

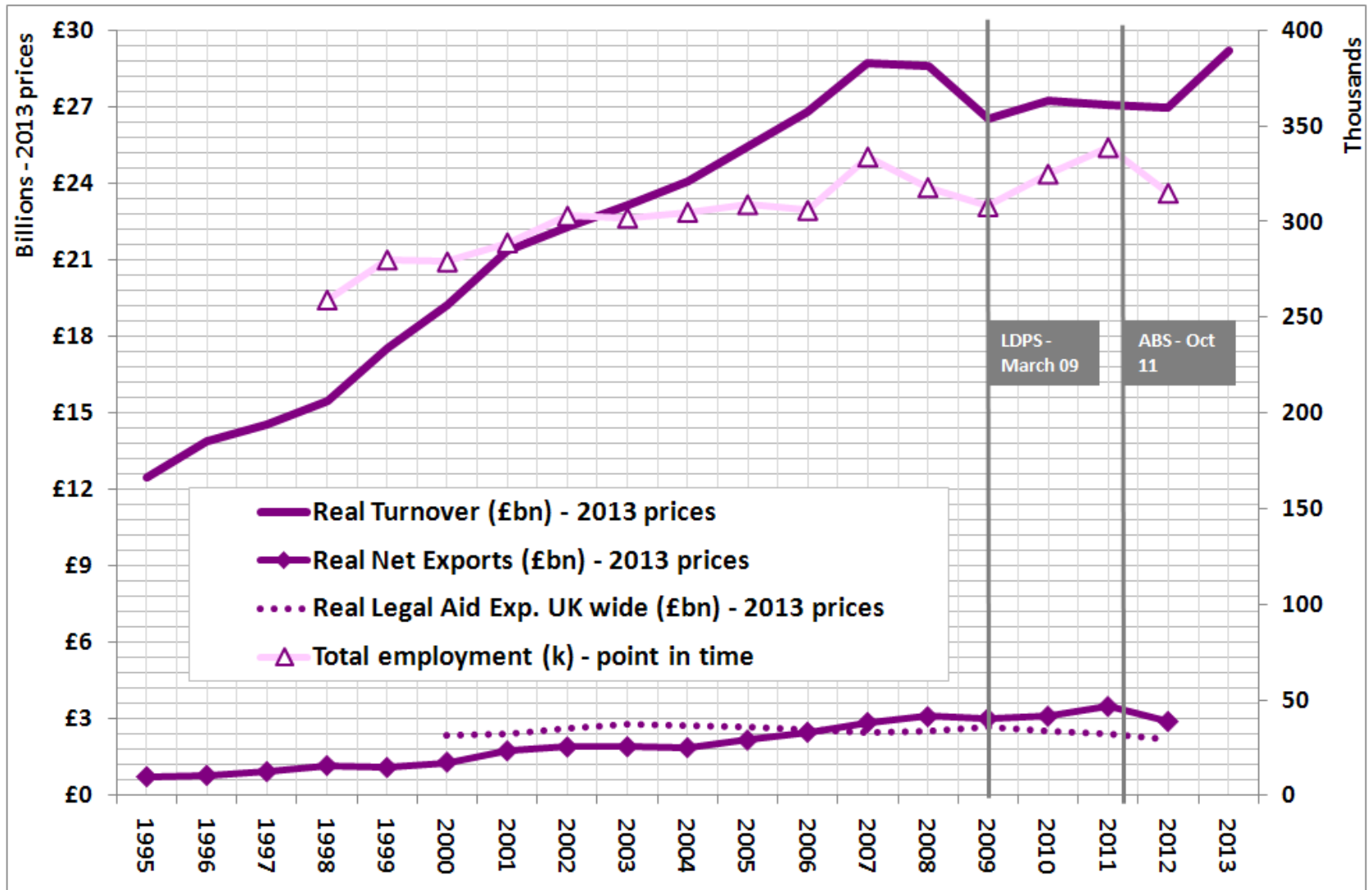
How alternative are Alternative Business Structures?

Robert Cross
SLSA Conference,
Robert Gordon University
Thursday 10th April 2014

Overview

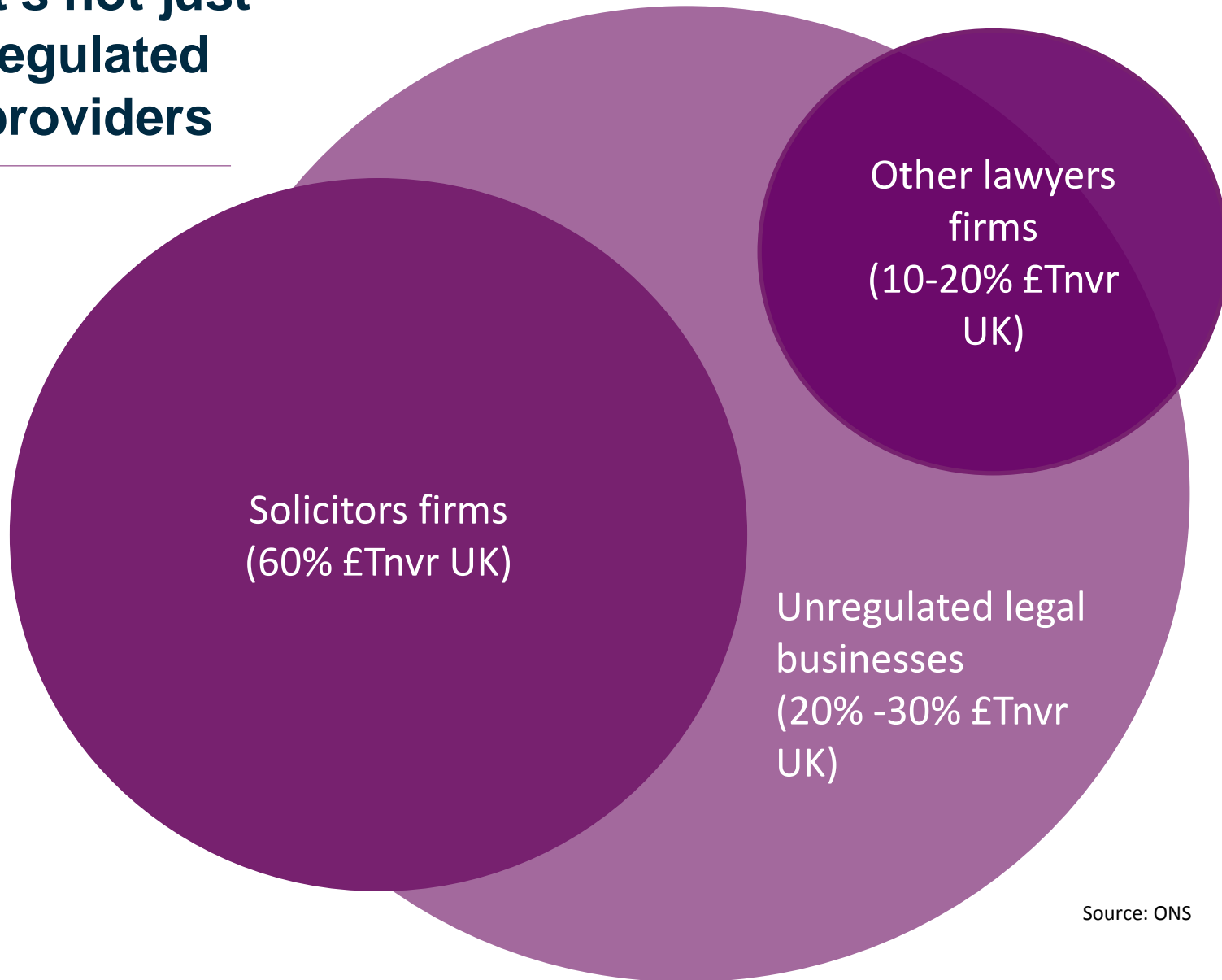
- Why do we need an alternative?
- What we know about ABS so far
 - 2013 Survey
 - LSB analysis 2012/13 of SRA data
- What might be holding back change?

