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Entitlements to Deceased People's Property in Aotearoa New Zealand: Public Attitudes and Values

A General Population Survey

Research Report supported by the
Michael and Suzanne Borrin Foundation

Ian Binnie, Nicola Taylor,
Megan Gollop and Mihiata Pirini





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Finally, we would like to thank the staff at Symphony Research for their research expertise, and the 1,350 telephone survey respondents from throughout Aotearoa New Zealand for contributing their views on how a deceased person's estate should be dealt with. Such research has not previously been conducted in Aotearoa New Zealand, yet understanding society's values and attitudes as to what is fair is vitally important to any law reform endeavours.

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Executive Summary

Introduction

1. This nationwide project was undertaken to provide robust evidence to inform Te Aka Matua o te Ture | Law Commission's review of the law of succession and their law reform recommendations to the Minister Responsible for the Law Commission. The Commission's review is primarily focusing on claims to a deceased's property by family members and third parties under:
 - The Property (Relationships) Act 1976;
 - The Family Protection Act 1955;
 - The Law Reform (Testamentary Promises) Act 1949;
 - The intestacy regime in the Administration Act 1969.
2. Much of the law that determines entitlements to a deceased's property is old and out-of-date. There have been significant demographic and social shifts since these laws were introduced:
 - *The number of people dying in Aotearoa New Zealand is increasing significantly.* In the mid-1950s less than 20,000 deaths were registered in Aotearoa New Zealand each year, but by the 2030s it is projected annual death numbers will exceed 40,000 per annum.¹
 - *The age at which people die is progressively increasing.* A newborn today can expect to live more than 90 years, and the oldest segment of our population is now the fastest growing.² This has implications for the types of property people own when they die and the needs and expectations of family members.
- *Modern family arrangements are becoming more complex.* There is an increasing diversity in family arrangements³ which calls into question traditional categories of family members eligible to succeed to a deceased's property.
3. An important goal underpinning succession law is for the deceased's property to be distributed according to rules that most New Zealanders think are fair. For example, when the deceased has made a will, to what extent should family members be protected from disinheritance? For intestacies, it is important to consider expectations about who should succeed to the property when the deceased has not expressed their wishes.
4. The age of Aotearoa New Zealand's succession law, coupled with the significant social and demographic changes in recent years, suggest that property entitlements on death may not be consistent with contemporary public attitudes and values. This research project gauges the views of New Zealanders about succession entitlements as this has never previously been ascertained. The Michael and Suzanne Borrin Foundation funded this research to focus on the following key research question: *How do New Zealanders think a person's property should be dealt with when they die?*

1 *Demographic Trends: Implications for the Funeral Industry* (Statistics New Zealand, 2016).

2 Ibid.

3 Te Aka Matua o te Ture | Law Commission *Relationships and Families in Contemporary New Zealand | He Hononga Tangata, he Hononga Whānau i Aotearoa o Nāiane* (NZLC SP22, 2017).

Method

5. The University of Otago commissioned Solasta Consulting (led by Ian Binnie) and Symphony Research (a data collection agency) to administer a nationwide telephone survey to members of the public. Between 29 October and 14 December 2020, 1,350 interviews were undertaken with a representative sample of:
 - 1,000 people aged 18 years and over;
 - 150 additional 'booster' interviews with Māori aged 18 years and over;
 - 100 additional 'booster' interviews with Pacific peoples aged 18 years and over;
 - 100 additional 'booster' interviews with Asian peoples aged 18 years and over.
6. The additional booster interviews enabled robust statistical analysis by ethnic groups (in total, there were 249 interviews with Māori respondents, 165 interviews with Pacific respondents, and 194 interviews with Asian respondents).
7. The final results were weighted to ensure they were representative by ethnicity, age, and gender.
8. This research report is based upon a telephone survey of 1,350 respondents. This sample size means that findings are subject to a maximum margin of error of +/- 2.7%. However, the margin of error increases for subgroups or for filtered questions – such as findings from Māori, Pacific or Asian respondents.

Leaving Family Out of a Will

Overview

9. The vast majority believed that a person should be allowed to leave family members out of their will, primarily because most believed that free will should be paramount. However, agreement levels were lower for Pacific and Asian respondents, older respondents, and respondents with a household income up to \$50,000.

Key findings

10. 80% agreed that a person should be allowed to leave family members out of their will.
11. Levels of agreement were lower for some subgroups, including:
 - Older people (69% of those aged 65 to 74, and 63% of those aged 75 and older);
 - Pacific respondents (66%) and Asian respondents (72%) (this compares with 82% of Māori respondents and 83% of European respondents);
 - Those with an annual household income up to \$50,000 (73%).
12. In contrast, some subgroups were more likely than others to agree, including:
 - Those living with a partner they are not married⁴ to (89%);
 - Younger people (87% of those aged 18 to 24, and 86% of those aged 25 to 34);
 - Those with an annual household income of \$100,000 or higher (86%).
13. 55% of those who answered a question about 'why a person should be allowed to leave family members out of their will' said they believed in the importance of free will (to determine what should happen to a person's estate upon death).
14. 49% of those who answered a question about 'why a person should *not* be allowed to leave family members out of their will' said that obligation to family was paramount.

⁴ Note that respondents answering this relationship status category would have interpreted the classification as living with a partner who they were 'not married to or not in a civil union with' (because the preceding code in the response list was 'Living with your married or civil union partner').

Family Members Who Should be Allowed to Challenge a Will

Overview

15. As stated above, most respondents agreed that a person should be allowed to leave family members out of their will. However, the majority of respondents also believed that surviving partners and children should be allowed to challenge a will if they are excluded from it (and receive a share of the estate). The level of support for parents, stepchildren or grandchildren being allowed to challenge a will was much lower.

Key findings

16. 60% believed that spouses/partners should be allowed to challenge a will which excludes them. A similar proportion believed that children should be allowed to challenge a will which excludes them (59% said that children aged under 18 should be allowed to challenge a will and 59% said that children aged 18 and over should be allowed to challenge a will).
17. 41% believed that parents of the deceased should be allowed to challenge a will that excludes them.
18. 25% of respondents believed that grandchildren aged under 18 should be allowed to challenge a will that excludes them.
19. 24% believed that young stepchildren should be allowed to challenge a will that excludes them.

Scenarios about Challenging a Will and Receiving a Share of the Estate

Overview

20. Respondents were asked to consider a series of scenarios involving the distribution of a deceased's property. Each scenario involved different types of family members and different directions provided in the will. Respondents were asked to consider if family members who were excluded from the will should be allowed to challenge it and receive a share of the estate.
21. Most supported the right of dependent children to challenge a will (and receive a share) if the will directed the estate go to charity.
22. Levels of support for adult children being able to challenge a will tended to be slightly lower (compared with dependent children).
23. Most agreed that a second wife should be entitled to at least a half-share of the family home (if the estate was left entirely to children from the first marriage).
24. Respondents were evenly split when it came to a scenario involving young stepchildren (brought up as part of the family) who were excluded from a will (where the estate was left entirely to young children from the first marriage).

Executive Summary CONT.

Key findings

25. 87% thought that a disabled adult child should be allowed to challenge a will where the estate was left entirely to charity.
26. 80% thought that a child aged under 18 should be allowed to challenge a will where the estate was left entirely to charity.
27. 56% thought that an adult child should be allowed to challenge a will where the estate was left entirely to charity. Proportions were broadly similar for other situations involving adult children:
 - 67% agreed that an adult child who is struggling financially should be allowed to challenge a will where the estate was left entirely to another adult child.
 - 62% agreed that an adult child (not struggling financially) should be allowed to challenge a will where the estate was left entirely to another adult child.
 - 57% agreed that an adult child from a first marriage should be allowed to challenge a will where the estate was left entirely to a wife (of 10 years) from a second marriage.
28. 76% agreed that a second wife should be entitled to at least a half-share of the family home (if the estate was left entirely to children from the first marriage).
29. Views were evenly split when it came to a scenario involving young stepchildren (brought up as part of the family) who were excluded from a will (which left the estate to young children from the first marriage). 49% thought the young stepchildren should be allowed to challenge the will (and receive a share) and 44% did not (the rest were unsure or said 'it depends').

Awareness of the Right to Challenge a Will and Prevalence of Wills

Overview

30. Most respondents said that they have heard that family members can challenge a will in court if they feel it does not properly provide for them, although awareness was lower among Pacific and Asian respondents.
31. Around half of the respondents have wills, but this is lower for some subgroups, including Māori, Pacific, and Asian respondents, younger respondents, respondents who do not own the home that they live in⁵ and those with a household income up to \$30,000.

Key findings

32. There was mixed awareness that family members can challenge a will in court if they feel it does not properly provide for them – 57% were fully aware of this, 26% had heard something about this, and 16% were unaware of this.
33. A higher proportion of Pacific and Asian respondents were unaware (37% and 34% respectively).
34. 53% of respondents said they have a will, but this was lower for the following groups:
 - Māori, Pacific, and Asian respondents (41%, 24%, and 21% respectively);
 - Respondents living in Auckland (43%);
 - Younger respondents (28% of those aged under 50);
 - Those who are unmarried (32% of those living with a partner they are not married to/not in a civil union with, 23% of those in a relationship but not living with their partner, and 40% of those not currently in a relationship/widowed);
 - Those who do not own the home they live in (19%);
 - Those with a household income of less than \$30,000 (43%).

⁵ Note that throughout this report we refer to 'those who own their own home' (or 'those who do not'), but this is short-hand for 'owning, or part-owning, the home the respondent lives in – including if it is held on a trust – and that this can be with or without a mortgage'.

Scenarios about Intestacy

Overview

35. Respondents were asked to consider a series of scenarios involving situations when a person dies without a will ('intestacy'). This approach investigated viewpoints about who should get the estate and what share of it they should receive.
36. In intestacy scenarios with surviving adult children and other relatives, most respondents suggested that the estate should be shared between the different parties (rather than one person getting it all), but the size of the share depended on the scenario. For example, the majority thought that a surviving husband should receive a greater share than surviving adult children, but this was not the case for a husband from a second marriage.

Key findings

37. In a situation where there is a surviving husband and two adult children:
 - Almost two-thirds (64%) of respondents thought that the husband should get more than a third of the estate. Within this group, it was more common to think that the husband should get everything (30% of all respondents said this). Sixteen percent said he should get 'more than half' and 19% said he should get 'half'.
 - Just under a third of all respondents (32%) thought that the adult children should get a share which is larger than half of the estate (less than 1% thought the children should get all of the estate).
38. In a situation where there is a surviving second husband and two adult children from the first marriage (and an estate worth \$1 million), views were more split:
 - 42% of respondents thought that the husband should get more than a third of the estate. Within this group, it was common to think that the second husband should get 'half' of the estate (23% of all respondents said this). Only 10% said he should get 'more than half' and less than 1 in 10 (9%) said he should get it all.
 - 50% thought that the adult children from the first marriage should get a share which is larger than half of the estate (2% said the children should receive all of the estate and 49% said they should receive more than half – this sums to 50% after rounding).
39. Views did not change much if the scenario above was repeated, but with an estate worth only \$150,000 (there was a 2% growth in the proportion that thought the second husband should get all of the estate).
40. In a situation where a man who had been married twice dies, leaving behind two adult children from his first marriage and two adult stepchildren, most respondents (57%) thought that the estate should be split evenly between the four people. Only 1% thought that the stepchildren should receive a majority share, but a third of respondents thought that the children from the first marriage should receive a majority share (this is split into 11% who thought that they should receive the entire estate and 22% who thought that they should receive most of the estate).
41. Almost three-quarters (73%) agreed that a surviving wife should get all of an estate when there is no will (in a situation where there is a surviving wife, mother and brother).

Introduction

Project Overview

42. A nationwide telephone survey was undertaken in Aotearoa New Zealand to investigate public attitudes and values about entitlements to a deceased's property to assist Te Aka Matua o te Ture | Law Commission ('the Commission') in their review of the law of succession (i.e., the system of rules that governs who gets a person's property when they die). Much of the current law determining entitlements to a deceased's property is old and out-of-date, especially given the significant demographic and social shifts over the past half-century. No reliable research has previously been undertaken in Aotearoa New Zealand into public values and attitudes towards who should be entitled to inherit a person's property when they die. The research was generously funded by the Michael and Suzanne Borrin Foundation and undertaken by a research team led by the University of Otago.
43. The University of Otago commissioned Solasta Consulting (led by Ian Binnie) and Symphony Research (a data collection agency) to administer the survey to members of the public. Between 29 October to 14 December 2020, 1,350 telephone interviews were undertaken with a representative sample of:
 - 1,000 people aged 18 years and over;
 - 150 additional 'booster' interviews with Māori aged 18 years and over;
 - 100 additional 'booster' interviews with Pacific peoples aged 18 years and over;
 - 100 additional 'booster' interviews with Asian peoples aged 18 years and over.
44. The additional booster interviews enabled robust statistical analysis by ethnic groups (in total, there were 249 interviews with Māori respondents, 165 interviews with Pacific respondents, and 194 interviews with Asian respondents).
45. The final results were weighted to ensure they were representative by ethnicity, age, and gender.
46. This research report outlines and discusses the findings from the nationwide telephone survey ascertaining public values and attitudes about entitlements to a deceased person's property.

Background

47. This nationwide project was undertaken to provide robust evidence to inform the Commission's review of the law of succession and their law reform recommendations to the Minister Responsible for the Law Commission. The Commission's review is primarily focusing on claims to a deceased's property by family members and third parties under:
 - The Property (Relationships) Act 1976;
 - The Family Protection Act 1955;
 - The Law Reform (Testamentary Promises) Act 1949;
 - The intestacy regime in the Administration Act 1969.
48. Much of the law that determines entitlements to a deceased's property is old and out-of-date. There have been significant demographic and social shifts since these laws were introduced:
 - *The number of people dying in Aotearoa New Zealand is increasing significantly.* In the mid-1950s less than 20,000 deaths were registered in Aotearoa New Zealand each year, but by the 2030s it is projected annual death numbers will exceed 40,000 per annum.⁶

⁶ *Demographic Trends: Implications for the Funeral Industry* (Statistics New Zealand, 2016).

- *The age at which people die is progressively increasing.* A newborn today can expect to live more than 90 years, and the oldest segment of our population is now the fastest growing.⁷ This has implications for the types of property people own when they die and the needs and expectations of family members.
 - *Modern family arrangements are becoming more complex.* There is an increasing diversity in family arrangements⁸ which calls into question traditional categories of family members eligible to succeed to a deceased's property.
49. An important goal underpinning succession law is for the deceased's property to be distributed according to rules that most New Zealanders think are fair. For example, when the deceased has made a will, to what extent should family members be protected from disinheritance? For intestacies, it is important to consider expectations about who should succeed to the property when the deceased has not expressed their wishes.
50. The age of Aotearoa New Zealand's succession law, coupled with the significant social and demographic changes in recent years, suggest that property entitlements on death may not be consistent with contemporary public attitudes and values. This research project gauges the views of New Zealanders about succession entitlements as this has never previously been ascertained. The Michael and Suzanne Borrin Foundation funded this research to focus on the following key research question: *How do New Zealanders think a person's property should be dealt with when they die?*

Research Team

51. The interdisciplinary research team that designed and conducted this research comprised:
- Ian Binnie, Project Lead (Solasta Consulting);
 - Professor Nicola Taylor, Principal Investigator (Director, Children's Issues Centre, Faculty of Law, University of Otago);
 - Dr Megan Gollop (Deputy Director, Children's Issues Centre, Faculty of Law, University of Otago);
 - Mihiata Pirini (Māori lecturer and researcher, Faculty of Law, University of Otago).
52. Helen McQueen (Tumu Whakarae Tuarua | Deputy President), Susan Paul (Kaitohutohu Matua | Senior Legal and Policy Adviser) and John-Luke Day (Kaitohutohu Matua | Senior Legal and Policy Adviser) at Te Aka Matua o te Ture | Law Commission acted as advisers to the research team.
53. Symphony Research, an independent data collection company, was commissioned to undertake the telephone survey fieldwork on behalf of the research team.

⁷ Ibid.

⁸ Te Aka Matua o te Ture | Law Commission *Relationships and Families in Contemporary New Zealand | He Hononga Tangata, he Hononga Whānau i Aotearoa o Nāiane* (NZLC SP22, 2017)



The Michael and Suzanne Borrin Foundation funded this research to focus on the following key research question:

How do New Zealanders think a person's property should be dealt with when they die?

Method

Survey Design

54. The nationwide telephone survey was designed to address the Commission's need for information to inform their review of the law that determines entitlements to a deceased's property. Much of the law that determines these entitlements was enacted in the mid-twentieth century, but there have been significant demographic and social shifts since then. The research aims to shed light on public values and attitudes in contemporary Aotearoa New Zealand.
55. The University of Otago research team, in consultation with the Commission, developed a nationwide telephone survey to address the research question: *'How do New Zealanders think a person's property should be dealt with when they die?'* The survey covered the following topics to address public attitudes and values regarding the overall research question:
 - Views about a person's freedom to make a will which does not include surviving family members.
 - Views about which family members should be allowed to challenge a will which excludes them.
 - Reactions to specific scenarios when a family member is not included in a will. These were used to explore the circumstances when family members should be allowed to claim provision from the deceased's property (notwithstanding what the deceased said in their will).
 - Investigating whether respondents agree with the principle that surviving spouses/partners should be "no worse off" than if they had hypothetically separated from the deceased during their lifetime.
 - Reactions to specific scenarios when the deceased has left no will. These were used to explore views about which family members should inherit the deceased's property and what share they should receive.
 - Determining the prevalence of wills within the general population.
56. Demographic information was also collected including each survey respondent's age, ethnicity, gender, relationship status, home-ownership and parental status, region and household income.
57. The questions were designed to avoid raising technical descriptions of the current law with the survey respondents. Instead, generalised descriptions of the law were used and respondents were reminded that the survey sought their views rather than what they thought the law said.

Ethical Approval

58. The University of Otago Human Ethics Committee granted approval for the research project on 17 July 2020 (Reference number: D20/198).

Survey Testing

Cognitive interviews

59. Once the survey had been drafted by the research team it was pre-tested face-to-face with members of the public through 'cognitive interviews'. These are detailed interviews in which a research specialist probes for understanding and then makes detailed recommendations about how to improve words and phrases so the questions are well-understood.
60. Solasta Consulting was commissioned to undertake ten face-to-face qualitative cognitive interviews with members of the public on the 24th and 25th of September 2020 in Wellington. Participants were drawn from a range of age groups, gender and ethnic backgrounds.
61. A number of significant changes to question wording, questionnaire routing and the survey introduction were made as a result of the cognitive interviews. This ensured that the final questionnaire flowed well and resonated with respondents.

Pilot testing

62. The survey questionnaire was also tested using a conventional pilot (50 interviews), that replicated the main fieldwork procedures. This enabled the final fieldwork processes to be checked prior to progressing to the main fieldwork stage. The length of the pilot interviews meant that changes were made to the questionnaire following the pilot to reduce its length. The final survey questionnaire is set out in Appendix A.

Interview length

63. The final average interview length for the survey was 15.5 minutes.

Survey Sample

64. Symphony Research conducted 1,350 CATI (Computer Assisted Telephone Interviewing)⁹ interviews via Random Digit Dialling with a random sample of:
- 1,000 people aged 18 years and over (referred to as 'the core sample');
 - 150 additional 'booster' interviews with Māori aged 18 years and over;
 - 100 additional 'booster' interviews with Pacific peoples aged 18 years and over;
 - 100 additional 'booster' interviews with Asian peoples aged 18 years and over.¹⁰
65. The additional booster interviews enabled robust statistical analysis by ethnic groups. Table 1 (overleaf) outlines the profile of the total sample (i.e., the core sample plus the boosters).

