

By post and email

Chris Handford

Legal Services Board

Victoria House

Southampton Row

London WC1B 4AD

Email: Chris.Handford@legalservicesboard.org.uk

Direct line 020 7211 5811

Fax 020 7211 8505

Date 16 July 2012

Email Nelson.Jung@oft.gsi.gov.uk

Dear Chris

Enhancing consumer protection, reducing regulatory restrictions: will-writing, probate and estate administration services

The Office of Fair Trading (OFT) continues to support the Legal Services Board's (LSB) evidence-based approach. As you are aware, we consider that any decision about the introduction of new regulation for will-writing should be based on compelling evidence relating to the likely costs and benefits arising from such regulation.

Whilst we do not feel best placed to express a view on all of the questions raised, we welcome the opportunity to raise the following points.

Alternatives to mandatory regulation in protecting consumers

The OFT continues to encourage the consideration of whether regulation would add significant benefit to consumers over and above the current consumer protection levels. For instance, the use of consumer codes, consumer education



INVESTOR IN PEOPLE

Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London EC4Y 8JX
Switchboard: (020) 7211 8000
www.oft.gov.uk

campaigns and effective use of existing consumer protection legislation have the potential to address many of the current concerns in the will-writing market just as effectively as regulation.

By way of example, the Approval of the Institute of Professional Writers (IPW)'s application to the OFT's Consumer Codes Approval Scheme (CCAS) and the Solicitors Regulation Authority (SRA)'s efforts to improve transparency on the fees charged for executor services, provides evidence of on-going work by self-regulatory bodies in efforts to raise standards in the service of wills.

In addition, as you are aware the Legal Service Consumer Panel (LSCP)'s research found that equally poor wills were being written by both regulated and non-regulated will-writers. It is therefore paramount that any move to extend existing regulation should, in light of these findings, ensure that everyone providing will-writing services is subject to effective and proportionate regulation.

Core regulatory features needed to protect consumers

The OFT widely agrees with the LSB's list of core regulatory features in relation to question 3 of the consultation. It may however be beneficial in including a requirement for companies wishing to carry out will-writing, probate and estate administration services to consult with organisations representing consumers, enforcement bodies and advisory services during the preparation and monitoring of their services.

Similar to the OFT's approved code logo, businesses wishing to carry out these services could use an identifying mark to signpost consumers either in their literature or advertising that they are an approved company. Not only could this be used to the business' advantage as a marketing tool, but would also serve in educating consumers.

Education and training requirements

The OFT notes that a high proportion of lay people are currently and competently undertaking estate administration. Education and training requirements should be tailored to the work undertaken and naturally this should

depend on the range and complexity of the work the provider proposes to do. So as not to restrict the number of providers in the market and encourage grounds for competition to sufficiently grow, detailed consideration needs to be given to the burden created by any mandated education and training requirements.

Regulatory overlap/conflict

The OFT considers the type and degree of regulation of legal services require careful consideration, particularly in the context of the regulation of single entities engaging in multi-disciplinary activities, where there are several layers of regulation or where several regulators share concurrent or overlapping jurisdictions.

The OFT is currently examining to what extent any duplicative regulatory requirements may undermine the benefits of such business structures, for instance by unduly increasing cost of compliance or hampering innovation or entry. The OFT would be delighted to share any findings from its research, which it anticipates to be available in September 2012.

We hope you have found the above comments helpful. Please do not hesitate to contact me, should you have any questions in relation to the points we have raised.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Nelson Jung', with a large, sweeping flourish at the end.

Nelson Jung
Director
Services, Infrastructure and Public Markets