



The Society of Will Writers & Estate Planning Practitioners

Enhancing consumer protection, reducing regulatory restrictions

The Society of Will Writers and Estate Planning Practitioners (SWW) is the largest professional trade body representing the will-writing profession and represents members world-wide and established in 1994.

The SWW promotes the highest professional standards to maintain the standards and ethics within the will-writing profession through training and education.

The SWW welcomes this opportunity to respond to this discussion document “Enhancing consumer protection, reducing regulatory restrictions”.

Question One

The Society of Will Writers (“the Society”) in line with the Legal Services Board recognises the importance of the three core themes as necessary for the appropriate management and structure of a legal services market providing will writing services.

At the heart of any legal service provision must be consumer protection and redress. Without the consumer’s ability to require satisfactory recompense for inappropriate work the consumer is left unprotected and vulnerable. Regulation should enable consumer’s appropriate protection whilst promoting competition and consumer choice. By fettering consumer choice they may be denied access to appropriate services given by an appropriate person understanding their needs. Regulation should be one of promoting the interests of consumers while protecting competition and the availability of consumer services, achievable through a combined structuring of the core themes.



The Society of Will Writers & Estate Planning Practitioners

Question Two

Regulation together with suitable professional standards should not be seen as an imposition upon legal services, more as an appropriate feature consumers enjoy when purchasing services. For the consumer to purchase a product would necessitate the consumer is protected where there is fault found in that product. Without redress that consumer is failed by the supplier of those services. Regulation should enable an arena where services are provided to consumers both promoting competition whilst delivering high quality services to meet consumers needs and price brackets.

Question Three

With the emergence of consumer focused legal services without the provision of redress to the Legal Ombudsman, a vacuum may arise of service provision only partially managing dissatisfaction. Giving consumer's access to the Legal Ombudsman provides a more rounded appreciation of consumer protection, aimed at ensuring consumer satisfaction. Ensuring where a consumer is unable to find redress elsewhere a Legal Ombudsman investigation may be undertaken highlighting issues regarding service provision, and seeking redress on behalf of the consumer.

This may best be achieved through professional bodies and organisations ensuring their own codes of practice and membership principles reflect the Legal Ombudsman's decisions and principles of professional conduct and service provision.

Question Four

The current legal market from a consumer's perspective may seem quite confusing. Equally from a providers perspective there appears to be an unequal playing field with services provided were no recognition is made by a necessity to adhere any codes of practice or regulatory measures.



The Society of Will Writers & Estate Planning Practitioners

The Society endeavours in ensuring its members follow their code of practice, providing that members may notifying consumers they are part of an organisation which monitors their activities, and when necessary will assist consumers through a complaint process against the member concerned. Members are encouraged to be transparent in providing information to consumers regarding complaints, and their professional status and training. Members are encouraged to offer services to consumers, allowing the consumer a choice as to whether they wish to pursue those services are not. The consumer is placed in a position where they may choose to access services through a member of the Society governed by the Society's code of practice.

Outside of the above position there may exist individuals offering will writing services to consumers who are not members of any organisation or regulated body. The Society has concerns in such circumstances as vulnerable adults are seeking professional guidance without an assurance of any code of practice or complaint process or similar measures being in place against the individual providing the service.

Question Five

The acquisition of a title does not necessarily imply a continuing competence or professional skill in a particular legal area. Unless an individual title holder continues to exercise or practice a particular area of law, together with undergoing suitable and ongoing training; there is no guarantee the title holder will be any more proficient than an individual without such qualifications.

Regulation through activity would appear a more suitable option. However being told an individual is a title holder may provide an understanding by consumers that there is a redress through a complaints procedure against the individual regarding unsatisfactory work.



The Society of Will Writers & Estate Planning Practitioners

Question Six

The effective use of titles must be reflective of the work and practice of the individual. It must also alert consumers to an individual title holders practice and experience. Regulation should aim to encompass both the title holder's role and regulatory activities performed by that title holder.

Question Seven

Within will writing there is evidently a position for regulation in line with the Legal Services Board intentions of creating regulatory obligations at a minimum level to deliver the regulatory objectives.

By examining the need for regulation on a case by case basis, this allows for individual regulatory considerations to be made, particularly allowing for focus on specific risks and issues. Were a broad brush approach to regulation is taken, specific areas may not be truly identified as requiring individual regulatory attention. Different areas of legal practice may attract particular areas of competence together with risk requiring particular regulatory management. By the nature of regulation, in order for this to work effectively it should be a combination of imposed professional rules and obligations through a membership organisation, together with suitable external monitoring in line with these professional rules and obligations.

Question Eight

The success of any review process must always be tempered with inclusion of those subject to the end regulatory product. Without such inclusion the imposed regulatory measures, remain imposed factors and are not reflective of practitioner services meeting consumers needs as demonstrated by the practitioners themselves.

The review stages as proposed raises few initial concerns concerning their structuring. Where concerns are raised, in order to fully understand these concerns are initially



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voiced with the Society seeking their views. This would enable the reviewers to gain a clearer picture of how an issue has arisen and how best to move forward with identifying a suitable regulatory measure where appropriate.

Regarding the individual stages of the review process, the Society recognises the need for a structured process in identifying and creating regulatory measures.

Such forms of regulatory intervention should allow a level playing field to be created where practitioners from different disciplines are allowed to provide service options to consumers, allowing consumers a free choice of both service provision and price. Such measures would be contained within a suitable regulatory framework reflective of the risk involved regarding the legal activity, together with the training and membership requirements of the members' organisation.

Where an activity becomes subject to regulation, ideally such regulation should be conducted by an approved regulator conversant with the individual members' needs and working practices. Such an approved regulator should be able to demonstrate a clear understanding of the appropriate application of regulations in line with the individual members' professional principles.

Question Nine

The Society has no comment on this question.

Question Ten

The Society acknowledges that there is a need for control and management where assets of third parties are undergoing a probate or administration process. It is recognised that there should be measures in place ensuring individuals in control of another assets are suitable to act in such a role, having integrity and adhering to appropriate standards of professional care in such management.



The Society of Will Writers & Estate Planning Practitioners

Question Eleven

The Society recognises there is a necessity for a balance between consumer choice in whom they instruct and that of control of practitioners in receipt of those instructions. Regulations which impede consumer choice would be seen as detrimental as consumers should have a right to instruct whom they chose. The promotion of preventative tools ensuring consumer protection would be seen as a valuable. The Society recognises that there should not be a presumption that regulatory arrangements must always fully adopt all parts of the regulatory menu.

Question Twelve

The Society views that those offering legal advice should be acting within their profession competence and suitably qualified within their area of expertise and advice offering services. Those offering legal advice should themselves be covered by suitable insurance.

Question Thirteen

The Society views there should be a distinction between will writing services, probate and that of estate administration. Review of such areas with a mind to regulation should recognise these are separate areas within their own inherent issues. Any such regulations would need to reflect the separate nature of these practice areas and their own arising concerns.

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