

# Why Do I Need a Will Anyway? Assessing the Impact of a Public Legal Education Intervention Embedded in a Longitudinal Survey

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*In England and Wales less than half of the adult population report that they have a will, with similarly low numbers found in other jurisdictions. Dying intestate can have profound implications on the family relationships, housing security, finances, employment, health and welfare of those who are left behind. Social policy initiatives designed to educate the public on the implications of intestacy offer a potential solution but remain difficult to evaluate. This article explores the results of a public legal education experiment embedded in a longitudinal panel survey. The experiment was designed to explore: (1) the impact of information provision on will creation; and, (2) how ‘opportunistic experiments’ embedded in longitudinal surveys might support public legal education (PLE) evaluation. Whilst the impact of the information intervention in this study was not found to be statistically significant, the methodology points to the possibility of testing more bespoke and substantial initiatives in the future.*

**Keywords:** Public legal education, opportunistic experiments, evaluating interventions, wills, experimental methods, legal knowledge and capability.

## Introduction

Recent figures suggest that only 37 per cent of adults living in England and Wales have a will (Douglas *et al.*, 2011). Findings from other countries suggest that the rate in England and Wales is on the lower end, with the USA and Australia reporting higher rates of 44 per cent (LexisNexis, 2011) and 59 per cent (see e.g. Tilse *et al.*, 2015) respectively. As might be expected, the prevalence of wills varies with age (National Consumer Council, 2007; Will Aid, 2014; Tilse *et al.*, 2015); while a majority of those aged over fifty-five have a will, the figure is much lower for young people. Prevalence also varies with ethnicity and education level, with DiRusso (2009) observing lower rates of testacy amongst non-whites, and those without a college degree.

Death has previously been described as overlooked in policy debates and absent from social policy texts (Foster and Woodthorpe, 2016). Social policy debate has typically focused on end of life care (e.g. Department of Health, 2008) rather than the implications of dying intestate. Yet social policy has a considerable impact for how death is experienced

and our understanding of death (Foster and Woodthorpe, 2016), affecting not only those who are nearing the end of their lives, but also the consequences for those left behind. With an ageing population and a rising death rate in England and Wales (Office for National Statistics, 2014; Foster and Woodthorpe, 2016), the social and economic costs of intestacy, including those arising from the adjudication of disputes, administration of affairs and protection of children, are ultimately borne by the state. There is good reason to consider the role social policy initiatives might play in reducing intestacy and to consider how initiatives intended to initiate behavioural change can be effectively evaluated.

### The impact of intestacy

It has previously been observed that 'in an ideal world we would all make a will,' as 'the process of grieving, and of adjustment to change, can be made far worse by uncertainty and anxiety about money or belongings' (Law Commission, 2009: 1). An increasing number of people leave something of financial value behind when they die, and dying intestate may give rise to financial instability, loss of housing and may strain family, social and employment relationships (Rowlingson, 2016; Valentine and Bauld, 2016; Corden, 2016). Often a lack of will is borne out of an individual's belief that he or she has insufficient property to justify formal distribution of assets and one half of the population leaves nothing of value when they die (Walker, 2016).

The view that one has insufficient material wealth to justify a will points to public lack of awareness on the subject of wills and intestacy; suggesting a lack of appreciation of the other potential functions of a will. Wills do not simply operate to distribute assets of value, they play a key role in minimising the tensions of survivors, ensuring that minor children are cared for (although this can also be done by signed statement: Children Act 1989, s.5), designating an executor to handle the affairs of the deceased and minimising the risk of disputes over these issues playing out in court.

While there is less need for individuals to know the intricacies of the law as opposed to understanding general principles (Casebourne *et al.*, 2006), presumptions as to the general rules guiding inheritance law, including rules regarding financial provisions, are often erroneous. In a recent study, 13 per cent of respondents indicated that a will was unnecessary 'because their loved ones will automatically inherit' (Will Aid, 2014), whilst in another study 23 per cent of respondents wrongly believed that without a will their possessions would automatically go to their family (Law Society, 2014). Such views are in keeping with the tendency for those who do not possess specific knowledge about the law, to presume that it aligns with their notions of social logic, fairness and morality (see e.g. Kim, 1999; Darley *et al.*, 2001; Barlow *et al.*, 2005).

These presumptions are not homogenous; previous studies have shown that the public fail to agree on what the law should mandate in the case of intestacy (Fellows *et al.*, 1978). Cultural beliefs and practices may proscribe ways of dealing with intestacy in a manner not recognised by the legal architecture (e.g. 'heir property' amongst African American communities (Dyer and Bailey, 2008)). As Lewis *et al.* (2009: 107) have observed, 'people's perceptions of their rights and duties are learned in a social context.' As is the case in other areas of law (see e.g. Denvir *et al.*, 2013), beliefs may be 'resistant to change', as a fairness norm 'overshadows the influence of most demographic and experiential factors' (Kim, 1999: 448). Behaviour, particularly that which is rooted in cultural norms can

also be difficult to influence, even when specific legislative interventions are introduced to address inheritance practices (see e.g. Gedzi, 2012). Conversely, some cultural and religious environments may have the opposite effect, with the Quran prescribing a requirement for Muslims to ensure they have a will (or *waşeyya*) before death, as well as proscribing that the will is to be made in writing and witnessed (see e.g. Affi and Affi, 2014: 172).

As knowledge operates as a function of salience (Saunders, 1975), it is perhaps not surprising that the public lack understanding of an area of law that has little bearing on their lives and in fact only becomes relevant upon their death. Indeed 42 per cent of twenty-five to thirty-four-year-old respondents to the Will Aid research without a will felt they were 'too young' to write wills. Yet the median age at death of those dying intestate is seventy-three, compared to eighty-three for others (Law Commission, 2009). This suggests that optimism bias may play a role in undermining any sense of urgency with respect to estate planning and optimism regarding one's longevity may encourage delay and suppress accurate risk perception (see e.g. Weinstein, 1980; Sharot, 2011).