All good? The sector is growing



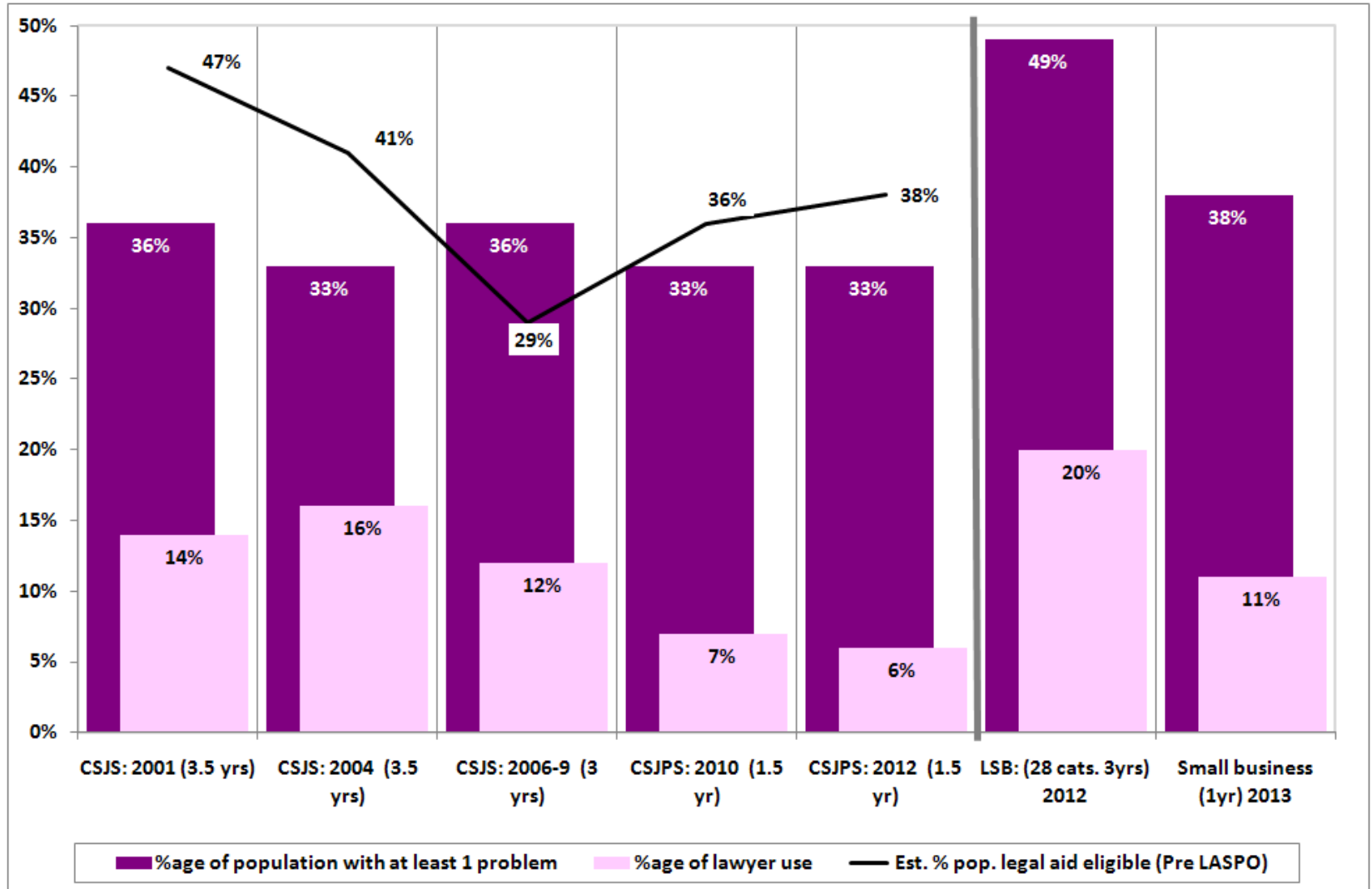
Sources: ONS, LSC, MoJ, SLAB, NILSC (est.)

