In Need of Advice?
Findings of a Small Business Legal Needs Benchmarking Survey

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and
Dr. Nigel J. Balmer

Cambridge
April, 2013
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A REPORT TO THE LEGAL SERVICES BOARD

April 2013

Written by

Pascoe Pleasence
Nigel Balmer

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Executive Summary

Introduction

This report presents an analysis of a survey of 9,703 small businesses. It details their use of legal services and their experience of and responses to legal problems\(^1\). The survey was conducted by YouGov, with respondents drawn from their online panel. 4,389 (45%) respondents were single person businesses, 4,266 (44%) other micro businesses (fewer than 10 employees), and 1,048 (11%) other small businesses (fewer than 50 employees).

The survey collected detailed information on:

- The characteristics of those small businesses participating in the survey.
- The nature of internal legal expertise and routine use of legal services.
- The nature, pattern, impact and outcome of legal problems faced by small businesses.
- The strategies employed by small businesses to deal with legal problems, including their use of formal (paid for) and informal (friends and family) sources of help.
- Broad levels and patterns of usage of legal services by small businesses. Legal services here being taken to include not only traditional and dedicated legal services – such as solicitors’ firms, barristers, patent and trademark attorneys and licensed conveyancers – but also services provided by other types of organisation that routinely assist with legal issues. These include accountants, HR and payroll support services, property management services and debt recovery firms.
- Small businesses’ attitudes to law, regulation and legal services.

It represents the first survey of its kind in the UK, but builds on the strong tradition of legal needs surveys of individual citizens, and additional developmental work that produced a framework for this particular survey\(^2\).

How small businesses are able to deal with legal issues may be critical to their development and growth. This means that the accessibility, usability and

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\(^1\) The term ‘legal problem’ is used throughout this report to refer to what Genn (1999, p.12) has termed ‘justiciable’ problems. These are problems that – whether or not they are and whether or not those concerned appreciate this – could potentially be resolved through legal process.

utility of legal information and services is of direct relevance to efforts to improve the business environment and promote economic growth – and of particular relevance in the small business context. The report provides a wealth of insight for regulators, policy makers, providers of legal services and others interested in improving access to justice into the legal needs of small businesses.

Legal Capability

6.4% of small businesses contained a qualified lawyer or person trained to handle legal issues, with the figure rising with size of business. Areas of legal expertise linked to the types of problems businesses faced. 9.1% of small businesses had retainer agreements for legal services, and 2.2% for HR/employment services. Having agreements for legal and HR/employment services were strongly related.

The likelihood of legal services being retained varied by business sector. It also varied by business size, legal status and turnover, with larger businesses, public limited companies and higher turnover businesses the most likely to have agreements. Businesses that had traded for less than a year were less likely than others to retain legal services, as were those that had no internal legal expertise and those that reported the lowest number of legal problems.

74% of small businesses had made use of an independent legal or other business support service with a likely legal dimension in the preceding 12 months. 27% of businesses had made use of a legal service, 19% formally. The most commonly used legal service was a solicitors’ firm (used by 20% of small businesses, 15% formally). Of other services, accountants were most often used (used by 63% of small businesses, 54% formally).

Levels of legal need

In the past year, 38% of surveyed small businesses experienced one or more legal problems. Problem prevalence varied significantly by the size of the business, with 29% of single person business experiencing a legal problem, compared to 56% for micro businesses, and 77% for other small businesses. Multivariate statistical analysis was used to identify the business characteristics associated with legal problem prevalence. Prevalence varied by business sector, with small businesses in the transport and communications sector having the highest problem prevalence (43%), and those in the health sector having the lowest level (30%). It also varied by legal status, with 41% of public limited companies having experienced a legal problem in the previous year, compared to just 24% of partnerships. Small businesses with higher turnover were also more likely to experience legal problems, with 49% of small business with turnover of £1m or more having experienced a legal problem in the previous twelve months, compared to 29% of those with turnover lower than £50k. Unprofitable
businesses and businesses trading for longer periods also experienced more legal problems, as did those with retainer agreements in place for legal or HR/employment services, or with in-house legal expertise.

In terms of diversity of ownership, businesses with a majority\(^3\) of BME senior managers had significantly higher rates of problem incidence than other businesses (48% compared to 37%). A similar difference was also observed between businesses with a majority\(^4\) of senior managers who had a disability and others (54% compared to 37%).

Looking at the volume of legal problems, in all, 93,205 justiciable problems were reported by the 9,703 sample small businesses. The mean number of problems faced by businesses that had faced one or more problems was therefore twenty-five (9 across all businesses), with the median number being three.

Overall, businesses most often faced problems concerning trading (25%), followed by problems concerning employment of staff (9%), tax (9%), business premises (8%) and regulation (6%). Within the trading problem category, the most often reported problems concerning the quality of purchased goods (8%), late/non-payment for sold goods (6%) and late delivery of purchased goods. Within the tax category, the most common problems concerned liability for tax or the amount of tax owed (5%). Within the employment category, they concerned staff misconduct (2.9%), staff dismissal (2%) and redundancy (2%). In the business premises category, they concerned maintenance by landlords (2%), terms of leases (2%) and rent arrears (2%). In the regulation category, they concerned health and safety (1%) and mandatory licenses/permits/accreditation (1%). The experience of each problem type varied by business characteristics. The full report explores each category in depth.

Turning to the experience of multiple legal problems, tax and regulation related problems were closely related and, along with problems concerning employment and business premises formed a broad cluster. Problems concerning intellectual property, ‘other’ issues and business structure also formed a problem cluster. Trading and debt related problems did not belong to any well-defined problem cluster.

There were some differences in the clusters identified for different size businesses. For example, for businesses with between 10 and 49 employees, problems concerning trading and employees formed a distinct cluster.

**Impacts of legal problems on businesses**

Single person businesses reported a greater proportion of problems categorised as least serious – 28%, compared to 21% for others. Problems concerning

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\(^3\) Including 50/50 senior management splits.

\(^4\) Including 50/50 senior management splits.
trading were also more often rated as least serious (34%). Problems concerning business structure/ownership (15%) and business premises (17%) were least often rated as least serious, and more commonly featured higher up the severity scale. No other notable differences were apparent.

Just under half of legal problems (45%) were reported to have had a tangible impact on the business, with problems concerning business structure/ownership most often having negative consequences (60%). Other factors associated with negative impact were businesses’ legal status, sector, whether or not businesses contained legal expertise, had retainer agreements for legal services or had retainer agreements for HR/employment services, and whether or not businesses had a majority of BME senior managers or senior managers with a disability. No association was found between problems having had negative consequences and business size.

Respondents were asked to estimate the monetary value of the adverse consequences of these problems, reporting a median value of £1.2k per problem. If the value of the adverse consequences of problems is scaled up to the volume of all problems and the population of all United Kingdom businesses, it points to a loss to small businesses that may be in excess of £100 billion per year.

Different types of adverse consequence were associated with different levels of value, with problems that led to businesses having to cease trading among those associated with the highest values. Legal status, sector, number of years trading, turnover, problem type, legal expertise and businesses retaining legal services were also significantly associated with impact value. No association was found between the value of consequences and business size, or whether businesses had a majority of BME senior managers or senior managers with a disability.

**Responses to legal problems**

In its totality the survey clearly identified a substantial level of need for legal services among small businesses, and significant costs to business as a result of legal problems. How businesses respond to these problems was the focus of the next part of this study.

The survey included detailed questions about one problem (randomly selected where respondents had experienced more than one) with analysis being weighted to reflect the broader profile of problems in terms of problem type. Overall, businesses took no action to deal with 9% of 3,461 problems about which businesses were able to provide a definitive response. In the majority of cases (52%), businesses dealt with problems entirely on their own. Independent help had been obtained in respect of 29% of problems, 16% in the case of help from (traditional or dedicated) legal services.

Not accounting for other factors, there were significant differences in the strategies adopted by businesses of different sizes. Single person businesses
more often took no action to deal with problems (10%), more often acted entirely on their own (57%) and less often obtained independent help (11%), particularly from legal services (10%). In contrast, businesses with between 10 and 49 employees obtained help from legal services on almost one-third of occasions (31%), and far less often acted entirely on their own (37%) or took no action at all (5%).

