Wills and Awareness of Inheritance Rights in Scotland
About the Scottish Consumer Council

The Scottish Consumer Council (SCC) was set up by government in 1975. Our purpose is to promote the interests of consumers in Scotland, with particular regard to those people who experience disadvantage in society. While producers of goods and services are usually well-organised and articulate when protecting their own interests, individual consumers very often are not. The people whose interests we represent are consumers of all kinds: they may be patients, tenants, parents, solicitors’ clients, public transport users, or simply shoppers in a supermarket.

Consumers benefit from efficient and effective services in the public and private sectors. Service-providers benefit from discriminating consumers. A balanced partnership between the two is essential and the SCC seeks to develop this partnership by:

• carrying out research into consumer issues and concerns;
• informing key policy and decision-makers about consumer concerns and issues;
• influencing key policy and decision-making processes;
• informing and raising awareness among consumers.

The SCC is part of the National Consumer Council (NCC) and is sponsored by the Department of Trade and Industry. The SCC’s Chairman and Council members are appointed by the Secretary of State for Trade and Industry, in consultation with the First Minister. Martyn Evans, the SCC’s Director, leads the staff team.

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The SCC assesses the consumer perspective in any situation by analysing the position of consumers against a set of consumer principles.

These are:

ACCESS
Can consumers actually get the goods or services they need or want?

CHOICE
Can consumers affect the way the goods and services are provided through their own choice?

INFORMATION
Do consumers have the information they need, presented in the way they want, to make informed choices?

REDRESS
If something goes wrong, can it be put right?

SAFETY
Are standards as high as they can reasonably be?

FAIRNESS
Are consumers subject to arbitrary discrimination for reasons unconnected with their characteristics as consumers?

REPRESENTATION
If consumers cannot affect what is provided through their own choices, are there other effective means for their views to be represented?

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Written by Sarah O’Neill, Legal Officer

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Preface

Today, more of us own our homes than ever before: 66% of Scottish households are now owner-occupied. There have also been significant changes in family structures in recent years: for example, nearly half of all children born in Scotland in 2005 were born to unmarried parents. Given these changes in society, it should be common sense that we make provision as to what will happen to our home and our other assets when we die.

Unfortunately, our research suggests that over 60% of us have not made such provision, and, in most cases, not because we have made a positive choice not to make a will. Rather, most of those who have not made a will have simply never got round to it, or, particularly in the case of younger people, have never even thought about it. Even those who think they don’t need a will, because they don’t have enough property, or because they believe that their property will go to those whom they want to receive it, may be unaware of the unintended consequences of their decision not to make a will.

And even where inheritance rights on intestacy are straightforward – where a deceased person’s entire estate goes to their spouse, for example – the lack of a will can cause unnecessary uncertainty, distress and expense for those who are left behind. Where their family circumstances are less straightforward – where they are cohabiting with a partner, for example, or there are stepchildren – the consequences for their family could potentially be devastating.

Of course, the decision whether or not to make a will is a matter for each individual. It is, however, that they make that decision on an informed basis. Unfortunately, our research suggests that many people are not currently making such an informed choice. A significant proportion of our respondents were not well informed about succession rights on intestacy, some did not know how much a will would cost, nor how this cost would compare with those costs, financial and otherwise, which may be incurred by their loved ones were they to die intestate.

Even those who already have a will may need to consider whether it is still up to date and reflects their current circumstances; again failure to update their will when necessary could have serious consequences for those they leave behind.

This research provides a useful baseline for future work in raising public awareness of the benefits of making a will and the potential consequences of dying without having made one. The SCC intends to take this issue forward in partnership with other organisations. We hope that this work will encourage every adult in Scotland to consider whether they should make a will.

Douglas Sinclair
Chair
Acknowledgements

The Scottish Consumer Council would like to thank everyone who took the time to participate in this research, and without whom it would not have been possible to produce this report. We also wish to thank TNS System Three who carried out the research on our behalf.

The work for this report was overseen by the Scottish Consumer Council’s Legal Advisory Group. The members of the Group are: Neil Edwards (Chair), Kay Blair, Margaret Burns, Cowan Ervine, Peter Hunter, Frank Johnstone, Susan McPhee, Martyn Evans (ex officio) and Douglas Sinclair (ex officio).

We would also like to thank James Ness of the Law Society of Scotland and Dr David Nichols of the Scottish Law Commission, who commented on earlier drafts of the report.

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Reasons for doing the research

1. Wills

Whether or not we make a will during our lifetime can have a major impact on those we leave behind when we die. This issue is becoming ever more important as Scotland’s population becomes wealthier than ever before. Two-thirds of householders in Scotland now own their own home, and in 2002, the average value of the property or ‘estate’ left by a deceased person who owned his or her home in Scotland was £153,792.

It has previously been estimated, on the basis of court records, that fewer than one in three adults in Scotland has a will. However, prior to our research, the most recent available evidence dated back to 1979. That study found that only 20% of respondents had made a will, although this proportion varied according to age and relationship status.

We wanted to find out whether, almost 30 years later, it was still the case that so few people in Scotland had drawn up a will. We were also interested in the reasons why people do or do not have a will. If they do not, was this a conscious choice, and if so, why did they make that choice? Do they understand the consequences for their family if they die without a will? Are people put off by the cost involved? We also wanted to find out whether people had an accurate idea as to how much it would actually cost to have a will drawn up by a solicitor.

For those who do have a will, is it still up to date and valid? Changing personal circumstances over time – such as divorce, marriage, remarriage and having children – are likely to mean that any existing will needs to be updated to ensure that the estate of the person making the will goes to those whom they want to receive it.

We were also aware of concerns about the need for people to obtain proper legal advice before making a will, in order to ensure that the will is effective and accurately reflects their wishes. Pre-printed DIY will forms are now widely available at low cost, and there are also a number of providers offering wills that can be completed online in just a few minutes. While such wills can be cheap, quick and convenient, there may be dangers associated with them. Firstly, we were aware of concerns that some pre-printed will forms are based on English, rather than Scots, law and

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2 Source: Civil Judicial Statistics 2002, published by the Scottish Executive. This is the most recent year for which statistics are available. This sum represents the average amount confirmed in the sheriff courts in relation to ordinary estates. It applies only to those estates where confirmation was granted, and does not include small estates, which were at that time estates with a total value of £25,000 or less.

procedure. Moreover, not everyone’s circumstances are straightforward, and in the absence of legal advice, such a will may not achieve the intended result. We therefore wanted to find out how many people are relying on these pre-printed and online wills.

