



**Law  
Commission**  
Reforming the law

# **Making a will: Statistical analysis of responses to the Consultation Papers**

## INTRODUCTION

- 1.1 This is a statistical analysis of the responses received to the Law Commission's 2017 Consultation Paper, *Making a will* (Consultation Paper 247), and to the 2023 Supplementary Consultation Paper, *Making a will: Supplementary Consultation Paper* (Consultation Paper 260).
- 1.2 The purpose of this analysis is to give a statistical overview of consultees' views in respect of the questions we asked in both these Consultation Papers. We received over 170 responses each to our Consultation Paper, and to our Supplementary Consultation Paper. The majority of our consultees provided their responses to our Consultation Paper via email, and to our Supplementary Consultation Paper via an online response form. Some consultees provided hardcopy answers, for instance responding by letter.
- 1.3 This analysis is structured by consultation question (and therefore by chapter of the Consultation Paper and, subsequently, Supplementary Consultation Paper). Where a question invited consultees' views, the number of consultees who responded to the question is provided. Some questions, for instance those containing a provisional proposal, asked whether consultees agreed, disagreed or had other views – for these questions, the following information is provided:
  - (1) a pie chart, to demonstrate the proportion of consultees who agreed, disagreed, or who had other views; and
  - (2) a table showing the number of consultees who agreed, disagreed, or who had other views.

Some questions contained multiple parts.

- 1.4 Confidential responses have been excluded from this statistical analysis.
- 1.5 Consultees' responses, and the views provided in them, have helped to inform the recommendations that we make in the Report. However, we note that do not make decisions simply on the basis of the numbers of consultees who were in favour of – or against – a provisional proposal. Law Commission consultations inform our recommendations, by gathering views about and experiences of the current law and by testing potential reforms, including identifying any gaps in our provisional thinking. They help us to consider the arguments for and against possible reforms, in order to determine the best way forward. Deciding the best way forward requires us to consider all the evidence that is available to us, and the strength of the arguments made, rather than looking only at the numbers of consultees who favoured a particular approach.

### Accuracy of the statistics

- 1.6 The statistics set out in this document provide a useful guide to the views of consultees. However, we note that they do not necessarily represent a definitive reflection of consultees' views.
- 1.7 The statistics in this document reflect the boxes that were ticked by consultees in recording their response forms for the Consultation Paper or entering their

consultation responses via our online response form for the Supplementary Consultation Paper.

- 1.8 In some cases, it appears that consultees ticked the wrong answer by mistake (choosing, for instance, “yes” when their substantive answer revealed that they meant “no”). In cases where this was clear, our statistics reflect the answer we think the consultee intended to select.

## MAKING A WILL: CONSULTATION PAPER

### Chapter 1

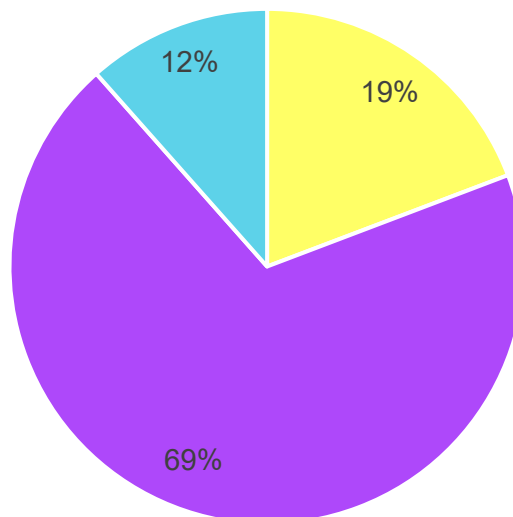
#### Consultation Question 1

##### Consultation Question 1.

- 1.9 In any new legislation on wills should the term “testator” be replaced by another term?

If so:

- (1) should the term that replaces “testator” be “will-maker”? or
- (2) should another term be used and, if so, what term?



■ Yes ■ No ■ Other

	Yes	No	Other	TOTAL
<b>Number of consultees</b>	20	72	12	104

#### Consultation Question 2

##### **Consultation Question 2.**

1.10 We ask consultees to tell us about their experiences of the impact, financial and otherwise of the:

- (1) preparation, drafting and execution of wills; and
- (2) disputes over wills following the testator's death.

1.11 90 consultees responded to Consultation Question 2.

## Chapter 2

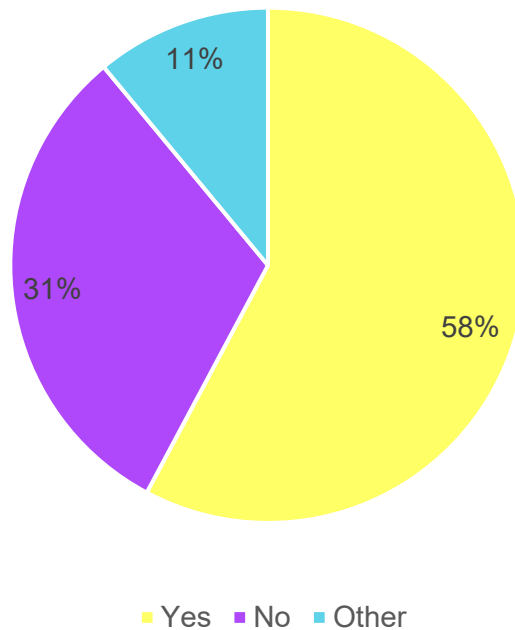
### Consultation Question 3

#### Consultation Question 3.

1.12 We provisionally propose

- (1) that the test for mental capacity set out in the Mental Capacity Act 2005 should be adopted for testamentary capacity; and
- (2) that the specific elements of capacity necessary to make a will should be outlined in the MCA Code of Practice.

Do consultees agree?

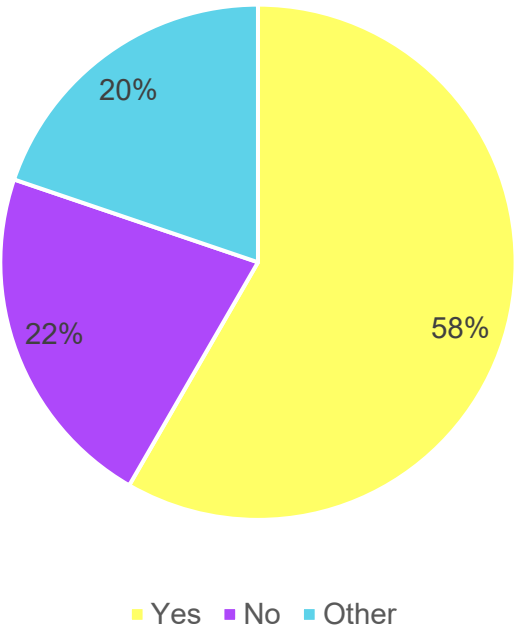


	Yes	No	Other	TOTAL
Number of consultees	63	34	20	117

Consultation Question 4

**Consultation Question 4.**

1.13 We invite consultees' views on whether, if the Mental Capacity Act 2005 is not adopted as the test for testamentary capacity, the *Banks v Goodfellow* test should be placed on a statutory footing.



	Yes	No	Other	TOTAL
Number of consultees	56	21	19	96

## Consultation Question 5

### Consultation Question 5.

1.14 We invite consultees' views on whether any statutory version of the test in *Banks v Goodfellow* should provide:

- (1) a four limbed test of capacity, so that the relevance of the testator's delusions or disorder of the mind (or other cause of capacity) is not confined to understanding the claims on him or her;
- (2) that a testator's capacity may be affected by factors other than delusions or a disorder of the mind; and
- (3) clarification that the testator must have the capacity to understand, rather than actually understand, the relevant aspects of a will.

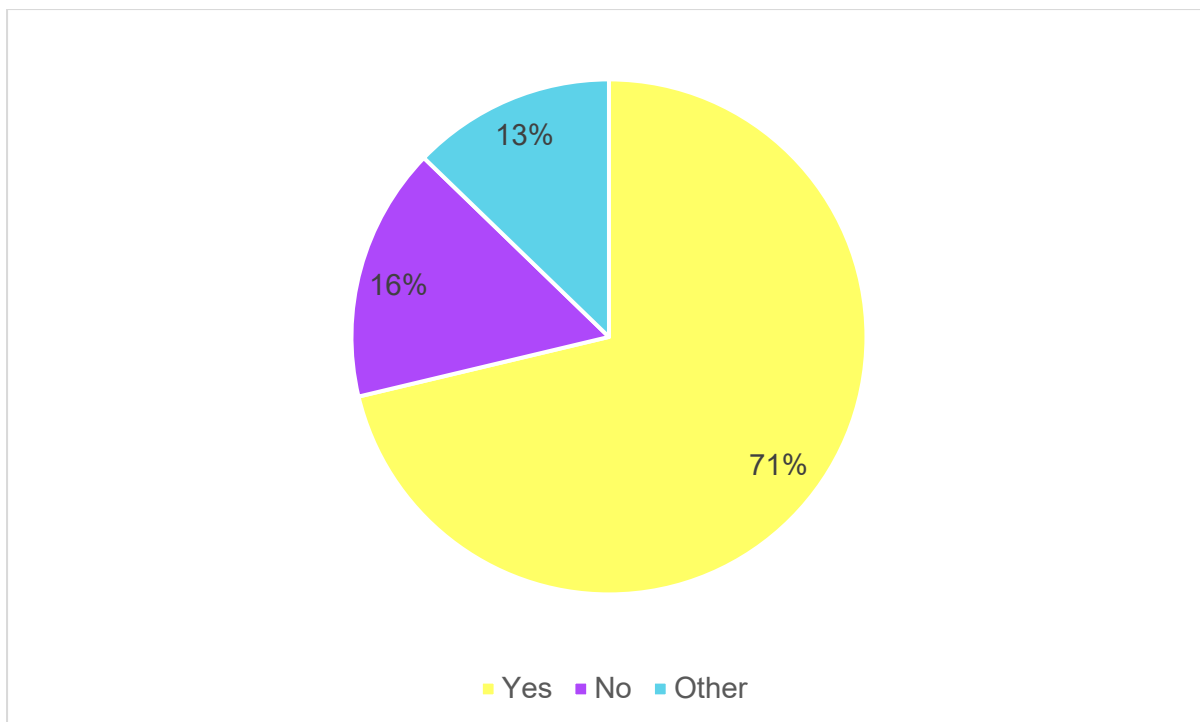
1.15 78 consultees responded to this question.

## Consultation Question 6

### Consultation Question 6.

1.16 We provisionally propose that if a reformed version of the *Banks v Goodfellow* test is set out in statute it should be accompanied by a statutory presumption of capacity.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	67	15	12	94

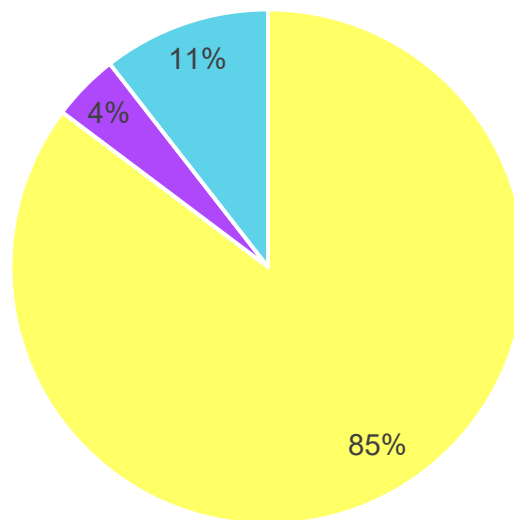
#### Consultation Question 7

##### Consultation Question 7.

1.17 We provisionally propose that the rule in *Parker v Felgate* should be retained.

Do consultees agree?





■ Yes ■ No ■ Other

	Yes	No	Other	TOTAL
<b>Number of consultees</b>	81	4	10	95

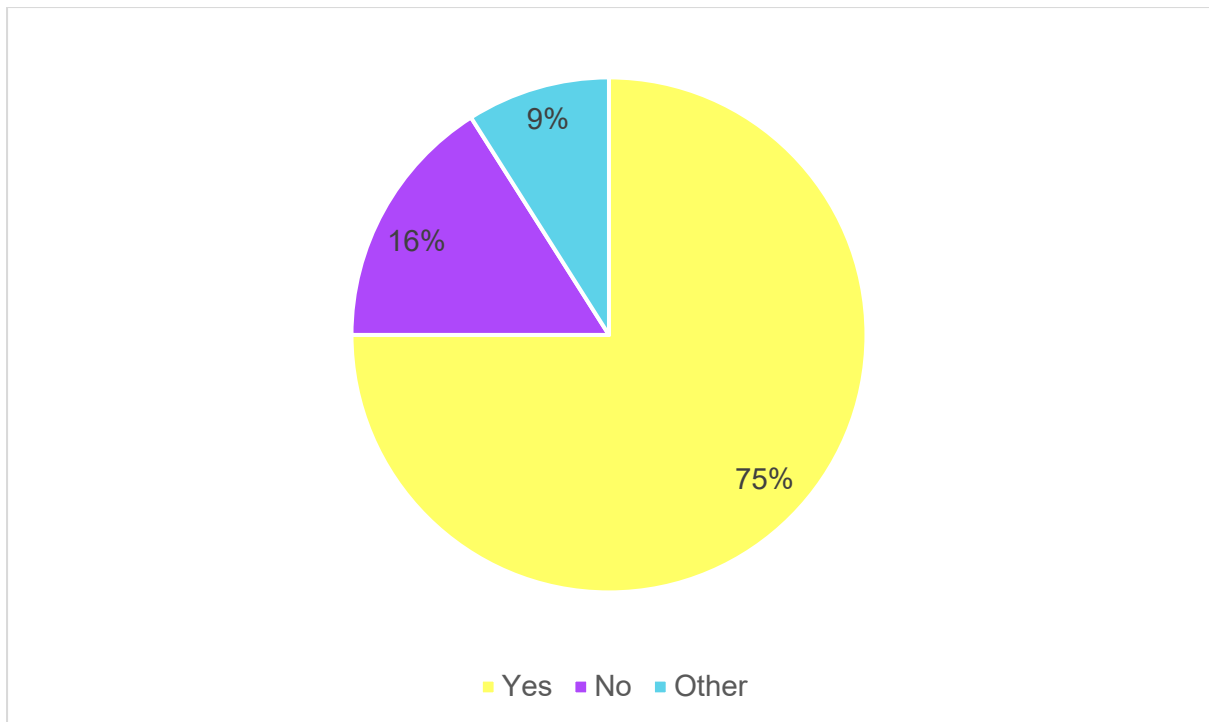
#### Consultation Question 8

##### Consultation Question 8.

1.18 We provisionally propose that:

- (1) a code of practice of testamentary capacity should be introduced to provide guidance on when, by whom and how a testator's capacity should be assessed.
- (2) that the code of practice should not be set out in statute but instead be issued under a power to do so contained in statute (which may be that contained in the MCA should the MCA test be adopted for testamentary capacity).

Do consultees agree?



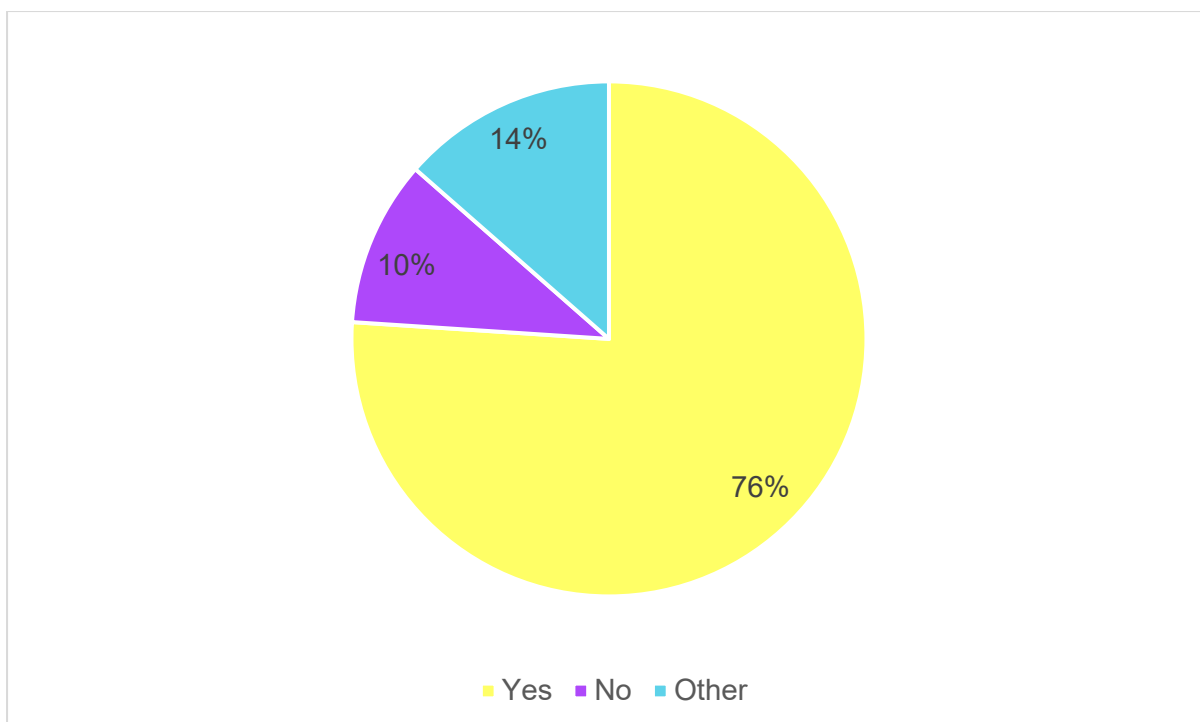
	Yes	No	Other	TOTAL
Number of consultees	75	16	9	100

#### Consultation Question 9

##### **Consultation Question 9.**

1.19 We provisionally propose that the code of practice should apply to those preparing a will, or providing an assessment of capacity, in their professional capacity.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	73	10	13	96

#### Consultation Question 10

##### **Consultation Question 10.**

1.20 We invite consultees' views on the content of the code of practice.

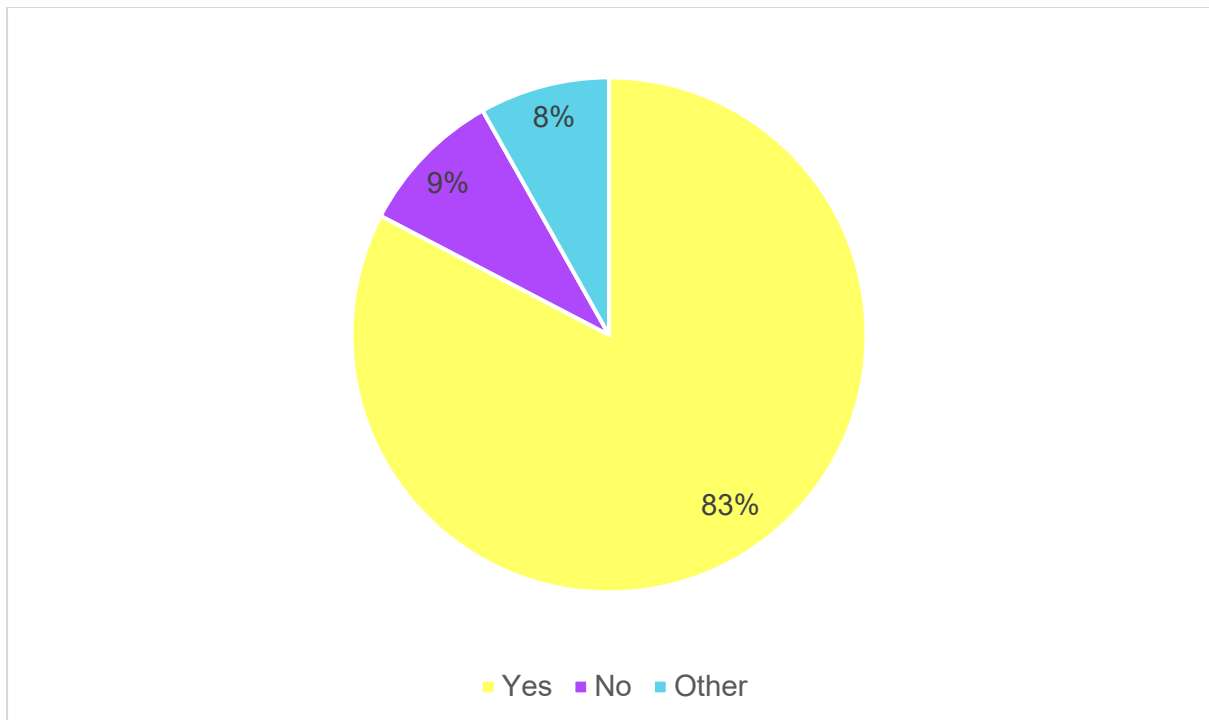
1.21 66 consultees responded to this question.

