



Legal Services Board

Legal Advice for Small Businesses

Qualitative Research – February 2010



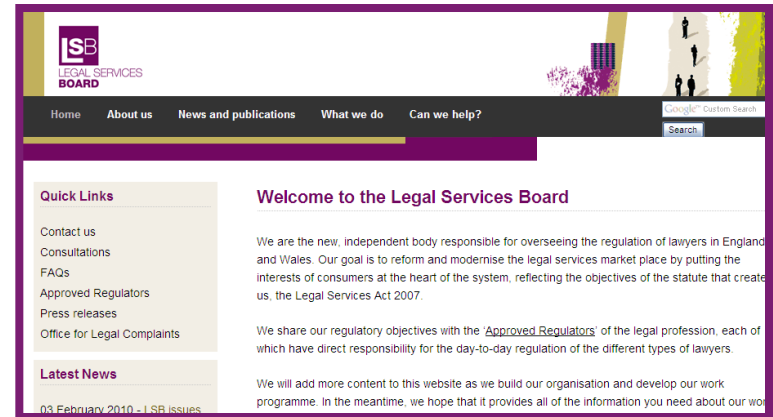
Presentation from AIA Research Ltd

Part of Optimisa Research Ltd

Background



- Essential for LSB to understand the challenges facing all sectors of the market
- There is little evidence currently on the potential problems facing small businesses in accessing legal services
- This research is the first step to improving understanding of the provision of legal services to small businesses



Overall purpose

Provide evidence of the challenges small businesses face in identifying and accessing the legal services they need

Research Objectives



To explore and understand:

1. the nature and extent of legal needs experienced by small businesses
2. the extent to which small businesses are aware of/understand their (potential) need for legal services
3. the range and nature of strategies small businesses use to resolve their legal needs (including inaction as well as action)
4. the range of legal services providers from which small businesses seek advice and help
5. motivations for and barriers against meeting legal needs via service providers
6. drivers for satisfaction (and dissatisfaction) with regard provision of legal services (and what might improve satisfaction levels)
7. what might help small businesses with regard (potential) legal needs and how they would like this information to be delivered

Method and Sample



- Qualitative approach, involving **10 mid-sized groups** (4-5 respondents) and **10 one-to-one depths** matched to the group sample – as below

Audience	TOTAL Groups	Little/no experience of legal services	Recently used some form of legal services
Sole Traders, 'blue collar' industries	2	1	1
Sole Traders, 'grey collar' industries	2	1	1
Sole Traders, 'white collar' industries	2	1	1
Micro-businesses, 'blue/grey collar' industries	2	1	1
Micro-businesses, 'white collar' industries	2	1	1
<i>TOTAL GROUPS</i>	<i>10</i>	<i>5</i>	<i>5</i>

Matched sample of one-to-one depths

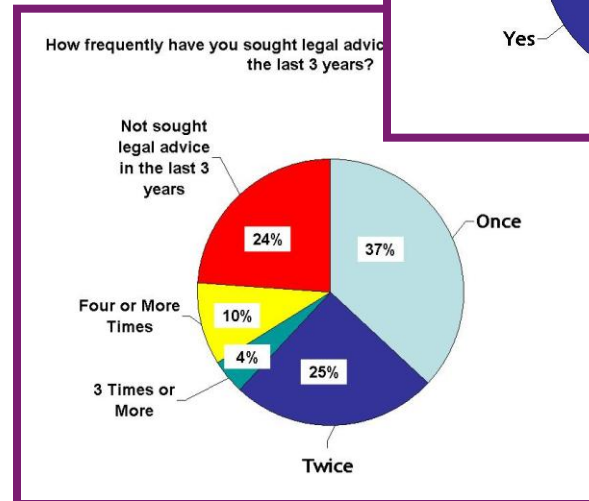


Context / Background

Context – Background Research



- Omnibus survey amongst small business owners (n=211; 130 sole traders and 81 micro-businesses)
- Additional desk research on data available re: small businesses use of legal services



