

For immediate release

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78% OF CONSUMERS WANT REGULATION OF WILLWRITING, BUT HOW MANY KNOW ABOUT THE LATEST WILLWRITING HORROR STORY?

Recent research findings and one of the biggest ever Willwriting horror stories are now both underlining why the Government needs to make a very swift U-turn on its decision not to regulate those working within the Willwriting profession, says the Institute of Professional **Willwriters (08456 442042)**.

A survey conducted for the IPW, the only organisation in the Willwriting profession to insist on qualifications and professional standards, shockingly found that 22 per cent of consumers aged over 35 believe there is nothing wrong with the current situation whereby Willwriters with no relevant qualifications can draw up a Will.

Whilst over three-quarters of consumers aged 35 and over (78 per cent*) believe this is not an acceptable level of consumer protection, nearly a quarter disagree demonstrating that consumers are unaware of the misery that can result if a Will is drawn up incorrectly, or entrusted to the wrong individuals.

Given the recent can of worms exposed during the winding up of Willwriting firm, NLS (National Legal Services Limited), it would appear that consumer ignorance in relation to the sector and the dubious practices that exist within this unregulated profession is extremely high.

Wording a Will correctly, to ensure there is no misinterpretation in the eyes of the law, is one of the key aspects of Willwriting. Thanks to the market being flooded with do-it-yourself Will packs and online Will writing companies, the fact that a Will is one of the most important legal documents anyone can ever have drawn up is being lost.

“A Will’s legal status is being degraded on a daily basis”, says the Chairman of the IPW, Paul Sharpe. “People do not realise the implications of drawing up a Will wrongly and are blinkered about what happens when they do not draw up a Will. They fail to see that the law will step in and make the decisions they should have made, or dictate what the wording of the Will actually means in law, even if their intentions were entirely different.”

Lack of regulation is not all about the wording of Wills. In a sector free from the financial regulation that applies to a pension, mortgage, life insurance plan or a host of other financial products, a distasteful element is forever prominent within the Willwriting profession.

The recent winding up of NLS Sheffield Limited is a case in point, following an investigation into the affairs of the company. Its business was the provision of legal documentation, primarily Wills. It operated by working as a subsidiary of Nationwide (Nationwide Legal Services Limited), which recruited agents to run their own businesses on licence. Agents would take instructions from members of the public for the drawing up of documents. NLS would then produce the documents and return them to the agents for client signature.

NLS (or National Legal Services as the company was also known) and Nationwide Legal Services Limited described themselves as the UK's largest independent legal services providers. NLS supposedly provided its agents with a three-day residential training course as part of their package after payment of £6,950 to Nationwide for an agency. Further training could be provided, but only at additional cost. Agents were said to have to pass a written exam before being sent out into the field.

Agents would then recruit business and send instruction forms back to NLS, to allow documents to be produced. NLS then took a 25% share of the fees earned by the agent. Advertising materials were provided to agents, who were also introduced to the agency who produced it.

In winding up NLS, the DTI cited factors such as the inadequate training and support provided by NLS to agents, the fact agents were given a series of false and misleading statements when recruited, particularly in relation to potential earnings and the belief that NLS was inextricably linked and dependent on the disreputable business of Nationwide.

The business was said to have been founded and owned by Mr Gerald Malcolm Barton, who also described himself as Chief Executive. He is the same Mr Gerald Barton who has previously run two other failed Will businesses (JHD Associates and Willmakers).

The investigation highlighted **“wholly inadequate insurance cover for both NLS’ and the agents’ potentially very large liabilities to clients for whom documents have been prepared.”**

The investigation found that NLS did not employ any qualified solicitors to provide training. It did have two members of staff with law degrees who were studying for a vocational qualification. The remainder of the staff had no legal training, although some may have had experience of Willwriting with a firm of solicitors.

The investigation also called the NLS examination into question. The exam papers were handed over at the end of the second day of the three-day training course, for agents to complete overnight in their hotel room. Those who did not pass were supposedly required to attend a refresher course costing £250. The investigation stated that **“There are doubts as to whether the test was even marked and whether anyone actually fails it.”**

Agents also complained that the level of support given by NLS was virtually non-existent.