Significant differences were also evident in the resolution strategies reported for different types of problem. So, small businesses much more often dealt with problems concerning trading entirely on their own (66% vs. 45%). On the other hand, problems concerning trading were the least likely to involve independent help (18% vs. 35%). Help from legal services was most associated with problems concerning intellectual property, employment and ownership structure (27%, 26% and 26%, respectively, compared to 11% for other categories of problem). Help from independent services other than lawyers was most associated with problems to do with tax (25% vs. 11%).

Multivariate analysis indicated that the key predictors of whether or not businesses took action to resolve problems were profitability of businesses and problem severity. Profitable businesses were highly significantly more likely to take action. In percentage terms, compared to 87% of unprofitable businesses taking action when faced with problems, the model suggested a similar percentage for those who were unsure (88%), and a significant increase to 93% for profitable businesses. The study also found only modest differences in the likelihood of taking action by sector, legal status of businesses, number of business relationships and between problems of different types.

With regard to responding to a legal problem by seeking legal advice, turnover, whether or not businesses had an on-going contract for legal services, severity and, particularly, problems type and whether problems were characterised as 'legal' were all key predictors of this type of response. As turnover increased, so did the likelihood that businesses would seek legal advice for problems. However, the most significant predictors of the use of legal advice were problem type and whether or not problems were characterised as legal. Particularly low rates of legal advice were observed for tax problems (5%). This was in contrast to employment (18%) and, particularly, structure/ownership problems (21%), which were the most likely to result in businesses obtaining legal advice. Where problems were not characterised as legal by businesses, 11% obtained legal advice. The model suggested this would increase to 33% for problems characterised as legal. Seeking legal advice varied to a smaller degree by business sector, legal status, and size, but the study also found little or no evidence that the number of years businesses had been trading, whether or not they had internal legal expertise, their number of business relationships, whether they had a retainer for HR or whether they had a majority of BME senior managers or senior managers with a disability had any bearing on the likelihood of obtaining legal advice for problems.
The most common sources of help made use of by small businesses in respect of legal problems were solicitors (32% of problems about which help was obtained), followed by accountants (21%), trade bodies/professional associations (9%), barristers (6%) and HR/employment services (5%). Excluding problems where help was obtained only from friends or external colleagues, the figures were 39%, 22%, 9%, 5% and 6%.

Looking at all problems, solicitors were used in relation to 12%, barristers 2% and other legal services 2%. Other legal services that respondents described using included Citizens Advice Bureaux (used for 1% of problems) and, seemingly, a broad range of legal helplines (most notably that of the Federation of Small Businesses (used for 0.4% of problems)).

Single person businesses made less use of traditional legal service providers, such as barristers and solicitors, compared to other types of small businesses. The use of independent advisers also varied considerably by problem type. Solicitors were less often used in relation to problems concerning trading (7%) or regulation (8%). In contrast, they (and barristers) were often used in relation to problems concerning business structure/ownership (23% and 4%) and intellectual property (21% and 4%). A small number of patent attorneys/agents were also mentioned (0.1% of problems) in relation to problems concerning intellectual property. Unsurprisingly, accountants were most often used in conjunction with problems concerning tax (23%) or business structure/ownership (22%). And, HR/employment services were most commonly used in the case of problems concerning employment. Trade bodies/professional associations were most commonly used in relation to problems concerning intellectual property (8%) and regulation (7%).

Respondents also described situations where they had contacted services only to be told they were unable to help, with 28% of small businesses having been through this experience. This included solicitors (7.3%), accountants (8%), trade bodies/professional associations (4%) and Business Link (4%).

Businesses made use of the Internet in connection with legal problems on 43% of occasions, with single person businesses doing so more often than others (46% compared to 43% for other micro businesses and 39% for other small businesses). Most commonly, the Internet was used for obtaining information on the law or how to deal with problems (72% of occasions on which the Internet was used).

The study shows that while only 6% of problems involved any formal process, and just 2% of problems resulted in a court or tribunal hearing. Online dispute resolution and medication or conciliation were more commonly used (6% and 5%). All forms of process were more common among larger small businesses, though processes used varied by problem type, and strategy. Indeed those problems that saw help obtained from legal services much more often involved formal process (17%) and court or tribunal hearings (8%). However, this should not be taken to indicate that the involvement of legal services brings
about an increase in the likelihood of formal process being utilised. The association could also be a reflection of the use of lawyers consequent upon process becoming inevitable, or the relative severity of the issues, or the nature of the problem.

Outcome of legal problems

The most common manner of conclusion of a problem was a negotiated settlement (43%), with one in seven negotiated settlements being described as being ‘through somebody who was acting for [the] business’ (6% overall). Independent action on the part of one or other of the parties was also a common manner of conclusion (21%, split broadly evenly between each party). Larger small businesses more often saw their problems conclude through court/tribunal/appeals service decisions or mediation/conciliation, while single person businesses much more often saw their problems conclude through online dispute resolution. Also, while larger small businesses more often reached a negotiated settlement, single person businesses more often ended up simply putting up with problems.

Outcomes varied significantly by problem types. Problems concerning trading less often concluded through a third party process or through independent action taken by the business. On the other hand, they were the most likely to conclude through an online dispute resolution process (10%). As might be expected, tax problems less often concluded through independent action by the ‘other side’, sorted themselves out, got put up with or concluded through an online dispute resolution process. As would be expected, given the nature of employment law, employment problems more often concluded through mediation/conciliation, with none concluding through an online dispute resolution process. Problems concerning business premises and intellectual property also more often concluded through mediation/conciliation, with the latter type of problems being the most likely to do so (10%). Problems concerning business premises also more often concluded through independent third parties other than courts/tribunals/appeals services. Problems concerning business structure/ownership were the most likely to ‘sort themselves out’ (16%).

The favourability of outcomes varied significantly by business size. So, whereas single person businesses reported unfavourable outcomes for 19% of problems, the figures were 14% and 9% for other micro and other small businesses, respectively.

Attitudes to legal services

The survey found that, 26% of respondents agreed that “it is more important to comply with the spirit than the letter of the law legal processes are essential for
businesses to enforce their rights,” with 32% disagreeing. Responses point to situation where the majority recognising the importance of law in business, but only a small minority seeing using lawyers as a way to resolve these: 54% of respondents agreed that “legal processes are essential for businesses to enforce their rights,” with 7% disagreeing. However, 13% of respondents agreed that “lawyers provide a cost effective means to resolve legal issues” with 45% disagreeing.

Attitudes to law and legal services varied significantly by size of business – 12% of single person businesses agreed that lawyers provide a cost effective means to resolve legal issues compared to 18% for other micro and 23% for other small businesses, for example. Further there were also substantial differences in the problem resolution strategies adopted by businesses in which respondents exhibited different attitudes to law and legal services. So, for example, when respondents strongly agreed that law and regulation provide a fair environment for business to succeed they also reported that their businesses had dealt with legal problems with the help of a legal service 27% of the time, compared to 12% of the time when they strongly disagreed. Conversely, the businesses less often acted entirely alone or with the help of other types of independent service.

Comparing the Experience of Individuals and Businesses

As with individual citizens, small businesses operate in a world that is ‘flooded with law’, and as in personal lives, legal problems are ubiquitous in the world of business.

For both individuals and small businesses, distinct patterns of vulnerability to problems are evident (both overall and in respect of particular problem types). For example, reflecting the economic nature of the society we live in, for both individual citizens and businesses the landscape of legal problems is dominated by problems concerning trading, either from the consumer side or the supplier side. However, while the experience of legal problems by individuals is closely associated with socio-economic disadvantage, it is larger, higher turnover and longer-lived businesses that appear most vulnerable – though it is to be noted that unprofitable small businesses, BME controlled and disabled controlled businesses were found to be more likely to experience problems than others. This last finding mirrors findings that individuals with a disability are among those most likely to experience legal problems.

Turning to strategies adopted to resolve problems, similarities are evident between the behaviour of individuals and small businesses. As with individuals, problem type, problem severity, problem characterisation, turnover (or income in the case of individuals) were all associated with obtaining legal advice. Also as with individuals, solicitors were (perhaps unsurprisingly) the
most common source of independent help. And again as with individuals, a significant number of businesses sought help about problems from services that they subsequently found were unable to assist.

Similarities between the experience and behaviour of individuals and businesses are also evident in relation to how problems conclude. For both individuals and small businesses, it is unusual for problems to conclude through courts, tribunals, mediation or conciliation. The most common manner of conclusion for both individuals and small businesses is negotiated settlement, with third party interventions also relatively common.