2. Succession law and intestacy

Where a deceased person has left a will, his or her property is generally distributed according to his or her wishes as detailed in the will, subject to the legal rights of any surviving spouse or civil partner and any children.\(^4\) A will usually also contains details of the executors appointed by the deceased person to deal with his or her estate; most people choose their spouse or children, and often will also appoint their solicitor as an executor. The will may also specify arrangements for guardianship of any young children, and give details of the deceased person’s preferred funeral arrangements.

If, however, a person dies intestate (ie. without a will), there will be no named executors, and the law of intestate succession dictates who inherits his or her property.\(^5\) The law in this area is complex, but can be broadly summarised as follows.

Firstly, the law gives ‘prior rights’ to the deceased’s surviving spouse or civil partner.\(^6\) This means that, after any debts have been paid, that person inherits the deceased person’s dwelling house, their furniture and furnishings, and any money up to a certain value.\(^7\) Prior rights are the first claim on a deceased person’s estate; in many cases, this means that their spouse or civil partner gets the entire estate. If, however, there is any money left over, the spouse or civil partner has further ‘legal rights’, and any children of the deceased person have ‘legal rights’ to a certain proportion of the estate.\(^8\) After prior rights and legal rights have been satisfied, any remaining property is divided among any surviving relatives according to a hierarchy set out by the law. If the deceased person had children, they take all of the remaining estate between them. If there were no children, the estate

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\(^4\) A will cannot entirely exclude a spouse or civil partner and/or any children from making a claim on a deceased person’s estate. All of these parties have certain ‘legal rights’, which apply only to the ‘moveable’ estate only ie. property other than land and buildings: eg. money, shares, cars and jewellery. The surviving spouse or civil partner is entitled to one-third of the deceased person’s moveable estate where s/he left children or descendants of children, or one-half of the moveable estate where there are no children or descendants. Likewise, the deceased person’s children (or their descendants) are entitled to one-third of the moveable estate between them where there is a spouse or civil partner, or one-half of the moveable estate where there is no spouse or civil partner. Any person who has both rights under a will and legal rights must choose between them; they cannot claim both.

\(^5\) Succession (Scotland) Act 1964, as amended.

\(^6\) Note: the Civil Partnership Act 2004, which came into force in December 2005, gives same sex partners who have registered a civil partnership the same succession rights as a married couple.

\(^7\) In order to have prior rights to the deceased person’s dwelling house, the surviving spouse or civil partner must have been ordinarily resident there at the time of the death. The entitlement to prior rights (under The Prior Rights of Surviving Spouse (Scotland) Order 2005) is currently as follows: 1) the deceased person’s house up to the value of £300,000 (where the house is worth more than £300,000, the entitlement is not the house itself, but its value up to that amount). 2) furniture and furnishings belonging to the deceased person, up to the value of £24,000. 3) the first £42,000 from the deceased person’s estate if s/he left children (or descendants of children), or the first £75,000 if s/he left no children or descendants.

\(^8\) The legal rights to which a spouse or civil partner and/or any children are entitled in this situation are the same as those described above at footnote 4.
goes to the deceased person’s siblings and/or his or her parents, and so on until, if there are no surviving relatives, the estate goes to the Crown.

While in many instances, the way in which the property is distributed under the law of intestate succession will accord with what the deceased person would have wanted, this will not always be the case. The current law on succession has remained largely unchanged for more than 40 years, and has not therefore kept pace with changing family structures. In practice, this means that the lack of a will could have potentially devastating consequences for the family members who are left behind.

Firstly, a partner who was not married to, or in a civil partnership with, a deceased person has no automatic legal rights, regardless of the length of the relationship. At present, 9% of adults in Scotland are cohabiting with a partner, although this proportion is higher among younger age groups, particularly those aged 25-34, of whom more than one in five are cohabiting. The proportion of those who are cohabiting in Scotland has been slowly increasing in recent years.

In May 2006, the Family Law (Scotland) Act 2005 introduced for the first time a right for cohabitants to apply to the court for financial provision in the case of intestacy. This requires the surviving partner to go through the court process at a very difficult and emotional time, and as with any court case, the outcome cannot be guaranteed. Where there is an existing spouse or civil partner, their prior rights take precedence over those of the surviving partner, regardless of how long they had been separated from the deceased. Moreover, a cohabitant who was separated from the deceased person before death has no right to make a claim.

Secondly, many children in Scotland are now living within non-traditional families. Family structures have changed considerably in recent years, with increased rates of divorce and remarriage, as well as higher levels of cohabitation. In 2005, nearly half (47%) of all children born in Scotland were born to unmarried parents, compared to 34% in 1995. Meanwhile, the 2001 census found that 63,330 households in Scotland identified themselves as stepfamilies, with 92,740 children being identified as being members of these families. Moreover, almost half (46%) of stepfamilies were headed by a cohabiting couple. Many children who are generally resident with one family may also be part of another stepfamily where they have contact with their other parent. It has been estimated that by the year 2010, there will be more stepfamilies in the UK than any other form of family.

Note: possible changes to succession law to better reflect today’s society are currently being considered by the Scottish Law Commission.


The Scottish Household Survey shows that in 2000, 6% of adults were cohabiting. By 2002, this figure was 7%. In 2004, 8% were cohabiting, and by 2005, this had increased to 9%. These overall figures reflect more substantial increases in cohabitation among younger age groups.

Section 29. Note: the provisions apply equally to a man and woman living together as if they were husband and wife and to same sex partners living together as if they were civil partners (Section 25).

The court application must be made within six months of the death - Section 29(6).


Since 1968, all children of a deceased person have had equal rights, regardless of whether their parents were married. However, stepchildren have no rights of inheritance, unless formally adopted by their stepparent.

Given this dramatic shift in the way in which families are constructed, we were concerned that some people may not understand the consequences for their family if they were to die intestate. While research was carried out in 2005 into public attitudes towards current succession law, there was little information available on public knowledge of the existing law. We knew that research carried out in 2000 found that there was a low level of awareness of the legal position of cohabitants in Scots law, and we wanted to explore this further in relation to succession law. We also wished to look at how well informed the Scottish public is about the succession rights of children within modern non-traditional family structures.

17 An adopted child is treated for succession purposes as the child of its adoptive parent(s): section 9 (1) (d) Succession (Scotland) Act 1964.
18 Attitudes Toward Succession Law: Finding of a Scottish Omnibus Survey, Scottish Executive Social Research, 2005. This research was carried out to inform the work of the Scottish Law Commission in this area.
Research methodology

The Scottish Consumer Council commissioned TNS System Three to conduct research into the incidence of wills and knowledge of succession law amongst the population of Scotland. The TNS System Three Omnibus Scottish Opinion Survey was used as the means of data collection. A sample of 1009 adults aged 16 and over was interviewed in-home in 42 constituencies throughout Scotland over the period 23 February–1 March 2006.