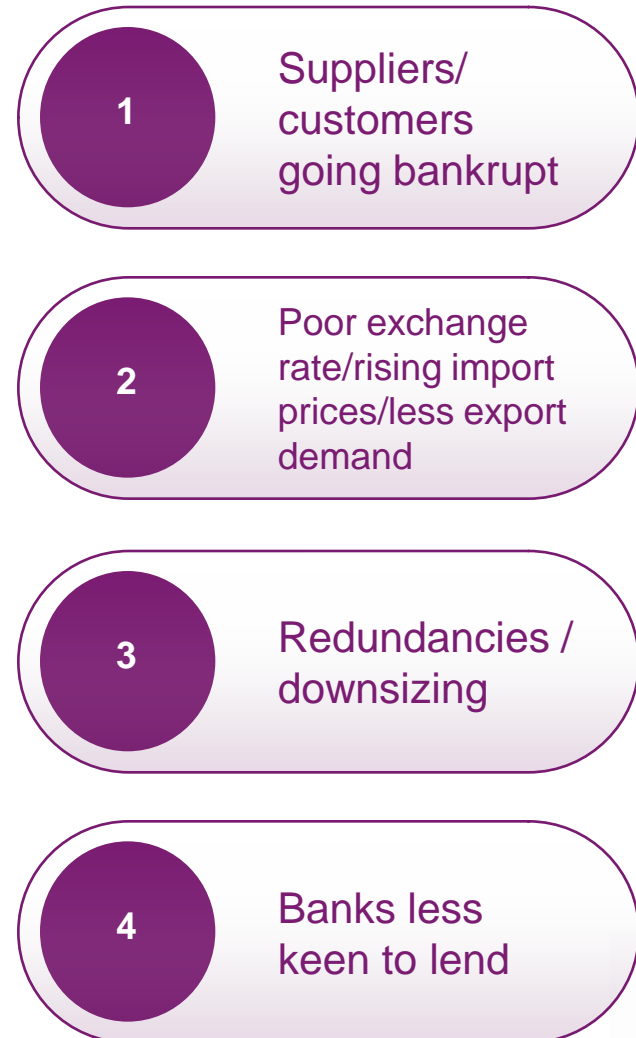
Context – Business Challenges



- Biggest day to day headache = cash flow
- Recession magnifying this issue
- **“Domino effect”** – struggle to pay suppliers; too much time spent chasing payments
- A few admit to having been / or being on the brink of closure...
- ...but rarely talk about personal ‘debt’
- Experience plays key role in attitudes towards handling business issues

“One thing I’ve noticed recently is that people are taking a lot longer to pay now and in some cases, I’m not sure when I’m going to get the money”

Impact of Recession





*Nature/range
of Business Issues...
...and Resolutions*

Sole Traders vs. Micro-businesses



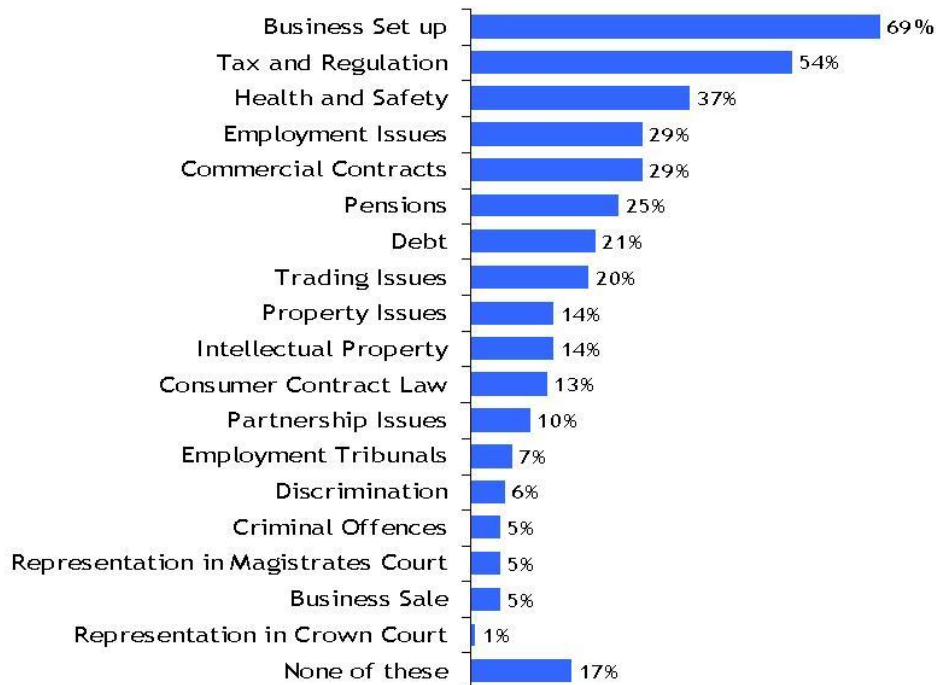
	Sole Traders	Micro-businesses
Focus	Short-term – immediate, pressing priorities	Medium-term – targets, expansion, development
Key concern	Wary of business expansion – responsibility for others	Conscious of impact of decisions on employees
Approach (business issues)	More likely to take calculated risks (e.g. H&S) – <u>their</u> problem More reactive – no time to keep up with changes	Greater adherence to rules (responsibility for others' livelihoods) More reliant on advice of accountant/peers to ensure “ <i>doing things by the book</i> ”