Nationwide's agreement with agents required it to have £5 million of public liability insurance cover in place. The conclusion of the investigation was that: **“It is unlikely that such insurance cover is in place.”**

As at 16 February, 2006, NLS had prepared and was in possession of some 3,700 assorted wills and other legal documents belonging to clients in England and Wales. It wrote about 100 legal documents a week. The investigation found that: **“There is a good chance that there will be a substantial number of claims (though by their nature, these will probably not emerge for a considerable time) and that the insurance cover in place will be wholly inadequate to meet such claims.”**

Additionally, the validity of the Companies' insurance cover was thought to be "**dubious**", as the Professional Indemnity proposal form for NLS, dated May 28, 2005, was not signed.

The proposal form dated June 2, 2005 also contained untruthful answers, which could invalidate the insurance. It stated that Wills were stored in a fireproof vault, but they were actually stored in unlocked filing cabinets in the NLS basement. Other mistruths peppered the document.

Paul Sharpe has very strong views on the NLS case. *"Why was a person who had previously had two failed Willwriting businesses* allowed to set up a third, one might ask. The answer is that anyone can set up a Willwriting business in this country overnight and continue to fail time and time again, because the industry is unregulated."*

"The clients of NLS now face an uncertain future. Because any insurance NLS might have had could be totally invalid, it is unlikely that anyone would be able to buy retrospective insurance to allow the relatives of clients whose wills are subsequently found to be faulty to claim redress. We are probably not going to discover the extent of the fall-out from this mess for another ten or twenty years and many consumers may not realise what has happened and where they stand until it is too late."

The Institute of Professional Willwriters was established in 1991 to set its members apart from the disreputable operators in the sector, following the failure of another so-called expert Willwriting company - the Quill Willwriting franchise.

The aim of the IPW has always been to protect the rights of the consumer by campaigning for regulation in the sector and by operating a membership based organisation run on the lines of tight self-regulation, in the absence of any compulsory regulation being imposed by Government.

The IPW is an ethical, membership-based Willwriting body and the only one that insists on recognised legal qualifications. It requires the passing of a tough entrance examination, or an equivalent qualification from the Law Society and on-going professional development. It runs checks into the background of individuals wishing to become members and insists that every member has at least £2 million of professional indemnity insurance in place.

Paul Sharpe states: *"NLS applied for membership of the IPW, but their application was rejected because they did not meet the IPW's membership criteria. Sadly, this did not stop them from trading, because of the lack of Government imposed regulation in the sector."*

"The Government needs to act on this issue. Its preferred solution is for voluntary regulation, but that will not prevent a repeat of this NLS debacle, as companies like NLS are never going to volunteer to be regulated."

To avoid being trapped by an unregulated Willwriter, or even have a will drawn up by a solicitor with no qualifications in Willwriting – a situation becoming ever more prevalent, consumers should look out for the distinctive IPW logo with its two ticks. This signifies that the Willwriter is a fully regulated member of the IPW. Consumers can also visit www.ipw.org.uk or ring **08456 442042** to help find an IPW member in their locality.

With 78% of those consumers typically in the market for a Will believing it is wrong for Willwriters to set up in business without a shred of training and no relevant qualifications to their name, it is time for consumer rights campaigners to act in the interests of the consumer and insist on regulation.

“It is only when voices of dissent are heard in Whitehall that this horrific situation will be changed”, says Paul Sharpe. “It is time for those who claim to be consumer champions to step up to the mark and demonstrate it. Consumers are being exposed to NLS type situations on a daily basis and the effects of this are creating a ticking time-bomb of future misery and liability claims that will probably never be settled by firms who have no insurance policies in place to protect their clients.”

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Notes to Editors

The phrases highlighted in bold are taken from the Winding up Petition presented in the High Court of Justice Chancery Division, Manchester District Registry, in the matter of NLS Sheffield Limited and in the matter of the Insolvency Act 1986.

The research commissioned by the Institute of Professional Willwriters was conducted amongst 1,000 adults, via telephone interview, by TNS and on their CAPI Omnibus of May 11, 2007.

78% of consumers aged over 35 believe it is wrong for Willwriters to operate on an unqualified/unregulated basis. 77% of consumers in general feel like this when the age group from 16-34 is added in to the total.

Journalists wishing to interview or meet Paul Sharpe can contact Catapult PR, on 01253 595558, who will make the appropriate arrangements.