Sampling Approach for the Core Sample

66. The core sample consisted of 1,000 adults aged 18 and over. To source this core sample Symphony Research included a mix of randomly generated mobile phone numbers (the contact details for 900 of the 1,000 respondents in the core sample were generated this way) and randomly generated land line phone numbers (the contact details for 100 of the 1,000 respondents in the core sample were generated this way).¹¹
67. Respondents in the core sample were randomly selected from all New Zealanders with access to a mobile phone or landline telephone (when mobile phones and landlines are combined, this is estimated to cover approximately 98% of all adults in the country).¹² For the mobile phone component, the main user of the mobile phone was interviewed (provided they were aged 18 and over). For the landline component, a randomly selected adult aged 18 or over in the household was selected (unless there was only one person in the household, in which case that person was selected for the interview).
68. Potential contact phone numbers were generated through Random Digit Dialling (RDD). RDD involves generating a large volume of telephone numbers through matching known telephone 'pre-fixes' (the first part of a phone number) with a random generation of the remaining digits.

9 CATI is a telephone surveying technique in which the interviewer follows a script provided by a specialist software application. It is a structured system of data collection by telephone that speeds up the collection and editing of data. The software customises the flow of the questionnaire based on the answers provided during the interview. The method minimises the need for post-survey editing of the data because all routing is followed automatically by the script (rather than relying on the interviewer to manually follow questionnaire routing).

10 Level 1 ethnicity groupings were used to categorise respondents' ethnicity – http://aria.stats.govt.nz/aria/?_ga=2.185993449.1720174141.1616532842-923429475.1615423343#ClassificationView:uri=http://stats.govt.nz/cms/ClassificationVersion/136xYpbxsRh7IW1p.

11 The 2018 Census suggests that 92% of households have access to a mobile phone which is why we decided to pursue a 'mobile-mainly' sample. The 100 landline phone numbers were required to top up the mobile sample in areas where mobile phone use is less common (including the West Coast and Gisborne).

12 Refer to the Social Report from MSD: <https://www.socialreport.msd.govt.nz/social-connectedness/telephone-and-internet-access-in-the-household.html> – this has a figure for the population without any telephone based upon the 2013 Census. This specific statistic (population with, or without, access to either a landline phone or a cellphone) is different to the statistic in the previous footnote, and has not yet been publicly released from the 2018 Census.

Table 1: Sample Profile

Subgroup	Raw unweighted number of respondents	Weighted percentages
Age group		
18 – 24 years	144	12%
25 – 34 years	267	18%
35 – 49 years	314	25%
50 – 64 years	346	24%
65 – 74 years	170	11%
75 years and older	90	8%
Declined to answer	19	1%
Gender [note: gender diverse was an option but was not selected]		
Male	632	49%
Female	717	51%
Ethnic group [selection of multiple ethnicities allowed]		
European ¹³	876	70%
Māori	249	13%
Pacific Peoples ¹⁴	165	6%
Asian ¹⁵	194	16%
Another ethnic group	29	2%
Housing tenure		
Lives in a home they own (or held in a trust)	804	62%
Does not live in a home they own	490	37%
Declined to answer	6	1%
Parental status		
Parent/guardian to child under 18 years old	442	31%
Not a parent/ guardian to child under 18 years old	903	68%
Declined to answer	2	0.1%
Have a will?		
Yes	707	53%
No	643	47%
Don't know	7	1%

13 'European' Level 1 ethnicity grouping includes New Zealand European and 'other' European. This report refers to these respondents as 'European respondents'.

14 'Pacific Peoples' Level 1 ethnicity grouping includes Samoan, Cook Island Māori, Tongan, Niuean, Tokelauan, Fijian, and other Pacific ethnic identities. This report refers to these respondents as 'Pacific respondents'.

15 'Asian' Level 1 ethnicity grouping includes Chinese, Indian, Southeast Asian, and other Asian ethnicities. This report refers to these respondents as 'Asian respondents'.

Method CONT.

Subgroup	Raw unweighted number of respondents	Weighted percentages
Relationship status		
Married or civil union	649	49%
Living with partner	216	15%
With a partner, but not living with them	101	7%
Not currently in a relationship/widowed	379	28%
Other/declined to answer	5	0.3%
Annual household income (before tax)		
Less than \$30,000	184	13%
\$30,001 – \$50,000	192	14%
\$50,001 – \$70,000	210	15%
\$70,001 – \$100,000	226	17%
\$100,001 – \$150,000	206	16%
More than \$150,000	205	15%
Declined to answer	48	4%
Don't know	79	6%
Region		
Northland	52	4%
Auckland	448	32%
Waikato	126	10%
Bay of Plenty	73	5%
Gisborne	16	1%
Hawkes Bay	36	3%
Taranaki	31	2%
Manawatū-Wanganui	74	5%
Wellington	164	12%
Tasman	7	1%
Nelson	22	2%
Marlborough	19	1%
West Coast	11	1%
Canterbury	162	13%
Otago	76	6%
Southland	31	2%
Declined to answer	2	0%

Sampling Approach for the Ethnic Booster Interviews

69. The major ethnicities used by Statistics New Zealand include European, Māori, Pacific peoples, Asian and Middle Eastern/Latin American/African.¹⁶ A random survey of the general public tends to only generate relatively small sample sizes of respondents from particular ethnic groups. For example, a representative survey of 1,000 respondents would only generate around 60 interviews with Pacific peoples, which would limit the ability to conduct analyses by ethnic group.
70. Using a mixed-method approach, the research team therefore asked Symphony Research to deliberately boost the number of Māori, Pacific peoples and Asian peoples in the telephone survey. This was important because the way people regard the property of deceased persons may vary between different ethnic groups.
71. The total sample contained Māori, Pacific and Asian respondents from a number of different sources:
 - 249 Māori respondents in total (99 from the core sample and a further 150 from the Electoral Roll – described below);
 - 165 Pacific respondents in total (65 from the core sample and a further 100 from a combined tele-matching and research-panel process – described below);
 - 194 Asian respondents in total (94 from the core sample and a further 100 from a combined tele-matching and research-panel process – described below).

72. Hence the survey results presented for the general public are representative by ethnic background. They do not over-represent any particular ethnic groups because corrective weighting (discussed further below) adjusted for the effects of the ethnic boosts.

Māori booster process

73. The Māori booster respondents were sourced from the Electoral Roll (from among those providing a Māori descent indicator on the General Roll and from among those registered on the Māori Roll).¹⁷ The roll was stratified by age and a random sample was telematched to obtain phone numbers.¹⁸

Asian and Pacific booster process

74. The Asian and Pacific booster respondents were sourced through two mechanisms:
 - A representative telephone panel of individuals who have agreed to be re-contacted following participation in Symphony Research's other random probability telephone surveys (such as political polls). Around three-quarters of the Pacific and Asian booster interviews were conducted this way.
 - Additional interviews were conducted by using RDD sampling in local areas with high Pacific and Asian populations (neighbourhoods where at least 60% of the population had Pacific or Asian ethnicity according to the 2018 Census). Around a quarter of the Pacific and Asian booster interviews were conducted this way.

¹⁶ Level 1 ethnicity groupings were used in this report, refer to Statistics New Zealand classifications for more details (http://aria.stats.govt.nz/aria/?_ga=2.185993449.1720174141.1616532842-923429475.1615423343#ClassificationView:uri=http://stats.govt.nz/cms/ClassificationVersion/136xYpbxsRh7IW1p). Statistics New Zealand recognise that Level 1 ethnic groupings encompass a large variety of populations within them. An ethnic group can contain a number of different populations who are linguistically, culturally and geographically distinctive from each other.

¹⁷ The General Electoral Roll and the Māori Roll are public registers created by the Electoral Commission under the Electoral Act 1993. The Roll for each parliamentary district (electorate) contains the names of persons who are registered to vote in the electorate, as well as other information such as a self-identified Māori descent indicator (people selecting this may appear in either the General Roll or the Māori Roll – the Māori booster interviews drew upon both Rolls). Following an application from the University of Otago, the Electoral Commission supplied an electronic list of electors to the research team because the project was for human health or scientific research purposes (described under section 112 of the Electoral Act 1993). Symphony Research then conducted telephone matching against commercially available telephone registers to generate a sample frame for the survey.

¹⁸ Telematching involves cross-referencing names and addresses with commercially available telephone registers (including the White Pages) and publicly available records from Credit Referencing Agencies.

Telephone Fieldwork

75. The survey pilot was undertaken on 21 October 2020. The main fieldwork was conducted from 29 October to 14 December 2020. Survey fieldwork was conducted using telephone interviewers at Symphony Research. Symphony Research adhere to data collection standards set out in the ISO 20252 standard manual. The fieldworkers pursued a number of strategies to maximise the response rate including:
- Interviewer training that emphasised the importance of a high response rate and the need for particular sensitivity at the initial contact stage. Interviewers were briefed to volunteer alternative appointment times to those who sounded hesitant about taking part upon first contact.
 - Using Māori, Pacific and Asian interviewers within the survey team (who were allocated to call-backs when requested by survey respondents).
 - Conducting a minimum of seven calls (an initial call plus up to six call-backs) to each contact until successful contact was made.
 - Making call-backs at different times and/or on different days to increase the likelihood of contacting respondents. Deploying a widespread call-pattern across a substantial fieldwork period helps ensure a representative sample.
 - Having the survey team work as one integrated unit. Interviews were conducted on weekdays between 9.00am and 9.00pm (with first contacts ending at 8.00pm), with some restrictions on weekend mornings.

Data Processing

76. The survey was programmed in Voxco, the CATI survey software used by Symphony Research. Programming the survey using CATI meant that routing and text-substitution was automated, thus minimising the possibility of human error in data entry.
77. Solasta Consulting created code-frames to categorise responses given in 'other-specify' questions and open-ended questions. These code-frames were used to translate 'free text' from relevant questions into categories suitable for analysis (please note that for each 'other-specify' question or open-ended question it was possible for respondents to fall into more than one response category).

Survey Weighting

78. As with all general population surveys, this survey would have had some inherent biases relating to differential response rates (for example, females and older people are known to be more likely to respond to surveys). These biases needed to be corrected in the survey results to accurately reflect the wider population through weighting. Weighting also corrected for the disproportionate sampling approach used to deliberately boost the number of interviews with Māori, Pacific or Asian respondents – corrective weighting adjusted the effects of these boosts.
79. Survey results were weighted to be representative of the population according to:
- Age brackets (based upon data on age compositions in the 2018 Census);
 - Gender (based upon the 2018 Census);
 - Ethnicity (based upon the 2018 Census).
- (No weighting by region was required because the weighted sample profile closely resembled regional population totals as indicated by the 2018 Census).
80. The final weighted sample profile is detailed in Table 1 above.

Table 2: Guidelines around Margins of Error

Subgroup	Margin of error (for a 50/50 result at the 95% confidence level)
All respondents (n=1,350)	+/- 2.7%
Māori respondents (n=249)	+/- 6.2%
Pacific respondents (n=165)	+/- 7.6%
Asian respondents (n=194)	+/- 7.0%

Sample Sizes and Margins of Error

81. This research report is based upon a telephone survey of 1,350 respondents. This sample size means that findings are subject to a maximum margin of error of +/- 2.7% (at the 95% confidence level – which means there is a 19 in 20 chance that the true result will sit within the stated margin).
82. However, the margin of error increases for subgroups or for filtered questions – such as findings from Māori, Pacific or Asian respondents.
83. Table 2 sets out some guidelines about margins of error for these different groups of the survey sample.
84. Note that each survey statistic is subject to its own margin of error – the maximum margin of error assumes a 50/50 split on a binary question (results for questions which vary from a 50/50 split are subject to smaller margins of error).
85. As described in the subgroup analysis section below, all differences included in this report by ethnic group or by other subgroups are statistically significant (meaning that the stated difference takes margins of error into account).

Response Rate

86. The overall response rate was 20%. In total, 1,350 interviews were conducted and there were 5,470 refusals to participate. A more conservative response rate calculation involves adding in those where no contact was made despite several call-backs (a further 2,840 numbers) which would bring the response rate to 14%.

Limitations of the Survey Method

87. As with any survey approach, there are some limitations associated with the survey methods used for this project. These should be taken into account when interpreting the findings.
88. Firstly, the sample size of 1,350 provides a robust picture for most of the survey estimates. However, the sample sizes for some subgroups are relatively small. For example, only 144 people aged between 18 and 24 were interviewed – meaning that results for subgroups should be treated with caution. (However, please note that only statistically significant subgroup analyses are reported in this research report – if the difference displayed by a particular subgroup sits within the relevant margins of error then the subgroup difference is not described within the report).¹⁹
89. There is also the potential for response-bias – whereby different subgroups within the population respond at different rates. This a limitation of the research method common to all sample-surveys that are voluntary in nature. For example, older people tend to respond at a higher rate than younger people. Survey weighting attempts to mitigate the effects of this, but it is still possible there are unknown differences between the type of person responding to the survey compared with the type of person not responding to the survey.

¹⁹ One exception to this is that comparator subgroups are sometimes mentioned which may not be statistically significant from the total population. This mainly occurs for ethnic group analysis, if one ethnic group is significantly different from the total sample then this is noted (alongside comparator survey proportions for other ethnic groups which may not be significantly different from the total sample).

90. The law relating to the distribution of a deceased's property is complex and is difficult to fully explain in the context of a time-limited telephone survey. Many respondents would not have considered the legal implications of distribution of a deceased's property prior to the telephone interview. However, the survey was not intended to assess whether respondents had a comprehensive understanding of the law, but rather focused on confined issues. It is possible that the provision of further information might have changed their viewpoints. This is largely an issue of interpretation rather than quality. The survey reflects current viewpoints within the general population, which naturally includes a mix of informed and uninformed views. However, the reader should keep in mind the proportion of respondents who provided 'don't know' responses to particular questions.
91. Finally, there is the possibility of social desirability whereby respondents may have had a tendency to answer questions in a manner that might have been perceived favourably by others. The research team attempted to mitigate this by providing a full set of response options and making clear that the respondent was being asked for their personal viewpoint (rather than what they perceived the law to be). However, social desirability may have had an un-measurable influence on responses to more sensitive questions, such as views on disinheriting a disabled child from an estate or self-reported knowledge of the current law.

Subgroup Analysis

92. Key analyses of the survey data focus on the range of viewpoints held by respondents, as well as key demographic characteristics (such as age, gender, ethnicity, housing tenure, presence of children in the household, and household income). Unless otherwise stated, reported differences between subgroups mentioned in this report are statistically significant at the 95% confidence level.
93. Comprehensive subgroup significance testing was undertaken across all demographic variables, so the absence of a subgroup finding means that the difference for that group (compared with the total) was not statistically significant.

Reading Figures Within the Research Report

94. Please note that figures that contain rating statements have 'nett' scores on the far right-hand side for each rating statement. These nett scores combine the top two ratings within a scale. Sometimes when netts are created from two categories, such as merging 'strongly agree' and 'agree' into 'overall agree' (a nett score), the percentages of the two individual categories may not add up to the percentage of the nett. This is because of rounding (for example, 4.4% would appear as '4%', and if two scores of 4.4% were added together this would appear as '9%' – although the reader might expect it to appear as '8%'). The reader may also find that when the proportions from various response categories in a single-coded question are added together that the total comes to slightly more, or slightly less, than 100% – this is due to rounding.



Eight in ten respondents thought that a person should be allowed to leave family members out of their will.

Excluding Family Members from Wills

Agreement that, In Principle, Family Members can be Left Out of Wills

95. The first question of the survey asked respondents if they agreed or disagreed that a person should be allowed to leave family members out of their will. As shown in Figure 1 below, 8 in 10 agreed.
96. Although the majority (8 in 10) agreed, levels of agreement were lower for some subgroups, including:
- Older people (69% of those aged 65 to 74, and 63% of those aged 75 and older);
 - Pacific respondents (66%) and Asian respondents (72%) (this compares with 82% of Māori respondents and 83% of European respondents);
 - Those with an annual household income up to \$50,000 (73%).
- It should be noted that, even though these subgroups were less positive about the statement, almost 7 in 10 still agreed that a person should be allowed to leave family members out of their will.
97. In contrast, some subgroups were more likely than others to agree, including:
- Those living with a partner they are not married to²⁰ (89%);
 - Younger people (87% of those aged 18 to 24, and 86% of those aged 25 to 34);
 - Those with an annual household income of \$100,000 or higher (86%).
98. Those without a will were slightly more likely than those with a will to agree that a person should be allowed to leave family members out of their will – but the difference was not large (83% of those without a will agreed, compared with 77% of those with a will).

99. In total, 3% of respondents said ‘it depends’. Interviewers probed further to find out why respondents had given this answer. Common themes are listed below²¹ (in no particular order):
- It depends on the quality of the relationships – for example, if family members were disconnected, estranged, or even had quarrels with the deceased then they should not be included in the will, but if they had very close relationships with the deceased then they should be included.
 - It depends on the type of family member – for example, distant family members (such as non-biological children or extended family) should not be included, but immediate relatives (such as a spouse/partner or child) should be included.
 - It depends on whether there was a good reason stated by the will-maker – some respondents thought that the will should be explicit about the rationale for not including family members.
 - Some respondents were generally torn between free will being important and obligations to family (particularly children) being important.
100. The next section discusses views about the types of family members that should be allowed to challenge a will and receive a share of an estate. An analysis of these questions against the initial survey question (about not including family in a will) shows that, although most respondents think that it is acceptable to leave family members out of a will, most also think that spouses/partners and children should be allowed to challenge this (see paragraph 110 for details).

20 Note that respondents answering this relationship status category would have interpreted the classification as living with a partner who they were ‘not married to or not in a civil union with’ (because the preceding code in the response list was ‘Living with your married or civil union partner’).

21 Given the relatively small quantity of written material to analyse, thematic analysis to identify common answer-typologies (provided by at least a handful of respondents each) was more appropriate than quantitative analysis.