“If a Health & Safety guy came to my workshop he’d shut me down, that’s why I don’t employ people, that’s why I have people that employ themselves and I take the same risks when I go to their workshops (and it’s a bloody minefield!)”

More widely experienced issues



Which of the following business issues have you had to deal with in the past?



The Big Three (qualitative research)

1

Business set-up

2

Cash flow /
commercial
contracts

3

Tax & Regulation

Omnibus Survey Results

More widely experienced issues: Business Set-Up



- Potential minefield
- First time owners, very time consuming and done on a limited budget
- Better connected more likely to take 'off the record' advice

Initial Issues

Understand tax requirements

Rules on tax breaks

VAT obligations?

Non-legal 'issues'

(email, website registration, marketing)

Specific issues

Registration of company?

Property issues?

Cash flow

Assumptions

Insurance: *"having liability and indemnity means I'm covered"*

Health & Safety: *"do I need a policy?"*

"I think, in general, all of us, when we first start out, you know that there's certain things that you have to cover but you don't necessarily know the details of those things and I think that's why you then go and look for advice, whether it's from friends or official organisations"

More widely experienced issues: Cash-flow and Commercial Contracts



- Probably the single biggest issue
- Chasing up payment is sensitive and carefully negotiated
- More informal approach preferred (*“gentleman’s agreements”*)...
- ...which can lead to difficulties (terms uncertain and difficult to enforce)
- Sole Traders more likely to need advice in this area
- Some micro-businesses more comfortable resorting to legal letters/formal action



"You can't afford customers that aren't going to pay because then you're in trouble. You're paying for materials to do the work and you're paying to chase the money and while you're using that much energy you're not getting other work"

"There is a threshold, there is a 'hold on a minute, you're taking the mick here, I don't work for nothing' and then you have to start to consider your options"

More widely experienced issues: Dealing with the public vs. companies



The Public



KEY POSITIVES

- Flexible arrangements
- Informal / less bound by Ts&Cs
- Build a personal relationship
- Deal with issues at source

Companies



KEY POSITIVES

- Greater monetary reward (usually)
- Rules of engagement laid out
- Service contracts give peace of mind

LESS POSITIVELY

- Issues become personal, harder to diffuse – it's an individual's fault
- Relies too much on trust
- Question the worth of chasing payment for small amounts
- Lack of clarity on supplier/consumer rights

LESS POSITIVELY

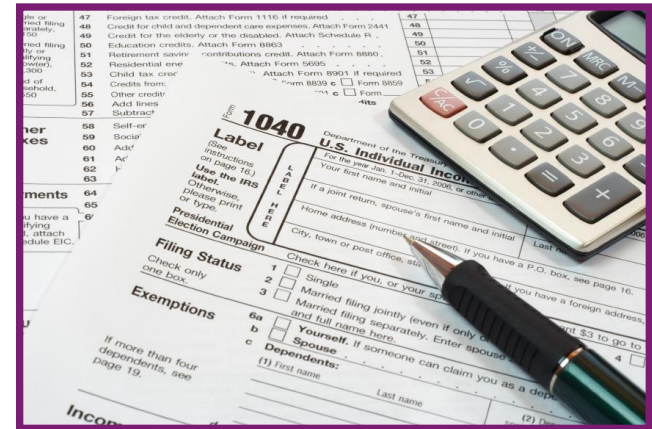
- Stressful and bureaucratic (if delays in payment)
- Less in control of setting terms
- Lack of accountability for any problems
- Concerns about visibility of tax compliance
- Need for temporary staff?