It's not just regulated providers



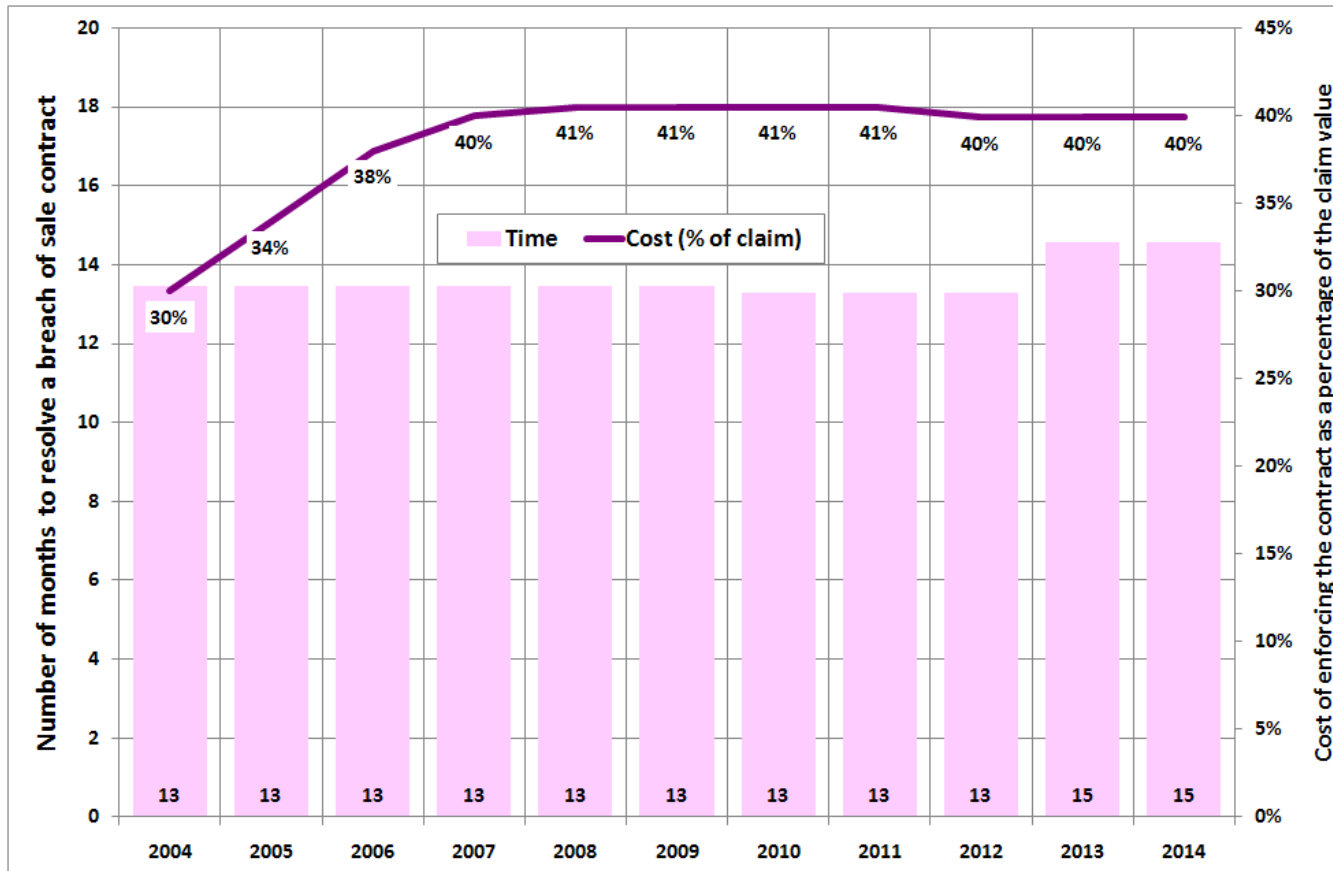
Source: ONS

But individuals and small business legal needs aren't being met

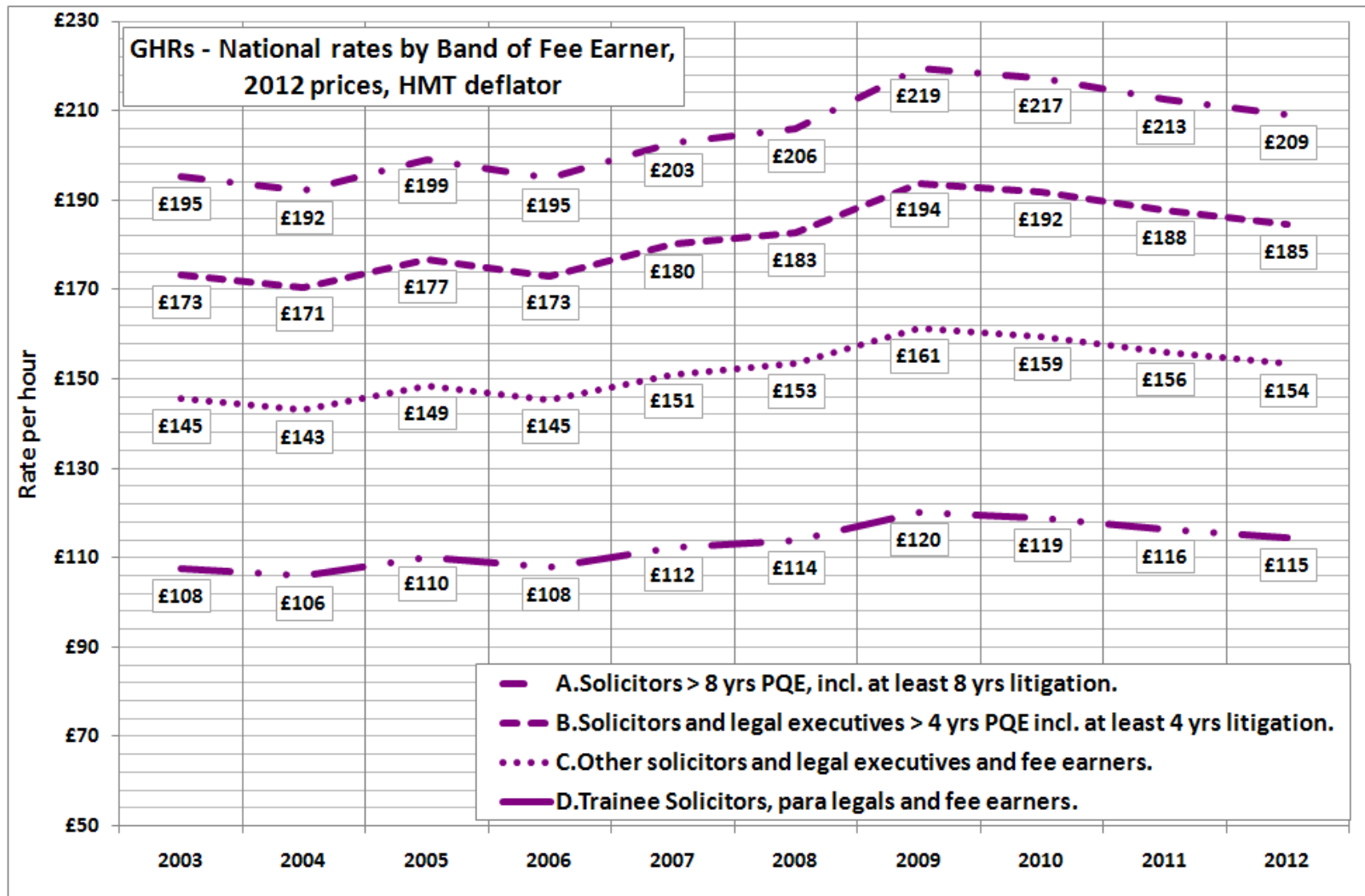


And the costs of going to law for business remains high

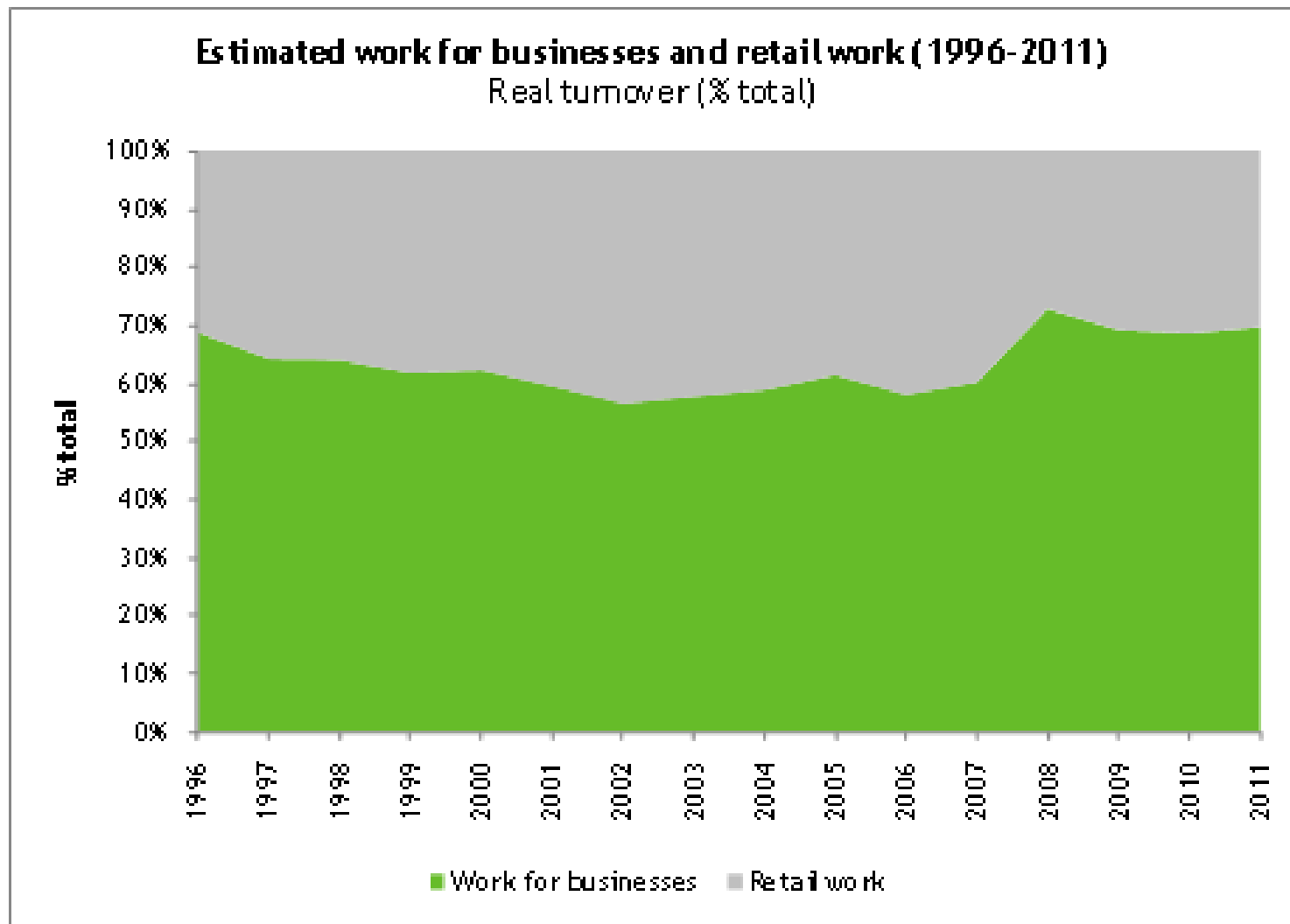
- WB: 10% increase in 10 years
- B2B prices up 8% in 3 years (ONS)