#### Consultation Question 11

##### **Consultation Question 11.**

1.22 In principle, a scheme could be enacted allowing testators to have their capacity certified by a third party. We provisionally propose that a certification scheme should not be enacted.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	81	9	8	98

### Chapter 3

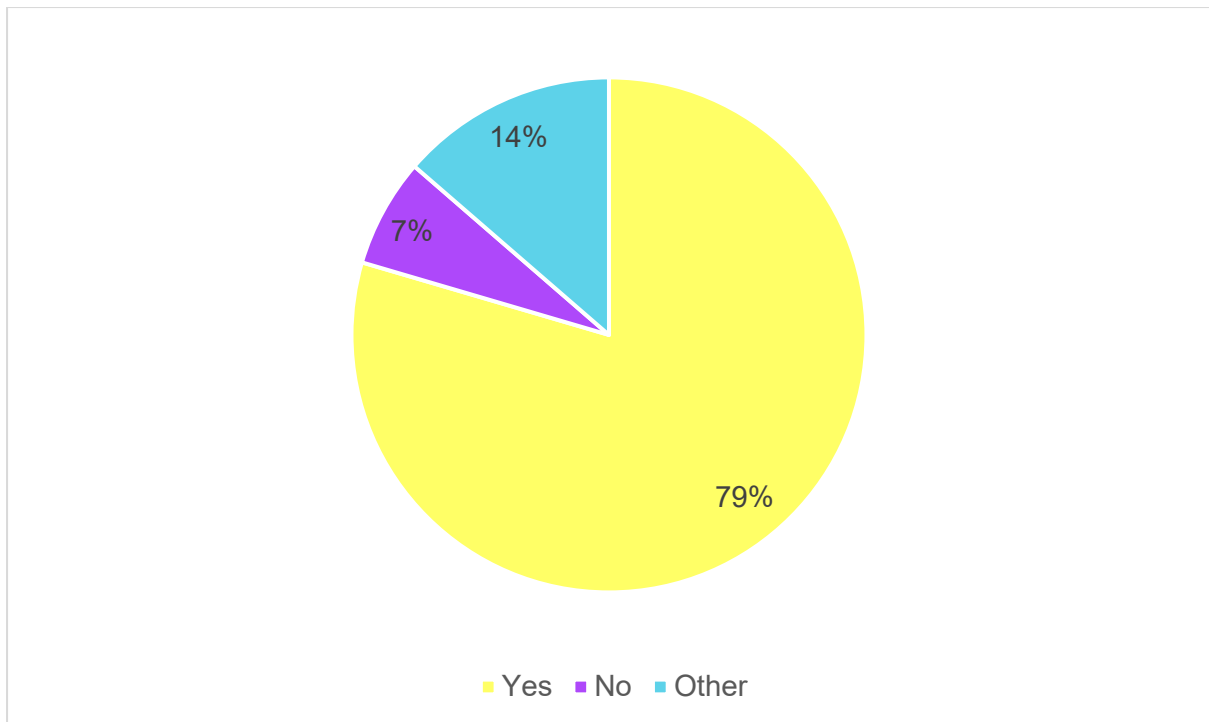
#### Consultation Question 12

##### Consultation Question 12.

1.23 We take the view that reform is not required:

- (1) of the best interests rationale that underpins the exercise of the court's discretion to make a statutory will;
- (2) of the way in which that discretion is exercised; or
- (3) to restrict the circumstances in which a statutory will can be made.

Do consultees agree?

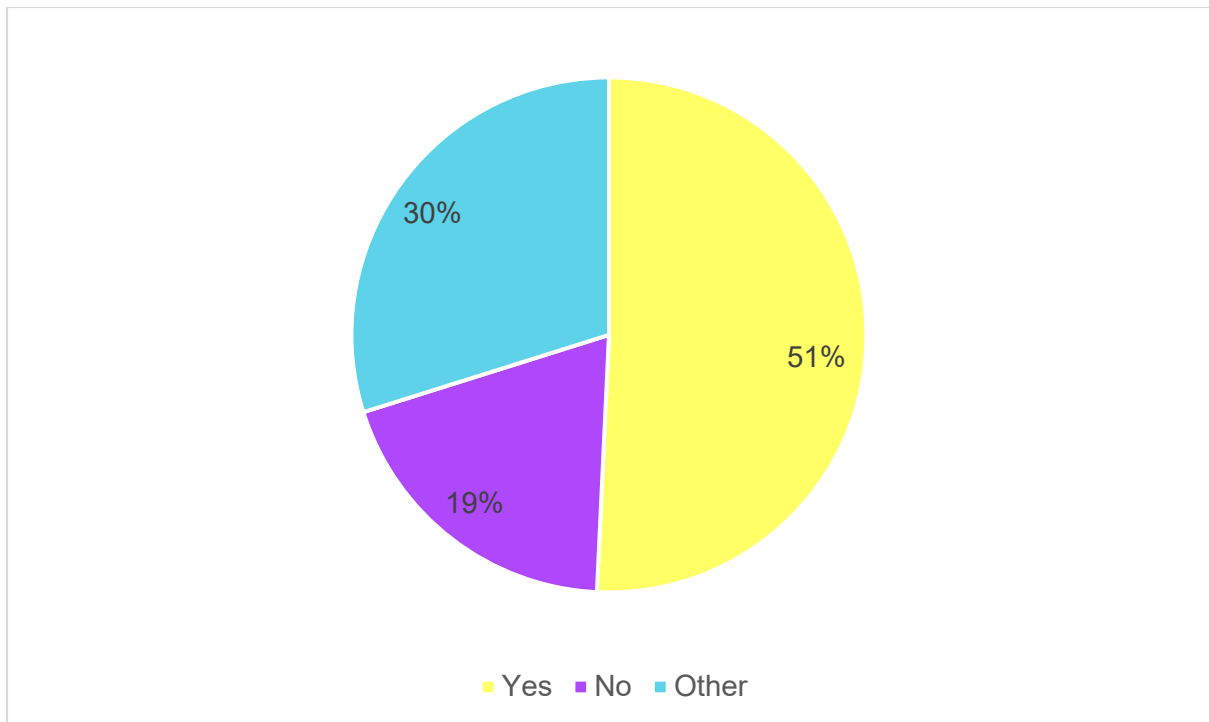


	Yes	No	Other	TOTAL
Number of consultees	70	6	12	88

#### Consultation Question 13

##### Consultation Question 13.

- 1.24 Consultees are asked whether there are reforms that could usefully be made to the procedure governing statutory wills with the aim of reducing the cost and length of proceedings and, if so, what those are?



	Yes	No	Other	TOTAL
Number of consultees	34	13	20	67

## Chapter 4

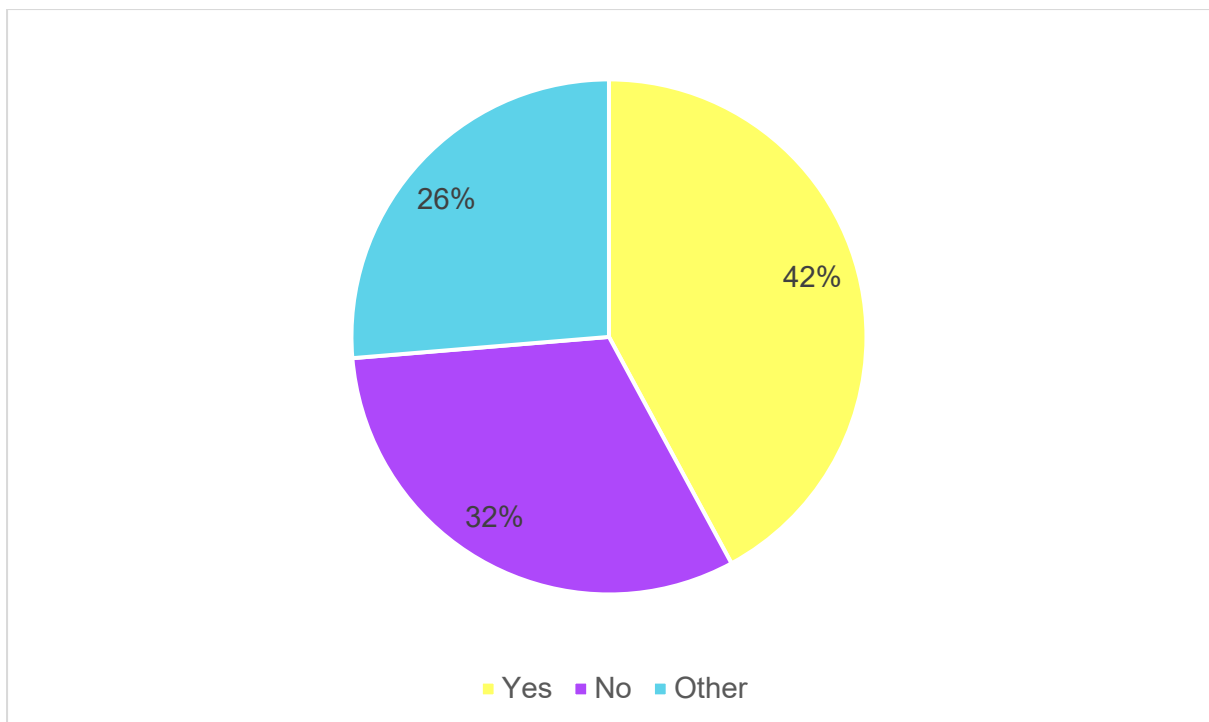
### Consultation Question 14

#### **Consultation Question 14.**

1.25 Do consultees think that a supported will-making scheme is practical or desirable?

1.26 If so, we ask for consultees' views on:

- (1) who should be able to act as supporters in a scheme of supported will-making?
- (2) should any such category include non-professionals as well as professionals?
- (3) should supporters be required to meet certain criteria in order to act as a supporter and, if so, what those criteria should be?
- (4) how should supporters be appointed?
- (5) what should be the overarching objective(s) of the supporter role?
- (6) how should guidance to supporters be provided?
- (7) what safeguards are necessary in a scheme of supported will-making? In particular:
  - (a) should a supporter be prevented from benefitting under a will?
  - (b) should a fiduciary relationship be created between a supporter and the person he or she is supporting?



	Yes	No	Other	TOTAL
Number of consultees	40	30	25	95

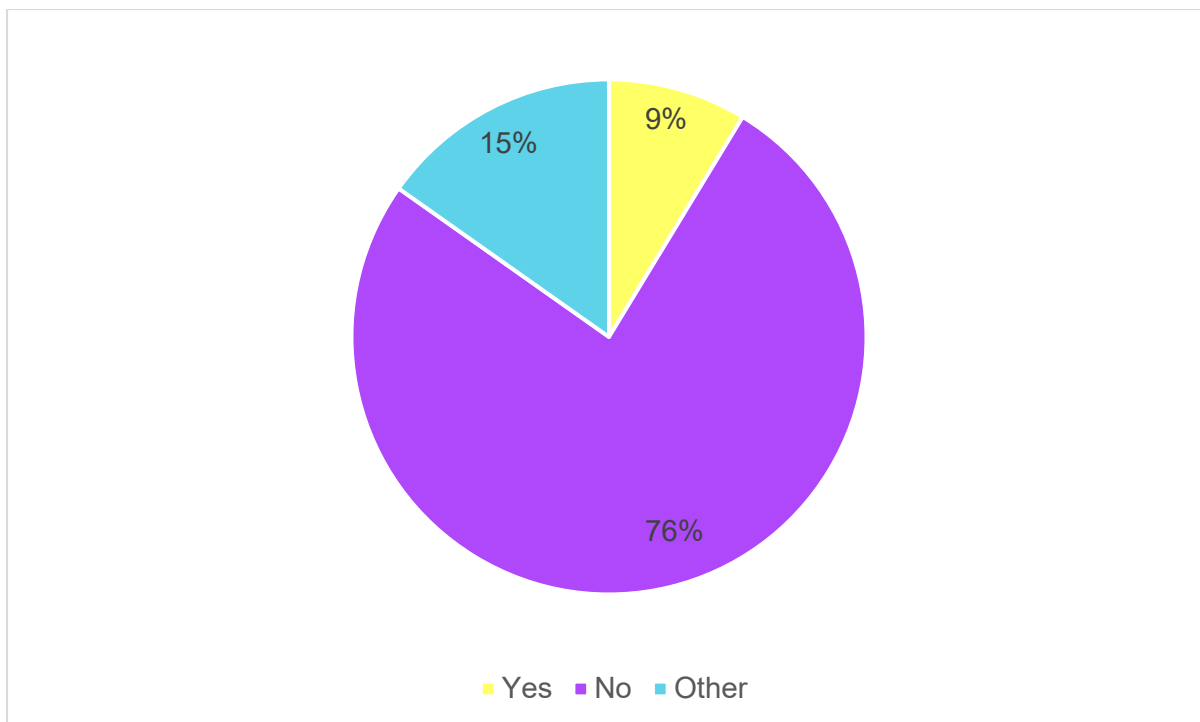
## Chapter 5

### Consultation Question 15

#### Consultation Question 15.

- 1.27 We invite consultees' views on whether the current formality rules dissuade people from making wills.





	Yes	No	Other	TOTAL
<b>Number of consultees</b>	8	70	14	92

#### Consultation Question 16

##### **Consultation Question 16.**

1.28 We invite consultees' views on what they see as being the main barriers to people making wills.

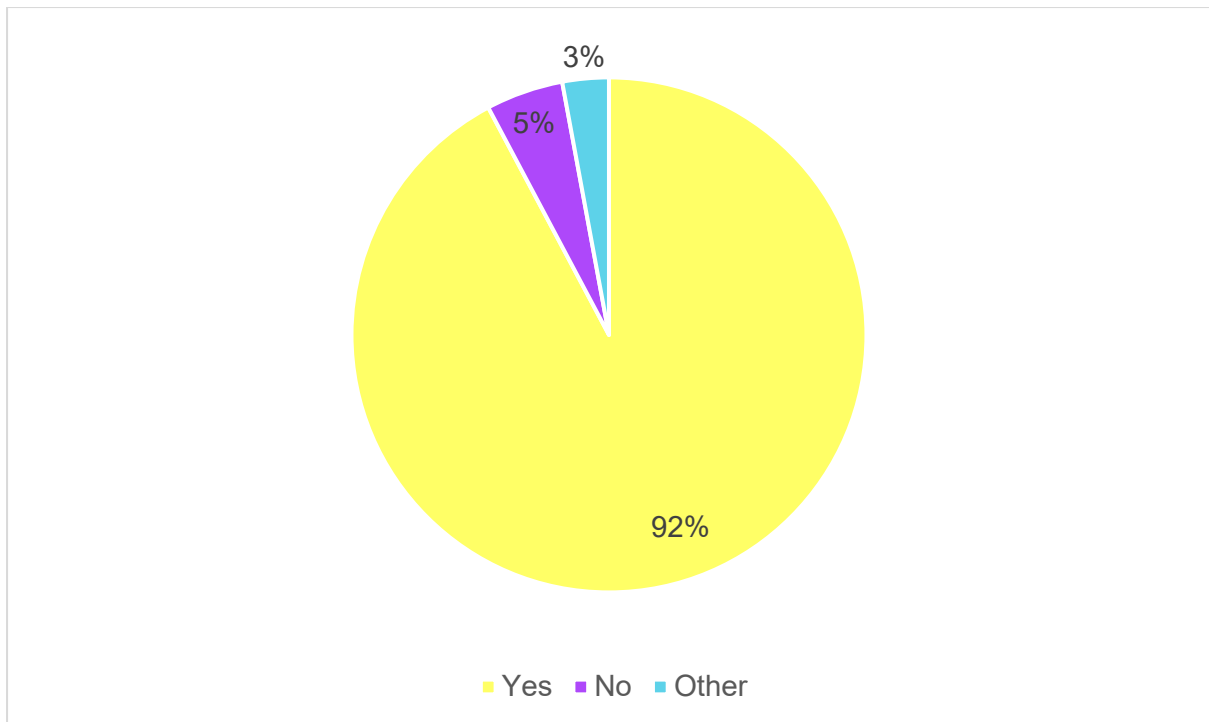
1.29 87 consultees responded to this question.

#### Consultation Question 17

##### **Consultation Question 17.**

1.30 We provisionally propose that a person who signs a will on behalf of the testator should not be able to be a beneficiary under the will.

Do consultees agree?



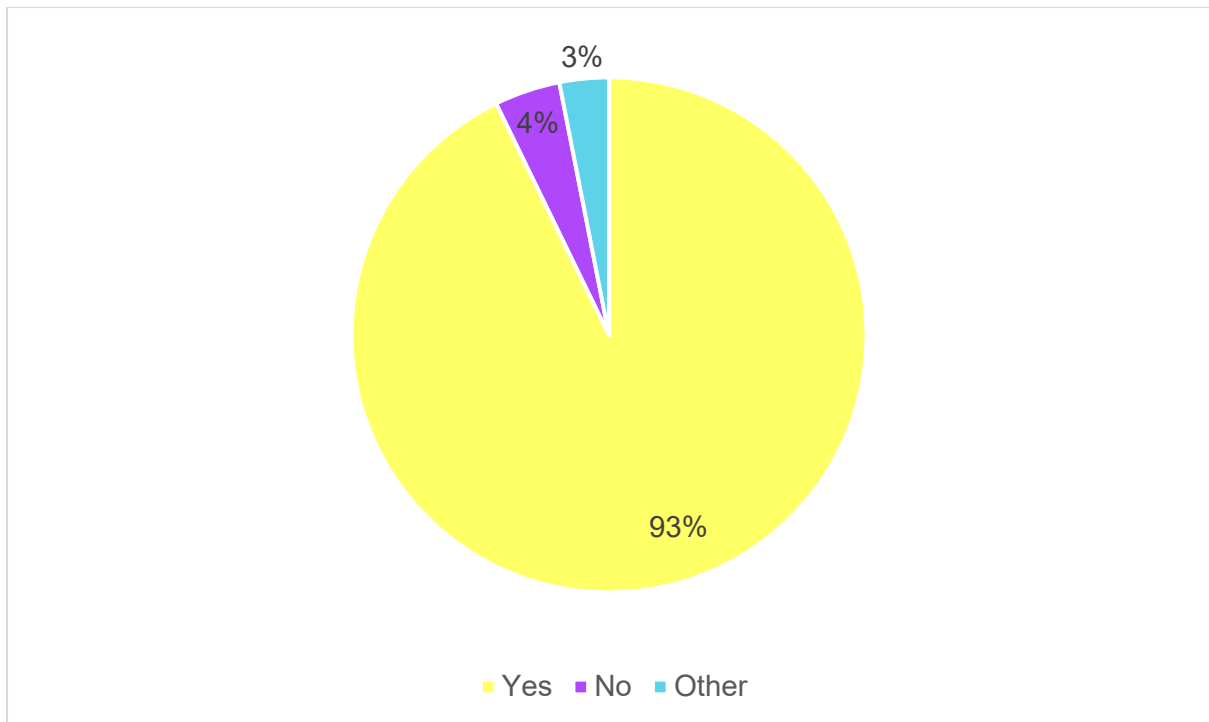
	Yes	No	Other	TOTAL
<b>Number of consultees</b>	95	5	3	103

#### Consultation Question 18

##### **Consultation Question 18.**

- 1.31 We provisionally propose that a gift made in a will to the spouse or civil partner of a person who signs a will on behalf of the testator, should be void, but the will should otherwise remain valid.

Do consultees agree?



