
Legal Ombudsman Press Release

Ombudsman calls for government re-think on wills

Buying a will is fraught with risk and uncertainty according to the latest report from complaint handling body, the Legal Ombudsman.

Most worryingly, a lack of regulatory oversight means thousands of consumers might have nowhere to turn if their will was poorly written or if they've been ripped off by the service provider.

The Ombudsman helped to resolve more than a thousand (1,000) wills and probate related complaints last year, mainly as a result of excessive costs, delays and a failure on the part of the lawyer to follow instructions.

A remedy – to help put the issue right – was required in two thirds of these cases, suggesting lawyers have work to do in raising standards. But in each of the complaints where it found poor service by the lawyer, the Ombudsman was at least able to help.

For services provided by non-lawyers, people have no access to the Ombudsman since, by law, it is only allowed to look at complaints about regulated service providers. With research suggesting some 180,000 wills each year are being written by non-lawyers, the Ombudsman is concerned that this leaves consumers exposed.

Last year the Lord Chancellor, Chris Grayling, chose not to make will writing a reserved legal activity; contrary to advice from the Legal Services Board, which believes that regulation would improve conditions for consumers.

Chief Legal Ombudsman, Adam Sampson, has called on the government to consider other options so that consumers have access to his scheme's help when things go wrong. He said: "Wills can be prepared by anyone in principle. For people on a budget, this creates headaches about the standard of service one could reasonably expect. It also means some people will have access to help if things go wrong, while others won't.

"Failing a move to regulate all will writers; we want the government to at least consider a voluntary ombudsman scheme into which service

providers can opt themselves. Provision already exists for the Lord Chancellor to make this happen.”

The Ombudsman’s report ‘Complaints in focus: Wills and probate’ suggests a number of options that the government could take to address the problem; with a voluntary scheme seeming the most achievable means of protecting consumers in the short term.

Under such an arrangement unregulated service providers could choose to opt themselves into the Ombudsman scheme. This would provide their customers – at least those suffering detriment up to the value of £50,000 (the Ombudsman’s financial compensation limit) – with a safety net when things go wrong.

The Society of Will Writers, which represents around 2,000 will writers in England and Wales, supports a move to a voluntary scheme.

Nick Honeyman Brown, Chair of the Society, said: “The Society’s overriding objective is for all its members to provide consumers of will writing, trust and estate administration services with the certainty of obtaining a quality product, backed by real consumer protection.

“Working together with the Legal Ombudsman we believe this objective is more likely to be achieved.”

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Notes for Editors

1. The Legal Ombudsman is free for consumers who wish to complain about their legal service provider. They can contact the Legal Ombudsman on 0300 555 0333 or email enquiries@legalombudsman.org.uk
2. We resolved 1013 wills and probate related complaints in 2013-14. This works out to 12.7% of the total complaints resolved.
3. 18% of wills and probate related complaints in this area are about costs. This is ‘costs excessive’ (9.5%) and ‘costs information deficient’ (8.9%) combined.
4. Delays (12%), failure to follow instructions (12%), and failure to advise (12%) are the other main reasons behind complaints.
5. 55% of the wills and probate complaints we resolved in 2013-14 were resolved informally.
6. A remedy was required in around 72% of the wills and probate related complaints we dealt with in 2013-14.

7. 99% of complaints were about service providers regulated by the Solicitors Regulation Authority.
8. Lord Chancellor rules against making will writing a reserved activity - <http://www.solicitorsjournal.com/news/private-client/estate-planning/lord-chancellor-refuses-make-will-writing-reserved-activity>
9. YouGov research shows that 180,000 wills each year are written by unregulated providers - <http://www.lawsociety.org.uk/news/press-releases/probate-and-estate-administration-should-be-regulated/>
10. The Legal Ombudsman for England and Wales was set up by the Office for Legal Complaints (our Board) under the Legal Services Act 2007. We are independent and impartial. This means that when we receive complaints, we will look at the facts in each case and weigh-up both sides of the story. We are not consumer champions or part of the legal profession, and we are also independent of Government. There is no cost to the taxpayer.
11. Join the Legal Ombudsman's LinkedIn group page 'LeO News' for discussion and news http://www.linkedin.com/groups?gid=4468845&trk=hb_side_g