Both dealing with the general public and dealing with companies each pose their own set of pros and cons

More widely experienced issues: Tax & Regulation



- Often unclear about tax obligations when start out (VAT thresholds, PAYE requirements, Tax Returns/Self-Assessment)
- High level of reliance on accountants
- A few regularly using HMRC website
- Not very engaged in details of regulation
- Expect accountants/advisors to keep them up-to-date
- A few managing own books (usually sole traders under VAT threshold)



“I didn't know anything about book-keeping and all the things you've got to do to run a business (even a one-man-band) and I got quite a lot of advice from my accountant at the time and he was very helpful; I could phone him up and say about VAT and all those sort of things, 'why is there no VAT on food? .. and is there VAT on the train ticket I've just bought?'”

More selectively experienced issues



1

Employee Issues (micro-businesses)

- Often major learning curve
- Admit potential for 'getting it wrong'

More serious

...but infrequent
Grievance procedure,
discrimination, tribunals

Less serious

...but more everyday
Staff welfare, H&S,
contracts

"Employment issues for me is a big fear and it's probably something I've avoided doing by using contractors"

2

Health & Safety (more blue/grey collar)

- H&S regulations, and impromptu inspections more wide ranging if dangers to employee/public
- Paradoxical thinking – think it's red tape, but understand their liability
- Most treat H&S reactively
- Few proactively seek updates
- Reluctance to contact HSE



When care?

An accident
An inspection

More selectively experienced issues



3

Consumer/Contract Law

- More to do with business to business transactions
- Often learn the hard way, after a dispute
- Again, gentleman's agreements at root of problems – especially in the service industry



4

Property Issues

- Sourcing premises (esp. that adhere to H&S legislation)
- Ensuring everything was 'above board' (legal help – but free if possible!)



5

Trading Issues

- Cash-flow issue (largely) – foreign trade more costly now due to declining pound
- Careful to abide by EU legislation
- A few missed tax payments on imports (confronted by letters from HMRC)



Issues rarely / if every dealt with



- Can impact heavily at moments in time (but very rarely experienced)

Partnership Issues

Generally involves seeking legal advice

But can be very amicable exceptions

Intellectual Property

Very little awareness or certainty

A few resolved via quasi-legal advice

Can be very negative consequences

Court Appearances

Get legal help. Simple



*Nature and extent
of legal needs*

What is a legal need?



- Seen as **'exceptional'**
- A need for information/advice on business issues/needs does not necessarily mean a 'legal need'

?

When does general business 'advice' become 'legal advice'?
When do businesses need legal 'advice' from a lawyer?

- **'Legal advice'** = problem/issue requiring escalation & more resource dependent
- **'Legal service'** = paid for service... usually from a solicitor

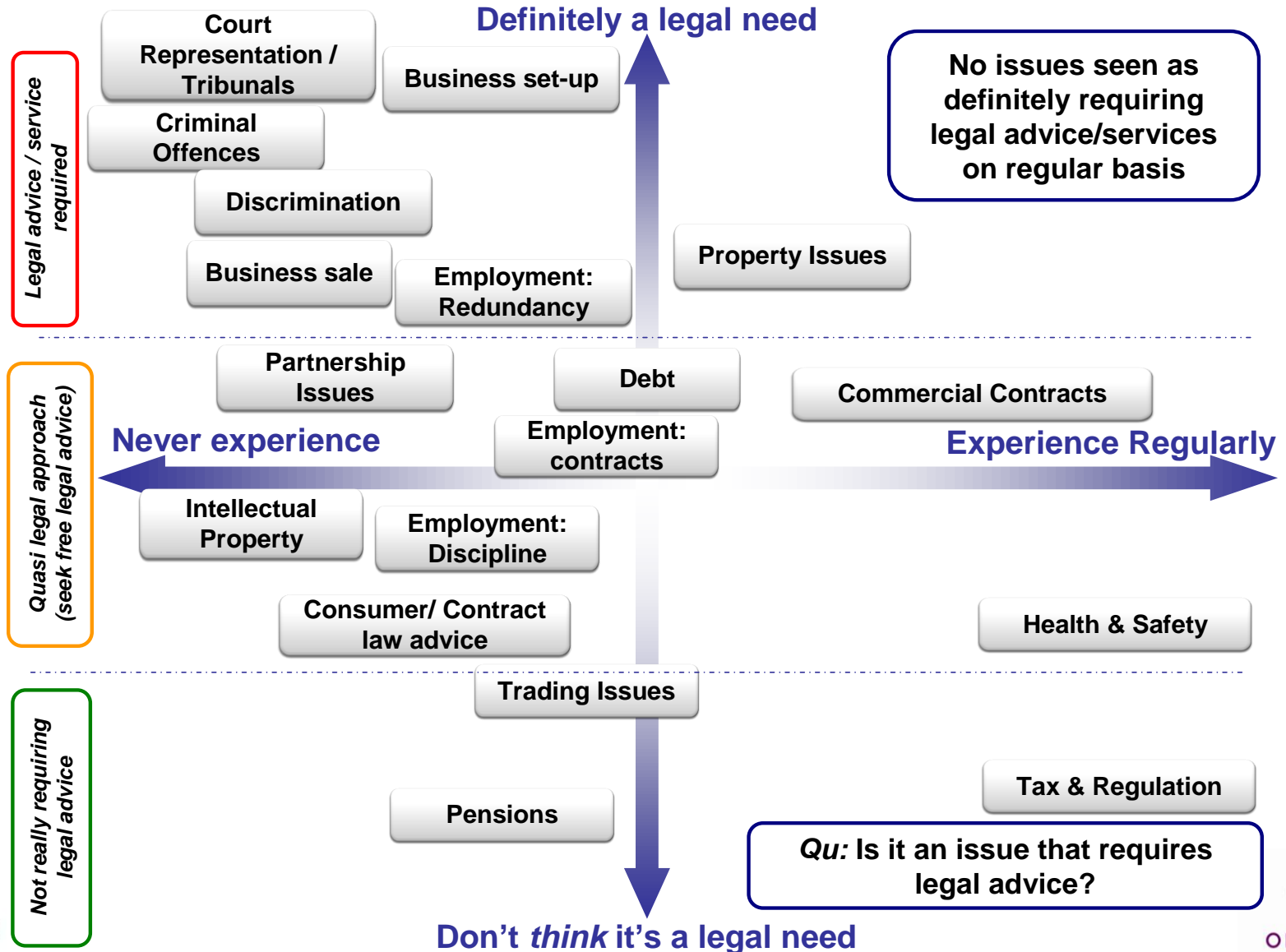
The term 'legal' has fairly negative associations...

