

The Society of Will Writers & Estate Planning Practitioners Response to Review of the legal services market study in England and Wales CFI

About The Society of Will Writers

The Society was founded as a membership organisation for professional will writers and estate planners in 1994 and has now grown to more than 1,700 members. These members are based in the UK, as well as central Europe, Asia and even Africa. It is likely that where you will find a concentration of ex-patriates, or where countries laws mirror or are based on those of our own, we have a member located there. In England and Wales alone, there are a combined total of 1,645 members, representing most of our membership. The Society is widely recognised as not only the largest, but the leading self-regulatory body governing those practicing in our field.

The Society has set itself 2 main tasks:

1. To promote to the public at large the real need and sense in having a valid Will;
2. To act as a self-regulatory body by vetting practitioners through stringent membership requirements, proficiency standards and ongoing training.

Contact



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Response to CFI

As a voluntary self-regulatory body, the Society finds itself in a unique position whereby its members are governed largely by our own Code of Practice and mandatory requirements. Much of these requirements and rules that are imposed on our members reflect the CMA's proposals. With regards to the questions in the CFI, some of which are perhaps more relevant to us than others, you will find the responses in order below.

Q1: Members of the Society are from all walks of life. Some have been practicing in the legal sector under some guise for quite some time, whereas others may join with little to no experience whatsoever. In both cases you will find differing opinions on the transparency measures, whether this be down to members being set in the old ways, or be it new members having understood the benefit and reason for transparency being more open to it. As the Society we actively encourage our members to be as open and transparent with their clients as possible. Whether this be when advertising pricing, services available, timescales or even when taking data protection into account, our view is that where a client or consumer needs to be aware, they should be aware. There are no doubt individuals who are reluctant to "open up" where they don't feel they need to, however on the whole, the response from members is generally positive.

Q2: As above, members are encouraged to be as open and transparent as possible. With regards to pricing, more and more members are beginning to advertise this on their websites and marketing material. There are several things factoring into this, whether it be following market research, or simply trying to make themselves stand out a bit more amongst the crowd. There is also the rise of these online will writing companies who are massively undercutting

many “traditional” will writers, however often we find that these online services come with additional hidden costs, such as high estate administration fees, or whether the service can’t cater for a client’s specific needs, only to then put them in touch with an advisor who ends up billing for more work.

We know that members are becoming more transparent because we are starting to see a lot more of their marketing material etc. as things move increasingly online. The Society itself offers advertising and marketing support to its members, as well as design services for stationery and websites, as such, much of the member’s proposed material makes its way across our desks at some point.

Consumers themselves are becoming much more aware of what competition is out there, for example when contacting the Society to find a member in their area, they more often than not ask for a range of members around them, rather than just the one. This behaviour has changed in recent years.

Q3: Similarly, the members themselves are looking much more closely at what their competitors are doing. Sometimes these competitors are fellow Society members, and particularly in areas where there are a high concentration of members such as London, Manchester or even the entirety of the East Midlands, trying to drive business in any particular direction can be a challenge. There is of course competition against authorised providers of legal services, certainly solicitors where will writing is concerned, and again, it is a case of trying to drive that business in their direction rather than another.

The Society’s membership has grown significantly in recent years, having had fewer than 1500 members as recent as 2016. It is our view that an increase in membership is in-part down to the demand for will writing services, and with more consumers being made aware that solicitors are no longer their only option, this directly correlates to an increase in competition.

Q4: Particularly in relation to will writing, we feel there needs to be some improvements made to the information available here. If we’re looking at making things more transparent, a wider range of providers of will writing services ought to be listed (currently only reference to the IPW is made), as well as greater detail about how complaints are handled, particularly by bodies such as ourselves. This is not to pull potential business away from any other organisation, but rather to give the consumer more choice.

The Society itself has done no promotion of the Legal Choices website, however, were it of more benefit to consumers of will writing, we feel this would be a worthwhile exercise.