Thus, in negotiating the law filled world of today, it would appear that the experiences of individuals and businesses, while distinct, exhibit many similarities – no doubt attributable to shared understandings, predispositions, opportunities and cost-benefit-assessments.
There are around 4.8 million private sector and 81,000 non-profit enterprises in the United Kingdom (Department for Business, Innovation and Skills 2012). Most are very small. Around three-quarters have no employees (excluding owners), 95% have fewer than 10 employees, and 99% have fewer than 50 employees (Department for Business, Innovation and Skills 2012). Nevertheless, taken together, these ‘micro’ and other ‘small’ enterprises, account for more than one third of turnover and around half of all jobs outside of the public sector (Department for Business, Innovation and Skills 2012).

Small businesses are the lifeblood of the United Kingdom economy. Their ability to prosper affects us all. The obstacles small businesses face in their development and growth are therefore important to understand, as potential obstacles to the effective functioning of the economy as a whole.

Just as do individuals, businesses come into being, operate and expire ‘in an everyday world that is ... flooded with law’ (Hadfield 2010, p.131). Consequently, they inevitably and routinely encounter issues with a legal
dimension, some of which become problematic. Problems of this type, which for convenience we refer to as ‘legal problems’ throughout this report, have notably been denoted by Genn (1999, p.12) as ‘justiciable’, as – whether or not they are and whether or not those concerned appreciate this – they could potentially be resolved through legal process.

‘Participation theory’ suggests that exposure to legal (i.e. justiciable) problems varies with form and level of participation in economic activity (Van Velthoven and Ter Voert 2005). For example, as trading increases, participation theory would suggest that problems concerning contracts for, and the regulations surrounding, the sale of goods and services would also increase. Similarly, as businesses grow, geographically expand, or take on more staff, they will more often encounter problems concerning taxation, regulation, premises and the recruitment and performance of staff. In addition, as businesses increase the range of their products or identities, they will encounter more problems concerning intellectual property rights.

However, in addition to form and level of participation in economic activity, predisposition to act to prevent problem occurrence, understanding of potential issues and broader capability also play a role in vulnerability to legal problems (Croes 2012). These vary by type of business (e.g. by sector, independence of management, concern with reputation, etc.) and, importantly in this context, are affected by business size (Croes 2012).

Small businesses, while not likely to be exposed to as many potential legal problems as larger business, tend to have a narrower range of internal capabilities, fewer past encounters with problems to form the basis of protocols (Asia Consulting Group and Policy 21 2008), and less scope to purchase specialist services, either before or after problems strike.6

Yet, how small businesses are able to deal with legal problems may be critical to their development and growth. Thus, the accessibility, usability and utility of legal information and services is of direct relevance to efforts to improve the business environment and promote economic growth – and of particular relevance in the small business context.

In this report we build upon the preparatory work set out in A Framework for the Benchmarking of Small Business Consumers’ Need for and use of Legal Services (Pleasence et al. 2012) and set out the findings of a survey of small businesses’ experiences of, responses to and ability to cope with legal problems.

The Small Business Legal Needs Benchmarking Survey

The Small Business Legal Needs Benchmarking Survey was the fourth survey of small businesses’ experiences of legal problems conducted in the tradition of

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6 Aside from resources, when it comes to choices around the mobilisation of lawyers, factors such as sector norms, understanding, independence of management and concern with reputation are again also likely to be of relevance (Croes 2012).
(usually individual citizen focused) 'legal needs' surveys extending back to Clark and Costvet’s (1938) survey of the need for and use of legal services by both the ‘resident public’ and ‘business public’ (conducted in Connecticut during the Great Depression) (Pleasence et al. 2012). The two other, larger scale, small business legal needs surveys were conducted in Hong Kong (Asia Consulting Group and Policy 21 2008) and the Netherlands (Croes 2012).

The Small Business Legal Needs Benchmarking Survey was therefore the first small business legal needs survey to be undertaken in the United Kingdom. It was also uniquely detailed in its implementation; to provide as clear a picture of small business experience as possible within the context of the survey, and to allow the testing of a broad range of concepts, approaches and questions. The survey drew from the earlier small business legal needs surveys, but was also directly influenced by the (individual citizen focused) Paths to Justice survey (Genn 1999) and English and Welsh Civil and Social Justice Survey (CSJS) (Pleasence et al. 2011). These last two surveys provided the inspiration for the questionnaire structure and form of the core questions (set out as an Appendix).

The survey was conducted via the Internet by YouGov, with respondents drawn from YouGov online panel members. All respondents indicated that they had day-to-day knowledge of the running of the businesses they answered on behalf of. For businesses with 10 or more employees, only respondents in senior management positions were included in the final sample.7

YouGov panel members constitute a less representative sample frame than alternatives discussed in A Framework for the Benchmarking of Small Business Consumers’ Need for and use of Legal Services. Also, the conduct of the survey via the Internet, particularly through the use of a broad-based panel, increased the risk of satisficing behaviour and wayward responses.8 However, the benefits of conducting a survey at low cost across a broad range of small business types – to establish broad patterns of experience and test the utility of the various lines of enquiry and forms of questions used in the survey – were substantial.

In broad terms, the Small Business Legal Needs Benchmarking Survey collected detailed information on:

- The nature, pattern, impact and outcome of legal problems faced by small businesses.

7 10,535 people completed the online questionnaire, but respondents in businesses with 10 or more employees were subsequently filtered out if not business owners or in a senior management position, (even though reporting that they had good knowledge of day-to-day operations of the business) owing to the relatively limited likely exposure of such respondents to business activities.

8 It is evident from close inspection of the data that a small number of respondents provided inconsistent/unlikely responses. The extent of these responses is unlikely to have materially affected the findings, and is itself a useful indication of the steps that would be warranted in a scaled up exercise to maximize data reliability.
The strategies employed by small businesses to deal with legal problems, including their use of informal and formal sources of help.

Broad levels and patterns of usage of legal services by small businesses. Legal services here being taken to include not only traditional and dedicated legal services – such as solicitors’ firms, barristers, patent and trademark attorneys and licensed conveyancers – but also services provided by other types of organisation that routinely assist with legal issues. These include accountants, HR and payroll support services, property management services and debt recovery firms.

Small businesses’ attitudes to law, regulation and legal services.

The characteristics of those small businesses participating in the survey.

In terms of the structure of the survey questionnaire, all respondents were first asked some introductory questions about the nature of the business. They were then asked about use of independent professional services over the preceding year, as well as the subject area of help received.

To identify overall service use, respondents were asked:

"Which of these independent professional services has your business made use of in the last 12 months?

Please exclude any services that you deliver as part of your business.

Please say if these services have been provided formally or informally.
By formal we mean a paid for service and by informal we mean advice or a service delivered by friends or family, for example."

The categories provided were: accountant; tax adviser; financial adviser; solicitors’ firm; barrister; licensed conveyancer; patent/trademark attorney/agent; a legal helpline; another legal service; Citizens Advice Bureau or similar independent advice agency; debt collection/recovery service; HR/employment service (includes outsourcing); and, other business support service. Also, for each category, the options ‘formal’, ‘informal’ and ‘not applicable’ were provided.

Next, respondents were asked whether the business had experienced one or more of a series of 90 legal problems set out in 9 broad categories:

- Trading (sale and purchase of goods and services)
- Tax
- Employment (excluding workplace injury/illness)
- Business premises
- Debt
- Intellectual property
- Regulation
- Business structure
To identify problems, for each problem category, respondents were asked:

"In the last 12 months, has your business faced any significant problems concerning the following?"

A list of constituent problem types was then provided. For example, for employment related problems, the constituent problem types comprised: staff misconduct (including unauthorised absence and disciplinary procedures); dismissal (or threat of dismissal) of staff; making staff redundant; content or exercise of parental (including maternity) rights, leave/pay, or flexible working requests; payment of wages/pension; working conditions; other employment contract issues (including changes to contract terms); adjustment to jobs/workplace for disabled workers; complaints/grievances made by employees/job applicants (including allegations of discrimination and harassment); employment of non-EU nationals.

Those respondents who reported one or more problems were then asked about how the business dealt with one problem in detail, and any remaining problems of the same type in outline. Detailed questions on problem resolution included questions about the nature of the parties, blame, problem characterisation (i.e. whether the problem was seen as being legal or of a different nature), problem severity, problem impact, sources of help, processes used, form of outcome, favourability of outcome and problem duration.

All respondents were then asked questions about senior management teams and then, finally, about their individual attitudes to business risk, law/regulation and legal services.

