



Law Society
of Scotland

Consultation Response

CMA Investigation – will-writing and other legal services

September 2023



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Consumer Law sub-committee welcomes the opportunity to consider and respond to the Competition and Market Authority's Investigation into will-writing and other legal services¹.

We have the following comments to put forward for consideration.

General Comments.

We are concerned about the impact of unregulated providers offering legal services to consumers, including will-writing, pre-paid probate plans and online divorces. Unregulated services may lead to consumer detriment and to consumers suffering financial harm and loss in the event the firm providing the service breaches consumer protection legislation. The CMA's investigation provides an important opportunity to identify and rectify gaps in consumer protection.

We note that the law relating to wills, probate (known as executry in Scotland) and divorce differs significantly between Scotland and England and Wales. We would question whether unregulated providers are always well-placed to deal with these geographical variances.

We consider that all legal services providers providing services direct to the consumer must be regulated, in order to strengthen consumer protections and to enhance consumer confidence. We have advocated for many years for the regulation of the unregulated legal service sector, including in our recent written evidence on the Regulation of Legal Services (Scotland) Bill².

The Regulation of Legal Services (Scotland) Bill, which was introduced by the Scottish Parliament earlier this year, includes a number of proposals to give additional protection to consumers of legal services. These proposals may help protect consumers using unregulated providers in Scotland, but there are

¹ [CMA investigates will-writing and other legal services - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/cma-investigates-will-writing-and-other-legal-services)

² [regulation-of-legal-services-scotland-bill-call-for-evidence-response-of-the-law-society-of-scotland-27-july.pdf \(lawsocot.org.uk\)](https://www.lawsocot.org.uk/wp-content/uploads/2018/07/regulation-of-legal-services-scotland-bill-call-for-evidence-response-of-the-law-society-of-scotland-27-july.pdf)

serious questions over whether the proposals in the Bill will do enough, particularly for those who do not engage with a regulated professional such as a solicitor.

We believe that regulation of providers offering unregulated parties legal services to consumers, will lead to improved protection for consumers and help ensure that providers are complying with their legal obligations under consumer protection legislation, thus helping to reduce consumer detriment and possible financial loss and to improve public protection.

The Law Society of Scotland is the professional body and regulator for all Scottish solicitors, including those who provide advice on wills, executives, and divorce. Our members are subject to robust regulation, covered by professional indemnity insurance and the statutory Client Protection Fund, and subject to defined complaints processes.

We are pleased that the CMA are investigating unregulated will-writing, pre-paid probate plans and online divorces services, as these services are very important and can have a huge impact on consumer's lives.

For further information, please contact:

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