

In Need of Advice? – Findings of a small business legal needs benchmarking survey 2013

Commissioned by the **Legal Services Board**.

Survey by **YouGov**.

Analysis by **Professor Pascoe Pleasence** and **Dr Nigel J Balmer**.

Who are the small businesses?

- Analysis of a survey of 9,703 small businesses:
 - 45% were single person businesses,
 - 44% other micro businesses (fewer than 10 employees)
 - 11% other small businesses (fewer than 50 employees)
 - Sample weighted by size to be representative

- Excludes legal services provided by these businesses:
 - 6% contained one or more *qualified lawyer/trained employee*
 - 9% retainer agreements for legal services, and
 - 2% for HR/employment services
 - 0.5% have all three, 0.7% have HR & Legal retainer

What is a 'legal need'?

- Problems that – whether or not they are and whether or not those concerned appreciate this – could *potentially* be resolved through a legal process – 'justiciable'
- Provides evidence of small businesses experience of and response to legal issues – not just 'service' experience
- Commonly used approach for researching individual consumers – see Genn et al 1999 – replicated internationally
- First of its kind in the UK, but other work in Holland (Croes 2012)

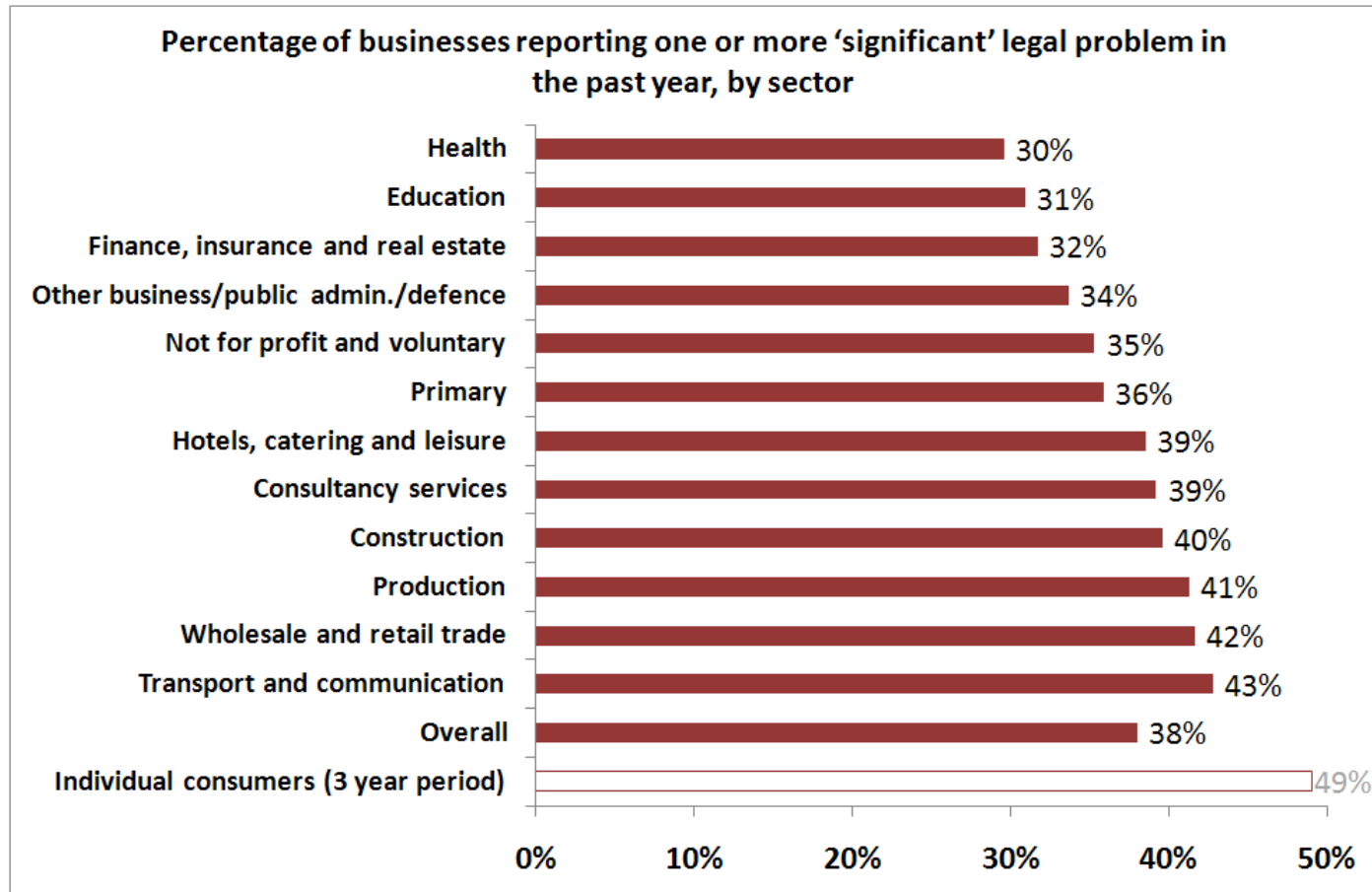
Why do we need to benchmark?

- LSB oversight of Legal Services Act reforms, including specific regulatory objectives relevant here:
 - **Protecting and promoting the public interest** – What level of confidence do these consumers have in the legal system and legal services?
 - **Improving access to justice** - What sort of channels do these consumer use in resolving legal needs?
 - **Protecting and promoting the interest of consumers** - What improvements can be made to the consumer experience?
 - **Encouraging an independent, strong, diverse and effective legal profession** - how effective is the legal profession in meeting these consumer needs?
- Benchmark now to understand if the reforms achieve the desired change in the future

Are they in need of advice?

1. How frequently to they have legal needs?
2. How do they respond and why?
3. What are the outcomes of these strategies?

Frequency of legal problems:



Types and frequency of legal problems:

Trading - 25%	Business premises - 8%	Intellectual property - 5%
Good or services purchased by you	Rented premises	Infringement of your business's IP
Not as described 8.3%	Maintenance by landlord 2.2%	Copyright 2%
Tax - 9%	Regulation - 7%	Debt - 4%
Liability for tax/amount of tax owed 5.2%	Other government regulation 1.4%	Unable to pay creditors 3.7%
Employment - 9%	Structure - 5%	Other - 3%
Staff misconduct 2.9%	Technicalities of business start-up 1.4%	Incorrect information held by a credit agency 1.4%

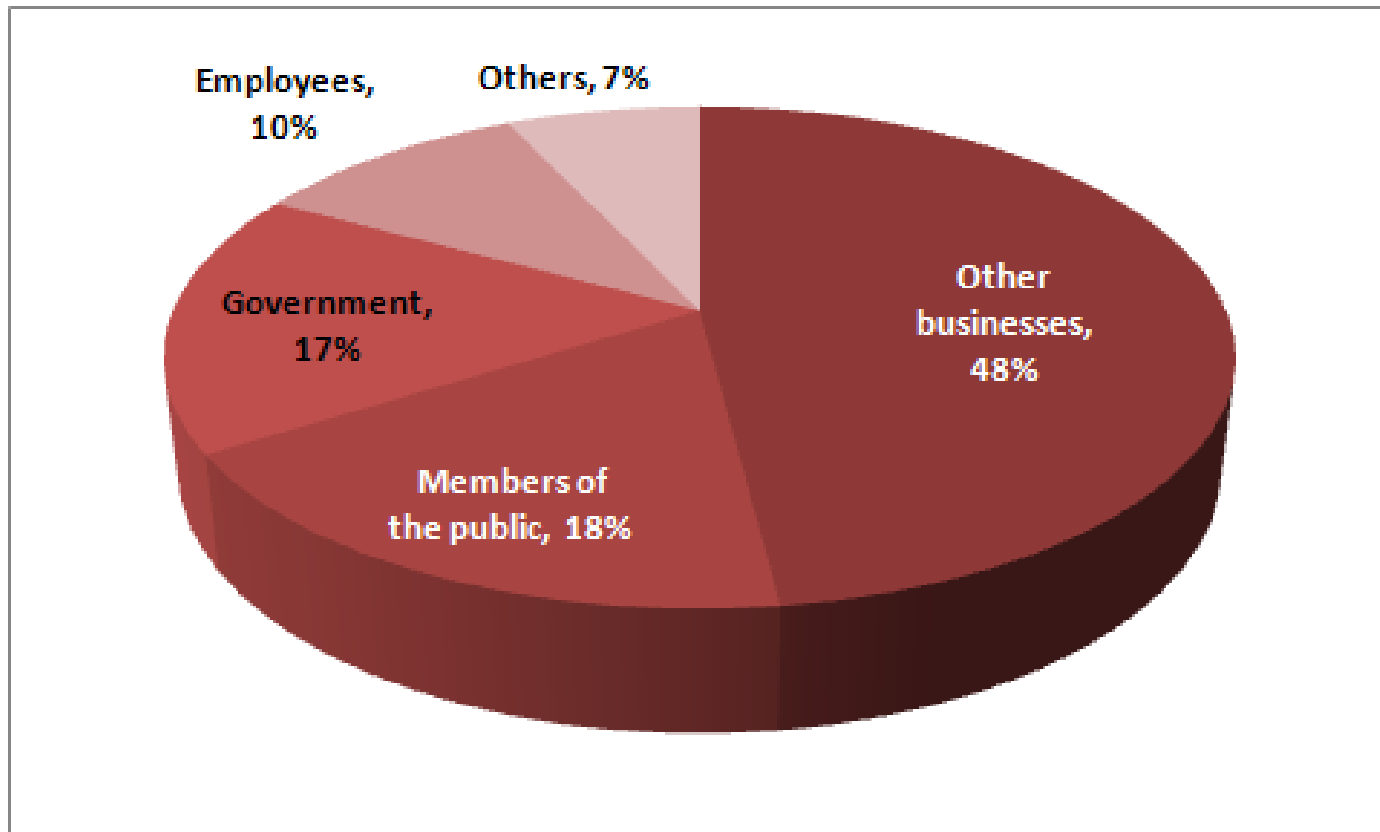
Factors associated with frequency of legal problems (1)

Factor Problem type	Sector	Size	Turnover & Profitability	Legal capability	Years trading	Diversity of ownership
Trading	Construction; Production; Wholesale/retail trade Finance, insurance, real estate;	Micro; Other; More relationships Single Person	Larger turnover Unprofitable	Legal/HR/In-house	1-20 years	BME; Disabled
Tax	Transport & communication Primary NFP/voluntary Other business/public	Micro; Other; More relationships	£50k-£1m Unprofitable	Legal/HR/In-house	1-20 years <1 year	BME; Disabled
Employment	Education Finance, insurance, real estate	Micro Other Single Person <5 business relationships	Larger turnover Unprofitable	Legal/HR/In-house		BME
Business premises	Construction; Primary admin./defence	Micro; Other Single Person	Unprofitable <£50k	Legal/HR		BME; <1 year
Regulation	Construction; Finance, insurance, real estate; Primary business/public admin./defence	Micro; Other Single Person	Unprofitable <£50k	Legal/HR/In-house	3-5 years <1 year	BME; Disabled

Factors associated with frequency of legal problems (2)

Factor	Sector	Size	Turnover & Profitability	Legal capability	Years trading	Diversity of ownership
Structure	Transport and communication; Primary Education	Micro; Other; More relationships Single Person	Unprofitable <£50k	Legal/HR/In-house	<1 year	BME; Disabled
Intellectual property	Transport and communication; Production Education; Finance, insurance, real estate	Micro; Other Single Person	Unprofitable	Legal/HR/In-house		BME; Disabled
Debt	Construction; Wholesale/retail trade; Primary Health; NFP/voluntary	Micro; Other Single Person	Unprofitable £50k-£1m Profitable; >£1m	Legal/HR/In-house	<1 year	BME
Other	Transport and communication; Primary NFP/voluntary	Micro; Other; More relationships Single Person	Unprofitable	Legal/HR/In-house		BME; Disabled

Who are the problems with?



What is the impact of these problems?

- 45% of problems had a tangible impact:

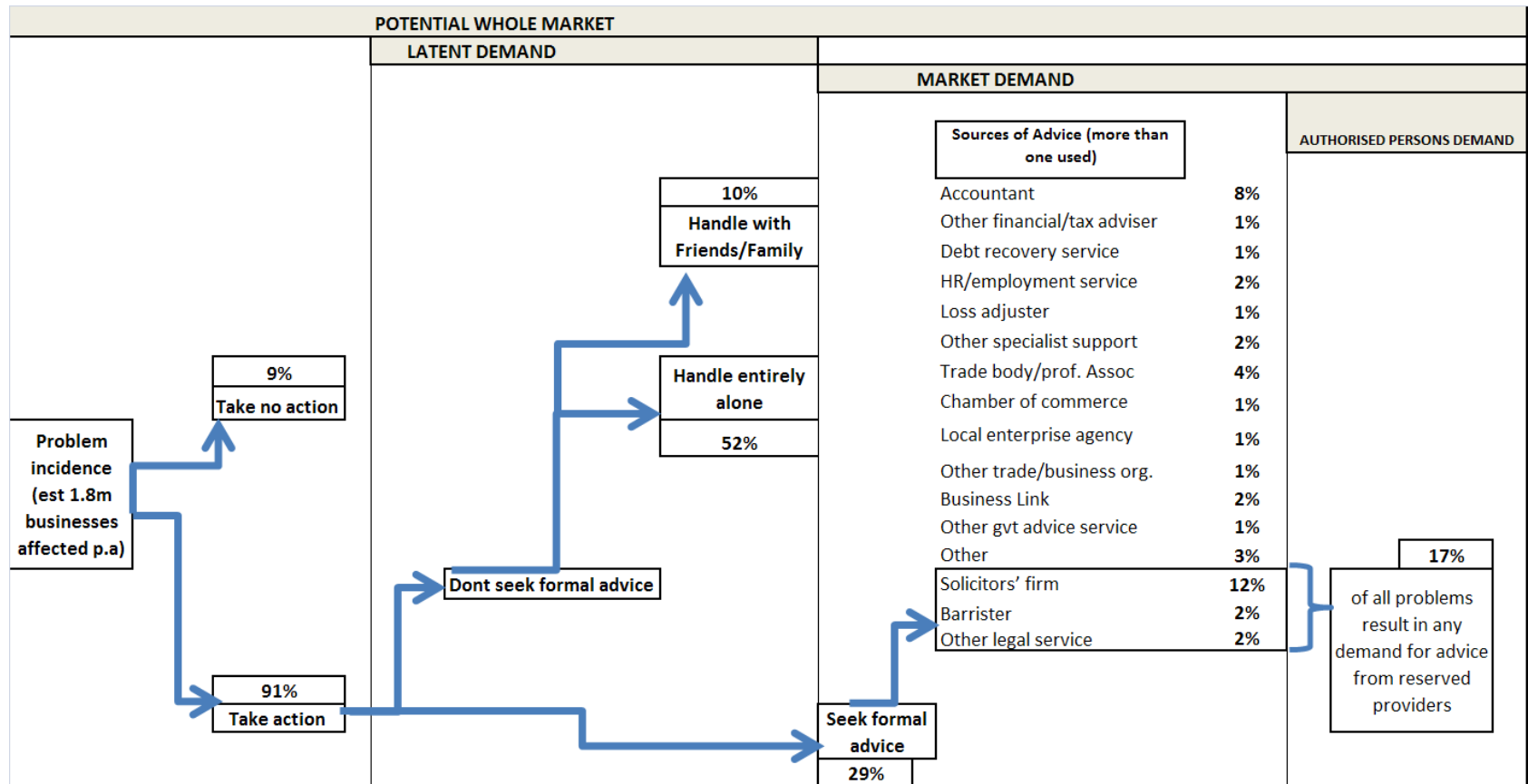
Any impacts	Loss of customer s/contracts	Loss of income	Additional costs	Inability to take on new work	Inability to complete work	Other
45%	7%	22%	10%	6%	6%	22%

- 67% one impact - 33% had two or more
- Average financial impact: £6.7k (median £1.2k)
- Whole economy impact >£100bn p.a.

Factors associated with different impacts

Factor	Problem Type	Sector	Legal Status	Years Trading	Legal capability	Diversity of ownership
Problem having any impact	Regulation; Structure	Primary; Transport and communication	Public Limited		Legal/HR contracts/In-house	BME; Disabled
	Tax	Health				
Problem having bigger financial impact	Regulation; Structure	Finance, insurance, real estate; Other business/public admin./defence	Private Limited	<1 year	In-house expertise	
	Trading	Health	Sole trader		Legal retainer	

How do small businesses respond?

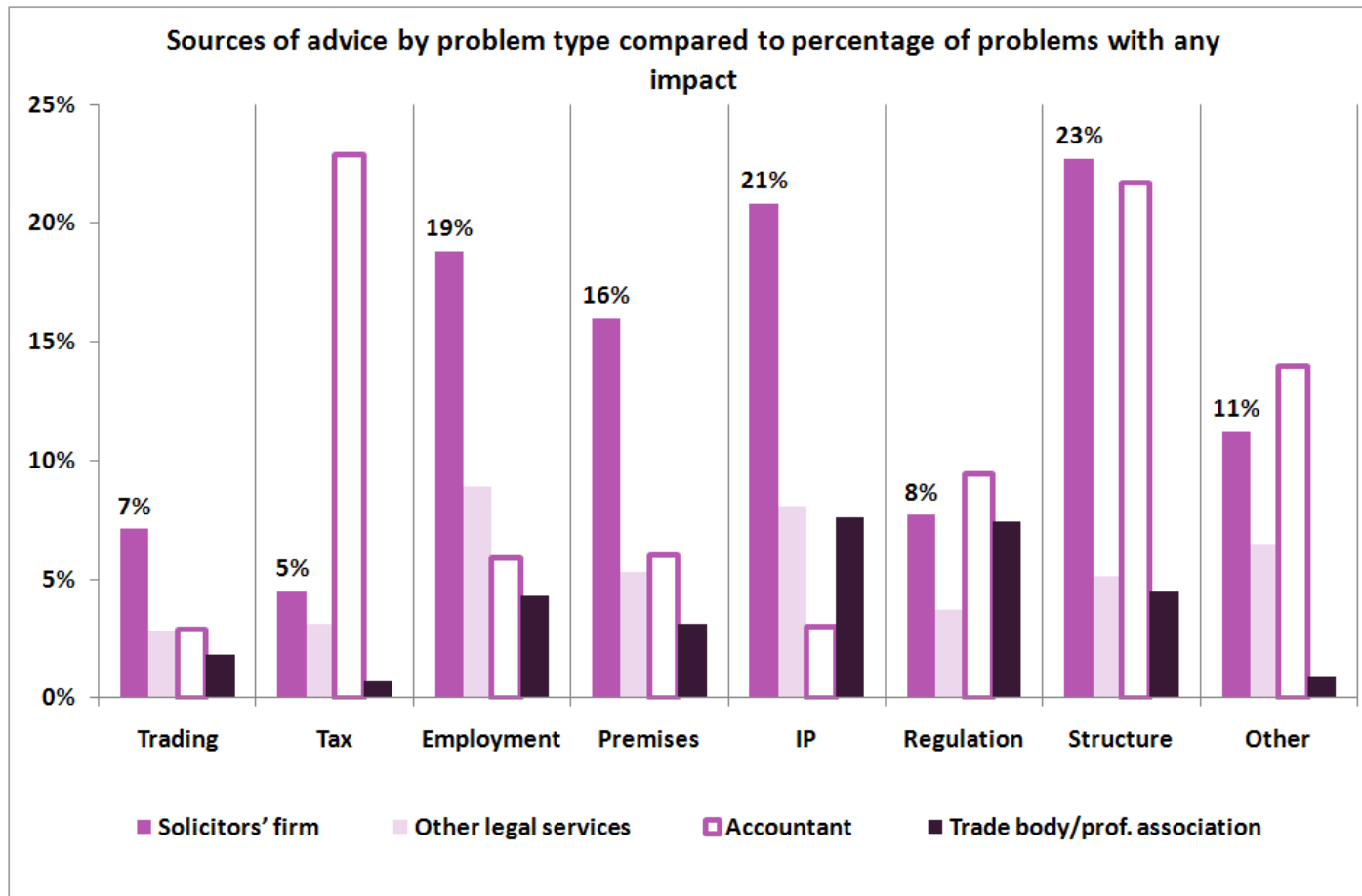


Why respond in these ways?