The full questionnaire is included as an appendix to this report. Fieldwork was conducted in December 2012 and January 2013.

**The Small Businesses Sample**

In all, the achieved sample for the *Small Business Legal Needs Benchmarking Survey* comprised 9,703 small businesses, of which 4,389 (45%) were single person businesses, 4,266 (44%) other micro businesses (fewer than 10 employees), and 1,048 (11%) other small businesses (fewer than 50 employees).

<table>
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<th>Sector</th>
<th>Number of businesses</th>
<th>% of sample businesses</th>
<th>Actual % of businesses</th>
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<td>3.2</td>
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<tr>
<td>Production</td>
<td>553</td>
<td>5.7</td>
<td>5.2</td>
</tr>
<tr>
<td>Construction</td>
<td>735</td>
<td>7.6</td>
<td>19.0</td>
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<td>Wholesale and retail trade</td>
<td>973</td>
<td>10.0</td>
<td>10.7</td>
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As can be seen from Table 1.1, the majority of the sampled small businesses operated in the service sector, with just 16% operating in the primary (i.e. agriculture or fishing), production (e.g. manufacturing) or construction sectors. Transport and communication, consultancy services and wholesale and retail trade represented the most common discrete sectors. In comparison with the actual small business population (as detailed by the Department for Business, Innovation and Skills (2012)), construction sector businesses were noticeably under-represented among the sampled small businesses, with transport and communication and ‘other’ sector businesses over-represented.

51% of businesses were sole traders, 35% private limited companies, 8% partnerships, 2% limited partnerships, 2% public limited companies and the remainder had another legal status (including 253 charities).

As would be expected, legal status varied considerably by size of business (Table 1.2). So, while 85% of single person businesses were sole traders, the same was true of only 26% other micro businesses and just 12% of other small businesses. On the other hand, while just 13% of single person businesses were private limited companies, the same was true of 52% of other micro businesses and 62% of other small businesses. Looked at the other way around, 75% of small business sole traders were single person businesses, with the figure reducing to 17% for private limited companies and 7% for partnerships. On the other hand, 19% of private limited companies, had 10 or more employees, compared to 13% of partnerships and 2% of sole traders.

Excluding single person businesses, 54% of businesses were private limited companies, 21% were sole traders, 13% were partnerships, 3% were limited partnerships, 3% were public limited companies and 5% had another legal status. These are similar figures to the 59%, 19%, 10%, 2%, 2% and 5% reported through the BIS Small Business Survey (IFF 2011).

<table>
<thead>
<tr>
<th>Size of business</th>
<th>Sole trader</th>
<th>Private limited co.</th>
<th>Partnership</th>
<th>Other</th>
<th>All</th>
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</thead>
<tbody>
<tr>
<td>Single person</td>
<td>N 3,726</td>
<td>575</td>
<td>53</td>
<td>35</td>
<td>4,389</td>
</tr>
<tr>
<td>%</td>
<td>84.9%</td>
<td>13.1%</td>
<td>1.2%</td>
<td>0.8%</td>
<td>100.0%</td>
</tr>
<tr>
<td>Other micro</td>
<td>N 1,109</td>
<td>2,201</td>
<td>593</td>
<td>363</td>
<td>4,266</td>
</tr>
<tr>
<td>%</td>
<td>26.0%</td>
<td>51.6%</td>
<td>13.9%</td>
<td>8.5%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Table 1.2 – Legal Status of Sample Businesses by Size
81% of sample businesses were family owned (i.e. majority owned by members of the same family). Evidently this was the case for all single person businesses, so the figures were lower for other micro (70%) and other small businesses (47%). So, excluding single person businesses, 66% of businesses were family owned. This is similar to the 62% figure reported for equivalent businesses through the BIS Small Business Survey (IFF 2011).

For those businesses that provided figures, 49% had an annual turnover of less than £50k, and 65% had a turnover of less than £100k. At the other end of the scale, 9% had a turnover of £1m or more, and 2% had a turnover of £5m or more. Again, turnover varied considerably by size of business. So, while 82% of single person businesses with a reported turnover had a turnover of less than £50k (67% of all single person businesses), the same was true of just 26% of other micro businesses and 1% of other small businesses. The median turnover for other micro businesses was £100k-£249k (similar to the £253k reported through the BIS Small Business Survey (IFF 2011)), and for other small businesses it was £1m-£4.9m (similar to the £1.4m reported through the BIS Small Business Survey (IFF 2011)).

Linking to this, 76% of sole traders reported turnover of less than £50k, compared to 37% of partnerships and just 18% of private limited companies.

The majority of businesses had been trading for 8 years or more, with 20% having been trading for more than 20 years. 19% had been trading for 2 years or less, with 6% having started trading within the preceding year. However, while 47% of single person businesses had been trading for 5 years or less, and 9% had been trading for less than a year, the figures were 31% and 4% for other micro businesses and just 16% and 1% for other small businesses. Just 12% of single person businesses had been trading for more than 20 years, compared to 40% of businesses with 10 or more employees. Linked to this, sole traders more often reported having started up in the last year than other businesses (8% vs. 4% for others), and reported having been established for more than 20 years less often (16% vs. 24%).

The number of years that businesses had been trading was strongly linked to turnover, with very few new start-ups reporting high turnover (fewer than 1% reporting turnover of £1m or more) compared to established businesses of more than 20 years’ standing (19% reporting turnover of £1m or more).

Turning to geography, 17% of businesses were located in London, with a further 32% located in the South of England. 26% were located in the Midlands and East of England, 15% were the North of England and 3% in Wales. Apart from London having a slightly lower proportion of micro businesses (87% vs. 90%), there was little difference in business sizes by region.
63% of sample businesses reported that they expected to make a profit in the current year (77% of those who were sure about profitability), with expectations of profitability rising with business size. So, 62% of single person businesses expected to make a profit, compared to 64% of other micro businesses and 68% of other small businesses. This compares to the BIS Small Business Survey finding that 71% of micro and 72% of small businesses were profitable (IFF 2011). Those with the lowest turnover least often expected a profit, while those with the highest turnover most often expected a profit. So, 61% of those with a turnover of less than £50k expected a profit, compared to 81% of those with a turnover of £1m or more.

58% of businesses had individuals as customers, 55% had other businesses as customers, 10% had government customers and 14% had other types of customers (e.g. charities). 73% of businesses served just one type of customer, of which just over half served only individuals and just over two-fifths served only businesses. Smaller and lower turnover businesses more often served individuals, while larger and higher turnover businesses more often served businesses and government. As would be expected, the number of types of clients businesses served increased along with business size and turnover.

The majority of sample businesses expected to have 50 or fewer customers in the current year, and more than one-third expected to have 10 or fewer. As for suppliers, the majority of businesses expected to have fewer than 10, and fewer than one in fifteen expected to have 50 or more. Taking both customers and suppliers together, the majority of businesses expected to have fewer than 25 business relationships in the current year (median = 24). However, at one end of the scale 10% expected to have just 1 or none, while at the other 8% expected to have 1000 or more. Again as would be expected, number of business relationships increased with business size and turnover. So, while single person businesses expected a median of 10 business relationships in the current year, the figure was 36 for other micro businesses and 125 for other small businesses. Also, businesses with a turnover of less than £50k expected a median of 12 business relationships, while those with a turnover of £1m or more expected a median of 135 relationships.

6% of sample businesses had a majority of BME senior managers ("BME controlled") (compared to 8%, as reported in the BIS Small Business Survey (IFF 2011)). 8% of businesses had a majority of senior managers with a long-standing illness, disability or infirmity ("disabled controlled"). Single person businesses were the least likely to be BME controlled or disabled controlled. However, while the lowest turnover businesses were also least likely to be BME controlled, it was those with the highest turnover that were least likely to be disabled controlled.

Data Weighting

9 Including 50/50 senior management splits.
For the purposes of producing ‘overall’ findings for the following sections of this report, data were weighted so the sample businesses reflected, in proportional terms, the actual small business population, in terms of both business size and sector (as detailed by the Department for Business, Innovation and Skills (2012)). This type of weighting was not used in the production of findings broken down by business size.

For the purposes of producing ‘overall’ findings concerning problem impact, responses to problems and the outcome of problems, data were further weighted so that sampled problems (i.e. those for which detailed data were obtained) had the same profile as the problems reported overall. This type of weighting was not used in the production of findings broken down by problem category.

