

Liverpool Law Society  
Response to:

## *Legal Services Board*

*Enhancing consumer protection, reducing regulatory restrictions: Will-writing, probate and estate administration activities*

July 2012

## Introduction

This is a response to the consultation document published by the Legal Services Board entitled:

*ENHANCING CONSUMER PROTECTION, REDUCING REGULATORY RESTRICTIONS:  
WILL-WRITING, PROBATE AND ESTATE ADMINISTRATION ACTIVITIES*

This response reflects the views of the members of the Non-contentious Business Subcommittee of the Liverpool Law Society. Liverpool Law Society boasts 2000 or so members and is one of the largest law societies in England and Wales.

If you require any further information please contact:

Liverpool Law Society  
2<sup>nd</sup> floor  
The Cotton Exchange  
Bixteth Street  
Liverpool L3 9LQ

Liverpool Law Society  
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## Consultation response

1. Client protection needs to be prioritised over freedom of choice.
  - a) Making a will can be stressful and upsetting for clients as they contemplate their own demise. It is for this reason that many people procrastinate indefinitely resulting in intestacy. Making a will is exceptionally important for individuals and they need to feel confident that their wills are written by trained qualified and regulated individuals who understand this area of the law.
  - b) Recent surveys show that bereaved families are put under pressure at the time immediately after the death of a loved one, at a time of great vulnerability. Surveys show that families have been provided with misleading information resulting in them employing a (non solicitor) third party to carry out the administration work. This information may be given by banks or funeral directors (see Times 23.6.12). This illustrates the need for client protection to be paramount.
2. High quality of legal expertise and service delivery should provide the framework and expectations within the whole sector. These principles must be prioritised over price and underpinned by all operators satisfying minimum requirements of expertise and service. Client choice and selection of service provider should be governed by quality and not price. Clients will always value a service and pay what he or she considers reasonable and affordable to his or her own situation. Recent survey shows 58% clients pay by fixed fee.
3. Problems with wills often arise after the death of the testator and the costs of rectification (if possible) will be high in financial terms and possibly devastating to the family and beneficiaries of the deceased in terms of emotion and personalities.
4. There must be proper recourse for disappointed testators and beneficiaries involving a robust complaints procedure, which must be underpinned by compulsory indemnity insurance. In practice, there is no purpose for a disappointed party to be awarded damages as a result of Court action or quasi judicial system (Ombudsman) if there is no indemnity insurance to meet the award.
5. The regulation framework for solicitors provides a gold standard to enable parties to obtain proper redress which is underpinned by indemnity insurance.
6. All service providers must be subject to the same standard as required by solicitors vis
  - Professional indemnity insurance
  - Complaints procedure
  - Code of Conduct
  - Training framework