expensive

serious

a last resort

What issues might require 'legal' advice?



How do you judge a 'legal' issue?



1

Not seen as needing legal advice

- 1st port of call, other key contacts e.g. accountant
- Unaware of legal obligations
- Role of experience

2

Quasi-legal

- Seeking advice/information from trusted sources
- But not paying for it
- More experienced in business/more contacts

3

Legal

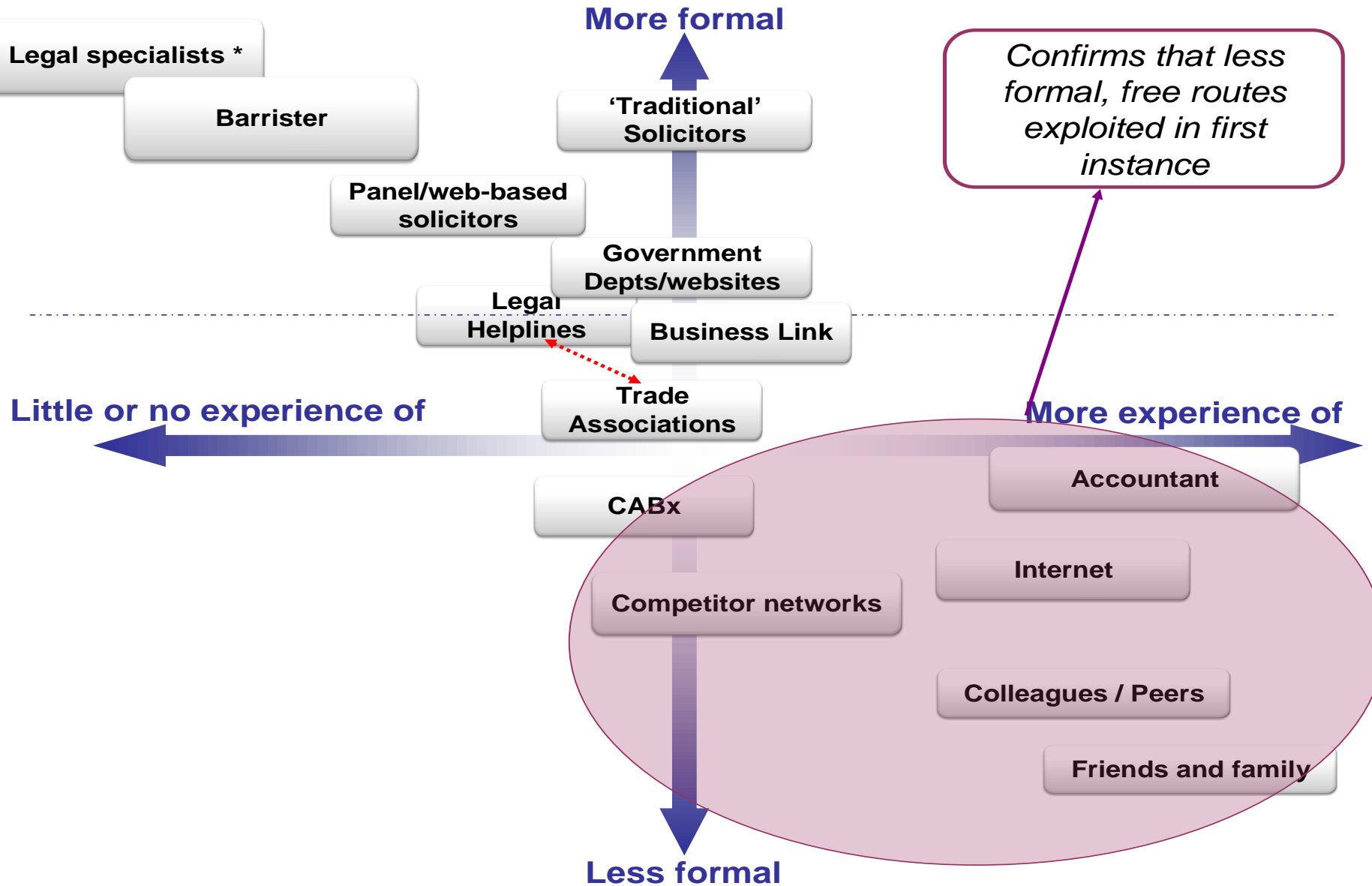
- Largely infrequent/one offs
- Often related to particular moments in time (e.g. set-up)
- Or 'straightforward' services e.g. deed checks
- Sole traders less inclined / less likely to use