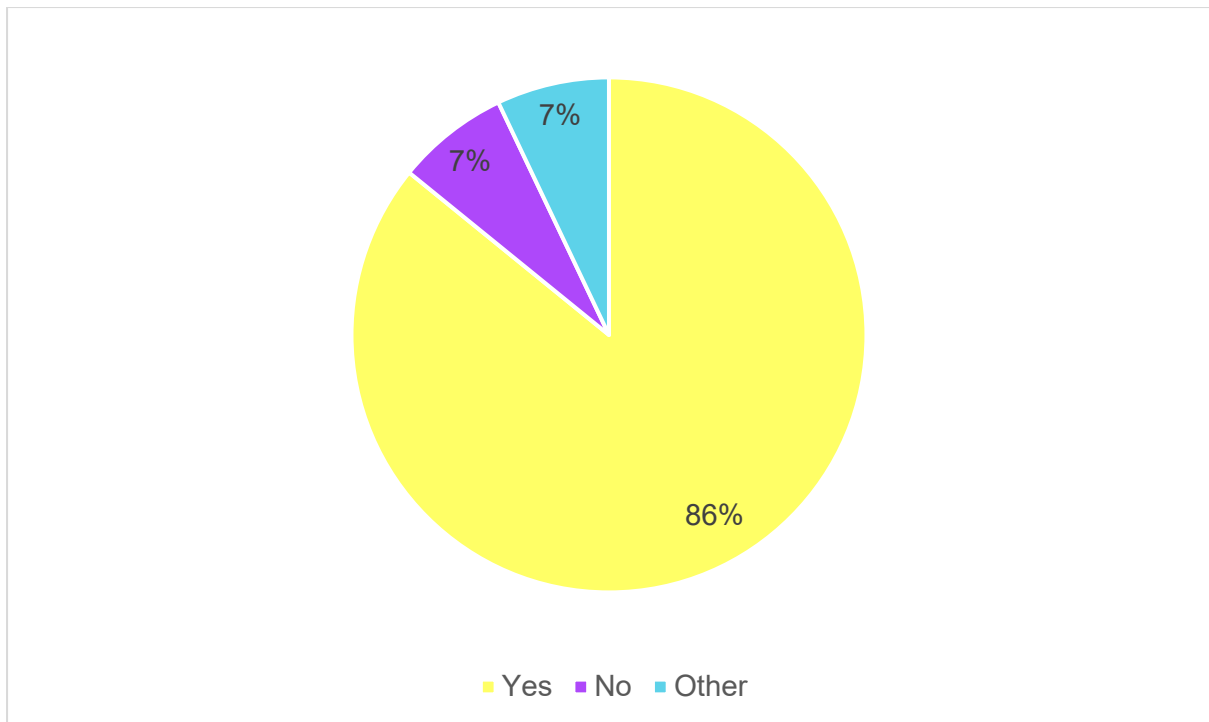
	Yes	No	Other	TOTAL
Number of consultees	90	4	3	97

#### Consultation Question 19

##### Consultation Question 19.

1.32 We provisionally propose that if the law is changed so that a gift to the cohabitee (or other family member) of a witness is void, then a gift to the cohabitee of a person who signs the will on behalf of the testator should be void.

Do consultees agree?



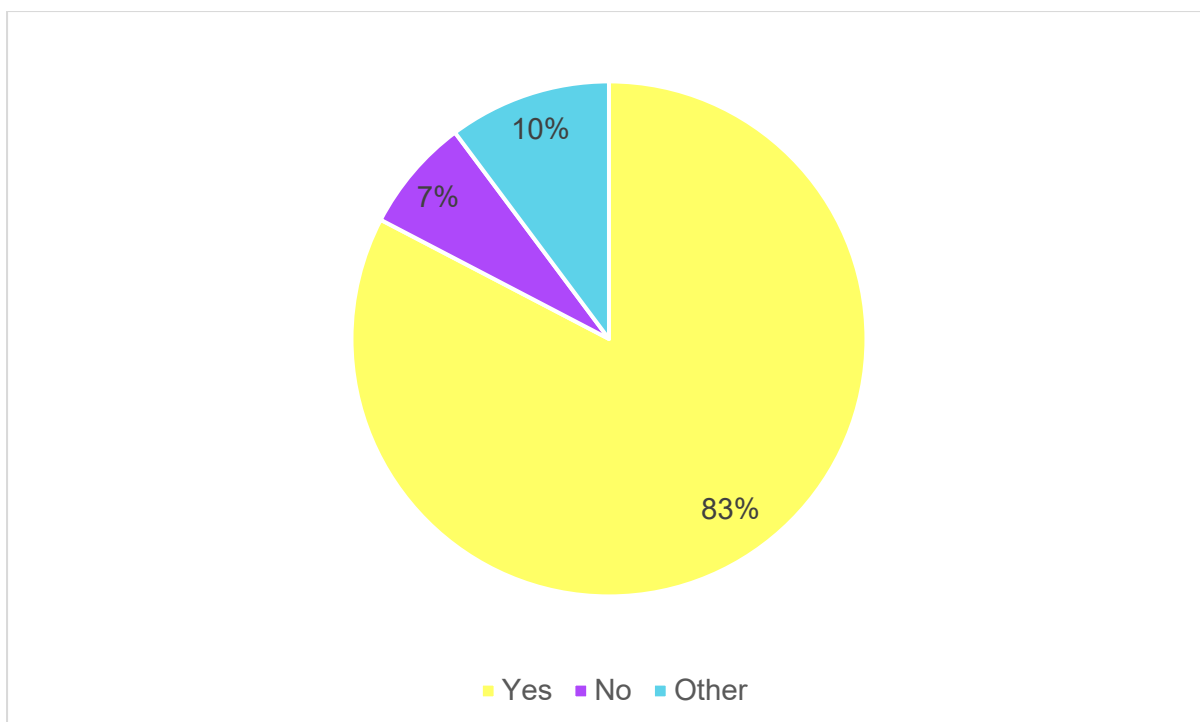
	Yes	No	Other	TOTAL
Number of consultees	85	7	7	99

#### Consultation Question 20

##### **Consultation Question 20.**

1.33 We provisionally propose that a gift in a will to the cohabitant of a witness should be void.

Do consultees agree?

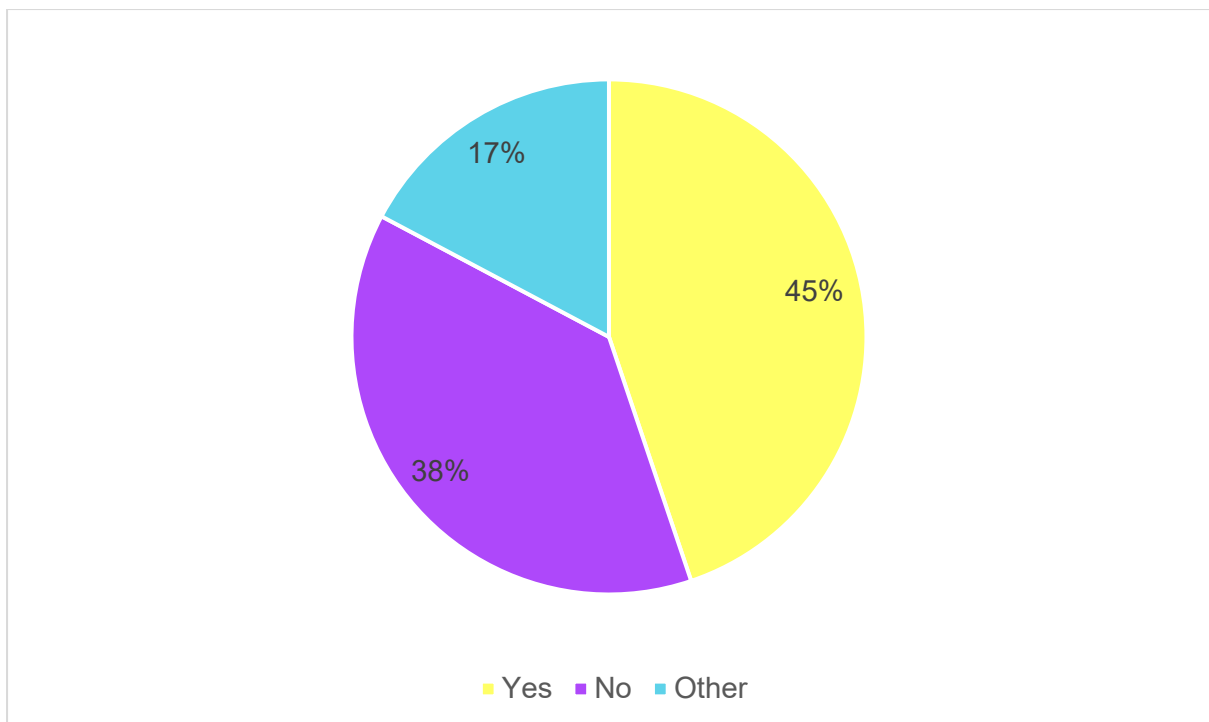


	Yes	No	Other	TOTAL
Number of consultees	81	7	10	98

#### Consultation Question 21

##### Consultation Question 21.

- 1.34 We invite consultees' views on whether gifts in a will to the parent or sibling of a witness, or to other family members of the witness should be void. If so, who should those other family members be?

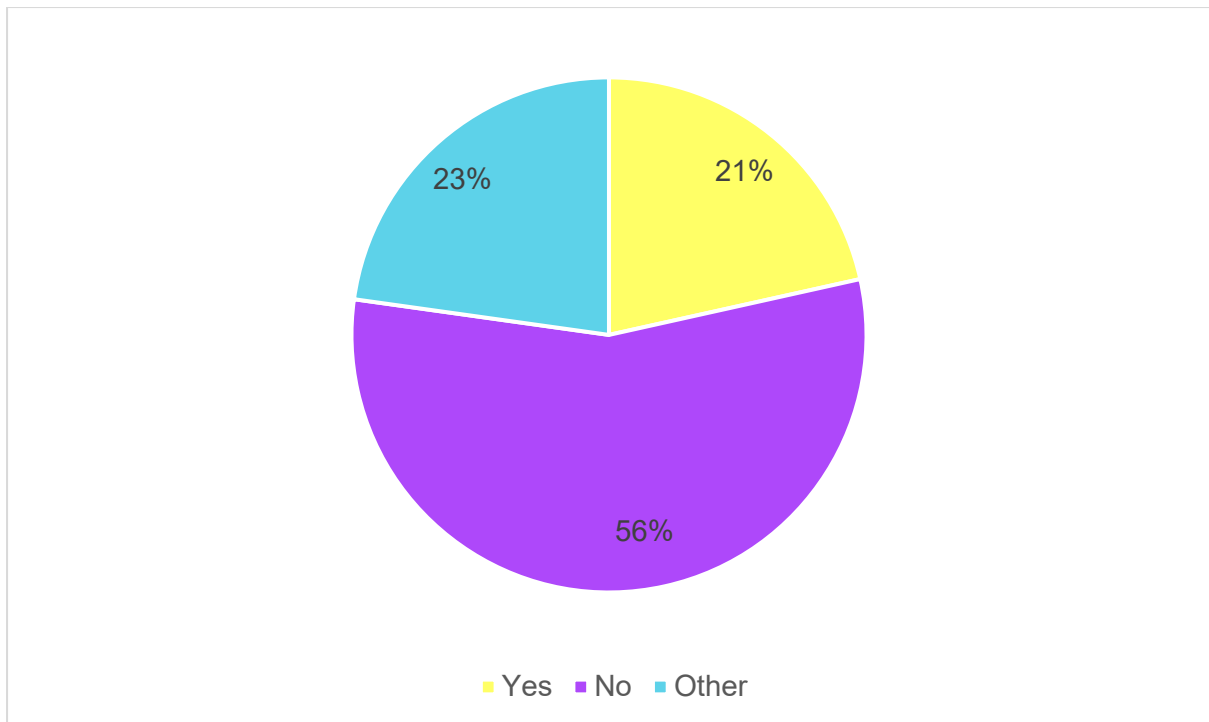


	Yes	No	Other	TOTAL
Number of consultees	39	33	15	87

#### Consultation Question 22

##### Consultation Question 22.

- 1.35 We invite for consultees' views on whether it should be possible, in defined circumstances, to save a gift to a witness that would otherwise be void.



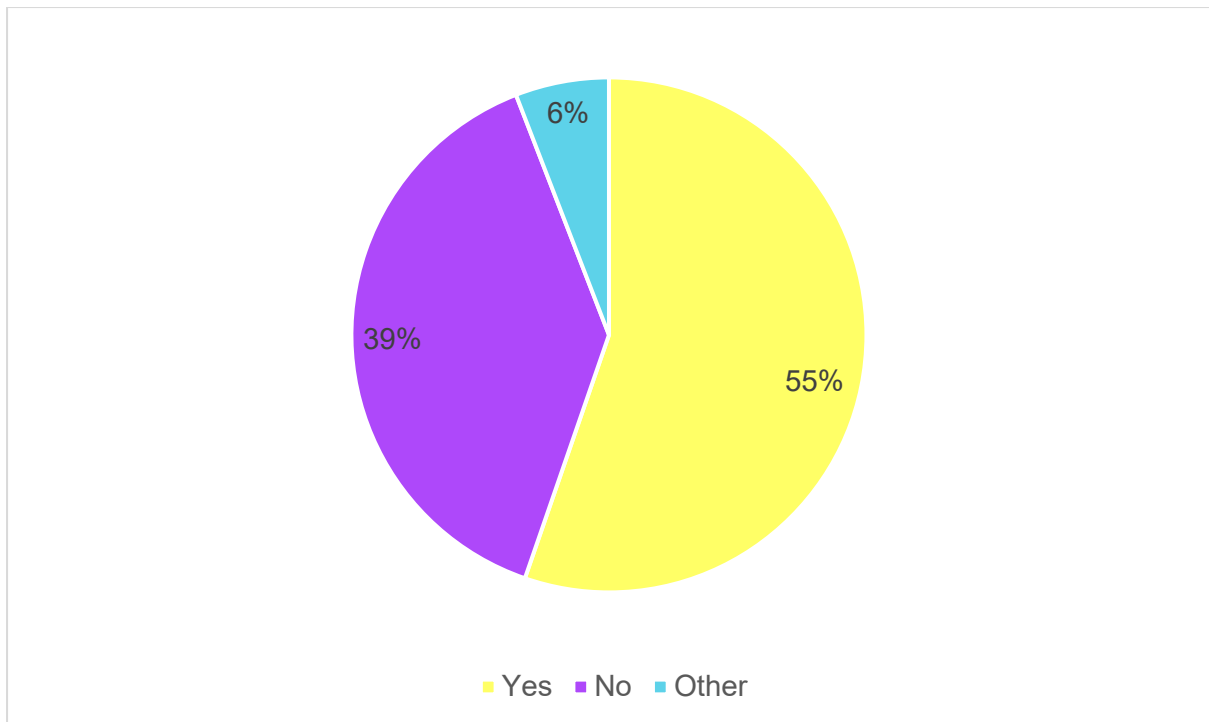
	Yes	No	Other	TOTAL
Number of consultees	17	44	18	79

#### Consultation Question 23

##### Consultation Question 23.

1.36 We provisionally propose that the reference to attestation in section 9(d)(i) of Wills Act 1837 be removed.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	47	33	5	86

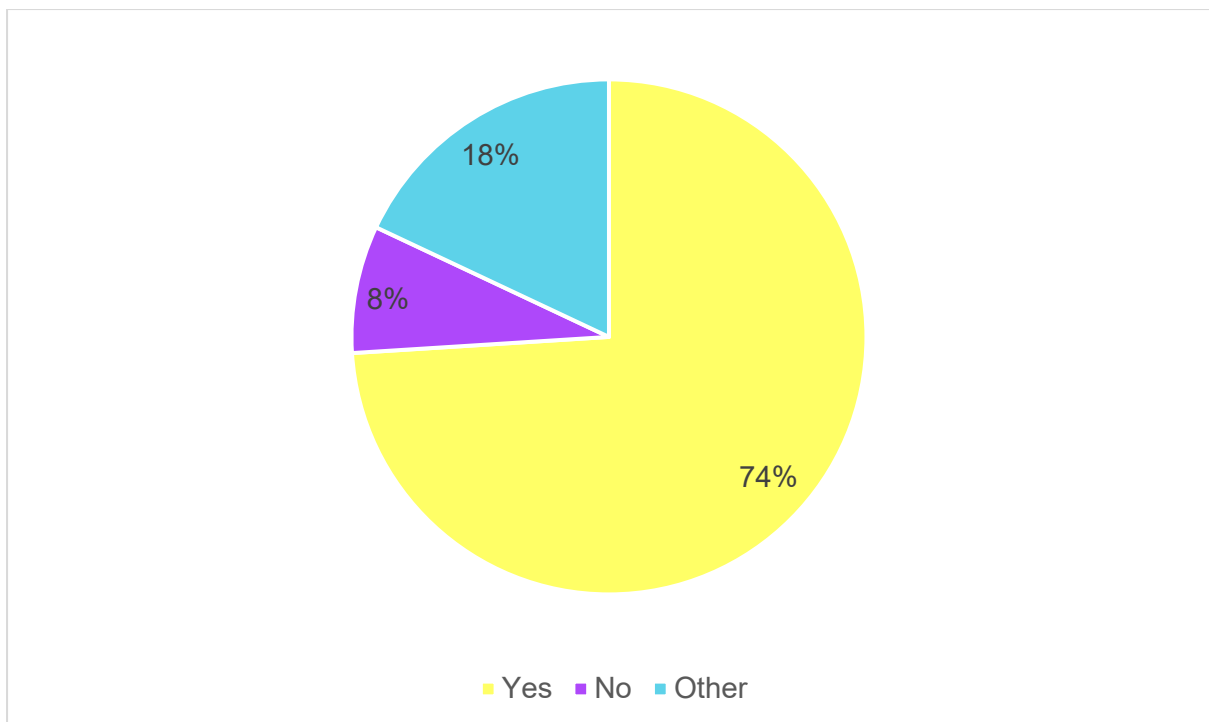
#### Consultation Question 24

##### Consultation Question 24.

1.37 If consultees do not agree that the attestation requirement should be removed, we invite their views as to whether attestation should:

- (1) be defined to mean that the witness must sign the will and intend that his or her signature serve as clear evidence of the authenticity of the testator's signature; and
- (2) apply in all cases, including those where the witness acknowledges his or her signature in the testator's presence.





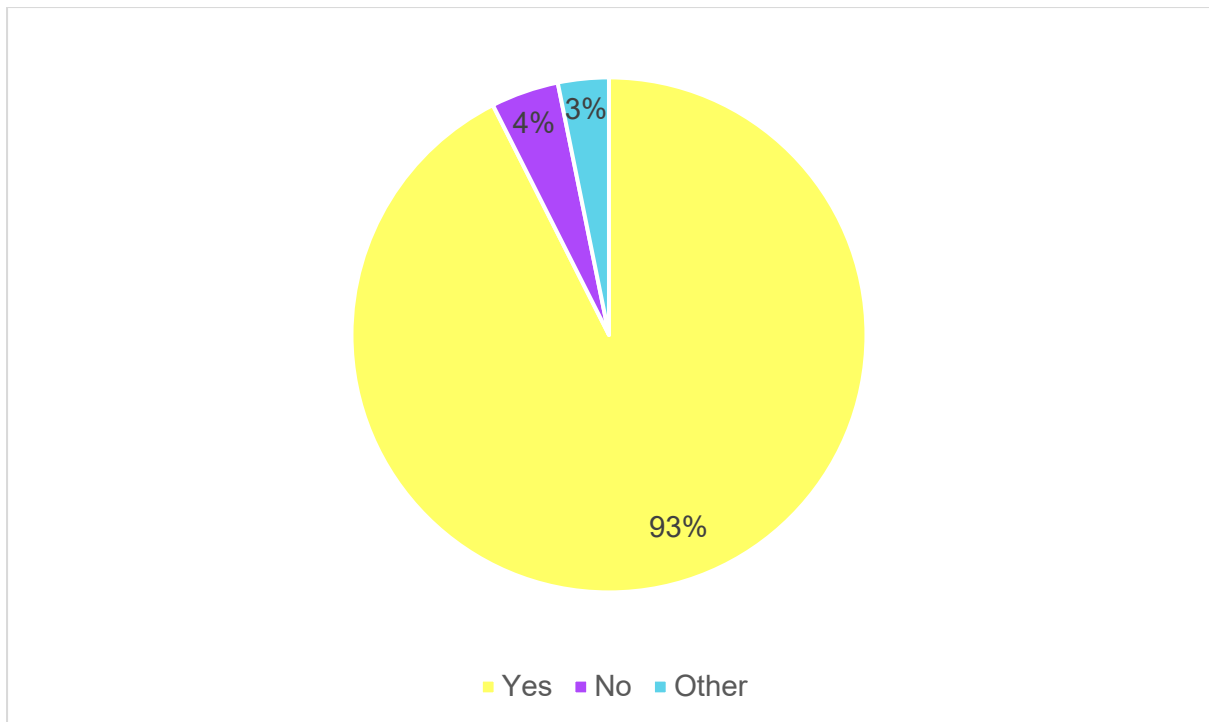
	Yes	No	Other	TOTAL
Number of consultees	37	4	9	50

#### Consultation Question 25

##### **Consultation Question 25.**

1.38 We provisionally propose that holograph wills are not recognised as a particular class of will in England and Wales.