The gap between public perceptions of intestacy law and the reality is of (often severe) consequence. In England and Wales for example, cohabitants are not recognised by intestacy laws (Administration of Estates Act 1925, s.46(1)); though application for financial provision is possible under the Inheritance (Provision for Family and Dependants) Act 1975. As a result, the non-exercise of testamentary freedom cannot be viewed as the result of rational actors' intentional reliance on the default rules of intestacy. Few are said to know or understand these rules in sufficient detail to make such an informed choice.

As issues of age and cultural norms foreshadow, ignorance of the protections afforded by the law, or the risks of dying intestate, may not wholly account for the failure to take action. Even for those with recent experience of intestacy, such as successors involved in probate hearings in County Courts, proximity to the consequences of dying intestate does not necessarily prompt will-making (Sussman *et al.*, 1970). Reluctance to engage in will planning has been associated with psychological fears regarding mortality and an aversion to consider matters relating to death (Shaffer, 1969). Life changes such as marriage, ageing, or the acquisition of property may be more effective catalysts for change (Sussman *et al.*, 1970; Tilse *et al.*, 2015).

Others point to the public's belief that will-making is laden with formality, and a process which is obscure, complex, burdensome and expensive (Weisbord, 2012). This argument persists even in spite of the fact that an online industry has emerged geared towards simplifying and reducing the costs associated with will creation. Writing one's own will, with or without the help of a £10 will kit template, means that actual cost (as opposed to perceived cost) should not be a barrier to will creation. Further, whilst the cost of will creation with the assistance of a lawyer can vary (£100-£400 depending on complexity), a number of charities operate deferred payment schemes in which they pay for a lawyer to write up a will, in exchange for a charitable bequest (see e.g. Will Aid <https://www.willaid.org.uk>).

While it is acknowledged that a better understanding of intestacy law will not necessarily lead to greater 'legal rationalism' in the form of contingency planning, the impact of information provision is not entirely clear. Advocates of Public Legal Education which seeks to provide 'people with awareness, knowledge and understanding of rights and legal issues', support the view that education interventions have the potential to trigger proactivity, '(helping) people develop a new awareness of how things work, what

particular laws can offer, and what options and opportunities are available in a particular situation (PLEAS Taskforce, 2007: 1).’

Public legal education and information has been recognised as ‘perhaps the oldest and most widely used form of legal assistance delivered around the world’ and ‘one of the most promising areas of justice innovations (Wintersteiger, 2015: 6).’ Activities centred on prevention seek to encourage the public to take action to avoid unnecessary legal disputes or escalating conflicts. Meanwhile awareness-raising designed to warn of new obligations, or to deal with common misconceptions (Wintersteiger, 2015), has the potential to remedy public misperceptions regarding the law, and in the case of death, correct the view that those who have nothing of financial value to leave have nothing to fear from intestacy.

Within the social policy space, initiatives have often focused on prompting action, through improving public understanding of the implications of dying intestate via awareness raising campaigns. Examples of these include: a recent ‘Planning Ahead’ campaign by the New South Wales Trustee and Guardian in Australia (<http://planningaheadtools.com.au>); the ‘Planning for the Future: Choice not Chance’ campaign launched by the Ministry of Justice in England and Wales in 2015; information supplied by the Legal Services Commission in England and Wales (see further below); and the Scottish ‘Start the Conversation’ Campaign, which encouraged residents to consider the importance of arranging a power of attorney ([http://www.mypowerofattorney.org.uk/the\\_campaign/](http://www.mypowerofattorney.org.uk/the_campaign/)). More specific initiatives have been directed at a particular outcome (i.e. making a will) as seen in the ‘Make-a-Will Month’ campaign launched in 2014 by the Yukon Department of Justice in Canada (Government of Yukon, 2015).

Yet evidence drawn from health suggests mixed results with respect to generic interventions and behavioural change (see e.g. McVey and Stapleton, 2000; Bauman *et al.*, 2001; Lustria *et al.*, 2013) while, in finance, longer term capability building programmes have shown limited success (Mandell and Schmidt-Klein, 2009). Within PLE, and particularly within intestacy, the impact of providing generic information as a catalyst for will-creation, is not well understood. Evaluation of PLE programmes commonly occur only after an intervention has been rolled out, and tend to focus on fungible performance measures such as campaign awareness, as opposed to measuring behavioural change (see e.g. Westwood Spice (2015) for an evaluation of the NSW Trustee and Guardian mass media campaign ‘Get it in Black and White’). Evaluations conducted at the conclusion of a wide-scale initiative may also come under pressure to demonstrate impact and justify initial programme expenditure (see e.g. Weiss, 1999; Greve, 2017).

As compared to case-control studies, qualitative studies, expert views, or cohort studies, more robust, generalisable evaluations as to likely cost/benefit are possible with the use of random control trials (RCTs) (see e.g. Greve, 2017). Yet whilst RCTs present as the ‘gold standard’ of intervention measurement, they necessitate costly trials, specific participant recruitment and observation of results over a longer period of time. An alternative to a full trial comes in the form of opportunist experimentation a ‘type of RCT that studies the effects of a planned intervention or policy action [in contrast to] other types of RCTs [which] examine an intervention or policy action that is implemented for the research study’ (Resch *et al.*, 2014: 1).

Methodologists have previously introduced RCTs into longitudinal surveys in order to evaluate participant retention methods (e.g. Chipperfield and Bell, 2010; Booker *et al.*,

2011; Boyd *et al.*, 2015; Cleary and Balmer, 2015). Others have spoken about the potential benefits of embedding experiments in education policy field studies (see further Schneider *et al.*, 2016). Yet to date, little has been said about the role that 'opportunistic experimentation' may play in the ex ante evaluation of specific social policy interventions. This article addresses this gap, integrating an RCT into a longitudinal survey to test whether exposure to an existing general public legal education intestacy initiative results in a higher incidence of will creation.