As do the underlying hourly rates



The legal sector is increasingly focusing on work for business



Potentially leaving more space for the NfP sector

*“the specific use of lawyers in the U.K. surveys is roughly the same as in the U.S. - 27% in England and Wales, 29% in Scotland versus 26% in the U.S. Where the substantial difference emerges is in the use of other third-parties. Moreover, **because non-lawyers in the U.K. are authorized to give legal advice (such as volunteer-staffed Citizens Advice Bureaux or proprietary legal advice centres), the effective difference is even greater: Americans received advice from those who are able to give legal advice in only 37% of cases, compared to 60-65% of U.K. cases. Furthermore, a far smaller percentage of the U.K. respondents, as compared to U.S. respondents, “lumped” their problem by doing nothing at all: fewer than 5% versus 29%.**”*

Higher Demand, Lower Supply? A Comparative Assessment of the Legal Landscape for Ordinary Americans, Gillian K. Hadfield 2010

But the NfP sector has had large funding cuts

*“The cuts in the scope of legal aid totalling **£89m** pa in April 2013.....the Cabinet Office estimated that local authority funding of the sector as being **£220m** in 2010/11, which we estimate could fall to £180m, or even to £160m, in 2015/16... thus bringing the overall cuts in funding from these two sources to **£129m** or more.”*

Low Commission Report: Tackling the Advice Deficit, January 2014

Ripe for disruption? *Innovators dilemma*

Significant evidence of ‘unserved’ consumers

- One in three consumers don’t get the legal help they need
- Four out of five small businesses don’t get legal advice when they have a problem
- 87% of SMEs don’t think lawyers offer value for money - even though 54% of those SMEs see law as very important for doing business
- Potential value of SME unmet need in excess of £100bn

Why are there unserved consumers?

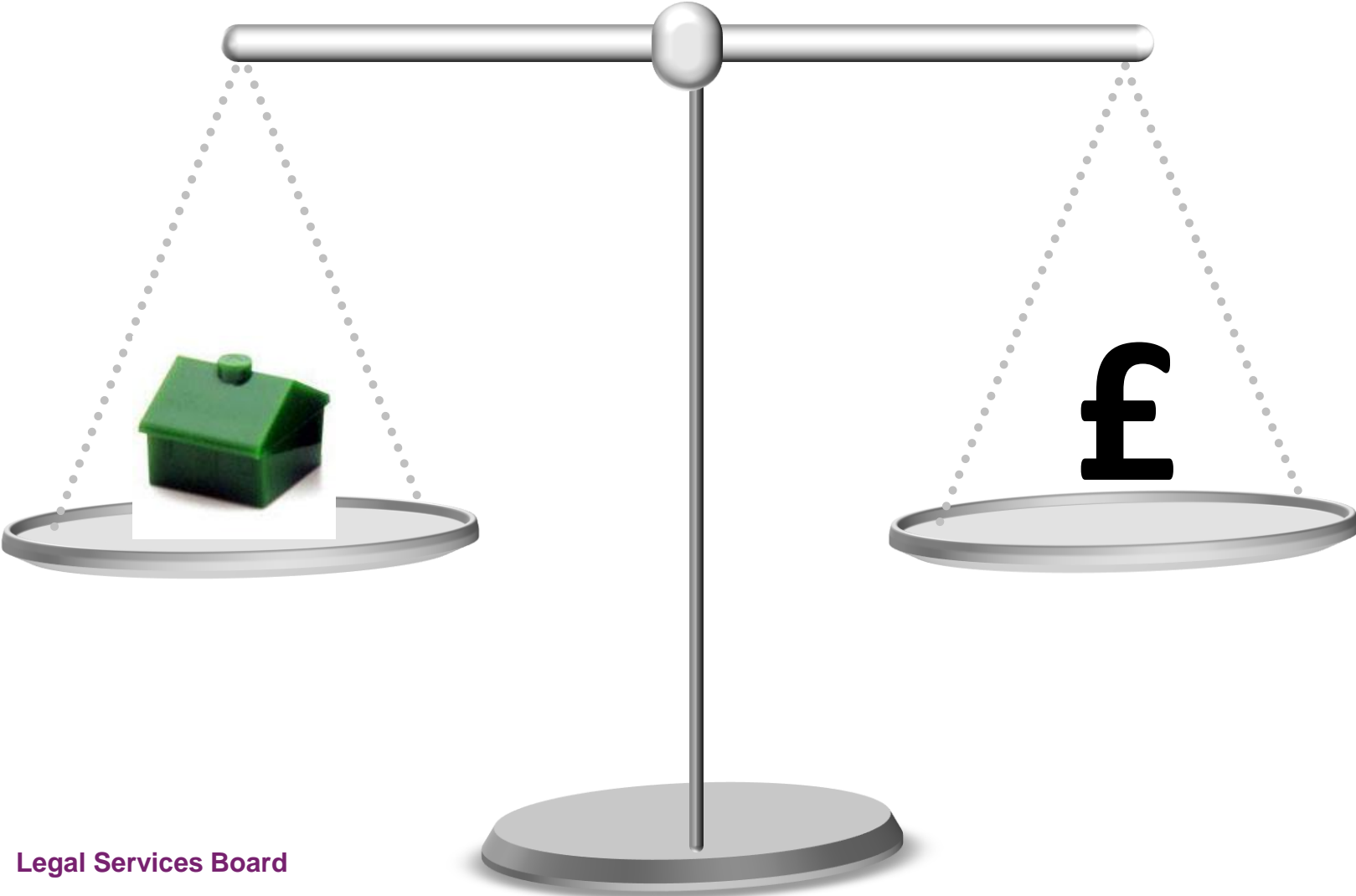
*“our findings indicate that use of lawyers may be more fundamentally driven by whether or not people characterise **problems as being “legal”**..... To the extent characterisation is linked to people's understanding of the law, it raises questions around public legal education. To the extent it is linked to problem severity, or the stage that problems have reached, it raises questions around **the accuracy of people’s cost-benefit assessments** and the appropriateness of characterisations. To the extent it is linked to the supply of traditional legal services, it **raises questions around the functioning of the legal services market**”*

Horses for courses? Pascoe Pleasence, Nigel J Balmer, Stian Reimers, LSB 2010

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Recap - what is an ABS?



