low basic cost as a means of securing lucrative estate administration work that beneficiaries will pay for, without the testator necessarily realising this.⁴

Aims and Objectives

2.12 The Consumer Panel is an independent arm of the LSB created to provide high quality, evidence-based advice to the LSB and others on the consumer interest in relation to the regulation of legal services.

2.13 LSB and the Consumer Panel together with the OFT and the SRA have commissioned IFF Research to conduct a study to support the LSB's policy analysis on reserved activities and the Panel's advice to the LSB on will-writing.

2.14 The study aims to develop a robust evidence base to support an assessment of the current treatment of customers of will-writing services, with particular consideration given to the following areas:

- How consumers select will-writing services;
- Challenges they face finding a suitable service;
- The quality of the wills produced;
- How consumers feel about the service they receive;
- Whether the costs matched their expectations; and
- Whether they felt subject to any sales pressures.

2.15 As a secondary consideration the research also seeks to improve the LSB's understanding of the market from the will-providers' perspective, including: the approach taken by firms to selling wills; whether they have standardised procedures; whether they aim to cross sell services; and how they market themselves.

⁴ Execution and probate services do not fall within the scope of this study, although the interaction and cross selling between will-writing and execution/probate activities may be relevant in understanding customer experience of will-writing.



3 Methodology

3.1 We implemented a multi-stage research programme incorporating three distinct but complementary strands to compare and contrast the views and experience of participants in the market, thereby developing a more 'rounded' picture of the market. The three phases were:

- A shadow shopping study;
- A retrospective survey among consumers who had purchased a will in the last 12 months; and
- A programme of qualitative telephone depth interviews among solicitors and will-writing companies.

Shadow shopping

3.2 "Shadow shopping" is in many ways similar to the better known approach of mystery shopping, in that it enables researchers to track a consumer's journey through a purchase process, achieving an 'immediacy' of recall that is not always feasible with a retrospective survey. The principal disadvantage of mystery shopping is that it uses 'professional' shoppers rather than genuine consumers and in this instance, it was important to understand not only consumers' experiences of the purchase process but also their needs, priorities and expectations, which could not be captured using professional mystery shoppers who enter the process merely because they are paid to do so. Shoppers also needed to take the sales process right through to purchase (of a relatively complex and individually tailored product), so genuine rather than professional consumers were preferred. It also meant that the consumers participating gained a material benefit from the study by getting the wills written that they need. As with any research methodology, shadow shopping has its limitations; these are set out in 'Annexe B: Issues for consideration when interpreting the findings of the research'.

3.3 The shadow shopping exercise comprised six stages, as set out below:

- **Recruitment:** eligible consumers (those who were considering purchasing a will in the next two years using one of the channels being researched: solicitors; will-writing organisations; banks, building societies or affiliate groups; self-completion) were recruited using an online panel of consumers. They were also classified as 'simple' or 'complex' (see paragraph 2.9) based on information they provided about their personal circumstances.⁵
- **"Pre-purchase" interview:** within a few days of being recruited online, IFF contacted all respondents by telephone to conduct a "pre-purchase interview". This interview sought to verify the information they had provided online as well as gaining an understanding of consumers' needs and attitudes at the outset of engaging with the will-writing process. At the end of this interview respondents were asked to purchase a will via one of their preferred routes by the end of April 2011.
- **Progress update calls:** respondents were contacted by telephone approximately every two weeks during the fieldwork phase to monitor how they were progressing through the will-writing process. Once a respondent confirmed that they had purchased a will, they were sent a copy of the "testator questionnaire" (see below) and an appointment for a face-to-face "post-purchase" interview was made.

⁵ In both the shadow shopping exercise and consumer retrospective survey, respondents were classified as having complex circumstances if any of the following applied to them: their spouse/partner is based outside the UK; any of their intended beneficiaries are based outside the UK; they have had a previous marriage; have children from a previous marriage or relationship; have total personal net assets of £325,000 or more; own property outside the UK; own a farm or farmland; own or co-own a business; or are involved with one or more Family Trusts.



- **Testator questionnaire:** respondents were asked to complete a questionnaire (either on paper or online) in advance of the face-to-face interview. This was used to collect detailed information about their personal circumstances, assets, liabilities and intended beneficiaries, enabling the assessment panel to assess whether each will met respondents' needs.
 - **"Post-purchase" interview:** once a respondent confirmed they had purchased a will, IFF arranged a face-to-face interview to discuss their experience of purchasing a will, from selecting a supplier to receiving the final copy of the will and making payment. At the end of this interview the interviewer collected a copy of the will and the completed testator questionnaire.
 - **Assessment:** each will and testator questionnaire collected was passed on to two assessors (one solicitor and one specialist will-writer) from an assessment panel of solicitors and specialist will-writers recruited by the LSB. The assessors reviewed the wills alongside the completed testator questionnaires to establish (a) whether the wills were legally valid and (b) whether they met the needs and circumstances of the respondent as set out in the testator questionnaire. In the event that the outcomes of the two assessments were different, the will was passed on to three more assessors to adjudicate.
- 3.4 Respondents were compensated financially for their participation in the shadow shopping exercise. The amount offered varied according to their channel of purchase and the complexity of their personal circumstances.
- 3.5 The shadow shopping exercise (from recruitment through to the assessment of the wills) was pilot tested between December 2010 and February 2011. A small number of refinements were made to the process in the light of the pilot and implemented in the main stage of the exercise, which took place between March and May 2011.
- 3.6 A total of 102 individuals completed the shadow shopping exercise (93 from the main stage and nine from the pilot).⁶ A breakdown of participants by demographic characteristics, channel of purchase and mode of will-writing is shown in Annexe A.

Consumer retrospective survey

- 3.7 Shadow shopping is a very involved (and therefore expensive) method of data collection. A shadow shopping exercise that would be sufficiently large to provide robust quantitative data on the experiences of consumers pursuing each of the will-writing channels would be prohibitively expensive.
- 3.8 In order to supplement the depth of information obtained through shadow shopping with quantitative evidence of the overall proportion of individuals with particular views or experiences, we undertook a retrospective survey of consumers who had purchased a will recently. 500 individuals who had purchased a will in the last 12 months were recruited using an online panel and went on to participate in an online survey in March 2011.
- 3.9 Quotas were set based on the channel through which the will was purchased. In total 253 respondents purchased their will through a firm of solicitors; 102 through a specialist will-writing organisation; 48 through a bank, building society or affiliate group (e.g. trade union or industry body) and 97 purchased a hard copy self-completion pack or used online self-completion software. A breakdown of respondents by demographic characteristics, channel of purchase and mode of will-writing is shown in Annexe A.

⁶ While 102 individuals participated in the shadow shopping exercise, only 101 assessments were received within the deadline, hence the discrepancy between the total number of interviews and the total number of assessments (Table 8.3).



Qualitative telephone depth interviews

- 3.10 We conducted 97 interviews with will-providers, split between representatives of specialist will-writing organisations (47) and firms of solicitors (50), in March 2011.
- 3.11 As no comprehensive and readily available list of will-writing organisations was available, our sample source for this study was the Experian business database. A total of 1,742 business records from the most relevant classifications (“Solicitors” and “Wills”) were randomly drawn from the database. The records were drawn at an organisational level, i.e. where organisations have multiple branches we obtained the head office record in order to get an organisation-wide view. This meant that there was only one interview per organisation rather than multiple interviews per organisation – avoiding potential skews towards organisations with many branch offices. All businesses were screened to ensure that they wrote wills for consumer clients.
- 3.12 Further information about the sample of will-providers can be found in Annexe A.

Limitations of the research

- 3.13 ‘Annexe B: Issues for consideration when interpreting the findings of the research’ sets out the issues which may need to be taken into account when interpreting the findings of the study.

Reporting conventions

- 3.14 The findings of the consumer retrospective survey are used as the basis for the reporting, primarily because this quantitative survey of will-writing customers provides an effective overview of consumers’ experience of the market and facilitates more statistically robust sub-group analysis than the shadow shopping exercise.
- 3.15 The findings from the shadow shopping exercise are used to add further context and in some instances to compensate for the possible limitations of the retrospective survey (e.g. survey respondents may recall details of the purchase process less precisely than more recent purchasers). Where differences emerge between the two research strands, these are highlighted in the commentary.
- 3.16 We compare and contrast the findings from the qualitative depth interviews with will-providers with the findings of the consumer retrospective survey and the shadow shopping exercise in order to present a more ‘rounded’ picture of the market, taking account of the perspective of businesses as well as consumers.
- 3.17 Where meaningful differences emerge, they are highlighted in the commentary. Throughout this report, all differences indicated are significant at the 95 per cent confidence level unless otherwise stated.
- 3.18 Data in some tables and charts may not add to 100 per cent due to rounding.



4 Pre-purchase

Summary

- 4.1 Consumers' reasons for choosing their channel of purchase varied according to the channel chosen: those who chose a firm of solicitors were more likely to report that they had used the organisation in the past for other services (45%) or that it had been recommended by a friend or family member (20%), while customers of specialist will-writers were more likely to state that the channel appeared to offer good value for money (21%). Value for money – and cheapness – were also cited by those who used a self-completion channel (24% and 26% respectively) but the most commonly cited reason among these consumers was that the will-writing process seemed simple and easy to understand (29%).
- 4.2 Around a third of respondents (35%) compared the will-writing services offered by different providers. Of those who made comparisons, just over half (51%) used a search engine to do so (most commonly those who chose a paper-based (63%) or online (65%) self-completion route), while two-fifths (40%) contacted providers either by telephone or in person to obtain a quote (most commonly those who used a firm of solicitors (57%)).
- 4.3 Price was an important factor in deciding which channel *not* to use: those who considered but decided against using a firm of solicitors were most likely to state that solicitors were too expensive (61%). This was also the most common reason for rejecting specialist will-writing organisations (40%), although just over one-third (36%) of those who chose not to use a specialist will-writer cited concerns over their reliability. Concerns over reliability and whether wills would be legally binding were commonly voiced by those who considered but ultimately chose not to use a self-completion approach (more so among those who considered online self-completion than those who considered a paper-based self-completion approach). There was also an indication from the shadow shopping exercise that consumers are wary of services that appear *too* cheap.
- 4.4 Customers who received quotes or price estimates reported that the quoted price of a will from a firm of solicitors tends to vary from £100 to £300, while those from specialist will-writers cluster around £100. Online self-completion wills generally vary in price from £10 to £50, but some considerably more expensive (over £100).

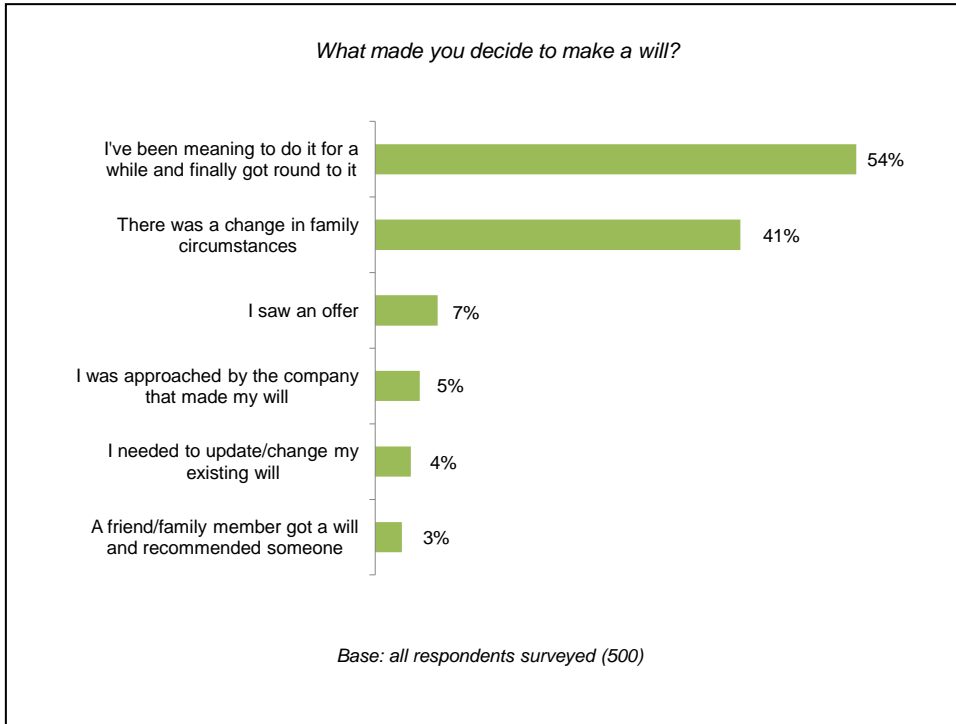
Reasons for making a will

- 4.5 Over half the respondents (54%) who participated in the consumer retrospective survey reported that they had been meaning to purchase a will for a while and had only just got round to it. A change in family circumstances (41%) was the other main reason for making a will (Figure 4.1).



4.6 It was relatively uncommon for consumers to state that they had been approached directly by a will-writing company (only 5% gave this response). Those who used a specialist will-writing company were more likely to report this (12%) than those who used a solicitor (3%).

Figure 4.1: Reasons for purchasing a will



Channel choice

- 4.7 Consumers participating in the consumer retrospective survey were asked to nominate the main reason for choosing their will-writing channel (Figure 4.2).
- 4.8 Those who chose a firm of solicitors were more likely to report that they had used the organisation in the past for other services (45%) or that it had been recommended by a friend or family member (20%), while customers of specialist will-writers were more likely to state that the channel appeared to offer good value for money (21%). Value for money – and cheapness – were also cited by those who used a self-completion channel (24% and 26% respectively) but the most commonly cited reason among these consumers was that the will-writing process seemed simple and easy to understand (29%).

Figure 4.2: Main reason for choosing will-writing channel (top five)



- 4.9 The solicitors interviewed as part of the qualitative survey of will-writing organisations gave a different angle on how and why their customers come to use their services. Only 16% of these solicitors stated that their will-writing customers have previously used their services or are existing customers – whereas 78% state that (at least some) of their trade comes from word of mouth recommendations.
- 4.10 Generally, the will-writing organisations interviewed employ some form of marketing or promote awareness of their services in the public arena (70%). This includes using directories such as the Yellow Pages (24%), advertising in the local media (42%) and having a website or social media presence (10%).
- 4.11 As mentioned, solicitors (78%) are more likely to rely on word of mouth recommendations, although this is still commonly mentioned by specialist will-writers (57%). Half of the specialist will-writers interviewed take referrals from other organisations – typically from independent financial advisors (21% of all specialist will-writers mention this unprompted), although a handful mention that they receive referrals from solicitors (5% mention this unprompted).



- 4.12 Consumers were least likely to use a solicitor because the channel seemed to offer good value for money (5%), because it was cheap (2%) or because the process seemed simple and easy to understand (3%). While it was not one of the most commonly cited reasons for choosing a will-writer, it is worth noting that 11% of specialist will-writers' customers felt that the service offered by specialist will-writers appeared to be aimed at "someone like me".

"They handled mother's will and didn't mess it up and the same person dealt with this one."

Solicitor, Complex, Female, 55-64

"There isn't much to leave at the moment and I just wanted to get it done and this, basically, seemed the easiest way; it was just a series of questions. I answered them and printed out the will. It took about 20 minutes."

Online self-completion, Simple, Female, 45-54

"I did an internet search and had a phone call from one firm with a quote for £66. I had a walk around WH Smith and Ryman and saw it there on the shelf for £14.99 and it looked straightforward."

