

Research Specification: The legal needs of small businesses 2021 – Fieldwork and optional analysis and reporting

Summary:

1. Provision of research support to conduct the fourth wave of the small business legal needs online survey for England and Wales.
2. Deliverables are a cleaned dataset, merged with the data from the previous waves. Optional deliverables are data tables, a report (approximately 60 pages plus annexes), infographic and presentation at a stakeholder event.
3. Submission deadline for proposals is 24th May 2021, project inception meeting will be 8th June 2021, the dataset will be due 23rd August 2021¹.

Purpose:

4. At start of 2020, small businesses employing up to 50 people accounted for 99.3% of all businesses (6 million), and 49% of all business employment (27.7 million employees) in the UK. The estimated turnover of small businesses in 2020 was £1.6 trillion – or 36% of total business turnover in England and Wales. Despite their importance, they often have limited inhouse legal capability to deal with the challenges of running a business.
5. In line with our regulatory objectives, we are seeking evidence that will help us to improve access to justice for small businesses. This research study will help us to understand the legal issues they face, how they respond to them and if they are getting the legal support they need. The findings will inform work in our 2021/22 Business Plan to make the case for a legal support strategy for small businesses.
6. Arguably, small businesses have a greater need for external business support than larger businesses, in part due to limited internal resources and experience. Although a sizeable proportion of small businesses do use formal external support, they also make use of informal assistance (e.g. from friends, family and business acquaintances) and a minority have been identified as having latent needs for support (including those who do not recognise their need for assistance).

About our organisation

7. The LSB is the oversight regulator of legal services in England and Wales. We have just finalised a new sector-wide strategy which aims to reshape legal services to

¹ See timetable section for more detailed information on deadlines.

better meet society's needs. We will seek to achieve this through pursuing our statutory regulatory objectives² and providing oversight of nine regulatory bodies³.



Approach

8. The LSB has so far run three waves of the survey, in 2013, 2015 and 2017. The survey is conducted online, and small businesses are asked about the legal issues they experienced during the previous 12 months.
9. In early 2021 we commissioned a review of the survey questionnaire⁴ by Prof. Pascoe Pleasence and Assoc. Prof. Catrina Denvir. This work provided an updated survey incorporating features from the latest Individual Legal Needs Survey⁵. In particular, for the first time the updated survey will allow us to estimate levels of unmet legal need for small businesses. New questions will also allow us to analyse the impact of Covid-19 and EU exit on small businesses. The changes have been

² http://www.opsi.gov.uk/acts/acts2007/ukpga_20070029_en_2#pt1

³ Solicitors Regulation Authority, Bar Standards Board, CILEx Regulation, Council for Licensed Conveyancers, Intellectual Property Regulation Board, Costs Lawyer Standards Board, Master of the Faculties, Association of Certified and Chartered Accountants, Institute of Chartered Accountants of England and Wales.

⁴ <https://legalservicesboard.org.uk/smes-2020-review-further-exploring-capability-need-and-the-impact-of-covid-19-and-eu-exit>

⁵ <https://legalservicesboard.org.uk/online-survey-of-individuals-handling-of-legal-issues-in-england-and-wales-2019>

made in such a way that we will still be able to compare changes over time⁶. All the new or enhanced areas that we will be able to explore in 2021 are listed below:

- Levels of unmet legal need
- Levels of legal capability
- The use of technology in small businesses accessing legal services
- The use of unregulated legal services by small businesses
- The response to, and impact on small businesses of the COVID-19 pandemic
- The response to, and impact of exiting the EU.

10. The review delivered a revised survey script which is ready for programming (subject to any final minor changes).
11. We wish to commission a research agency to administer the survey. As a minimum, the contracted agency will programme the survey script and pilot the survey before sampling and conducting online fieldwork. They will then produce a cleaned and merged dataset for analysis.
12. We are interested in the option of the contracted agency also conducting analysis and reporting. Please provide two different quotes, one for administering the survey only, and the other including survey analysis and reporting.