The ABS suitability test

You must:

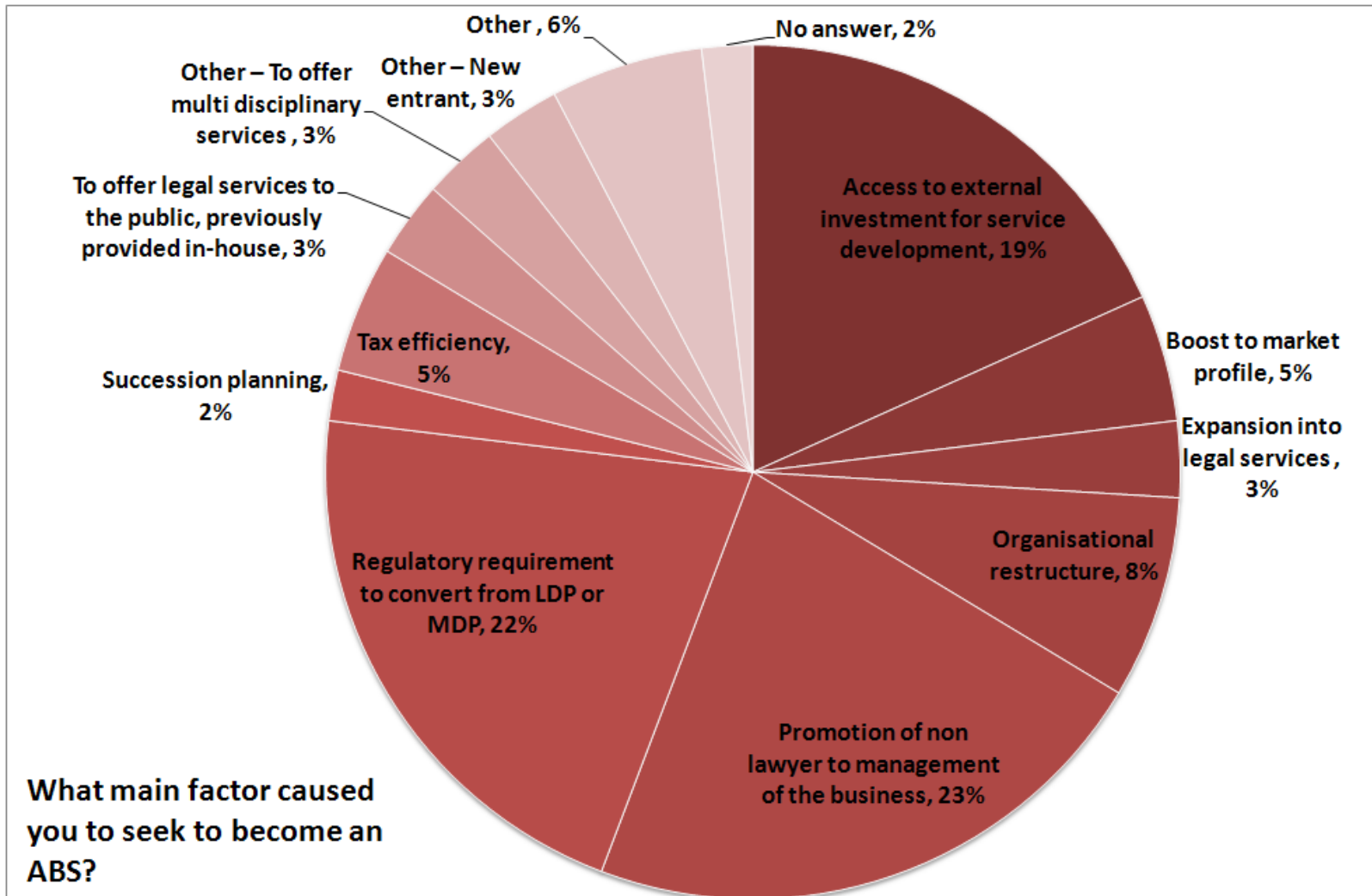
1. uphold the rule of law and the proper administration of justice;
2. act with integrity;
3. not allow your independence to be compromised;
4. act in the best interests of each client;
5. provide a proper standard of service to your clients;
6. behave in a way that maintains the trust the public places in you and in the provision of legal services;
7. comply with your legal and regulatory obligations and deal with your regulators and ombudsmen in an open, timely and co-operative manner;
8. run your business or carry out your role in the business effectively and in accordance with proper governance and sound financial and risk management principles;
9. run your business or carry out your role in the business in a way that encourages equality of opportunity and respect for diversity; and
10. protect client money and assets.

<http://www.sra.org.uk/solicitors/handbook/suitabilitytest/content.page>

Who has become an ABS?

