

GOOD WILL HUNTING

Research by the Legal Services Board (LSB), the independent regulatory body in England and Wales, has found that consumers of legal services are increasingly turning to unregulated providers, such as will writers, because of their lower and more transparent pricing, and their higher levels of innovation and service differentiation. We asked an advocate for unbiased commentary on will making, a solicitor and a will writer for their thoughts on the LSB's findings

displayed on law firms' websites. Clearly there may be justifiable reasons, but this leads to consumer mistrust. It is also obvious that, for mature clients, home visits are especially beneficial. But few solicitors advertise the service. Fewer still promote that they have achieved qualified status from either STEP or the Wills and Inheritance Quality Scheme, both of which need to become publicly known as hallmarks of excellence.

Nonetheless, more than 90 per cent of customers report satisfaction with both regulated and unregulated will writers – a reassuring statistic. But how does a consumer assess the quality of a drafted will or the proficiency of its writer when it is written in arcane language? And how can a testator's satisfaction be measured when the merit of the service provided will only be quantifiable after their death?

The key issues are surely regulation and the establishment of parity between regulatory bodies to ensure industry standards are set. While there may be some merit in certain unregulated methods, a will writer's proficiency should match the complexity of the estate.

Making a will is advisable; making a good will is something else, and unless consumers are made aware of the difference, and measures are put in place to safeguard them, they will continue to take the less expensive option. While, according to the LSB, this does not appear to be an issue now, it is undoubtedly a problem in the making as families become more fractured, and specialised, bespoke wills are required to reflect social changes.

NO ROOM FOR COMPLACENCY



ANDREW KIDD TEP IS
A PARTNER AT CLINTONS

We are witnessing truly radical change in the provision of legal services, not least due to disruptive technology and the liberalisation of the marketplace. The LSB report is a taste of things to come.

MEASURES ARE NEEDED TO SAFEGUARD CONSUMERS



PATRICIA C BYRON IS THE AUTHOR OF *LAST ORDERS: THE ESSENTIAL GUIDE TO YOUR LETTER OF WISHES AND THE GOOD WILL GUIDE*

The LSB's report exposes a number of interesting statistics. Contrary to anecdotal evidence, using an unregulated provider is apparently not as problematic as once thought. Perhaps most illuminating is the growing level of customer satisfaction with professionals outside the usual legal framework. Reasons given for this trend include transparent pricing, convenience and innovation.

This is nothing new. Offer a consumer a choice between two seemingly identical products, and they will invariably choose the cheaper or fixed fee, not just because of the price tag, but because they prefer known knowns, rather than dubious unknowns. Add to that the fact that most unregulated professionals (74 per cent) happily undertake home visits, and you have a done deal.

However, the overriding concern for any consumer taking this route must be

the inconsistent levels of expertise and the potential lack of insurance that can accompany an unregulated professional. Many will writers are undoubtedly proficient, legally qualified, insured and self-regulated, and have access to redress mechanisms. Others, however, will lack one or more of these traits. A website displaying the logos of familiar insurance companies and the Financial Services Authority can be reassuring. The fact that they have no bearing on the firm's will-writing skills is probably insignificant to the inexperienced consumer. And if the website's blurb contains wording about legal departments, which may or may not include a solicitor, it can be at best persuasive, at worst misleading.

While satisfaction with unregulated firms is high, solicitors still appear to have the lion's share (91 per cent) of the will-writing business. However, if future testators migrate to unregulated providers, then regulated firms will need to make cost-effective improvements to remain competitive.

Solicitors argue constraints and demands to adhere to standards inevitably dictate higher prices. Nevertheless, despite calls for transparency, will-writing and probate service fees are rarely

However, with change comes an exciting opportunity to mould the future, and we bear the responsibility to ensure that solicitors remain the 'go-to' advisors of choice, always mindful that this role is continually earned and should not be taken for granted.

Several themes in the report merit immediate consideration and comment. It is in unregulated providers' interest to present, dare I say, an opaque picture of the services they offer in comparison to solicitors. If they are offering an inferior product or service, it is logical that they would focus on the short-term benefits: lower cost and, possibly, speed and convenience. Of particular note is the finding that unregulated providers are more likely to use technological developments to provide a service. It is well documented how artificial intelligence, for example, might soon evolve to diminish the role of humans. Such technology, in the hands of the competition, could see the current trends escalate.