Paper self-completion, Simple, Male, 45-54

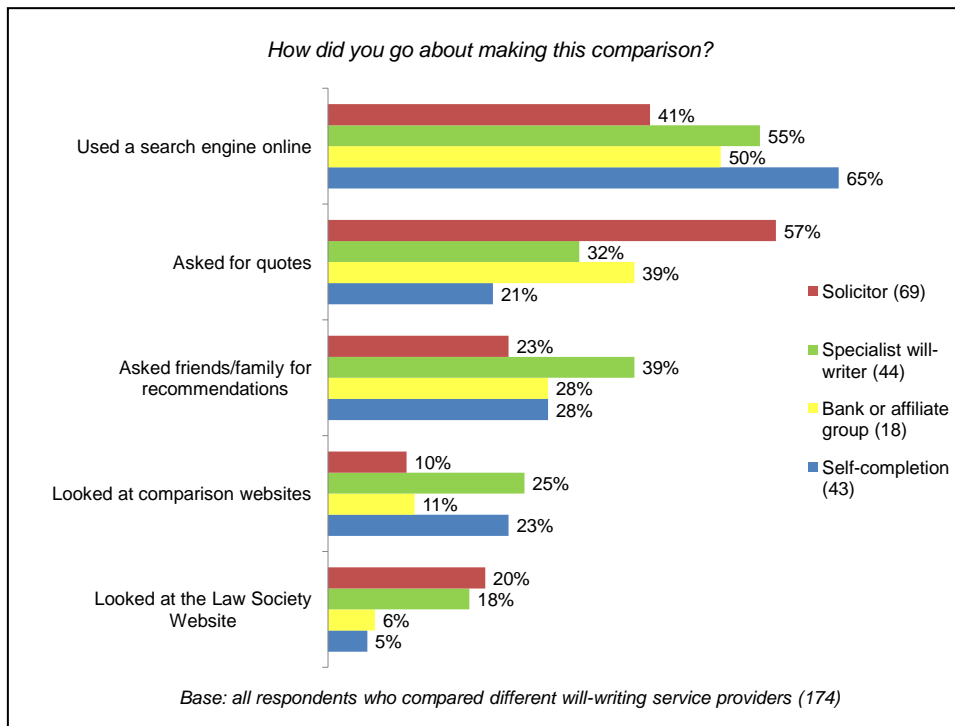
- 4.13 The reasons cited by participants in the shadow shopping exercise for choosing a will-provider were broadly similar to those given by respondents to the consumer retrospective survey. The principal difference was that shadow shoppers were more likely to mention convenience as a key reason for having chosen their provider (54/102); this is perhaps a function of the relatively short timescale for the research.

Comparing different providers and shopping around

- 4.14 Around a third of respondents (35%) who participated in the consumer retrospective survey compared the will-writing services offered by different providers. Just over half of respondents who made comparisons (56%) compared two or three different providers. A third (32%) compared four or five providers and only 5% compared six or more. This was broadly in line with the reported experience of shadow shoppers, who had engaged much more recently with the market.
- 4.15 Those respondents who chose a specialist will-writing company (43%) and the self-completion route (44%) were more likely to compare the services offered by different providers. Only 27% of those who used a solicitor compared different providers. This is perhaps linked to the reasons given for choosing this specific channel: 48% of those who chose a solicitor did so at least in part because they had used them in the past for previous services while 26% had been recommend that solicitor by a friend or family member, indicating that there was little incentive to do any more shopping around.
- 4.16 Perhaps unsurprisingly those with complex circumstances were more likely to compare different providers (38% did so) than those with simple circumstances (30%).
- 4.17 Just over half of respondents who made comparisons (51%) used a search engine to do so (Figure 4.3). This was more marked among those who chose the self-completion route (65%), irrespective of whether they ultimately completed their will on paper or online. Two-fifths (40%) of consumers contacted providers either by telephone or in person to obtain a quote; this was most prevalent among those who used a firm of solicitors (57%). Comparison websites tended to be used more commonly by those who chose a specialist will-writer (25%) or a self-completion approach (23%).



Figure 4.3: How consumers compared different will-providers



4.18 While there is evidence from the consumer retrospective survey that making comparisons or shopping around is quite widespread among consumers in the market, the shadow shopping exercise indicates that the time and effort taken varies quite considerably: while some consumers review only one or two providers, for others this activity is much more involved.

“I went to expertviews.co.uk and [will-writer] got five stars. None of the others got anywhere close.”

Online self-completion, Simple, Female, 25-34

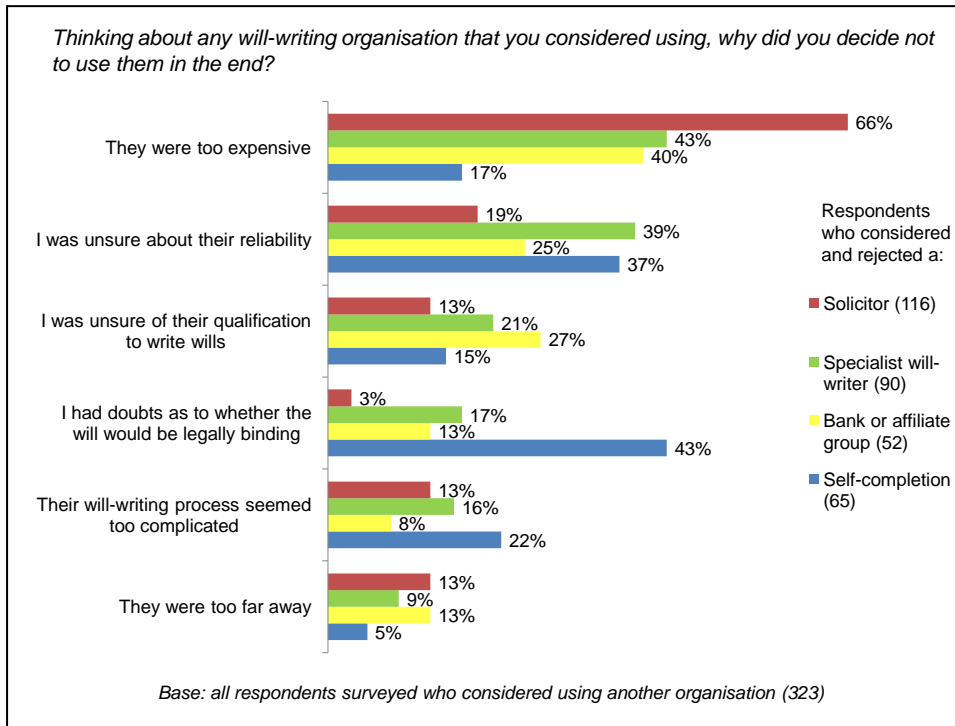
“I went on the Law Society website to look for solicitors that did wills. I called up a whole load of solicitors for quotes.”

Solicitor, Simple, Female, 25-34



4.19 Those consumers who considered using different channels were asked why they ultimately chose not to use each of the channels they had thought about using. Figure 4.4 below shows the reasons consumers decided against using particular channels.

Figure 4.4: Why consumers decided against particular will-writing channels



4.20 Those who considered but decided against using a firm of solicitors were most likely to state that solicitors were too expensive (61%). This was also the most common reason for rejecting specialist will-writing organisations (40%), although just over one-third (36%) of those who chose not to use a specialist will-writer cited concerns over their reliability. A further fifth (19%) were unsure as to how qualified they were to write wills and 15% had doubts whether their wills would be legally binding.

4.21 Concerns over reliability and whether wills would be legally binding were also commonly voiced by those who considered but ultimately chose not to use a self-completion approach (more so among those who considered online self-completion than those who considered a paper-based self-completion approach). There was also an indication from the shadow shopping exercise that consumers are wary of services that appear *too cheap*.

"[Using a solicitor] seemed like a rip-off"

Online self-completion, Simple, Male, 65 or over

"I chose [another] company and tried to book an interview through their online services. I didn't get a reply but I got a very poorly worded standard response email saying we would be in contact shortly. I took exception to it because there was appalling spelling throughout it. I went back to them and said please don't contact me."

Specialist will-writing company, Complex, Male, 35-44

"I also considered [a specialist will-writing organisation], which was by telephone. It looked very good and a very comprehensive service offering probate, but I did not just want to do it on the telephone."

Solicitor, Complex, Female, 55-64



"In theory it should be straightforward because you can get a form from the stationers and do it yourself. I don't want to pay hundreds to a chap who is not particularly well trained. But I was worried about using the wrong terminology."

Bank or affiliate group, Complex, Male, 65 or over

"Because it was a legal document, I didn't really understand how some could do it for such a low price - there was a sense of cutting corners. One that charges £7.99 seemed to me a bit suspicious."

Online self-completion, Simple, Female, 25-34

4.22 Those who participated in the shadow shopping exercise and received quotes or price estimates (either through in-person contact or via the provider's website) reported that the quoted price of a will from a firm of solicitors tends to vary from £100 to £300, while those from specialist will-writers cluster around £100. Online self-completion wills generally vary in price from £10 to £50, but some are considerably more expensive (over £100).

4.23 Shadow shoppers were very unlikely to check whether will-writing organisations have some form of accreditation. Even those who do check tend to concede that the various accreditation or quality marks mean little to them, and there is a degree of suspicion about 'invented' accreditations.

"I wouldn't know who or what to look for in terms of regulation or quality assurance."

Solicitor, Simple, Female, 25-34

"From the moment I walked in they were pushing different services with different charges. I was shown licences and things but these were taken away once I had glanced at them."

Specialist will-writing company, Complex, Female, 55-64

"It's very difficult to compare them. They're all members of this or that association. Unless you have a personal recommendation, one solicitor or one will-writer is as good as another."

Online self-completion, Complex, Male, 55-64



5 Will-writing process

Summary

- 5.1 Nine-tenths (91%) of respondents in the consumer retrospective survey reported that an explanation of the process had been provided to them by their will-provider (or the information provided with the self-completion pack/ software) before the process began. The vast majority of those respondents who received an explanation agreed that it was clear, comprehensive and accurate; those who chose solicitors were most likely to agree strongly. Where concerns arose, these tended to relate to a lack of clarity around executor services and concerns that will-providers were concentrating more on selling additional services than explaining to their clients how the process would work.
- 5.2 The large majority of respondents (85%) agreed that there were enough opportunities to ask questions. Consumers who used a firm of solicitors were more likely to agree strongly (71%), compared with 60% who purchased via a specialist will-writer, while only 18% of those who completed the will themselves agreed strongly with the equivalent statement: “there was a facility for me to ask any questions or gain clarification on any issues easily”.
- 5.3 Respondents to the retrospective survey were provided with a list of issues that one might need to consider when writing a will (including, but not limited to: children; property ownership; marital status; assets and liabilities; and the implications of Inheritance Tax). In respect of the two face-to-face approaches to writing a will (solicitors and specialist will-writers), there were few differences in the proportions of customers who were asked about each issue. The proportion of consumers using a self-completion approach that was instructed to consider that issue was considerably lower than the proportion of consumers asked about it by a solicitor or specialist will-writer, however.
- 5.4 The majority of will-providers (73%) (especially specialist will-writers – 83%) use a ‘testator’ or ‘fact find’ questionnaire to assist them in gathering information about clients’ personal circumstances at their first meeting. Will-providers reported that some clients have difficulty answering questions about their personal circumstances (most commonly a reluctance to reveal information that they would otherwise have wished to keep secret from their spouse or partner), calculating the value of their assets and answering questions about funeral arrangements and guardianship.
- 5.5 Customers of specialist will-writers tended to spend longer discussing their personal circumstances with their will-provider: 47% spent over an hour compared with 16% of solicitors’ customers, while 54% of solicitors’ customers spent half an hour or less, compared with 29% of specialist will-writers’ customers.
- 5.6 Three-quarters of respondents (76%) reported that their will-writer (or the guidance material which accompanied their self-completion pack) explained to them why their personal circumstances can affect their will; a much lower overall proportion (46%) were told that their personal circumstances could affect the cost of their will. While there was little difference between the experience of those who used solicitors or specialist will-writers, the proportion of self-completers to whom these issues were explained (either in the accompanying materials or via the website) was much lower.
- 5.7 Almost nine-tenths (86%) of consumers felt that they could fully understand the content of their will when they received it; the remainder required further explanation.
- 5.8 Nine-tenths (91%) of consumers who had their will written by another individual (solicitor or will-writer) rather than completing it themselves reported that they were offered the opportunity to review the content of the will with the will-writer. Those whose will was written by a solicitor were more likely to be offered a review (78%) than those who used a specialist will-writer (67%).



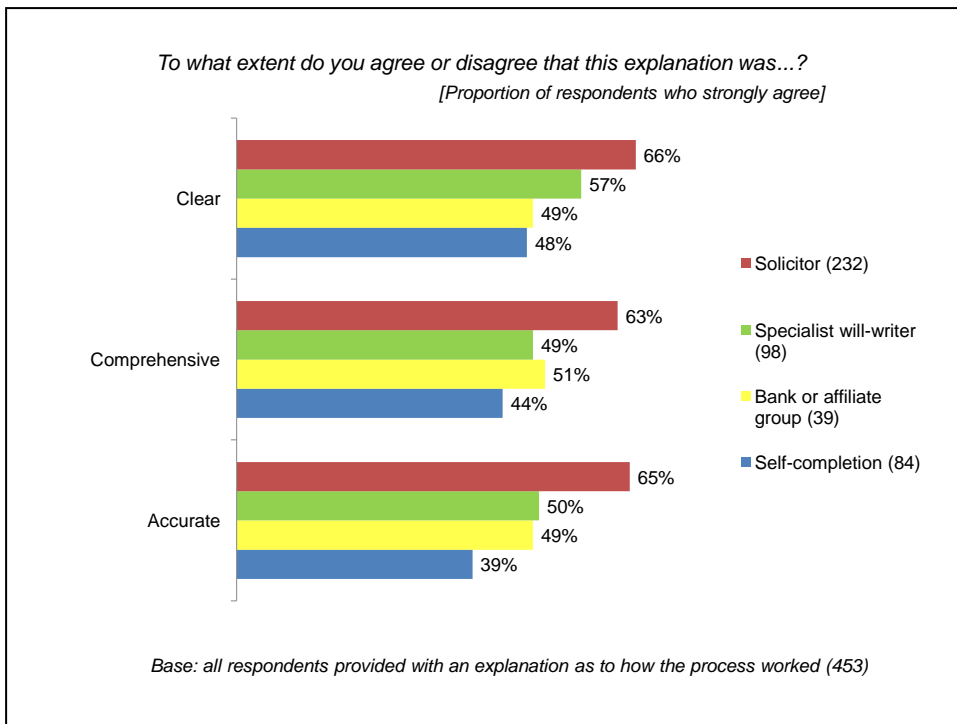
- 5.9 Of those given the chance to review their will with the will-writer, 83% took up the offer. Again, the proportion was higher among those using solicitors (86%) than those using specialist will-writers (75%). Nearly all (99%) respondents who went through the content of their will with their will-writer thought that this process enabled them to understand their will sufficiently.
- 5.10 Respondents who wrote their wills themselves were asked whether they were able to go through the content with someone such as a solicitor. Fifty per cent of respondents were offered this service, although only one-fifth of them took up the offer. There is some indication that those who had used an online self-completion route were much more likely to be offered – and to use – this service than those who used a paper self-completion route.
- 5.11 Nine-tenths of respondents were provided with guidance on how to sign the will themselves (91%) and how to have the will legally witnessed (91%). The vast majority of will-providers (79%) reported that they have guidelines for both signing and witnessing wills, while a small but significant minority state that they ensure the act of signing and witnessing takes place under their supervision (6%).



Information provided at the outset of the will-writing process

- 5.12 Nine-tenths (91%) of respondents in the consumer retrospective survey reported that an explanation of the process had been provided to them by their will-provider (or the information provided with the self-completion pack/ software) before the process began.
- 5.13 Those who used a specialist will-writing company (96%) or a solicitor (92%) were more likely to have received an explanation of the process than those who completed the will themselves (87%) or used a bank or affiliate group (81%).
- 5.14 The vast majority (97%) of those respondents who received an explanation agreed that it was clear, while 59% strongly agreed. Those who chose solicitors were most likely to find the explanation clear, with 66% strongly agreeing. This compared to 57% among those who opted for a specialist will-writing organisation and just 49% and 48% respectively for those who chose an affiliate or a self-completion approach. The breakdown by channel of purchase is shown in Figure 5.5 below.
- 5.15 A similar trend is evident with respect to the perceived comprehensiveness and accuracy of the explanation. In both cases 55% of consumers strongly agreed, with the proportion highest among solicitors (63% and 65% respectively).

Figure 5.5: Clarity, comprehensiveness and accuracy of explanation of process



5.16 Participants in the shadow shopping exercise who wrote their own will (either using a paper-based or online self-completion approach) were asked what kind of instructions were provided. Paper self-completion wills tended to be accompanied by guidance material (10/11), which varied in scope from a “70-page booklet” to “a sheet of A4 printed on both sides”. In some instances (3/11) an example will was included in the pack. In the case of online self-completion wills guidance material was provided (16/18) in the form of booklets or manuals, instructions on each screen of the will-writing software program or information that the user could draw on as and when required (either in the form of downloadable .pdf materials or clickable ‘help’ buttons which brought up ‘pop-up’ windows).

5.17 While most (18/26) were positive in their assessment of these materials, reporting that they were clear, simple and straightforward, there was a degree of dissatisfaction: some (7/26) regarded the guidance material as too complicated, especially where they felt that too much legal jargon was employed.