It should be noted that as a result of the different weighting schemes used for different analyses, reported percentages, etc., do not necessarily add up as between overall and by business size/problem type analyses. In particular, it should be noted that, in the case of business size, the presence of larger small businesses is substantially reduced in relation to overall findings.

The Individual Respondents

7,549 (78%, weighted) of the 9,703 individual respondents to the Small Business Legal Needs Benchmarking Survey described themselves as an owner or partner in the business they answered on behalf of or as self-employed. More than 40% of the remaining respondents described themselves as being in day-to-day control of the business. Of the remaining respondents not in day-to-day control of the business, again more than 40% described themselves as being in senior management positions. This left 7% of respondents who were in other positions in micro businesses, but indicated that they had good knowledge of the day-to-day operations of their business across all areas of its activity.

This Report

This report is set out in 6 further sections. Section 2 examines small businesses’ legal capacity and their use of legal services, including self-help resources, independently of any legal problems they may have encountered. Section 3 sets out small businesses’ experience of legal problems. It details problem prevalence, the determinants of problem experience, how businesses tended to

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10 The figures set out in this section are all unweighted, to give a proper insight into the nature of the sample.
11 Owing to the overall distribution of problems, the single problems for which detailed data were obtained are disproportionately drawn from businesses facing relatively few problems. For this reason, additional aggregated data were collected in respect of all problems of the same type (as the single sampled problems). These data far better reflect all problems reported across the sample of small businesses.
characterise problems, and how long problems endured. Section 4 describes the impact of legal problems, both on the sample of small businesses and on those people working within them. Section 5 explores businesses’ responses to legal problems, setting out the action they took to resolve problems and the advice they sought. This section also includes detailed analysis of the determinants of taking action and advice seeking. Section 6 examines how problems concluded, how businesses perceived outcomes and how manner of conclusion varied by problem type. Finally, section 7 sets out small businesses’ attitudes to business risk, the law and legal services. It also examines how attitudes relate to the prevalence of, and responses to problems.

Detailed output from statistical models and the full survey questionnaire are presented in appendices.
Legal Capability and the Use of Legal Services

Summary

This section provides an overview of the sample small businesses’ legal capacity and their use of legal services, including self-help resources.

6.4% of small businesses contained a qualified lawyer or person trained to handle legal issues, with the figure rising with size of business. The most common expertise was in contract law, though this changed to employment law among larger small businesses. 1.5% of businesses contained persons expert in 3 or more areas of law. Areas of legal expertise linked to the types of problems businesses faced.

9.1% of small businesses had retainer agreements for legal services, and 2.2% for HR/employment services. Having agreements for legal and HR/employment services were strongly related.

The likelihood of legal services being retained varied by business sector, legal status, turnover (with likelihood increasing with turnover), internal legal expertise (with likelihood increasing with legal expertise), size (with likelihood increasing with size), and experience of legal problems (with likelihood increasing with the number of problems experienced). Businesses that had traded for less than a year were less likely than others to retain legal services.

Most factors associated with retainer agreements for legal services were also associated with HR/employment services. However, one difference was that both BME and disabled controlled businesses were associated with greater use of HR/employment services. Also, number of years trading was not associated with retainer agreements for HR/employment services. Further, while retention of HR/employment services generally increased with business size, there was a suggestion that the likelihood dropped back a little for the largest small businesses.

73.5% of small businesses had made use of an independent legal or other business support service with a likely legal dimension in the preceding 12 months. 27.2% of businesses had made use of a legal service, 19% formally. The most commonly used legal service was a solicitors’ firm (used by 20.3% of small businesses, 14.6% formally). Of other services, accountants were most often used (used by 62.5% of small businesses, 53.5% formally).

Use of services varied by size of business, with more usage among larger small businesses. 17.2% of single person business made use of recognised legal services (10.8% formally), 47.2% of other micro businesses did so (34.9% formally), along with 76.1% of other small businesses (65.7% formally).

Looking at communication with legal services, small businesses most commonly reported mainly communicating by telephone (33.8%), followed by face-to-face meetings (28.7%) and email (16.6%). Mode of communication varied by type of legal service provider.

Those businesses that made use of a legal service most often obtained help in relation to trading issues (35.9%), followed by issues concerning tax (34.9%), business ownership (33.1%), employment (30.8%) and business premises (30.8%). The subject matter of help varied by service provider and size of business.

38.6% of small businesses made use of online legal resources in the 12 months leading up to the survey, most often to obtain information about the law or regulations (24.1%) or download a document template (18.9%).
This section provides an overview of the sample small businesses’ legal capacity and use of legal services, including self-help resources. Overall findings are weighted to reflect the actual small business population, in terms of business size and sector (as detailed by the Department for Business, Innovation and Skills (2012)). Findings for businesses of different sizes are unweighted.

**Legal Capability**

In all, 6.2%\(^\text{12}\) of businesses contained one or more persons who were either a qualified lawyer or had been trained to handle legal issues. As would be expected, this figure was linked to business size. So, while just 4.9% of single person businesses contained a qualified lawyer or person trained to handle legal issues, the figure was 9.8% for other micro businesses (i.e. businesses with fewer than 10 employees, other than single person businesses) and 17.4% for other small businesses (i.e. businesses with between 10 and 49 employees).\(^\text{13}\)

![Figure 2.1 – Internal Legal Capability by Size of Business](image)

As can be seen from Figure 2.1, the most common area of legal expertise held within small businesses was contract law, followed by employment, business, property and tax law. There was relatively little difference in the pattern of experience between businesses of different sizes, although larger small businesses relatively more often had expertise in employment, property and tax law. Employment law, in particular, was related to business size. While single person businesses had internal expertise in employment law on fewer than 1% of occasions, the figure rose to 2.7% for other micro businesses and

\(^{12}\) As explained in section 1, data were here weighted to be representative of all small businesses.

\(^{13}\) As explained in section 1, data were not here weighted to reflect the disproportionate inclusion of larger small businesses in the overall sample.
6.8% for other small businesses. Furthermore, within this last category of
business, 9.2% of businesses with 25 or more employees and 13.8% of
businesses with 40 or more employees had internal expertise in employment
law (compared to 8.6% for contract law, the next most common area of
expertise).
Table 2.1 – Problem incidence among small businesses by area of legal expertise contained within the business

<table>
<thead>
<tr>
<th>Type of problem</th>
<th>Contract</th>
<th>Tax</th>
<th>Crime</th>
<th>Employ'mt</th>
<th>PI</th>
<th>Property</th>
<th>IP</th>
<th>Regulat'n</th>
<th>Business</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trading</td>
<td>43.6</td>
<td>48.2</td>
<td>46.9</td>
<td>48.3</td>
<td>40.6</td>
<td>35.7</td>
<td>39.4</td>
<td>54.0</td>
<td>35.1</td>
</tr>
<tr>
<td>Tax</td>
<td>26.4</td>
<td>39.3</td>
<td>30.9</td>
<td>32.6</td>
<td>30.2</td>
<td>23.4</td>
<td>19.7</td>
<td>16.0</td>
<td>21.6</td>
</tr>
<tr>
<td>Employment</td>
<td>26.5</td>
<td>41.1</td>
<td>30.0</td>
<td>37.8</td>
<td>29.7</td>
<td>27.1</td>
<td>17.7</td>
<td>24.0</td>
<td>20.1</td>
</tr>
<tr>
<td>Business premises</td>
<td>23.5</td>
<td>31.3</td>
<td>25.9</td>
<td>32.2</td>
<td>23.8</td>
<td>28.1</td>
<td>19.4</td>
<td>18.0</td>
<td>18.7</td>
</tr>
<tr>
<td>Debt</td>
<td>13.3</td>
<td>16.1</td>
<td>15.0</td>
<td>15.4</td>
<td>15.6</td>
<td>11.6</td>
<td>8.3</td>
<td>8.0</td>
<td>8.2</td>
</tr>
<tr>
<td>Intellectual property</td>
<td>20.8</td>
<td>29.5</td>
<td>21.0</td>
<td>24.5</td>
<td>21.9</td>
<td>15.5</td>
<td>22.5</td>
<td>14.0</td>
<td>17.2</td>
</tr>
<tr>
<td>Regulation</td>
<td>23.5</td>
<td>31.5</td>
<td>24.7</td>
<td>30.8</td>
<td>23.8</td>
<td>20.9</td>
<td>20.8</td>
<td>24.0</td>
<td>20.1</td>
</tr>
<tr>
<td>Structure</td>
<td>23.8</td>
<td>31.3</td>
<td>24.7</td>
<td>28.5</td>
<td>23.4</td>
<td>21.9</td>
<td>23.9</td>
<td>16.0</td>
<td>20.9</td>
</tr>
</tbody>
</table>
A small number of businesses (1.5%) contained persons who were expert in 3 or more areas of law. A similar pattern of expertise was evident to that of businesses in general, with contract law the most common area of expertise, and regulation the least common. Looking just at firms containing persons who were expert in 3 or more areas of law, 79.6% could draw on expertise in contract law, 58.4% in business law, 54.2% in property law, 54.1% in employment law, 44.4% in tax law, 32.6% in intellectual property law, 27.8% in personal injury law, 26.3% in criminal law and 23.9% in regulation law.