## Aims and hypothesis

In this article we report on the results of an experiment embedded in Wave 1 of the English and Welsh Civil and Social Justice Survey (CSJPS), which occurred in 2010 in which half of the respondents to the survey who were identified as not having wills, were randomly selected to receive an information intervention to convey the importance of making a will. The purpose of the experiment was two-fold: (1) to explore the potential of longitudinal surveys as an environment for opportunistic experimentation to help policy-makers ascertain the potential cost/benefit of an intervention prior to roll-out; and (2) to evaluate the impact of exposure to a simple PLE awareness raising intervention by observing and reporting on differences in rates of will-creation as a result of a participant's random assignment to a control (no information) or test (information) group.

In line with the definition of opportunistic research proposed by Resch *et al.* (2014), the intervention selected for the basis of study was an existing information/awareness-raising intervention developed by the Legal Services Commission in 2010 (discussed in further detail below). There was limited existing evidence to inform expectations as to the likely outcome of this type of PLE intervention. Evaluations of the impact of awareness-raising and education campaigns in other fields, including health (McVey and Stapleton, 2000; Bauman *et al.*, 2001; Lustria *et al.*, 2013) and financial capability (Mandall and Schmidt-Klein, 2009) have produced mixed results. Nevertheless, exposure to information was linked to an increase in will creation in one recent study (Westwood Spice, 2015) and on this basis, it was hypothesised that those exposed to information in the study would demonstrate a greater incidence of subsequent will creation, than those who did not receive this information.

Findings from this study add to the body of existing methodological literature on opportunistic experimentation, and demonstrate how PLE initiatives might pre-emptively evaluate likely programme success and cost/benefit, prior to wider programme roll-out. By evaluating the efficacy of the intervention actually staged, our results also highlight the impact of simple information provision on subsequent will-creation. While respondents to the CSJPS were resident in England and Wales, findings have significance for the evaluation of social policy and public legal education delivery beyond this jurisdiction.

## Methods

### Data

Data in this study were drawn from the CSJPS, a large-scale survey of the general population's experience of ninety-seven types of legal problem (concerning consumer issues, employment, neighbours, owned housing, rented housing, money, debt, welfare

benefits, education, clinical negligence, relationship breakdown, domestic violence and care proceedings) and strategies used to resolve them. Problems were identified by asking a variant of the following question in relation to each of the thirteen categories of legal problem included in the surveys: '[have you/has your partner] had any (other) problems or disputes of the type shown on this card since [18 months]?'

The survey was a substantial development of the English and Welsh Civil and Social Justice Survey (CSJS), which was first conducted in 2001 (Pleasence *et al.*, 2004), then again in 2004 (Pleasence, 2006) and on a continuous basis between 2006 and 2009 (Pleasence *et al.*, 2010). The CSJS was itself a substantial development of the *Paths to Justice* survey (Genn, 1999).

Two waves of the CSJPS were conducted prior to the survey's replacement by the Justiciable Problems Resolution Survey in 2012. Wave 1 interviews were conducted between June and October 2010. Wave 2 interviews were conducted eighteen months later, concluding in May 2012. The first wave of the survey included 3,806 adults (aged sixteen plus), drawn from a random selection of 2,316 residential household addresses across 194 postcode sectors of England and Wales. The household response rate was 61 per cent, and the cumulative eligible adult response rate was 54 per cent. The second wave included 3,911 adults, 2,604 of whom had also been interviewed at wave 1. Of the remainder, 148 were resident in a household surveyed at wave 1, but not interviewed until wave 2, ninety-six were new residents in a household surveyed at wave 1, and 1,063 were new respondents from new households. For the longitudinal sample, the household response rate was 75 per cent and the cumulative eligible adult response rate 70 per cent (the individual level response rate was a very high 93 per cent). For the cross-sectional sample the household response rate was 53 per cent and cumulative eligible adult response rate was 43 per cent. Wave 1 interviews took an average of thirty-seven minutes, and wave 2 interviews an average of thirty-five minutes. An initial longer form of the questionnaire (asking about more questions in detail) averaged forty-two minutes ( $n=762$ ), with the final questionnaire averaging thirty-five minutes ( $n=3,044$ ). Across both waves of the survey, the sample was broadly representative of the adult residential household population of England and Wales, which comprises around 98 per cent of the total population.

In this randomised experiment, respondents to the 2010 CSJPS who were identified as not having wills were randomly selected into an intervention and a control group. The intervention group received a twelve page information leaflet – *Dealing with a Will* – produced by the Community Legal Service. The control group did not receive an information leaflet. Proper randomisation was key to the study and its ability to measure the impact of the information leaflet on will making. Crucially, randomisation eliminates selection bias, balancing both known (for example, factors such as age, health status or property ownership) and unknown prognostic factors in the assignment of treatments (Moher *et al.*, 2010). Without randomisation, comparisons (i.e. between those who may or may not have been exposed to information on will and probate) may be prejudiced, whether consciously or not, by selection of participants of a particular kind to receive (or not receive) information.