“Very helpful – basic English that anyone could have understood. No legal jargon.”

Online self-completion, Simple, Female, 45-54

“I now think [the information sheet] is quite poor actually, and if anyone wanted my advice, I would tell them to seek out a solicitor and look down that line of things.”

Paper self-completion, Simple, Male, 35-44

“I felt there was a reasonable degree of presumption that you knew a lot of the terminology - which I didn’t.”

Bank or affiliate group, Simple, Female, 35-44

5.18 A large majority of respondents to the consumer retrospective survey (86%) felt that nothing was omitted from the explanation. This figure was highest among those who chose a solicitor (91%) and lowest among those who went through an affiliate (75%). 17% of those who went through a bank or affiliate group thought more should have been explained to them about the will-writing process.

5.19 Those who had simple circumstances were more likely to feel there were omissions from the explanation: 10% of respondents with simple circumstances felt this way, compared with 3% whose circumstances were complex.

5.20 Owing to the small number of respondents (37; 7% of the total) who felt that the explanation failed to cover areas that should have been included, it is not possible to undertake reliable quantitative analysis of the omissions. The findings suggest that there was not one specific area that customers felt was not covered in sufficient detail, but a range of topics including the cost of the will-writing process, the consequences of respondents’ particular circumstances, an overview of the process and the information required from the testator.

5.21 The shadow shopping exercise provides additional insight in this area, reinforcing some of the issues highlighted above and indicating that other concerns arose, not least a lack of clarity around executor services and concerns that will-providers were concentrating more on selling additional services than explaining to their clients how the process would work.

“An explanation that bank executor services are optional [would have been useful]: the form itself had tick boxes for executors and trustees, with [bank] as one of them. It could have been a bit clearer, not having gone through this process before. I had to phone them up and ask them to explain that.”

Bank or affiliate group, Complex, Female, 35-44

“His quote didn’t contain VAT. I complained but the will-writer said they were complying with Law Society requirements. They should change it as clearly I am not a company and therefore they should



quote a figure that I should pay. Nobody does that anymore; you don't say '£10 for a pizza' and then add VAT on."

Solicitor, Simple, Male, 45-54

"I wanted someone to see what I've got and give me inheritance tax advice, but this went out the window because I kept protecting myself against him trying to sell me will storage."

Specialist will-writing company, Simple, Female, 65 or over

"It would have been nice at the initial telephone enquiry for the solicitor to have gone through or emailed a list of questions I was going to be asked, so that I could have thought about the aspects in detail beforehand; I was put on the spot by a few of the questions."

Solicitor, Simple, Female, 25-34

"With hindsight they might have explained that some of the questioning may be of a personal nature."

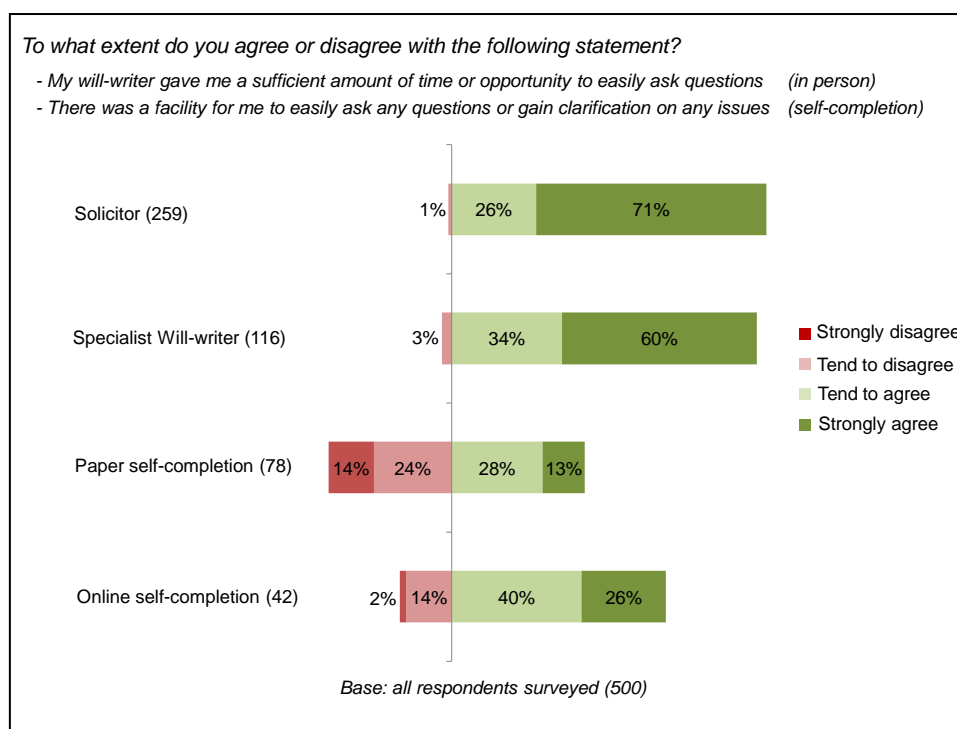
Specialist will-writing company, Complex, Male, 35-44



5.22 For the remainder of this report, we focus on the *mode of will-writing* rather than the *channel of purchase*, i.e. those who approached a bank, building society or affiliate group are reclassified according to how their will was written (mode).

5.23 The majority of respondents (85%) agreed that there were enough opportunities to ask questions. Just over half (56%) agreed strongly; consumers who used a firm of solicitors were more likely to agree strongly (71%), compared with 60% who purchased via a specialist will-writer (Figure 5.6). Only 18% of those who completed the will themselves agreed strongly with the equivalent statement: “there was a facility for me to ask any questions or gain clarification on any issues easily”.

Figure 5.6: Extent of opportunity to ask questions



5.24 Satisfaction with the extent of the opportunity to ask questions among users of solicitors and specialist will-writers was borne out by the findings of the shadow shopping exercise: the vast majority of participants felt that they were given sufficient opportunity to ask questions. There was some recognition also that the customer had an important role to play in getting the process off to a good start: that planning in advance what they wanted to achieve and noting down important questions meant that the initial meeting flowed better.

“I had mentally prepared myself, and I asked the questions I wanted to ask ... I had made up my mind as to what I wanted to do before they came anyway because I’m fortunate in that I have only got one son and one daughter. To me it seemed fairly straightforward.”

Specialist will-writing company, Complex, Female, 65 or over

Collecting personal information

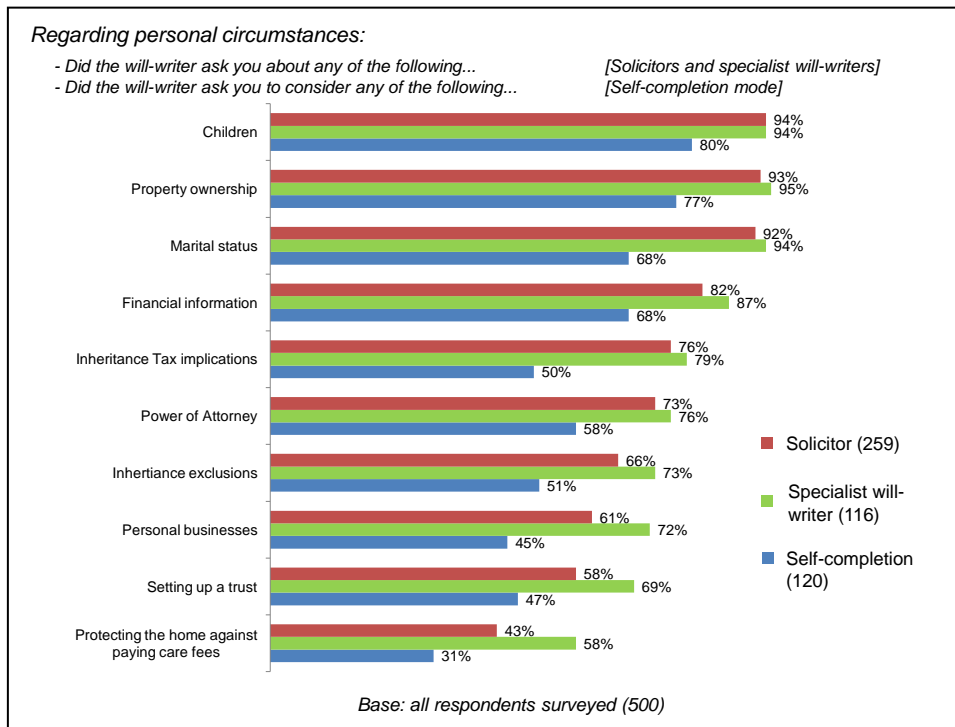
- 5.25 The shadow shopping exercise indicates that both customers of solicitors and specialist will-writers were fairly equally split between those who were asked about their reasons for making a will and those that were not. Shoppers tended to cite changes in personal circumstances (14/33) (especially recent or impending marriage, birth of children or acquisition of property), increased awareness of their own mortality (7/33) and a desire to reduce the tax burden when providing for their children (6/33) as reasons for making a will. Changes in personal circumstances were frequently mentioned as a reason by those who had already made a will (12/19). There was very little evidence that will-providers used these initial discussions to try to sell additional services to customers.
- 5.26 Respondents to the retrospective survey were provided with a list of issues that one might need to consider when writing a will and were asked whether their will-provider asked them about each issue (Figure 5.7). The great majority of respondents were asked about (or instructed to consider, in the case of self-completion wills) their children (including any adopted children or children from a previous relationship) (91%), property ownership (90%) and their marital status (86%).⁷ Fewer than half were asked about the possibility of protecting their home against paying home care fees (43%).
- 5.27 In respect of the two face-to-face approaches to writing a will (solicitors and specialist will-writers), there were few differences in the proportions of customers who were asked about each issue. That said, specialist will-writers were more likely than solicitors to ask about businesses owned (72% vs. 61%), the possibility of setting up a trust (69% vs. 58%) and the possibility of protecting one's home against paying care home fees (58% vs. 43%).

⁷ While it might seem unlikely that any solicitor or will-writer would fail to ask a client about their children, property ownership or marital status, it is possible (a) that some respondents failed to recall the details of their early conversations with the will-provider, (b) that they mentioned these issues themselves – before the will-provider raised them, or (c) that their circumstances were sufficiently well known to the will-provider (especially if it was a solicitor), that these issues did not need to be covered.



5.28 For each issue, the proportion of consumers using a self-completion approach that was instructed to consider that issue was considerably lower than the proportion of consumers asked about it by a solicitor or specialist will-writer. This was also borne out by the experience of the participants in the shadow shopping exercise.

Figure 5.7: Specific personal circumstances considered before will-writing begins



5.29 The majority of will-writing businesses (73%) use a ‘testator’ or ‘fact find’ questionnaire to assist them in gathering information about clients’ personal circumstances at their first meeting. Specialist will-writers (83%) are more likely to use such a questionnaire than solicitors (64%).

5.30 Virtually all solicitors (97%) that use a questionnaire use one of their own design. The majority of specialist will-writers also do so (72%), although a few report using a questionnaire designed or produced by a third party (28%). These third party questionnaires are typically obtained from the Society of Will Writers or the Law Society.

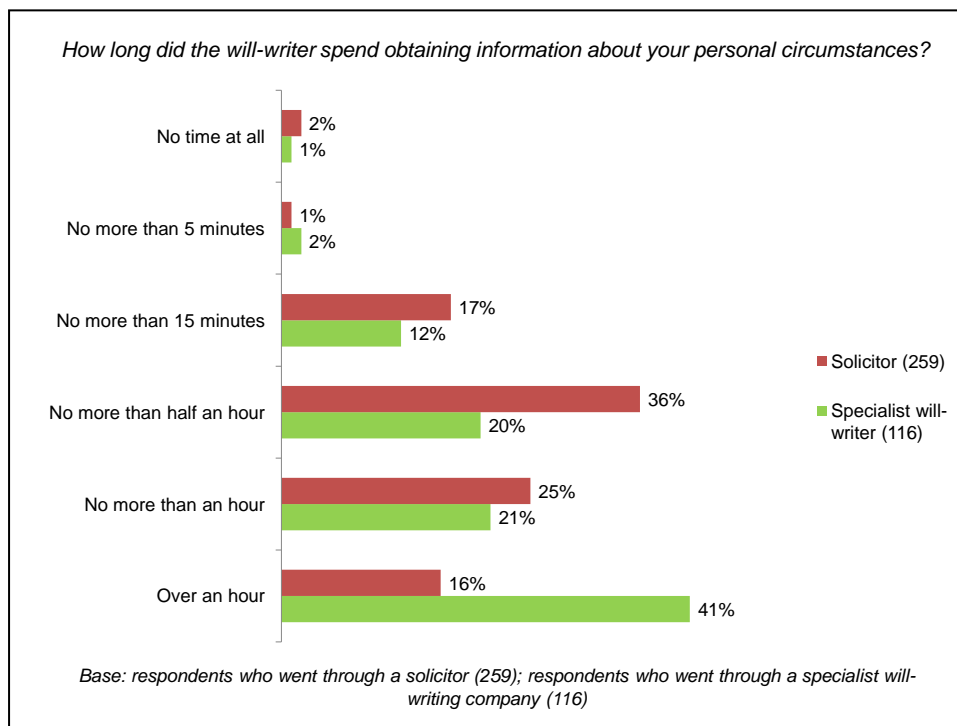
5.31 A significant minority of the will-writing organisations (31%) interviewed state that they often experience clients who have difficulty answering questions about their personal circumstances. The most commonly cited difficulties relate to some clients’ reluctance to reveal information about their familial situations that they would otherwise have wished to keep secret from their spouse or partner, such as previous marriages or children from previous relationships (10% of all organisations). Solicitors and specialist will-writers alike, refer to these cases of ‘skeletons in the closet’.

“It could be a child previous to the relationship which the partner doesn't know about. That's awkward for clients to answer. I had one client who was quiet at the time, but got in touch with me later and I had to rewrite his will for that. Those are the most awkward situations, when these issues are not known to the partner.”

Specialist will-writer

- 5.32 Solicitors also commonly mentioned that clients can have difficulty calculating the value of their assets (10%), while several specialist will-writers reported that clients can have difficulty answering questions about funeral arrangements and guardianship (9%).
- 5.33 Around two-thirds of respondents who used a solicitor or specialist will-writing company (67%) were asked to prepare information prior to meeting their will-writer to discuss the content of the will. There was no significant difference between the two modes.
- 5.34 Two fifths of the will-writing businesses interviewed (36%) reported sending forms to clients ahead of the initial information gathering meeting to assist them in gathering the required personal information. The solicitors (42%) interviewed were more likely to send such forms pre-interview than specialist will-writing companies (30%).
- 5.35 Respondents were asked how long their will-provider spent obtaining information about their personal circumstances (Figure 5.8). Just under half (47%) spent half an hour or less doing so; one-quarter (24%) spent no more than an hour and a similar proportion (24%) reported spending over an hour. Customers of specialist will-writers were more likely to have spent over an hour discussing their personal circumstances (41% compared with 16% of solicitors' customers), while customers of solicitors were more likely to spend half an hour or less (53% compared with 34% of specialist will-writers' customers).

Figure 5.8: Time spent obtaining information about personal circumstances



- 5.36 Almost all of the shadow shoppers who used solicitors, specialist will-writers or banks or affiliate groups (65/76) felt that the will-provider spent sufficient time obtaining information about their personal circumstances, although a small number questioned the relevance of some of the information requested (3/76).

"[The will-provider] probed my financial circumstances thoroughly and details of my children, creating a family tree during the consultation, which lasted at least two hours. This was important as I have a child by a previous husband."



Specialist will-writing company, Complex, Female, 35-44

"I would have liked more asked about financial details. I could not understand why the solicitor did not want to know how much was in my bank account and how much my car was worth. [The solicitor] said that would be taken into account of your estate – it all goes to your estate. I don't understand the will and I don't have any legal background."

Solicitor, Simple, Female, 35-44

"[The will-provider] did ask some quite detailed questions about family members: their dates of birth and addresses. This was information that we had to go and find out and then they weren't included in the final will; so I'm not sure why we were asked."

Specialist will-writing company, Complex, Male, 55-64

- 5.37 Three-quarters of respondents (76%) reported that their will-writer (or the guidance material which accompanied their self-completion pack) explained to them why their personal circumstances can affect their will. This figure however was much lower among those had followed the self-completion route (57%; compared with 80% who used a solicitor and 86% who used a specialist will-writing company).

"I was told that if I'm not married but later get married then this would invalidate the will straight away; so the way the will is written counters this."