Do consultees agree?



	Yes	No	Other	TOTAL
<b>Number of consultees</b>	87	4	3	94

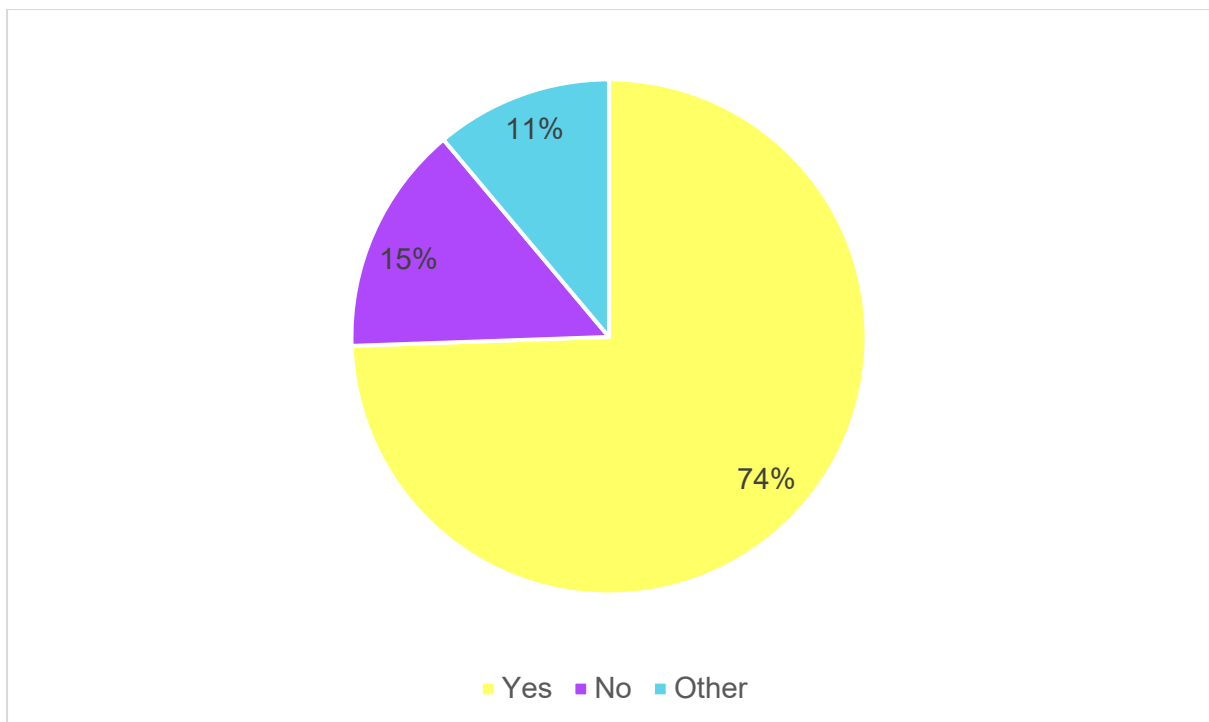
#### Consultation Question 26

##### **Consultation Question 26.**

1.39 We provisionally propose that provision for privileged wills should be retained, but should be confined in its scope to:

- (1) those serving in the British armed forces; and
- (2) civilians who are subject to service discipline within schedule 15 of the Armed Forces Act 2006.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	67	13	10	90

#### Consultation Question 27

##### Consultation Question 27.

1.40 We invite consultees to provide us with evidence of how common it is for a will to be invalid for non-compliance with formality requirements.

1.41 77 consultees responded to this question.

## Consultation Question 28

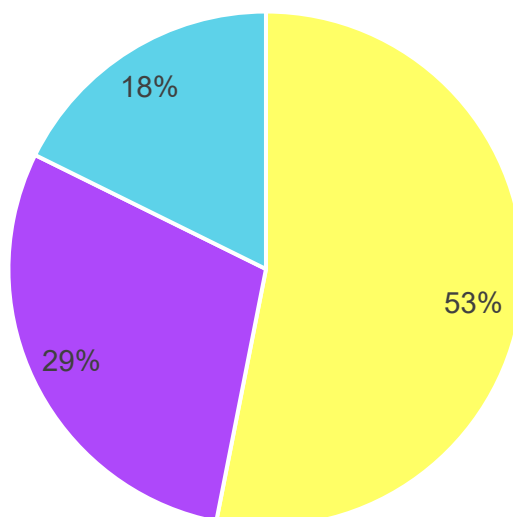
### Consultation Question 28.

1.42 We provisionally propose that a power to dispense with the formalities necessary for a valid will be introduced in England and Wales.

1.43 We provisionally propose a power that would:

- (1) be exercised by the court;
- (2) apply to records demonstrating testamentary intention (including electronic documents, as well as sound and video recordings);
- (3) operate according to the ordinary civil standard of proof;
- (4) apply to records pre-dating the enactment of the power; and
- (5) allow courts to determine conclusively the date and place at which a record was made.

Do consultees agree?



■ Yes ■ No ■ Other

	Yes	No	Other	TOTAL
<b>Number of consultees</b>	60	33	20	113

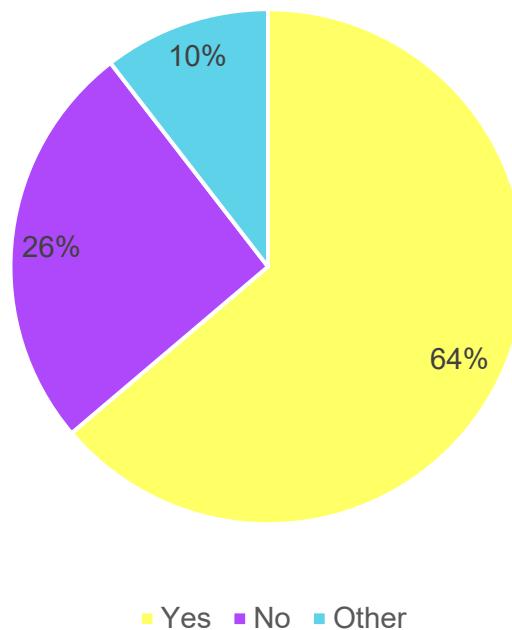
#### Consultation Question 29

##### Consultation Question 29.

1.44 We provisionally propose that reform is not required:

- (1) of current systems for the voluntary registration or depositing of wills; or
- (2) to introduce a compulsory system of will registration.

Do consultees agree?



	Yes	No	Other	TOTAL
<b>Number of consultees</b>	67	27	11	105

## Chapter 6

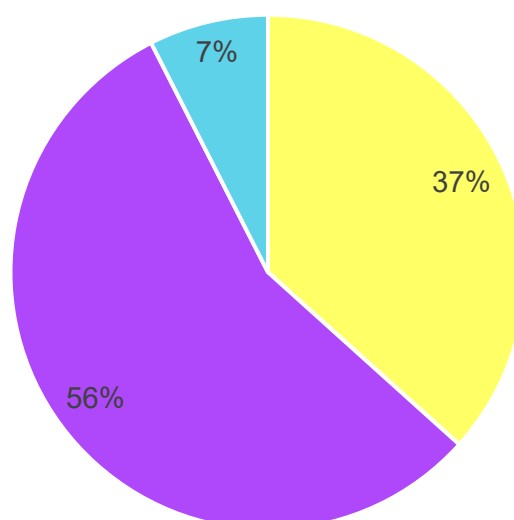
### Consultation Question 30

#### Consultation Question 30.

1.45 We provisionally propose that:

- (1) an enabling power should be introduced that will allow electronically executed wills or fully electronic wills to be recognised as valid, to be enacted through secondary legislation;
- (2) the enabling power should be neutral as to the form that electronically executed or fully electronic wills should take, allowing this to be decided at the time of the enactment of the secondary legislation; and
- (3) such an enabling power should be exercised when a form of electronically executed will or fully electronic will, as the case may be, is available which provides sufficient protection for testators against the risks of fraud and undue influence.

Do consultees agree?



■ Yes ■ No ■ Other

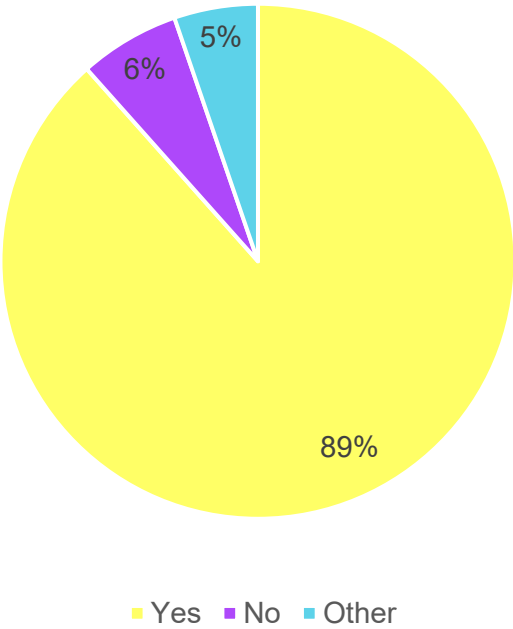
	Yes	No	Other	TOTAL
Number of consultees	44	67	9	120

Consultation Question 31

**Consultation Question 31.**

1.46 We provisionally propose that electronic signatures should not be capable of fulfilling the ordinary formal requirement of signing a will that applies to both testators and witnesses (currently contained in section 9 of the Wills Act 1837).

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	84	6	5	95

## Consultation Question 32

### **Consultation Question 32.**

- 1.47 We ask consultees to provide us with their comments on, or evidence about:
- (1) the extent of the demand for electronic wills; and
  - (2) the security and infrastructure requirements necessary for using electronic signatures in the will-making context.

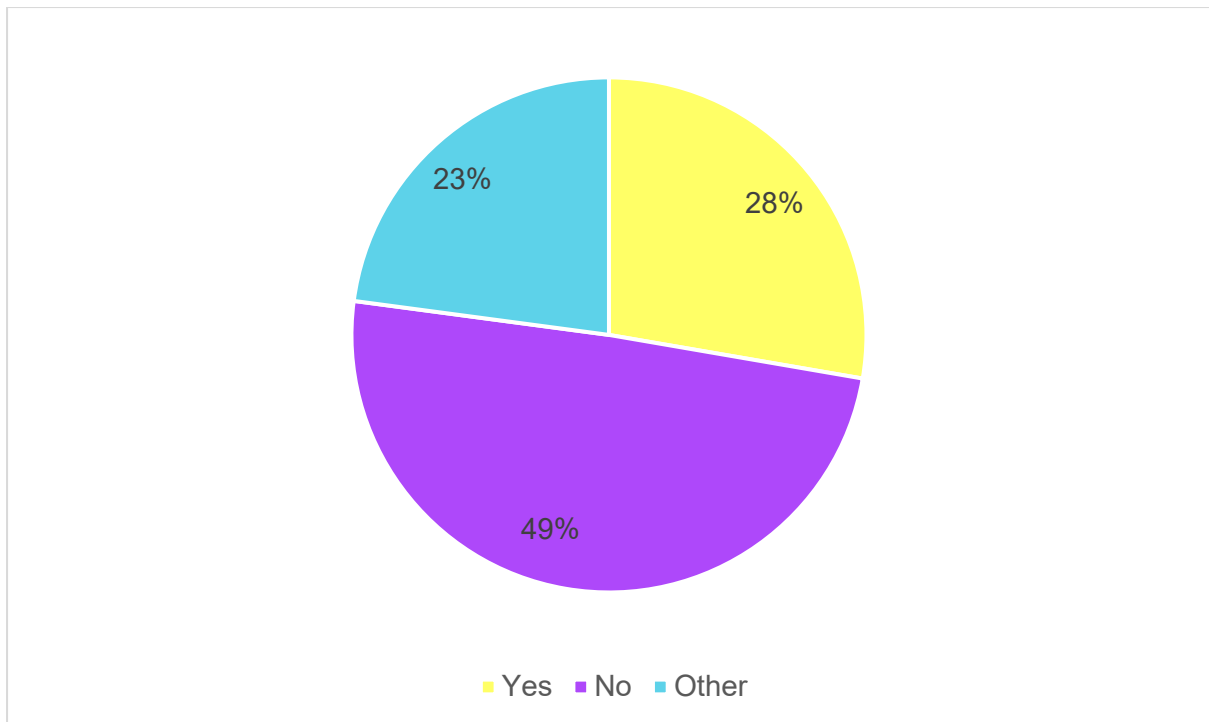
1.48 85 consultees responded to this question.

## Consultation Question 33

### **Consultation Question 33.**

- 1.49 If electronic wills are introduced, it is unlikely that the requirement that there be a single original will would apply to electronic wills. Consequently, it may be difficult or impossible for testators who make wills electronically to revoke their wills by destruction.
- (1) Do consultees think that a testator's losing the ability to revoke a will by destruction is an acceptable consequence of introducing electronic wills?
  - (2) Are consultees aware of other serious consequences that would stem from there not being a single original copy of a will made electronically?



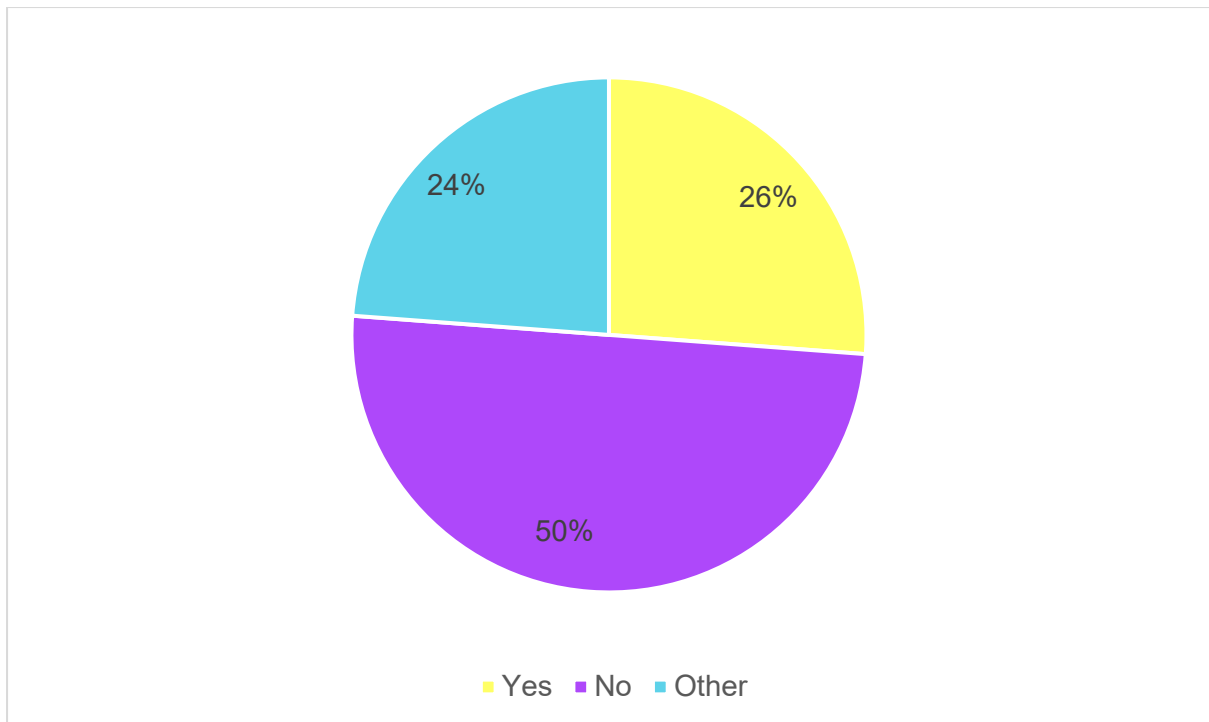


	Yes	No	Other	TOTAL
Number of consultees	23	41	19	83

#### Consultation Question 34

##### **Consultation Question 34.**

1.50 We invite consultees' views as to whether an enabling power that provides for the introduction of fully electronic wills should include provision for video wills.



	Yes	No	Other	TOTAL
Number of consultees	22	42	20	84

## Chapter 7

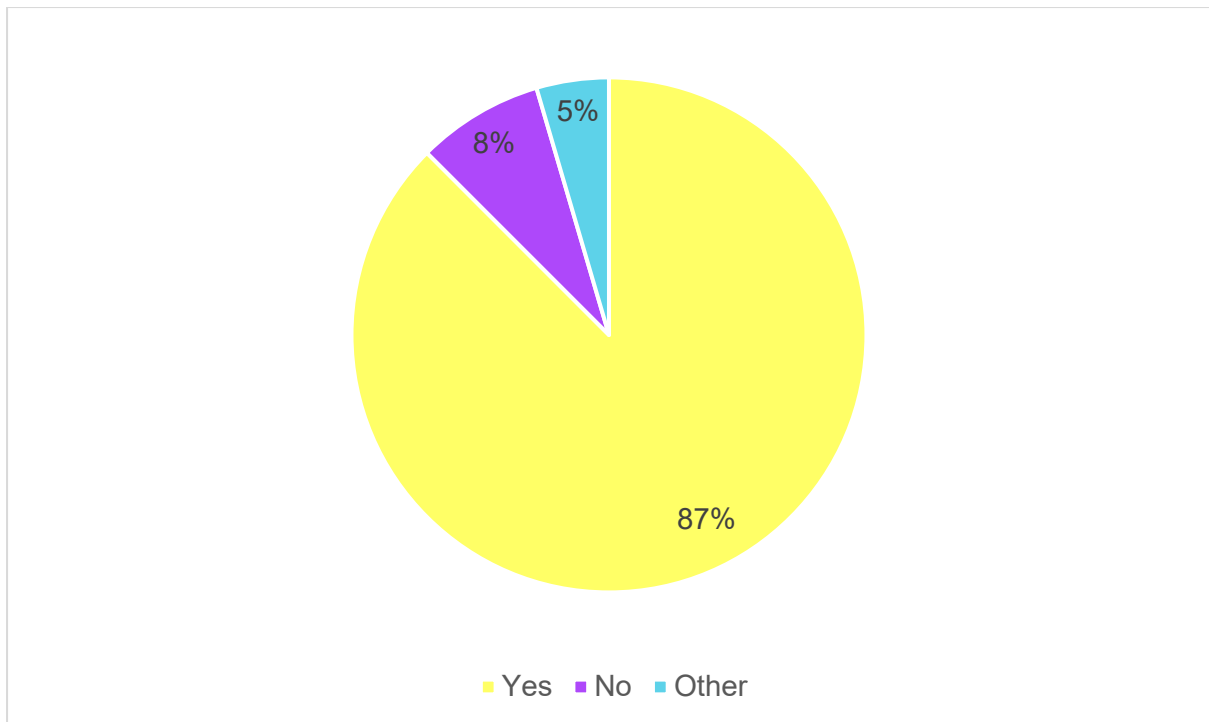
### Consultation Question 35

#### Consultation Question 35.

1.51 There is currently a rule relating to knowledge and approval that mirrors the rule in *Parker v Felgate*, which relates to capacity. The rule allows, by way of exception, that the proponent of a will may demonstrate that the testator knew and approved the contents of his or her will at the time when he or she instructed a professional to write the will, rather than the time at which the will was executed.

1.52 We provisionally propose to retain the rule.

Do consultees agree?



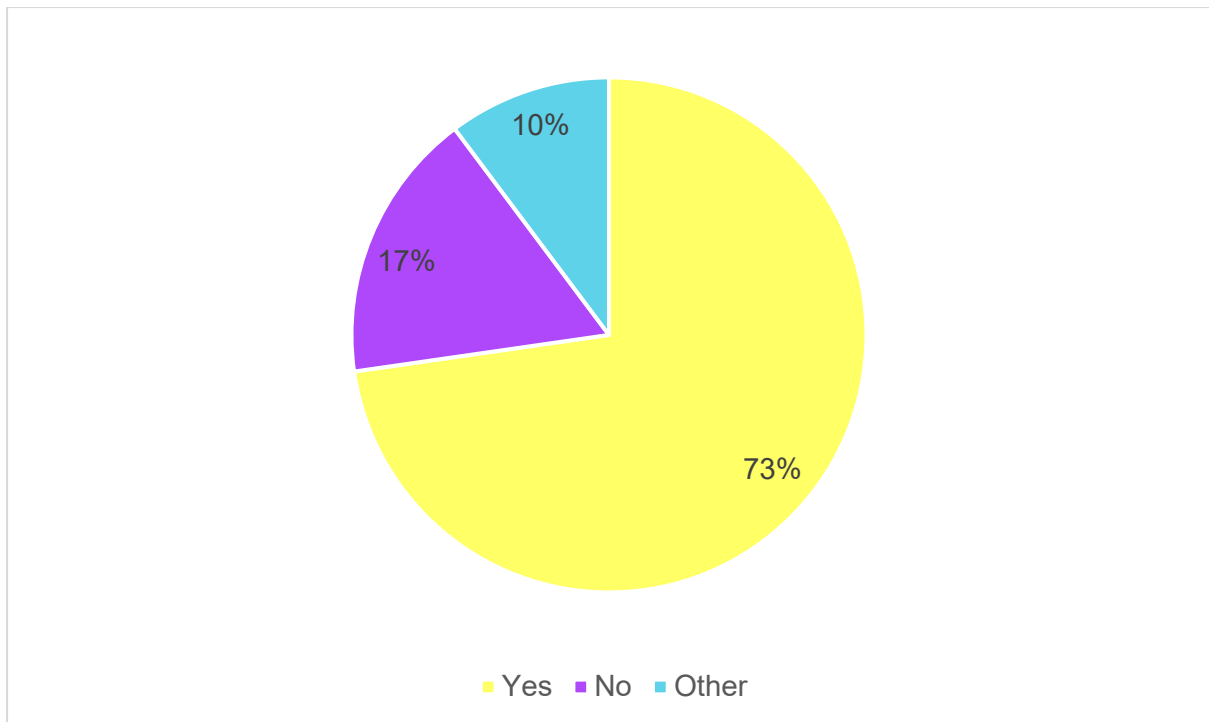
	Yes	No	Other	TOTAL
Number of consultees	77	7	4	88

#### Consultation Question 36

##### **Consultation Question 36.**

1.53 We provisionally propose that the general doctrine of undue influence should not be applied in the testamentary context.

Do consultees agree?



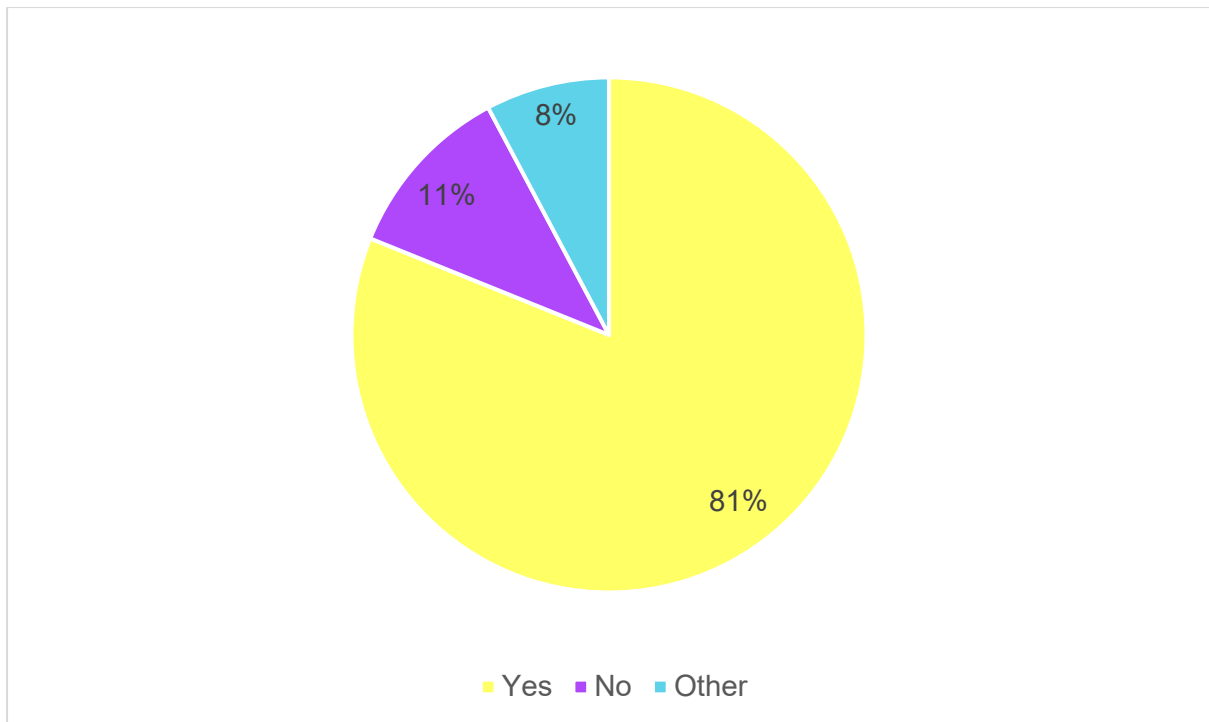
	Yes	No	Other	TOTAL
Number of consultees	64	15	9	88

#### Consultation Question 37

##### **Consultation Question 37.**

1.54 We provisionally propose the creation of a statutory doctrine of testamentary undue influence.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	73	10	7	91

#### Consultation Question 38

##### **Consultation Question 38.**

1.55 We invite consultees' views on:

- (1) whether a statutory doctrine of testamentary undue influence, if adopted, should take the form of the structured or discretionary approach.
- (2) if a statutory doctrine were adopted whether a presumption of a relationship of influence would be raised in respect of testamentary gifts made by the testator to his or her spiritual advisor.

1.56 76 consultees responded to this question.

## Consultation Question 39

### Consultation Question 39.

- 1.57 We ask consultees to tell us whether they believe that any reform is required to the costs rules applicable to contentious probate proceedings as a result of our proposed reform to the law of undue influence, and knowledge and approval.

1.58 47 consultees responded to this question.

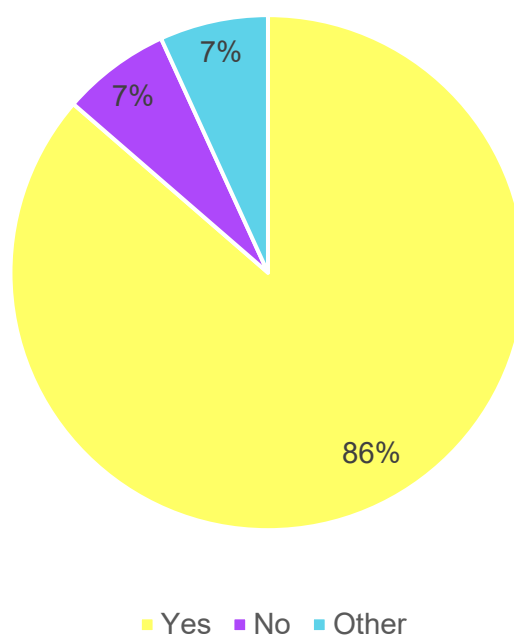
## Consultation Question 40

### Consultation Question 40.

- 1.59 We provisionally propose that the requirement of knowledge and approval should be confined to determining that the testator:

- (1) knows that he or she is making an will;
- (2) knows the terms of the will; and
- (3) intends those terms to be incorporated and given effect in the will.

Do consultees agree?



	Yes	No	Other	TOTAL
<b>Number of consultees</b>	76	6	6	88

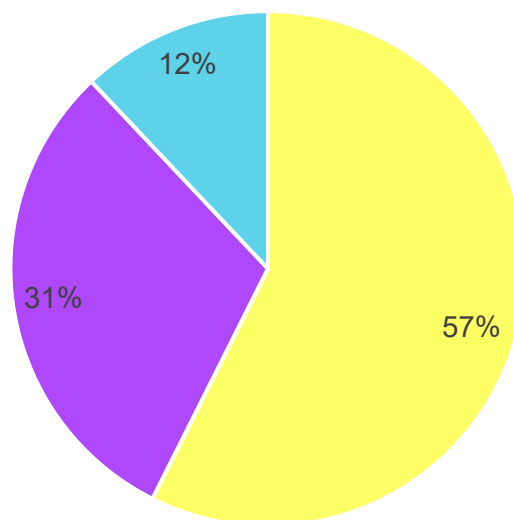
## Chapter 8

### Consultation Question 41

#### Consultation Question 41.

1.60 We provisionally propose that the age of testamentary capacity be reduced from 18 to 16 years.

Do consultees agree?



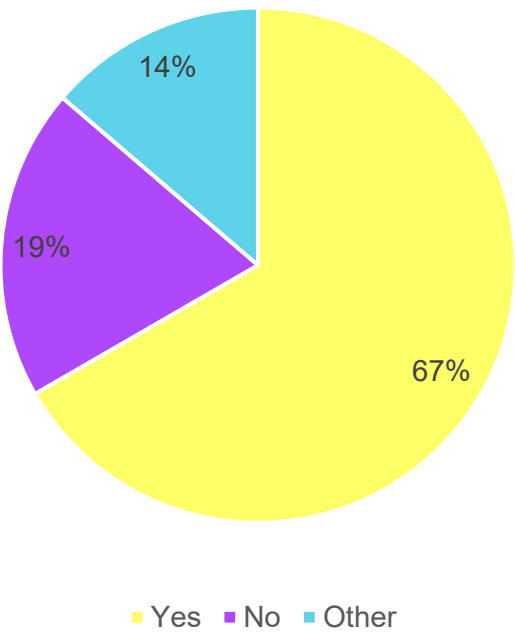
■ Yes ■ No ■ Other

	Yes	No	Other	TOTAL
<b>Number of consultees</b>	62	33	13	108

Consultation Question 42

**Consultation Question 42.**

- 1.61 Should the courts in England and Wales have the power to authorise underage testators to make wills?
- 1.62 If so, who should be allowed to determine an underage testator’s capacity at the time the will is executed?



	Yes	No	Other	TOTAL
Number of consultees	68	20	14	102



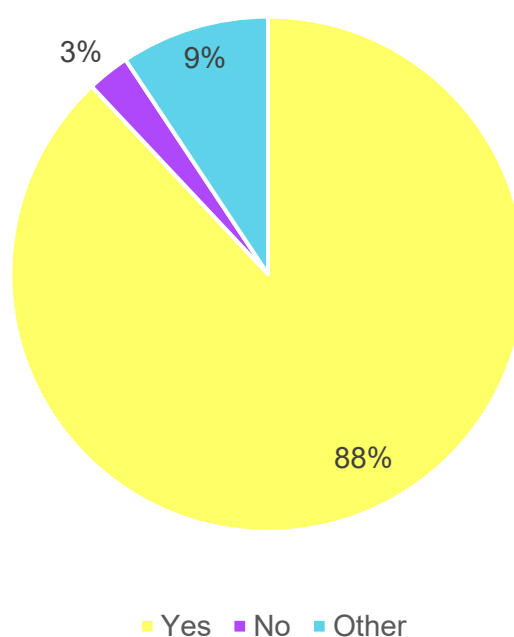
## Chapter 9

### Consultation Question 43

#### Consultation Question 43.

- 1.63 We provisionally propose that statute should not prescribe the order in which interpretation and rectification should be addressed by a court.

Do consultees agree?

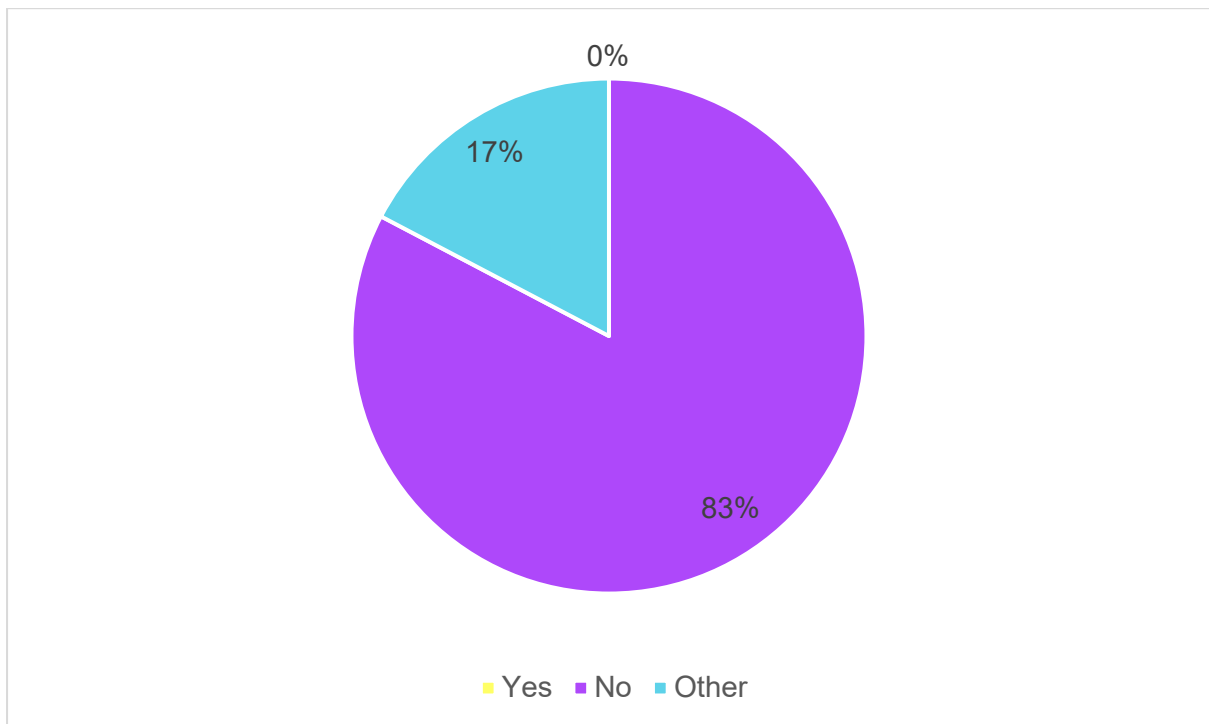


	Yes	No	Other	TOTAL
Number of consultees	66	2	7	75

### Consultation Question 44

#### Consultation Question 44.

- 1.64 Do consultees know of any cases in which the order of interpretation and rectification has caused problems in practice? If so, please explain the facts of the case and the nature of the problem.



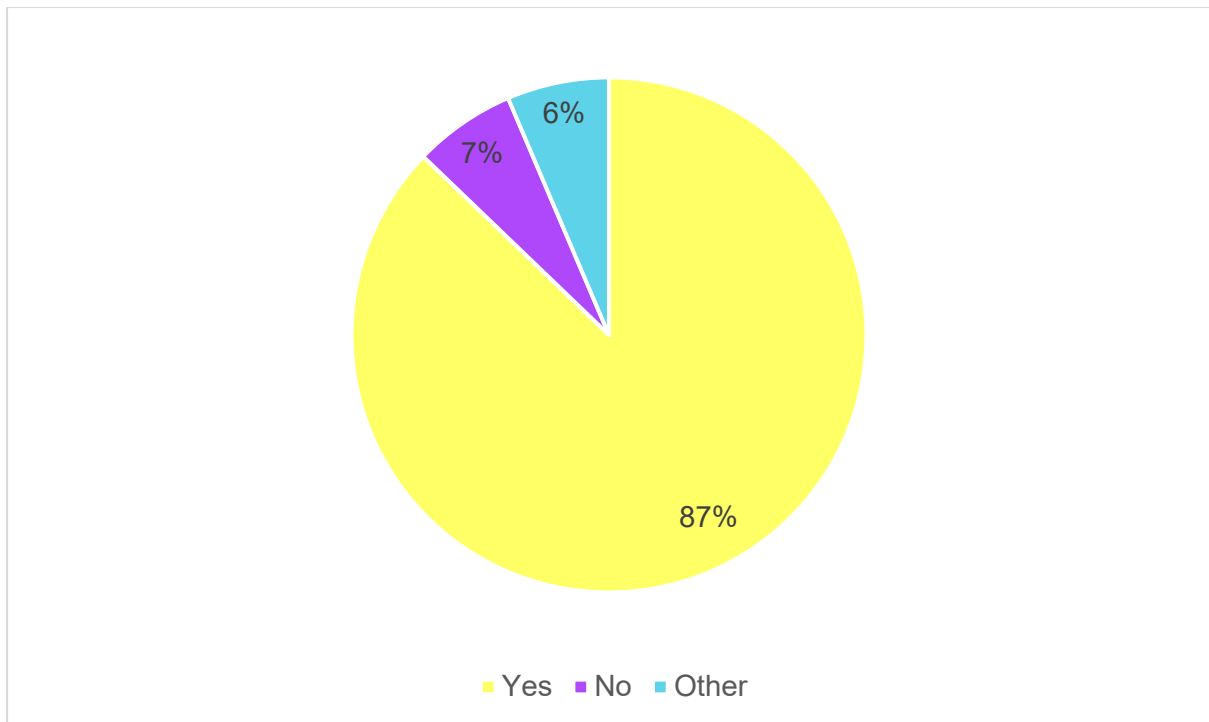
	Yes	No	Other	TOTAL
Number of consultees	0	43	9	52

#### Consultation Question 45

##### Consultation Question 45.

1.65 We provisionally propose to replace sections 23 to 29 of the Wills Act 1837, modernising and clarifying the language of those sections while retaining their substantive effect.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	68	5	5	78

#### Consultation Question 46

##### Consultation Question 46.

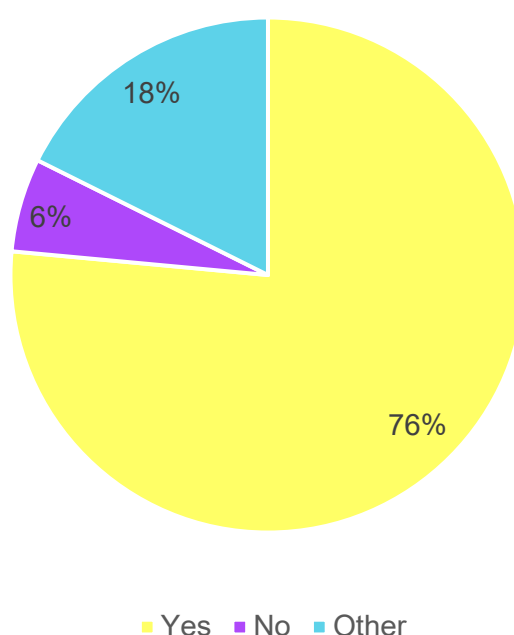
- 1.66 As regards sections 23 to 29 of the Wills Act 1837, we ask consultees whether in their view:
- (1) any of those provisions are obsolete;
  - (2) any of those provisions require substantive alteration; and
  - (3) if any provisions are obsolete or require substantive alteration, what changes are needed and why.

1.67 46 consultees responded to this question.

## Consultation Question 47

### Consultation Question 47.

- 1.68 We provisionally propose that section 30 of the Wills Act 1837 be repealed.
- 1.69 Do consultees agree? If not, please provide evidence of the practical use of section 30 of the Wills Act 1837.

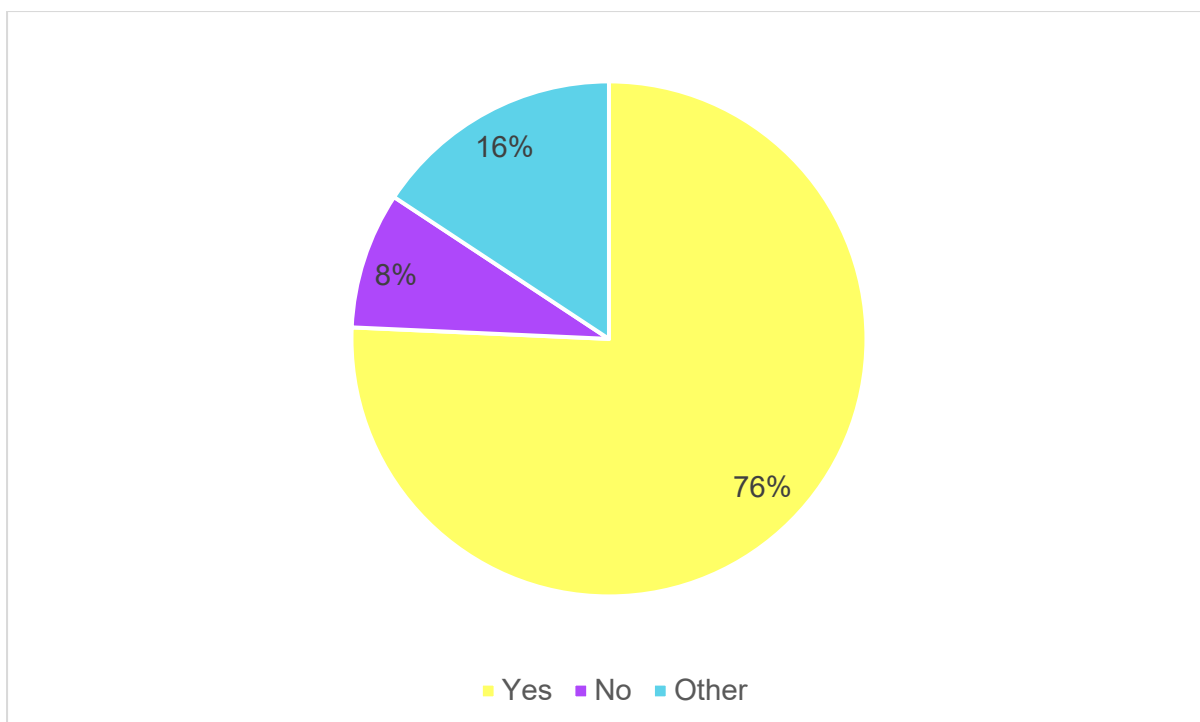


	Yes	No	Other	TOTAL
Number of consultees	52	4	12	68

## Consultation Question 48

### Consultation Question 48.

- 1.70 We provisionally propose that section 31 of the Wills Act 1837 be repealed.
- 1.71 Do consultees agree? If not, please provide evidence of the practical use of section 31 of the Wills Act 1837.