Issues and scope

Comparability with previous waves

13. The main issue to consider is how to ensure comparability with the 2017 survey. As noted above, the changes have been made in such a way that we will still be able to compare changes over time. Even so, some of the changes implemented in the 2021 questionnaire review may impact on comparability. The successful supplier will need to set the weighting and provide it in the final dataset. These considerations are also a factor in the optional analysis and reporting elements. Therefore, proposals should identify how comparability issues will be managed.

Sampling, weighting and representation of SMEs in England and Wales

14. The contracted agency will be responsible for sampling and securing responses from small businesses (LSB does not have access to a sample to use). We are looking for a sample that is nationally representative of small businesses in England and Wales. In the previous waves of the survey samples were weighted based on sector and number of employees. We suggest using a similar approach this year, to avoid issues with comparability between waves.

⁶ All the questionnaires from all waves are available online: <https://legalservicesboard.org.uk/our-work/ongoing-work/the-legal-needs-of-small-businesses-2013-2020>

15. We would ideally like a sample that enables comparisons of the small businesses in England and Wales⁷ in terms of:

- Size (1, 2-9, 10-49 employees)
- Region (Wales, North of England, Midlands, South West, East of England, London)
- Industry sector (by 2007 SIC classification code section level⁸)

16. Proposals should suggest overall sample size and any quotas to enable these comparisons.

17. The sample in the 2017 wave was 10,579 and we would wish to achieve at least the same level of responses again. However, even with such a large sample size, we quickly run into issues with small sub-samples that make it impossible to carry out analysis of some types of legal issues, business types and protected characteristics⁹. Therefore, we would be interested to receive proposals that would allow us to scale up the overall sample in a cost-effective way. In this scenario, proposals should make clear the different costs, if any, for each of the sample sizes being considered.

18. We are exploring with external funding partners whether they would wish to make available booster samples focused on specific legal issues and/or certain groups of legal services providers. Should this be taken forward, we would ask the successful supplier to cost separately for this additional element upon appointment.

19. The table below shows the key characteristics of the sample used in all waves of the research. The figures are weighted based on sector and number of employees. This weighting allows for comparability between waves for longitudinal analysis.

	2017 (n=10579)	2015 (n=10687)	2013 (n=10535)
Business size			
1 worker	76%	76%	75%
2-9 workers	19%	20%	21%
10-49 workers	5%	4%	4%
Disability			
Yes, limited a lot	5%	4%	5%
Yes, limited a little	21%	20%	20%
No	74%	76%	75%
Age of the business			
Up to 3 years	19%	20%	22%
3-6 years	19%	19%	19%

⁷See BEIS business population estimates October 2020:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/922793/BPE_2020_detailed_tables.xlsx

⁸<https://www.ons.gov.uk/methodology/classificationsandstandards/ukstandardindustrialclassificationofeconomicactivities/uksic2007>

⁹ Incidence of legal issues in 2017 (pages 23-26) <https://legalservicesboard.org.uk/wp-content/media/FINAL-Small-Business-Report-FEB-2018.pdf>

6-10 years	19%	15%	19%
10-25 years	32%	31%	30%
25+ years	16%	15%	14%

20. In 2021 we are also interested in weighting figures to have a nationally representative sample. However, we appreciate that the impact of both the pandemic and withdrawal from the EU may have affected the composition of SMEs by the time of the fieldwork. Furthermore, it is unlikely that up-to-date official data will be available before fieldwork is due. This problem might be addressed by applying sample weightings developed *post hoc*. Although, for comparisons over time, it may be desirable to apply the same weighting from previous waves. We welcome suggestions on how to address this problem.

Length of interview, piloting and completion rates:

21. In relation to the 2017 survey, the average interview time was below 20 minutes. During the 2021 questionnaire review, we sought to avoid increasing the average completion time. We expect to confirm this during a pre-launch pilot. We also expect the pilot to confirm that the newly developed questions and the questionnaire overall performs as expected. We welcome any suggestions on piloting and cognitive testing in proposals. We will also welcome suggestions to reduce drop out.