Solicitor, Simple, Female, 35-44

"The will-writer suggested writing a letter accompanying the will spelling out the exclusion of my ex husband and the impact this would have if I wanted my son to take guardianship of my daughter."

Specialist will-writing company, Complex, Female, 45-54

"They should try to incorporate all the different things and explain perhaps that marrying or remarrying could invalidate a will. If you had a first wife then marry again, the will might not be following your wishes."

Paper self-completion, Simple, Male, 35-44

- 5.38 A much lower overall proportion of respondents (46%) were told that their personal circumstances could affect the cost of their will. While there was little difference between the experience of those who used solicitors or specialist will-writers (47% and 55%, respectively, were told), the proportion of self-completers to whom this was explained (either in the accompanying materials or via the website) was much lower: 34%.

"It was a case where, the more complicated your assets and requests were, the more extensive the will would have to be."

Specialist will-writing company, Simple, Female, 35-44

"It was mentioned that the will would cost another £100 + VAT because I had overseas property and they would need to investigate the legal situation abroad."

Solicitor, Complex, Female, 55-64

"[The will-provider said that] if I require a more bespoke will then I would be charged an hourly rate – £161 +VAT – with an upper limit of £450 + VAT."

Solicitor, Complex, Female, 55-64

"But [the will-provider] did not explain how or why my circumstances were complex and therefore more expensive."

Solicitor, Simple, Female, 25-34



- 5.39 The shadow shopping exercise appears to indicate that a smaller proportion of consumers were told why their personal circumstances could affect their will (50/102) and that their personal circumstances could affect the cost of their will (22/46). This difference may be attributed to post-sale rationalisation on the part of the consumer, whereby they report that certain elements of the will-writing process took place because they later assume that they ought to have taken place.

Queries; support and guidance

- 5.40 Just over one-third of all respondents (36%) raised queries about the content of their will. Significantly greater numbers of respondents who chose a solicitor (45%) and a specialist will-writer (47%) raised queries than those who went via the self-completion route (6%).
- 5.41 This figure was also considerably higher among those whose circumstances were complex (41% vs. 28% simple).
- 5.42 Almost all respondents were satisfied with the speed of response to their query (95%; 67% “very satisfied”), the quality of response (94%; 66% “very satisfied”) and (where applicable) changes made to the will in response to the particular query (96%; 65% “very satisfied”). There are no significant differences in the level of satisfaction by mode of will-writing.

“What would happen if all three family members died? He explained how the money would be separated between our families; he just had to clearly explain it to me.”

Solicitor, Simple, Female, 35-44

Review of will

- 5.43 Almost nine-tenths (86%) of consumers felt that they could fully understand the content of their will when they received it; the remainder required further explanation. There were no differences by mode of writing.
- 5.44 Nine-tenths (91%) of consumers who had their will written by another individual (solicitor or will-writer) rather than completing it themselves reported that they were offered the opportunity to review the content of the will with the will-writer (Figure 5.9).
- 5.45 Of those given the chance to review their will with the will-writer, 83% took up the offer. The proportion was higher among those using solicitors (86%) than specialist will-writers (75%).
- 5.46 Nearly all (99%) respondents who went through the content of their will with their will-writer thought that this process enabled them to understand their will sufficiently. Nevertheless, as the shadow shopping exercise indicates, some did feel a little pressured or ‘rushed’ during the review.

“I just asked to look at it there and then. The implication was that once we took it home it was completed. I asked about the cost of amending, whether that would be the same as writing a new will and he said yes.”

Solicitor, Simple, Female, 25-34

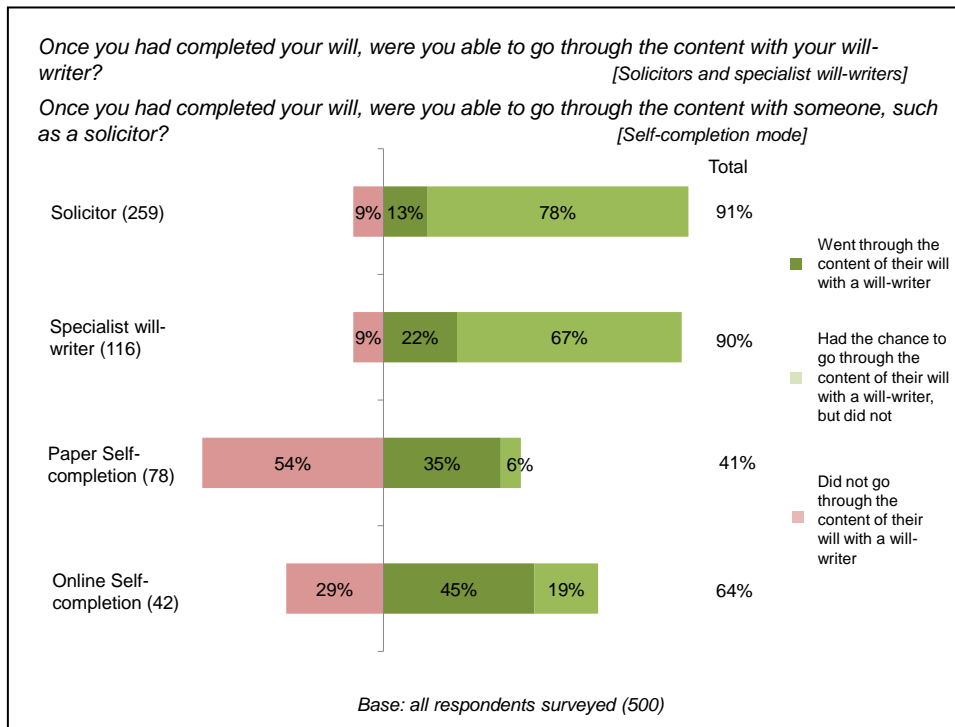
“I would have liked the chance to have read through it and digested the wording slightly more, but not with him present, because you are going onto the next thing and cannot pore over it.”

Solicitor, Simple, Female, 25-34



5.47 Respondents who wrote their wills themselves were asked whether they were able to go through the content with someone such as a solicitor. Fifty per cent of respondents were offered this service, although only one-fifth of them took up the offer (Figure 5.9).

Figure 5.9: Offer and take-up of review of will



5.48 While base sizes are too low for reliable statistical analysis, the indication is that those who had used an online self-completion route were much more likely to be offered – and to use – this service than those who used a paper self-completion route.

“You fill it in and then it goes off to a solicitors and they look at it and make sure it is OK and they release it back to the website for you to download. The way we had set it up the solicitor said we had missed out a stage, so we amended it on the phone and then it was released.”

Online self-completion, Simple, Male, 35-44

“I had the opportunity – it provided the name of an association to which it could be sent for review – but I trusted what it said on the box: ‘Quick, simple, secure and legally binding’.”

Online self-completion, Simple, Female, 45-54

“[I would have liked to have been able to review my will] for that reassurance. ... I wanted some reassurance that I had got things right. ... I don’t understand the legal system, so having someone from within it to review what I had done would hopefully mean the will should achieve what I wanted it to. ... The whole thing seemed too simple.”

Paper self-completion, Simple, Female, 35-44

5.49 Given the small number of respondents (13) who used the self-completion route and went through the content of their will with someone, it is not feasible to perform any sort of quantitative analysis, although almost all (12/13) agreed that this was done in a way that enabled them to sufficiently understand their will.



Signing the will

- 5.50 Nine-tenths of respondents were provided with guidance on how to sign the will themselves (91%) and how to have the will legally witnessed (91%). There were no statistically significant differences by mode of will-writing.
- 5.51 This aligns broadly with the output of the qualitative research among will-writing organisations. The vast majority of will-providers (79%) have guidelines for both signing and witnessing wills, while a small but significant minority state that they ensure the act of signing and witnessing takes place under their supervision (6%). The solicitors interviewed are less likely to have guidelines for the signing and witnessing process (74%).



6 Additional services and cost

Summary

- 6.1 One in eight (12%) consumers appointed their will-provider as the executor of their will. Solicitors were far more likely than any other mode to become the executor: 19% of respondents who used a solicitor to write their will also appointed a representative of that organisation to be their executor (compared to 7% who used a specialist will-writer and 4% who chose the self-completion route).
- 6.2 Just over a third of respondents (35%) who appointed their will-writer to be their executor had this idea suggested to them by their will-provider (in three-quarters of these cases the will-provider was a solicitor). However, the shadow shopping exercise shows very little evidence of will-providers' applying pressure on customers to appoint them as executor. The qualitative interviews with will-providers reinforce these findings: only a minority of will-providers offer to be the executor *as standard* and this is particularly rare among specialist will-writers, many of whom state that they never offer to be the executor and that they don't wish to.
- 6.3 Around a third of respondents (32%) purchased additional services. Will storage was the most popular additional service – 32% who were offered additional services chose to pay for will storage, while Power of Attorney was the next most frequently purchased service (17%). The views of will-providers themselves broadly align with the findings of the consumer survey and the shadow shopping exercise: solicitors stated that clients are most likely to take up Power of Attorney (56%), while specialist will-writers stated that Power of Attorney (49%) and document storage (38%) are the most popular.
- 6.4 Three-quarters of respondents who purchased an additional service (75%) felt under no pressure from their will-writer to do so. Customers of specialist will-writers were considerably more likely to feel pressured than those of solicitors, however (36% vs. 17%). There were also a small number of instances (4%) where respondents felt they were given no choice over the purchase of additional services and these were added to their bill automatically.
- 6.5 None of the will-providers interviewed reported that they make take-up of these additional services compulsory. However, around half (45%) recommend one (in most of these cases) or two (in a minority of these cases) of these services – most commonly Power of Attorney and/or document storage. Solicitors' and specialist will-writers' behaviour was similar in this respect.
- 6.6 Specialist will-writers are more reliant on these additional services for income than solicitors. For around half the solicitors interviewed (48%), these services make up less than 10% of their total income, while around half the specialist will-writers (44%) stated that these additional services make up at least one third of their income. Specialist will-writing companies would also seem more likely to encourage their staff to sell additional services to consumers than solicitor firms: approximately a quarter of specialist will-writing companies offer commission to incentivise staff compared to only one out of the 50 solicitor firms interviewed.
- 6.7 Over four-fifths (84%) of consumers interviewed in the retrospective survey reported that they had received a formal quote for or an estimate of the cost of their will. Only 5% reported that there had been no mention of cost. In line with the consumer survey data, the vast majority (89%) of solicitors and specialist will-writing organisations interviewed stated that they provide cost estimates (or offer fixed prices for will-writing services) as standard.
- 6.8 As expected, solicitors and specialist will-writing companies charged noticeably more for wills than self-completion companies (62% of consumers who made the will themselves paid £50 or less for their will, compared with 7% among those who used solicitors and 16% among those using specialist will-



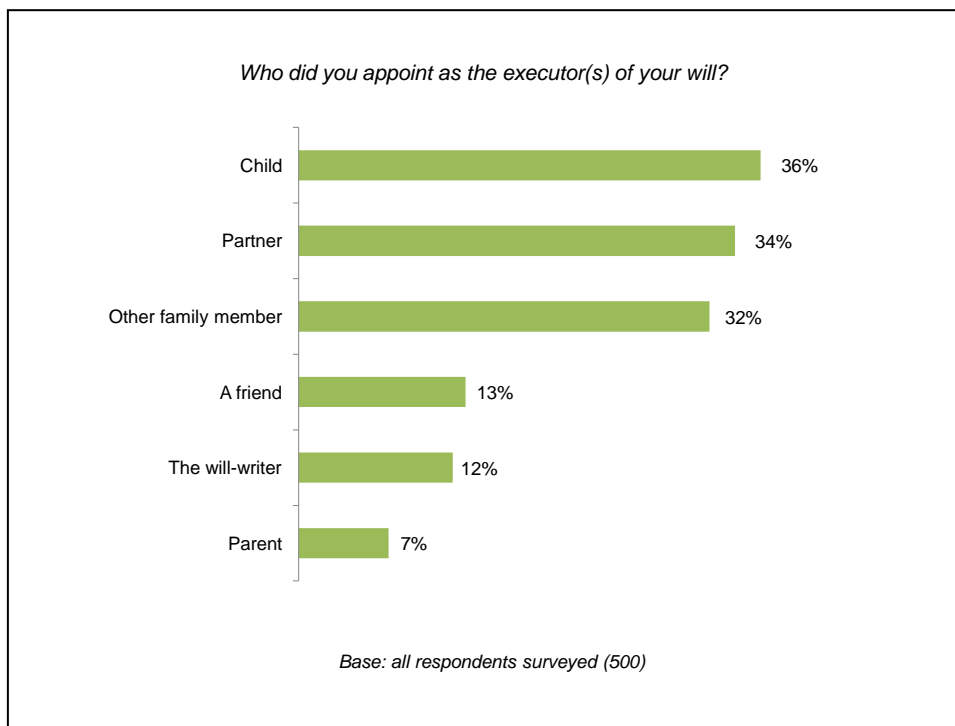
writing companies). Solicitors' customers also tended to spend more than customers of specialist will-writing organisations: those using specialist will-writers were more likely to pay £50 or under for their will (16%) than solicitors' customers (7%), while those who used solicitors were more likely to pay more than £50 but less than £150 (45%) than those who used specialist will-writers (37%). One third of consumers who used a solicitor or a specialist will-writer paid over £150 for their will.

- 6.9 Among the will-providers interviewed, the average price for a will covering simple circumstances is £120; and £300 for a will covering more complex circumstances. There was little variation between solicitors and specialist will-writers.
- 6.10 Four-fifths (84%) of those who were provided with a formal quote or estimated cost reported that their will cost the same or about the same as the initial estimated cost. Customers of specialist will-writing companies were more likely than solicitors' customers to state that they were charged more had originally been quoted (19% vs. 9%).
- 6.11 The vast majority of respondents to the consumer retrospective survey reported (84%) there were no additional charges in addition to the cost of their will. Those who used a solicitor were less likely to incur additional charges (90%) than those who used a specialist will-writer or an online self-completion method (both 74%).

Executor services

- 6.12 Respondents to the consumer retrospective survey were asked who they appointed to be the executor of their wills. Children (36%), partners (34%) and other family members (32%) were the most common executors, as shown in Figure 6.10 below (and borne out by the findings of the shadow shopping exercise).

Figure 6.10: Type of individual appointed as executor



- 6.13 Solicitors were far more likely than any other mode to become the executor of a will: 19% of respondents who used a solicitor to write their will also appointed a representative of that organisation



to be their executor (compared to 7% of respondents who used a specialist will-writer and 4% who chose the self-completion route).

- 6.14 In line with the findings of the consumer retrospective survey, only a small number of shadow shoppers purchased executor services (6/102). Only around one in ten (11/102) reported that their will-writer recommended themselves as executor of the will and there was very little evidence of will-providers' applying high-pressure sales techniques (2/102).
- 6.15 The most common reasons for surveyed respondents' choice of executor were the perceived reliability of the executor or because they were next of kin. Interestingly, respondents with complex circumstances were more likely to choose their child as the executor of their will (41% compared with 30% with simple circumstances).

"They are sensible in that they would be conscientious about carrying out wishes and they care."

Solicitor, Complex, Female, 55-64

"Just because they are the next closest relation ... somebody I trust more than anybody else."

Bank or affiliate group, Complex, Female, 35-44

"Because they are the beneficiaries and it's up to them what they do."

Paper self-completion, Complex, Female, 55-64

- 6.16 Two-thirds (69%) of respondents who chose their will-writer to be the executor did so because they felt that the will-writer understood legal matters, 39% did so because they felt that the will-writer was a responsible individual while 21% didn't put much thought into it and deemed them to be the obvious choice.
- 6.17 Just over a third of respondents (35%) who appointed their will-writer to be their executor had this idea suggested to them by their will-writer. While low base sizes prohibit robust statistical analysis, it is worth noting that approximately three quarters of these people used a solicitor. The most common reasons will-providers gave for them to be the executor of respondents' wills was that it was standard procedure or that it would be easier for the beneficiaries. Two-thirds of those who appointed their will-writer to be their executor were informed how they would be charged for this service.
- 6.18 The vast majority did not feel under any pressure to appoint their will-writer as their executor, although there was evidence of some 'hard selling' or playing on the customer's conscience, as evidenced by the shadow shopping exercise where consumers have very 'fresh' recall of the will-writing experience.

"They did recommend themselves if we wanted but there was no hard sell."

Solicitor, Simple, Female, 35-44

"[They said] it would make things a lot easier. ... The fee structure is outlined and on an increasing scale based on size of estate. [The will-writer's] fees would be £15,000."

Bank or affiliate group, Complex, Female, 55-64

"He put it in a way that: it's not uncommon for a 'person like him' to be one."

Specialist will-writer, Complex, Female, 55-64

"The [will-writer] was listed first [as executor] on the draft copy; I felt that the [will-writer] would take priority and that the daughter would not have a say in the matter – I was told the order of listing didn't matter."

Specialist will-writer, Simple, Female, 55-64



“It was constant pressure. He just felt like a salesman pitching that they were the safest people to do it, and it would save me money in the long run.”

Specialist will-writer, Complex, Female, 55-64

6.19 The qualitative interviews with will-providers reinforce these findings: only a minority of will-providers offer to be the executor *as standard* and this is particularly rare among specialist will-writers, many of whom state that they never offer to be the executor and that they don't wish to.

6.20 The majority of solicitors (62%) (and a minority of specialist will-writers – 19%) will offer to be the executor under certain circumstances, mainly where the client does not have anyone they trust to act as an executor, although a small number of solicitors (8%) state that they will offer this service to all clients with complex circumstances.

“We advise clients that they don't need professional executors, it's the exception rather than the rule. As a last resort and their situation is complex we would encourage the client to get professional involvement. We would suggest they could involve a clause in the will expressing a wish that they got professional assistance, but they are better off choosing professionals at that time, rather than at the time of doing a will.”

Specialist will-writer

“We advise that in certain circumstances, it is a good idea to have a professional, and we offer ourselves as one option. We don't put it in as a default. It is very firmly the client's choice. We are more likely to be executors in complex trust work, or for people without any immediate family or friends that they could appoint as executors.”

Solicitor

6.21 The majority of solicitors interviewed (76%) state that they act as the executor in 25% or less of the wills they write.

6.22 Will-writing organisations that do offer to be the executor (including those who only offer this service for certain clients, as discussed above) recognise the lucrative benefits for their business in terms of the additional income (i.e. through probate) that this brings (mentioned by 68% of these providers). These organisations believe that their acting as executor also has significant benefits for their clients – namely the professional service they offer, their neutrality when an estate causes contention and the peace of mind afforded by having a third party take charge of affairs during a time of mourning.

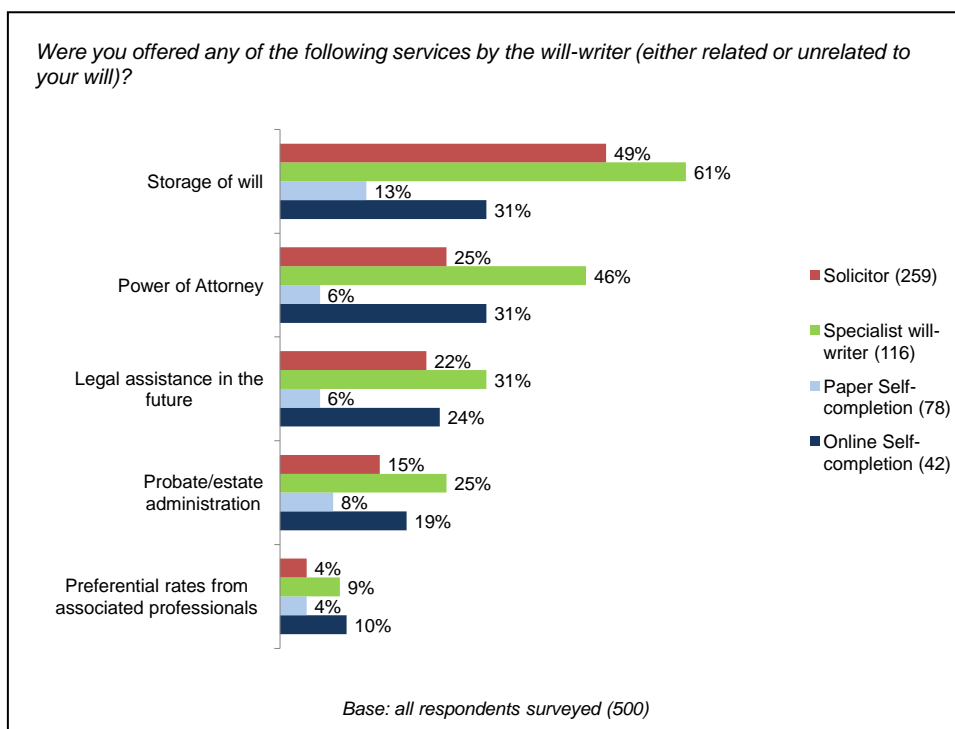
6.23 Solicitors are split between those who charge a percentage of the estate value for acting as the executor, typically between 0.5% and 3%, (68%) and those who charge their standard rates for probate services (32%). As noted above, specialist will-writers tend not to offer this service but where they do, a percentage rate is charged (typically between 1% and 3%).



Other services

- 6.24 On top of executor services offered by will-writing companies, respondents were also offered numerous other services alongside their will (Figure 6.11). The most common service offered was the storage of their will online or as a hard copy (45% of all respondents were offered this service), followed by Power of Attorney (28%) and legal assistance in the future (22%). Just over a quarter of respondents (27%) were not offered any additional services; the proportion rises to 58% among those who made their will using a paper-based self-completion pack.
- 6.25 Consumers who used a specialist will-writer were more likely to be offered will storage (61%), Power of Attorney (46%) or Probate/ estate administration (25%) than those who used a solicitor (49%, 25% and 15% respectively).

Figure 6.11: Additional services offered



- 6.26 Conversely the qualitative interviews with will-providers indicated that solicitors are more likely to offer additional services (i.e. services other than executor services) than specialist will-writers. All solicitors bar a very small minority reported offering one or more of probate services (84%), estate administration (88%), Power of Attorney (92%) and document storage (98%). Virtually all the specialist will-writers interviewed offer their clients Power of Attorney (91%) and document storage (80%), around half offer one or more of the other additional services.
- 6.27 The findings of the shadow shopping exercise align more with the output of the consumer retrospective survey than with the qualitative interviews with will-providers, indicating that specialist will-writers are more likely to offer additional services than solicitors. The shadow shopping component also illustrates the emphasis will-providers place on the importance of will storage, highlighting the need for security when offering this service to their clients. It also demonstrates the ways in which they sell other services, such as Power of Attorney.

“We were told that if we lose the hard copy then a photocopy isn’t good enough.”

Solicitor, Complex, Male, 65 or over



"They recommended a fire-proof, bomb-proof, hurricane-proof place in Bath."

Specialist will-writer, Complex, Female, 55-64

"Will storage would make it safe from moths and ants and people would know where it is."

Solicitor, Complex, Female, 55-64

"He did explain the reasons for Power of Attorney and I do think it is a very good idea but the cash in my current bank balance meant it was not right for me now. I think he used a car crash as an example, then he said, 'You need somebody to make decisions about your own care or your estate.'"

Specialist will-writer, Simple, Male 25-34

"I hadn't had [Power of Attorney] before and had to comply with current legislation"

Specialist will-writer, Complex, Male, 55-64

6.28 Around a third of respondents (32%) purchased additional services. Will storage was the most popular additional service – 32% who were offered additional services chose to pay for will storage, while Power of Attorney was the next most frequently purchased service (17%). Owing to low base sizes it is only feasible to compare the experience of consumers who used solicitors or specialist will-writers; those who chose a specialist will-writer were far more likely (25%) to purchase Power of Attorney services than those who used a solicitor (12%).

6.29 The findings of the consumer retrospective survey are borne out in the experience of the participants in the shadow shopping exercise. Just over half (55/102) of the shadow shoppers purchased additional services: a majority (41/55) of these purchased will storage and, while none of the participants purchased probate or estate administration services, a small number (6) purchased Power of Attorney. Just over one-quarter (10/36) of those who purchased through a bank or affiliate group or bought a paper or online self-completion kit had their will reviewed by an individual.

6.30 The views of will-providers themselves broadly align with the findings of the consumer survey and the shadow shopping exercise. 56% of solicitors stated that clients are most likely to take up Power of Attorney, while 22% stated that living wills are the least popular services, along with Court of Protection (a further 22% of solicitors). 49% of specialist will-writers reported Power of Attorney (49%) as the most popular service (38% reported document storage), while 26% of specialist will-writers identified living wills as the least popular service, followed by funeral plans (19%).

6.31 The shadow shopping exercise suggests that a proportion of consumers were unaware of the process by which these services were to be paid – this area of the will-writing process did not seem to be as transparent as other areas. Not all were told about the cost of these additional services upfront.

"I assume it is free - there was no mention of cost."

Solicitor, Complex, Female, 55-64

"I don't know how much it will cost."

Solicitor, Complex, Female, 55-64

6.32 Three-quarters of respondents who purchased an additional service (75%) felt under no pressure from their will-writer to do so. Customers of specialist will-writers were considerably more likely to feel pressured into purchasing an additional service than those of solicitors, however (36% vs. 17%). There were also a small number of instances (4%) where respondents felt they were given no choice over the purchase of additional services and these were added to their bill automatically. High-pressure sales tactics were less frequently reported by shadow shoppers (2/102) than by respondents to the consumer retrospective survey.



“They are not intimidating – you go there and are welcomed and they don’t push you into having things you don’t want, and from my previous dealings they have always been good.”

Solicitor, Complex, Female, 65 or over

“He was upfront and said that is how they make their money.”

Specialist will-writer, Complex, Female, 55-64

“He said, ‘It was most unusual for someone not to take these services’. I was made to sign a form by him that said they (the company) weren’t responsible and that I had declined the offer of will storage. He didn’t seem as friendly after I declined.”

Specialist will-writer, Simple, Female, 65 or over

- 6.33 None of the will-providers interviewed reported that they make take-up of these additional services compulsory. However, around half (45%) recommend one (in most of these cases) or two (in a minority of these cases) of these services – most commonly Power of Attorney and/or document storage. Solicitors’ and specialist will-writers’ behaviour was similar in this respect.
- 6.34 Specialist will-writers are more reliant on these additional services for income than solicitors. For half the solicitors interviewed (48%), these services make up less than 10% of their overall income, while just under half the specialist will-writers (44%) stated that these additional services make up at least one third of their income. However, half of solicitors (48%) stated that the percentage of their income accounted for by sales of these additional services has increased, compared with around a third of specialist will-writers (34%). Very few of either type of will-writer had seen a decrease in the proportion of income accounted for by the sale of these services.

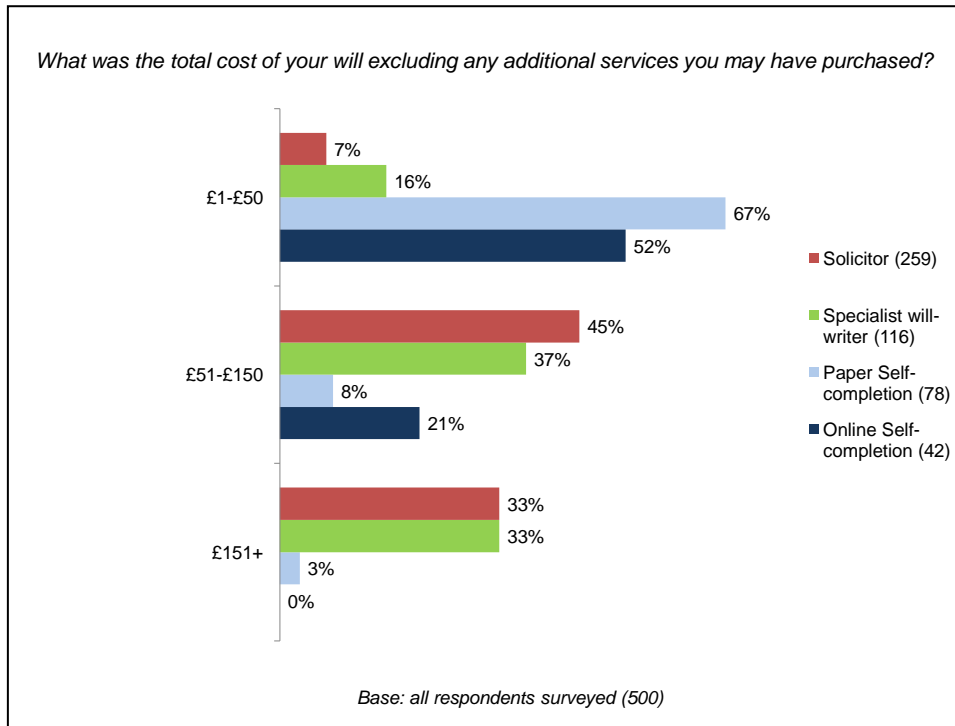
Cost of the will

- 6.35 Almost three-fifths (57%) of consumers interviewed in the retrospective survey reported that they had received a formal quote for the cost of their will; one-quarter (27%) received an estimate of the cost. Only 5% reported that there had been no mention of cost
- 6.36 Consumers who used specialist will-writing companies were significantly more likely to provide formal quotes than those who used solicitors (68% vs. 53%), while those who used solicitors were more likely to be given an estimated cost (32% vs. 22% among customers of specialist will-writers). A similar trend was evident among shadow shoppers.
- 6.37 The will-writing organisations interviewed suggest that formal quotes are a more common occurrence as the vast majority stated that they provide an indication of likely cost (or offer fixed prices for will-writing services) as standard (89%). The solicitors interviewed (96%) were generally more likely to do so than the specialist will-writers (81%). A handful of specialist will-writers (4%) at the ‘top end’ of the market never provide cost estimates for their clients. These organisations stated that they deal mostly with clients with complex circumstances and needs.



6.38 As expected, solicitors and specialist will-writing companies charged noticeably more for wills than self-completion companies (62% of consumers who made the will themselves paid £50 or less for their will, compared with 7% among those who used solicitors and 16% among those using specialist will-writing companies). The breakdown of prices by mode of will-writing is shown in Figure 6.12 below.

Figure 6.12: Price of will (excluding additional services)



6.39 One third of consumers who used a solicitor or a specialist will-writer paid over £150 for their will. Customers using specialist will-writers were more likely to pay £50 or under for their will (16%) than solicitors' customers (7%), while those who used solicitors were more likely to pay more than £50 but less than £150 (45%) than those who used specialist will-writers (37%). This perhaps indicates that specialist will-writers are more likely than solicitors to operate at the 'bottom end' of the market in terms of costs, while solicitors are more likely to position themselves as 'mid-market'. At the 'top end' there is little to choose between the two types.

6.40 It is worth noting that 9% of wills cost £10 or under (4% of solicitors and 5% of specialist will-writing companies charged within this band).

6.41 Unsurprisingly respondents with simpler circumstances were more likely to purchase cheaper wills: 19% of respondents with simple circumstances were charged over £150 compared to 29% of respondents with complex circumstances.

6.42 The evidence from the shadow shopping exercise reinforces these findings. As Table 6.1 shows, solicitors tend to charge slightly more than specialist will-writers, and both are considerably more costly than either self-completion method. Online self-completion wills tend to be more expensive than paper self-completion packs and individuals with complex circumstances tend to spend more on their wills than those with simple circumstances. Please note the small base sizes in the table – findings should be treated as indicative rather than statistically robust.

Table 6.1: Mean cost of will⁸

Mode of will-writing	Complexity of personal circumstances				Total	
	Complex		Simple		Mean cost	Base
	Mean cost	Base	Mean cost	Base		
Solicitor	£147	25	£142	22	£145	47
Specialist will-writer	£140	16	£126	9	£135	25
Paper Self-completion	£9	4	£8	7	£8	11
Online Self-completion	£18	7	£35	11	£29	18
Other ⁹	£80	1	-	-	£80	1
Total	£116	53	£96	49	£106	102

6.43 It is worth noting that, of the ten wills purchased through the bank or affiliate group channel, six were free of charge, that is, will-writing is included in the cost of membership.

6.44 Among the will-writing organisations interviewed, the average price for a will covering simple circumstances is c. £120 – broadly in line with the shadow shopping findings; and £300 for a will covering more complex circumstances – which is considerably higher than the mean cost found in the shadow shopping exercise. There was little variation between solicitors and specialist will-writers.

6.45 Respondents who were provided with a formal quote or estimated cost for their will were asked whether the actual cost met this prediction. Four-fifths (84%) reported that the will cost the same or about the same as the initial estimated cost, 12% said that it cost more and 3% less. Customers of specialist will-writing companies were more likely than solicitors’ customers to state that they were charged more than had originally been quoted (19% vs. 9%).

6.46 Three-fifths (62%) of respondents reported that their will cost about what they originally expected. Those who chose a solicitor were more likely (66%) than those who chose other channels (specialist will-writing companies: 56%) to experience this.

Cost of additional services

6.47 The vast majority of respondents to the consumer retrospective survey reported (84%) there were no additional charges in addition to the cost of their will. Those who used a solicitor were less likely to incur additional charges (90%) than those who used a specialist will-writer or an online self-completion method (both 74%).

6.48 The cost of additional services tended to come in the form of one off charges (59% of all charged additional services), rather than ongoing charges (28%) or other forms. Customers of specialist will-writers were significantly more likely to pay ongoing charges (12% overall compared to 1% among solicitors and 2% among self-completion companies) as well as one off charges (14% compared to 7% among solicitors and 6% among self-completion companies).

6.49 Two-fifths of those who incurred additional charges and were willing to name the amount paid less than £100.

⁸ Figures in this table show the mean cost of a single will, excluding any additional services but including services necessary to the production or delivery of the will (i.e. printing or postage). In the small number of instances where two wills were purchased (e.g. a ‘mirror’ will was included), the cost of a single will is calculated as 50% of the total cost.

⁹ This participant purchased their will through a bank or affiliate group but did not know the mode of will-writing, i.e. what kind of organisation drafted the will.



- 6.50 As noted in the section on 'Other services' above, very few participants in the shadow shopping exercise spent extra on additional services. Will storage, where purchased, was generally included in the price (33/41); where it was not, customers tended to be charged between £10 and £20 for the service. In a small number of cases, will storage was free for the first year. The drafting of a codicil was included in the price of the will for a handful of participants.
- 6.51 Customers who used a bank or affiliate group, or a paper or online self-completion approach and had their will reviewed by an individual paid no extra for this service: in every instance this was included in the price.
- 6.52 Four of the five shoppers who purchased executor services reported that the fee for these services was to be paid out of the estate (although there was a degree of uncertainty as to the amount), and those who purchased Power of Attorney (a similar number) stated that it cost between £50 and £1,000.
- 6.53 There is certainly some evidence from the qualitative telephone interviews to suggest that there is a stronger focus among specialist will-writing companies than solicitor firms on selling their services to consumers. While around a quarter (23%) of specialist will-writing companies offer commission to incentivise staff, only one out of the 50 solicitor firms interviewed did so as well.



7 Satisfaction

Summary

- 7.1 Respondents to the consumer retrospective survey were invited to rate their satisfaction – overall, and with various aspects of – the will-writing process. Four-fifths (79%) of respondents were satisfied with the quality of their will (8 or more out of 10). Satisfaction among solicitors' customers (84%) was higher than that of those who used a self-completion approach (71%). There was a notable difference in satisfaction levels between respondents who had reviewed the content of their will (mean score: 9.0) with the will-writer and those who had not (8.0).
- 7.2 There were no aspects of the customers' satisfaction with the will-writing service where there were statistically significant differences between customers of solicitors and those of specialist will-writers.
- 7.3 Participants in the shadow shopping exercise were asked how their service could have been improved. Those who chose the self-completion route were generally in favour of receiving more guidance such as a glossary of terms, a helpline or a face to face meeting, while some of those who used solicitors were worried that their will-provider had eschewed pertinent questions over personal circumstances and had confused them with legal terms. Those who chose a specialist will-writer gave a variety of areas for improvement such that none stood out prominently.
- 7.4 Regardless of which method of will-writing survey respondents used, they generally found the will to be good value for money (8.3 on average) and there appeared to be a sense that consumers recognised that 'you get what you pay for'.
- 7.5 Two-thirds of respondents in the consumer retrospective survey (66%) would be happy to recommend the company they used if asked, with a further 23% reporting that they would pro-actively do so without being asked. Respondents who used solicitors or specialist will-writers were more likely to recommend their chosen approach than those who completed the will using a paper-based self-completion pack. The shadow shopping exercise revealed that a propensity to recommend solicitors and specialist will-writers tended to be driven by a range of factors: having received an efficient and professional service; having received a will containing all the consumer's aims and having experienced a straightforward and easy process.
- 7.6 Solicitors and specialist will-writers held similar views about the challenges they faced when writing wills. The main challenge – taking accurate instructions to ensure a will addresses all the client's personal circumstances and needs (mentioned by 57% of providers) – presents itself in two forms: exhausting every potential avenue of questioning and obtaining unambiguous and complete information from the client. Other challenges faced in the will-writing process mentioned by the solicitors and specialist will-writers interviewed were dealing with complex circumstances effectively (as there is more scope for inaccuracy and error) – mentioned by 13% of providers, and ensuring the client understands the content of their will correctly and fully (mentioned by 8%).
- 7.7 Solicitors and specialist will-writers' approach to dealing with these challenges is broadly similar and comprises three key elements: using a 'fact find' or testator questionnaire (mentioned by 22% of providers); reviewing draft wills internally (mentioned by 10%); and sending a draft to the client with an accompanying letter of explanation (mentioned by 47%).

Satisfaction with the quality of the will

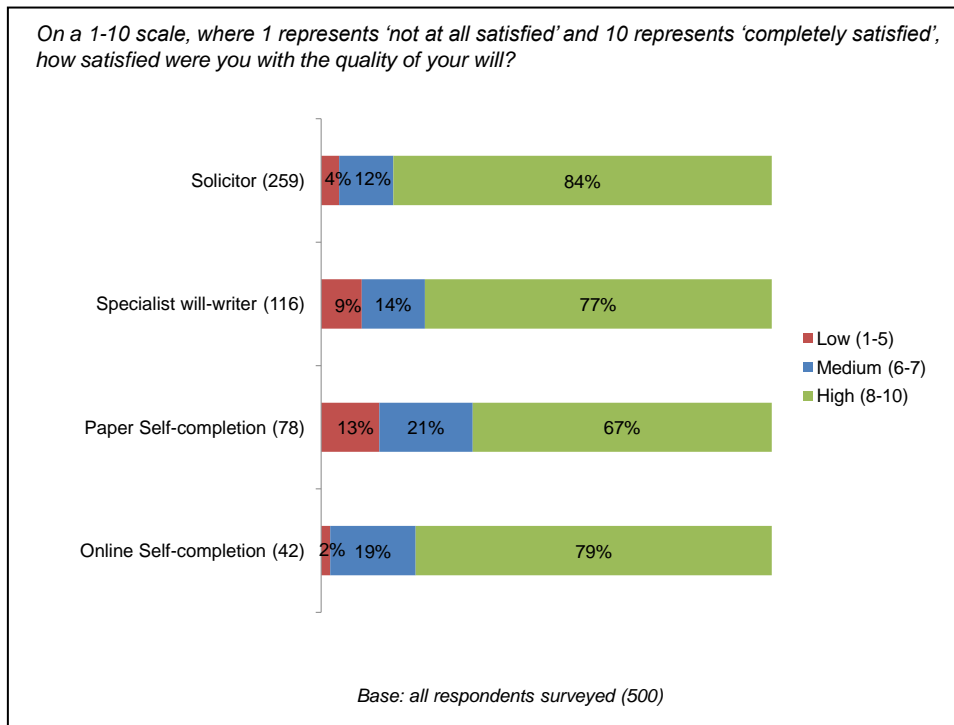
- 7.8 Respondents to the consumer retrospective survey were invited to rate their satisfaction – overall, and with various aspects of – the will-writing process on a scale of 1 to 10, where 1 represented "not at all



satisfied” and 10 represented “completely satisfied”. Their responses have been grouped into three categories of satisfaction for analysis and reporting purposes: high (8 to 10), medium (6 or 7) and low (1 to 5).

7.9 Four-fifths (79%) of respondents were satisfied with the quality of their will (8 or more out of 10). Satisfaction among solicitors’ customers was higher (84%) than that of those who used a self-completion approach (71%). Satisfaction with the quality of the will by mode of will-writing is shown in Figure 7.13 below.

Figure 7.13: Satisfaction with the quality of the will



7.10 Shadow shoppers’ satisfaction with the quality of the will provided followed a similar pattern to that of respondents to the consumer retrospective survey. Their comments provided considerable insight into the kinds of issues that appear to drive satisfaction (and dissatisfaction):

“I do think it is adequate. I have read through it and him explaining it, I do feel it is adequate.”
Solicitor, Complex, Female, 35-44

“There's always room for improvement, but I was pretty much satisfied with the service.”
Specialist will-writer, Simple, Female, 25-34

“I gave clear instructions which were documented but when the will arrived all details apart from the names had been missed.”
Specialist will-writing company, Complex, Male, 55-64



“It looks professional – there is fancy scroll work and fonts.”

Online self-completion, Simple, Male, 35-44

“It was a rip off.”

Paper self-completion, Complex, Male, 55-64

7.11 There was a notable difference in satisfaction levels between respondents who had reviewed the content of their will (mean score: 9.0) with the will-writer and those who had not (8.0). Older respondents tended to be more satisfied with the quality of their will. 83% of those over 50 years old were satisfied with the quality of their will compared to 69% of respondents under 50.

Satisfaction with the will-writing service

7.12 Respondents were asked to rate their satisfaction with ten specific aspects of the will-writing process using the same 10-point scale. The results are set out in Table 7.2 below.

Table 7.2: Satisfaction with the aspects of the will-writing process

Channel	Solicitor	Specialist will-writer	Paper Self-completion	Online Self-completion
<i>Base</i>	259	116	78	42
Will-writer’s professionalism	84%	80%	-	-
Will-writer clearly explained options	82%	81%	-	-
Will-writer’s understanding of needs	81%	81%	-	-
Time taken to explain the process	83%	75%	-	-
Transparency of the process	82%	81%	53%	64%
Ease of getting in touch	84%	80%	45%	55%
Speed of response to queries	82%	79%	46%	57%
Value for money	72%	75%	73%	76%
Guidance or supporting literature	-	-	58%	69%
Clarity with which options were explained	-	-	62%	60%

7.13 As indicated in Table 7.2, a number of the factors were asked only of those who used a solicitor or specialist will-writer, as they were not relevant to a self-completion approach. On the factors where users of each channel were asked to rate their satisfaction – other than value for money – customers of solicitors and specialist will-writers were consistently more satisfied. There were no aspects of the



service where there were statistically significant differences between customers of solicitors and those of specialist will-writers.

7.14 The findings of the shadow shopping exercise indicate that shoppers' levels of satisfaction with various aspects of the service were broadly in line with survey respondents. The shadow shopping data also further insight into the factors which influence satisfaction with the will-writing process.

7.15 Approval among shadow shoppers of their will-providers' professionalism was generally lower for those who chose a specialist will-writer than for those who chose a solicitor. Indeed all negative points raised on this topic related to specialist will-writers with quibbles ranging from 'scare tactics' to poor attire.

"He didn't have a tie."

Specialist will-writer, Complex, Female, 55-64

"He was unprofessional] because of his sales pitch, the scare tactics about the will not being valid if it was marked in any way, and the way he tried to sell the additional services."

Specialist will-writer, Complex, Female, 55-64

"We gave this the lowest mark as we thought he'd [the will-writer] had had a pint before coming, which bothered my husband more than me."

Specialist will-writer, Complex, Female, 35-44

7.16 In hindsight many customers were not happy with the level and quality of communication they had with their will-provider, specifically with regards to questions about personal circumstances that could affect the will.

"There was an assumption from the beginning that we wanted everything to go to the other spouse [even when there are step children involved]."

Solicitor, Simple, Female, 35-44

"Some things weren't covered – I had to ask a lot of questions."

Solicitor, Simple, Female, 25-34

"They didn't explain 'Executor' or provide a glossary explaining all the terms."

Online self-completion, Simple, Female, 25-34

"I received a letter from the will-writer which closed 'I look forward to hearing from you soon'. I presumed the matter was dealt with but now have doubts."

Specialist will-writer, Simple, Female, 16-24

7.17 Time, cost and errors in the will also contributed to reasons of dissatisfaction among shadow shoppers.

"She only worked one day a week – this meant a lot of waiting."

Solicitor, Simple, Male, 45-54

"I had to push them for the delivery of the draft and they gave me the wrong address. On the letter it said I only had a certain amount of days to get it back to them if I wanted anything changed or there would be a penalty."

Specialist will-writer, Complex, Female, 55-64



“The payment was £99 and when asked for mirror wills I was told it would cost £99 each. I can’t understand why it would cost twice as much when it is basically the same will – it doesn’t seem right.”
Solicitor, Simple, Male, 55-64

“The will-writer failed to get numerous (sale of) donations right.”
Specialist will-writer, Complex, Male, 55-64

7.18 Respondents in the shadow shopping survey were asked how their service could have been improved. Those who chose the self-completion route were generally in favour of receiving more guidance such as a glossary of terms, a helpline or a face to face meeting.

“I think there could have been more guidance in general - it seemed far too straightforward.”
Bank or affiliate group, Simple, Male, 35-44

“The small print should be in the same font size – you feel as though they are trying to trick you. It would also have been nice to have had the option to meet someone if I wanted to.”
Online self-completion, Simple, Male, 25-34

“An FAQ sheet with the guidance notes would be helpful; helpline; email address, or being able to contact on receipt of the draft.”
Bank or affiliate group, Simple, Female, 35-44

7.19 Possible areas of improvement voiced among those who used solicitors generally mirrored reasons for dissatisfaction, with reports that solicitors had eschewed pertinent questions over personal circumstances and a confusion with legal terms providing the most common areas where the will-writing service could be improved.

“I don’t understand legal wording - it makes you have to rely on [the] will-writer.”
Solicitor, Simple, Female, 55-64

“They should have a script or checklist, rather than leaving us to raise it; I felt put on the spot when discussing funeral preferences as I hadn’t even discussed it with my husband.”
Solicitor, Simple, Female, 25-34

7.20 Shadow shoppers who chose a specialist will-writer gave a variety of areas for improvement such that none stood out prominently. Greater speed, more information, better guidance and more questions about personal circumstances were all areas highlighted for improvement.

7.21 Regardless of which method of will-writing survey respondents used, they generally found the will to be good value for money (8.3 on average: solicitors 8.2, specialist will-writers 8.4, self-completion route 8.4) and there appeared to be a sense that consumers recognised that ‘you get what you pay for’. Areas of dissatisfaction as illustrated in the shadow shopping relate to instances where consumers have felt short-changed by the length or detail of their will.

“Two pages does not seem like a lot for the money.”
Solicitor, Simple, Female, 35-44

“It doesn’t seem to be what I wanted.”
Specialist will-writer, Complex, Female, 55-64

7.22 Very few respondents in the consumer retrospective survey (5%) would be critical of their will-writing service and two-thirds (66%) would be happy to recommend the company they used if asked, with a further 23% reporting that they would pro-actively do so without being asked. Respondents who used



solicitors or specialist will-writers were more likely to recommend their chosen approach than those who completed the will using a paper-based self-completion pack.

- 7.23 This pattern is repeated in the shadow shopping exercise, which also revealed that a propensity to recommend solicitors and specialist will-writers tended to be driven by a range of factors: having received an efficient and professional service; having received a will containing all the consumer's aims and having experienced a straightforward and easy process.

"I would say here's a man who seems straight, succinct, knows what he's talking about, gives you good value for money and is prompt."

Solicitor, Simple, Male, 65 or over

"It just went really quite well ... he was very professional."

Solicitor, Complex, Female, 35-44

"I think he was reasonably priced, he knew what he was talking about. All in all I'm very happy with my will and with him."

Specialist will-writing company, Complex, Female, 55-64

"It is a nice easy process and done efficiently ... he wasn't at all pushy about it, or too pressurised which was a concern we did have, and what put us off before – not knowing how pushy they are going to be."

Specialist will-writing company, Complex, Female, 35-44

- 7.24 It is worth noting however, that those who would recommend their will-writer on the basis of the process being simple and straightforward, often those who chose the self-completion route, commonly appended a caveat to this, emphasising that they would be less likely to recommend their will-writer to a person with more complex circumstances as the process does not necessarily facilitate this.

"[The process was] straightforward, painless, not difficult. I wouldn't recommend it to someone with more complex circumstances."

Online self-completion, Complex, Male, 55-64

"I would recommend the company to them if their affairs were simple and straightforward. If things were more complicated ... I'd advise they seek professional help."

Online self-completion, Complex, Male, 55-64

- 7.25 Consumers who would not recommend their will-writing company did so for a variety of reasons including a lack of confidence in the quality of the will produced by their will-writer, a desire for their friends/ family to avoid sales pitches and poor value for money.

"I would not recommend them because of the frightening way that they behave and they go into vulnerable people's homes, a solicitor would not do that."