The leaflet provided basic information on the requirements for valid wills, the consequences of dying intestate (including a brief sentence indicating the situation for those not 'married to or in civil partnership with' their partner), and sources of further information and advice about wills. Significantly, the first text (page 3) covered 'Why

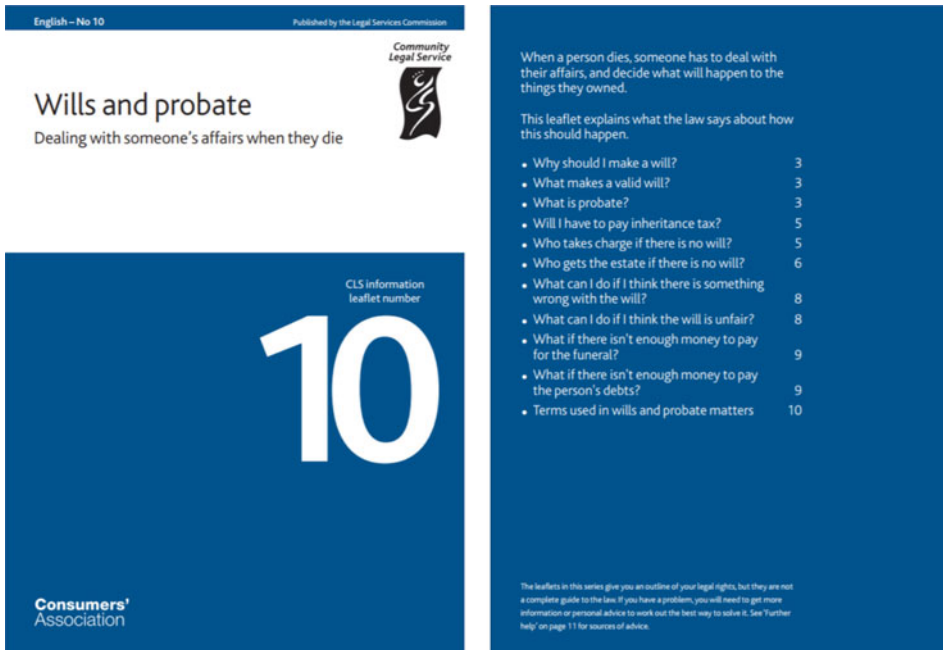


Figure 1. (Colour online) The front cover and contents page of the wills and probate information leaflet received by the intervention group

should I make a will?’ with additional particularly relevant sections on ‘What makes a valid will?’, ‘Who takes charge if there is no will?’ and ‘Who gets the estate if there is no will?’ The front cover and contents page of the leaflet are shown in Figure 1.

Four of ten pages set out substantive information about the law that concerned intestacy and reasons for making a will, including the ‘Why should I make a will?’ section on page 3 (the first text after the contents page), which read:

When you make a will, you can say how your funeral should be dealt with, and what will happen to your possessions and other assets (your ‘estate’) when you die. If you die without making a will (called ‘dying intestate’), it can be complicated to work out who will get what. If you die without a will, the law sets out how your estate is to be shared out – which means it might not go to the people you want it to. This could have very serious consequences: for example, depending on your family situation, your husband or wife might have to sell the family home to give your children the money they are entitled to.

The objective of the experiment was to ascertain whether this ‘intervention’ impacted on the likelihood of respondents subsequently making a will. Those 2010 CSJPS respondents not selected to receive the leaflet were not given any information about wills.

It should be noted that while the leaflet detailed why respondents should have a will, it was not designed specifically for the purposes of the study. Importantly, it was available and in use throughout England and Wales at the time of the experiment.

The CSJPS was the first legal needs survey worldwide to integrate (randomised) experimental research into its design, with this study one of a number included. Others included research on knowledge of marriage/cohabitation rights (Pleasence and Balmer, 2012), knowledge of consumer, employment and housing rights (Pleasence *et al.*, 2017) and the impact of different forms of between-wave engagement on response to longitudinal surveys (Cleary and Balmer, 2015).

### *Analysis*

In exploring findings from the CSJPS we first examine the demographics of will making among survey respondents, looking at the factors distinguishing those who reported having a will from those who reported not having a will, including the relationship with age and income. We then explore the results of our experiment, with whether or not respondents had made a will in the past eighteen months (since the initial interview) analysed on the basis of whether they were in the will and probate information leaflet or control (no leaflet) group. Since a large number of participants were included in the experiment (2,177 randomised into the leaflet and no leaflet groups) randomisation ensures a good balance of baseline variables between the two groups, with covariate adjustment making little difference (Pocock *et al.*, 2015). In addition, in this type of randomised experiment, unadjusted analysis provides an unbiased estimate of the treatment effect. Consequently, primary analysis took the form of a simple chi-squared test. Findings were then contextualised with an assessment of cost/benefit.

## **Results**

### *The demographics of will making*

In line with findings from elsewhere, the CSJPS indicated that only a minority of the population of England and Wales have wills. As suggested by the recent Will Aid (2014) survey, the percentage of CSJPS respondents with wills increased between 2010 and 2012, from 41 per cent to 43 per cent.

Looking at the 2012 CSJPS, the social patterning of wills was evident. As can be seen from Figure 2, there was a gulf between the extent to which the youngest and oldest age groups had wills. While just 1 per cent of those under the age of twenty-five had wills, the figure was 78 per cent for those over the age of seventy-five.

Furthermore, as can be seen from Figure 3, there was also a gulf between the extent that those on the lowest and highest personal incomes had wills. While 22 per cent of those earning less than £2,500 per year had wills, the figure was 56 per cent for those earning £50,000 or more.

Linked to this, differences were also seen in relation to (for example) professional status, and form of tenure. While just 14 per cent of those living in the rented sector had wills, the figure rose to 37 per cent for those with a mortgage and 74 per cent for those who owned their homes outright. Similarly, while just 28 per cent of routine manual and service workers had wills, the figures were 44 per cent for clerical and intermediate workers, 48 per cent for traditional professionals and 58 per cent for senior managers and administrators.