*Attitudes Towards and
Experience of Providers of
Legal Advice and Services*

Awareness of and Attitudes towards Range of Legal Services Providers



Attitudes towards More Formal Legal Service Providers: 'Traditional' Solicitors



"It may not be the cheapest route but it's certainly the quickest route and sometimes in business you've just got to go for speed"



KEY POSITIVES

- Experts / knowledgeable
- Quick / efficient
- Definitive advice / peace of mind
- Relieves pressure / can get on with day job

LESS POSITIVELY

- High cost / unable to judge VFM
- Lack of control over time spent
- Not knowing where / who to go to
- Delays in getting advice / resolution
- Associated with very negative issues

- Most widely known and referred to source of legal advice
- But will try and get advice for free
- 'Formal'/paid for usage falls into two categories:
 - > routine
 - > reactive
- Some have learnt that they *can* be quickest most painless route to resolution
- BUT, more often than not seen as the last port of call
- Key barrier to usage is perceived cost
- But negative experiences and a lack of confidence of knowing where/ who to go to also get in the way

Attitudes towards More Formal Legal Service Providers: *Panel (online) Solicitors*



The screenshot shows the homepage of The Thomas Higgins Partnership, Business Debt Collection Solicitors. The header includes the company name and contact information (TEL: 0161 630 0000). A search bar is present. The main navigation menu includes Home, Login, New Clients, Costs & Fees, About Us, Testimonials, Feedback, and Contact Us. The main content area features a blue banner with the text 'WE COLLECT BUSINESS TO BUSINESS DEBTS IN ENGLAND WALES SCOTLAND AND NORTHERN IRELAND' and 'The most cost effective way to recover your Business to Business debts from anywhere in the world.' Below this are two buttons: 'New Client >>' and 'Client Login >>'. A section titled 'Three Stages to Debt Collection' lists: 1 Letter Before Action (Only £2.00 (plus vat)), 2 Court Action, and 3 Judgment & Execution. A list of benefits includes: No Set Up Charge, No Commission Charge, No Percentage Charge, and No Hidden Extras. The footer contains a navigation menu: HOME | LOGIN | NEW CLIENT | COST & FEES | ABOUT US | TESTIMONIALS | FEEDBACK | CONTACT US.

- Minority had come across and were using
- Attitudes amongst users generally very positive
- Seen to provide **low cost**, definitive solutions
- And addressed some of their more key / frequent business issues
- But awareness is only patchy / via word of mouth

“Thomas Higgins are great. It’s straight forward, you don’t need to do anything and having used them, I think they’re wonderful.”

Attitudes towards More Formal Legal Service Providers: *Other Legal Professions*



- **Barristers:**

- > High awareness, minority had used
- > Widely acknowledged as expensive but necessary
- > Most hope they will never require one



- **Other legal professions:**

- > Awareness patchy to non-existent
- > *Patent law and trade mark attorneys:*
 - minority usage
 - specialist, expensive but necessary
- > *Paralegal, Notary, Legal Executive, Law cost draftsmen:*
 - limited awareness of terms
 - but no real awareness of what they do or could do

“What’s the difference between a notary and a solicitor? And a paralegal, or a law cost draftsman, I mean I would put all of those under the heading of solicitor.”

Attitudes towards Less Formal Legal Service Providers: *Friends, Family, Peers and Colleagues*



KEY POSITIVES

- Free
- Trustworthy
- Help point in right direction
- Help to establish need for further legal advice and services

LESS POSITIVELY

- Do not solve resolve issues definitively
- Potential for being misadvised

- Usually the first port of call
- White collar professionals in particular often well connected
- As are longer established businesses
- Also evidence of informal 'competitor networks' and forums

"I'm very fortunate, I've got quite a network of friends who I seem to be able to bounce off, most of my information comes from friends who've been there, done that, got the t-shirt."

Attitudes towards Less Formal Legal Service Providers: *Accountants and other Business Advisors*



- Tax and regulation a key business issue
- Most used **accountant** at one time or another
- Accountants considered key source of business advice, monetary or otherwise
- Can become key confidant and ally – will turn to for quasi legal advice
- Other business advisors also emerge as potential sources of advice and guidance
- Especially start-up advisors

“He does a regular bulletin that he sends out to all his clients with any changes that might be relevant. For example after the budget, any implications for companies and individuals. If there are any changes in tax law or company law or whatever, just really to keep people advised as to what’s going on.”

Attitudes towards Less Formal Legal Service Providers: *Internet*



Directgov

Google



Business
LINK

HM Revenue
& Customs



- An increasingly important tool
- Use to conduct preliminary research
- Can help them to decide whether or not they need more formal legal advice
- Can empowers individuals and help them resolve issues and problems themselves

Only minority discovered more specialist legal services

KEY POSITIVES

- Free advice and information
- Easy to access – 24-7
- Quickly signpost to websites/services
- Able to learn about other people's experiences

LESS POSITIVELY

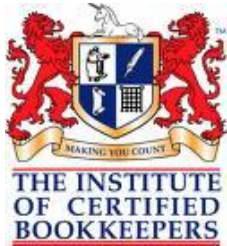
- Daunting / hard to navigate for some
- Time/energy to invest
- Concerns re credibility of information
- Concerns re conflicting / misleading advice

"I was getting fed up with somebody who owed us a lot of money, so I thought 'what can I do here?', so I went on the internet and found out I could do this; you could write this letter rather than paying for somebody to do it for you, you can just do it and it's a lot cheaper. I didn't quite do it but at least I know. So I think it has empowered people to be able to do things like that without having to go through a solicitor."

Attitudes towards Less Formal Legal Service Providers: *Trade Associations*



RIBA 



- Awareness and interaction varied widely
- Legal advice can be highlighted as one of the key perks of subscription
- For advocates, some belief advice is tailored to industry and sector
- But not necessarily considered a first port of call
- Often because not aware of services

"I've only joined it purely for the free legal service and if you've got a tax investigation by the VAT man they'll basically fund the accountant who'll hold your hand through it."

Attitudes towards Less Formal Legal Service Providers: *Legal Helplines*



“Banks are absolutely hopeless because they're all bloody young people who haven't bloody done it...I think in the old days you used to go to a bank manager as a source of not friendship per se, but for fatherly advice.”

- Awareness fairly patchy
- And mainly associated with Trade Associations
- Attitudes mixed and varied according to perceived value of different Trade Associations
- Main concern is that advice would be too generic
- Also wary about incurring costs beyond ‘free’ period

Attitudes towards Less Formal Legal Service Providers: *Government Departments*



“I’d actually talk to the Revenue and the VAT people in detail because what I’ve actually found over the years is that actually, if you’re prepared to talk to the tax office and the VAT, they’re actually very helpful ... most people don’t know that.”

- No ‘go to’ Government department for legal advice and guidance
- Mainly in contact with HMRC and HSE
- Some steer clear of direct involvement for fear of investigation
- Others feel they have got more approachable in recent times
- Direct.Gov also being used increasingly for both domestic and business issues

Attitudes towards Less Formal Legal Service Providers: CABx



KEY POSITIVES

- Free source of knowledgeable advice
- Well known, reliable and trusted
- Approachable

LESS POSITIVELY

- Generalists
- Only able to deal with basic issues
- Waiting times
- Not that accessible

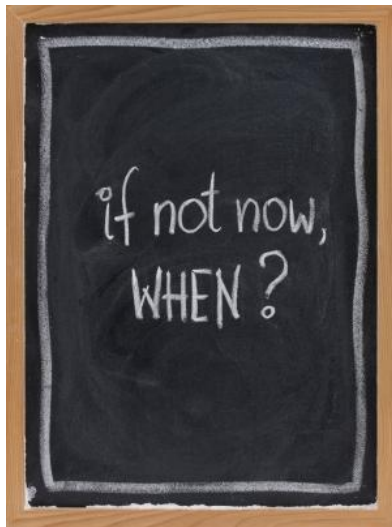
- More commonly associated with consumer issues
- But sole traders / less experienced business owners might turn to them

“Something like Citizens Advice is more personal, apart from that fact that it takes up so much of your time to get through to them. ... Most of the time you’re dealing with people who are generalists anyway, you know.”



*Motivations to and Barriers
against using Legal
Service Providers*

Motivations to Seek Legal Advice and Services



- Not clear to many when they might have a need for legal advice
- A few recognise value of legal services for dealing with routine needs
- Some will seek legal advice simply because they do not know where else to go
- Often more formal sources only actively sought on 'needs must' basis

Barriers to Seeking Legal Advice and Services



- Currently 3 key barriers to seeking legal advice and services:
 - 1 • *(perceived) high cost* is the key prevailing barrier to engaging legal services
 - 2 • *time*: most small business want to focus on day to day running of business
 - 3 • *Lack of awareness of alternatives*: can lead to 'inappropriate / unnecessary use of some legal services or inaction
-
- 4 • *Tension between building relationships and debt collection / setting up contracts*
 - 5 • *Various insurances*: can be regarded as proxy for seeking legal advice – can lead to complacency

Drivers of Satisfaction and Dissatisfaction



Drivers of Satisfaction

Quick resolution

Definitive advice / resolution

Reassurance / peace of mind

Advance warning of likely cost

Value for money

Treated with respect / as priority

Kept informed throughout process

No nasty surprises

Tailored, relevant advice

Drivers of Dissatisfaction

Lengthy process / unnecessary delays

Generic, non-specific advice

No definitive answer

No advance warning of likely costs

Poor VFM / escalating fees

Not treated with respect / as low priority

Not being kept informed / updated

Nasty surprises / hidden costs

Sub standard representation



Improvements to Current Service Provision

Improving small businesses' access to and usage of legal services



- More formal and obvious avenues of legal support are the only ones well known / familiar
- Whilst they think they know their options, many are unfamiliar with full range of services available
- Addressing their key barriers should address many outstanding issues
- Many are seeking a 'one-stop' solution for small businesses that will signpost them to the right information
- Cost remains key, greater clarity over likely charges and greater variety of services needed

Addressing Gaps in Knowledge



- Acknowledge they are a hard to reach audience
- Far more likely to be reactive to issues as arise
- Admit to taking risks in some areas or complacency can set in because of insurance, etc.
- To some extent, 'don't know what they don't know'
- Areas where there are key knowledge gaps:

Business set up

Tax and regulation

H&S Obligations

Employment issues



Conclusions

Conclusions



1. Awareness of nature / extent of legal services available to small business is patchy and cost remains a significant barrier
2. And many are not clear when they may or may not have a legal need
3. They 'don't know what they don't know' and their inaction needs to be addressed
4. More information about existing services could help
5. There is a need to address existing areas of dissatisfaction with legal services and encourage new services to expand affordable access
6. Small businesses agree they would like better information about their potential legal needs and how to address them
7. They know they are a hard and disparate audience to engage
8. But some opportunities do exist alongside mandatory communications, via other advisors and via links / advertising on key websites
9. No clear 'go to' Government Department associated with legal advice provision for small businesses
10. Might indicate potential role for government sponsored 'one stop shop' - a Direct Gov for small businesses