As is illustrated by Table 2.1, areas of legal expertise within businesses linked to the types of problems they tended to face, with legal expertise associated with disproportionately elevated levels of related problem experience. So, for example, 22.5% of small businesses with expertise in the area of intellectual property law reported related problems; the third highest problem type among these businesses, compared to the seventh highest overall. Similarly, 24.0% of businesses with expertise in the area of regulation reported related problems; the second highest problem type among these businesses, compared to the fifth highest overall. Again, 28.1% of businesses with expertise in the area of property law reported related problems; the second highest problem type among these businesses, compared to the fourth highest overall.

In addition to the internal legal capability that some small businesses could draw upon, a number of the sample small businesses had on-going contracts (‘retainer agreements’) with external bodies for the provision of legal services as required (9.1%) or with an HR/employment service (2.2%). There was also evidence that having agreements for legal and HR/employment services were strongly related. For example, while only 1.1% of those without retained legal services had contracts for HR/employment services, 13.2% of those with retained legal services did so. Similarly, 8.1% of businesses without retained HR/employment services had retainer agreements for legal services, compared to 55.2% for those with retained HR/employment services. Figure 2.2 illustrates the extent to which internal legal expertise, retained legal services and retained HR/employment services interacted across all businesses surveyed.
As shown in Figure 2.2, the vast majority of businesses surveyed (8,294 of 9,702, 85.5%) had no internal legal expertise or retainers for legal or HR/employment services. The following section looks at the extent to which business characteristics and the number of legal problems businesses faced related to whether or not businesses had retainer agreements for legal or HR/employment services. Two multivariate statistical models (binary logistic regression models) were fitted modelling presence of retained legal and HR/employment services respectively. Output from the two models is set out in the statistical appendix.

**Modelling retainer agreements for legal services**

There was evidence of significant differences in the likelihood of retained legal services by business sector. Not-for-profit/voluntary, education and, particularly, health sectors were most likely to have retainer agreements for legal services. In contrast, agreements were least likely in the transport/communication and wholesale/retail trade sectors. There was also evidence of significant differences by businesses’ legal status, with public limited companies by far the most likely to have agreements. Private limited companies were also significantly more likely than sole traders to have retainer agreements, with limited partnerships, partnerships and businesses with an ‘other’ status broadly comparable to sole traders.

There were also highly significant differences in the likelihood of businesses having retainer agreements for legal services by turnover, with likelihood of an agreement generally increasing with business turnover. In contrast, whether or not businesses were profitable had relatively little association with the likelihood of an agreement.

Having internal legal expertise was a key predictor of having retained legal services, and was associated with a highly significant increase in the likelihood of an agreement. Evidently, having internal legal expertise in no way
reduced the need for, or use of external agreements for legal services. Indeed, it may have highlighted the value of such services. As discussed above, the presence of retained legal and HR/employment services were strongly related, and having retained HR/employment services was also a key predictor of retained legal services, and associated with a highly significant increase in likelihood of an agreement.

<table>
<thead>
<tr>
<th>Type of retainer</th>
<th>Size of business</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single person</td>
</tr>
<tr>
<td>Legal</td>
<td>5.4%</td>
</tr>
<tr>
<td>HR/Employment</td>
<td>0.0%</td>
</tr>
</tbody>
</table>

There were some differences in the likelihood of whether legal services were retained by the number of years businesses had been trading. However, rather than a linear increase, as the number of years trading increased, differences were between those trading for less than a year, who were least likely to have a retainer agreement, and all other groups trading for a year or more (who were broadly comparable to each other). Business size also had a highly significant association with likelihood of a legal retainer, with likelihood of an agreement broadly increasing with size. As can be seen from Table 2.2, retainer agreements – for both legal and HR/employment services (discussed further in the next section) – were more common among larger small businesses.
There was some evidence of the likelihood of a retained legal agreement relating to the number of relationships businesses had, though while those with no relationships were least likely to have an agreement, there was not a consistent increase in likelihood as the number of relationships increased. Meanwhile, there was no evidence of BME or disabled control relating to the existence of a retainer for legal services.

Finally, the number of legal problems reported by businesses (explored in the next section) was a key predictor of retained legal agreements, with a fairly consistent increase in the likelihood of an agreement as the number of problems increased. The percentage of businesses with legal retainers by number of problems is shown in Figure 2.3. The figure also shows percentage of businesses with retainers for HR/employment services by number of problems.

Modelling retainer agreements for HR/employment services

Many of the factors associated with having retainer agreements for legal services were also significant predictors of businesses having retained HR/employment services. This was in part a function of the presence of retained legal and HR/employment services being strongly related, as set out above.

As with retained legal services, there were significant differences in the likelihood of retaining HR/employment services by business sector. There was a relatively high likelihood of retainer agreements among the not-for-profit sector, with primary sector businesses also reporting a particularly high likelihood of retained HR/employment services. In contrast, retainer agreements for HR/employment services were far less common in the construction sector. There were also significant differences in the likelihood of agreements by businesses’ legal status, with sole traders least likely to have retainer agreements and a significantly higher likelihood observed for private limited companies and, particularly, for businesses with an ‘other’ legal status.

Business turnover was a key predictor of whether or not businesses had retainer agreements for HR/employment services. Again, as with agreements for legal services, the likelihood of an HR/employment agreement increased consistently with increasing turnover. In contrast, profitability had little or no association with the likelihood of HR/employment agreements.

Again, having internal legal expertise was a key predictor of having retained services, and was associated with a highly significant increase in the likelihood of an HR/employment agreement. Also, having retained legal services was an important predictor of retained HR/employment services, relating to a highly significant increase in the likelihood of an agreement.

Unlike for legal agreements above, the number of years businesses had been trading was not a significant predictor of businesses having retainer agreements for HR/employment services. While those trading for less than a year least often had retainer agreements, differences between those trading for
less than a year and other groups fell well short of statistical significance. Business size, however, was a highly significant predictor of retainer agreements for HR/employment services (as shown in Table 2.1). Compared to micro businesses, small businesses were highly significantly more likely to have retainer agreements. However, there was some indication that the percentage of small businesses with retainer agreements, particularly for HR/employment services, dropped back a little among the largest small businesses. So, while 27.2% of businesses with between 30 and 39 employees reported having a retainer for HR/employment services, the figure dropped back to 22.4% for businesses with between 40 and 49 employees. This may suggest that larger small businesses see benefits in having HR functions in-house.

The number of business relationships businesses had had a modest association with the likelihood of businesses having an agreement for HR/employment services. Unlike for legal agreements above, both BME and disabled control of businesses were associated with significant increases in the likelihood of a HR/employment agreement.

Finally, the number of problems businesses experienced was again a key predictor of having a retainer agreement, with the likelihood of an HR/employment agreement increasing with the number of problems, as illustrated in Figure 2.3.

Use of Legal and Other Business Support Services

Almost three-quarters (73.5%) of small businesses made use of an independent legal or other business support service (with a likely legal dimension) in the 12 months leading up to the survey. 27.2% made use of a recognised legal service (19.0% ‘formally’ and 12.3% ‘informally’) and 71.7% made use of another type of business support service (59.8% formally and 29.8% informally). The median number of different types of support service used by small businesses was 3 (mean = 3.4).

As illustrated in Figure 2.4, 14.6% of small businesses obtained formal help from a solicitors’ firm, 4.1% from a legal helpline, 2.6% from a licensed conveyancer, 2.3% from a barrister, 2.1% from a patent or trademark attorney or agent and 2.9% from another legal service.

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14 It should be noted that single person and other micro businesses were collapsed into a single category since no single person businesses had a retainer agreement for HR/employment services.