Figure 1: Agreement that a person should be allowed to leave family members out of their will

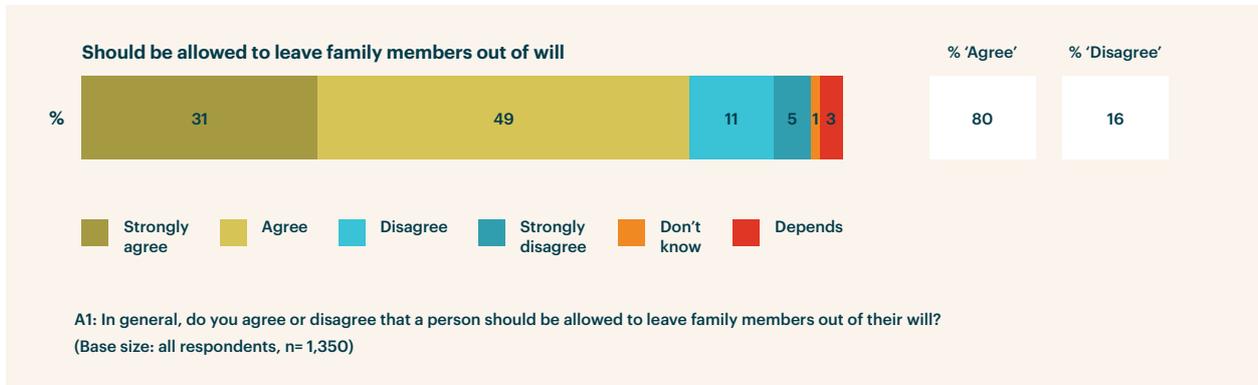
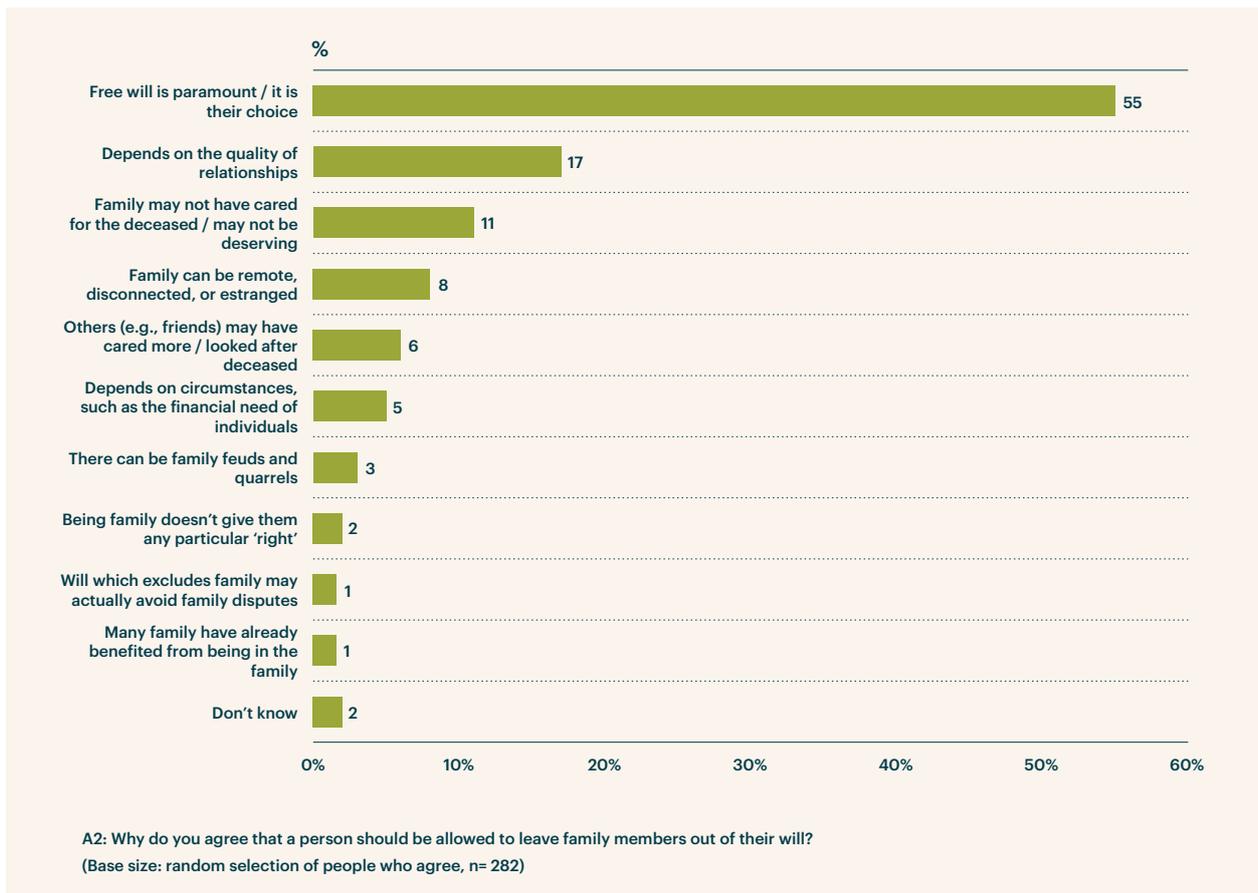


Figure 2: Reasons a person should be allowed to leave family members out of their will



Excluding Family Members from Wills CONT.

Reasons for Being Allowed to Leave Family Members Out of a Will

101. A random selection (1 in 4)²² of those who agreed with the statement that a person should be allowed to leave family members out of their will were asked why they agreed (using an open-ended question). The most common answer was that the will-maker should decide and that free will is very important. Answers were coded into themes and are illustrated in Figure 2. (It should be noted that some respondents provided more than one reason in their answer which is why the numbers add up to more than 100%).
102. Some illustrative quotes from respondents are listed below:

"It is their own estate, they work all their life for all their estate, so I believe that they should be entitled to do whatever they want with it."

"In essence, it is your money, your assets, and you can do what you like with it."

"If the person is of sound mind then they are capable of making the decision. If they leave someone out, then that is what happens."

"I think the person can do whatever he wants because he might not have a good relationship with his family members. And he has a right to say what to do with his assets."

"I think there are lots of legitimate reasons why someone may want to do this. A family member may have treated them badly in the past or one family member may not need the money and it makes more sense to leave it to a person who does."

Reasons for Not Being Allowed to Leave Family Members Out of a Will

103. A random selection (1 in 4)²³ of those who disagreed with the statement that a person should be allowed to leave family members out of their will were asked why they disagreed (using an open-ended question). The most common answer was that obligations to family were paramount. Answers were coded into themes and are illustrated in Figure 3.
104. Some illustrative quotes from respondents are listed below:

"Everyone has connection to their family and the family should have some say in what they get when their relatives die."

"I think that afterwards it causes issues among a group of siblings. For example, say 3 out of the 4 get something and the other one doesn't, it's going to cause a divide amongst them."

"I think that you have some responsibility to your family."

"Inheritance may well be the foundation for the next generation to move forward."

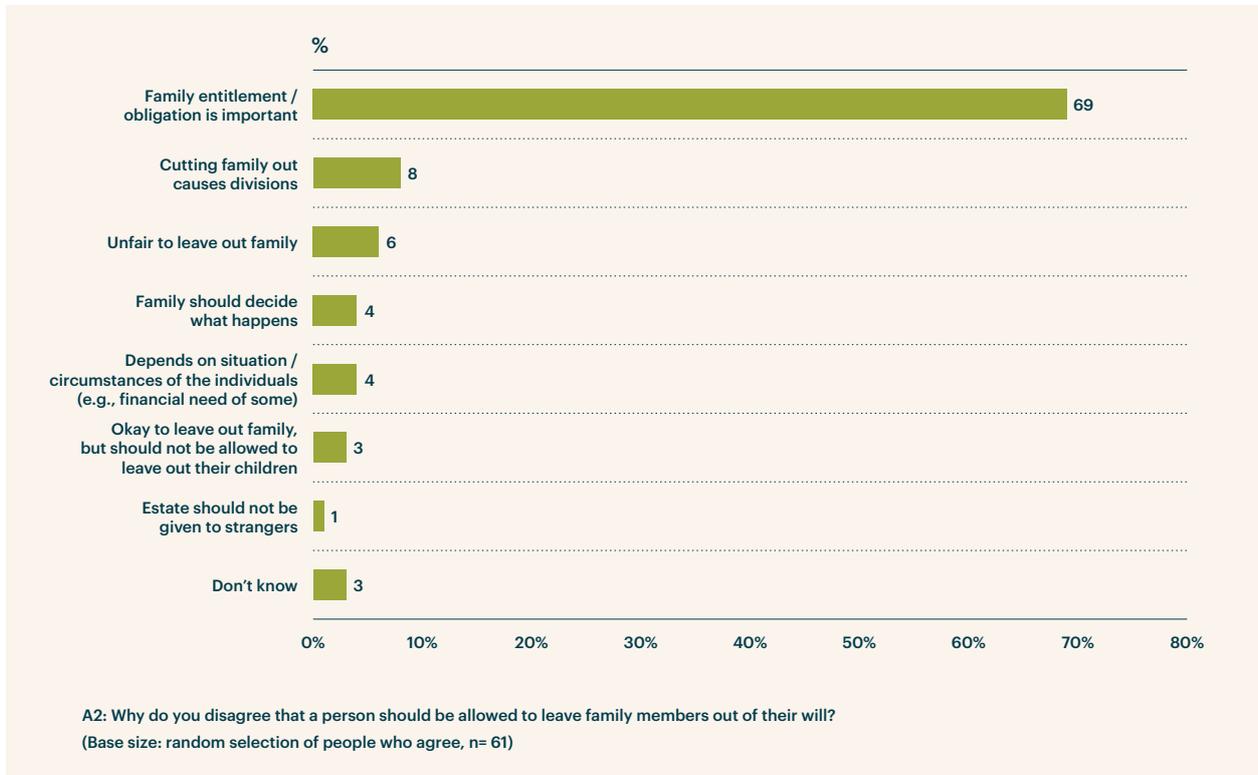
"Sometimes you have little arguments with children, but really you would regret it in the long run."

105. Subgroup analysis of these follow-up questions (illustrated in Figures 2 and 3) is not possible due to the small base sizes involved (only 1 in 4 were asked these questions in order to save on overall interview length).

22 This was random in order to minimise the total interview length across all respondents and keep within our budgeted 15 minute length.

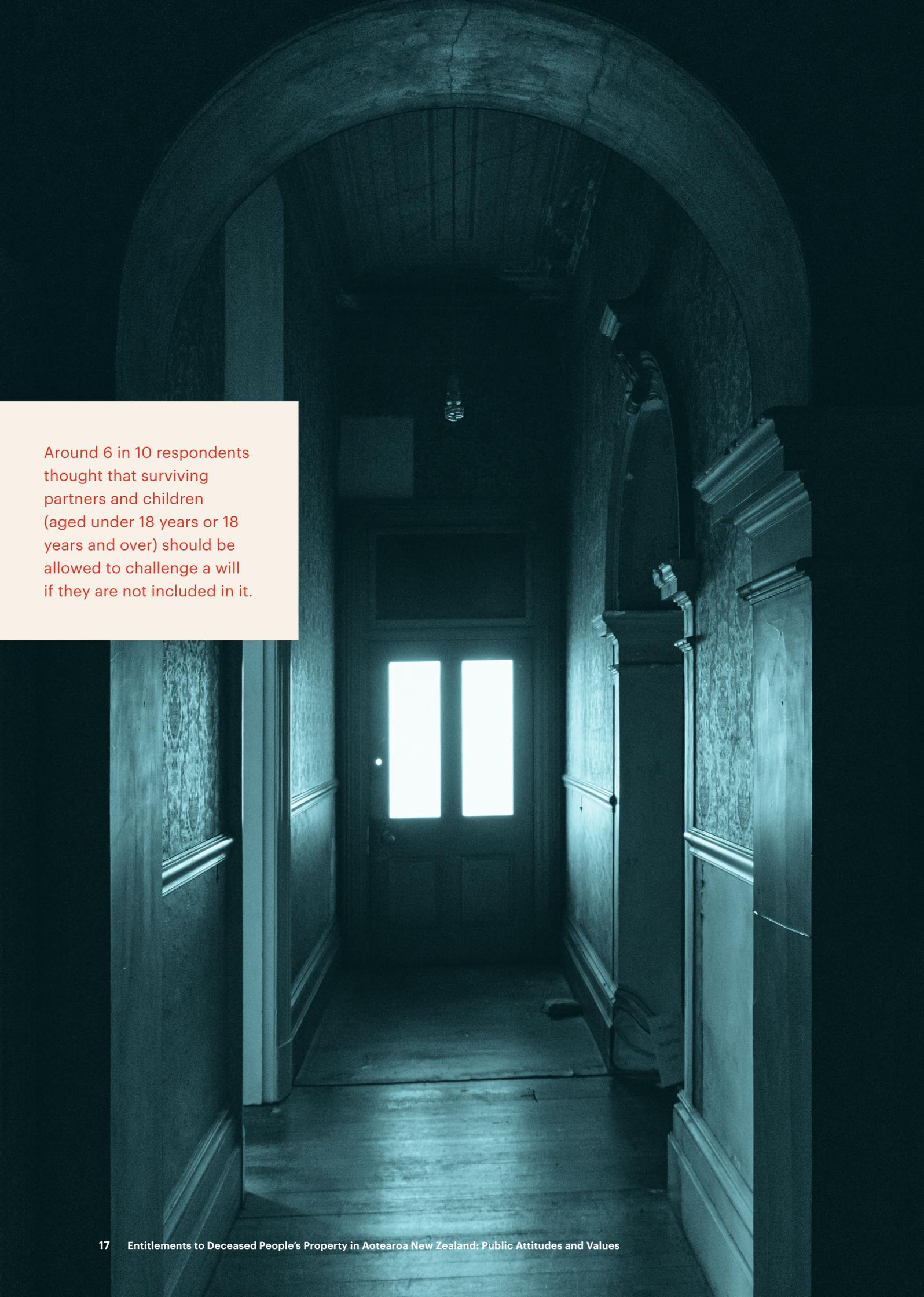
23 This was random in order to minimise the total interview length across all respondents and keep within our budgeted 15 minute length.

Figure 3: Reasons a person should not be allowed to leave family members out of their will



Excluding Family Members from Wills – Key Findings

- 8 in 10 respondents agreed that a person should be allowed to leave family members out of their will.
- Agreement levels were lower for Pacific and Asian respondents, older respondents, and respondents with a household income up to \$50,000.
- Most of those who answered a question about ‘why a person should be allowed to leave family members out of their will’ said that free will was paramount.
- Most of those who answered a question about ‘why a person should not be allowed to leave family members out of their will’ said that obligation to family was paramount.



Around 6 in 10 respondents thought that surviving partners and children (aged under 18 years or 18 years and over) should be allowed to challenge a will if they are not included in it.

Types of Family Members Who Should be Allowed to Challenge a Will

Views on Who Should be Allowed to Challenge a Will

106. Respondents were asked whether particular types of family members should be allowed to challenge a will to receive a share of the estate if they are not included in it.
107. Respondents were told to assume that the will accurately reflects the wishes of the deceased and was made when they were in a good mental state. They were also told that an estate means ‘a person’s money, items (such as furniture or a car) and their share of the home or other properties’. Interviewers explained that this survey was not about Māori land. The results are illustrated in Figure 4.

108. Around 6 in 10 respondents thought that surviving partners and children (aged under 18 years or 18 years and over) should be allowed to challenge a will if they are not included in it.
109. Less than half (around 4 in 10) thought that parents should be allowed to challenge a will. Only about a quarter of respondents thought that stepchildren and grandchildren should be allowed to challenge a will if they are excluded from it.

Figure 4: Family members who should be allowed to challenge a will

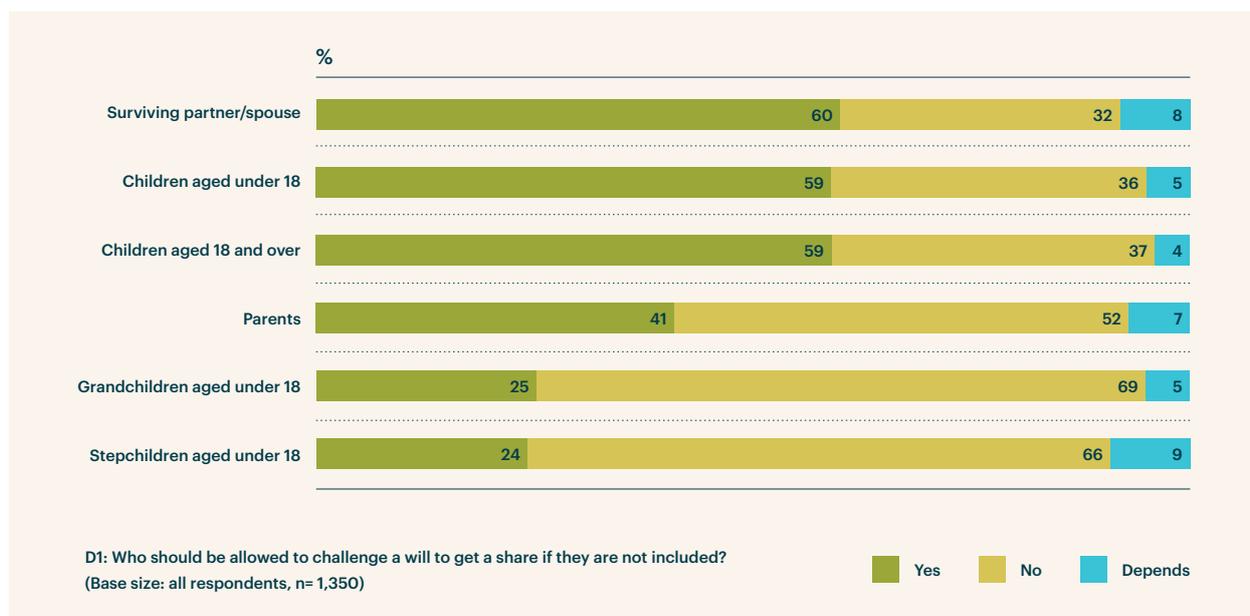


Table 3: Proportion who believed that family members should be allowed to challenge a will by views on the right to exclude family from wills

Who should be allowed to challenge a will...	Those who agree that you should be able to exclude family from wills (n=1,062)	Those who disagree that you should be able to exclude family from wills (n=221)
Partner/spouse	59%	66%
Children aged under 18	56%	73%
Adult children (aged 18 and over)	54%	80%
Parents	39%	47%
Grandchildren aged under 18	24%	29%
Stepchildren aged under 18	23%	28%
(Any – i.e., selected at least one family member who should be allowed to challenge a will)	(76%)	(93%)

Views on Who Should be Allowed to Challenge a Will Compared with Views on Excluding Family from Wills

110. The results presented in Figure 4 show that around 6 in 10 respondents thought that a spouse/partner or a child of the deceased should be allowed to challenge a will they are excluded from. This contrasts with 8 in 10 who thought that it was acceptable to exclude family members from a will (see Figure 1). This suggests that although the majority thought that a will should be respected, most also believed that spouses/partners and children should have a right to challenge a will they are excluded from. Table 3 compares views about who should be allowed to challenge a will with views about being allowed to exclude family from wills.
111. The table shows that, even among those who agreed that it is acceptable to exclude family members from wills, the majority believed that spouses/partners and children should have a right to challenge a will. The table also shows that those who *disagreed* that a person should be allowed to exclude family members were often particularly supportive of children (young or adult) being allowed to challenge wills.

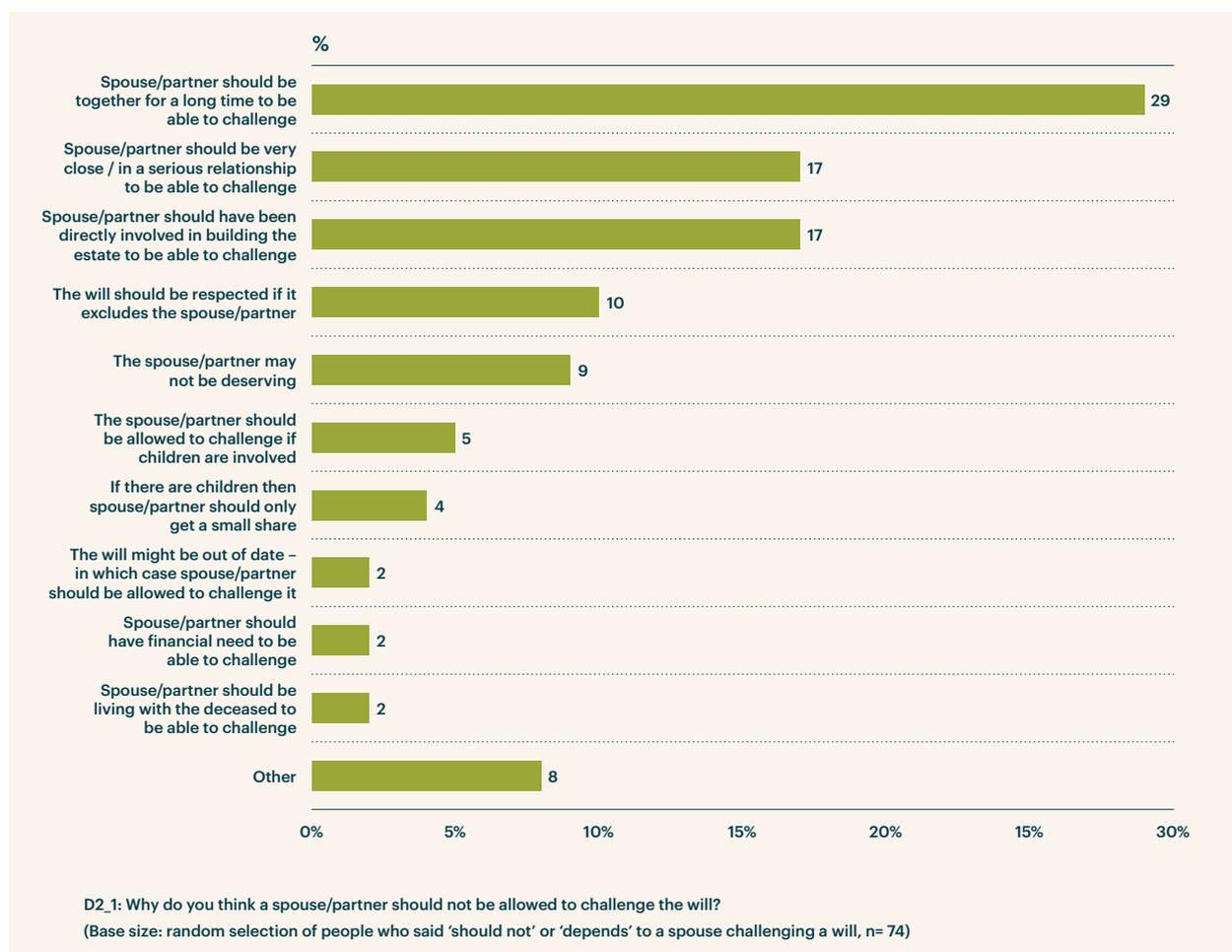
Additional Detail on Views about the Entitlement of Each Type of Family Member to Challenge a Will

Surviving spouse or partner

112. Sixty percent thought that the deceased person's spouse or partner should be allowed to challenge a will if they are not included in it. Views varied among some subgroups:
- Respondents with a household income over \$100,000 and those who own their own home²⁴ were more likely to say the spouse or partner should be allowed to challenge a will (67% and 64% respectively).
 - Pacific respondents were less likely to say this (50%, compared with 63% of European respondents, 56% of Māori respondents, and 58% of Asian respondents).