Survey structure:

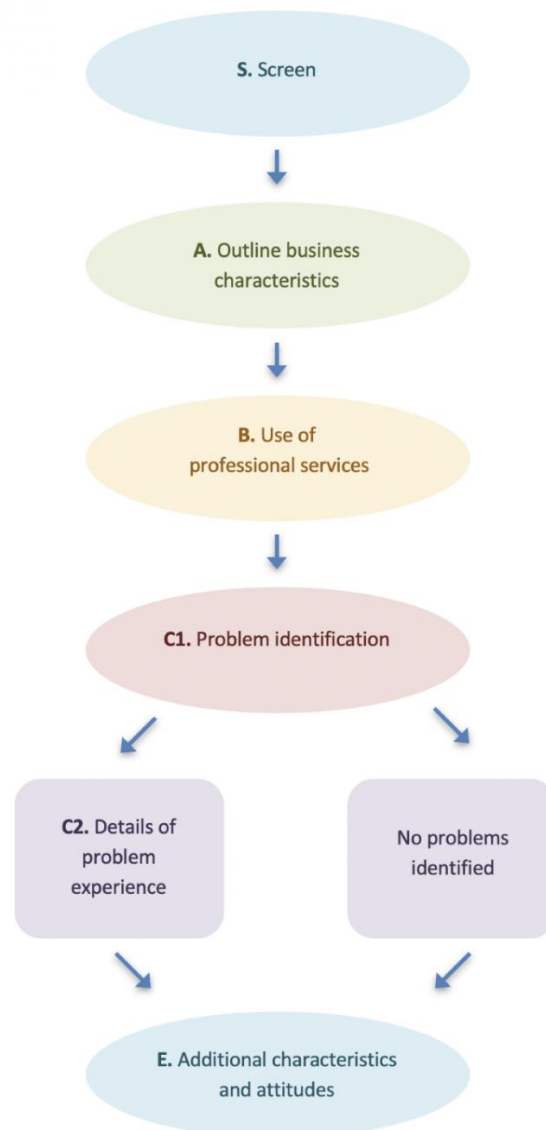
22. Although the 2021 survey includes new areas of analysis when compared to 2017, the overall survey structure remains the same (see also graphic below).

23. The questionnaire begins by screening respondents to ensure they are eligible for inclusion in the survey (section S), before then obtaining the businesses' characteristics (section A). Eligible firms are then asked about their use of professional services, including legal services, over the survey reference period (section B). The questionnaire then moves to problem identification (section C1), asking about 84 distinct justiciable problems, which are grouped into a series of defined categories¹⁰. A single problem is then selected at random for detailed follow-up¹¹ (section C2). A final section then obtains further business characteristics and addresses respondent attitudes to law and legal services (section E).

¹⁰ Trading, tax, employees, business premises, finance and insolvency, intellectual property, regulation, structure and, finally, a miscellaneous category including defamation, incorrect credit agency reporting, mismanagement by a financial service, personal injury of a customer and breach of commercial confidentiality.

¹¹ The follow-up questions cover the nature of the 'other side', the character and severity of problems, the strategy adopted to resolve problems, the type of external help sought (and success in obtaining help), reasons for choice of help source, issues relating to complaints and regulation, costs, mode of communication, process, representation at court, outcome, consequences and, finally, dates.

Small Business Legal Needs Survey structure



Duration

24. We intend to start the project in early June 2021 with piloting to follow in June and the main fieldwork taking place over June and July. We expect the dataset to be available for analysis by the end of August 2021. Delivery of the dataset will mark the end of the contract with the selected agency unless it also conducts the analysis and reporting. In this case we would expect to receive final deliverables and contract conclusion by mid October 2021.

Deliverables

Output

25. The output for this research is a cleaned, merged, pseudonymised dataset, structured as specified by the LSB, in CSV and SPSS .SAV file formats, suitable for

analysis.