15 This figure includes all use of services, whether related to contentious or non-contentious issues and whether or not concerning problems.
The most commonly used professional business support service was an accountant. Over half (53.5%) of all small businesses had made formal use of an accountant in the preceding 12 months, with a further 9.1% having informally made use of an accountant’s services (10.9% having done so in total). 16.0% made formal use of a tax adviser (27.4%, including informal help), 13.1% a financial adviser (23.2%, including informal help), 4.2% an HR/employment service (6.9%, including informal help), 3.5% a debt recovery service (5.3%, including informal help), 3.4% an independent advice agency (8.2%, including informal help) and 6.8% another business support service (13.4%, including informal help).

As in the case of retained services, the use of legal and professional services varied by size of business. In total, 64.0% of single person businesses had made use of professional support services in the preceding 12 months, compared to 91.0% of other micro businesses and 97.0% of other small businesses. Looking only at formal use of services, the differences were greater still, with figures of 49.6%, 83.9% and 94.6% respectively.

As can be seen from Table 2.4, 17.2% of single person businesses made use of recognised legal services (10.8% formally), compared to 47.2% of other micro businesses (34.9% formally) and 76.1% of other small businesses (65.7% formally). Thus, more than 4 times as many ‘other small’ businesses used such services than single person businesses. For other business support services, the figures were, 61.9% (47.3%), 89.8% (81.7%) and 96.1% (92.6%), respectively.

Moreover, businesses with between 10 and 49 employees made use of solicitors (66.1%) almost 6 times as often as single person businesses (11.5%), with other micro businesses sitting roughly in the middle (37.6%). They made use of barristers (17.7%), around nine times as often (1.9%), again with other
micro businesses sitting roughly in the middle (9.0%). And they made use of patent/trademark attorneys/agents (16.6%) around 12 times as often (1.4%), again with other micro businesses sitting roughly in the middle (8.8%). The smallest difference was in relation to accountants, where single person businesses had a usage rate (50.1%) only around half that of businesses with between 10 and 49 employees (90.7%).

The median number of different types of support service made use of by single person businesses was 2 (mean = 2.6), compared to 4 (mean = 4.4) for other micro businesses and 5 (mean = 5.8) for other small businesses.

Looking at communication with legal services, small businesses most commonly reported mainly communicating by telephone (35.8%), followed by face-to-face meetings (31.0%) and email (17.6%). Other forms of communication, such as post, the Internet and through intermediaries were less common. There was little difference in the pattern of communication as between businesses of different sizes.

However, there were differences in the communication patterns between different types of service provider. So, while 40.2% of small businesses mainly communicated with solicitors in person, the figure was 28.4% for licensed conveyancers, 25.1% for patent/trademark attorneys/agents and 19.9% for ‘other’ legal services. Solicitors were also well represented at the other end of the technology scale. 19.1% of small businesses communicated with their solicitors mainly by email, only just fewer than patent/trademark attorneys/agents (19.6%) and ‘other’ legal services (21.4%). The telephone was also a relatively common form of communication with solicitors’ firms (28.2%), with only ‘other’ legal services (30.2%) and, obviously, telephone helplines registering higher.
Table 2.3 – Overall Percentage Use of Legal and Other Business Support Services by Size of Business

<table>
<thead>
<tr>
<th>Type of service</th>
<th>Single person</th>
<th>Size of business / Nature of use</th>
<th>Other micro</th>
<th>Other small</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Formal</td>
<td>Informal</td>
<td>Any</td>
</tr>
<tr>
<td><strong>Legal services</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solicitors' firm</td>
<td>7.8</td>
<td>4.1</td>
<td>11.5</td>
<td>27.6</td>
</tr>
<tr>
<td>Barrister</td>
<td>1.1</td>
<td>0.9</td>
<td>1.9</td>
<td>4.3</td>
</tr>
<tr>
<td>Licensed conveyancer</td>
<td>1.5</td>
<td>0.5</td>
<td>2.0</td>
<td>4.9</td>
</tr>
<tr>
<td>Patent/trademark attorney/agent</td>
<td>0.6</td>
<td>0.8</td>
<td>1.4</td>
<td>4.9</td>
</tr>
<tr>
<td>Legal helpline</td>
<td>2.4</td>
<td>2.7</td>
<td>5.1</td>
<td>6.8</td>
</tr>
<tr>
<td>Another legal service</td>
<td>1.5</td>
<td>1.8</td>
<td>3.3</td>
<td>5.2</td>
</tr>
<tr>
<td>Any legal service</td>
<td>10.8</td>
<td>8.1</td>
<td>17.2</td>
<td>34.9</td>
</tr>
<tr>
<td><strong>Other independent support services</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accountant</td>
<td>40.2</td>
<td>11.1</td>
<td>50.1</td>
<td>76.5</td>
</tr>
<tr>
<td>Tax adviser</td>
<td>10.8</td>
<td>9.9</td>
<td>20.5</td>
<td>26.3</td>
</tr>
<tr>
<td>Financial adviser</td>
<td>9.9</td>
<td>8.3</td>
<td>18.0</td>
<td>19.7</td>
</tr>
<tr>
<td>Independent advice agency</td>
<td>2.5</td>
<td>3.9</td>
<td>6.2</td>
<td>4.3</td>
</tr>
<tr>
<td>Debt recovery service</td>
<td>1.3</td>
<td>1.1</td>
<td>2.4</td>
<td>7.2</td>
</tr>
<tr>
<td>HR/employment service</td>
<td>1.4</td>
<td>1.3</td>
<td>2.6</td>
<td>8.5</td>
</tr>
<tr>
<td>Other business support service</td>
<td>4.9</td>
<td>6.1</td>
<td>10.7</td>
<td>10.3</td>
</tr>
<tr>
<td>Any other service</td>
<td>47.3</td>
<td>26.9</td>
<td>61.9</td>
<td>81.7</td>
</tr>
</tbody>
</table>
As illustrated by Figure 2.5, legal services most often helped businesses in the area of trading (including commercial contracts) (35.9%),\(^{16}\) followed by tax (34.9%), business ownership (33.1%), employment (30.8%) and business premises (30.8%). However, different types of legal adviser were associated with different areas of help. So, while licensed conveyancers and patent or trademark attorneys or agents more often helped businesses in the property and IP areas, solicitors, barristers, legal helplines and other legal services helped across a broader range of areas. Solicitors most often helped in relation to trading issues (28.8%), business ownership (23.6%), business premises (21.8%) and tax (19.1%). Legal helplines most often helped in relation to tax (31.6%), employment (31.3%), trading (23.5%) and business ownership and structure (22.2%).

The area that legal services helped in also varied by size of business, with single person businesses being more likely to be helped in the area of tax and, as might be expected, less likely to be helped in the areas of employment, business premises and work injuries.

\(^{16}\) 9.8% of businesses received help in the trading area.

\(^{17}\) The question used to identify in which area businesses obtained help was broadly phrased and appears to have been taken by some respondents to refer to areas of business activity that benefitted from legal services, rather than the narrow subject matter of help provided. Thus, just 45% of those who used patent or trademark attorneys or agents reported that the businesses was helped in the area of intellectual property, with many instead mentioning, for example, trading. The range of responses provided to this question also suggests that some respondents were unclear about the formal description of services used. It is therefore recommended that the phrasing of questions concerning the identity of services and subject matter of help be reviewed ahead of any future survey.
**Use of the Internet**

As well as email being the main form of communication with legal service providers for 16.6% of small businesses, and the Internet being the main form of communication for a further 5.2%, more than one-third (38.6%) of small businesses had made use of online legal resources in the 12 months leading up to the survey. As can be seen from Table 2.4, the most common reason for small businesses using the Internet was to obtain information about the law or regulations (24.1% overall), followed by to download a document template (18.9% overall).

As can also be seen from Table 2.4, use of online resources varied by size of business. So, while just one-third of single person businesses had made use of online resources in the preceding year, more than half of other micro businesses had, and almost two-thirds of other small businesses. This pattern held true for every type of online resource. However, the margin of difference narrowed significantly in the case of online dispute resolution (e.g. eBay online dispute resolution), though not in the case of online legal proceedings (e.g. Money Claims Online).