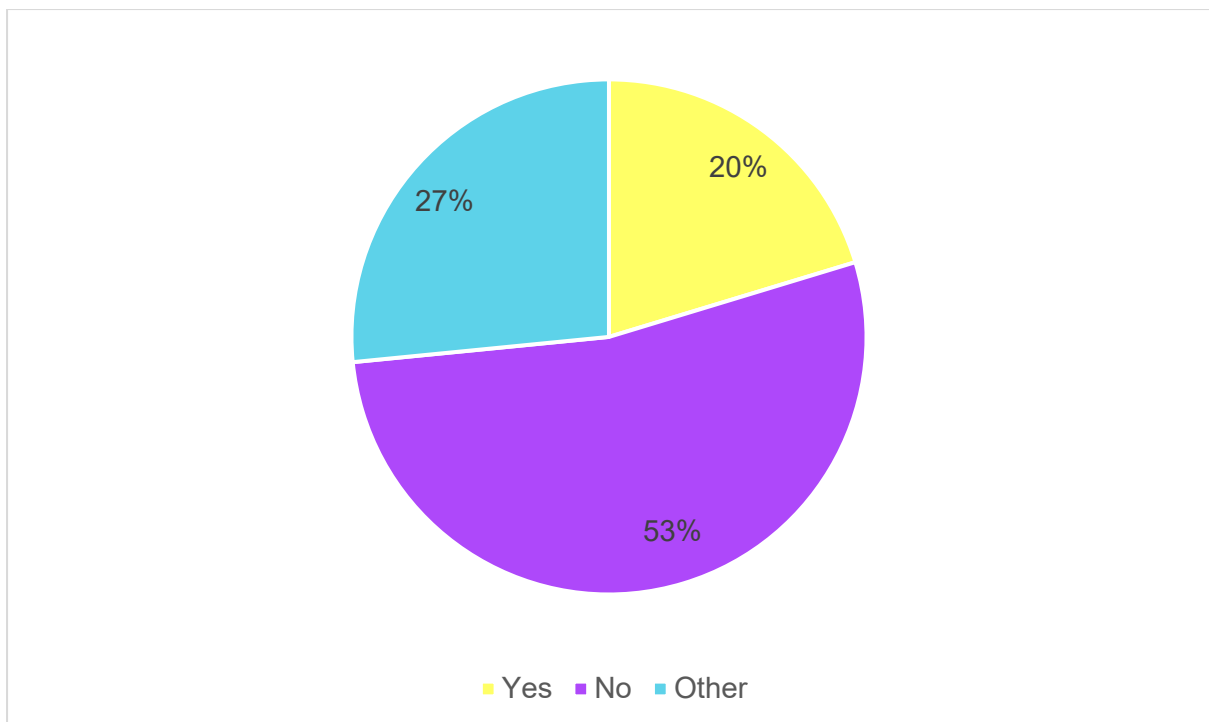


	Yes	No	Other	TOTAL
Number of consultees	53	6	11	70

#### Consultation Question 49

##### **Consultation Question 49.**

- 1.72 Do consultees think that there is a need for any new interpretative provisions in the law of wills?
- 1.73 If so, please state:
- (1) what problem the new provisions would address; and
  - (2) why that problem is inadequately addressed under the current law.
- 1.74 Please also give an example of a case in which the problem has arisen where possible.

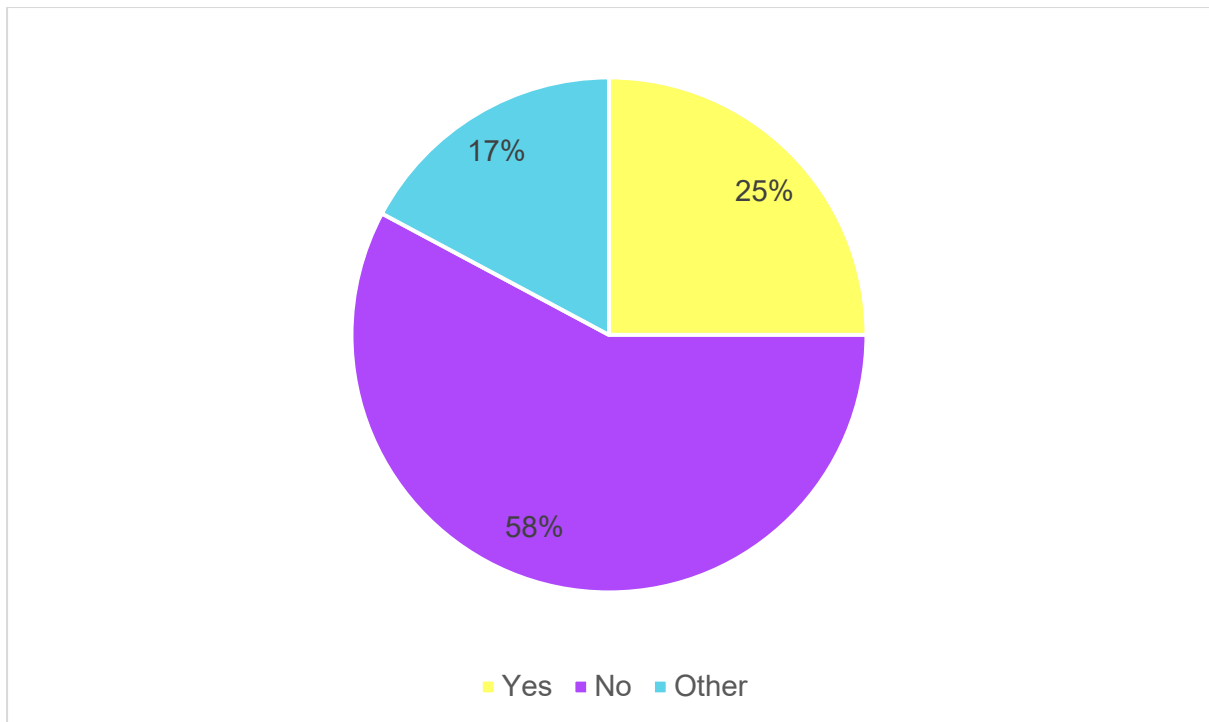


	Yes	No	Other	TOTAL
Number of consultees	13	34	17	64

#### Consultation Question 50

##### Consultation Question 50.

- 1.75 Do consultees think that the scope of rectification in the law of wills should be expanded?
- 1.76 If so, please state:
- (1) what problem the expanded doctrine of rectification would address; and
  - (2) why that problem is inadequately addressed under the current law.
- 1.77 Please also give an example of a case in which a problem has arisen where possible.



	Yes	No	Other	TOTAL
Number of consultees	16	37	11	64

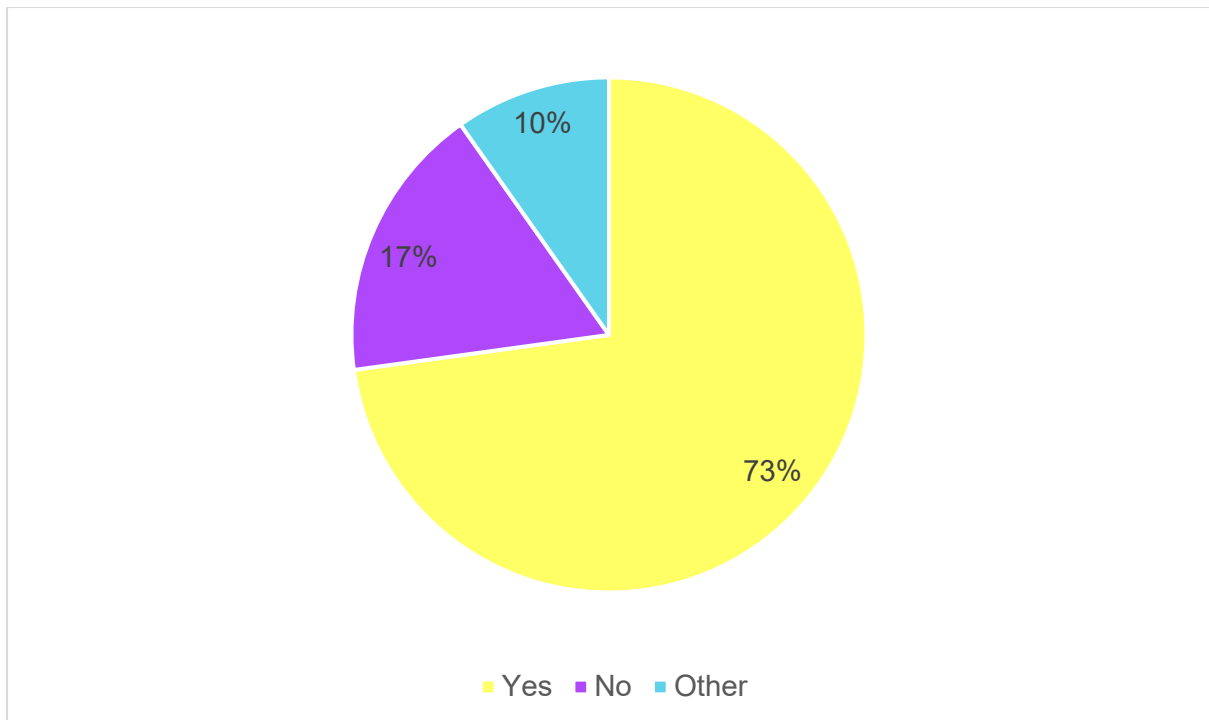
## Chapter 10

### Consultation Question 51

#### Consultation Question 51.

- 1.78 We provisionally propose that the Mental Capacity Act should be amended to provide that disposal of property by an attorney, where the donor lacks testamentary capacity, does not adeem a gift.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	67	16	9	92

#### Consultation Question 52

##### **Consultation Question 52.**

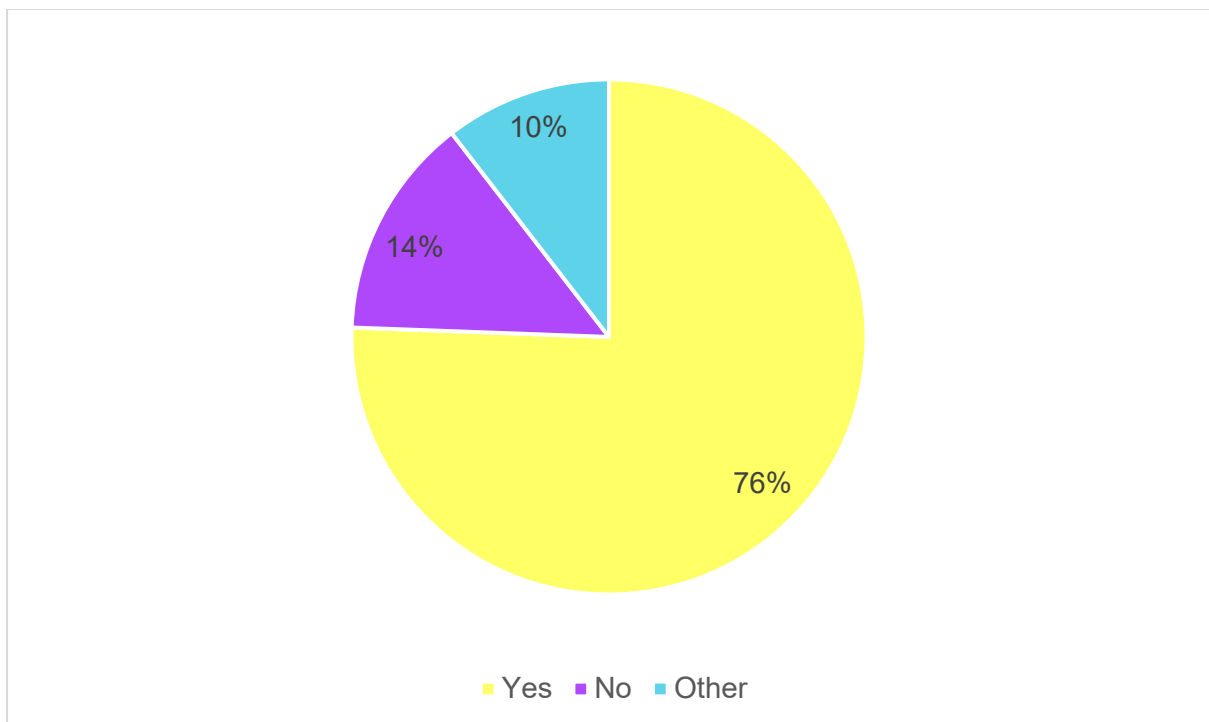
1.79 We provisionally propose that a specific gift should not adeem where, at the time of the testator's death, the subject matter of that gift:

- (1) has been sold but the transaction has not been completed; or
- (2) is the subject of an option to purchase.

1.80 In those circumstances, the beneficiary of the specific gift that would otherwise have adeemed will inherit the proceeds of the sale.

Do consultees agree?





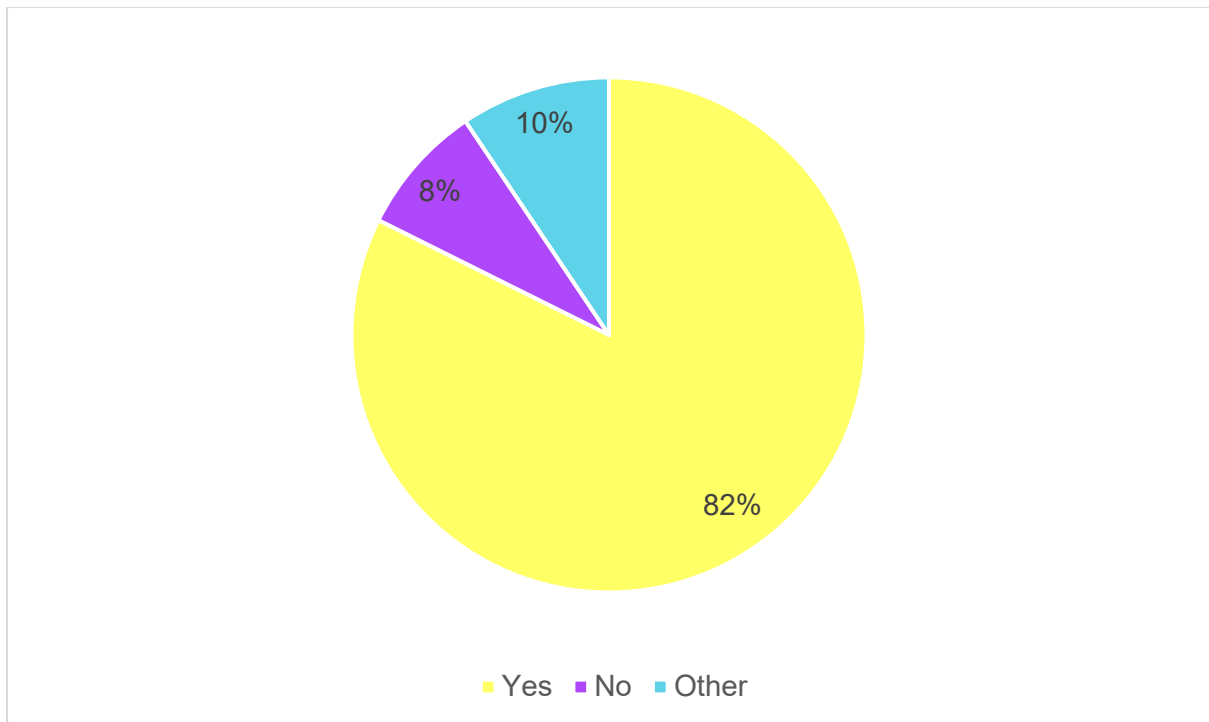
	Yes	No	Other	TOTAL
Number of consultees	65	12	9	86

#### Consultation Question 53

##### Consultation Question 53.

1.81 We provisionally propose that, except where a contrary intention appears from the will, a gift of shares will not be subject to ademption where the subject of the gift has changed form due to dealings of the company which the testator has not brought about.

Do consultees agree?



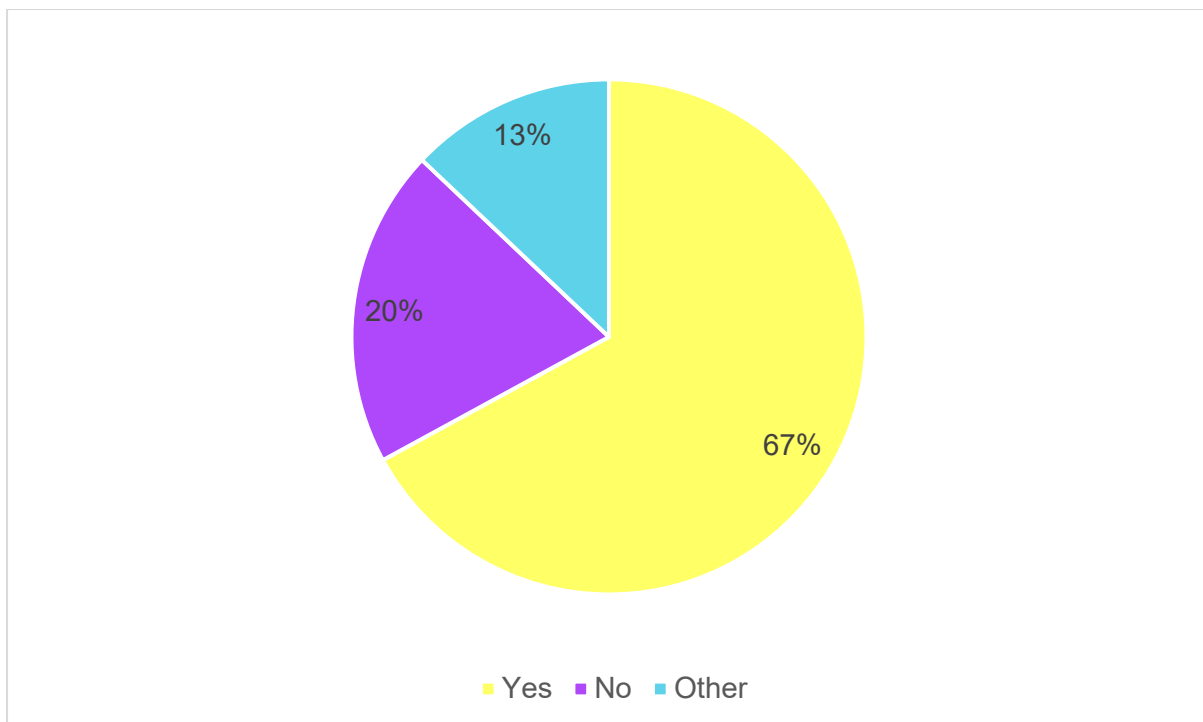
	Yes	No	Other	TOTAL
Number of consultees	70	7	8	85

#### Consultation Question 54

##### **Consultation Question 54.**

1.82 We provisionally propose that a beneficiary be entitled to the value of a specific gift that has been destroyed where the destruction of the property concerned and the testator's death occur simultaneously.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	57	17	11	85

#### Consultation Question 55

##### **Consultation Question 55.**

- 1.83 We invite consultees' views about whether there are further specific instances in which the effects of the doctrine of ademption should be mitigated.

- 1.84 31 consultees responded to this question.

#### Consultation Question 56

##### **Consultation Question 56.**

- 1.85 We ask consultees for their views on reform to create a general exception to ademption where the property that is the subject of a specific gift and would otherwise adeem is no longer in the testator's estate due to an event beyond the control of the testator.

- 1.86 58 consultees responded to this question.