26. The contracted agency will be expected to work with the LSB to deal with any problems with the dataset and ensure it is fit for purpose and accurately labelled – e.g. the variable names and labels need to match those used in previous waves (where applicable). This process will facilitate the creation of a merged dataset including all waves, that will be used to run either initial or further analysis by the LSB research team.
27. We are also interested in the following optional reporting deliverables:
 - a) Report (approximately 60 pages, plus annexes)
 - b) Data tables (Headlines and breakdowns by firm size, region, broad industry sector, legal capability)
 - c) Infographic (for online use)
 - d) Presentation of findings and insights to stakeholders (plan for preparation and delivery only, LSB will organise and cover any venue or online streaming costs separately)
28. Proposals should include specifications of the required and optional deliverables with cost breakdowns for each.

Project plan, resource profile and risk reduction

29. Tenders should include a project plan and time schedule for the work that identifies the main tasks and key milestones that will be used to monitor progress. The plan should be accompanied by a resource profile, giving a breakdown of the resources in person days allocated to each task. We would also expect the tenders to include a clear analysis of the potential risks, how they propose to reduce their likelihood and/or mitigate their impact, and the levels of the residual risks after risk reduction and/or mitigation.

Data protection

30. The appointed agency will collect commercially sensitive information as part of this project. Further, as explained above, we will publish the raw datasets from the research. Bidders should explain the safeguards they will put in place to comply with data protection legislation.

Tender Evaluation Criteria

31. All projects commissioned by the LSB are subject to our standard terms of contract. Tenders will be evaluated on MEAT – Most Economically Advantageous Tender – based on combined scores for cost and quality.

Quality

32. The quality criteria will be assessed from the proposals, with the evaluation scoring breakdown detailed below. Marks achieved will then be multiplied by the quality weighting (70%) to give the overall weighted score for the quality section.
33. This will be informed by the following criteria:
- a) Overall understanding of the project requirements
 - b) Relevance of individual team member experience and expertise to the roles and tasks they will be doing in this project (please include a copy of, or link to your organisation's diversity policy)
 - c) Methodology (dataset) – the methods used for data collection, including sampling and addressing comparability with previous waves, detailing individual task responsibilities of team members and how these link to the delivery of the dataset (please include project plan and resource profile)
 - d) Methodology (optional deliverables) - the methods used for analysis and reporting including addressing comparability with previous waves, weighting and representation of small businesses in England and Wales, detailing individual task responsibilities of team members and how these link to the deliverables (please include project plan and resource profile)
 - e) Risks – What are the main risks and how will you reduce their likelihood and/or mitigate their impact during the project?
 - f) What standards or protocols will you have in place to ensure the project is delivered to high ethical and quality standards?
34. The tender evaluation panel will score proposals against the quality criteria. Each criterion, will be worth a maximum of 100 marks and will be scored, as described below, from “Unacceptable” to “Excellent”.

Score	Assessment	Interpretation
9-10	Excellent	Exceeds the requirement. Exceptional demonstration by the bidder of the relevant ability, understanding, experience, skills, resource and quality measures required. Evidence identifies factors that will offer significant added value.
7-8	Good	Satisfies the requirement and offers some additional benefits. Above average demonstration by the bidder of the relevant ability, understanding, experience, skills, resource and quality measures required. Evidence identifies factors that will offer some added value.
5-6	Acceptable	Satisfies the requirement. Demonstration by the bidder of the relevant ability, understanding, experience, skills, resource and quality measures required.
3-4	Minor reservation	Satisfies the requirement with minor reservations. Some minor reservations about the bidder's relevant ability understanding, experience, skills, resources and quality measures required.
1-2	Major reservations	Satisfies the requirement but with major reservations. Serious concerns about the bidder's relevant ability, understanding, experience, skills, resources and quality measures required.
0	Unacceptable	Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the bidder has the relevant ability, understanding, experience, skills, resources and quality measures required. Little or no evidence to support the response.

35. Proposals must score a minimum quality score of at least 4 marks out of the possible 10 marks available for each criterion detailed in the table above to proceed in the evaluation process. Proposals which do not achieve this score will be excluded from this process. The minimum quality score ensures that all reasonably compliant bids have the chance to succeed but that a proposal cannot win even with a very competitive price if there are sufficient concerns over quality.