A breakdown of respondents according to their relationship status, whether they were homeowners, and whether there were children in their household, can be found at Appendix 1. These are all significant factors in relation to wills and succession. (Note: questions about home ownership and whether there were children in their household are standard questions on the TNS Survey, but a question about relationship status is not. Given its importance in relation to the subject matter, we added this to the poll as an extra question.)

The survey questions used in the omnibus poll are reproduced at Appendix 2.
Research findings

1. Wills

Who has a will?

We found that just over one-third of respondents (37%) had a will, 376 people in total. However, this proportion varied considerably according to age, socio-economic category and relationship status.

The older the person the more likely they were to have a will: age was the most significant factor here (see Chart 1 below). Only 4% of respondents aged between 16 and 24 had a will, compared to 69% of those aged 65 and over. Those aged 65 and over were more than 50 times as likely to have a will than those in the 16–24 age group.

Chart 1: Will ‘ownership’ by age

Social class was also a clear indicator of whether or not respondents had a will (see Chart 2). While only one-fifth of respondents in socio-economic category DE (those in semi-skilled or unskilled jobs, and those not in employment) said that they had a will, over half (58%) of respondents in category AB (those in professional and managerial occupations) said they had one. Overall, those in professional and managerial occupations were five times more likely to have a will than those in semi-skilled or unskilled jobs and twice as likely as those in non-manual or skilled manual occupations (categories C1 and C2).
As might be expected, those who owned their home were also more likely to have a will than others. Fifty per cent of homeowners had a will, compared with 15% of non-home owners: homeowners were six times more likely to have a will than non-homeowners.

We found clear differences in the proportion of those who had a will based on their relationship status: eg. only 17% of cohabitants had a will (see Chart 3). However, further analysis showed that these variations were related to the age of the respondent. Similarly, only 24% of those who had children living with them had a will, compared to 44% of those who did not have children in their home; again this was related to age.
**Reasons for not having a will**

We asked respondents who did not have a will to tell us the single main reason why they did not have one (see Chart 4).

The most common reason, given by almost half (46%) of those without a will, was that they had never got round to it. Those aged 24–44 were more likely than those older or younger to give this reason. Those who were married were also more likely to give this response than those who were single or cohabiting. Homeowners were significantly less likely to give this as a reason than non-homeowners.

More than one-quarter (28%) of those who did not have a will said they had never thought about it. This answer was more common among those aged under 35, while men (34%) were also more likely to give this reason than women (23%). Homeowners were significantly less likely to give this reason.

Twelve per cent of those without a will said they did not have enough property to need one. As might be expected, non-homeowners were seven times more likely to give this reason than homeowners, although it is interesting that a few homeowners (3%) did give this reason. Relationship status also had a significant impact, with those single, widowed, separated or divorced more likely to give this answer than people who were married or cohabiting.

Six per cent of those who had not made a will said that they were satisfied that those whom they wanted to inherit their property would get it whether or not they had a will. The only significant factor here was age, with those over 35 slightly more likely to give this reason.

Three per cent said the main reason they had not made a will was that they didn’t want to think about dying.

Interestingly, cost was rarely mentioned: only 1% said that the main reason they did not have a will was because it was too expensive.

**Chart 4: Main reason for not having a will**

<table>
<thead>
<tr>
<th>Reason</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>I've never got round to it</td>
<td>46</td>
</tr>
<tr>
<td>I've never thought about it</td>
<td>28</td>
</tr>
<tr>
<td>I don't have enough property to need one</td>
<td>12</td>
</tr>
<tr>
<td>I am satisfied that those I want to inherit my property will</td>
<td>6</td>
</tr>
<tr>
<td>I don't want to think about dying</td>
<td>3</td>
</tr>
<tr>
<td>It's too expensive</td>
<td>1</td>
</tr>
<tr>
<td>I don't know how</td>
<td>1</td>
</tr>
</tbody>
</table>
**Reasons for having a will**

Respondents who did have a will were asked to give one or more reasons as to why they decided to make a will (see Chart 5).

The most common answer was ‘peace of mind about what will happen to my property when I die’ (51%), closely followed by ‘to make sure that my family is provided for when I die’ (46%). Those over 55 were significantly more likely to state that they had a will for peace of mind than younger age groups.

The third most frequent answer, from 17% of those with a will was that they made a will because they had a child or children.

Twelve per cent said their solicitor had offered them a free will when they bought their home. Those in professional and managerial occupations (AB) were less likely than those in semi-skilled or unskilled occupations to cite this as their main reason for having a will.

Seven per cent said they made a will because someone they knew died without leaving a will and things were difficult. In this case, age was a significant factor, with those aged between 45 and 54 more likely to cite this as the main reason they had a will than those younger or older.

Only 3% said they had a will in order to stop someone from inheriting their property, while only 2% cited tax reasons.

While only 1% overall said they made a will because they were not married to their partner, this represented one in five of those who were cohabiting with a partner.

**Chart 5: Reasons for having a will**

<table>
<thead>
<tr>
<th>Reason</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peace of mind about what will happen to my property when I die</td>
<td>51</td>
</tr>
<tr>
<td>I want to make sure that my family is provided for when I die</td>
<td>46</td>
</tr>
<tr>
<td>I had a child/children</td>
<td>17</td>
</tr>
<tr>
<td>My solicitor offered a free will when I bought my home</td>
<td>12</td>
</tr>
<tr>
<td>Someone I know died without a will and things were very difficult</td>
<td>7</td>
</tr>
<tr>
<td>To stop someone from inheriting my property</td>
<td>3</td>
</tr>
<tr>
<td>For tax reasons</td>
<td>2</td>
</tr>
<tr>
<td>I am not married to my partner</td>
<td>2</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
</tr>
</tbody>
</table>
**Who drew up the will?**

Those respondents who had made a will were then asked how their will was prepared.

The vast majority (94%) said their will was prepared by a solicitor (see Table 1). Only 4% said they had handwritten it themselves, while a total of 2% had written their will on a pre-printed form or completed it on the internet.