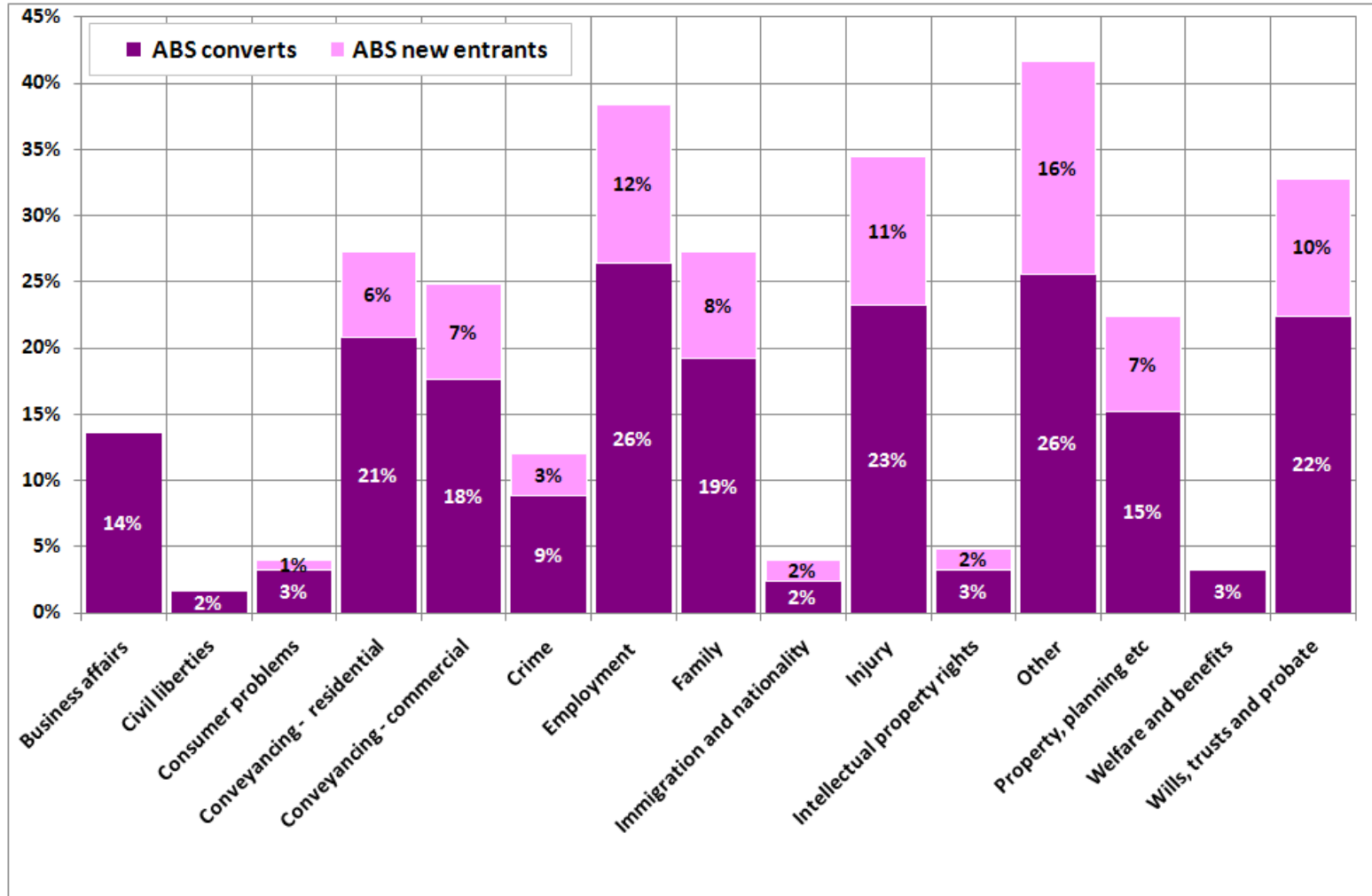
- January 14 – 272 ABS – 10.7k SRA and CLC regulated organisations
- SRA regulatory returns data (125 ABS – April 2013):
 - 45% of existing firms converting
 - 55% of firms new to SRA regulation
 - ***Recognised data issue***
- LSB online survey (64/193 ABS – July 2013):
 - 77% of ABS already regulated by SRA or CLC
 - 9% already providing legal services regulated by others
 - 14% new to legal services market

Why did they become an ABS?



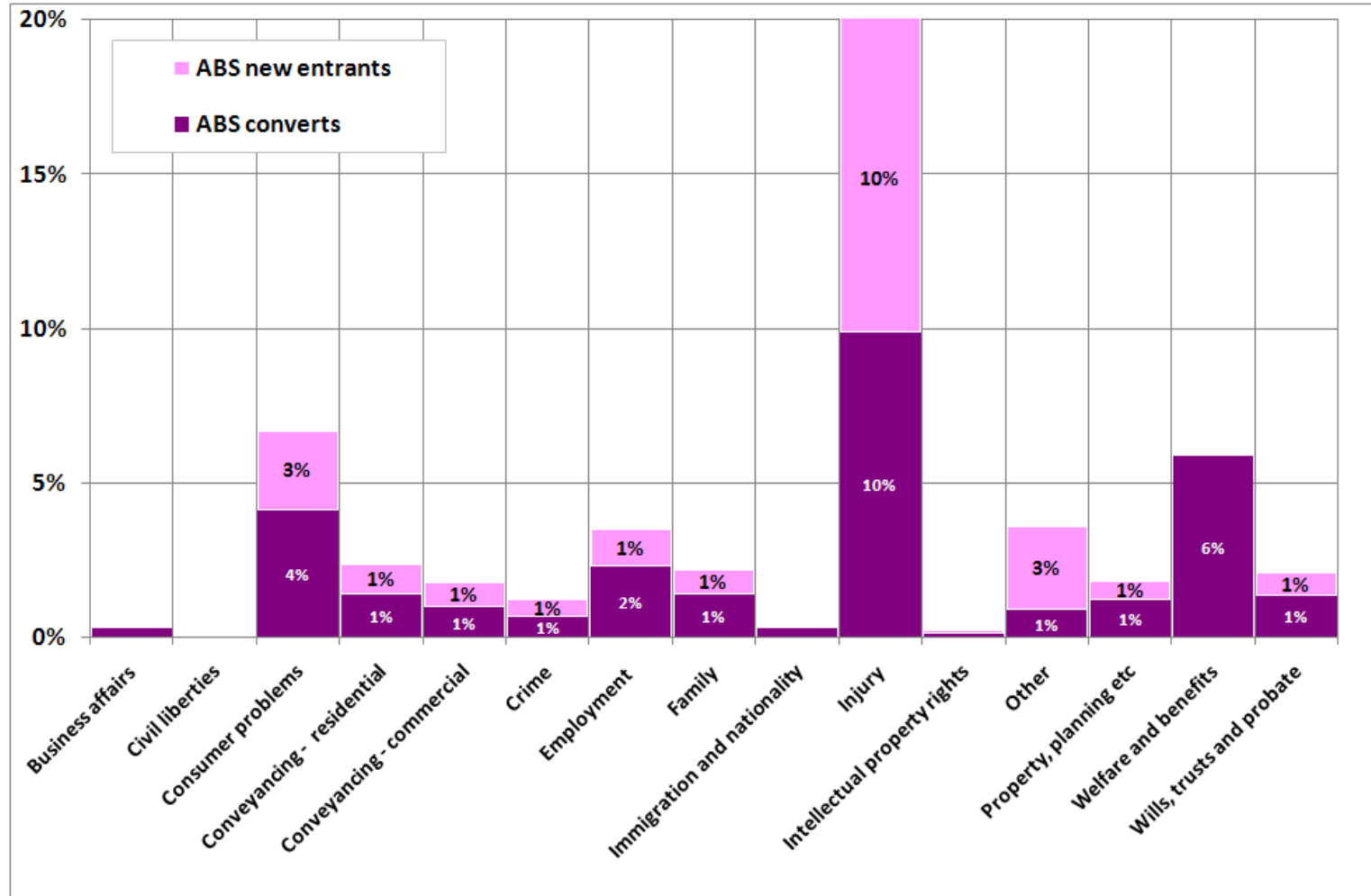
Survey of ABS, July 2013, n = 64 (33%)

Which areas of law do they work in?



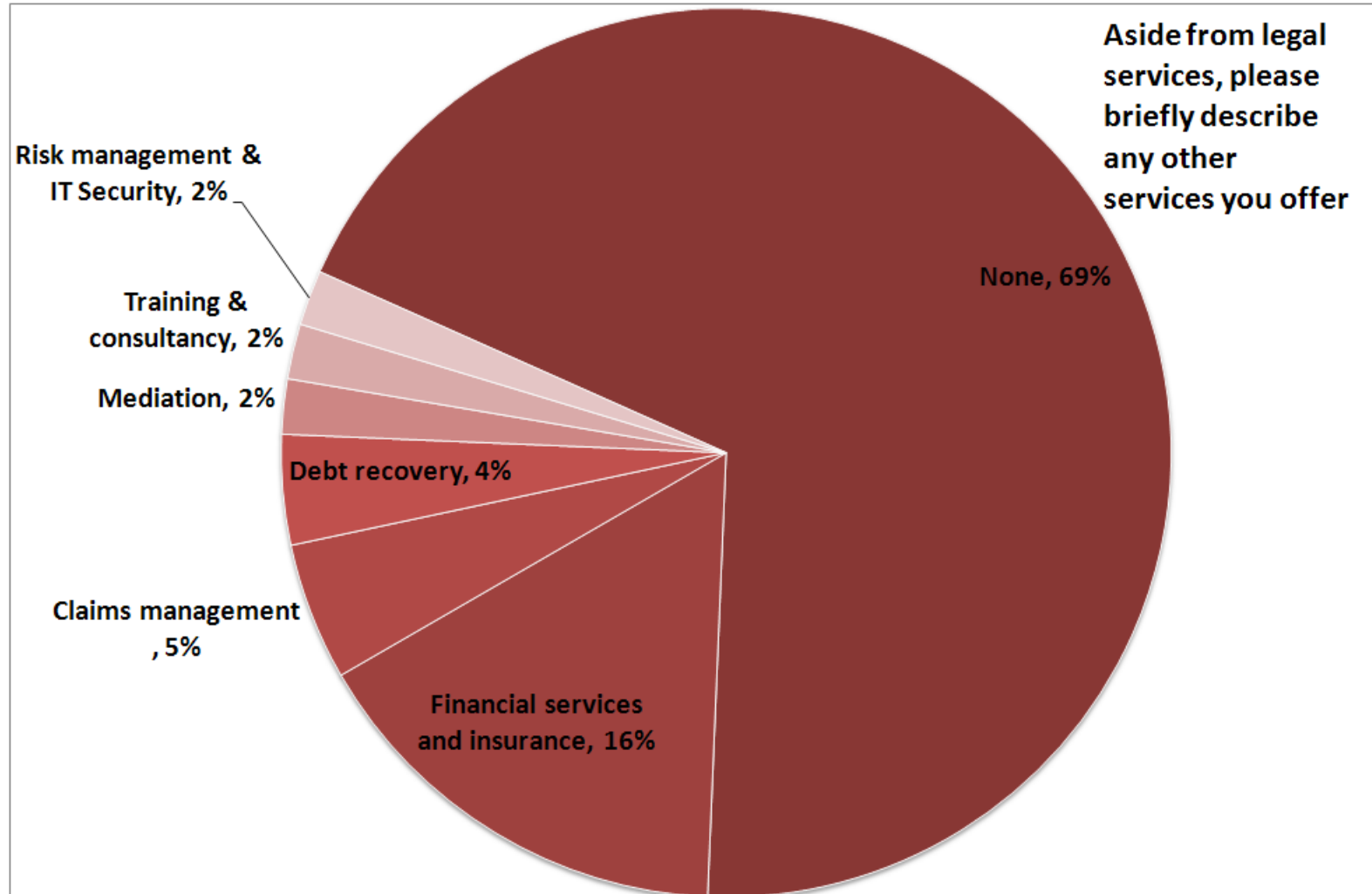
LSB analysis of SRA Data April 2013, n=125

What market share do they have?



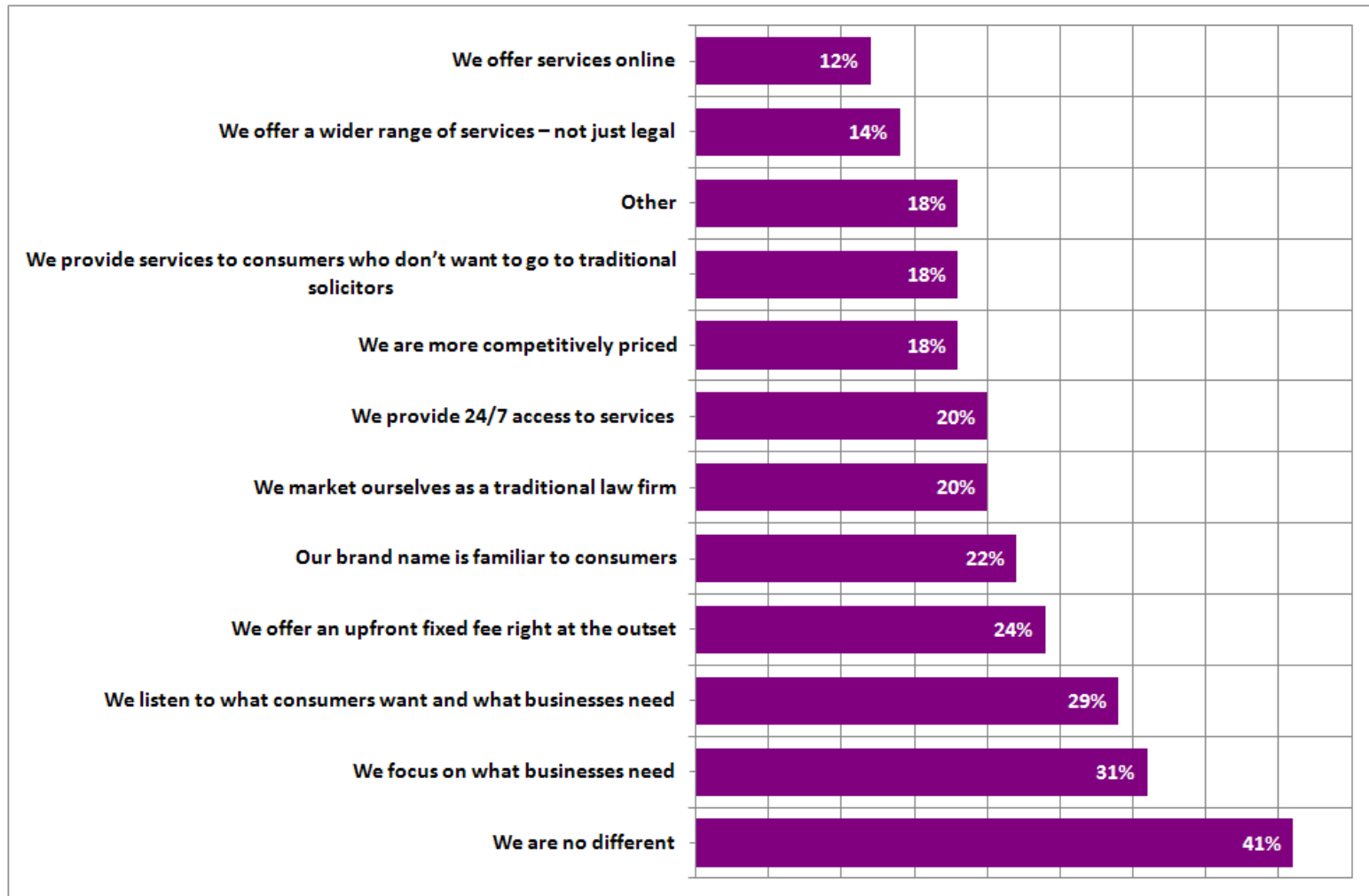
LSB analysis of SRA Data April 2013, n=125

What non legal services do they offer?