## Consultation Question 57

### Consultation Question 57.

- 1.87 We ask consultees for their views on reform to create a general exception to ademption, so that the beneficiary of the gift receives any interest that the testator holds in the property that was the subject of the gift at the time of his or her death.

1.88 49 consultees responded to this question.

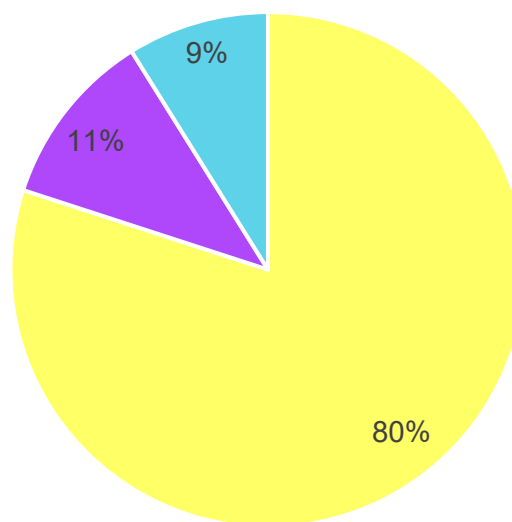
## Chapter 11

## Consultation Question 58

### Consultation Question 58.

- 1.89 We provisionally propose that no reform is required to the law governing the revocation of wills by will or codicil, writing or destruction.

Do consultees agree?



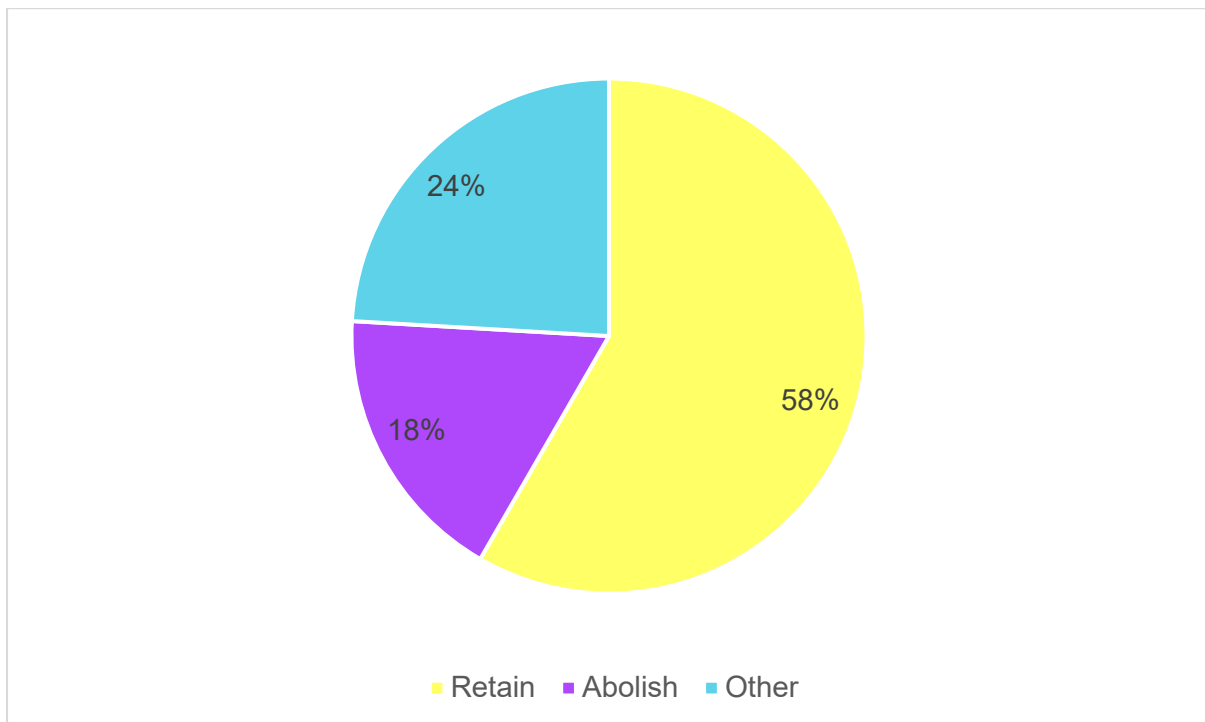
■ Yes ■ No ■ Other

	Yes	No	Other	TOTAL
<b>Number of consultees</b>	72	10	8	90

#### Consultation Question 59

##### Consultation Question 59.

- 1.90 We ask consultees to provide us with any evidence that they have on the level of public awareness of the general rule that marriage revokes a will.
- 1.91 Do consultees think that the rule that marriage automatically revokes a previous will should be abolished or retained?

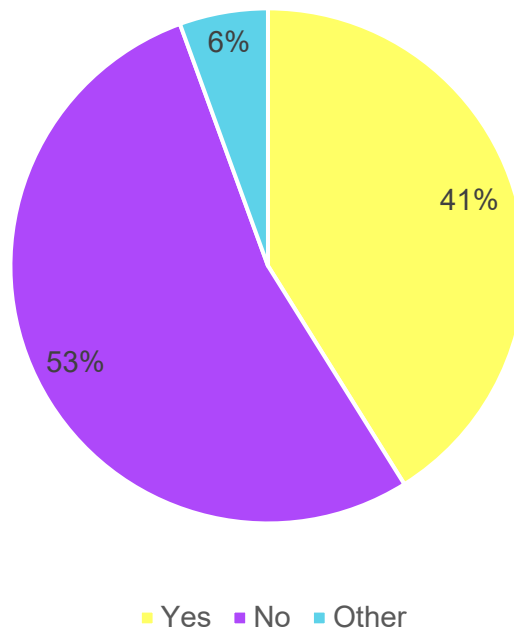


	Retain	Abolish	Other	TOTAL
<b>Number of consultees</b>	63	19	26	108

## Consultation Question 60

### Consultation Question 60.

- 1.92 Should testators be empowered to prescribe whether a will or particular dispositions in it should be revoked by a future (uncontemplated) marriage?



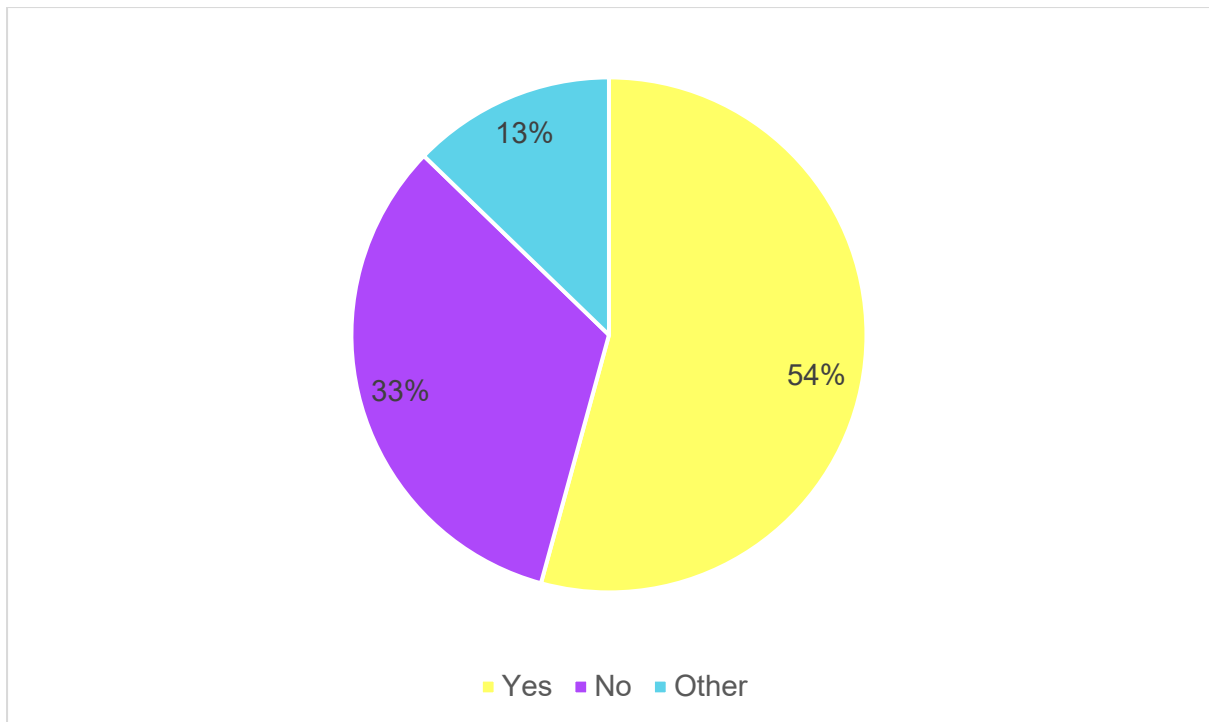
	Yes	No	Other	TOTAL
Number of consultees	37	48	5	90

## Consultation Question 61

### Consultation Question 61.

- 1.93 We provisionally propose that marriage entered into where the testator lacks testamentary capacity, and is unlikely to recover that capacity, will not revoke a will.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	51	31	12	94

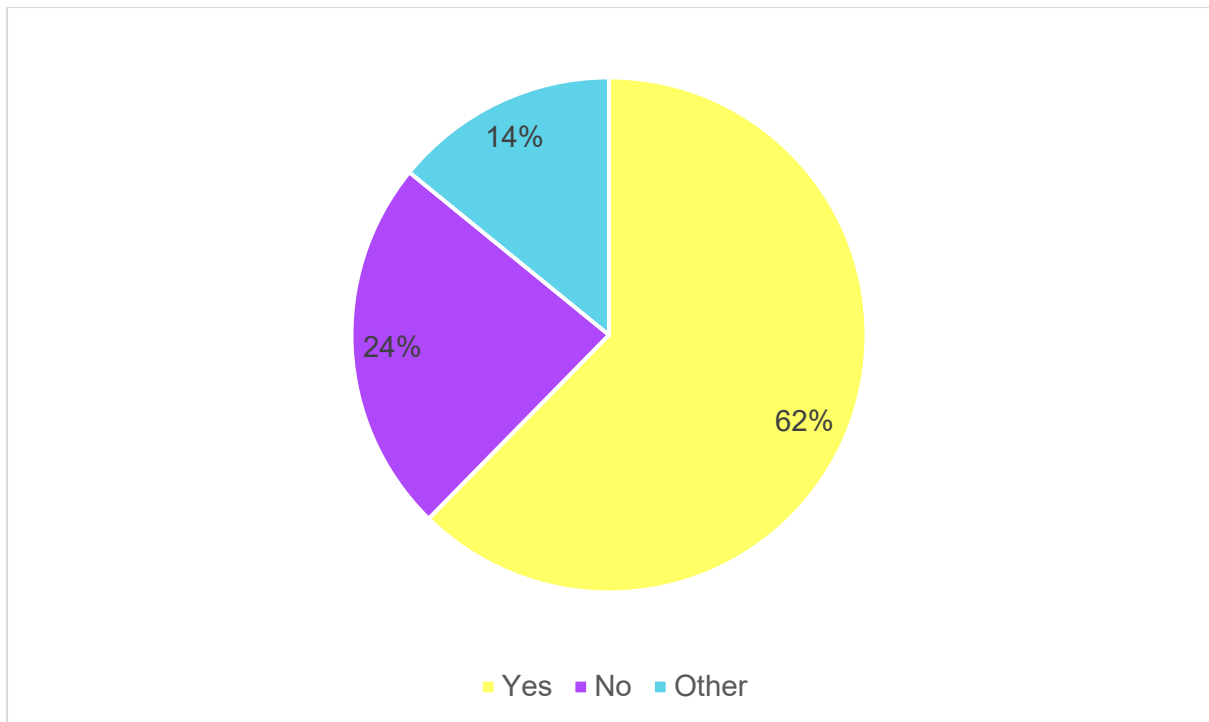
## Chapter 12

### Consultation Question 62

#### Consultation Question 62.

- 1.94 We propose that section 8 of the Inheritance (Provision for Family and Dependants) Act 1975 be amended to provide that property that is subject to a mutual wills arrangement be treated as part of the net estate.

Do consultees agree?



	Yes	No	Other	TOTAL
Number of consultees	53	20	12	85

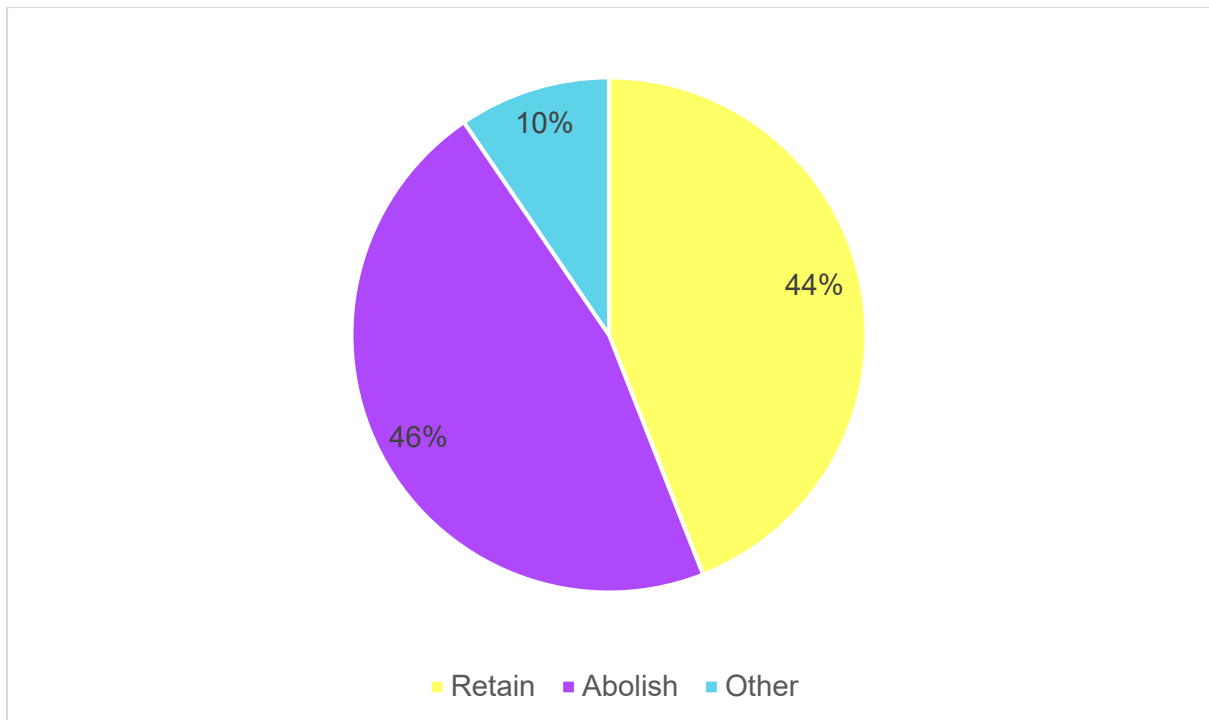
## Chapter 13

### Consultation Question 63

#### Consultation Question 63.

1.95 Do consultees believe that the DMC doctrine should be abolished or retained?





	Retain	Abolish	Other	TOTAL
Number of consultees	37	39	8	84

## Chapter 14

### Consultation Question 64

#### Consultation Question 64.

- 1.96 Are consultees aware of particular issues concerning the transfer of digital assets (be it on death or otherwise)?
- 1.97 If so, please provide details of:
- (1) the effect that the issue had upon the people concerned;
  - (2) the scope of the problem; and
- why the problem is inadequately addressed under the current law.

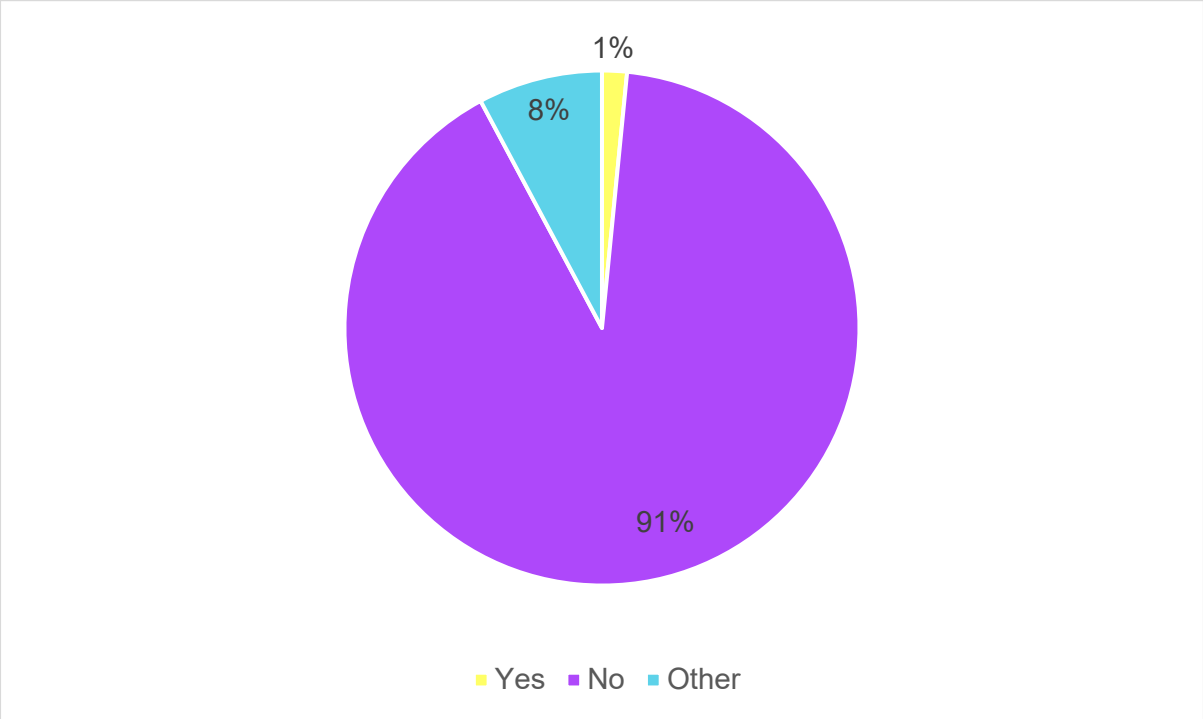
- 1.98 59 consultees responded to this question.

Consultation Question 65

**Consultation Question 65.**

1.99 Are consultees aware of any instances in which the requirement to date an appointment of guardianship but not to date a will has caused difficulty in practice?

1.100 If so, please provide details of the case.



	Yes	No	Other	TOTAL
Number of consultees	1	58	5	64

**MAKING A WILL: SUPPLEMENTARY CONSULTATION PAPER**

**Chapter 1**

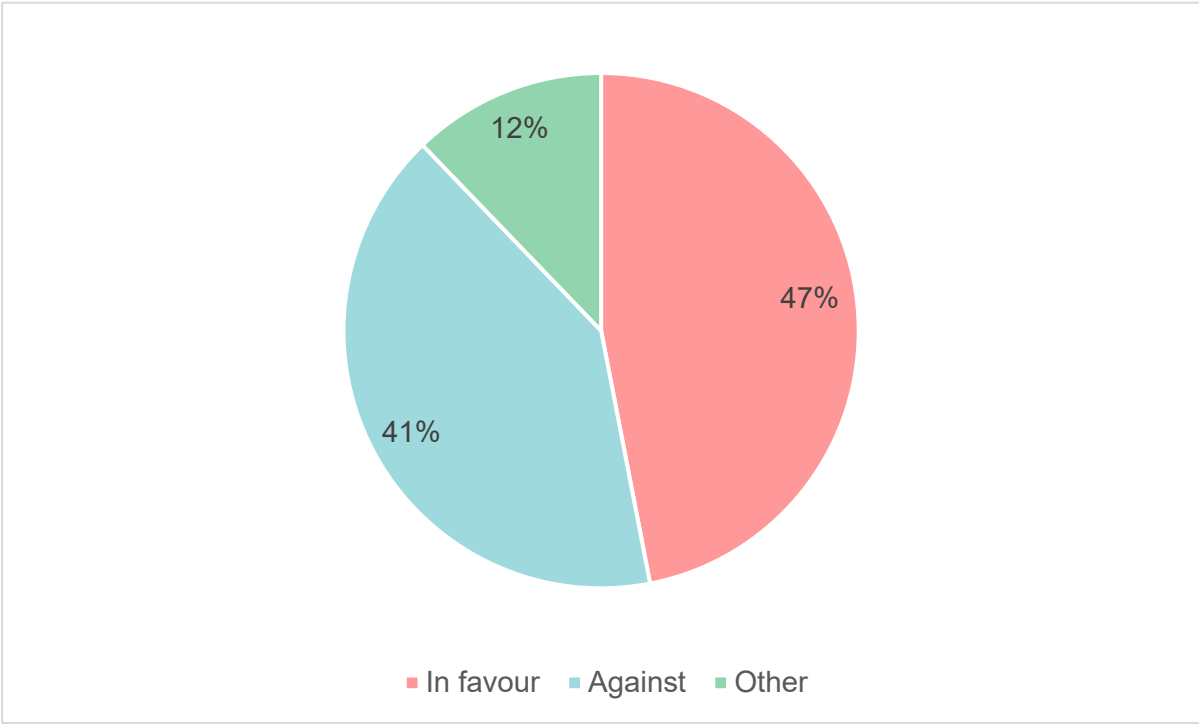
1.101 There were no consultation questions in Chapter 1.