**Table 1: How was the will prepared?**

<table>
<thead>
<tr>
<th>Prepared by a solicitor</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Handwritten by you</td>
<td>16</td>
<td>4.4</td>
</tr>
<tr>
<td>Written by you on a pre-printed form</td>
<td>5</td>
<td>1.4</td>
</tr>
<tr>
<td>Completed by you on the internet</td>
<td>2</td>
<td>0.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>376</td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

While the numbers are small, those over 45 were more likely to have handwritten the will themselves. Those in professional and managerial occupations (AB) were more likely to have had their will prepared by a solicitor, while those in semi-skilled and unskilled occupations (DE) were more likely either to have handwritten the will or written it on a pre-printed form.

Homeowners were also more likely to have had their will prepared by a solicitor; it is likely that this was done at the time they bought their home.

**How long ago was the will drawn up?**

We asked those who had a will how long ago they had made their current will (see Chart 6). Thirty per cent had made their will within the last four years, while a similar proportion said it had been between five and nine years ago. However, one-fifth had made their will between 10 and 14 years ago, while a further one-fifth said it was at least 15 years ago.
As might be expected, age was the most significant factor in determining how long ago a will was prepared. As respondents’ ages increased, so too did the number of years that had passed since the will was prepared. As might be expected, those who had children in the household were significantly less likely to have a will that was prepared more than 20 years ago. Relationship status and home ownership had no effect on how long ago the will was prepared.

**Costs of drawing up a will**

We asked all respondents, whether they had a will or not, how much they thought it would cost to have a will drawn up by a solicitor. The most common answer, given by nearly 40% of respondents, was that it would cost between £50 and £100. Based on the information provided to us by the Law Society of Scotland, this is the most accurate answer in relation to a straightforward will, as discussed on page 20.

However, one-quarter believed it would cost more than £100, while 12% thought that it would be less than £50. Significantly, more than one-quarter of respondents said that they did not know how much it would cost (Chart 7).
Those under 65 were significantly more likely to say that they did not know how much a will would cost than those aged 65 and over. This is perhaps not surprising, given that those over 65 were more likely to have a will; as might be expected, those who already had a will were less likely to say that they did not know the cost than those who did not.

Those in semi-skilled and unskilled occupations or not in employment (DE) were also more likely to say that they didn’t know than those in other social classes.

Those who were single were more likely to say that they didn’t know than those who were married or cohabiting.
2. Knowledge of succession law on intestacy

Four scenarios involving a person dying without leaving a will were presented to respondents. Three statements regarding the inheritance rights of members of the deceased person’s family were shown to the respondents for each scenario. They were then asked to identify which statement was correct under the current law.

The first two scenarios related to the rights of cohabitants on intestacy, while the latter two were about the succession rights of children born to unmarried parents and those of stepchildren.

The rights of cohabitants

Scenario 1

I would like you to think about a couple who have lived together for 10 years in a house bought in the man’s sole name. They are not married. The man dies without leaving a will. Which of the following statements is correct?

a. The woman has the same inheritance rights as she would have if the couple were married.
b. The woman has fewer inheritance rights than she would have if the couple were married.
c. The woman has more inheritance rights than she would have if the couple were married.

Just over half of respondents (52%) gave the correct answer: that the woman has fewer inheritance rights than she would have if the couple were married (see Chart 8). More than one-third (37%) of all respondents incorrectly believed that the woman had the same rights as she would have if the couple were married. Men (42%) were more likely to think this than women (33%).

Seven per cent of respondents said they did not know what the woman’s rights were, while only 4% wrongly believed that she had more rights than she would have if she were married.
Respondents from professional and managerial occupations (AB) and those in non-manual occupations (C1) were more likely than those in skilled manual occupations (C2) or semi-skilled or unskilled occupations or those out of work (DE) to answer correctly (see Table 2).

Those in semi-skilled or unskilled occupations or who were out of work were most likely to say that they did not know the answer.

### Table 2: Knowledge of rights of cohabitants by social class (Scenario 1)

<table>
<thead>
<tr>
<th></th>
<th>Number giving correct answer</th>
<th>Number giving wrong answer</th>
<th>Number who did not know</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional and managerial (AB)</td>
<td>137 (63%)</td>
<td>75 (35%)</td>
<td>5 (2%)</td>
<td>217</td>
</tr>
<tr>
<td>Non-manual (C1)</td>
<td>157 (54%)</td>
<td>116 (40%)</td>
<td>18 (6%)</td>
<td>291</td>
</tr>
<tr>
<td>Skilled manual (C2)</td>
<td>95 (45%)</td>
<td>103 (49%)</td>
<td>13 (6%)</td>
<td>211</td>
</tr>
<tr>
<td>Semi-skilled, unskilled or not in employment (DE)</td>
<td>133 (46%)</td>
<td>123 (42%)</td>
<td>34 (12%)</td>
<td>290</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>522 (52%)</strong></td>
<td><strong>417 (41%)</strong></td>
<td><strong>70 (7%)</strong></td>
<td><strong>1009</strong></td>
</tr>
</tbody>
</table>

Relationship status had the most significant effect on knowledge. Those who were cohabiting with a partner were more likely than those with any other relationship status to give the right answer to this question, with 57% answering correctly.
Scenario 2

Now think about the same couple, but this time the man is still married to someone else, there has been no divorce. There are no children from either relationship. The man dies without leaving a will. Which of the following statements is correct?

a. The man’s partner has the same inheritance rights as the man’s wife.
b. The man’s partner has fewer inheritance rights than the man’s wife.
c. The man’s partner has more inheritance rights than the man’s wife.

There was a higher level of knowledge in relation to cohabitants’ rights in this scenario. Almost two-thirds of respondents gave the correct answer: that the man’s partner has fewer inheritance rights than his wife (see Chart 9). However, one-fifth incorrectly thought that she had the same rights as the wife. Seven per cent wrongly believed that she had more rights than the wife, while again 7% said they did not know.