36. There will be an evaluation panel run by the LSB to determine the scoring of the bids received. Scores and supporting comments from each member of the panel will be recorded and a mediation meeting will be held to reach a consensus score for each question.

Cost

37. Cost will be assessed using the 'Proportion of Best' calculation. This is where the lowest priced bidder will achieve maximum points under this section and all other bids will be awarded a score based on a straightforward 'proportion of best' calculation, outlined as follows: $\text{Lowest Priced Bid} / \text{Price of tender being evaluated} \times \text{Price weighting ratio (i.e. 30\%)} = \text{Score}$.

Tender Evaluation Weighting

38. Proposals will be evaluated by an evaluation panel using the following weightings:

Evaluation Criteria	Criteria Weighting %
Quality	70%
Overall understanding of the project requirements	5%
Relevance of individual team member experience and expertise	15%
Methodology (dataset)	15%
Methodology (optional deliverables)	15%
Risks	10%
Standards/protocols to ensure the project is delivered to high ethical and quality standards	10%
Price	30%
Total	100%

39. We reserve the right not to award a contract. There is no guarantee of any business following this tender evaluation and we will not be held accountable for any costs to the bidder arising from this exercise. We will consider bids from consortia on the basis that we may contract with the lead partner only, who we will hold solely responsible for successful delivery of the project.

Timetable

40. We anticipate the project timeline to run as per the table below. However, we are open to amendments for the period between contract award and the deliverables (in either August or October, depending on the deliverables chosen). Proposals should include dates for tasks and deliverables within their project plans and explain the reasoning for any suggested changes. Project plans should also be clear as to what is required from LSB and by when (for example in commenting on drafts).

Invitation to tender issued	19 April 2021
Deadline for clarification questions	10 May 2021
Deadline for submission of bids	24 May 2021
Notification of supplier interviews	26 May 2021
Supplier interviews (online)	28 May 2021
Notification of outcome	2 June 2021
Contract awarded	8 June 2021
Project inception meeting (online)	8 June 2021
Piloting started	Week commencing 14 June 2021
Main fieldwork launched	Week commencing 21 June 2021
Deliver merged dataset for analysis	Week commencing 23 August 2021
Analysis (if selected by LSB)	Week commencing 23 August 2021
Deliver headlines (if selected by LSB)	Week commencing 6 September 2021
Deliver data tables (if selected by LSB)	Week commencing 6 September 2021
Deliver first draft of report (if selected by LSB, up to three rounds of drafting and comments)	Week commencing 20 September 2021
Deliver infographic first draft (if selected by LSB, up to three rounds of drafting and comments)	Week commencing 4 October 2021
All final deliverables	Mid October 2021

Checklist

Your proposal should include all of the following:

	Copy of or link to organisation's diversity policy
	Project plan
	Resource profile
	Project risks
	Reference to quality standards or protocols in place for the project
	Specifications of the deliverable (dataset) and the optional deliverables
	Cost breakdowns, for each deliverable
	Explain data protection safeguards
	Signed non-collusive tendering certificate (see Annex A)

Legal Services Board

Contract for the provision of research services to the Legal Services Board

Non-collusive tendering certificate

We certify that this is a bona fide tender, and that we have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person. We also certify that we have not done, and we undertake that we will not do at any time before the hour and date specified for the return of this tender, any of the following acts:

- (a) communicate to a person other than the person calling for those tenders the amount or approximate amount of the proposed tender, except where the disclosure, in confidence, of the approximate amount of the tender, was necessary to obtain insurance premium quotations required for the preparation of the tender;
- (b) enter into any agreement or arrangement with any other person that they shall refrain from tendering, or as to the amount of any tender to be submitted;
- (c) offer or pay or give or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the said work, any act or thing of the sort described above.

In this certificate, the word, "person", includes any persons and any body unincorporate; and, "any agreement or arrangement", includes any such transaction, formal or informal, and whether legally binding or not.

Dated this day of year

Signature

**In the capacity of (e.g. director,
secretary etc.)**

(capitals)

**Duly authorised to sign tenders
for and on behalf of**

Postal address

Telephone no

E-mail address:
