

# The legal needs of small businesses – summary briefing for regulators

## About the research

- Commissioned by the Legal Services Board, the independent body responsible for overseeing regulation of legal services in England and Wales
- Analyses the experiences of small firms in today's economy, showing the origin of legal problems that they face and their strategies for dealing with these problems, including where they seek advice and their experiences of doing so
- The largest ever survey of small firms' interactions with the legal sector – an online survey of 10,528 respondents, including 1,463 also interviewed in 2013

## Key findings

- **The number of legal problems faced by small firms reduced significantly over the last two years** - reflecting better trading conditions. The most common problems related to trading, employment and taxation. Other businesses were the main source of problems. Larger small businesses, and businesses with BME or disabled owners-managers, were most likely to experience problems
- **The large majority of firms had little contact with legal advisers.** Less than 1 in 10 either employed in-house lawyers or had a retainer with an external provider. Over half of firms experiencing a problem tried to resolve it by themselves. When advice was sought, accountants were consulted more often than lawyers
- **Only 13% of firms viewed lawyers as cost effective** – little improved since the 2013 survey. Microenterprises were the least likely to view lawyers as affordable
- **Half of firms reporting a legal issue said it had a negative impact;** one-quarter of them reported loss of income and one-fifth reported health related problems. Total annual losses to small firms due to legal problems is estimated at £9.79bn
- **Satisfaction that law and regulation provide a fair trading environment increased from 30% in 2013 to 45% in 2015** – improving economic conditions as well as improvements in the regulatory environment may explain this change



## **Implications for legal services regulators**

1. Small firms – those employing up to 50 people – comprise 99% of all businesses. These firms contribute 33% of UK business turnover and 48% of employment. Small firms will encounter a range of legal issues as they start up and grow, and given their small size they will often have need to turn to external experts as a means of overcoming their limited in-house capacities and capabilities.
2. The Legal Services Act 2007 includes a regulatory objective to improve access to justice. Therefore, it is important for regulators to know whether small firms, in their capacity as consumers of legal services, have access to legal advice when it is needed, know where to find it and that this is affordable. This new research on small firms and use of legal advice is important for regulators since it provides evidence on small firms' legal advice seeking, its take-up when dealing with legal problems and their views on its accessibility and affordability.
3. The results of this study provide evidence of continuing unmet legal need often having significant negative financial and health-related impacts for small firms, with respondents reporting loss of income (26%) and stress-related illnesses (16%).

## **Fresh evidence of unmet need**

4. On one level there appears to be a buoyant supply of organisations providing advice for small firms, regulated and unregulated, private and public to help them resolve their legal problems. Firms reported using a range of professional service providers, most commonly accountants (used by 43%). Being the first port of call for small businesses for advice on business problems, accountants are in a good commercial position to offer legal advice as well. Notably accountants have been expanding their portfolio of advice in recent years in areas such as HR and employment matters, and are seeking innovations in their market offerings. Accountants are now permitted to provide probate work and the Legal Services Act provides scope for them to expand into other reserved areas of work in the future.
5. Despite the use of a diverse range of suppliers, one of the most striking results is that small firms are not accessing external legal services and specifically lawyers, to any great extent. The evidence shows that around 20% of those with a legal problem drew upon the legal profession. Most small business owner managers do not normally regard the legal system as part of their business problem-resolution strategies and are not accessing legal services provided by lawyers.

6. The expansion of alternative suppliers is to be welcomed and these providers will often be able to resolve small firms' legal advice needs. However, in overall terms, the relatively low use of specialist legal advisers may suggest that some small firms are not resolving their problems satisfactorily. Further, where small firms are using unregulated providers, there are issues to explore around whether this decision is a conscious and informed choice, standards of work, access to redress and availability of other consumer protections. The LSB's new research to map the unregulated sector should help to fill this evidence gap.
7. An unequivocal finding is that cost is a major deterrent to taking up legal advice. Almost a half of respondents disagreed, or strongly disagreed, with the statement that *'Lawyers provide a cost effective means to resolve legal issues'*; and only 13% agreed with the statement. This compares to 12% in the 2013 survey and thus represents no appreciable improvement during the last two years. However, if we only include those that have actually used a lawyer, those agreeing or agreeing strongly with the above statement rises to 52%. This suggests that the challenges of accessing lawyers are both perceived as well as experience-based. Micro firms were particularly likely to view lawyers as not cost-effective.
8. Although accessing legal advice may be challenging for some firms, because of its high cost, few firms reported that not being able to access legal advice had affected the growth of their business. Less than 5% of the sample as a whole, and 10% of those reporting a business problem disagreed, or strongly disagreed, with the statement that *'Not being able to find a suitable legal services provider when I need one has affected the growth of my business.'*

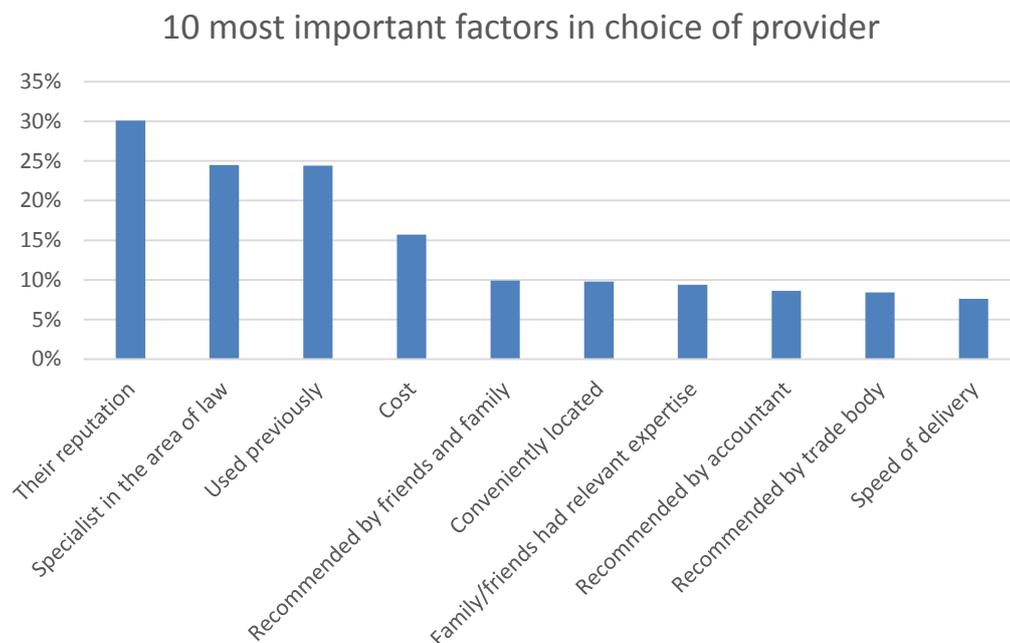


### Choosing legal services

9. The vast majority of small businesses (87%) do not have any internal legal capacity, or indeed an external legal capacity. This underlines the need for their

ability to access advice and support in a marketplace and the importance of knowing where to go for advice and to understand the support system.

10. The most frequent response to sorting out a problem was for owner-managers to do so on their own, looking for information and resources on the internet and then draw upon trusted advisers, not necessarily lawyers. Hence, the demand for legal advice by small firms derives from a business problem that could not be resolved by owner-managers themselves.
11. Despite the role of cost as a deterrent to using legal services, this was not the most important factor influencing choice of lawyer. Provider reputation, legal specialism and prior use were the most important reasons for choosing particular providers – all featuring above cost considerations. Recommendations from family and friends, accountants and trade bodies were also important. This finding has parallels with surveys on individual legal need.



12. Within this context, the Chancellor in his 2015 Budget announcement stated that the Government will provide information for SMEs on accessing and using legal services, which will be included on the Citizens Advice and the GREAT business websites. The Government believes that SMEs, like all consumers, need access to information to engage proactively in this market, including knowing when and how to get legal advice. This research underlines the need for such initiatives to enhance SME awareness and engagement with legal services when appropriate.