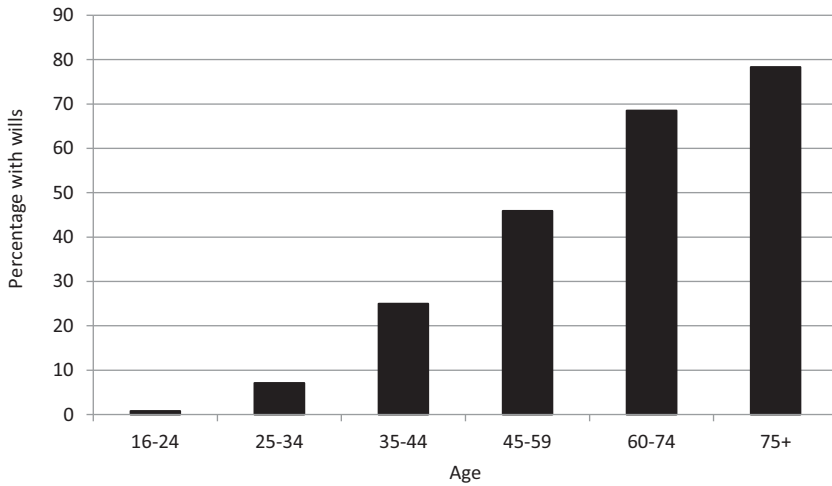


Figure 2. Percentage of general population with wills, by age

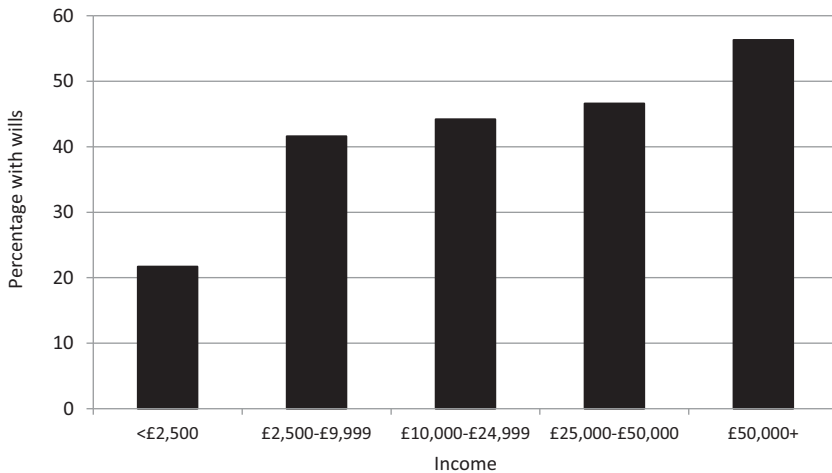


Figure 3. Percentage of general population with wills, by income

Also, confirming previous findings that cohabitantes – a group that can be particularly disadvantaged by the intestacy rules – are less likely than those who are married to have wills, the 2012 CSJPS found that just 26 per cent of cohabitantes had wills, compared to 53 per cent of those who were married. Moreover, within both these groups, those with dependent children were significantly less likely to have wills. So, as can be seen from Figure 4, while just 22 per cent of cohabitantes with dependent children had wills, the figure was 62 per cent for those who were married and had no children.

Differences in the prevalence of wills were also observed in relation to ethnicity and religion. For example, black and minority ethnic CSJPS respondents reported having wills

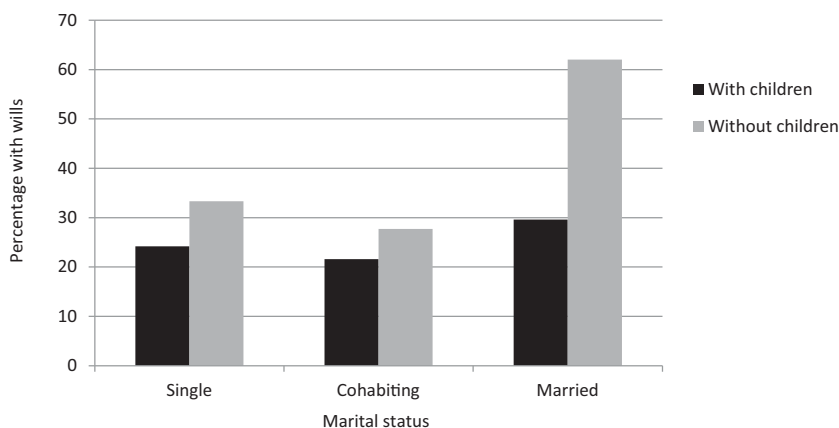


Figure 4. Prevalence of wills by marital status and children

on far fewer occasions than white British respondents (17 per cent vs. 46 per cent). And linked to this, unexpectedly (as Islam places emphasis on having a will, or *al wasiyah*), not a single Muslim CSJPS respondent reported having a will (compared to 47 per cent of Christians and 29 per cent of those with no religion). However, for most religions, numbers were too small to allow for a reliable comparison.

Finally, there were differences in the prevalence of wills by health and disability status; though there was a significant disparity between long-term health and disability generally and mental health. In the former case, those 2012 CSJPS respondents who reported having a long-term limiting illness or disability were more likely to have a will than others (51 per cent vs. 40 per cent), perhaps indicating more common reflection on mortality. However, in the case of mental illness, the position was reversed (38 per cent vs. 44 per cent).

#### Results of the experiment

Of the 2,177 CSJPS respondents in 2010 without a will 1,021 (47 per cent) were randomly selected to receive the *Dealing with a Will* leaflet (the intervention), with the remaining 1,156 (53 per cent) receiving no information. Of the 1,021 selected to receive the leaflet, 858 (84 per cent) actually received it. Of those who did not receive a leaflet many suggested that they had already received one (i.e. their spouse had already received one in an earlier household interview). A number also refused the leaflet on the basis that it was not wanted or needed. The results were analysed on the basis of whether or not respondents were randomly selected to receive the leaflet rather than whether or not they actually received it. This is known as ‘intention-to-treat’ analysis and is designed to avoid potentially misleading results as a consequence of non-random attrition of participants or crossover (into other conditions).

1,387 (64 per cent) of the original participants in the experiment were re-interviewed eighteen months later as part of the 2012 CSJPS. Of the 654 remaining respondents who had been selected to receive the leaflet, fifty-two (8 per cent) made a will between

interviews. Of the 729 respondents not selected to receive the leaflet, fifty-two (7 per cent) had since made a will. The difference (0.9 per cent) fell well short of statistical significance (using a simple chi-squared test;  $\chi^2_1 = 0.33$ ,  $p = 0.57$ ).

#### *Significance, effect size and cost-benefit*

The difference observed in will making rates between the intervention and control groups was small and consequently not statistically significant. Were a separate experiment to be undertaken to determine whether an information leaflet such as the *Dealing with a Will* leaflet *actually* results in an additional 1 per cent of those without wills going on to make a will, then – assuming an alpha level (risk of a false positive, or Type I error) of 0.05 and power of 0.8 (likelihood of avoiding a false negative, or Type II error) – a sample size of around 30,000 would be required.

While the observed difference was small, this does not necessarily mean that a 0.39 per cent increase in will prevalence (through 1 per cent of those people without a will going on to make one when they would otherwise not have done so) is of practical insignificance. Supposing a cost of leaflet delivery of £2, the cost of each additional will made would be just over £500. The practical significance of the observed difference (were it not a product of chance) would therefore depend upon the balancing benefits of avoiding intestacy (and, in social policy terms, who would bear the cost and reap the benefit). Of course, this is largely speculative, since the experiment did not demonstrate that the provision of the 'Wills and Probate' leaflet resulted in an increase in will making.

#### **Discussion and conclusion**

Our findings confirm that only a minority of the population of England and Wales have a will, and that having a will is socially patterned. The prevalence of wills clearly increases with age and wealth and is lower among ethnic minorities, as has been found previously (National Consumer Council, 2007; DiRusso, 2009; Douglas *et al.*, 2011; Will Aid, 2014). Our findings also highlight that, despite the greater hazards of intestacy for cohabittees, cohabittees are among the least likely to make wills; a situation sometimes compounded by the general association of children with lower wills prevalence.

As regards the experiment run within the CSJPS, with a view to determining whether the targeted distribution of generic legal education materials might generate an observable impact on will prevalence, our findings fell well short of statistical significance. The observed differences between the intervention and the control groups were of a small magnitude (0.9 per cent). In order to determine whether this difference was a real effect (assuming it were indeed 0.9 per cent), we would require a sample size of around 30,000; substantially greater than the CSJPS experiment sample size of just over 2,000. Clearly there are difficulties in testing the statistical significance of an intervention where the impact of the intervention may be very small. These challenges diminish where the sample size of the survey increases or where the effect size increases, and further experiments in this area may be better focussed on increasingly bespoke, targeted and practically focussed interventions.

We would urge caution in placing too much emphasis on this challenge as indicative of the merits of surveys as a vehicle for testing initiatives. The aim of

this study was not to test the efficacy of all PLE interventions, but rather to test the efficacy of a specific type of intervention with a specific group in a specific type of law. It is important not to overgeneralise the results. A small effect size meant that we were not able to conclusively ascertain the impact of our intervention but this will not be true of all interventions. Further, we must not overlook the practical benefits that arise. Small (statistically insignificant) effects deriving from a low cost intervention have practical significance and can play a role in helping policy-makers better assess and contextualise the cost/benefit of a social policy initiative in many social policy settings where it is impossible to estimate the likely cost/benefit of an intervention.

As it relates to social policy in respect of public legal education and intestacy, the findings of this study – notably the effect size observed between groups – does raise questions regarding the impact of information provided in certain forms, as well as the appropriate timing of educational intervention. Setting aside the potential for information to be distributed in a relatively cost-effective manner in a survey, our results call into question whether a more appropriate social policy intervention might coincide with life events that have ramifications for inheritance.

While in many situations it is not practical or desirable to intervene ‘just in time’ (i.e. immediately before the need for a will emerges) it may be practical to intervene at other times. Many life events trigger an interaction with the Government: when an individual moves into full time work; enters into marriage; when children are born or start school; when assets are purchased; or when ill-health leads to medical treatment. These events provide scope to capitalise on what other studies have identified as existing catalysts for action (Sussman *et al.*, 1970; Tilse *et al.*, 2015) by providing information ‘just in time’ or, perhaps more aptly, ‘just at the right time’.

There are also further avenues of research that must be explored. While our intervention tested the impact of information provision, it is possible that other behavioural nudges are more effective in bringing about action. As previously discussed, variations in the timing or type of information may produce a greater effect size. Similarly, testing other types of interventions (such as economic incentives, the provision of DIY will-kits, longer term education programmes) may yield different results, which help inform social policy makers as to ‘what works’.

In a climate of austerity, there is even greater pressure on policy makers to ensure that limited public resources are directed towards initiatives where impact can be demonstrated. Our experiment illustrates the possibility of opportunistic experimentation as a means by which to test the potential impact and cost/benefit of an intervention. The efficacy of the particular form of intestacy information intervention tested here appears limited. However, the methodology employed within this study points to the possibility of more bespoke and substantial initiatives in the future and suggests that there is merit to considering what role surveys may have in the validation and testing of social policy interventions, prior to wider roll-out.

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## References

- Administration of Estates Act 1925, s.46(1), <https://www.legislation.gov.uk/ukpga/Geo5/15-16/23/section/46> [accessed 28.10.2016].
- Affi, A. and Affi, H. (2014) *Contemporary Interpretation of Islamic Law*, Leicestershire: Troubador Publishing, 172–77.
- Barlow, A., Duncan, S., James, G. and Park, A. (2005) *Cohabitation, Marriage and the Law: Social Change and Legal Reform in the 21st Century*, Oxford: Hart.
- Bauman, A. E., Bellew, B., Owen, N. and Vita, P. (2001) 'Impact of an Australian mass media campaign targeting physical activity in 1998', *American Journal of Preventive Medicine*, 21, 1, 41–7.
- Booker, C. L., Harding, S. and Benzeval, M. (2011) 'A systematic review of the effect of retention methods in population-based cohort studies', *BMC Public Health*, 11, 249.
- Boyd, A., Tilling, K., Cornish, R., Davies, A., Humphries, K. and Macleod, J. (2015) 'Professionally designed information materials and telephone reminders improved consent response rates: evidence from an RCT nested within a cohort study', *Journal of Clinical Epidemiology*, 68, 8, 877–87.
- Casebourne, J., Regan, J., Neathey, F. and Tuohy, S. (2006) *Employment Rights at Work: A Survey of Employees 2005*, London: Department of Trade and Industry.
- Chipperfield, J. and Bell, P. (2010) 'Embedded experiments in repeated and overlapping surveys', *Journal of the Royal Statistical Society. Series A (Statistics in Society)*, 173, 1, 51–66.
- Cleary, A. and Balmer, N. J. (2015) 'Fit for purpose: the impact of between wave engagement on response to a longitudinal survey', *International Journal of Market Research*, 57, 533–54.
- Corden, A. (2016) 'Chapter 9. Bereavement and the workplace', in L. Foster and K. Woodthorpe (eds.), *Death and Social Policy in Challenging Times*, London: Palgrave MacMillan.
- Darley, J. M., Carlsmith, K. M. and Robinson, P. H. (2001) 'The ex ante function of the criminal law', *Law and Society Review*, 35, 1, 165–89.
- Denvir, C., Balmer, N. J. and Pleasence, P. (2013) 'When legal rights are not a reality: do individuals know their rights and how can we tell?', *Journal of Social Welfare and Family Law*, 35, 1, 139–60.
- Department of Health (2008) *End of Life Care Strategy: Promoting High Quality Care for all Adults at the end of Life*, London: The Stationary Office.
- DiRusso, A. A. (2009) 'Testacy and intestacy: the dynamics of wills and demographic status', *Quinnipiac Probate Law Journal*, 23, 1, 36–79.
- Douglas, G., Woodward, H., Humphrey, A., Mills, L. and Morrell, G. (2011) 'Enduring love? Attitudes to family and inheritance law in England and Wales', *Journal of Law and Society*, 38, 245–71.
- Dyer, J. F. and Bailey, C. (2008) 'A place to call home: cultural understandings of heir property among rural African Americans', *Rural Sociology*, 73, 317–38.
- Fellows, M., Simon, R. and Rau, W. (1978) 'Public attitudes about property distribution at death and intestate succession laws in the United States', *American Bar Foundation Research Journal*, 3, 2, 319–91.
- Foster, L. and Woodthorpe, K. (2016) 'Chapter 11. Conclusion – where do we go from here?', in L. Foster and K. Woodthorpe (eds.), *Death and Social Policy in Challenging Times*, London: Palgrave MacMillan.
- Gedzi, V. (2012) 'Women's property relations after intestate succession PNDC Law 111 in Ghana', *Research on Humanities and Social Sciences*, 2, 211–19.
- Genn, G. (1999) *Paths to Justice: What People Do and Think About Going to Law*, Oxford: Hart.
- Government of Yukon (2015) 'New campaign encourages Yukoners to make a will', [press release] 4 November, <http://www.gov.yk.ca/news/15-337.html> [accessed 28.10.2016].
- Greve, B. (2017) 'Introduction: Evaluation as an instrument in social policy', in B. Greve (ed.), *Handbook of Social Policy Evaluation*, Cheltenham: Edward Elgar.
- Inheritance (Provision for Family and Dependents) Act 1975, <https://www.legislation.gov.uk/ukpga/1975/63> [accessed 26.11.2016].
- Kim, P. T. (1999) 'Norms, learning, and law: exploring the influences on workers' legal knowledge', *University of Illinois Law Review*, 447–515.

- Law Commission (2009) *Intestacy and Family Provision Claims on Death: A Consultation Paper*, London: Law Commission.
- Law Society (2014) 'Millions of Britons have no will', London: Law Society, <https://web.archive.org/web/20161011125634/http://www.lawsociety.org.uk/news/press-releases/millions-of-britons-have-no-will> [accessed 28.10.2016].
- Lewis, J., Tennant, R. and Taylor, J. (2009) 'Financial arrangements on the breakdown of cohabitation: influences and disadvantage', in J. Miles and R. Probert (eds.), *Sharing Lives, Dividing Assets: An Inter-Disciplinary Study*, Oxford: Hart, 179.
- LexisNexis (2011) 'EZLaw Survey finds most American's recognise the importance of a will or estate planning, yet few have necessary documents in place', LexisNexis, <http://www.lexisnexis.com/en-us/about-us/media/press-release.page?id=1311095221427043> [accessed 28.10.2016].
- Lustria, M. L. A., Noar, S. M., Cortese, J., Van Stee, S. K., Glueckauf, R. L. and Lee, J. (2013) 'A meta-analysis of web-delivered tailored health behavior change interventions', *Journal of Health Communication: International Perspectives*, 18, 9, 1039–69.
- Mandell, L. and Schmid-Klein, L. (2009) 'The impact of financial literacy education on subsequent financial behavior', Westerville, Ohio: AFCPE, [http://www.afcpe.org/assets/pdf/lewis\\_mandell\\_linda\\_schmid\\_klein.pdf](http://www.afcpe.org/assets/pdf/lewis_mandell_linda_schmid_klein.pdf) [accessed 28.10.2016].
- McVey, D. and Stapleton, J. (2000) 'Can anti-smoking television advertising affect smoking behaviour? Controlled trial of the Health Education Authority for England's anti-smoking TV campaign', *Tobacco Control*, 9, 273–82.
- Moher, D., Hopewell, S., Schultz, K. F., Montori, V., Gøtzsche, P. C., Devereaux, P. J., Elbourne, D., Egger, M. and Altman, D. G. (2010) 'CONSORT 2010 explanation and elaboration: updated guidelines for reporting parallel group randomised trials', *British Medical Journal*, 340, c869.
- National Consumer Council (2007) *Finding The Will: A Report On Will Writing Behaviour In England And Wales*, London: National Consumer Council.
- Office for National Statistics (2014) *How Have Mortality Rates by Age Changed Over the Last 50 Years?: Comparison of Mortality Rates by Age and Sex in 1963 and 2013*, <http://webarchive.nationalarchives.gov.uk/20160105202750/http://www.ons.gov.uk/ons/rel/vsob1/death-reg-sum-tables/2013/sty-mortality-rates-by-age.html> [accessed 18.07.2018].
- Pleasence, P. (2006) *Causes of Action: Civil Law and Social Justice*, 2nd edn, Norwich: TSO.
- Pleasence, P. and Balmer, N. J. (2012) 'Ignorance in bliss: modelling knowledge of rights in marriage and cohabitation', *Law and Society Review*, 46, 2, 297–333.
- Pleasence, P., Balmer, N. and Denvir, C. (2017) 'Wrong about rights: public knowledge of key areas of consumer, housing and employment law in England and Wales', *Modern Law Review*, 80, 5, 836–59.
- Pleasence, P., Balmer, N. J., Patel, A. and Denvir, C. (2010) *Civil Justice in England and Wales*, London: Legal Services Commission.
- Pleasence, P., Buck, A., Balmer, N. J., O'Grady, A., Genn, H. and Smith, M. (2004) *Causes of Action: Civil Law and Social Justice*, 1st edn, Norwich: TSO.
- Pocock, S. J., McMurray, J. J. V. and Collier, T. J. (2015) 'Statistical controversies in reporting of clinical trials', *Journal of the American College of Cardiology*, 66, 23, 2648–62.
- PLEAS Taskforce (2007) *Developing Capable Citizens: The Role of Public Legal Education. Report of the PLEAS Taskforce*, <http://lawforlife.org.uk/wp-content/uploads/2013/05/pleas-task-force-report-14.pdf> [accessed 28.10.2016].
- Resch, A., Berk, J. and Akers, L. (2014) *Recognizing and Conducting Opportunistic Experiments in Education: A Guide for Policymakers and Researchers (REL 2014–037)*, Washington, DC: U.S. Department of Education, Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, Analytic Technical Assistance and Development, <http://ies.ed.gov/ncee/edlabs>.
- Rowlingson, K. (2016) 'Chapter 10. 'You can't take it with you when you die': wealth, intestacy rules and inheritance tax', in L. Foster and K. Woodthorpe (eds.), *Death and Social Policy in Challenging Times*, London: Palgrave MacMillan.

- Saunders, LaVell E. (1975) 'Collective ignorance: public knowledge of family law', *The Family Coordinator*, 24, 1, 69–74.
- Schneider, B., Saw, G. and Broda, M. (2016) 'A future for the national education longitudinal program', *AERA Open*, 2, 2, 1–13.
- Shaffer, T. (1969) 'The "estate planning" counselor and values destroyed by death', *Iowa Law Review*, 55, 376, 377.
- Sharot, T. (2011) 'The optimism bias', *Current Biology*, 21, 23, R941–5.
- Sussman, M. B., Cates, J. N. and Smith, D. T. (1970) 'Will making: an examination of client and lawyer attitudes', *University of Florida Law Review*, 23, 25–50.
- Tilse, C., Wilson, J., White, B., Rosenman, L. and Feeney, R. (2015) *Having the Last Word? Will Making and Contestation in Australia. Final Report*, Brisbane: University of Queensland, <https://www.ptg.act.gov.au/images/pdf/having-the-last-word.pdf> [accessed 28.10.2016].
- Valentine, C. and Bauld, L. (2016) 'Chapter 7. Marginalised deaths and policy', in L. Foster and K. Woodthorpe (eds.), *Death and Social Policy in Challenging Times*, London: Palgrave MacMillan.
- Walker, A. (2016) 'Foreword', in L. Foster and K. Woodthorpe (eds.), *Death and Social Policy in Challenging Times*, London: Palgrave MacMillan.
- Weinstein, N.D. (1980) 'Unrealistic optimism about future life events', *Journal of Personality and Social Psychology*, 39, 806–20.
- Weisbord, R. K. (2012) 'Wills for everyone: helping individuals opt out of intestacy', *Boston College Law Review*, 53, 877–952.
- Weiss, C. H. (1999) 'The interface between evaluation and public policy', *Evaluation*, 5, 4, 468–86.
- Westwood Spice (2015) *Evaluation of the NSW Ageing Strategy. June 2015*, Sydney: WestWood Spice, [https://www.adhc.nsw.gov.au/\\_\\_data/assets/file/0004/331681/Ageing-Strategy-Evaluation-Final-Report.pdf](https://www.adhc.nsw.gov.au/__data/assets/file/0004/331681/Ageing-Strategy-Evaluation-Final-Report.pdf) [accessed 28.10.2016].
- Will Aid (2014) *Will Aid Research 2014: Key Findings*, London: Will Aid, <https://web.archive.org/web/20150307043612/http://www.willaid.org.uk/press/research> [accessed 28.10.2016].
- Wintersteiger, L. (2015) *Legal Needs, Legal Capability and the Role of Public Legal Education*, London: Law for Life: the Foundation for Public Legal Education.