²⁴ Note that throughout this report we refer to 'those who own their own home', but this is short-hand for 'owning, or part-owning, the home the respondent lives in – including if it is held on a trust – and that this can be with or without a mortgage'.

Figure 5: Reasons why a spouse/partner might not be allowed to challenge a will²⁷



113. A random selection²⁵ of those who said 'should not be allowed to challenge' or 'it depends' when asked if a surviving spouse/partner should be allowed to challenge a will were asked why they thought this. Often these respondents still thought

that the spouse or partner should be allowed to challenge the will depending upon the length or strength of the relationship. Their answers are outlined in Figure 5.²⁶

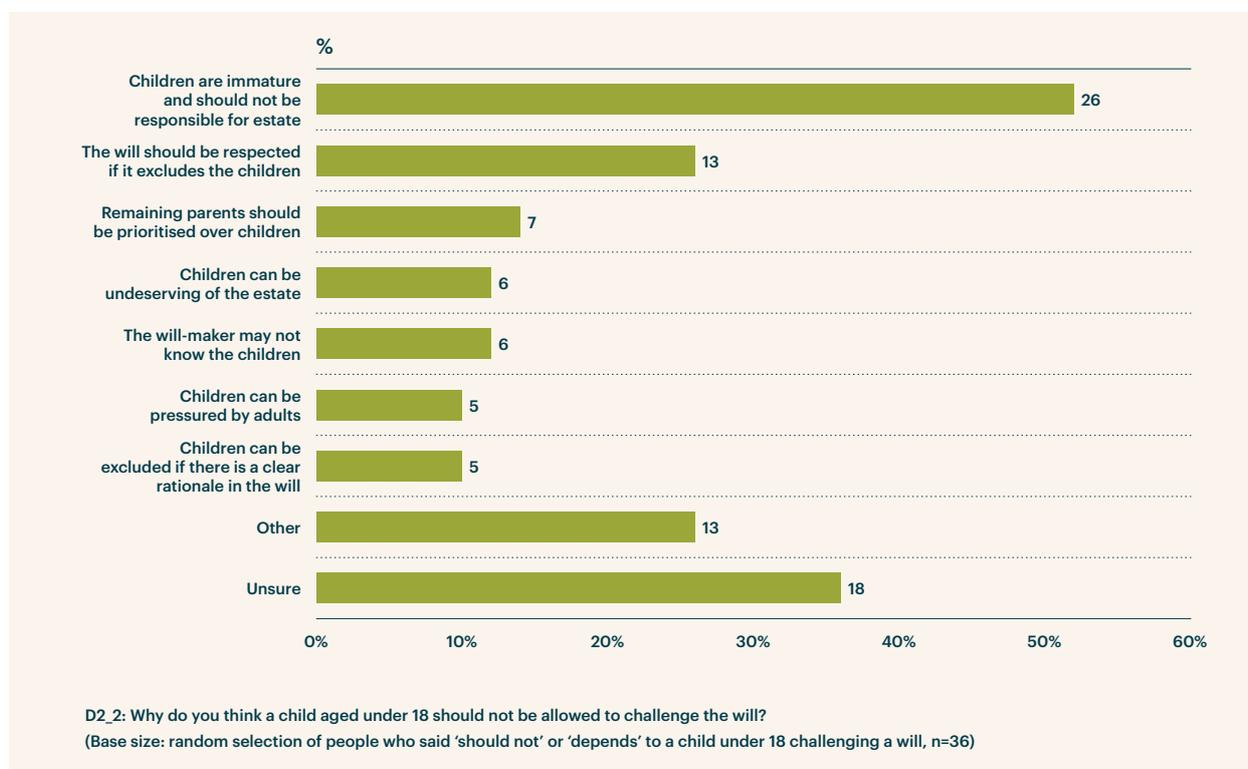
²⁵ Note this was randomised in order to minimise burden on respondents – many of whom had selected 'should not' or 'it depends' to more than one family member type (when asked if family members should be allowed to challenge a will).

²⁶ It should be noted that throughout this section the percentages presented in each figure may not add up to 100%. This is because respondents sometimes provided more than one reason within their answer (the free-text means the question is effectively a multi-coded variable). Conversely, there is a degree of rounding present which affects the totals. For example, two individual answer categories may receive 2.6% of respondents each – both would appear as 3% in the Figure, but when summed together their total would be 5% (not 6% as might be expected by the reader who is not presented with the decimal places). This is another reason why the sum of all results may add up to more or less than 100%.

²⁷ The words 'might not' reflect that respondents in these figures include those who said the family member 'should not' be allowed to challenge a will *and* those who said 'it depends'.

Types of Family Members Who Should be Allowed to Challenge a Will CONT.

Figure 6: Reasons why a child aged under 18 might not be allowed to challenge a will



Children aged under 18

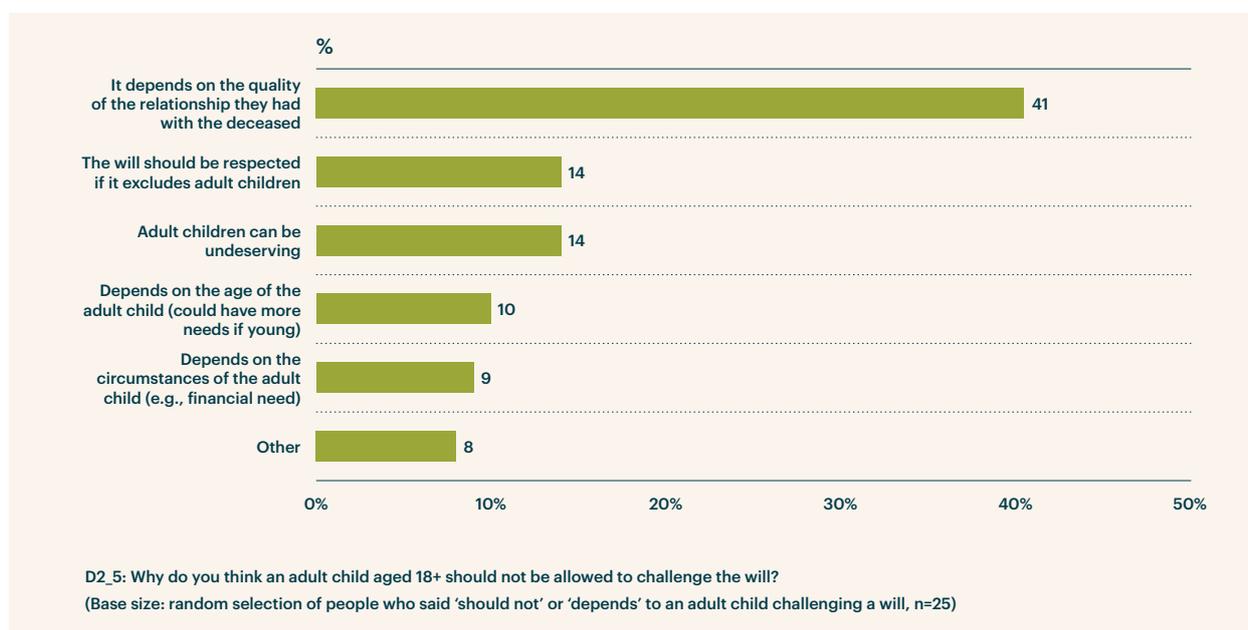
114. Fifty-nine percent thought that the deceased person's children aged under 18 should be allowed to challenge a will if they are not included in it (it should be noted that interviewers were told to say this was 'the biological child' of the deceased if asked). Views did not significantly vary among different subgroups, although those with a household income over \$150,000 were more likely to think that children should be allowed to challenge a will (67%), as were females (64% compared with 55% of males).
115. A random selection of those who said 'should not' or 'depends' when asked if a child aged under 18 should be allowed to challenge a will were asked why they thought this. It should be noted only a small number of respondents (n=36) answered this question, so the results should be treated with caution. The most common answer was that respondents believed that children cannot handle the responsibility (respondents said this despite interviewers reading out that the children would

have someone acting on their behalf). The answers are illustrated in Figure 6.

116. Note that a relatively large proportion of respondents (13%) are categorised as 'other' – this does not represent a large number of respondents (n=5)²⁸ but appears large because of the small base size of the result (only 36 respondents were asked this particular question). Respondents in the 'other' category provided a variety of miscellaneous answers that could not be grouped with other answers (such as 'the estate may have been generated early in the deceased person's life', 'it depends on whether the children were caring for the deceased', 'it depends, it is not straightforward').

²⁸ Note that weighting means the percentages in the figure are not an exact division of the raw number of respondents (e.g., 5/36 = 14% rather than 13%, but the result is 13% after survey weighting is taken into account).

Figure 7: Reasons why an adult child aged 18 and over might not be allowed to challenge a will



Adult children aged 18 and over

- 117. Fifty-nine percent thought that the deceased person’s children aged 18 and over should be allowed to challenge the will if they are not included in it. Views were evenly spread across different subgroups (i.e., no significant differences between different population groups within the survey).
- 118. A random selection of those who said ‘should not’ or ‘it depends’ when asked if an adult child aged 18 and over should be allowed challenge a will were asked why they thought this. It should be noted only a very small number of respondents (n=25) answered this question so the results should be treated with caution. The most common answer was that it depends on the quality of relationship the adult child had with the deceased. The responses are illustrated in Figure 7.

Parents

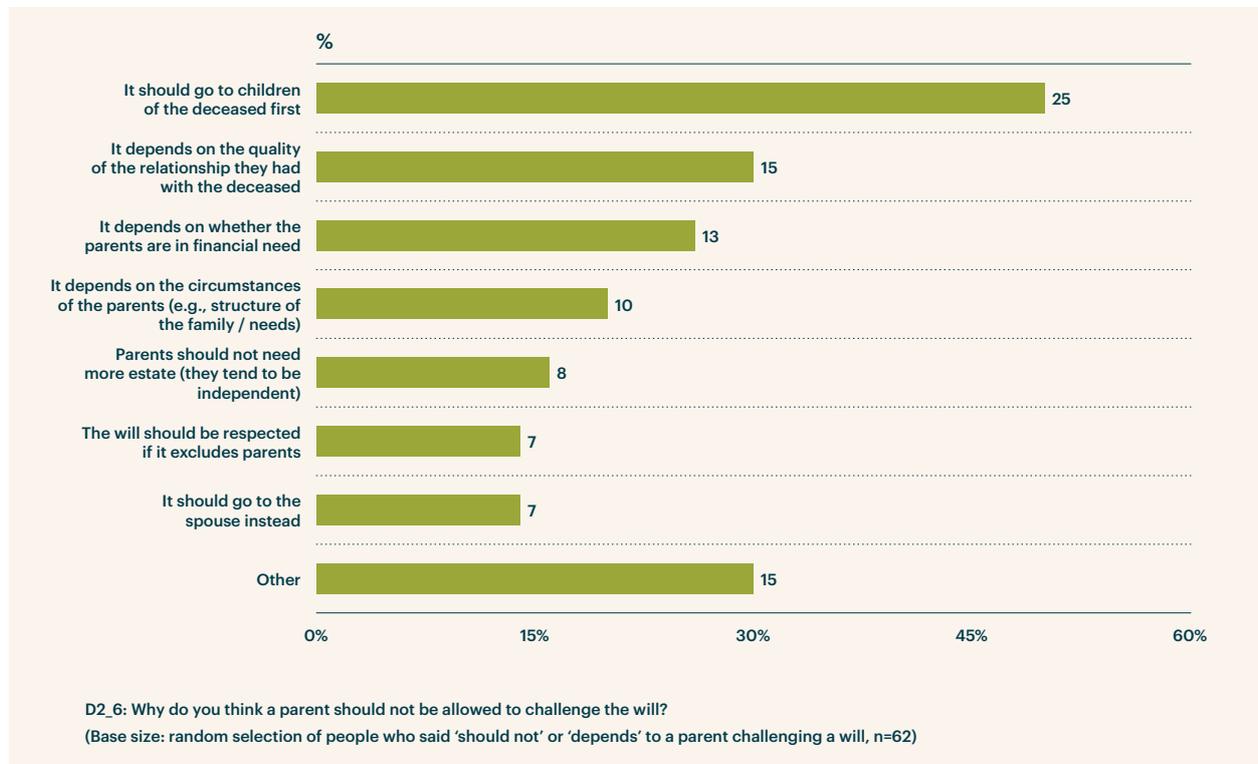
- 119. Forty-one percent thought that parents of the deceased should be allowed to challenge a will if they are not included in it. Views varied among some subgroups:

- Younger people were more likely to think that parents should be allowed to challenge a will (48% of those aged under 50 compared with 32% of those aged 50 plus).
- Those without a will were more likely to think that parents should be allowed to challenge a will (49% compared with 33% of those with a will).²⁹
- Those who do not own the home they live in were also more likely to think this (48% compared with 35% of those who own the home they live in).
- Asian and Pacific respondents were also more likely to think that parents should be allowed to challenge a will (56% and 53% respectively, compared with 36% of European respondents and 42% of Māori respondents).

²⁹ However, it should be noted this finding (those without a will favouring parents right to challenge) is interlinked with age (because younger people were less likely to have a will). In fact, age explains variation in views far more than having a will (or not). Younger people *with a will* were still significantly more likely to favour a parent’s right to challenge a will (40% of those aged under 50 with a will thought that parents should be allowed to challenge a will, compared with 31% of those aged 50 years and older with a will). A similar sized difference exists between younger people *without a will* and older people *without a will*. This suggests age influences viewpoints more than having a will (or not).

Types of Family Members Who Should be Allowed to Challenge a Will CONT.

Figure 8: Reasons why a parent might not be allowed to challenge a will

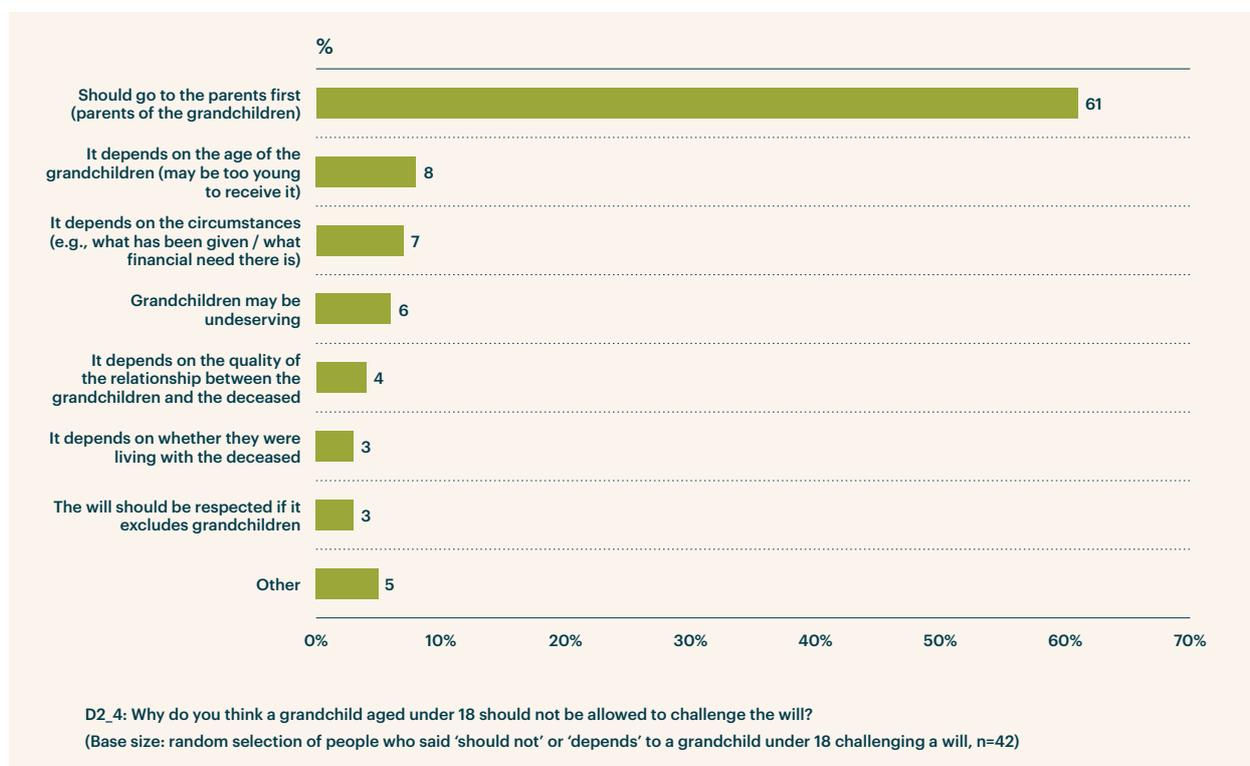


120. A random selection of those who said 'should not' or 'it depends' when asked if a parent should be allowed to challenge a will were asked why they thought this. The most common response was that the estate should go to the child of the deceased first (and also that the quality of the relationship between the parents and the deceased should be a factor). The answers are illustrated in Figure 8.

121. Note that a relatively large proportion of respondents (15%) are categorised as 'other' – this does not represent a large number of respondents (n=10)³⁰ but appears large because of the small base size of the result (only 62 respondents were asked this particular question). Respondents in the 'other' category provided a wide variety of miscellaneous answers that could not be grouped with other answers (such as 'it should go to the State' or 'it depends on how old the parents are', and 'it depends on whether the parents looked after the deceased well').

³⁰ Note that weighting means the percentages in the chart are not an exact division of the raw number of respondents (e.g., 10/62 = 16% rather than 15%, but the result is 15% after survey weighting is taken into account).

Figure 9: Reasons why a grandchild aged under 18 might not be allowed to challenge a will



Grandchildren aged under 18

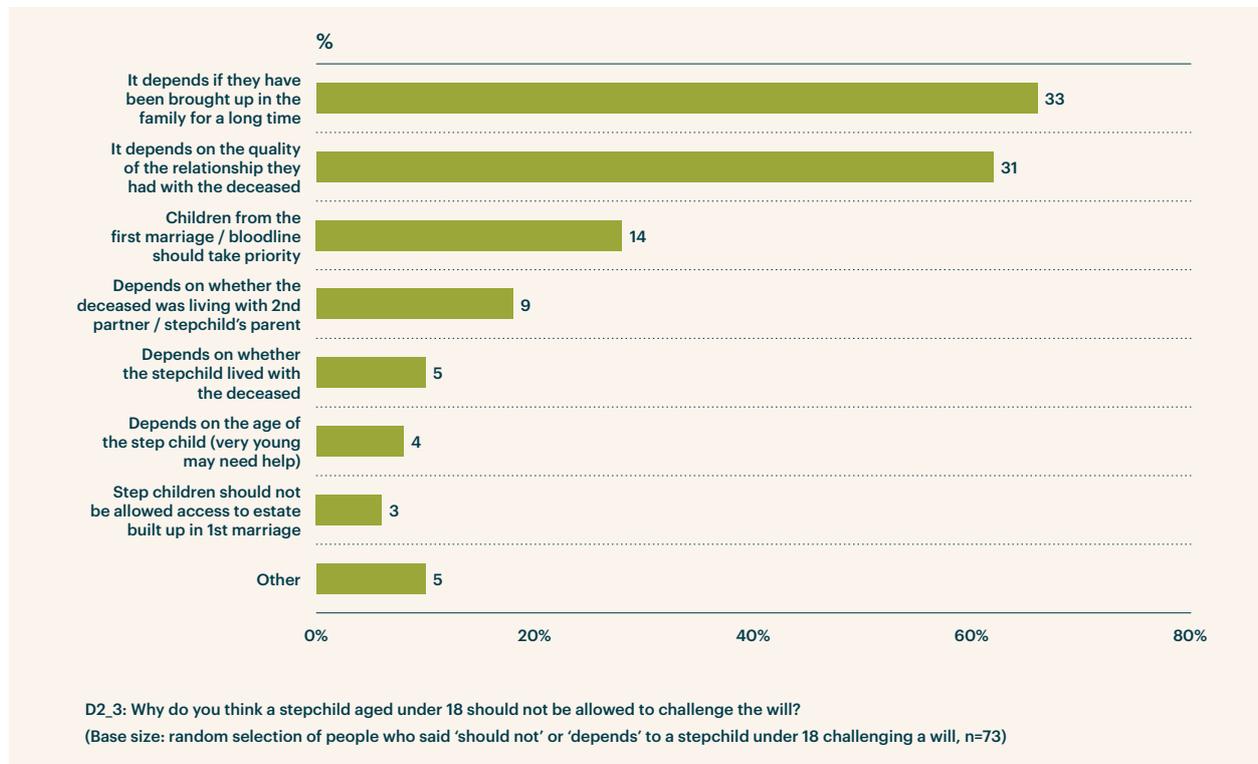
122. Twenty-five percent thought that grandchildren aged under 18 should be allowed to challenge a will if they are not included in it. Views varied among some subgroups:

- Young people aged 18-24 were more likely to think that grandchildren should be allowed to challenge a will (37%). This compares with only 17% of those aged 75 plus.
- Asian respondents were also more likely to think that grandchildren should be allowed to challenge a will (36%, compared with 22% of European respondents, 28% of Māori respondents, and 31% of Pacific respondents).
- Females were also more likely to think this (28% compared with 22% of males).

123. A random selection of those who said 'should not' or 'depends' when asked if a grandchild aged under 18 should be allowed to challenge a will were asked why they thought this. The most common answer was that it should go to the parents (of the grandchildren) first. The answers are illustrated in Figure 9.

Types of Family Members Who Should be Allowed to Challenge a Will CONT.

Figure 10: Reasons why a stepchild aged under 18 might not be allowed to challenge a will



Stepchildren aged under 18

124. Twenty-four percent thought that stepchildren aged under 18 should be allowed to challenge a will if they are not included in it. Views did not significantly vary among different groups although Asian respondents were more likely to have said that stepchildren could challenge a will (34%, compared with 22% of European respondents, 20% of Māori respondents, and 28% of Pacific respondents).

125. A random selection of those who said 'should not' or 'depends' when asked if a stepchild aged under 18 should be allowed to challenge a will were asked why they thought this. The most common response was that the ability to challenge the will depends on whether the stepchild was brought up as part of the family or had a very close relationship with the deceased. The answers are illustrated in Figure 10.

126. The next section presents respondents' reactions to a number of specific scenarios whereby a family member is excluded from a will – respondents were asked if the excluded family member should be allowed to challenge the will and receive a share of the estate. Analysis in the next section reveals that respondents often change their views about the types of family members who should be allowed to challenge a will given particular circumstances. For example:

- Figure 4 earlier showed that the proportion of respondents who thought an adult child should be allowed to challenge a will was the same as the proportion of respondents who thought that a young child (aged under 18) should be able to challenge a will. However, the next section shows how respondents distinguished between young children and adult children when challenging a will which leaves the whole estate to charity (see Figure 11 on page 29 for details).

- Figure 4 earlier showed that under a quarter of the respondents believed that young stepchildren should be able to challenge a will. However, the next section shows that almost half of the respondents agreed that young stepchildren (who have been accepted as family) should be allowed to challenge a will which leaves all of the estate to young biological children (see Figure 11 for details).

Types of Family Members Who Should be Allowed to Challenge a Will – Key Findings

- 6 in 10 believed that spouses/partners and young/adult children should be allowed to challenge a will which excludes them.
- 4 in 10 believed that parents of the deceased should be allowed to challenge a will that excludes them.
- Those who did not think that parents should be allowed to challenge a will believed that children of the deceased should be prioritised instead (and that the quality of the relationship between the parents and the deceased should be a factor).
- Only a quarter of respondents believed that young grandchildren should be allowed to challenge a will that excludes them (most thought that parents of the grandchildren should receive the estate instead).
- Only a quarter believed that young stepchildren should be allowed to challenge a will that excludes them. Many believed that the ability of a stepchild to challenge a will should depend upon whether that child was brought up as part of the family or had a very close relationship with the deceased.



Māori were more likely than other ethnic groups to agree that an adult child should be allowed to challenge a will which leaves the estate to charity.

Scenarios about Challenging a Will and Receiving a Share of the Estate

Overview of Scenarios about Family Members Challenging a Will

127. After the questions about whether a person should be allowed to leave family members out of a will, and whether family members should be allowed to challenge that decision, respondents were asked to consider a series of scenarios involving the distribution of a deceased's property. These scenarios were used to explore views about the entitlements of surviving family members in different circumstances. Compared with asking for unprompted views, this approach enabled a more in-depth examination of respondents' viewpoints

about what should happen in different situations and whether mitigating factors (such as financial need) might change viewpoints.

128. Respondents were read out a number of scenarios and asked whether they agreed or disagreed with the statements described in Table 4. Where relevant, respondents were told to assume that an adult acting on a child's behalf would challenge the will and would hold their share of the estate for them if that was appropriate.

129. The results from all of these scenarios are set out in Figure 11.

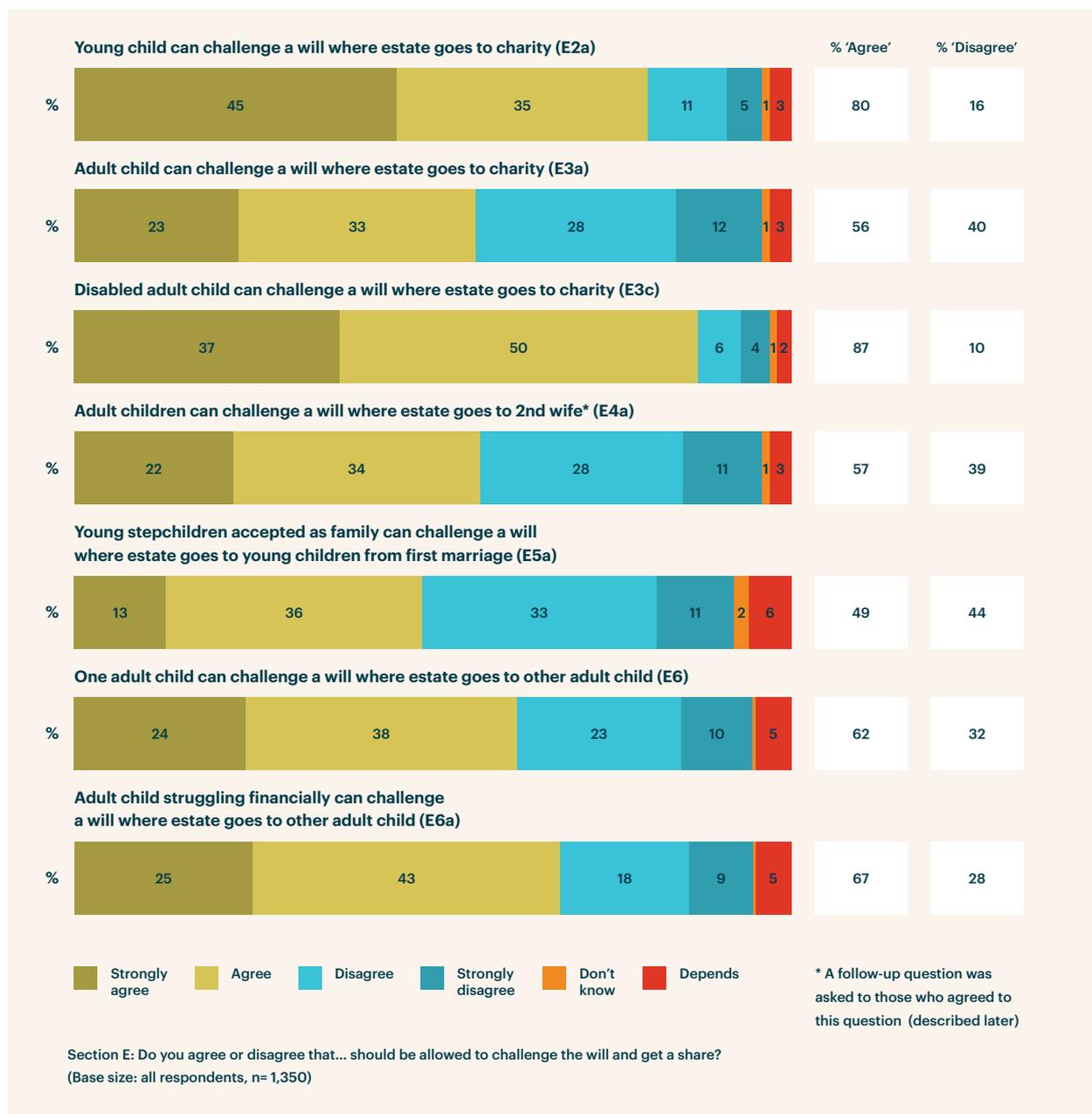
Table 4: Description of scenarios where family members have been excluded from the will

Situation	Question label ³¹
A man who is a single parent dies and is survived by his young child. The man has made a will and leaves all of his estate to charity. Do you agree or disagree that <i>the man's young child should be able to challenge his will and get a share of his estate?</i>	E2a
A married man dies and is survived by his child who is aged over 25. His wife is already dead. The man has made a will and leaves all of his estate to charity. Do you agree or disagree that <i>the man's adult child should be able to challenge his will and get a share of his estate?</i>	E3a
A married man dies and is survived by his child who is aged over 25. His wife is already dead. The man has made a will and leaves all of his estate to charity. (This is the same as E3a but, for this scenario, the following additional information was provided...) The man's adult child has a disability and was dependent on the father. Do you agree or disagree that <i>the man's adult child should be able to challenge his will and get a share of his estate?</i>	E3c
A married man dies and is survived by his two adult children from his first marriage and his wife from his second marriage to whom he has been married for 10 years. The man has made a will and leaves all of his estate to his wife. Do you agree or disagree that <i>the man's adult children should be able to challenge his will and get a share of his estate?</i>	E4a
A woman dies who is survived by her two young children from her first marriage as well as two young stepchildren whom she had accepted as children of her family. The woman has made a will and leaves all of her estate to her children from the first marriage. Do you agree or disagree that <i>the woman's young stepchildren should be able to challenge her will and get a share of her estate?</i>	E5a
A man dies and is survived only by his two children who are both aged over 25. The man has made a will and leaves all of his estate to one of his children. Do you agree or disagree that <i>the man's other adult child should be able to challenge his will and get a share of his estate?</i>	E6
A man dies and is survived only by his two children who are both aged over 25. The man has made a will and leaves all of his estate to one of his children. (But for this scenario the following information was added...) The man's other adult child (who received nothing in the will) was struggling financially. Do you agree or disagree that <i>the man's other adult child should be able to challenge his will and get a share of his estate?</i>	E6a

³¹ It should be noted that the question labels do not follow a neat-chronological order (e.g., E3a, E3b, E3c, etc). This was because during the development stage a number of scenarios were experimented with before cutting back to the final questionnaire. For auditing purposes, and the possibility of future-analyses, it is preferable to maintain labels as they are described in the dataset and all fieldwork/data-processing documentation. Rearranging labels raises a distinct risk of data errors arising if the dataset is revisited in the future.

Scenarios about Challenging a Will and Receiving a Share of the Estate CONT.

Figure 11: Agreement with various scenarios about family members challenging a will which excludes them³²



³² Please note that figures (such as Figure 11) contain rating statements have 'nett' scores on the far right-hand side for each rating statement. These nett scores combine the top two ratings within a scale (and the bottom two for 'disagree'). Sometimes when netts are created from two categories, such as merging 'strongly agree' and 'agree' into 'overall agree' (a nett score), the percentages of the two individual categories may not add up to the percentage of the nett. This is because of rounding (for example, 4.4% would appear as '4%', and if two scores of 4.4% were added together this would appear as '9%' - although the reader might expect it to appear as '8%').

130. It was more common for respondents to agree, than disagree, that family members should be allowed to challenge a will and get a share. Eight in ten or greater believed that dependent children (whether they are young or a disabled adult) should be able to challenge a will (and receive a share) if the will indicates that the entire estate should go to charity.
131. However, views were mixed when it came to a scenario involving young stepchildren (who had been brought up in the family). In this scenario, the will directed the entire estate to young children from the first marriage. This scenario split respondents, with 49% agreeing that the stepchildren should be allowed to challenge the will and 44% disagreeing (see E5a in Figure 11).

Views on Children Challenging a Will which Leaves the Estate to Charity

132. Figure 4 highlighted no differences between the degree of support for children (aged under 18) being allowed to challenge a will and adult children (aged 18 and over) being allowed to challenge a will (around 6 in 10 believed both types of children should be allowed to challenge a will which does not include them).
133. However, in a scenario where children are not included in a will in which the estate is left entirely to charity (E2a, E3a, and E3c described in Table 4), differences in views by type of child emerged. Almost 9 in 10 thought that a 'disabled adult child' should be allowed to challenge the will in this situation; this drops to 8 in 10 for a 'young child' and drops again to under 6 in 10 for 'an adult child'. It is possible that respondents were more discerning about the needs of different types of children, particularly those with a disability, once they were presented with a scenario where the entire estate is left to charity (whereas the earlier question involved weighing up the rights of different types of family members to challenge a will in more general terms).

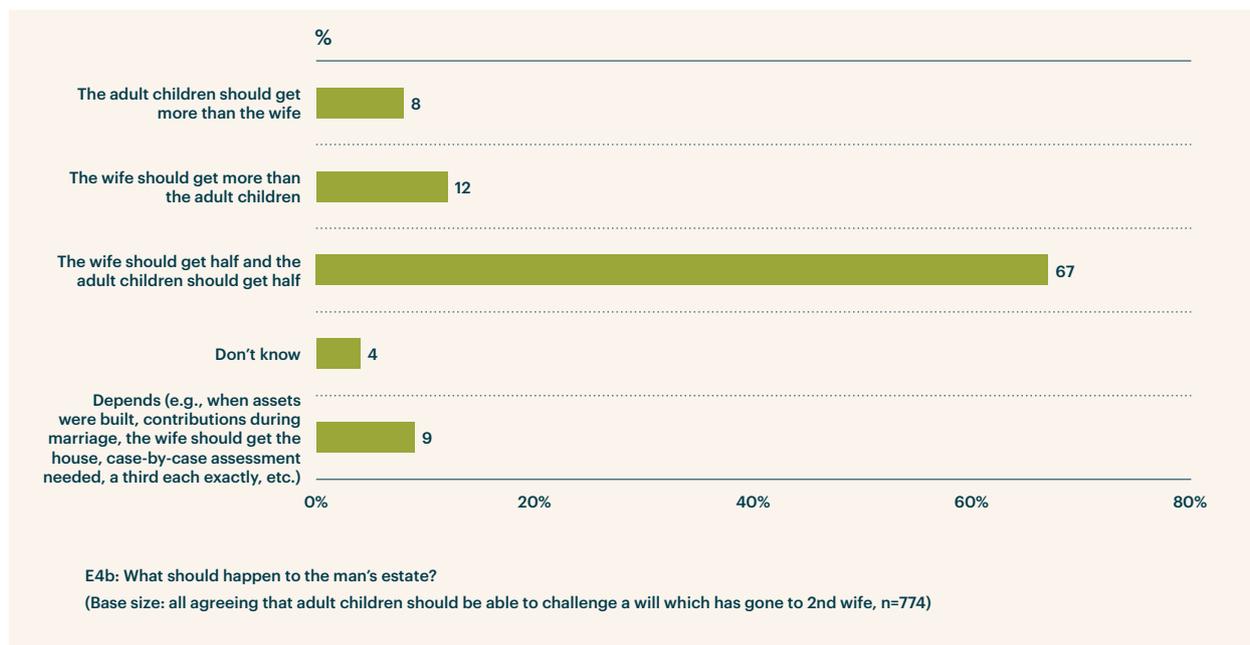
134. Eighty percent agreed that a young child should be able to challenge a will which excludes them (and leaves the estate to charity instead) – this was higher for some subgroups:
- Females (85% compared to 75% of males);
 - Those aged 50 and older (84% compared to 78% of those aged under 50);
 - Those with a will (83% compared to 78% of those without wills);³³
 - Those who own their own home (82% compared to 76% of those who do not own their own home).
135. Subgroups answered in broadly similar ways across all three scenarios involving 'a young child', 'an adult child' and 'a disabled adult child'³⁴ – but, for sake of brevity, only percentages involving the 'young child' scenario are shown above. One exception to this is that Māori were more likely than other ethnic groups to agree that an adult child should be allowed to challenge a will which leaves the estate to charity (67% of Māori agreed, compared with 57% of European respondents, 59% of Pacific respondents and only 46% of Asian respondents).

³³ Due to broadly high levels of agreement for these statements it is difficult to disentangle whether 'having a will' or 'age' is a more important influence on viewpoints. Generally speaking, both are important (so among those without a will age influences viewpoints, and older people tend to support a child's right to challenge a will regardless of whether they have a will or not).

³⁴ For example, 80% of all respondents agreed that a young child should be able to challenge a will which leaves the estate to charity. This did not significantly vary by ethnicity (82% of European respondents, 81% of Māori respondents, 77% of Pacific respondents, and 77% of Asian respondents). The equivalent findings for the scenario involving the disabled adult child were: 87% of European respondents, 86% of Māori respondents, 87% of Pacific respondents, and 89% of Asian respondents (compared with 87% of all respondents).

Scenarios about Challenging a Will and Receiving a Share of the Estate CONT.

Figure 12: Views on dividing an estate between adult children from a first marriage and a wife from a second marriage



Views on Adult Children From a First Marriage Challenging a Will which Leaves the Estate to a Second Wife

136. Figure 11 shows that 57% of respondents agreed that adult children from a first marriage should be allowed to challenge a will that leaves the estate to a wife (of 10 years) from a second marriage (scenario E4a described in Table 4). The following types of respondents were more likely to agree that the adult children should be allowed to challenge this:

- Those aged 75 years and older (70% agreed that the adult children from the first marriage should be allowed to challenge the will);
- Māori (65%, compared with 56% of European respondents, 63% of Pacific respondents, and 57% of Asian respondents)
- Those not currently in a relationship/widowed (63%);
- Females (61% compared with 52% of males).

137. Those who agreed that the adult children should be allowed to challenge the will were asked a follow-up question about what should happen to the estate. The results are illustrated in Figure 12.

138. Most (two-thirds) of those agreeing that adult children should be able to challenge a will which leaves the estate entirely to a second wife thought that the estate should be split evenly (with the adult children receiving half and the wife receiving half).

139. A fairly high proportion (almost 1 in 10) said 'it depends'. Many of these respondents thought that individual circumstances required scrutiny on a case-by-case basis. A number mentioned that it should depend on the contributions (financial and non-financial) made by the second wife during the marriage, or on the needs and circumstances of the adult children. Around a quarter of those who said 'it depends' also thought that the estate should be split three-ways between the three people.

Views on Young Stepchildren Challenging a Will which Leaves the Estate to Young Children from a First Marriage

140. Figure 4 earlier in the report showed that less than a quarter (24%) of respondents thought that stepchildren aged under 18 should be allowed to challenge a will which excludes them. However, when presented with a scenario whereby a woman leaves all of her estate to young children from her first marriage (scenario E5a in Table 4 earlier), almost half (49%) agreed that the stepchildren should be allowed to challenge this and receive a share of the estate. This means that approximately a third of those who had earlier ruled out stepchildren being able to challenge a will, thought that they should be able to do so in this situation (whereby all of the estate is left to young children from the first marriage). This may relate to the fact this scenario provided two additional pieces of information to respondents: a) the young stepchildren are left with nothing from the estate, and b) the stepchildren had been brought up as members of the family. These two factors may have swayed a number of respondents in favour of allowing the stepchildren to challenge the will.
141. The question about young stepchildren generated mixed views. The proportion that agreed that young stepchildren should be allowed to challenge a will was only slightly higher than the proportion that disagreed. Compared with other types of family members, only a small proportion (around 1 in 10) 'strongly' agreed that stepchildren should be allowed to challenge a will. (It should also be noted that views did not significantly vary between subgroups for this question).

Views on an Adult Child Challenging a Will which Leaves the Estate to Another Adult Child

142. Figure 11 shows that 62% of respondents agreed that an adult child should be able to challenge a will which leaves the estate to another adult child (scenario E6 described in Table 4). The following types of respondents were more likely to agree that the adult child should be allowed to challenge this:
- Those aged 50 years and older (69% agreed that the adult child should be allowed to challenge the will, compared with 58% of those aged under 50).
 - Māori (70%, compared with 61% of European respondents, 68% of Pacific respondents and 64% of Asian respondents).
143. Respondents were then asked if they would change their answer if it was revealed that the adult child left out of the will was struggling financially. One in twenty respondents (5%) said they would change their answer towards favouring the adult child's right to challenge (because of financial need).³⁵ This results in 67% of all respondents agreeing that an adult child struggling financially can challenge a will which leaves the estate entirely to another adult child (this compares with 62% who agreed that an adult child without financial struggles can challenge a will which excludes them).
144. It should be noted that the proportion that changed their answer towards favouring the right to challenge (because of financial need) did not vary by subgroup.

³⁵ In total, 4% moved from the 'disagree' category to the 'agree' category, and 1% moved from the 'disagree category' to the 'strongly agree' category.

Scenarios about Challenging a Will and Receiving a Share of the Estate CONT.

Reasons Why Some Respondents Could Not Agree or Disagree with the Scenarios

145. Around 1 in 20 respondents did not want to agree or disagree with the scenarios; instead they said ‘it depends’ on the circumstances. Interviewers probed to find out why respondents adopted this viewpoint. Some of the common themes are listed below (note that these are not exact verbatim quotes and there was insufficient sample size to categorise percentages to each answer. Instead, the bullet points below summarise the most common themes arising). It should be noted that the themes are not listed in any particular order.³⁶

Young child challenging a will that leaves the estate to charity (E2a) – it depends on ...

- Whether there are other carers available for the child.
- Whether the will was made before the child was born (challengeable) or afterwards (less so).
- The financial needs of that child – if living in poverty then they should be able to challenge the will.
- Whether there was demonstrable support by the deceased for the charity throughout his lifetime.

Adult child challenging a will that leaves the estate to charity (E3a) – it depends on ...

- How close the relationship was between the deceased and the adult child.
- Whether the adult child already has financial independence.
- Whether the child can handle money/estate.
- Whether there was a good rationale in the will (for excluding the adult child).
- How much of the estate the adult child is seeking (okay if a minor share).

Disabled adult child challenging a will that leaves the estate to charity (E3c) – it depends on...

- The seriousness of the disability.
- Whether there is other pre-existing support for the disabled adult child.

- How much of the estate the disabled adult child is seeking (some kind of share seems morally correct).

Adult children challenging a will that leaves the estate to the second wife (E4a) – it depends on...

- The quality of relationships between the adult children, the second wife, and the deceased (particularly the quality of relationship between the adult children and the deceased).
- It depends on when the equity came into the marriage (if money was gained during the first marriage then the adult children should be entitled to it).
- Whether the adult children need the money/ already have financial independence.
- Whether the second wife will leave it to the children upon her death.

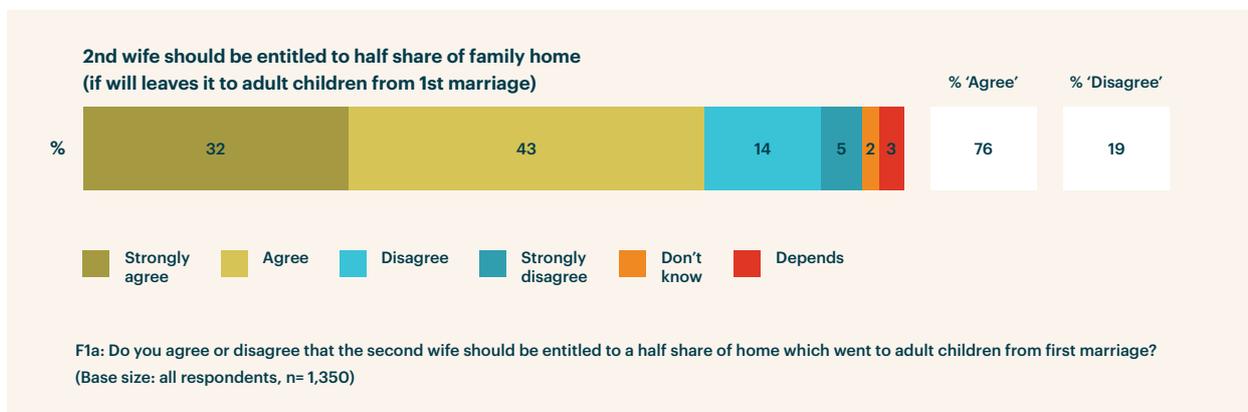
Young stepchildren challenging a will that leaves the estate to biological children from the first marriage (E5a) – it depends on...

- How long the stepchildren were in the family for (e.g., were they brought up in the family from a very young age?) / the length of time of the second marriage.
- How much of the estate the stepchildren are seeking (okay if a minor share).
- Financial circumstances of the stepchildren (may have received support from their father/family).
- It depends on when the equity came into the marriage (if money was gained during the first relationship then the stepchildren should not be entitled to it).
- Whether there was a good rationale in the will (for excluding young stepchildren).
- If there is a spouse/partner still alive they should get priority over any others.
- Whether there is still a parent (e.g., their biological father) or guardian who can look after them.³⁷

³⁶ Given the relatively small quantity of written material to analyse, thematic analysis to identify common answer-typologies (provided by at least a handful of respondents each) was more appropriate than quantitative analysis.

³⁷ Although interviewers were to prompt respondents with the following statement if necessary: ‘Assume that all the children are being cared for’ – this did not prevent a handful of respondents describing that this was a factor that led them to answering ‘it depends’.

Figure 13: Agreement that PRA entitlement should apply regardless of what the will said



One adult child challenging a will that leaves the estate to the other adult child (E6) – it depends on...

- Whether the reasons are clear/spelled out
- The quality of relationships with each child (did one provide assistance to the deceased? Was the excluded child estranged from the family?).
- Was the excluded child fit to receive a share of the estate (e.g., drug-addiction, gambling etc.).
- The circumstances of the child who seeks to challenge the will (perhaps they already received assistance in the past?).

Financially struggling adult child challenging a will that leaves the estate to the other adult child (E6a) – it depends on...

- Whether the child struggling financially was disabled (deserving of a share) or known for squandering resources (for example, gambling – hence undeserving).
- The quality of relationships with each child (did one provide assistance to the deceased? Was the excluded child estranged from the family?).
- The circumstances of the child who seeks to challenge the will (perhaps they already received assistance in the past?).

Additional Property (Relationships) Act 1976 Entitlement Scenario

146. Respondents were read out an additional scenario which examined if a wife should be entitled to a half share of the family home upon the death of her husband (even if the will said otherwise). This was intended to test views about whether a surviving partner should receive, at a minimum, the same entitlements they would have received if the relationship had ended on separation (referred to as the ‘PRA entitlement’ below).

147. The scenario was read out as follows:

“And for the next scenario now suppose a married man dies. He is survived by his two adult children from his first marriage and by his second wife to whom he was married for 10 years. That couple’s family home was bought by the husband during his second marriage. In his will, the man left the home to his children.

If the couple had divorced, the wife would have had a legal entitlement to a half share of the family home.

Do you agree or disagree that his wife should be entitled to at least a half share of the home regardless of what the will said?”

The results are illustrated in Figure 13.

Scenarios about Challenging a Will and Receiving a Share of the Estate CONT.

Figure 14: What should happen to the family home (views among those who believe the wife should not get half)



148. Just over three-quarters (76%) agreed that the PRA entitlement should apply regardless of what the will said. Some subgroups were more likely to think this including:

- Those aged 50 years or older (82% compared with 71% of those younger than 50);
- Those with a will (81% compared with 70% of those without a will);³⁸
- Females (78% compared with 73% of males).

149. Pacific respondents were *less* likely to agree that the PRA entitlement should apply (65%, compared with 78% of European respondents, 74% of Māori respondents, and 73% of Asian respondents).

150. Only 3% said 'it depends' – typical answers among this group included:

- The wife should get a share, but not necessarily get half.
- It depends upon the contributions of the wife to the home (decorating, mortgage payments etc.).

- It depends upon the contributions of the wife to the marriage (paying for expenses, looking after children etc.).
- The wife can stay in the family home until circumstances change.

151. Those who thought that the wife should not be entitled to a half share of the family home were asked what should happen instead. Their answers are illustrated in Figure 14.

152. Among those who thought that the wife should not be entitled to a half share of the family home (which is a minority of all respondents), views were evenly split between her receiving a minor share (less than half) (39%) and not receiving anything at all (as was stated in the will) (42%).

153. Seventeen percent said 'it depends'. These respondents tended to say that the will might provide guidance about the relative share or that the share should depend upon the contributions made by the second wife towards the marriage and towards the home.

³⁸ Views on the PRA scenario were primarily driven by age rather than will-status. By examining differences in views by age, filtering for those without wills, it is clear there is a sizeable difference between those aged 50 and older (85% of whom agree that the PRA entitlement should apply compared with 67% of those aged up to 50).

Awareness that Family Members can Challenge a Will in Court

154. Respondents were asked if they knew that family members could challenge a will in court if they thought it did not properly provide for them. In total, 57% said they were fully aware that family members could challenge a will in court, 26% said they had heard something about this, and 16% said they were unaware of this.

155. In total, 16% of respondents said they were not aware that family members could challenge a will in court. This was higher for some subgroups:

- Pacific respondents (37%);
- Asian respondents (34%);³⁹

- Those without a will (27%);⁴⁰
- Those aged 18-24 years old (31%) or 25-34 years old (28%);
- Those who do not own the home they live in (29% compared with 9% of those who own the home they live in);
- Those with a household income less than \$30,000 (25%);
- Those living in Auckland (21%).

Scenarios about Challenging a Will and Receiving a Share of the Estate – Key Findings

- At least eight in ten thought that dependent children (whether they are young or a disabled adult) should be allowed to challenge a will (and receive a share) if the will said that the entire estate should go to charity.
- Around six in ten thought that adult children should be allowed to challenge a will (and receive a share) if they are excluded from it. This applies in three situations when an adult child is not included in the will and the estate was left instead to a) a charity, b) a second wife, and c) another adult child.
- Almost seven in ten thought that an adult child who is struggling financially should be allowed to challenge a will (and receive a share) if the will indicated that the entire estate should go to another adult child.
- Views were evenly split when it came to a scenario involving young stepchildren (brought up as part of the family) who were excluded from a will (which left the estate entirely to young children from the first marriage). Just under half thought the young stepchildren should be allowed to challenge the will (and receive a share) and just under half did not.
- Just over three-quarters agreed that a second wife should be entitled to at least a half-share of the family home (if the estate is left entirely to children from the first marriage).
- There was mixed awareness that family members can challenge a will in court if they feel it does not properly provide for them – 57% were fully aware of this, 26% had heard something about this, and 16% were unaware of this. Awareness was lower for Pacific and Asian respondents (around a third of whom were unaware).

³⁹ This compares with 9% of European respondents and 19% of Māori respondents.

⁴⁰ Awareness is largely driven by age rather than will-status. For example, respondents aged under 35 with a will were significantly more likely to say they were unaware than older respondents with a will (21% compared to 6%).

A photograph of a dining room with wooden chairs and a table, overlaid with a teal patterned graphic. The image is in a monochromatic teal color scheme. In the foreground, two wooden chairs with curved backs are visible. In the background, a dining table is set with white plates and silverware. A lamp is visible on the left side of the table. The overall atmosphere is quiet and somewhat somber.

After controlling for other demographic variables, those aged 50 plus are over eight times more likely to have a will than those aged under 50.

Prevalence of Wills

Proportion of People without a Will

156. A will was described to survey respondents as “a document that explains what a person wants to happen to their estate after their death”. It was common for respondents to not have a will. Fifty-three percent said they have a will, 47% said they do not and 1% were unsure.

157. Table 5 highlights the proportions of key subgroups with and without a will. It should be noted that the following groups were significantly less likely to have a will:

- Māori, Pacific and Asian respondents;
- Respondents living in Auckland;
- Younger respondents;
- Those who are unmarried;
- Those who do not own the home they live in;
- Those with a household income of less than \$30,000.

Table 5: Proportion having a will by subgroup

Subgroup	% with a will
Total (all respondents)	53%
Ethnic group	
European	64%
Māori	41%
Pacific	24%
Asian	21%
Other	50%
Location	
Auckland based	43%
Living outside of Auckland*	57%
Age group	
18 – 24 years	1%
25 – 34 years	22%
35 – 49 years	44%
50 – 64 years	77%
65 – 74 years	89%
75 years and older	95%
(Nett: under 50)	(28%)
(Nett: 50 plus)	(83%)
Relationship status	
Living with their married or civil union partner	71%
Living with a partner they are not married to/not in a civil union with	32%
In a relationship with someone, but not living with them	23%
Not currently in a relationship/widowed	40%
(Nett: unmarried)	(35%)
Housing tenure	
Lives in a home they own (or held in a trust)	73%
Does not live in a home they own	19%

Subgroup	% with a will
Gender	
Male	51%
Female	55%
Parental status	
Parent/guardian to child under 18 years old	48%
Not a parent/ guardian to child under 18 years old	55%
Annual household income	
Less than \$30,000	43%
\$30,001 – \$50,000	50%
\$50,001 – \$70,000	44%
\$70,001 – \$100,000	52%
\$100,001 – \$150,000	57%
More than \$150,000	69%
(Nett: up to \$70,000)	(46%)
(Nett: over \$70,000)	(59%)

* Most regions outside of Auckland were similar apart from Northland (67%), Taranaki (72%) and Nelson (83%), but the higher proportions for these three regions should be treated with caution because the sample sizes in these regions were 50 or less which limits any meaningful conclusions from regional analysis.

- Green text indicates this subgroup had a significantly higher proportion of respondents with a will compared to the average result from the total sample
- Red text indicates this subgroup had a significantly lower proportion of respondents with a will compared to the total sample.

As stated in the method section all reported differences are statistically significant at the 95% confidence level unless otherwise stated.

Demographic Variables which are Most Strongly Associated with Having a Will

158. The demographic variables described above interact with one another. For example, it is more common for European respondents to live in a home they own, and the age-profile of Māori, Pacific and Asian respondents is generally younger than European respondents. From Table 5 it is difficult to tell which respondent characteristics are relatively more or less important for explaining the likelihood of having a will (or not). In order to determine the relative importance of each demographic variable upon will-status, a simple binary logistic regression model

was constructed using the variables described in the table above. The results in Figure 15 show the odds of each group having a will or not (note that all variables in the model were statistically significant at the 90% confidence level – this confidence level was chosen because of the limited sample size available for regression analysis which meant that using a higher level did not generate any meaningful results by subgroup). Several variables fell out of the model because they had limited statistical significance (this includes gender, location, and being the parent of a child aged under 18).

Figure 15: Multivariate regression showing statistically significant variables that influence odds of having a will (or not)



159. The analysis shows that respondent age is the primary influence on having a will – after controlling for other demographic variables, those aged 50 plus are over eight times more likely to have a will than those aged under 50. Owning the home you live in (or living in a home owned by a trust) more than triples the likelihood of having a will compared with those who do not own the home they live in. Other demographic variables such as ethnicity, household income and relationship status influence the odds of having a will, but to a much lesser extent (and, as stated above, parental status and gender had no statistical significance in the model).

160. This model should be interpreted with caution because it only captures simple demographic variables observed in the survey. Unobserved factors, such as legal knowledge, legal capability, or a history of family disputes over estate property are likely to influence behaviour. In fact, an evaluation of the model suggests that unobserved variables explain around 58% of the variation in will-status – although this is considered fairly normal for statistical models in the social sciences.⁴¹ In addition, adopting a 90% confidence level also limits confidence in the model because there is a one in ten chance that the findings for each of the

Prevalence of Wills – Key Findings

- Fifty-three percent of respondents said they have a will, 47% said they did not and 1% said they were unsure.
- The following groups were significantly less likely to have a will:
 - Māori (41%), Pacific (24%), and Asian respondents (21%).
 - Respondents living in Auckland (43%).
 - Younger respondents (28% of those aged under 50 years old).
 - Those who are unmarried (or not in a civil union partnership) (35%).
 - Those who do not own the home they live in (19%).
 - Those with a household income of less than \$30,000 (43%).
- Regression analysis shows that age and home ownership are the two demographic variables with the most influence on having a will (or not).

⁴¹ The Cox & Snell R Square was 0.42 (which suggests that the model explains 42% of the variation in the dependent variable (having a will or not). Cohen, J. (1988) *Statistical Power Analysis for the Behavioral Sciences*, 2nd Ed. suggests that when evaluating the predictive power of a multiple regression model an R² of 0.2 (20%) is a small effect size for a regression model, 0.4 is moderate and 0.6 is large.



Almost three-quarters (73%) agreed that a wife should get all of an estate in an intestacy (when there is also a surviving mother and brother).

Intestacy Scenarios

Overview of Scenarios about Intestacy

161. After the questions about challenging wills, respondents were asked to consider a series of scenarios involving situations when a person dies without a will ('intestacy'). This approach investigated viewpoints about who should get the estate and what share of it they should receive.

162. Respondents were read out an initial agree-disagree statement (about whether a wife should receive an estate when there is a surviving brother and mother), and then four additional scenarios (involving adult children alongside various other surviving relatives). For the four scenarios, respondents were asked what share of the estate the adult children should receive. The scenarios are described in more detail in Table 6.

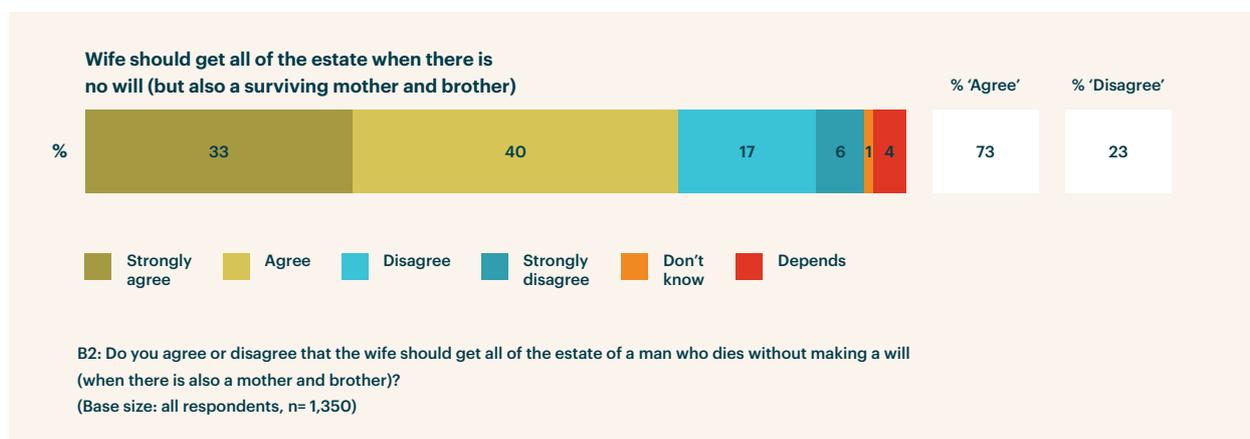
Table 6: Description of scenarios where someone dies without making a will

Situation	Question label
A married man dies. He has not made a will. He is survived by his wife, his mother and his brother. There are no children. Do you agree or disagree that <i>all of the man's estate should go to his wife</i> ?	B2
A married woman dies. She has not made a will. She is survived by her husband and their two adult children. What should happen to her estate?	B3
A woman who has been married twice dies. She has not made a will. She is survived by her two adult children from the first marriage and her husband of 10 years from the second marriage. Her estate is worth \$1 million. What should happen to the woman's estate? ⁴²	B4a
Now suppose that the estate [referred to in B4a] was worth \$150,000. Would you change your answer? And if so to what?	B4c
Now suppose that a man who has been married twice dies. He has not made a will. He is survived by his two adult children from his first marriage as well as his two adult stepchildren. What should happen to the man's estate?	B5

⁴² Interviewers had a prompt to tell respondents to assume that the surviving husband/wife was living with the deceased up until death.

Intestacy Scenarios CONT.

Figure 16: Agreement that the surviving wife should receive the entire intestate estate (when there is also a surviving brother and mother)



Scenario Involving an Intestate Estate and a Surviving Wife, Brother and Mother

163. Respondents were asked if they agreed (or disagreed) that a surviving wife should receive an estate when there is also a surviving brother and mother. The answers are illustrated in Figure 16.

164. Almost three-quarters (73%) agreed that a wife should get all of an estate in an intestacy (when there is also a surviving mother and brother).

165. Some subgroups were more likely to agree that the wife should get all of the estate:

- Those aged 50 years or older (84% compared with 64% of those aged under 50).
- Those with a will (83% compared to 61% of those without a will).⁴³
- Those who own their own home (79% compared with 60% of those who do not own their own home).
- Those with a household income above \$100,000 (78% compared with 71% of those with a lower household income).

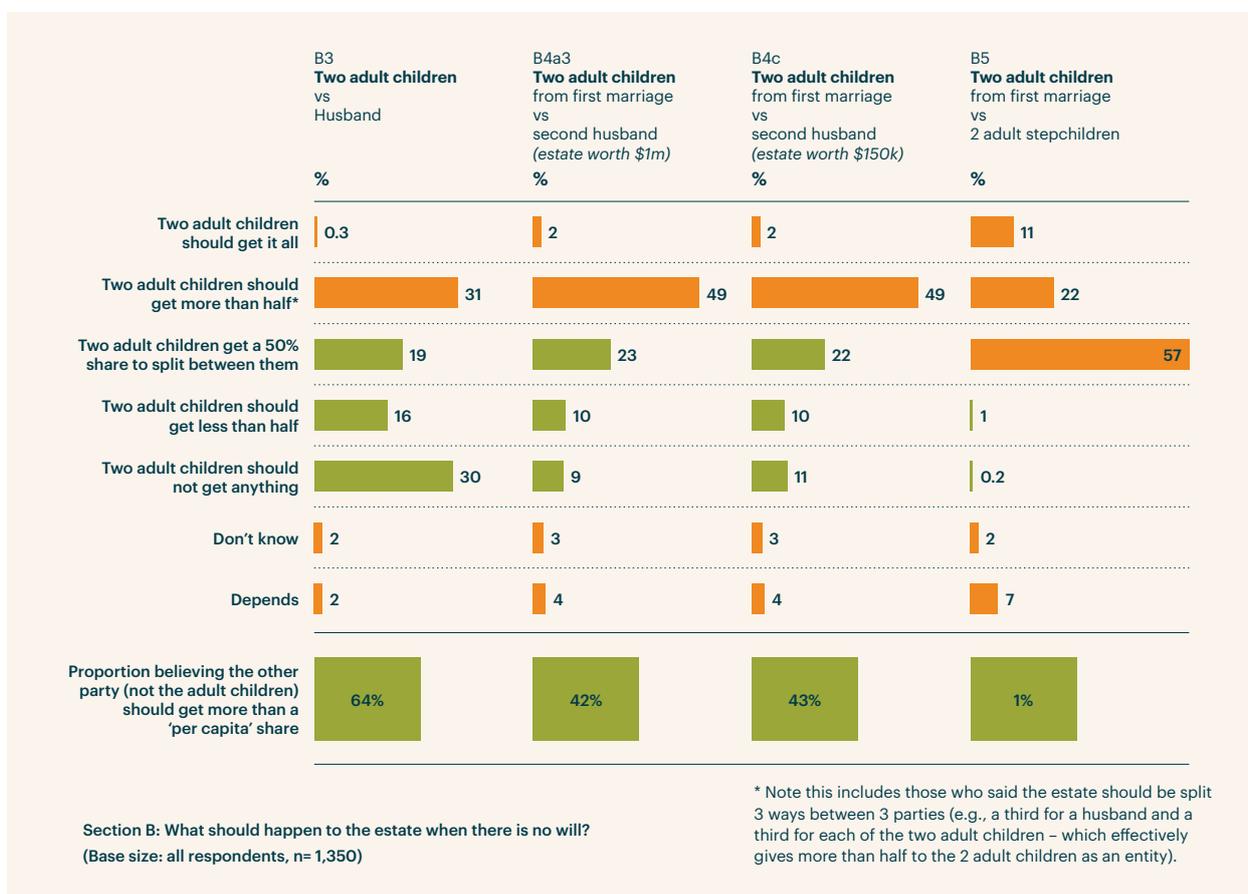
- Those who are married (79% compared with 66% of those who are not married).
- European respondents (79% compared with 73% of Māori respondents, 62% of Pacific respondents, and only 48% of Asian respondents).

166. Four percent said 'it depends'. Some common themes from these respondents included:

- It depends on how long the deceased was married to the wife.
- It depends on who has the greatest financial need or who was dependent on the deceased (most who said this wondered if the surviving mother was dependent on the deceased).
- A belief that the estate should be shared more evenly in general (some said the wife should receive the majority, while others thought that it should be divided equally between the surviving relatives).
- It depends on the strength of relationship the deceased had with the surviving relatives.

⁴³ Those with a will were more likely to agree regardless of age (there was negligible difference between younger and older will-holders). However, among those without a will, age does make a difference. Older respondents without will were significantly more likely than younger respondents without wills to agree (80% compared to 58%).

Figure 17: How the estate should be shared in four intestacy scenarios



Summary of Results from Scenarios about Sharing an Intestate Estate Between Adult Children and Other Relatives

167. Respondents were then asked about four scenarios involving adult children and other surviving relatives (these scenarios are described in Table 6). In the four scenarios respondents were asked how much share of the intestate estate should go to the adult children compared with:

- B3 – a surviving husband;
- B4a – a surviving husband from a second marriage;
- B4c – a surviving husband from a second marriage (same scenario as above, but the estate is worth less);
- B5 – two adult stepchildren.

The results are illustrated in Figure 17.

168. The green boxes at the bottom of Figure 17 show the proportions of respondents that thought the other party (not the two adult children) should receive *more than* a 'per capita' share.⁴⁴ A 'per capita share' is a *third* of the estate each for the first three scenarios (B3, B4a, and B4c) which involved three people potentially receiving a share of the estate. A 'per capita share' is a *quarter* of the estate each for the last scenario (B5) which involved four people (two adult stepchildren and two adult children from the first marriage).

44 The other party in each of the four scenarios were: a husband, a second husband (for two scenarios), and two adult stepchildren respectively.

169. In cases of intestacy involving surviving adult children and other relatives, most respondents suggested that the estate should be shared between the different parties (rather than one person getting it all), but the size of the share depended on the scenario. For example:

- The proportion that said a *second* husband should receive a majority share of an estate (when there are also two surviving children from the first marriage) was much smaller than the equivalent proportion for a husband who is the original parent of the children (42% compared with 64%).⁴⁵
- Around a third said that adult children from a first marriage should receive a majority share of an estate, whereas only 1% thought that adult stepchildren should receive a majority share.

More detailed analysis of each scenario is described below.

Views on Sharing an Intestate Estate Between a Husband and Two Adult Children

170. The first intestate scenario involved a married woman who died and left behind a husband and their two adult children (three people in total).
171. Around two-thirds (64%) of respondents thought that the surviving husband should get more than a third of the estate (i.e., more than a 'per capita' share of the estate). Within this group, it was more common to think that the husband should get everything (with the two adult children not receiving anything) – 30% of all respondents said this. Sixteen percent said he should get 'more than half', and 19% said he should 'get half'.

172. Just under a third (32%) of all respondents thought that the adult children should get a share which is larger than half of the estate (although less than 1% said they should get all of the estate).⁴⁶

173. As stated above, 64% of respondents said that the husband should get more than a third of the estate. This was higher for some subgroups:

- Those aged 50 years or older (76% compared to 55% of those aged under 50 – note that the proportion was only 39% for 18-24-year-olds).
- Those with a will (76% compared to 51% of those without a will).⁴⁷
- Those who own the home they live in (74% compared to 49% of those who do not own the home they live in).
- Respondents who are married (73% compared to 56% of unmarried respondents).
- Those with a household income over \$100,000 (74% compared to 57% of those with a household income up to \$50,000, and 62% of those with a household income over \$50,000 up to \$100,000).
- European respondents (72%, compared to 55% of Māori respondents, 45% of Pacific respondents and 45% of Asian respondents).

174. Only 2% of all respondents said 'it depends' – there was a wide variety of answers provided with not many common themes, although more than one respondent raised each of the following issues:

- It depends on the size of the estate.
- It depends on how close the children were to the deceased.

⁴⁵ The scenario involving the second husband mentioned a specific value for the estate (either \$1 million or \$150,000) whereas the other scenario (involving a husband who was also the parent of the children) did not. However, in both situations (a large estate of \$1 million and a smaller estate of \$150,000), the proportion that supported significant shares going to the second husband were relatively small.

⁴⁶ Note that 31% said the two adult children should get more than half and 0.3% said the two adult children should get all of the estate, but this sums to 32% because of decimal-place rounding.

⁴⁷ This means that approximately half of those without a will still wanted the husband to get more than a 'per capita' share (with a three-way split in proportions between the husband getting everything, the husband getting half, and the husband getting more than half). Young people without wills were particularly likely to support the two children getting more than half (52% of young people without wills aged up to 35 said this, compared with 35% of those without wills aged 35 years and older).

- The husband should be compelled to pass on some, or all, of the estate to his children upon his own death.
- Whatever arrangement is arrived at, the husband should be able to continue living in the family home.

Views on Sharing an Intestate Estate Between a Second Husband and Two Adult Children from the First Marriage

175. The second intestate scenario involved a married woman who died and left behind a second husband (whom she was married to for ten years) and two adult children from her first marriage (three people in total). The estate was worth \$1 million.
176. Just over four in ten (42%) respondents thought that the second husband should get more than a third of the estate (i.e., more than a 'per capita' share) (this is smaller than the equivalent proportion in the initial scenario involving a 'first' husband – which was 64%).
177. A sizeable minority thought that the second husband should get 'half' of the estate with the remaining half going to the adult children from the first marriage (23% of all respondents said this). However, only 10% of respondents said that the second husband should get 'more than half' and less than one in ten (9%) thought that the second husband should 'get it all'.
178. Fifty-one percent of all respondents thought that the adult children from the first marriage should get a share which is larger than half of the estate (2% said the adult children should get all of the estate, and 49% said they should get 'more than half').
179. As stated above, 42% of respondents said that the second husband should get more than a third of the estate (i.e., more than a 'per capita' share) – this was higher for some subgroups:
- Those with a will (48% compared to 35% of those without a will).
 - Those aged 50 years or older (47% compared to 38% of those aged under 50 – note that the proportion was only 27% for 18-24-year-olds).
 - Those who own the home they live in (47% compared to 33% of those who do not own the home they live in).
 - Married respondents (49% compared to 35% of unmarried respondents).
 - Those with a household income over \$100,000 (49% compared to 37% of those with a household income up to \$50,000, and 41% of those with a household income over \$50,000 up to \$100,000).
 - European respondents (46% compared to 35% of Māori respondents, 31% of Pacific respondents, and 29% of Asian respondents).
180. Those without a will generally wanted the adult children to get more than half (59% compared to 39% of those with a will). However, this viewpoint was strongest among young and middle-aged respondents without wills. From the age of 50 onwards, this was a minority viewpoint among those without wills (61% of those without a will aged under 50 said the adult children should get more than half, compared with 45% of those without a will aged 50 years and older). This difference by age does not exist among those *with* wills.
181. Only 4% of all respondents said 'it depends'. Common themes raised by these respondents are described below:
- It depends on when most of the estate was generated (during the first or second marriage), or whether the majority of the estate belonged to the deceased wife before she met either husband.
 - A number thought that the husband should receive the estate on the condition that he will pass it on to the children later. However, most who said this thought that the husband could be trusted to do this anyway.
 - It depends on the quality of the relationships between all of the parties concerned – in particular, whether the husband and the children had a close relationship (for example, whether they lived together).

182. Respondents were asked a follow-up question about whether they would change their answer if they knew the estate was worth \$150,000 (which was the third scenario investigated). Only 7% said they would change their answer. There was not much variation in the type of respondent who said this – although a slightly higher proportion (15%) of 65-74-year-olds switched their answer. Most people who changed their response tilted it in favour of the second husband. Just over half of those who switched their answer said they would prefer the second husband to get all of the estate, with the remainder preferring the estate to be shared.

183. Because not many respondents switched their answer, and because those who did only changed their answer slightly, there was minimal difference in views about how a \$1 million estate should be shared compared with how a \$150,000 estate should be shared (as can be seen in Figure 17). Forty-three percent of respondents thought that the second husband should get more than a third of the estate (i.e., more than a ‘per capita’ share). Within this group it was common to think that the second husband should get ‘half’ of the estate (22% of all respondents said this). Ten percent of respondents said the second husband should get ‘more than half’, and 11% said that the second husband should ‘get it all’.

184. Fifty percent of respondents thought that the adult children from the first marriage should get a share which is larger than half of the \$150,000 estate (2% said they should get all of the estate and 49% said they should get more than half).⁴⁸

Views on Sharing an Intestate Estate Between Two Adult Children from a First Marriage and Two Adult Stepchildren

185. The final intestate scenario involved a man who had been married twice and then died. He was survived by his two adult children from his first marriage as well as his two adult stepchildren. A third believed that the children from the first marriage should receive a majority share (this is split into 11% who thought they should receive all of the estate and 22% who thought they should receive a majority share). Only 1% believed the stepchildren should receive a majority share. However, the most common response was that the estate should be split evenly between the four people (57% of all respondents said this).

186. Views on this scenario did not vary between different subgroups – the only exception being that females were more likely to favour a majority share going to the children from the first marriage (38% compared to 29% of males). It is worth noting that there are no significant differences in views between those with a will and those without a will.

187. Seven percent of all respondents said ‘it depends’. Common themes raised by these respondents are described below:

- Whether the stepchildren had been brought up in the family/how long they knew the deceased.
- How old the stepchildren are/whether the stepchildren were financially dependent on the deceased.
- How long each marriage lasted (for example, a marriage of 20 years should be treated differently to a marriage of 6 months).
- Whether the wealth was accumulated during the first or second marriage.
- Who spent the most time with the deceased in his final years.
- Whether the stepchildren can benefit from their other family.
- Some, or all, of the estate should go to the first wife (it should be noted that the scenario text did not explicitly rule out the existence of a first wife; instead respondents were simply told that he was ‘survived by his children’).

⁴⁸ Note that 49% said the two adult children should get more than half and 2% said the two adult children should get all of the estate, but this sums to 50% because of decimal-place rounding.

Intestacy Scenarios – Key Findings

- Respondents were asked to react to a series of scenarios where someone dies without making a will.
- Almost three-quarters (73%) agreed that a surviving wife should get all of an estate when there is no will (in a situation where there is a surviving wife, mother and brother).
- In a situation where there is a surviving husband and two adult children:
 - Almost two-thirds (64%) of respondents thought that the husband should get more than a third of the estate. Within this group, it was more common to think that the husband should get everything (30% of all respondents said this). Sixteen percent said he should get ‘more than half’ and 19% said he should get ‘half’.
 - Just under a third of all respondents (32%) thought that the adult children should get a share which is larger than half of the estate (less than 1% thought the children should get all of the estate).
- In a situation where there is a surviving second husband and two adult children from the first marriage (and an estate worth \$1 million), views were more split:
 - 42% of respondents thought that the husband should get more than a third of the estate. Within this group, it was common to think that the second husband should get ‘half’ of the estate (23% of all respondents said this). Only 10% said he should get ‘more than half’ and less than 1 in 10 (9%) said he should get it all.
 - 50% thought that the adult children from the first marriage should get a share which is larger than half of the estate (2% said the children should receive all of the estate and 49% said they should receive more than half - this sums to 50% after rounding).
- Views did not change much if the scenario above was repeated, but with an estate worth only \$150,000 (there was a 2% growth in the proportion that thought the second husband should get all of the estate).
- In a situation where a man who had been married twice dies, leaving behind two adult children from his first marriage and two adult stepchildren, most respondents (57%) thought that the estate should be split evenly between the four people. Only 1% thought that the stepchildren should receive a majority share, but a third of respondents thought that the children from the first marriage should receive a majority share (this is split into 11% who thought that they should receive the entire estate and 22% who thought that they should receive most of the estate).

Summary of Main Findings

188. Although most respondents (8 in 10) agreed that a person should be allowed to leave family members out of their will, the majority (6 in 10) also believed that surviving partners and children should be allowed to challenge a will (and receive a share) if they are excluded from it. The level of support for parents, stepchildren or grandchildren being allowed to challenge a will was much lower.
189. Particular circumstances influenced support for children being able to challenge a will. For example:
- Eight in ten thought that *dependent* children (whether they are young or a disabled adult) should be allowed to challenge a will (and receive a share) if the will said that the entire estate should go to charity.
 - Levels of support for *adult children* being able to challenge a will tended to be slightly lower (compared with dependent children). For example, around six in ten thought that adult children should be allowed to challenge a will which excludes them (this applied in three situations: when the estate was left instead to a) a charity, b) a second wife, or c) another adult child).
 - Views were evenly split when it came to a scenario involving young stepchildren (brought up as part of the family) who were excluded from a will (which left the entire estate to young children from the first marriage). Just under half thought the young stepchildren should be allowed to challenge the will (and receive a share) and just under half did not.
190. Just over three-quarters agreed that a second wife should be entitled to at least a half-share of the family home (if the estate was left entirely to children from the first marriage). (This scenario was designed to gauge whether most people agreed with the purpose behind Part 8 of the Property (Relationships) Act 1976 (which sets out that a surviving partner should receive, at a minimum, the same entitlements they would have received if the relationship had ended upon separation).
191. In cases of intestacy, when adult children and other relatives remain, most respondents suggested that the estate should be shared between the different parties (rather than one person getting it all), but the size of the share depended on the scenario. For example:
- The proportion that said a *second* husband should receive a majority share of an estate (when there are also two surviving children from the first marriage) was much smaller than the equivalent proportion for a husband who was the original parent of the children (42% compared with 64%).
 - Around a third said that adult children from a first marriage should receive a majority share of an estate, whereas only 1% thought that adult stepchildren should receive a majority share. However, in this situation, the most common response was that the estate should be divided equally between the biological children and stepchildren (almost 6 in 10 supported this).
192. A larger proportion appear to back the rights of a surviving spouse to an intestate estate when there are no surviving children. For example, almost three-quarters (73%) agreed that a surviving wife should get all of an estate when there is no will (in a situation where there is a surviving wife, mother and brother).



In cases of intestacy involving surviving adult children and other relatives, most respondents thought that the estate should be shared between the different parties (rather than one person getting it all), but the size of the share depended on the scenario.

Appendix A – Survey Questionnaire

Contact: Introduction and survey description

Good morning/afternoon/evening my name is... from Symphony Research. We are doing an important nationwide survey for the University of Otago to find out New Zealanders' views about what should happen to a person's estate when they die. The results will be used to review the law in New Zealand.

- **If landline:** May I please speak to the person in your home who is 18 or over and has the next birthday?
 - **If mobile (use standard text to check if respondent can take call and are not driving):**
 - **Also check:** Just to check, are you the main user of this mobile phone and are you 18 or over?
 - **If useful:** The results of the survey will help inform the Law Commission's review of Succession Law.
 - **If they view it as irrelevant:** The University of Otago and their stakeholder, the Law Commission, wish to hear from all New Zealanders whether or not they might receive property from someone who dies.
 - **Re-introduce to randomly selected adult as required.**
 - The interview should take around 15 minutes, but it can be shorter or longer depending on your answers.
- **Both landline and mobile:** Can I go through this with you now?
 - **Arrange to call back when appropriate (particularly check safety of mobile respondents and ensure speaking to main user of mobile upon contact).**
 - **If querying where we got their details from:** Your number was generated at random from a list of all possible phone numbers in New Zealand. We will only use your phone number for the purposes of this research and will not use it for any other purpose.
 - **Read to everyone:** Thank you for agreeing to help us with this research. Just to let you know, all of our calls are recorded for quality control purposes and everything you say is treated in total confidence.
 - **Do not pause. Continue to next screen unless respondent is concerned**
 - **If necessary:** "The purpose of the recording is to check that I have conducted the survey correctly"
 - **If necessary:** "All recordings are stored securely and can only be accessed by authorised staff"

If querying who is funding the research / what will be done with the research: This is a project funded by the Borrin Foundation who promote public understanding of law. The Law Commission is a key stakeholder for this research and has been involved in the design of the survey. The survey results will inform their review of succession law. The survey results will be published on the Borrin Foundation website next year.

If querying confidentiality: Your answers will be kept private so that the identity of individuals will not be identified in the survey report. Apart from Symphony Research, no one else can find out whether or not you did the survey, nor what answers you provided. Confidentiality is very important to us; no-one will be able to be identified in the results of the survey.

If querying what will be done with their data: Your details will only be used for the purposes of this research. Any identifying information will be removed from the data and it will be stored on

a secure server which is only accessible by the research team. This data will be removed two years after the project is completed.

Who can I contact for further questions/queries?

If you have any questions feel free to contact Ian Binnie (ian.binnie@symphony-research.co.nz) or Professor Nicola Taylor at the University of Otago (nicola.taylor@otago.ac.nz).

Who can I contact if I want to discuss relevant legal issues or other issues related to this topic? (This should be available to interviewers at end of survey)

- Your local Community Law Centre (refer to <http://communitylaw.org.nz/our-law-centres>)
- Victim Support – 0800 victim – (0800 842 846)
- Citizens Advice Bureau – 0800 FOR CAB (0800 367 222)
- Family Violence Information Line – 0800 456 450

A – Opening statement

TxtA We want your views about who should be entitled to a share of a person’s estate when they die.

By estate I mean a person’s money, items (such as furniture or a car) and their share of the home or other properties. This survey is not about Māori land.

The quality of relationships in a family will vary, but the law would have to be the same for everyone, so we just want your general view.

If necessary (here and throughout): By entitlement we mean the right to a benefit granted by law

If necessary (here and throughout): Maori land is defined by the Te Ture Whenua Māori Act

A1 In general, do you agree or disagree that a person should be allowed to leave family members out of their will?

If necessary: Please assume that the person would be in a good mental state when making their will.

If necessary: A will is a document that explains what a person wants to happen to their estate after their death

Is that ‘strongly agree’ or just ‘agree’ / is that ‘strongly disagree’ or just ‘disagree’

Code one only

Strongly agree	1
Agree	2
Disagree	3
Strongly disagree	4
Do not read out: Don’t know	5
Depends (Don’t read out) [specify answer]	6

Ask A2 if A1=1,2,3,4 – only ask to a randomly selected 1 in 4 respondents

A2 Why do you [insert A1 answer]?
Open ended. Don’t know option.

D Who can challenge a will?

D1 I now have some questions about when a person dies and makes a will which **does not** include some of their family members.

Throughout this survey please assume that the will accurately reflects the wishes of the deceased and was made when they were in a good mental state.

Can you tell me whether or not you think the following family members should be allowed to **challenge** a will to get a share of the estate if they are **not included** in it?

If necessary: this question isn’t about the size of the share, only about which family members should be allowed to challenge a will if they are excluded.

If necessary: We are interested in your views not what the law says.

If says ‘it depends’ or ‘depends on the will’: We are interested in your general views of who should be allowed to challenge a will. The quality of relationships in a family will vary, but the law would have to be the same for everyone, so we just want your general view.

If says ‘they can challenge but they should not receive’: code as depends. Read out bold text per row – but do not read out yes/no response-list

The deceased person’s... (If necessary repeat: Should they be allowed to challenge a will if they are not included?)	Yes	No	Depends
Surviving spouse or partner (If necessary: husband, wife, or de-facto partner)	1	2	3
Children aged under 18 (If necessary: Please assume that the children would have someone acting on their behalf) (If necessary: this is biological children of the deceased)	1	2	3
Only ask column 2 I selected yes or depends for ‘children aged under 18’... ‘And what about children under 18 who are...’			
Stepchildren	1	2	3
Grandchildren	1	2	3
Adult children aged 18 and over	1	2	3
Parents	1	2	3

Identify roles above (d1) only where ‘depends’ was selected – randomly select one (record selection in the data) and ask the following...

D2 Why do you think the person’s [insert selected ‘depends’ from D1] ... might not be allowed to challenge the will?

Open ended. Probe to no. With don’t know option.

Appendix A – Survey Questionnaire CONT.

E Scenarios about challenging a will and receiving a share

TXTE I am going to describe a number of situations where a person who has made a will dies. I'll then ask for your personal view about whether **people not included** in the will should be allowed to challenge it **and receive a share** of that person's estate.

E2a Here is the first situation. Suppose that a man who is a single parent dies and is survived by his young child. The man has made a will and leaves all of his estate to charity. Do you agree or disagree that

The man's young child should be able to challenge his will and get a share of his estate?

If necessary (here and for every reference to minors getting estate): Please assume that an adult acting on the child's behalf, would challenge the will and would hold their share of the estate for them if that was appropriate.

If says depends: The quality of relationships in a family will vary, but the law would have to be the same for everyone, so we just want your general view.

Is that 'strongly agree' or just 'agree' / is that 'strongly disagree' or just 'disagree'

Code one only

Strongly Agree	1
Agree	2
Disagree	3
Strongly disagree	4
Don't know (<i>Don't read out</i>)	5
Depends (<i>Don't read out</i>) [Code why e.g., relative need of individuals]	6

E3a Now suppose that a married man dies and is survived by his child who is aged over 25. His wife is already dead. The man has made a will and leaves all of his estate to charity. Do you agree or disagree that

The man's adult child should be able to challenge his will and get a share of his estate?

Is that 'strongly agree' or just 'agree' / is that 'strongly disagree' or just 'disagree'

Code one only

Strongly Agree	1
Agree	2
Disagree	3
Strongly disagree	4
Don't know (<i>Don't read out</i>)	5
Depends (<i>Don't read out</i>) [Code why e.g., relative need of individuals]	6

E3c *if answer 3, 4, 5, or 6 at E3A ask E3B:* Would your answer change if the man's adult child had a disability and was dependent on the father?

Do not read out and clarify response code

Yes I would Strongly Agree that the child should get a share	1
Yes I would Agree that the child should get a share	2
No	3
Don't know (<i>Don't read out</i>)	4
Depends (<i>Don't read out</i>) [Code why e.g., what other support the child had available, how reliant he was on the father for maintenance]	5

E4a For this next scenario suppose that a married man dies and is survived by his two adult children from his first marriage and his wife from his second marriage to whom he has been married for 10 years. The man has made a will and leaves all of his estate to his wife. Do you agree or disagree that

The man's adult children should be able to challenge his will and get a share of his estate?

If necessary (here and throughout): Please assume that he was still married to his second wife at the time of death.

**Is that 'strongly agree' or just 'agree' /
Is that 'strongly disagree' or just 'disagree'**

Code one only

Strongly Agree	1
Agree	2
Disagree	3
Strongly disagree	4
Don't know (<i>Don't read out</i>)	5
Depends (<i>Don't read out</i>) [Code why e.g., relative need of individuals]	6

E4b **if answer 1 or 2 at E4A ask E4B:** What should happen to the man's estate?

Read out and code one only.

If answer is 'split three ways' code as 'adult children should get most/all'

The adult children should get more than the wife	1
The wife should get more	2
Or the wife should get half and the adult children get half	3
Don't know (<i>Don't read out</i>)	4
Depends (<i>Don't read out</i>) [Code why e.g., relative need of individuals]	5

E5a Now suppose that a woman dies who is survived by her two young children from her first marriage as well as two young stepchildren whom she had accepted as children of her family. The woman has made a will and leaves all of her estate to her children from the first marriage. Do you agree or disagree that

The woman's young stepchildren should be able to challenge her will and get a share of her estate?

**Is that 'strongly agree' or just 'agree' /
Is that 'strongly disagree' or just 'disagree'**

If necessary: Assume that all the children are being cared for.

If answer depends on how long stepchildren are part of the family, code as 'depends'

Code one only

Strongly Agree	1
Agree	2
Disagree	3
Strongly disagree	4
Don't know (<i>Don't read out</i>)	5
Depends (<i>Don't read out</i>) [Code why e.g., relative need of individuals]	6

E6 Now suppose that a man dies and is survived only by his two children who are both aged over 25. The man has made a will and leaves all of his estate to one of his children. Do you agree or disagree that

The man's other adult child should be able to challenge his will and get a share of his estate?

Is that 'strongly agree' or just 'agree' / is that 'strongly disagree' or just 'disagree'

Code one only

Strongly Agree	1	Go to E7
Agree	2	Go to E7
Disagree	3	Go to E6a
Strongly disagree	4	Go to E6a
Don't know (<i>Don't read out</i>)	5	Go to E6a
Depends (<i>Don't read out</i>) [Code why e.g., relative need of individuals]	6	Go to E6a

E6a Would your answer change if the adult child who received nothing in the will was struggling financially?

Do not read out and clarify response

Yes I would Strongly Agree that child should get a share	1
Yes I would Agree that child should get a share	2
No	3
Don't know (<i>Don't read out</i>)	4
Depends (<i>Don't read out</i>) [Code why e.g., relative need of individuals]	5

Appendix A – Survey Questionnaire CONT.

F Additional PRA entitlement scenario testing

F1a Now suppose that a married man dies and is survived by his two adult children from his first marriage and by his second wife to whom he was married for 10 years. That couple's family home was bought by the husband during his second marriage. In his will, the man left the home to his children.

If the couple had divorced, the wife would have had a legal entitlement to a half share of the family home.

Do you agree or disagree that his wife should be entitled to at least a half share of the home regardless of what the will said?

If asking what entitled means: by 'entitled' I mean the right to a benefit granted by law.

Is that 'strongly agree' or just 'agree' / Is that 'strongly disagree' or just 'disagree'

Code one only

Strongly Agree	1	TxtB
Agree	2	TxtB
Disagree	3	F1c
Strongly disagree	4	F1c
Don't know (<i>Don't read out</i>)	5	TxtB
Depends (<i>Don't read out</i>) [Code why e.g. relative need of individuals]	6	TxtB

F1c **If answer 3 or 4 at F1A, ask F1C:**

You said that his wife should not be entitled to a half share of the family home. Should:

Read out and code one only

The wife get less than half and the children should get the rest	1
The wife not get anything	2
Don't know (<i>Don't read out</i>)	3
Other (specify) (<i>Don't read out</i>)	4

B Intestacy scenarios

TxtB When someone dies without making a will there needs to be a set of rules that decides who gets their estate and what share of it.

I am going to describe some situations where a person dies **without** a will and ask for your personal view about who should have a right to a share of that person's estate.

If asking what estate means: By estate I mean a person's money, items (such as furniture or a car) and their share of the home or other properties. This survey is not about Māori land.

If asking what a will is: A will is a document that explains what a person wants to happen to their estate after their death.

B2 Suppose that a married man dies. He has not made a will. He is survived by his **wife**, his **mother** and his **brother**. There are no children. Do you agree or disagree that

All of the man's estate should go to his wife?

If says depends: The quality of relationships in a family will vary, but the law would have to be the same for everyone, so we just want your general view.

Is that 'strongly agree' or just 'agree' / Is that 'strongly disagree' or just 'disagree'

Code one only

Strongly Agree	1
Agree	2
Disagree	3
Strongly disagree	4
Don't know (<i>Don't read out</i>)	5
Depends (<i>Don't read out</i>) [Specify answer e.g., need of mother or brother]	6

B3 Suppose that a married woman dies. She has not made a will. She is survived by her husband and their two adult children. What should happen to her estate?

Read out and code one only

The husband should get more than the adult children	→ Should he get more than half?	1
	Or all of it?	2
The adult children should get more	→ Should they get more than half?	3
	Or all of it?	4
Or... should it be split evenly?	→ Should the husband get half and the adult children share the other half?	5
	Or should it be split 3 ways between the 3 people?	6
Don't know (<i>Don't read out</i>)		7
Depends (<i>Don't read out</i>) [Specify answer e.g., children will inherit when dad dies]		8

B4a Now suppose that a woman who has been married twice dies. She has not made a will. She is survived by her two adult children from the first marriage and her husband of 10 years from the **second** marriage. Her estate is worth \$1 million. What should happen to the woman's estate?

If necessary (here and throughout): Please assume that the surviving husband/wife was living with the deceased up until death.

Read out and code one only

The adult children from the first marriage should get more than the husband	→ Should they get more than half?	1
	Or all of it?	2
The husband should get more	→ Should he get more than half?	3
	Or all of it?	4
Or .. should it be split evenly?	→ Should the husband get half and the adult children share the other half?	5
	Or should it be split 3 ways between the 3 people?	6
Don't know (<i>Don't read out</i>)		7
Depends (<i>Don't read out</i>) [Specify answer e.g., children will inherit when dad dies]		8

B4b Now suppose that the estate was worth \$150,000. Would you change your answer?

Do not read out

Yes	1	Goto B4c
No	2	Goto B5
Don't know	3	Goto B5

B4c So what should happen to the woman's estate?

Read out and code one only

The husband should get more than the adult children	→ Should he get more than half?	1
	Or all of it?	2
The adult children should get more	→ Should they get more than half?	3
	Or all of it?	4
Or .. should it be split evenly?	→ Should the husband get half and the adult children share the other half?	5
	Or should it be split 3 ways between the 3 people?	6
Don't know (<i>Don't read out</i>)		7
Depends (<i>Don't read out</i>) [Specify answer e.g., children will inherit when dad dies]		8

B5 Now suppose that a man who has been married twice dies. He has not made a will. He is survived by his two adult children from his first marriage as well as his two adult stepchildren. What should happen to the man's estate?

Read out and code one only

The adult children from his first marriage should get more	→ Should they get more than half?	1
	Or all of it?	2
The adult stepchildren should get more	→ Should they get more than half?	3
	Or all of it?	4
Or .. should it be split evenly?		5
Don't know (<i>Don't read out</i>)		6
Depends (<i>Don't read out</i>) [Specify answer]		7

Appendix A – Survey Questionnaire CONT.

G Will-status

G1 Now I've got some questions about wills.

Do you have a will?

Do not read out

Yes	1
No	2
Don't know	3

G5 Before today, did you know that family members could challenge a will in court if they think it does not properly provide for them?

Read out

Yes – you were fully aware of this	1
Yes – you had heard something about it	2
No – you were not aware of this	3

H Classification

TxtH Now I have a few final classification questions to make sure we have spoken to a broad range of New Zealanders. The information you provide will be kept confidential.

If necessary: that means your answers will be grouped together with other people so that no individuals can be identified in the research report.

Only ask H1 to mobile sample:

H1 Just to check what region do you live in?

Only read out if necessary and code one only

Northland (including Whangarei)	1
Auckland	2
Waikato (including Coromandel, Hamilton, Cambridge)	3
Bay of Plenty (including Tauranga and Whakatane)	4
Gisborne	5
Hawke's Bay (including Napier and Hastings)	6
Taranaki (including New Plymouth)	7
Manawatu-Wanganui (including Palmerston North and Whanganui)	8
Wellington (including Porirua, Kapiti Coast, Lower or Upper Hutt and the Wairarapa)	9
Tasman (including Golden Bay and Motueka)	10
Nelson	11
Marlborough (including Picton and Blenheim)	12
West Coast (including Greymouth and Westport)	13
Canterbury (including Christchurch and Timaru)	14
Otago (including Dunedin, Oamaru, Queenstown, and Wanaka)	15
Southland (including Bluff and Invercargill)	16
Prefer not to answer	17

H2 **Do not read out unless necessary** Are you?

Male	1
Female	2
Gender diverse	3
Refused	4

H3 What is your current age?

Insert age

H8 Are you a parent or guardian to any children...

If necessary: Include biological, step, adopted, foster and whāngai children.

Read out

	Yes	No	Refused
... aged under 18	1	2	3

H9 Which ethnic group do you belong to? Choose the group or groups which apply to you.

Read out and code as many as apply

New Zealand European	1
Māori	2
Samoan	3
Cook Island Māori	4
Tongan	5
Niuean	6
Other Pacific	7
Chinese	8
Indian	9
Other Asian	10
Another ethnic group (please tell us)	11
Do not read out: Don't know	12
Do not read out: Refused	13

H12b Do you own, or partly own, the home you live in – including if it is held on a trust?

If necessary: this can be with or without a mortgage.

Do not read out

Yes	1
No	2
Refused	3

H14 Which of these best describes your current situation...

If necessary: By 'living with' we mean you live together in the same household at least half of the time.

Read out and code one only

Living with your married or civil union partner	1
Living with a partner you are not married to	2
In a relationship with someone but not living with them	3
Not currently in a relationship (If necessary: This includes being widowed if you have not re-partnered)	4
Do not read out: Other (specify)	5
Do not read out: Refused	6

H15 Finally, what is your annual household income (before tax)?

Read out and code only

Less than \$30,000	1
More than \$30,000 – \$50,000	2
More than \$50,000 – \$70,000	3
More than \$70,000 – \$100,000	4
More than \$100,000 – \$150,000	5
More than \$150,000	6
Do not read out: Don't know	7
Do not read out: Refused	8







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