Survey of ABS, July 2013, n = 64 (33%)

How are they different to non ABS firms?



Survey of ABS, July 2013, n = 64 (33%)

What's changed since they became an ABS?

- The way they market the services provided – No change 77%
- The groups of consumers they provide services to – 91% No change
- Areas of law they provide services in – No change 83%

Survey of ABS, July 2013, n = 64 (33%)

How are they different to non ABS firms?

“We are well managed and organised which results in the provision of a good service to our customers. We work hard at customer service and this makes a big difference.

Our management structure now reflects what our clients would expect from their suppliers - which is not the traditional partnership model!

The customer is the whole focus of the business; the way we're set up and how we deliver our services.”

Survey of ABS, July 2013, n = 64 (33%)

How do we think they are different to non ABS firms? Early indicators



LSB analysis of SRA Data April 2013, ABS n=125, (LDP s circa 400, Others circa 10k)

LDPS market share

| All Market segments | 2010/11 | 2011/12 | 2012/13 |
|--------------------------------------|---------|---------|---------|
| Total LDPS reporting turnover | 378 | 491 | 429 |
| (%age of all solicitors firms) | 4% | 5% | 5% |
| Market share by segment: | | | |
| Business affairs, corporate etc | 9% | 11% | 11% |
| Civil liberties | 8% | 18% | 19% |
| Consumer problems | - | 8% | 4% |
| Conveyancing – residential | 11% | 13% | 12% |
| Conveyancing – commercial | 14% | 23% | 20% |
| Employment | 17% | 20% | 18% |
| Family | 10% | 13% | 11% |
| Injury | 18% | 27% | 15% |
| Intellectual property rights | 16% | 11% | 13% |
| Other | 15% | 23% | 19% |
| Property, construction, and planning | 13% | 15% | 18% |
| Wills, trusts and probate | 13% | 15% | 13% |
| Crime | 8% | 9% | 9% |
| Immigration and nationality | 12% | 13% | 14% |
| Welfare and benefits | 16% | 18% | 18% |

How do we think they are different to non ABS firms?

Early indicators:

- **Greater use of technology** – websites 91% v. 52%
- **Resolve more complaints at first stage** – 11 for every 1 referred to LEO v. 4 for every 1 referred to LEO
- **Greater use of non qualified lawyers** – 1% of all organisations, 4% of qualified lawyers, 12% of non-qualified lawyers

Sources : LSB survey of ABS, A Time of Change? Pleasence et al, LSB analysis of SRA data

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Becoming an ABS = accessing reserved legal services: Is it worth it?

- Applications to the SRA for an ABS licence: January 2014

| | Applicants | Licensed | WIP | Withdrawn/ Other |
|-----------------------|------------|----------|-----|---------------------|
| Already SRA regulated | 231 | 65% | 12% | 23% |
| Not SRA regulated | 110 | 64% | 7% | 29% |
| Not Known | 62 | 37% | 29% | 34% |
| Overall | 403 | 60% | 13% | 26% |

- Average of 7 months
- OfT: estimated cost of gaining an ABS licence from the SRA £27,000 to £160,000

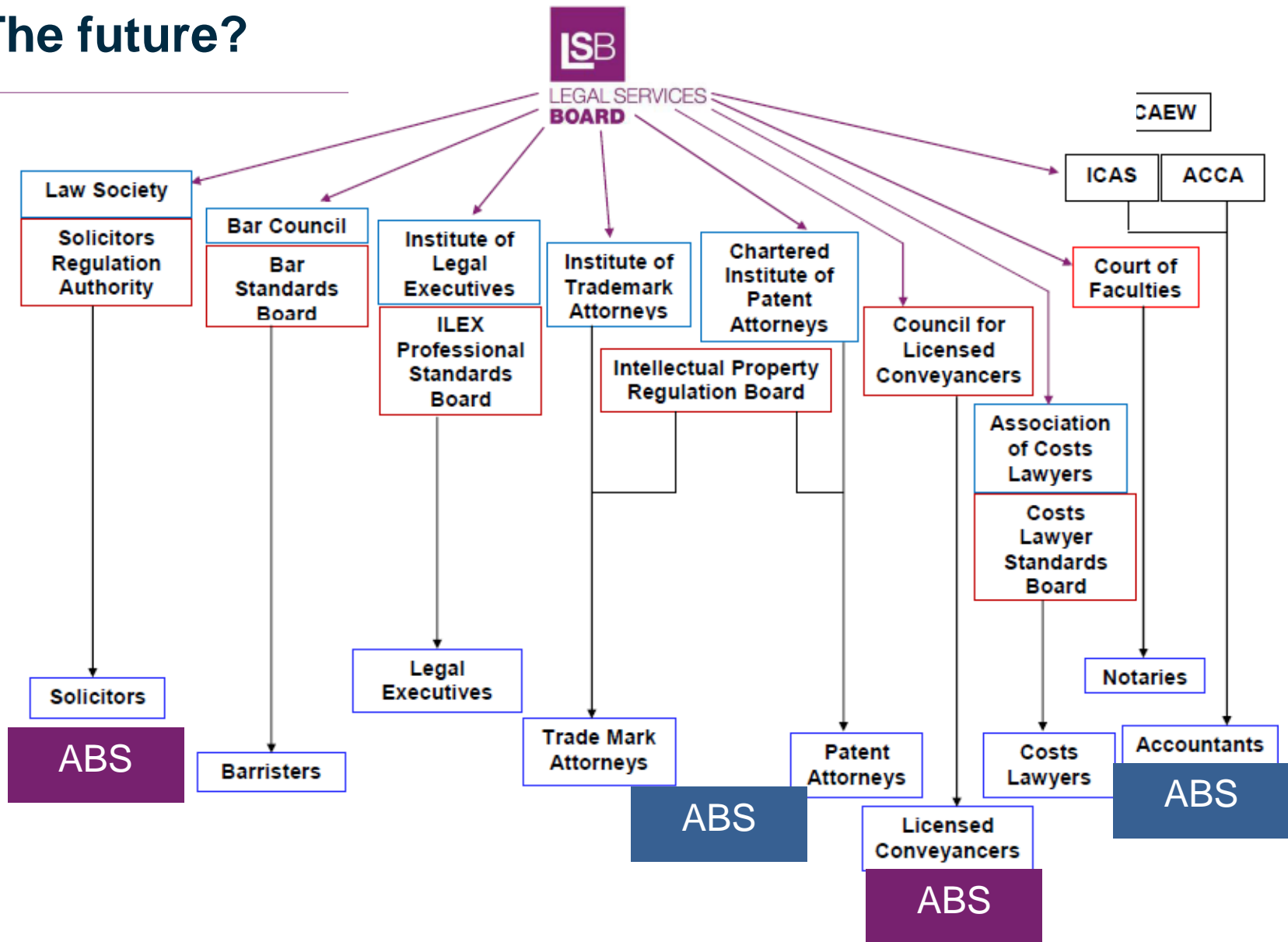
Sources : LSB analysis of SRA reports to LSB Board, OfT

Potential decision maker bias?



Source: Understanding barriers to entry, exit and changes to the structure of regulated legal firms , Regulatory Policy Institute, 2013

The future?



<https://research.legalservicesboard.org.uk/>

Legal Services Board

One Kemble Street

London

WC2B 4AN

020 7271 0050



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