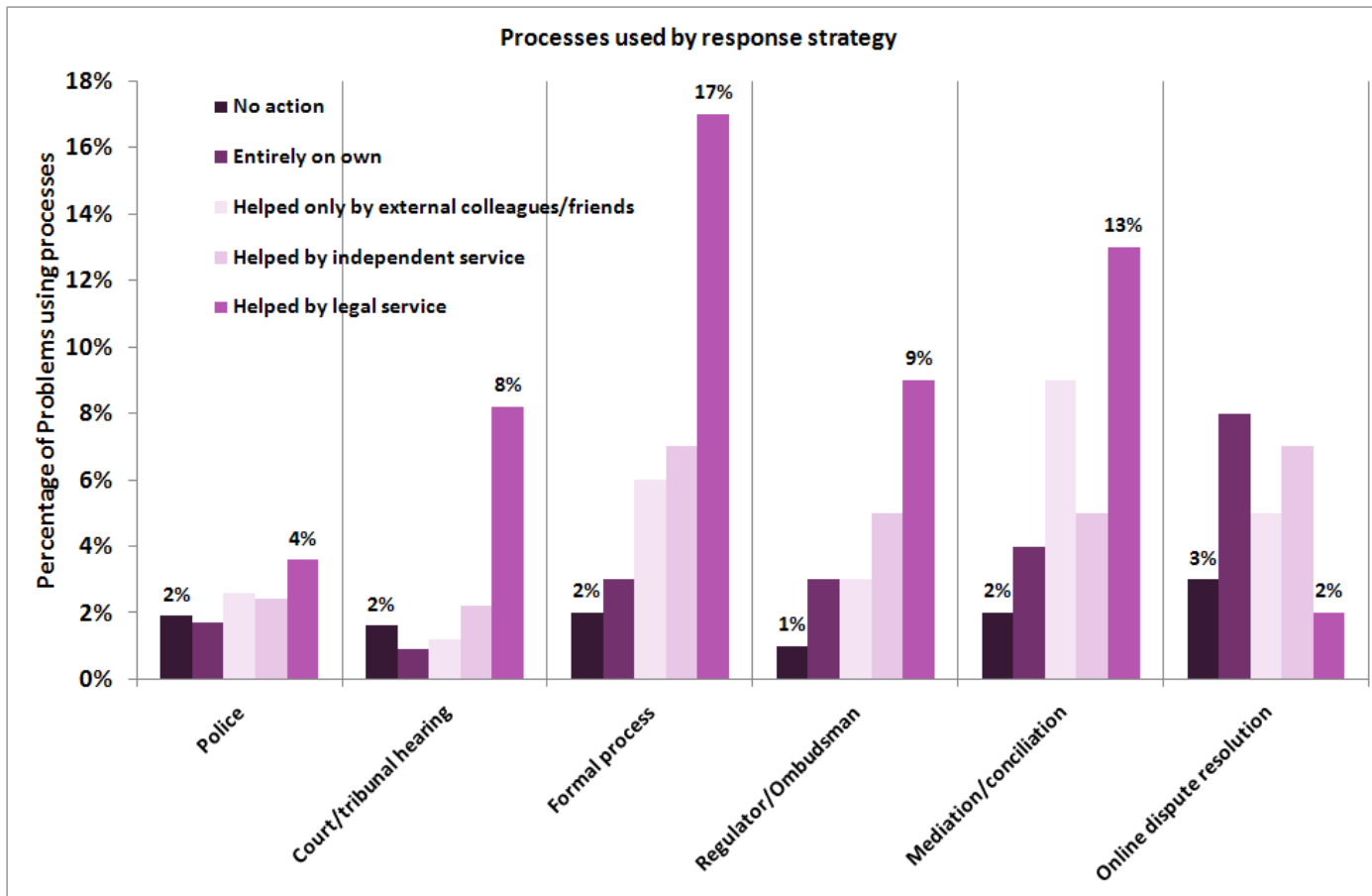
- Factors associated with different responses

Factor	Problem Type	Sector	Legal Status	Turnover & Profitability	Legal capability	Problem severity	Number of problems
Taking any action	Employment; Trading	Consultancy services; Other business/public admin./defence		Profitable		Most severe (upper quartile)	
	Intellectual property; Other	Construction		Unprofitable		Least severe (lower quartile)	
Obtaining legal advice	Employment; Structure	Education; Finance, insurance and real estate; Consultancy services	Public limited	£1m or more Profitable	Legal retainer		1-9 problems
	Tax; Trading;	Wholesale and retail trade; Primary	Private limited	<£50k Unprofitable			>9 problems

Who do they get formal advice from?



Is response due to following processes?



Is response due to perception of services?

	Stongly agree/agree	Stongly disagree/disagree	Dont Know
You can't get ahead in business without taking risks	64%	9%	27%
Being competitive involves taking shortcuts	10%	61%	29%
Sometimes, product or service quality is more important than profit margin	84%	3%	14%
It is more important to comply with the spirit than the letter of the law	26%	32%	42%
Legal processes are essential for businesses to enforce their rights	54%	7%	39%
Law and regulation provide a fair environment for business to succeed	30%	22%	47%
Lawyers provide a cost effective means to resolve legal issues	13%	45%	43%

Were the outcomes what they wanted?

- Favourability varies significantly by size:

Favourability of outcome	Size of business			Overall
	Single person	Other micro	Other small	
Favourable	74%	78%	83%	78%
Unfavourable	19%	14%	9%	15%
Don't know	7%	8%	8%	7%

- Favourability varies by the problem resolution strategy :
 - Taking no action - 55%
 - Acting entirely on your own – 80%
 - Others – 78%
- Note - possible self selection issue here.

Are they in need of advice?

- High rates of problem incidence and taking action – greater than individuals
- Large economic impacts >£100bn p.a.
- Recognition that legal processes are essential
- Legal retainer services associated with smaller financial impact.

But...

Are they in need of advice?

- High levels of handling alone - lower use of all legal services
- Problems with the biggest impacts are not associated with highest advice seeking behaviours
- Report favourable outcomes when acting on their own.

And...

- Strong perception of legal services as not cost effective
- Challenge to legal service firms to offer a better proposition
- But how to do it economically given concentration of single person businesses with low (<£50k) turnover?

Annex

Types and frequency of legal problems:

Trading - 25%

Goods or services provided to customers

- Not as described 3.3%
- Late delivery 3.2%
- Late/non-payment 6.3%
- Distance selling rights 1.2%
- Other contract problems 2%

Good or services purchased by you

- Not as described 8.3%
- Late delivery 6%
- Late/non-payment 3.2%
- Other contract problems 2.2%
- Supplier insolvent 1.1%
- Fraudulent or wrongful trading 1.8%
- Unfair operation of a public tender 1.4%
- Regulatory issues around international trade 2.3%

Tax - 9%

- Liability for tax/amount of tax owed 5.2%
- Errors in tax return 2.7%
- Failure to maintain records 1.4%
- Failure to report changes 0.9%
- International taxation 1%

Employment - 9%

- Staff misconduct 2.9%
- Dismissal/threat of dismissal of staff 2.3%
- Making staff redundant 2.2%
- Parental rights 0.8%
- Payment of wages/pension 1.8%
- Working conditions 1.2%
- Employee injury 0.8%
- Other employment contract issues 1.6%
- Adj't to jobs/workplace for disabled workers 0.4%
- Complaints/grievances 0.6%
- Employment of non-EU nationals 0.3%

Annex

Types and frequency of legal problems:

Business premises - 8%

Rented premises

Rent arrears 1.8%

Eviction 0.7%

Maintenance by landlord 2.2%

Terms of lease 1.8%

Boundaries of rented premises 0.6%

Recovery of deposit 0.4%

Owned premises

Mortgage arrears 0.8%

Repossession 0.5%

Repairs (maintenance company) 1.0%

Boundaries 0.7%

Planning permission 1.4%

Conveyancing 0.5%

Squatters 0.2%

Regulation - 7%

Other government regulation 1.4%

Product safety 0.8%

Other health and safety 1.4%

Data protection 1.2%

Import/export regulation 0.7%

Mandatory insurance 0.9%

Filing/content of company accounts 1.1%

Need for/outcome of audit 0.4%

Advertising standards 0.4%

Mandatory licenses/permits/accred. 1.3%

Structure - 5%

Technicalities of business start-up 1.4%

Change of legal status 0.7%

Break-up of partnership 0.8%

Partnership/shareholder disputes 0.8%

Sale of Business/Merger 0.7%

Take-over of another business 0.6%

Joint venture 0.7%

Annex

Types and frequency of legal problems:

Intellectual property - 5%

Infringement of your business's IP

Trademarks 1.3%

Copyright 2%

Design right/registered design 0.9%

Database rights 0.4%

Patents 0.3%

Disclosure of trade secrets 0.4%

Infringement by your business

Trademarks 0.6%

Copyright 0.9%

Design right/registered design 0.4%

Database rights 0.4%

Patents 0.1%

Disclosure of trade secrets 0.2%

Debt - 4%

Unable to pay creditors 3.7%

Insolvency 0.7%

Bankruptcy 0.4%

Receivership 0.2%

Administration 0.3%

Winding up order 0.2%

IVA 0.2%

CVA/PVA 0.1%

Debt relief order 0.1%

Other - 3%

Defamation 1.1%

Incorrect information held by a credit agency 1.4%