Specialist will-writing company, Complex, Female, 55-64

"It's too expensive for what it is."

Paper self-completion, Complex, Male, 55-64

"They did not instil confidence in accuracy ... they didn't do what it said on the tin."

Specialist will-writing company, Complex, Female, 45-54



Challenges

7.26 The qualitative interviews with will-writing businesses enabled us to explore the views of will-providers as to the challenges they face in meeting their clients' needs, providing a complementary perspective.

7.27 Solicitors and specialist will-writers are very similar in what they perceive to be challenges they face within the will-writing process. Will-providers state that the main challenge they face is taking accurate instructions to ensure a will does everything it needs to as per the client's personal circumstances and needs (mentioned by 57% of providers). This challenge can present itself in two forms (which are clearly interlinked):

- Ensuring every possible question is asked and every scenario discussed to ensure clients, who are of course not the experts, are able to cover their situation and circumstances fully.

"The biggest challenge is taking instructions properly in the first place and making sure you thoroughly and exhaustively asked all the correct questions and get the correct answers. It is possible sometimes to accidentally skim over something and realise this later down the line when you're actually writing the will."

Specialist Will-writer

- Obtaining unambiguous and complete information from the client – as discussed earlier in Chapter 5, clients can on occasion be reticent to provide pieces of personal information; furthermore clients may not realise the importance of certain facts and situations and may therefore not go in to sufficient detail.

"We hope the client has given us full information. We always make sure that they've told the truth or if there's anything contentious or anything that they didn't want to tell us,"

Specialist Will-writer

7.28 Other challenges faced in the will-writing process mentioned by the solicitors and specialist will-writers interviewed were dealing with complex circumstances effectively (mentioned by 13% of providers), as there is more scope for inaccuracy and error, and ensuring the client understands the content of their will correctly and fully (mentioned by 8%).

7.29 Solicitors and specialist will-writers' approach to dealing with these challenges is broadly similar and comprises three key elements: using a 'fact find' or testator questionnaire (mentioned by 22% of providers); reviewing draft wills internally (mentioned by 10%); and sending a draft to the client, with an accompanying letter of explanation (mentioned by 47%).



8 Quality of the will

Summary

- 8.1 Approximately one-quarter of all wills collected failed the assessment, primarily because they were deemed to be of insufficient quality (that is, they failed to meet the needs and circumstances of the client) and less frequently because they were deemed not to be legally valid. There was little difference between solicitors and specialist will-writers in terms of the proportion of wills that failed, while the proportion of fails among self-completion wills was considerably higher.
- 8.2 In line with the overall assessment, the highest scores for the quality of the will were achieved by banks or affiliate groups, solicitors and specialist will-writers; self-completion wills received considerably lower quality scores.
- 8.3 While wills were assessed to have ‘failed’ on one of two criteria, and sometimes both (not being legally valid or receiving a grade of ‘poor’ or ‘very poor’ for the quality of the document), there were nevertheless a variety of specific reasons behind these failures, which are summarised below:
- **Inadequacy** – where the content of the will does not account for an estate fully, fails to make adequate provision or neglects to take certain outcomes into consideration. It also includes wills which are legally invalid;
 - **Requirements** – where the client’s requests have not been met (as specified in the testator questionnaire) through omission or conflicting specification;
 - **Legality** – where the actions specified in the will are potentially illegal;
 - **Inconsistency** – where the language, logic and/or content of the will is contradictory;
 - **Detail** – where items, people and requests are described in insufficient detail; and
 - **Presentation** – where the language and format of the document is lacking.
- 8.4 While wills were considered to have passed or failed for the purposes of the research, the extent of consumer detriment arising would vary significantly among those wills that failed. While in some cases the level of detriment to the consumer might be relatively small, in others mistakes could lead to high levels of consumer detriment, whereby beneficiaries might fail to receive all or part of their intended inheritance.

Introduction

- 8.5 Key to the research project are the results of the LSB panel’s assessments of shadow shoppers’ wills in terms of legality and being fit for respondents’ requirements. Each will and testator questionnaire collected was passed on to two assessors (one solicitor and one specialist will-writer) from an assessment panel of solicitors and specialist will-writers recruited by the LSB¹⁰. The purpose of the assessment was to establish whether the will (a) is legally valid and (b) is of sufficiently high quality (i.e. effectively addresses the needs and circumstances of the respondent).
- 8.6 In order to assess the effectiveness of the will it was necessary not only to review the will itself but to understand the needs and circumstances of the client. This was achieved using a ‘testator

¹⁰ Inevitably, there were occasions where one assessor marked the will as a pass and one as a fail. On these occasions the will was passed for three further assessments. The mark given in the majority of assessments was taken as the overall mark for the will.



questionnaire': each respondent was asked to complete this questionnaire, thereby providing detailed information about their personal circumstances, assets, liabilities and intended beneficiaries.

- 8.7 A number of issues should be taken into consideration when interpreting the findings of this component of the research; these are set out in Annexe B.

Results of assessments

- 8.8 Table 8.3 below shows the breakdown of passes and fails: (a) by whether the will is legally valid ('Execution'); (b) by the quality of the will; and (c) at the overall level¹¹. Some wills fail on both counts; hence the total number of fails across 'Execution' and 'Quality' is 32 rather than 26 (as per the 'Overall' column).
- 8.9 Approximately one-quarter of all wills collected failed the assessment, primarily (24 out of 26 cases) because they were deemed to be of insufficient quality (that is, they failed to meet the needs and circumstances of the client) and less frequently (8 out of 26 cases) because they were deemed not to be legally valid. There was little difference between solicitors and specialist will-writers in terms of the proportion of wills that failed (9 out of 41 and 5 out of 24), while the proportion of fails among self-completion wills was considerably higher (11 out of 26). Only one of the 10 wills supplied by a bank or affiliate group failed the assessment.¹²
- 8.10 There was very little difference between simple and complex wills in terms of the proportion of wills that were assessed to have failed: 12 of the 49 simple wills failed the assessment, compared with 14 of the 52 complex wills.

¹¹ The quality of the will is marked on a five-point scale: "Excellent"; "Good"; "Passable"; "Poor"; and "Very poor". A rating of "Excellent", "Good" or "Passable" constitutes a 'pass'.

¹² Of the 10 wills provided by a bank or affiliate group eight had the involvement a solicitor, either drafting the will or reviewing the will that had been drafted by the respondent.



Table 8.3: Assessment results

Overall	Assessment						Total
	Execution		Quality		Overall		
Channel	Pass	Fail	Pass	Fail	Pass	Fail	
Solicitor	40	1	32	9	32	9	41
<i>Complex</i>	20	1	17	4	17	4	21
<i>Simple</i>	20	0	15	5	15	5	20
Specialist will-writer	22	2	19	5	19	5	24
<i>Complex</i>	14	1	11	4	11	4	15
<i>Simple</i>	8	1	8	1	8	1	9
Bank or affiliate group	9	1	9	1	9	1	10
<i>Complex</i>	4	1	4	1	4	1	5
<i>Simple</i>	5	0	5	0	5	0	5
Paper self-completion	6	2	5	3	5	3	8
<i>Complex</i>	3	1	3	1	3	1	4
<i>Simple</i>	3	1	2	2	2	2	4
Online self-completion	16	2	10	8	10	8	18
<i>Complex</i>	6	1	3	4	3	4	7
<i>Simple</i>	10	1	7	4	7	4	11
Total	93	8	77	24	75	26	101

8.11 The quality of each will was assessed using the following five-point scale: Excellent; Good; Passable; Poor; Very poor. There is no single overall quality assessment for each will, as the assessors often gave differing assessments, so a mean overall quality assessment has been calculated by converting the above five-point scale into a numeric scale: Excellent: 5; Good: 4; Passable: 3; Poor: 2; Very poor: 1 and calculating the mean score for each will based on all assessments that provided a quality mark on the five-point scale.¹³ As such, a will which received a Passable (3) and Good (4) mark would achieve a mean quality score of 3.5.

8.12 In line with the overall assessment, the highest quality mean scores were achieved by banks or affiliate groups (3.30), solicitors (3.28) and specialist will-writers (3.14); self-completion wills received considerably lower quality scores (paper: 2.67; online: 2.46). Solicitors tended to score higher than specialist will-writers for complex wills and lower for simple wills, although it would be unwise to extrapolate on the basis of such small sample sizes.¹⁴

¹³ We were unable to include two pilot wills that had been assessed solely on the pilot assessment quality sheet (where a different scale was applied).

¹⁴ Table 12.10 in Annexe C shows the full breakdown of quality assessments, setting out the number of wills classified as 'Excellent', 'Good', 'Passable', 'Poor' and 'Very Poor'.

Table 8.4: Assessment results: quality rating

Complexity	Mean quality score					
	Complex		Simple		Total	
Channel	Number of wills	Score	Number of wills	Score	Number of wills	Score
Solicitor	21	3.43	19	3.10	40	3.28
Specialist will-writer	14	3.11	9	3.18	23	3.14
Bank or affiliate group	5	3.10	5	3.50	10	3.30
Paper self-completion	4	3.03	4	2.31	8	2.67
Online self-completion	7	2.14	11	2.65	18	2.46
Total	51	3.10	48	2.99	99	3.05

Reasons for failure

8.13 As noted above, wills were assessed to have ‘failed’ either on the grounds of not being legally valid or receiving a grade of ‘poor’ or ‘very poor’ for the quality of the document. Within these two main categories, wills failed for a variety of specific reasons. These have been grouped into the following six broad categories:

- **Inadequacy** – where the content of the will does not account for an estate fully, fails to make adequate provision or neglects to take certain outcomes in to consideration. It also includes wills which are legally invalid.
- **Requirements** – where the client’s requests have not been met (as specified in the testator questionnaire) through omission or conflicting specification.
- **Legality** – where the actions specified in the will are potentially illegal;
- **Inconsistency** – where the language, logic and/or content of the will is contradictory;
- **Detail** – where items, people and requests are described in insufficient detail; and
- **Presentation** – where the language and format of the document is lacking.

8.14 These six categories are described in greater detail below.

Inadequacy

8.15 Some of the more common problems related to beneficiaries and specifically, contingent bequests, for example, a lack of provision made for the possibility that the beneficiaries might predecease the testator or the absence of a gift of residue or residuary beneficiary (causing partial intestacy), as well as the use of beneficiaries as witnesses. In one case, the testator’s 13-year old son stood to inherit all the shares in his company. Another major area of difficulty involved potential problems in the arrangements made for executors, such as nominated executors living overseas, lack of a reserve or substitute executor or the lack of a business executor to carry on the running of a business while awaiting confirmation of probate. The appointment of trustees was also problematic, with wills failing because only one trustee was appointed and potential conflicts of interest where a beneficiary is also the sole executor and trustee of the Will. A lack of inheritance tax planning or advice was also cited on a number of occasions, as well as problems relating to attestation (such as a witness also being named as a beneficiary) and a lack of provision for the payment of debts or funeral expenses.



Requirements

- 8.16 There were a variety of ways in which the client's requirements had not been met, such as the omission of funeral requests or gifts specified in the testator questionnaire, a failure to ensure that beneficiaries would inherit on their 21st birthday when this is what clients specified in the testator questionnaire, a lack of residuary gift (only specific gifts) and the specification of gifts to recipients not intended by the client, for example, the introduction of a 'discretionary trust of residue' for a number of potential beneficiaries when the client's intention was to pass the entire estate to her child immediately and outright. A number of wills were criticised for setting up trusts unnecessarily.

Legality

- 8.17 Two key examples of this are an instance where the will specified a gift to a 'charitable trust' (hence with a charitable exemption) that was not a registered charity and a gift to a trust that did not exist at the time of writing – such a request would be void and the testator left intestate for this portion of the will.

Inconsistency

- 8.18 Examples of this include the use of terms such as 'all my property' in one clause while subsequent clauses specify separate – and therefore conflicting – outcomes for specific items of property as well as instances where the asset values as specified in the testator questionnaire differ from those specified in the will. For example, while the asset checklist in one testator questionnaire gives the total value of the estate as £76,850, the testator questionnaire states that the mortgage of £175,000 is covered by insurance and therefore the value of the estate is greater than that given in the will. In other cases, a will details property in Scotland but does not reference Scottish assets or a Scottish will, and in another, a testator wants his current partner to be able to live in their home for up to two years (which connotes a trust arrangement) but also wants his residuary estate, which includes the home, to pass to his ex-wife absolutely: the two requirements cannot stand together.

Detail

- 8.19 The omission of key information is the principal issue here, for example, children's addresses and surnames, the testator's date of birth, the surnames of executors, the ages of beneficiaries' (the will is not clear whether or not they are minors). There are also instances where specific assets have not been defined clearly enough (instead they are referred to rather broadly as 'belongings' or 'artefacts'), where values have not been assigned to certain assets, meaning that the estate as a whole is undervalued, and where no provision has been made for the payment of debts.

Presentation

- 8.20 These issues fall broadly into two categories: where grammatical and spelling mistakes lead to ambiguous and/or confusing statements and where drafting is neither clear nor succinct and indeed often unnecessarily complex. In one example, the will states, "I give my residuary estate to such of my children and if more than one in equal shares but if any such beneficiary shall fail to obtain a vested interest leaving issue who survive me and reach the age of 18 years then such issue shall take by substitution...", which should simply read "To each of my children who survive me..." Further presentation issues raised by assessors included a lack of clause numbers, unnecessary technical clauses (which could be replaced by STEP provisions) and the use of obsolete provision, most commonly the use of a trust for sale). In many cases it was suggested that mistakes were caused by will providers' simply cutting and pasting inappropriate or unnecessary clauses or precedents into wills.



9 Practitioner views

Summary

- 9.1 While the majority (78%) of solicitors and specialist will-writers interviewed were positive or neutral about the **choice** of will-providers available in the market for consumers, there was a considerable degree of negativity about the **quality** of wills available in the market, both among solicitors and specialist will-writers (36% were negative in their assessment).
- 9.2 Specialist will-writers' concerns tended to revolve around the difficulty consumers face in identifying quality providers with relevant qualifications, and the impact of a segment of the specialist (i.e. non-solicitor) will-writing market that does not provide bespoke or face-to-face services. Solicitors also believe that problems are caused by the presence of inadequate specialist will-writing organisations in the market, which provide an unregulated and poor quality service, although they tend to consider that this applies to the non-solicitor market as a whole rather than to a subset of it.
- 9.3 A significant minority (27%) of both solicitors and specialist will-writers felt that wills were not sufficiently **clear** to customers in their drafting, blaming legal jargon and outmoded terminology for this lack of clarity. Specialist will-writers in particular feel that solicitors are guilty of using language that is impenetrable for clients.
- 9.4 Will-providers (solicitors in particular) are generally more positive in their assessment of the **value** for money consumers receive (77% held a positive opinion), although both types of provider believe that a great deal of overcharging goes on in the market, by solicitors as well as specialist will-writers
- 9.5 In terms of **consumer protection**, solicitors (28% negative) were more likely to hold negative opinions than specialist will-writers (19% negative), again pointing to a lack of regulation of specialist will-writers (although the specialist will-writers who gave a negative opinion agree with this diagnosis).
- 9.6 Those solicitors and specialist will-writing organisations with concerns about the will-writing market's **ability to meet the needs of consumers** attribute the market's shortcomings to 'rogue' elements within the specialist will-writing industry (or rather 'non-solicitor' industry, as it is clear that many specialist will-writers' negative views focus on self-completion methods as much as other face-to-face providers).
- 9.7 More than half (53%) of all the organisations interviewed, with similar levels among both solicitors and specialist will-writers, believe that the liberalisation of the legal industry which will allow Alternative Business Structures (ABS) to provide legal services – so called 'Tesco Law' – is the biggest challenge the industry faces. They are concerned its impact on consumers in terms of the quality of provision (which is anticipated to be low) and the impact on their business, as they believe they will not be able to compete on price with these new entrants to the market.
- 9.8 Many believe that there will always be a demand for professional and experienced face-to-face provision, however; many of the organisations interviewed state that they will focus on portraying themselves as a quality provider to distinguish themselves from newer entrants.
- 9.9 The solicitors and specialist will-writers are almost unanimous in their belief that regulation of the will-writing industry is needed (90%) – many spontaneously cited regulation as the single most important improvement to the will-writing process that the market should make. This can be seen both as a reaction to ABS and an indictment of the 'rogue' elements of the specialist will-writing community that many of the solicitors and specialist will-writers interviewed perceive to be operating in the market.