Chart 9: Responses to Scenario 2: Rights of Cohabitants

In this scenario, social class was the most significant indicator of a correct response (see Table 3). Respondents from AB and C1 were more likely to answer correctly than those in groups C2 and DE, who were again more likely to report that they did not know the answer.
Table 3: Knowledge of rights of cohabitants by social class (Scenario 2)

<table>
<thead>
<tr>
<th>Social Class</th>
<th>Number giving correct answer</th>
<th>Number giving wrong answer</th>
<th>Number who did not know</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional and managerial (AB)</td>
<td>156 (72%)</td>
<td>53 (25%)</td>
<td>7 (3%)</td>
<td>216</td>
</tr>
<tr>
<td>Non-manual (C1)</td>
<td>203 (70%)</td>
<td>71 (24%)</td>
<td>16 (6%)</td>
<td>290</td>
</tr>
<tr>
<td>Skilled manual (C2)</td>
<td>119 (56%)</td>
<td>72 (34%)</td>
<td>20 (9%)</td>
<td>211</td>
</tr>
<tr>
<td>Semi-skilled, unskilled or not in employment (DE)</td>
<td>173 (59%)</td>
<td>85 (29%)</td>
<td>33 (11%)</td>
<td>291</td>
</tr>
<tr>
<td>Total</td>
<td>651 (65%)</td>
<td>281 (28%)</td>
<td>76 (7%)</td>
<td>1009</td>
</tr>
</tbody>
</table>

A breakdown of the responses found that:

- Women (68%) were more likely to give the correct answer than male respondents (59%).
- Those aged 45-64 were also more likely to answer correctly, with 70% of this age group choosing the correct option, compared to 60% of those aged 18-24.
- Respondents cohabiting with a partner were again more likely to identify the correct option, with 71% giving the correct answer compared to 59% of single people.

**The rights of children**

**Scenario 3**

Now imagine a married man with two children, one from his marriage and the other from a previous relationship where he was not married to the child’s mother. He dies without leaving a will. Which of the following statements is correct?

- **a. The child from the previous relationship has the same inheritance rights as the child of the marriage.**
- **b. The child from the previous relationship has fewer inheritance rights than the child of the marriage.**
- **c. The child from the previous relationship has more inheritance rights than the child of the marriage.**

Fifty-eight per cent of respondents gave the correct answer: that the child from the previous relationship has the same inheritance rights as the child of the marriage (see Chart 10). However, one-quarter incorrectly believed that the child from the marriage had more rights than the first child. Only 8% thought the child from the previous relationship had more rights, while 10%, the highest proportion in relation to any of the four scenarios, said they did not know the answer.
There were a number of factors influencing the likelihood of a correct response:

- Those with children in their household were more likely than those without children to answer correctly (65% compared to 54%).

- Respondents who were married were more likely to identify the correct option, with 64% giving the correct answer, compared to 52% of single people and 58% of cohabitants.

- Respondents aged between 24 and 44 were more likely to answer correctly than those older or younger, with 65% choosing the correct option.

- Homeowners were more likely to answer correctly (60%) than non-homeowners (54%).

In this scenario, social class had no effect on how likely respondents were to give the correct answer.

Scenario 4

Finally, I would like you to think about a widow who has been married twice and dies without leaving a will. She is survived by her own two children from the first marriage, and two stepchildren from the second marriage. Which of the following statements is correct?

a. Her own children have more inheritance rights than her stepchildren.

b. Her own children and her stepchildren have equal inheritance rights.

c. Her stepchildren have more inheritance rights than her own children.
Only half (50%) of the respondents answered this question correctly. Under the current law, the woman's own children have more rights than her stepchildren. More than one-third (37%) thought both sets of children had equal rights (see Chart 11).

**Chart 11: Responses to Scenario 4: Rights of Children**

Younger respondents were more likely to answer correctly. Fifty-eight per cent of those in the 18-24 age group chose the correct statement, compared with 39% of those aged 65 and over.

Homeowners (54%) were also more likely to answer correctly than non-homeowners (43%).

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20 Note: it has been assumed that the woman had not formally adopted her stepchildren.
Issues arising from the research

The results of our survey indicate that most adults in Scotland do not have a will, while many people do not have a good understanding of the succession rights of a deceased person’s family where no will has been left. These findings suggest that many people in Scotland may be at risk of considerable financial detriment should their loved one die unexpectedly, compounding their problems at a very difficult time in their lives.

1. Wills

The research supports previous estimates of the incidence of wills in Scotland. While it is encouraging that nearly twice as many of our respondents had a will as those in the 1979 survey, nevertheless only 37% said they had a will. This suggests that, despite increases in individual wealth and homeownership, and significant changes in family structures, nearly two-thirds of adults in Scotland do not currently have a will.

As might be expected, age was the most important factor influencing whether people had a will. The older the person, the more likely they were to have a will: those aged 65 and over were more than 50 times more likely to have a will than 16-24 year olds.

Given that the vast majority of people who die in Scotland each year are over 65, the research suggests that most people will get round to having a will drawn up by the time of their death. The statistics available tend to support this; the deceased person left a will in the case of most estates where confirmation is obtained. Despite this, the evidence indicates that between one-quarter and one-third of ‘confirmed’ estates are intestate. There is, however, unfortunately little information available about those estates where no confirmation is obtained, which appear to be in the majority.

What we can say with certainty, however, is that even among those aged over 65 in our survey, almost one-third did not have a will. It must also be borne in mind that, while younger people are generally less likely to die, the consequences could be particularly severe for their family were they to die unexpectedly. Younger adults

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21 In 2005, 60% of those who died were aged 75 or over, while a further 20% were aged 65-74. Source: Scotland’s Population 2005 – The Registrar General’s Annual Review of Demographic Trends, published July 2006.

22 ‘Confirmation’ is a legal document which the executor(s) are often required to obtain in order to receive money and other property belonging to the deceased person from third parties such as banks and building societies, and to administer and distribute these according to the law.

23 Statistics obtained from the Scottish Court Service show that in 2003, 25% of the 23,780 estates where confirmation was granted were intestate; in 2004, 27% of the 23,703 confirmed estates were intestate, and in 2005, 32.5% of the 26,347 estates confirmed were intestate. Note: these figures relate only to estates where confirmation was granted; it is not always required. Figures published by the General Register Office for Scotland show that there were a total of 58,472 deaths in Scotland in 2003, 56,187 in 2004, and 55,747 in 2005. Taken together, the figures therefore suggest that confirmation is obtained in relation to fewer than half of all deaths in Scotland.
are more likely to have young children, yet three-quarters of those with children in their household did not have a will; this was directly related to age.

It is interesting in this context to note that 7% of those who had a will said this was because someone they knew died without leaving a will and things were difficult. Those aged 45-54 were more likely to give this reason: perhaps because of the stage they had reached in life, they had personal experience of the problems that can arise, and did not want their own family to go through similar difficulties.

Socio-economic status was also an important factor influencing whether people had a will. Those in professional and managerial jobs were five times more likely to have a will than those in semi-skilled or unskilled jobs and those not in employment, and twice as likely as those in non-manual or skilled manual jobs.

As might be expected, those who owned their home were more likely than non-homeowners to have a will. Despite this, half of the homeowners in our survey did not have a will. Although many solicitors offer such a service, only 12% of those who had a will said their main reason for having one was because their solicitor had offered them a free will when they bought their property.

It is clear that only a minority of respondents had made a deliberate choice not to obtain a will. Some said they did not have enough property to need one, while others were satisfied that their property would go to those whom they wanted to inherit it anyway. However, almost half of those without a will said they had just never got round to it. More than one-quarter of those without a will said they had never thought about it. Those under 35 were more likely to say they had never thought about doing so, and very few in this age group actually had a will.

While only 3% of those who did not have a will said that the main reason for this was that they did not want to think about dying, it is possible that the high proportion of respondents who said they had never got round to making a will is partly due to an unwillingness to face up to their own mortality.

It is likely that many of those who have not had a will drawn up are not fully aware of the stress, expense and, in some cases, serious financial hardship that could be suffered by their family if they were to die unexpectedly without having made a will.

The findings suggest that the cost of obtaining a will is not the primary consideration for most people, with only 1% of respondents citing cost as their main reason for not having one. It may be, however, that this would be an important secondary factor for some of those who cited something else as their primary reason for not having a will.

Many respondents had a good idea as to the likely costs of having a will drawn up, with nearly 40% saying they thought it would cost between £50 and £100. While the Law Society of Scotland does not have specific data on the average costs of preparing a will, the Society has advised us that many firms of solicitors prepare wills of a straightforward nature for between £50 and £100, although more complex wills and estate planning can lead to significantly greater costs.
Nearly one-quarter of respondents thought, however, that it would cost more than this. A further one-quarter said they did not know how much it would cost to have a will drawn up by a solicitor. Those under 65 were much more likely to say they did not know what a will would cost, while those in social category DE and those who were single were also more likely to say they did not know.

It is possible that those who said they did not know about cost thought that a will would be much more expensive than would actually be the case. Those in group DE were also less likely to have a will or to know about succession rights, while those who did have a will were more likely than others to have handwritten this or to have used a pre-printed form. This may indicate a fear of increased costs among this group if they went to a solicitor to have a will drawn up. Those on low incomes may also be unaware that, for those who are financially eligible, a will can be drawn up under the legal aid scheme.

Among those who did have a will, the two most common reasons for having one drawn up were ensuring peace of mind about what would happen to their property when they died and making sure that their family would be provided for. A further 17% said they had done so because they had children. As noted above, only 12% said they had made a will because their solicitor offered it for free when they bought their home. Tax reasons and disininheritance were only mentioned by small numbers of respondents.

It seems that most of those who had a will had benefited from legal advice on how best to distribute their estate on their death: the vast majority of those who had a will had this drawn up by their solicitor. A small minority had handwritten their own will, while only a tiny proportion had used a pre-printed form or completed it on the internet.

Most of those who had a will had it drawn up relatively recently, within the last nine years. However, more than one-fifth said their will had been drawn up between 10 and 14 years ago, while a further one-fifth said it had been 15 years ago or more. This information alone cannot tell us whether these people’s wills were still relevant and up to date, although it might be assumed that the longer the time that has elapsed, the less likely it is that the will accurately reflects their current circumstances.

Changes in family or financial circumstances may affect how someone wishes their estate to be distributed. Marriage and remarriage do not affect the terms of a will, and separation, or even divorce, does not make a bequest to an ex-spouse invalid. Children born after a will was made do not necessarily have rights under that will: this depends on the wording used in the will. Finally, as discussed below, any cohabiting partner and/or stepchildren who are not mentioned in a will do not have automatic rights of succession.
2. The consequences of intestacy

The survey clearly indicates that most people in Scotland do not have a will. But does it really matter at the end of the day whether or not someone makes a will before they die? The rationale behind the law of intestate succession is that a deceased person’s estate should be distributed in the manner in which s/he would be likely to have provided for in a will. Where the deceased person was married, all or most of the estate will pass to his or her spouse, which is assumed to be what s/he would have wanted.

However, even where the person who dies was married, this may not always be the case. The deceased person may not have wished his or her spouse to get everything, and may have wanted to leave specific bequests to others: 2% of respondents who did have a will said the reason for this was to stop someone inheriting their property.

Even where the law does reflect the deceased person’s wishes, in the absence of a will there will be no named executors. It will therefore usually be necessary for the next-of-kin, normally the surviving spouse or children, to make an application to the sheriff court to be appointed as executor(s), in order to then obtain confirmation from the court.

Having to go through this process may cause additional stress for the surviving relatives. It will also involve additional expense, as there is a court fee to pay, together with any solicitor’s fee for preparing the application. Moreover, without a will, it may not be clear to the family what the deceased person’s wishes were in relation to funeral arrangements, or particular items of property. There may in some cases also be issues relating to the guardianship of any young children, and possibly inheritance by any stepchildren who have not been adopted.

The 6% of respondents without a will who said they were satisfied that their property would go to those whom they wanted to have it may well have been correct in their belief, particularly if they were married. However, they may not have taken all of these additional considerations into account when they decided not to make a will.

Twelve per cent of those who did not have a will said this was because they did not have enough property to need one: most of these were non-homeowners. While it is true that the most valuable asset most people will own is their home, the fact that someone does not own his or her home does not necessarily mean that s/he does not have other assets of considerable value. These might include savings, pension benefits, life insurance policies, stocks and shares, a car, jewellery or other valuable items. Such a person may not wish to leave everything to his or her spouse, or may be cohabiting with a partner. S/he may want to leave money or specific items to particular people or charities.

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24 All references to marriage and spouses should be taken to include civil partnership and civil partners.
25 An executor appointed by the court is known as an ‘executor-dative’.
26 See footnote 22.
Even where the estate is small, it will usually be necessary for the next-of-kin to apply to the court to be appointed as executor. As with any other estate, this may involve additional anxiety and extra expense as discussed above. Although the sheriff clerk will assist the executor to complete the necessary forms, a court fee is usually still payable. Where the executor is not the deceased person’s spouse, s/he will also be required to take out an insurance policy (known as a ‘bond of caution’) as a guarantee that the estate will be distributed properly, and that any losses will be made good. We understand that it can be difficult for executors to obtain such insurance, as very few companies offer such policies. The costs of all of this may, taken together, be considerably more than it would have cost the deceased person to have a will drawn up in the first place. There may also be doubts about funeral arrangements and/or the distribution of specific items of property, and possibly also issues relating to guardianship of any young children or succession by stepchildren.

It is also important to recognise that, as discussed in the introduction to this report, family structures have changed considerably since the current law was put in place. While today just over half of adults in Scotland are married, this proportion is considerably lower than it was 40 years ago. One in five adults are single and have never been married; some may not wish their entire estate to go to their siblings and/or their parents, as it would under the current law. It is equally likely that many of those who are still married but separated, who make up 3% of the population, would not wish their property to go to their estranged spouse, but this is what would happen if they left no will. As the law currently stands, neither prior nor legal rights are extinguished until there is a divorce. Yet one-third of our sample did not know that a separated spouse has greater rights than a current cohabiting partner.

### 2.1 The rights of cohabitants

The survey suggests that many people are unaware that cohabitants have fewer inheritance rights than those who are married. Although cohabitants have acquired new rights since the survey was carried out, they still have fewer succession rights than those who are married. Thirty-seven per cent of respondents incorrectly thought that a cohabitant had the same rights as she would have had if married to her partner. These findings mirror research carried out in 2000, using exactly the same scenario, which found that 35% of respondents thought the woman had the same rights as if she were married.

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27 A small estate is currently defined as an estate with a total value of £30,000 or less (The Confirmation to Small Estates (Scotland) Order 2005).
28 At present, the fee is £81 for estates with a value between £5,001 and £50,000. Where the estate is worth £5,000 or less, no fee is payable.
30 According to the 1961 census, 68% of men and 60% of women were married. Source: General Register Office for Scotland Annual Review 2004.
31 In 2005, 21% of adults were single and had never been married. Source: see footnote 29.
32 Assuming that they have no children.
33 Source: see footnote 29.
This suggests that public awareness of the succession rights of cohabitants has not increased since that time, and is in fact slightly lower. It might be speculated that increasing social acceptance of cohabitation, perhaps in conjunction with recent media coverage of new civil partnership rights, has led to a situation where some people assume that there is now parity between the rights of cohabitants and those of married couples. There is certainly evidence that the vast majority of people think that a cohabitant should be entitled to a share of his or her partner’s estate,35 and this may have led them to assume that this is in fact the case.

While overall, cohabitants are a relatively small group - 9% of adults in Scotland - those within it may be particularly vulnerable where their partner has no will. Cohabitants tend to be younger than married people, with higher levels of cohabitation among those aged 44 and under.36 As we have seen, whether or not someone has a will is largely age-related; accordingly only 17% of cohabitants in our survey had a will.

While it may be the case that some cohabitants do not actually expect to inherit their partner’s estate, it is clear from the research that a considerable proportion of cohabitants are unaware of the legal position if their partner were to die without leaving a will. Although this group were slightly more likely than others to know that a cohabitant has fewer rights on intestacy than if she were married, almost half of them did not know their rights in this situation. They were as likely as other groups to believe incorrectly that the woman had the same rights as she would have if the couple were married.

This suggests that more than 40% of cohabitants are unaware of the difficulties they may face if their partner were to die without leaving a will. These difficulties may be particularly severe where there are dependent children in their household. This is an important consideration, given that cohabiting couples are now more likely to have dependent children than those who are married. This is again clearly age-related: in 2005, 42% of all cohabiting households in Scotland contained one or more children under 16.37

A higher proportion of respondents knew that where one of the cohabiting partners was still married to someone else, the estranged spouse had greater rights than the surviving partner. Again, although those cohabiting with a partner were more likely than others to answer correctly, almost 30% did not know what their rights would be in this situation. The death of a partner under these circumstances may be even more serious for the surviving partner, as the surviving spouse’s prior rights on intestacy take precedence over his or her right to apply to the court for financial provision.

In practice, many couples – both married and cohabiting – will own their home in joint names. In many cases, there will also be a ‘survivorship destination’ in the title

36 13% of those aged 16-24 are cohabiting, as are 22% of those aged 25-34 and 13% of those aged 35-44. Source: see footnote 28.
deed, which means that on the death of one partner or spouse, his or her interest in the home will automatically pass to the survivor. This has the same effect as leaving the house to that person in a will. Likewise, those with an occupational or private pension may be able to make provision for a pension and/or a lump sum to be paid to their spouse or partner when they die. Some will also have life insurance in place to provide for their spouse or partner and any children when they die. However, not everyone will have such provision in place, and even where they do exist, they will have no bearing on what happens to the remainder of the deceased person’s property.

2.2 The rights of children

The research also suggests that many people in Scotland are not well informed about the succession rights of children on intestacy, where the circumstances are not straightforward. Only 58% of respondents knew that all children of a deceased person have the same rights, regardless of whether their parents were married. One-quarter of respondents thought that the child of a marriage had more rights than a child from a previous relationship, even though this has not been the case for nearly 40 years. Ten per cent of respondents said they did not know the answer, the highest proportion in relation to any of the four scenarios.

Yet, while children born to unmarried parents and adopted children have the same rights as any other child of a deceased person, stepchildren are currently in a different situation. Only 50% of respondents knew that the stepchildren of a deceased person have fewer rights than his or her own children. More than one-third thought all of the children had equal rights. This is perhaps not surprising, given that research has found that two-thirds of people thought that stepchildren should be treated in exactly the same way as the deceased’s own children for the purposes of sharing in his or her estate. While this area is likely to be reviewed by the Scottish Law Commission, until there is a change in the law, stepchildren have no rights of inheritance on intestacy, unless they have been formally adopted by their stepparent.

Three-quarters of respondents with children in their household do not have a will. It is therefore a matter of concern that nearly half of those with children in their home were unaware of the legal position here. In the increasingly common situation where a cohabiting couple live with children who are the stepchildren of one or both partners, the lack of a will could leave the surviving partner, who is likely to have care of those children, in an even more difficult situation.

Next steps

While ultimately it is up to individuals to make the choice as to whether they have a will drawn up, it is important that they make that choice on an informed basis. The research suggests that many people are not presently making such an informed choice. Our findings have identified a number of issues in relation to wills and inheritance rights that require to be addressed:

- The need to ensure that every adult in Scotland, regardless of their family or financial circumstances, is better informed about the potential consequences for their family should they die without making a will.
- It is particularly important to target certain groups identified by the research as being less likely to have a will, and who may be at greater risk if they do not have one. These include: those under 65 (and particularly those under 45), those in socio-economic groups C1, C2 and DE, those with children in their household, cohabitants and non-homeowners.
- The need to ensure that people are better informed as to the likely costs of having a will drawn up, as well as the potential financial costs their relatives may incur as a direct result of their failure to make a will.
- For those who already have a will, the importance of ensuring that it is kept updated to reflect changing circumstances.

The SCC now intends to use this research as the basis for future work in raising public awareness of the benefits of making a will and the potential consequences of dying without having made one. It is intended that this work will be taken forward in partnership with other organisations having an interest in these issues.
APPENDIX 1 – Breakdown of respondents

Relationship status

Respondents were asked to give their relationship status, as this would be an important factor in determining how their estate would be distributed on death, particularly where they did not have a will. The table below shows the breakdown of respondents according to their relationship status.

Nearly half of the respondents were married, while one-quarter said they were single. Ten per cent were widowed, while 9% were divorced or separated. A similar proportion were cohabiting with a partner, while only two people were in a civil partnership.

Table 4: Relationship status of respondents

<table>
<thead>
<tr>
<th>Relationship Status</th>
<th>Number</th>
<th>Percentage of respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Married</td>
<td>456</td>
<td>45.2</td>
</tr>
<tr>
<td>Cohabiting</td>
<td>93</td>
<td>9.3</td>
</tr>
<tr>
<td>In a Civil Partnership</td>
<td>2</td>
<td>0.2</td>
</tr>
<tr>
<td>Single</td>
<td>257</td>
<td>25.5</td>
</tr>
<tr>
<td>Widowed</td>
<td>111</td>
<td>11</td>
</tr>
<tr>
<td>Separated</td>
<td>34</td>
<td>3.4</td>
</tr>
<tr>
<td>Divorced</td>
<td>56</td>
<td>5.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1009</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Homeownership

Just under two-thirds (63.5%) of respondents were homeowners; the remaining 36.5% did not own their home.

Table 5: Homeownership of respondents

<table>
<thead>
<tr>
<th>Homeowner Status</th>
<th>Number</th>
<th>Percentage of respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Homeowner</td>
<td>641</td>
<td>63.5</td>
</tr>
<tr>
<td>Non-homeowner</td>
<td>368</td>
<td>36.5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1009</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>
Presence of children within the respondent’s household

Just over one-third (35%) of respondents had children living in their household; the remainder had no children living in their home.

Table 6: Presence of children within the respondent’s household

<table>
<thead>
<tr>
<th></th>
<th>Number</th>
<th>Percentage of respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children in household</td>
<td>351</td>
<td>34.8</td>
</tr>
<tr>
<td>No children in household</td>
<td>658</td>
<td>65.2</td>
</tr>
<tr>
<td>Total</td>
<td>1009</td>
<td>100</td>
</tr>
</tbody>
</table>
APPENDIX 2 – Survey questions

Thinking about the subject of wills…..

1. Do you have a will?
   - □ Yes
   - □ No
   (if yes, go to Question 3)

2. (Ask all those who answered no to Question 1)
   (SHOW CARD) Why don’t you have a will? Please pick the single main reason from this list and note that, by property, we mean both your home and your possessions, such as shares, money in bank accounts, the contents of your home.
   - □ I don’t have enough property to need one
   - □ I am satisfied that those I want to inherit my property will get it whether or not I have a will
   - □ It’s too expensive
   - □ I’ve never thought about it
   - □ I don’t know how to go about it
   - □ I don’t want to think about dying
   - □ I’ve never got round to it
   - □ Other (specify) ____________________________________________
   (Go to Question 6)

3. ASK IF YES AT Q.1 (SHOW CARD)
   Why did you decide to make a will? Please mention as many reasons as apply from this list and note that, by property, we mean both your home and your possessions, such as shares, money in bank accounts, the contents of your home. PROBE Any other reasons?
   - □ peace of mind about what will happen to my property when I die
   - □ I want to make sure that my family is provided for when I die
   - □ my solicitor offered a free will when I bought my home
   - □ someone I know died without a will and things were very difficult
   - □ to stop someone from inheriting my property
   - □ for tax reasons
   - □ because I am not married to my partner
   - □ because I had a child/children
   - □ other (specify) ____________________________________________
4. How was your will prepared? Was your will… READ OUT
   a. Prepared by a solicitor
   b. Handwritten by you
   c. Written by you on a pre-printed form
   d. Completed by you on the internet
   e. Other (specify)

5. How long ago was your current will prepared?
   □ Within the last year
   □ 1-4 years ago
   □ 5-9 years ago
   □ 10-14 years ago
   □ 15-19 years ago
   □ 20+ years ago

6. ASK ALL
   How much do you think it would cost now to have a will drawn up by a solicitor?
   □ Less than £50
   □ £50 – 100
   □ More than £100
   □ Don’t know

INTERVIEWER: READ OUT
'I am going to show you a number of situations regarding legal rights to property when a person dies. By property, we mean both the person’s home and their other possessions, such as shares, money in bank accounts, the contents of their home. Please read through these descriptions, then choose the appropriate statement from the options provided.'

7. (SHOW CARD) ‘I would like you to think about a couple who have lived together for 10 years in a house bought in the man’s sole name. They are not married. The man dies without leaving a will. Which of these statements is correct?’
   a. The woman has the same inheritance rights as she would have if the couple were married.
   b. The woman has fewer inheritance rights than she would have if the couple were married.
   c. The woman has more inheritance rights than she would have if the couple were married.
   d. Don’t know
8. (SHOW CARD) ‘Now think about the same couple, but this time the man is still married to someone else - there has been no divorce. There are no children from either relationship. The man dies without leaving a will. Which of these statements is correct?’
   a. The man’s partner has the same inheritance rights as the man’s wife.
   b. The man’s partner has fewer inheritance rights than the man’s wife.
   c. The man’s partner has more inheritance rights than the man’s wife.
   d. Don’t know.

9. (SHOW CARD) ‘Now imagine a married man with two children, one from his marriage and the other from a previous relationship where he was not married to the child’s mother. He dies without leaving a will. Which of these statements is correct?’
   a. The child from the previous relationship has the same inheritance rights as the child of the marriage.
   b. The child from the previous relationship has fewer inheritance rights than the child of the marriage.
   c. The child from the previous relationship has more inheritance rights than the child of the marriage.
   d. Don’t know.

10. (SHOW CARD) ‘Finally, I would like you to think about a widow who has been married twice and dies without leaving a will. She is survived by her own two children from the first marriage, and two stepchildren from the second marriage. Which of these statements is correct?’
    a. Her own children have more inheritance rights than her stepchildren.
    b. Her own children and her step children have equal inheritance rights.
    c. Her stepchildren have more inheritance rights than her own children.
    d. Don’t know.

11. ‘Please can you tell me which of the following categories best describes your marital status?’ READ OUT – SINGLE CODE ONLY
   - Married
   - Cohabiting with partner
   - In a Civil Partnership
   - Single
   - Widowed
   - Separated
   - Divorced