**Chapter 2**

Consultation Question 1

**Consultation Question 1.**

1.102 We invite consultees' views as to whether provision should be made so that electronic wills can be valid under the law.



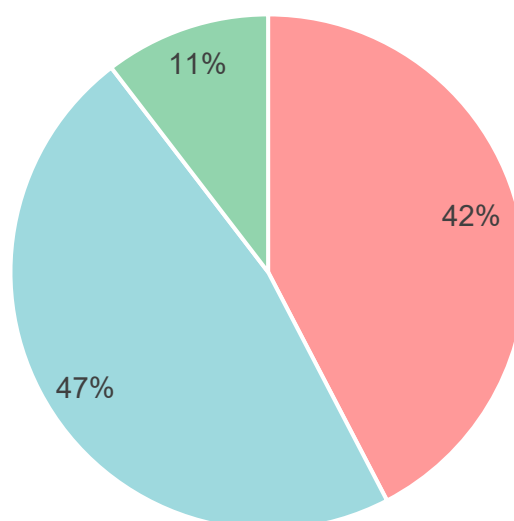
	In favour	Against	Other	TOTAL
Number of consultees	77	67	20	164

## Consultation Question 2

### Consultation Question 2.

1.103 We invite consultees' views as to whether a new Wills Act should either:

- (1) include an enabling power, exercisable by the Secretary of State, for secondary legislation to make provisions that would permit electronically executed wills or fully electronic wills that complied with the secondary legislation to be recognised as valid, or
- (2) allow for and outline the requirements for electronic wills to be valid on the face of the Act.



■ Enabling power ■ Face of the Act ■ Other

	Enabling power	Face of the Act	Other	TOTAL
Number of consultees	61	68	15	144

## Chapter 3

### Consultation Question 3

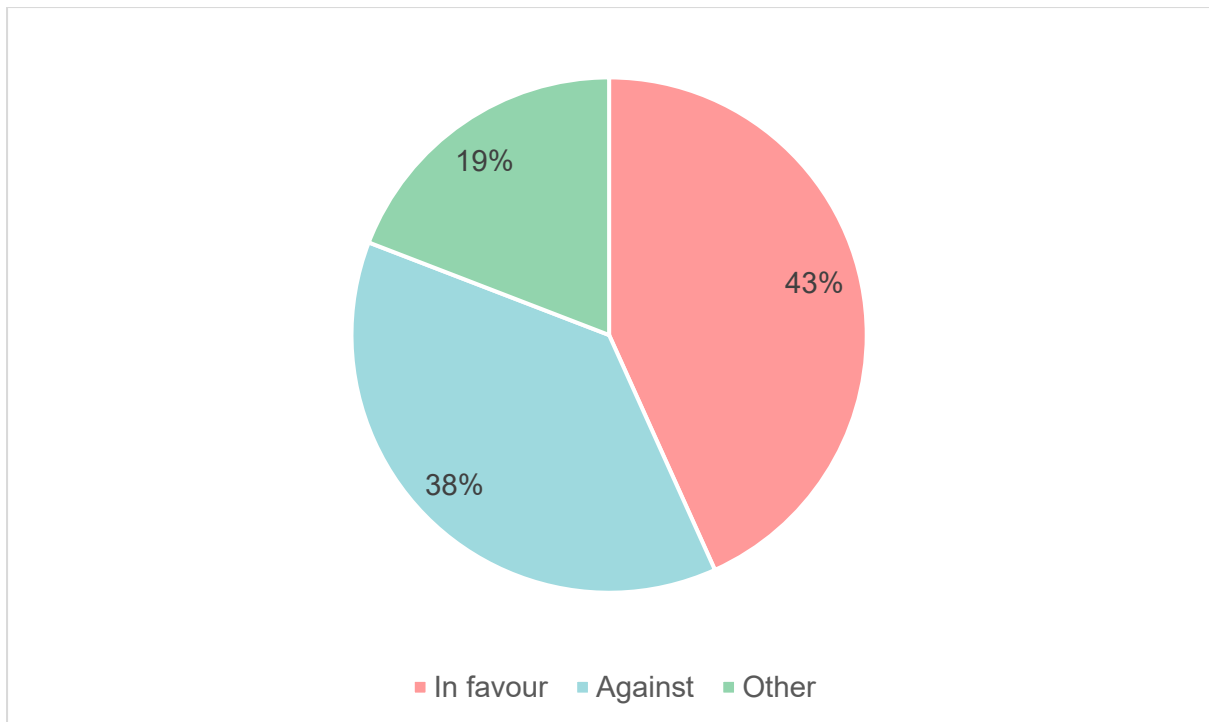
#### Consultation Question 3.

1.104 We invite consultees' views as to whether an enabling power, if enacted, should:

- (1) be neutral as to the form that electronically executed wills or fully electronic wills should take;
- (2) ensure that the requirements imposed for an electronically executed will or fully electronic will, as the case may be, are able to fulfil the functions served by the current formality requirements to at least the equivalent degree of paper wills executed with a handwritten signature and in person;
- (3) require the Secretary of State to obtain the advice of a committee on electronic wills and/or to consult;
- (4) require the draft of the secondary legislation to be laid before and approved by resolution of each House of Parliament; and
- (5) enable the Secretary of State to make provision to address issues that might arise where electronic wills and paper-based wills co-exist (such as where a paper will is amended by an electronic codicil or *vice versa*) and/or to mirror or modify elements of the existing law in an electronic wills context (for example, in relation to revocation by destruction).

#### Part 1

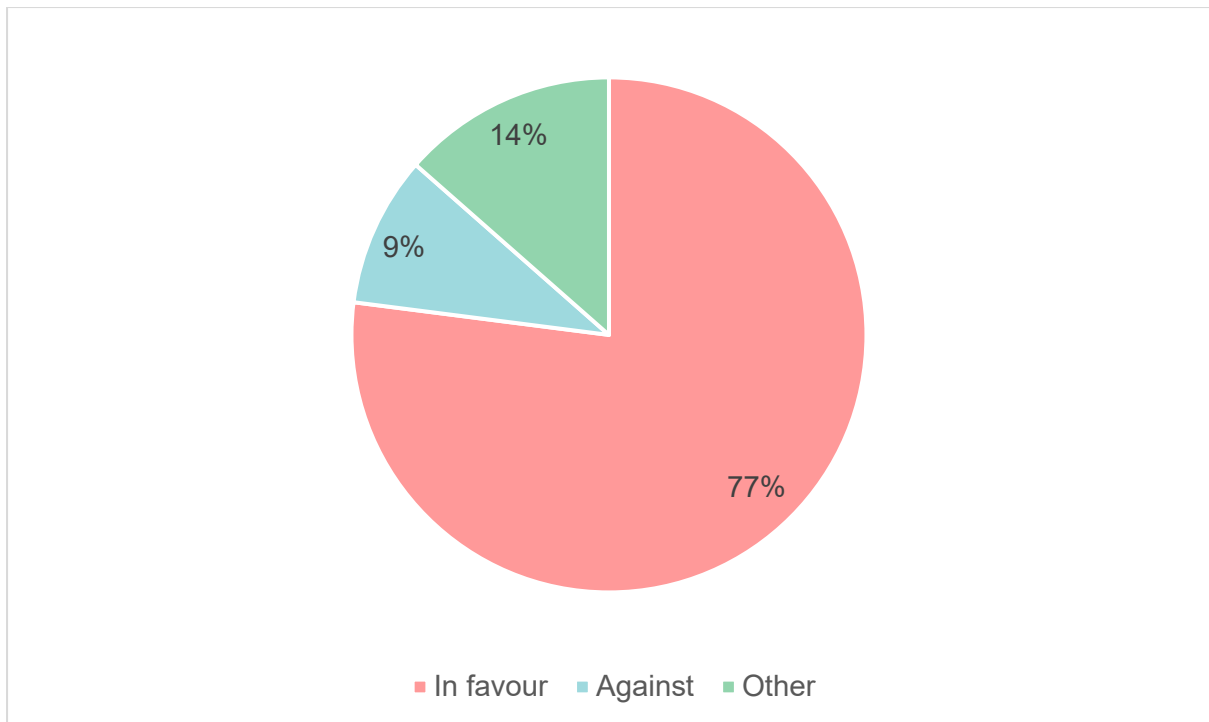
1.105 In respect of the sub-part at para 1.104(1), the statistics were as follows:



	In favour	Against	Other	TOTAL
<b>Number of consultees</b>	61	53	27	141

## Part 2

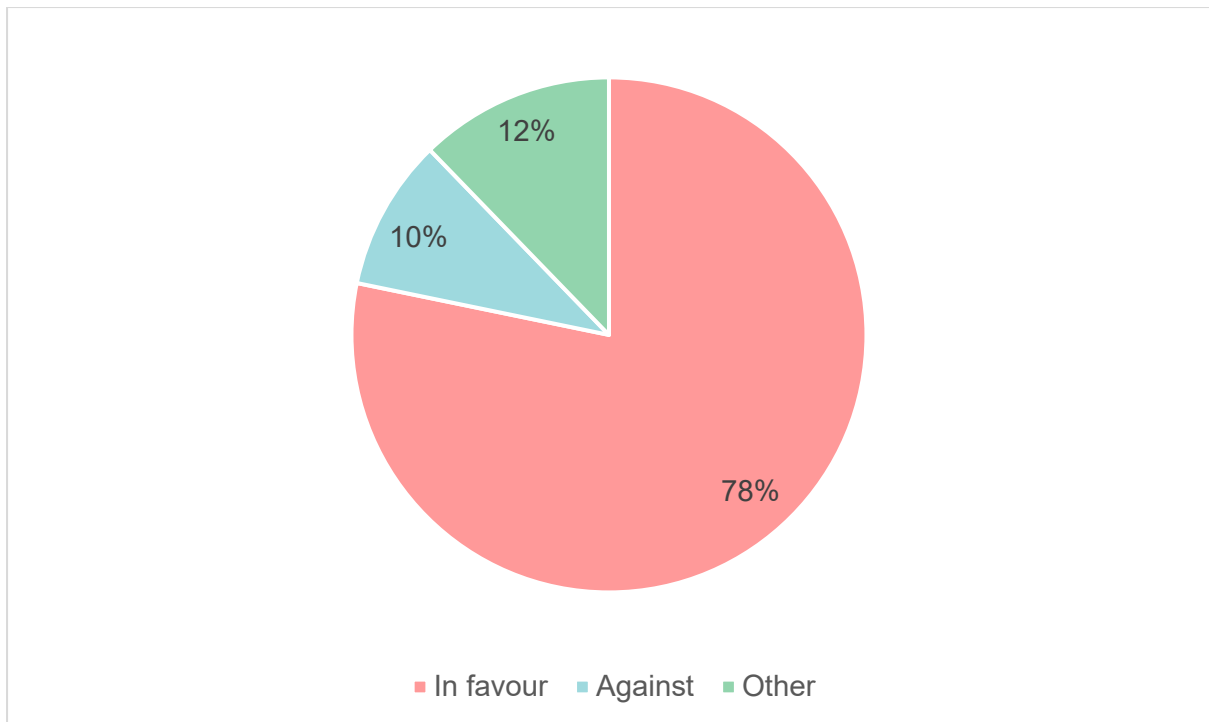
1.106 In respect of the sub-part at para 1.104(2), the statistics were as follows:



	In favour	Against	Other	TOTAL
<b>Number of consultees</b>	114	14	20	148

### Part 3

1.107 In respect of the sub-part at para 1.104(3), the statistics were as follows:

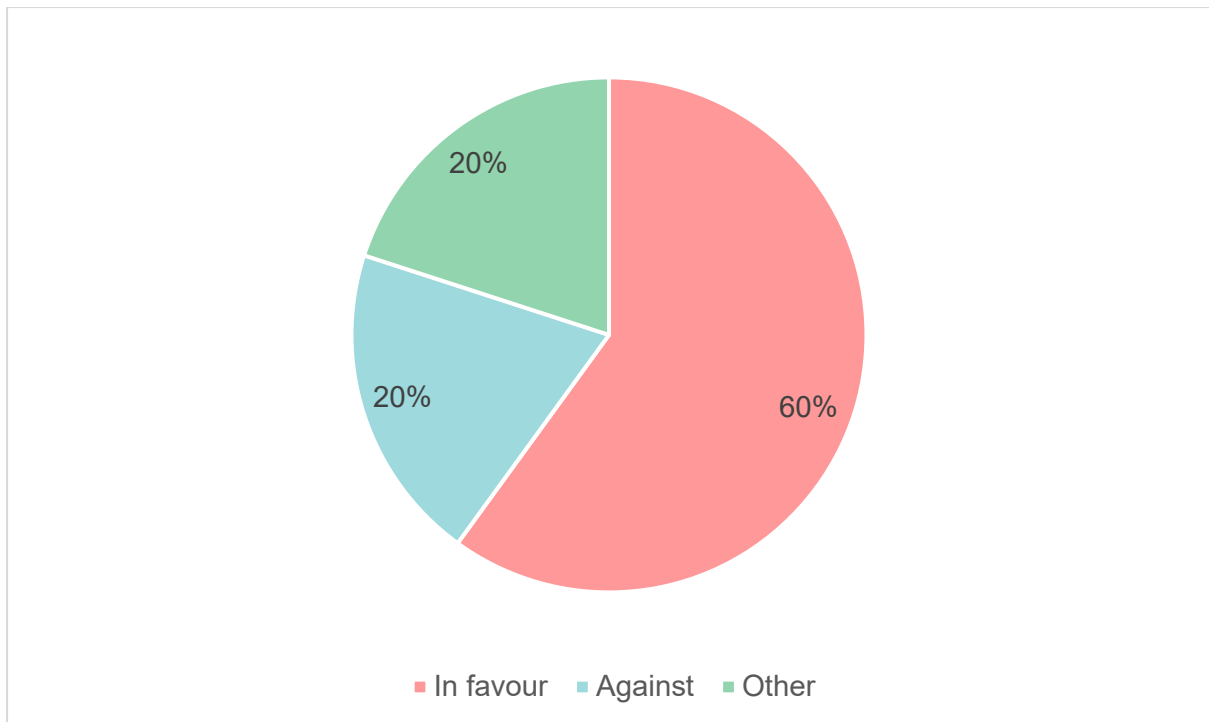


	In favour	Against	Other	TOTAL
<b>Number of consultees</b>	115	14	18	147

#### Part 4

1.108 In respect of the sub-part at para 1.104(4), the statistics were as follows:

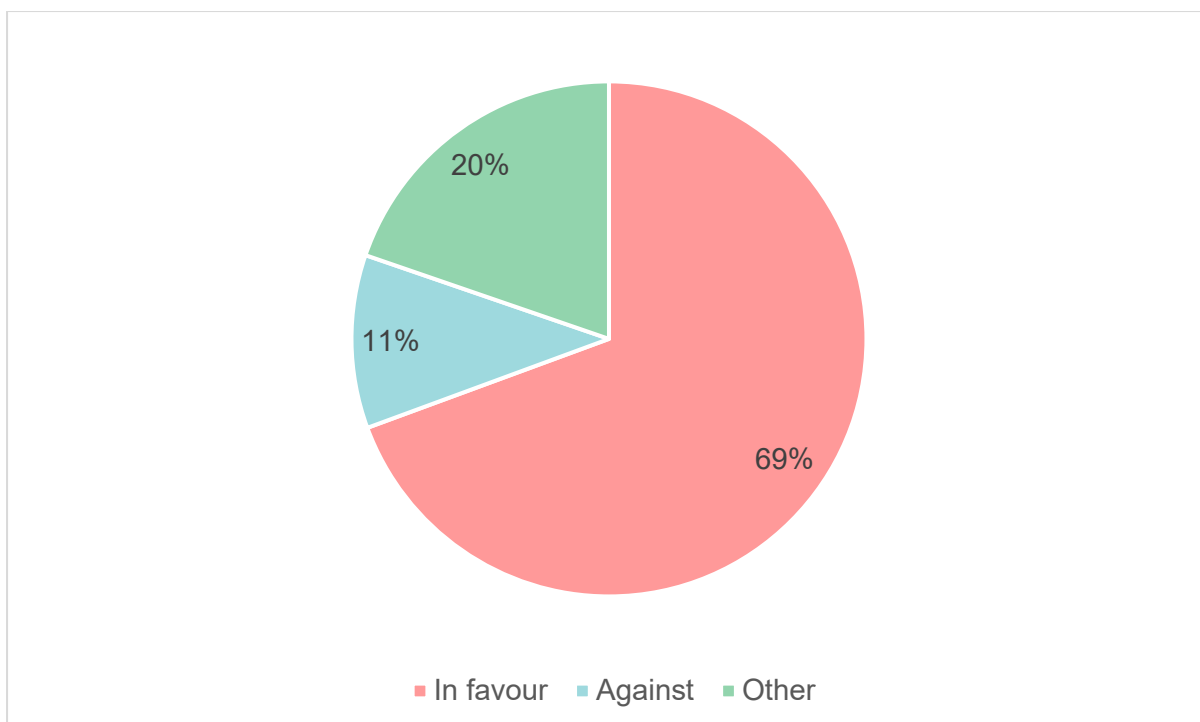




	In favour	Against	Other	TOTAL
<b>Number of consultees</b>	87	29	29	145

## Part 5

1.109 In respect of the sub-part at para 1.104(5), the statistics were as follows:



	In favour	Against	Other	TOTAL
Number of consultees	102	16	27	145

#### Consultation Question 4

##### **Consultation Question 4.**

1.110 We invite consultees' views about what the formality requirements should be for electronic wills to be valid, if provision is made for their validity on the face of a new Wills Act.

1.111 106 consultees responded to this question.

#### Consultation Question 5

##### **Consultation Question 5.**

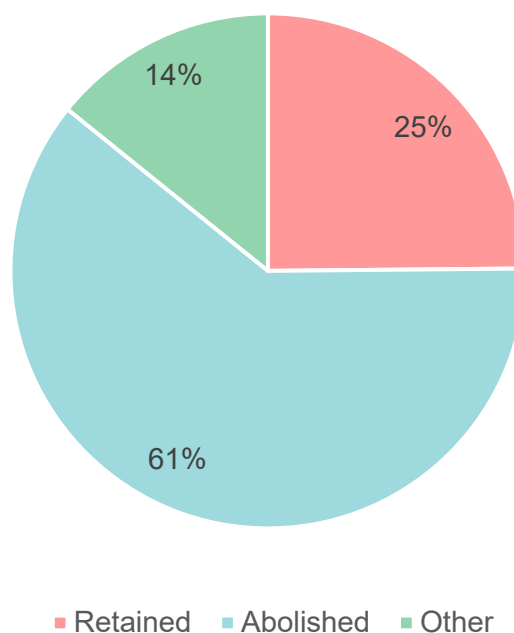
1.112 We invite consultees' views on the prevalence of predatory marriage, and welcome any evidence they can provide.

1.113 116 consultees responded to this question.

## Consultation Question 6

### Consultation Question 6.

1.114 We invite consultees' views as to whether the rule that marriage and civil partnership automatically revokes a previous will should be abolished or retained.



	Retained	Abolished	Other	TOTAL
Number of consultees	42	103	24	169

## Chapter 4

### Consultation Question 7

#### Consultation Question 7.

1.115 We invite consultees to share with us any evidence or data they have about the impact of possible reforms considered in this Supplementary Consultation Paper and the 2017 Consultation Paper.

1.116 51 consultees responded to this question.

## Consultation Question 8

### Consultation Question 8.

1.117 We invite consultees to share with us any evidence or data to suggest that possible reforms, considered in this Supplementary Consultation Paper and the 2017 Consultation Paper, could result in advantages or disadvantages to particular groups or based on particular characteristics (with particular attention to age, disability, transgender identity, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).

1.118 105 consultees responded to this question.