That unregulated providers bring, in the words of the LSB report, 'greater access, choice and fairness' to the legal-services market is to be welcomed. The report found that the overwhelming majority of consumers of unregulated providers were satisfied with the customer service. Unshackled from the cost of regulation, it is hardly surprising that unregulated providers can innovate and focus on customer service.

We are not operating on a level playing field, but what can be especially objectionable is that the disadvantages of going to an unregulated provider are less clear than they should be. We must take greater responsibility for addressing that. While consumers are more than capable of making an informed decision, we must make the decision process as easy as possible.

There are lessons to be learned for solicitors from this report, and we must be far from complacent. Regulated providers must face the competition head on, by, for example, better differentiating themselves so consumers can make an informed choice. We are not going to remove the competition, which I can only foresee getting stronger, and nor should we seek to. We should seize the opportunity to further reform, and seek to do things better, not by simply protecting titles or seeking to preserve monopolies, but through real change.

We must also recognise that unmet legal needs are widespread, and it is not cost effective for everyone to engage regulated practitioners. We should use

'In a choice between two seemingly identical products, a consumer will choose the cheaper or fixed fee'

this opportunity to start a profession-wide conversation, both to identify how we best serve all members of society, now and in the future, and to ensure that solicitors remain the 'gold standard' in the delivery of legal services. After all, the ultimate beneficiary is the consumer.

REGULATION IS NOT THE ONLY WAY



ANGUS HOUSTON TEP IS MANAGING DIRECTOR OF PAVILION ROW

Pavilion Row is a firm of trust and estate practitioners, and an accredited STEP employer partner. While we are not the typical unregulated will writer referred to in the LSB report, we do sit in that grey area of non-regulation.

I welcome the insight this report brings. As an industry, we should always put the interests of customers at the heart of what we do. We should strive for improved customer understanding, which would create a better, fairer marketplace for all involved. Regulation is not the only way to achieve this; what is needed is greater transparency concerning the knowledge, expertise and experience of the service providers; the level of advice and service the customer can expect; and the appropriate level of protection needed.

Is using a sole-practitioner solicitor with little or no specialist knowledge in wills a better option for customers, just because they are regulated? Or would customers be better off using an experienced, qualified, non-regulated will writer? Currently, the marketplace includes will writers with little or no training, qualified solicitors who may have spent only one or two days on wills as part of their overall training, and experienced, knowledgeable professionals who have studied and achieved a STEP qualification and membership.

Perhaps, instead of thinking of regulation as the only way to better the market, we should look at introducing a minimum entry-level qualification for will writers, whether or not through STEP, and a registry of qualified will writers to include solicitors.

The report points out that customers may not get the same level of protection

from an unregulated firm as a regulated firm. But, when it comes to writing their wills, what level of protection is needed? It must, of course, be appropriate to the work undertaken, but does not need to cover anything else. For example, there is no need to protect client money if client money is never handled. Consumers need a clear understanding of the level of protection appropriate for them and confirmation that their chosen firm has suitable cover in place.

The report highlights that one of the benefits of unregulated providers is greater price transparency. Many firms, both regulated and unregulated, provide fixed-fee transparent pricing for wills. But does simply publishing a price online equal transparency? Every day we make informed spending choices in which pricing is one factor. Consumers need to understand what they will get for the price in terms of quality of advice and service.

This research suggests that the unregulated sector is neither as big nor as problematic as some have suggested. It also highlights the many benefits of unregulated providers, including innovation and service differentiation. But the current easy entry into the marketplace does create a situation of too many people dabbling, and will writers who are 'here today, gone tomorrow'. Perhaps, instead of thinking of regulation as the only way to protect consumers and give them choice, we should look at recognising will writers who have a guaranteed minimum level of knowledge and qualification, who have been vetted and who have the appropriate level of protection in place. Perhaps what we need is registration rather than regulation.

READ AND REACT

DOWNLOAD THE REPORT

Read and download the Legal Services Board's report, *Unregulated Legal Service Providers: Understanding Supply-side Characteristics*, at bit.ly/2dLJ0u4

WHAT DO YOU THINK?

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