Introduction

9.10 The in-depth interviews with representatives of firms of solicitors and specialist will-writing organisations gave us not only a different perspective on the will-writing process, allowing us to compare and contrast the views of will-providers with those of their customers, but also provided a wider view of the current state of the will-writing market and anticipated future developments. This chapter outlines the findings from these interviews, providing an overview of the market from the business perspective

Overview of market performance in meeting the needs of consumers

9.11 Solicitors and specialist will-writers were asked to rate how favourably they perceive the will-writing market meets the needs of consumers in terms of:

- The choice of will-providers available
- The quality of the wills produced (i.e. that they are legally sound)
- The clarity of will produced (i.e. that they are written in a way that clients can readily understand)
- The value for money of wills
- Protection of consumer rights

9.12 The majority (78%) of both solicitors and specialist will-writers interviewed were positive or neutral about the choice of will-providers available in the market for consumers. Specialist will-writers who were negative about the choice of will-providers available felt that consumers aren't easily able to identify quality providers, especially in terms of who has relevant qualifications. Distinctions are also made here between quality, bespoke wills (i.e. as they should be written) and more 'off the shelf' services.

"The public have got no benchmark to actually differentiate between different companies' products"

Specialist will-writer

9.13 Solicitors who were negative about the choice of will-providers available believe that the problem is caused by the presence of inadequate specialist will-writing organisations in the market, which provide an unregulated and poor quality service.

"Outside the solicitor environment, the choice of will-writers available for clients is terrible. This is based on having experienced people come to our business to have corrected what they [specialist will-writers] have done."

Solicitor

9.14 Will-writing organisations were most negative in their assessment of the quality of wills available in the market: around two fifths voiced a negative opinion (36%). Solicitors were more negative than specialist will-writers – the majority (78%) were negative or neutral in their opinion. Again, solicitors who have such negative opinions blamed 'unqualified' specialist will-writers for the presence of poor quality wills in the market.

"The reason [for poor quality wills] is the quality of the people drafting – it's either that an unqualified individual is doing the writing or a firm with qualified people is pushing the drafting down to trainees or putting the wrong person in front of the client. Solicitor wills are better drafted, although some of the large organisations like the banks produce good wills. Will-writing companies produce a very long will without it being very good."

Solicitor



- 9.15 A small but significant minority of specialist will-writers echo these concerns, focusing the blame on a segment of the specialist (i.e. non-solicitor) will-writing market that does not provide bespoke or face-to-face services.

“There are so many unregulated will-writers out there that ... buy a software package with no CPP and no insurance; it's just wrong. People are not willing to take exams or be police checked, and some of them are crooks.”

Specialist will-writer

- 9.16 A significant minority (27%) of both solicitors and specialist will-writers hold negative opinions over the clarity of wills written in the market generally. Virtually all those who are negative blame legal jargon and outmoded terminology for this lack of clarity.

- 9.17 Specialist will-writers feel that solicitors are particularly guilty of using language that is impenetrable for clients.

“It's impossible for a lay person to understand some of these terms – it's a case of lawyers showing off their legal knowledge in a way that's not intelligible to the average client. This is a common trend and it can make solicitors poor will-writers.”

Specialist will-writer

- 9.18 Will-writing organisations are generally more upbeat about the value for money consumers receive (45% are positive – 77% are positive or neutral). Solicitors (50% positive) in particular are more likely to feel that value for money is offered. That said, those who feel negatively about the value for money available (a small but significant minority), believe that a great deal of overcharging goes on in the market generally – among both main types of provider.

- 9.19 Regarding how well consumers' rights are protected in the will-writing market, more solicitors (28%) hold negative opinions than specialist will-writers (19%). These solicitors blame a lack of regulation of specialist will-writers, although once again the specialist will-writers who gave a negative opinion agree with this diagnosis.

“If a solicitor makes a mess of something clients have avenues to direct their complaint. But independent will-writers are under no control whatsoever so the consumer has no recourse.”

Solicitor

“Because anyone can write a will, there are many people out there with no insurance, no membership [of relevant organisations or professional bodies], and therefore there is no comeback or protection for the consumer.”

Specialist will-writer

- 9.20 What emerges from these findings is an interesting pattern of opinions across solicitors and specialist will-writers. Where solicitors have concerns about the will-writing market's ability to meet the needs of consumers in terms of choice, quality, value for money and protection of consumer rights, generally speaking any shortcomings are perceived to be the result of a lack of training within and regulation of specialist will-writing organisations.

- 9.21 Specialist will-writers who hold negative opinions of the market in these areas – particularly in terms of choice of provider, quality of will and protection of consumer rights – commonly lay the blame at the door of other specialist will-writers who they believe to be sub-standard.

- 9.22 There is evidence that both solicitors and will-providers perceive there to be a 'rogue' element within the specialist will-writing industry (or rather 'non-solicitor' industry, as it is clear that many specialist



will-writers' negative views focus on self-completion methods as much as other face-to-face providers), although there is also a sense that solicitors may be 'tarring all specialist will-writers with the same brush'.

Challenges

9.23 This pattern is borne out in the responses to what will-writing organisations perceive to be biggest challenges facing the will-writing industry. More than half of all the organisations interviewed (53%), with similar levels among both solicitors (52%) and specialist will-writers (53%), believe that the liberalisation of the legal industry which will allow Alternative Business Structures (ABS) to provide legal services – so called 'Tesco Law' – is the biggest challenge the industry faces.

9.24 Solicitors and specialist will-writers alike believe that the emergence of new 'non-legal' providers will have a detrimental impact for consumers, who may be attracted to the low price and 'on-tap' availability of services that supermarkets and other major brands can provide but will suffer the consequences of non-bespoke and qualified provision.

"The biggest challenge for the consumer is being able to differentiate between people who provide good service and those who provide a dangerous service - in next three years the market will be transformed by the big players coming in and doing it on a factory-type basis."

Specialist will-writer

"Lack of regulation and lack of protection for the consumer in a deregulated market – it doesn't necessarily affect us it affects the client."

Solicitor

9.25 Many of these concerned will-writing organisations fear the impact ABS will have on their business as they simply will not be able to compete on price with these new entrants to the market. Many believe that there will always be a demand for professional and experienced face-to-face provision, however, and that quality will ultimately prevail. In light of this, many of the organisations interviewed state that they will be focussing on portraying themselves as a quality provider to distinguish themselves from newer providers.

9.26 The solicitors and specialist will-writers are almost unanimous in their belief that regulation of the will-writing industry is needed (90% of providers) – and many spontaneously cited regulation as the single most important improvement to the will-writing process that the market should make. This can be seen both as a reaction to ABS and an indictment of the 'rogue' elements of the specialist will-writing community that many of the solicitors and specialist will-writers interviewed perceive to be operating in the market.

9.27 Indeed many solicitors and specialist will-writers interviewed (20%) believe that regulation of the market will be an opportunity for their business as it will help eliminate poor quality providers and, for specialist will-writers, act as a benchmark for their own quality and experience.

"Regulation of the profession would be a significant opportunity for us, because then it will set a base line competency so that consumers out there will have the ability to trust who is doing their will for them."

Specialist will-writer

"The biggest opportunity would be proper regulation. This would bring wonderful publicity as your status as a regulated provider would only enhance your reputation among consumers."

Specialist will-writer



9.28 In terms of the kind of regulation needed, both solicitors and specialist will-writers believe that regulation should focus on mandatory qualifications for will-writing professionals (mentioned by 44% of providers) – several also mentioned elements of Continuing Professional Development (CPD) – 8% and accreditation and authorisation (5%). Some also suggested that a will-writer’s code of conduct would be a valuable and welcome introduction.

9.29 A small but significant minority (25%), of both solicitors and specialist will-writers, believe that a new, single regulator should be created for non-solicitor will-writing businesses – a legal services equivalent of the FSA. A handful believes that this new regulator should cover both solicitors and non-solicitors.

“There should be an independent body, because the Law Society are going to be biased in favour of solicitors – a new regulator should enforce these [regulatory] changes.”

Specialist will-writer

“There should be an overall regulator for the will-writing market, not just for solicitors.”

Solicitor



10 Annexe A: Sample profile

10.1 This annexe profiles the samples for each of the three strands of the research:

- The shadow shopping exercise;
- The retrospective survey among consumers who had purchased a will in the last 12 months; and
- The qualitative telephone depth interviews among solicitors and will-writing companies.

Shadow shopping

10.2 Table 10.5 shows the breakdown of respondents to the shadow shopping exercise by demographic characteristics and the method of purchasing a will.

Table 10.5: Profile of shadow shopping participants

Category	Sample
Age	
16-24	1
25-34	14
35-44	22
45-54	14
55-64	39
65 or over	12
Gender	
Male	39
Female	63
Household income	
Under £20,000	19
£20,000 - £29,999	21
£30,000 - £39,999	19
£40,000 - £49,999	15
More than £50,000	23
Refused	5
Personal Circumstances	
Simple	49
Complex	53



Channel	
Solicitor	41
Specialist will-writing company	25
Bank or affiliate group	10
Paper self-completion	8
Online self-completion	18
Mode	
Solicitor	47
Specialist will-writing company	25
Paper self-completion	11
Online self-completion	18
Other	1

Consumer retrospective survey

10.3 Table 10.6 shows the breakdown of respondents to the consumer retrospective survey by demographic characteristics.

Table 10.6: Profile of consumer retrospective survey sample

Category	Proportion of sample
Age	
20-29	2%
30-39	12%
40-49	12%
50-59	32%
60-69	35%
70+	6%
Gender	
Male	45%
Female	55%

10.4 Ten per cent of respondents (48 in total) in the consumer retrospective survey purchased their will through a bank, building society or affiliate group (such as a trade union or industry association). They were asked whether the will itself was written by a firm of solicitors, a specialist will-writing organisation or whether they had completed it themselves. 43 of the respondents were able to answer this question. Using their responses we created a further classification: mode of will-writing. This is used as an alternative analysis variable where it is more appropriate to look at the way that the will was written than the channel of purchase. The full breakdown by channel of purchase and mode of will-writing is shown in Table 10.7 below.



Table 10.7: Consumer retrospective interviews broken down by channel of purchase and mode of will-writing

Channel	Channel of purchase	Mode of will-writing
Solicitor	253	259
Will-writing organisation	102	116
Bank, building society or affiliate group	48	-
Self completion (online)	97	78
Self-completion (pen and paper)		42
Don't know	0	5
Total	500	500

Qualitative telephone depth interviews

10.5 Respondents to the qualitative telephone depth interviews were asked a series of questions relating to the nature of their organisation. Table 10.8 shows the breakdown of organisations by a range of 'firmographic' characteristics.

Table 10.8: Business qualitative sample profile

Category	Number of respondents		
	Solicitors	Specialist will-writing companies	Total
Type of organisation			
Total	50	47	97
Length of involvement with will-writing			
Under 5 years	3	16	19
5-20 years	9	28	37
More than 20 years	34	3	37
Refused	4	-	4
Number of wills produced per year			
Under 100	10	10	20
100-199	12	6	18
200-299	12	11	23
300-399	5	5	10
Over 400	9	11	20
Don't know	2	4	6
Market positioning			
Lower end	10	10	20
Middle	32	29	61
Upper end	8	8	16
Type of wills produced, in general			
Simple	29	20	49
Even split	10	11	21
Complex	11	16	27



10.6 Forty-two of the 47 specialist will-writing companies who participated in the survey reported that they belonged to a professional body. Of these, most belonged either to the Society of Will writers or to the Institute of Professional Willwriters (Table 10.9). Some reported that they were members of more than one professional body; hence the total adds up to more than 47.

Table 10.9: Specialist will-writer membership of professional bodies

Professional Body	Specialist will-writing companies
Society of Will writers	24
Institute of Professional Willwriters	19
Law Society	4
The Will Writers Association	3
Society of Trust and Estate Practitioners	2
Association for Legal Careers Professions	1
Charity Law	1
Fellowship of Professional Will-writers and Probate Practitioners (FPWWPP)	1
TAS Network	1
None	5

11 Annexe B: Issues for consideration when interpreting the findings of the research

11.1 This annexe notes some issues that should be borne in mind when interpreting the findings. It covers the research process (in particular the shadow shopping exercise and the consumer retrospective survey) and the approach taken to assessing the quality of the wills.

Research process

11.2 We took a number of steps to ensure as far as possible that those participating in the shadow shopping exercise were (and behaved like) genuine consumers. Firstly approach itself: shadow shopping uses 'real-life' consumers – rather than 'professional' mystery shoppers – who can take the sales process right through to the purchase of an actual will. Participants were not expected to play a predefined 'role' – they were merely asked to proceed through the process as they 'normally' would – and they were free to choose their own channel of purchasing a will, so they did not have to adopt a route that they would be unlikely to adopt in 'real life'.

11.3 There are nevertheless some limitations to the chosen approach, most notably the following:

- Participants were recruited from an online panel, which is a self-selected rather than a general population sample;
- The fact that they were participating in a research exercise – particularly one with a relatively short timeline for participation – may have had an impact on how they behaved, although the nature of this impact could not be predicted and is difficult to identify post hoc (and indeed may not have a material impact on the research);
- While participants were free to choose their own route to a will, our recruitment approach directed them towards a particular channel (albeit one that they had stated that they would consider);
- The fact that participants received a financial incentive for taking part may have prompted them to spend more money on a will than they otherwise would have (e.g. using a channel that is generally more costly or purchasing additional services that they otherwise would not have considered).

11.4 One of the benefits of – and reasons for – adopting a shadow shopping methodology is that it achieves an 'immediacy' of recall that is not always feasible with a retrospective survey. When interpreting the findings of the retrospective survey it is worth bearing in mind that respondents may struggle to recall some of the finer details of the process, for example, whether or not certain issues were covered in the discussion with the will-provider. In this sense the findings of the shadow shopping exercise help to validate some of the outputs of the retrospective survey.

11.5 It is also worth noting that practices within the will-writing market may have changed in the last 12 months, which may have implications for the comparability of the consumer retrospective and shadow shopping research, given that respondents for the former study had to have purchased a will in the 12 months up to March 2011 and participants in the latter were recruited in March 2011.

Assessments

11.6 Each will and testator questionnaire collected was passed on to two assessors (one solicitor and one specialist will-writer) from an assessment panel of solicitors and specialist will-writers recruited by the LSB. The purpose of the assessment was to establish whether the will (a) is legally valid and (b) is of sufficiently high quality (i.e. effectively addresses the needs and circumstances of the respondent).



- 11.7 In order to assess the effectiveness of the will it is necessary not only to review the will itself but to understand the needs and circumstances of the client. It would not have been feasible for the assessors to speak to each participant to discuss their needs and circumstances in detail so each respondent was asked to complete a 'testator questionnaire', providing detailed information about the respondent's personal circumstances, assets, liabilities and intended beneficiaries.
- 11.8 The testator questionnaire is therefore used as a proxy for the 'fact find' discussion held between the respondent and their will-provider. This is an imperfect approach for a number of reasons:
- We do not know the exact details of the conversation the respondent had with the will-provider, only their recollection;
 - We do not know whether the respondent's discussion with their will-provider covered topics not included in the testator questionnaire, or whether there are topics in the testator questionnaire which were not covered in this discussion;
 - We do not know the extent to which the will-provider asked probing questions to uncover issues that the client may not have known about originally and which may have improved the value of the will written; and
 - We do not know about the existence and/ or nature of any 'mirror' wills written (for example, for the respondent's partner).
- 11.9 The other limitation of the assessment approach relates to the legal validity. Given the relatively short timescale for the research, a number of the wills provided by shadow shopping participants were draft versions provided for the client's review or final versions which were yet to be signed.
- 11.10 If these wills had been assessed in the format that they had been provided to assessors by shadow shopping participants, they would have failed, as they had not been correctly executed. As such, correct attestation was not an assessment criterion for draft wills. Where final copies of wills had not been signed, these also 'passed' the assessment if the respondent told us in good faith that they were going to sign the will properly (i.e. witnessed in person by two eligible witnesses) in the near future.
- 11.11 One of the problems with administering wills is that they have not been correctly attested, so it is possible that this research understates the extent of this problem.

12 Annexe C: Quality assessment of wills

12.1 There is no single overall quality assessment for each will, as the assessors often gave differing assessments. Table 12.10 shows the rating given by each of the assessors for all assessed wills. Please note that some of these wills were assessed more than twice (in cases where the two initial assessments did not agree), hence the total number adds to 301.

Table 12.10: Assessment results: overall quality rating

Rating	Count
Excellent	10
Good	81
Passable	107
Poor	82
Very poor	21
Total	301