Q5: By its very nature, the Society functions as a quality indicator, more so with the recent introduction of our ‘Safe to do business with’ scheme. Every member of the Society is welcome to display this mark on their website, stationery, etc. providing that the Society’s mandatory requirements are met, and their record is in good standing with us. Quality indicators are of great benefit as it encourages consumers to investigate the mark, what the mark means and what is required to hold it. Where a member of the Society is displaying our Safe logo, consumers can rest assured the member they are dealing with will conduct their business to the highest standard.

Q6: Will writing is not something often found on any comparison site. The Times Money Mentor currently has a list of ‘Best online will writers’ but beyond that there isn’t much use for it. There are unfortunately companies listed on here who have ranked quite high yet have been expelled from the Society. The factors which go into producing these ranking systems need greater scrutiny and need to consider more information regarding membership to bodies such as ourselves. Not necessarily so those without membership rank lower, but so that those

who are registered stand a fairer chance of ranking higher, particularly where they may in fact be a much smaller company. Competition in the online will writing market is huge now, particularly because of the Covid-19 pandemic, with more and more people turning to online services to both provide and purchase.

Q7: The Society has been heavily involved in the development of its preferred drafting software, Sure Will Writer – Professional Will Suite. Since 2017 we have been working extremely closely with WillSuite to produce what we believe to be the leading software package for producing Wills, LPAs, and other related documents. More information can be found at www.surewillwriter.com.

Whilst consumers individual circumstances are becoming more complicated, their wills do not need to be. Our software drafts wills in plain English, making them far easier for the client, or perhaps more importantly the executor to understand when it comes to administering the estate. We take great pride in being able to not only simplify the drafting process, but also the understanding process whilst still delivering a perfectly effective and suitable document to the client. We are soon to introduce a consumer-facing element to the software whereby will writers can enable their own online will writing facility via their own website, or simply use it as an information gathering tool to then contact the client and resume the instruction taking process from there.

Q13: We do not feel at this stage there is any need for intervention into unauthorised providers where they are registered with a body such as ourselves. In truth, we do not know the exact figure of just how many people there are will writing in England and Wales currently. We estimate that our membership, combined with the IPW equates to around 2,000-2,200. There could well be anywhere between 3,000-4,000 will writers, especially if factoring in online providers and those who simply chose not to join any professional body.

We feel that the Society has proved that unauthorised providers can practice alongside the likes of solicitors, for example. Members of the Society are experts in what they do because for the most part, it is all that they do. We estimate that our members draft well more than 100,000 wills per year, and so far in 2020, the Society has received only 12 formal complaints against the entirety of our 1,700 strong membership. Of these complaints, all but 3 have been resolved to the consumer and the members satisfaction with the remainder only awaiting a resolution, rather than being unresolvable.

The Society does all it can to ensure that the consumer is protected and has access to redress, however this is only possible where it concerns a member of ours. Should the will writer not be a member, this is very little we can do and perhaps this is where either more powers need to be given or something needs to be done to provide consumers with more access to redress. Whether this is giving power to a body such as ourselves to investigate other providers (although there would need to be a more formal type of licencing scheme in place for this to work) or there should be more information provided to consumers about their rights and next steps to take when something does go wrong. As it stands, where a consumer contacts us for help and the will writer is not a member, all we can realistically do is advise whether to seek the help of a solicitor or trading standards for example. We do not take any joy in turning people away, and if there were more we could do to help, then we would.

However, it is undecided at this stage whether making will writing a reserved activity or making will writers regulated by statute would solve these issues. It has already been determined that there is no difference in quality between wills produced by solicitors versus those produced by will writers, and whilst regulation may clamp down on the use of poorly drafted DIY wills, we feel it only seeks to lessen the availability of will writing services. Currently around two thirds

of the UK adult population do not have a valid will and members of the Society provide a vital role in closing the gap. Imposing any strict regulation will likely drive up operational costs and overcomplicate requirements to practice, ultimately driving many will writers out of business and risking more people dying intestate.