

LSB Will Writing Consultation (2) deadline 08/11/12

I am a solicitor STEP practitioner.

Question 1: Do you agree with the scope of the proposed reserved will writing activities and estate administration activities? Do the scenarios provided in **Annex 1 of the Provisional Report** clarify when activities will and will not be caught within the scope of the proposed new reservations? What are the likely impacts of the scope of the proposed activities as described?

I believe that the following activities should be reserved activities and should be regulated by an authorised regulator and preferably the Solicitors Regulatory Authority:-

- being appointed as a paid executor, administrator or trustee
- the drafting of a will,
- advice on an existing will,
- estate and tax planning,
- Drafting trusts both inter vivos and by will
- administration of estates both intestate and testate
- variations and disclaimers,
- advise and drafting HMRC IHT returns,
- applying for an oath for probate or administration
- potential contentious probate
- issuing contentious probate proceedings
- distribution of estates

The changes will mean that

- consumers could not be contacted by cold callers.
- the reserved activities will be separated from any financial planning aspects of the a will or estate administration
- the regulatory bodies will impose their approved standards and procedures
- consumers will be protected
- consumers would be clear that their advisor is regulated
- non-qualified practitioners could not deliberately or my implication hold themselves out as qualified or authorised either as a solicitor or otherwise
- solicitors who are suitably qualified should need to undertake new training that should be reserved for unregulated or untrained providers
- Costs to consumers may rise as unregulated advisors were generally cheaper to employ.

Question 2: What are your views on the options for implementation that we have described? What do you think would be the likely impacts of each?

Any implementation should provide automatic passporting of solicitors and trained and qualified advisors, non-solicitor STEP practioners.

No advisors can practice without authorisation and proof of qualification. A period of six months should be provided between the enactment of the relevant regulations/act.

Applications can be made in the interim but full authority should only be given once the applicant can provide proof of qualification/training as approved by their regulator.

Although competition is essential to any business; the protection of consumers is paramount.

Question 3: Do you agree with the initial assessment of the consequential amendments that would likely be needed? Are there any other consequential amendments you consider would be necessary?

The list looks comprehensive. However I believe that there may be scope to include trust legislation.

Question 4: To prospective approved regulators: what legislative changes do you think will be required in order to implement regulatory arrangements for these activities (in line with the draft section 162 guidance)? Not applicable to my response as I am not representing an approved regulator.

Question 6: Do you agree that having mandatory regulation for all firms in the market will improve consumer confidence? YES

Question 7: What business impacts (both positive and negative) do you envisage will occur with the proposed reservation of will-writing and estate administration? How will any such impacts affect your business?

As I am already a solicitor STEP practitioner so I will already have a head start. Consumer confidence will be boosted and hopefully that will translate into a better understanding of the process. Also I believe consumers will have a higher regard for their will and estates' advisor, including solicitors. There will be more providers of services, so competition will be greater. However some of the worse cases of complaint were not solicitors although consumers weren't always aware and that negatively impacted the profession. Consumers will be better able to make an informed choice both as to price and service. Larger organisations are setting up as an ABS to provide legal services, especially will and probate. So the new legislation may not be sufficient to improve competition.

Question 8: We are keen to understand the potential impacts of our proposals on equalities. Do you envisage any positive or negative impacts on equalities for either consumers and/or providers of will-writing and estate administration activities? Please provide details including of any evidence that you are aware of?

Consumers, would be less vulnerable. As cold callers tend to target individuals who are without internet access and who are more susceptible to pressure selling of inappropriate financial services or inflated unsubstantiated invoices. Older consumers would be better protected. Due to the nature of the services there is no particular

Question 9: Do you envisage any specific issues arising from the proposals to impact negatively on consumers at risk of being vulnerable? Would any of the proposals actually increase their risk of becoming vulnerable?

Consumers may not seek assistance at all. As cold calling organisations identify consumers who may need or benefit from legal assistance. So this in turn may reduce the number of individuals who seek help. Targeted marketing plans and improved communication will be required to bridge this gap, as cold calling isn't usually sanctioned by regulators.