<table>
<thead>
<tr>
<th>Use of online resources</th>
<th>Single person</th>
<th>Other micro</th>
<th>Other small</th>
<th>Overall</th>
</tr>
</thead>
<tbody>
<tr>
<td>Download Contract/T&amp;C template</td>
<td>11.2%</td>
<td>21.4%</td>
<td>24.8%</td>
<td>13.9%</td>
</tr>
<tr>
<td>Download other template</td>
<td>7.7%</td>
<td>15.9%</td>
<td>20.1%</td>
<td>9.8%</td>
</tr>
<tr>
<td>Obtain information on the law</td>
<td>21.2%</td>
<td>32.6%</td>
<td>40.2%</td>
<td>24.1%</td>
</tr>
<tr>
<td>Obtain info. on dispute resolution</td>
<td>6.0%</td>
<td>12.4%</td>
<td>18.0%</td>
<td>8.1%</td>
</tr>
<tr>
<td>Obtain tailored advice</td>
<td>3.0%</td>
<td>6.6%</td>
<td>10.2%</td>
<td>4.1%</td>
</tr>
<tr>
<td>Start legal proceedings</td>
<td>2.1%</td>
<td>6.8%</td>
<td>10.8%</td>
<td>3.6%</td>
</tr>
<tr>
<td>Other online dispute resolution</td>
<td>5.6%</td>
<td>5.9%</td>
<td>6.8%</td>
<td>5.5%</td>
</tr>
<tr>
<td><strong>Any</strong></td>
<td><strong>33.3%</strong></td>
<td><strong>53.3%</strong></td>
<td><strong>65.9%</strong></td>
<td><strong>38.6%</strong></td>
</tr>
</tbody>
</table>
Summary

This section provides an overview of the sample small businesses’ experience of legal problems, and explores the drivers of vulnerability to problems. It also describes the duration of problems.

Overall, 38.1% of businesses reported one or more ‘significant’ legal problem in the past year. However, while just 28.8% of single person businesses experienced one or more significant problems, the figure rose to 55.5% for other micro businesses and 76.5% for other small businesses. Multivariate analysis also revealed that problem prevalence varied by (highest prevalence in brackets) business sector (production, wholesale and retail trade, and transport and communication sectors), legal status (public limited companies), turnover (higher), profitability (unprofitable), whether or not businesses had an on-going legal or HR services retainer contract (had such as contract) or internal legal expertise (had internal legal expertise), years trading, number of business relationships (higher), BME and disability status (BME or disabled controlled).

The mean number of problems faced by businesses was 9 (25 across businesses reporting 1+ problems), but a small number of businesses experienced a large number of problems, with larger businesses facing more problems.

Small businesses most often faced problems concerning trading (25.0%), followed by problems concerning employment of staff (9.0%), tax (8.7%), business premises (7.8%) and regulation (6.9%), although in terms of the volume of problems the most common were those concerning trading, intellectual property, employment and regulation. Problems concerning intellectual property were highly concentrated in the primary, production, communication and wholesale and retail trade sectors. Each type of problem studied was associated with businesses of a particular character. However, most problem types were more common among larger businesses with more business relationships. All problem types were more commonly reported by unprofitable businesses, those with legal or HR services retainer contracts or internal legal expertise, and BME controlled businesses.

Looking at all sample problems, tax and regulation problems were closely related and, along with problems concerning employment and business premises formed a broad cluster. Problems concerning intellectual property, ‘other’ issues and business structure also formed a problem cluster. Trading and debt related problems did not belong to a well-defined problem cluster.

There were some differences in the clusters identified for different size businesses. For example, for businesses with between 10 and 49 employees, problems concerning trading and employees formed a distinct cluster.

Just under half of problems concerned other businesses, with the remainder mostly concerning the public, government or employees. Just under half were also said to have concerned something that ‘the other side’ had done wrong, with a further third not involving attribution of blame between parties.

Fewer than one in five problems was characterised as ‘legal’. However, while just 8.4% of problems concerning trading were characterised as legal, the figure was 48.2% for problems concerning intellectual property.
This section provides an overview of the sample small businesses’ experience of legal problems, and explores the drivers of vulnerability to problems. As in the previous section, overall findings are weighted to reflect the actual small business population, in terms of business size and sector (as detailed by the Department for Business, Innovation and Skills (2012)). Findings for businesses of different sizes are unweighted.

The Prevalence of Legal Problems

Overall, 3,697 of 9,703 (38.1%) businesses reported one or more ‘significant’ legal problem in the past year. However, the prevalence of significant problems varied substantially between different types of business. For example, in simple numerical terms, while just 28.8% of single person businesses experienced one or more significant problems, the figure rose to 55.5% for other micro businesses and 76.5% for other small businesses.

To explore patterns of vulnerability to legal problems in detail, we conducted multivariate analysis (binary logistic regression) to ‘model’ how the likelihood of experiencing one or more problems varied by a range of business characteristics. The range of characteristics comprised size, sector, legal status, turnover, profitability, years trading, number of business relationships, whether legal or HR services were retained, whether businesses had internal legal expertise and whether businesses were BME or disabled controlled. Statistical output and a short note on interpretation is set out in the statistical appendix.

All types of business characteristic were found to be strongly associated with the likelihood that businesses reported legal problems. The regression ‘model’ fitted well, and correctly predicted whether or not businesses reported legal problems in almost 70% of cases.

In the paragraphs below, we summarise findings from the multivariate analysis for each included type of business characteristic in turn. To aid interpretation we also provide estimated prevalence rates for businesses of different types using the model output. This enables the impact of particular
business characteristics to be illustrated while controlling for all other characteristics in the model. Some simple bivariate comparisons are also provided, to indicate how problems are actually distributed in the real world, rather than in the world of statistical inference. While this information does not help in explaining which factors lie behind problem experience, it is useful to those seeking to easily identify businesses with high problem prevalence.

Size of business

As suggested by the simple bivariate comparison set out above, size of business was found to be a key predictor of problem prevalence. Single-person businesses had the lowest problem prevalence, followed by other micro businesses and other small businesses. Compared to a (raw data) prevalence of 28.8% for single-person businesses, if all other business characteristics were the same, the model indicated an increase to 45.8% for other micro businesses and 57.3% for other small businesses.

Sector

Business sector was also strongly associated with whether or not businesses reported legal problems. There was high problem prevalence for consultancy services, and in the construction and, particularly, production, wholesale and retail trade, and transport and communication sectors.

Figure 3.1 shows variation in prevalence by sector in percentage terms, derived from the statistical model (i.e. controlling for other business characteristics), with the single largest sector category – other business, public administration and defence – held at 33.7% prevalence (its value using raw data). As can be seen, the highest problem prevalence was observed for the transport and communication sector and the lowest for the health sector.
If problem prevalence is compared across sectors using raw data, some differences can be seen compared to estimates derived from the statistical model. For example, ‘not for profit/voluntary’, ‘wholesale and retail trade’ and ‘production’ all exhibit higher problem prevalence than shown in Figure 3.1. This highlights the importance of controlling for a range of variables in the statistical model to correctly assess the influence of each predictor on problem prevalence, with the higher prevalence observed for the raw data a function of other factors (e.g. particular sectors varying in other factors related to prevalence such as turnover or legal status).

**Legal status**

Problem prevalence also varied by businesses’ legal status. In particular, high problem prevalence was observed for public limited companies, and low prevalence was observed for partnerships and businesses with an ‘other’ status. Figure 3.2 shows how prevalence varies by legal status, again using model estimates and holding sole traders at their raw data value of 32.0%.
When looking at the raw data, prevalence was 44.4% for partnerships, 50.9% for private limited companies, 69.5% for public limited companies, 57.8% for limited partnerships and 47.2% for ‘others’. While significant differences remained, the model has the effect of bringing prevalence for sole traders far closer to other groups. The difference between raw data and model estimates is a consequence of sole traders being less likely than other businesses to have other characteristics associated with increased problem prevalence.\(^{18}\)

### Turnover

The likelihood of reporting one or more legal problems also varied with turnover, with the experience of problems increasing as turnover increased. Figure 3.3 shows the relationship between turnover and problem prevalence using model estimates, holding those with a turnover of less than £50k at their raw data prevalence rate of 29.4%.

Again, differences were greater when looking at the raw data, where prevalence rose to 41.7% for businesses with a turnover of between £50k and £99k, 56.0% for a turnover of between £100k and £249k, 66.0% for a turnover of between £250k to £999k and 75.7% for a turnover of £1m or more. As with other factors, the difference is a result of high turnover businesses also having other characteristics related to high prevalence.

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\(^{18}\)These other characteristics are controlled for in the model, allowing the influence of business legal status on prevalence to be assessed in isolation.
Profitability

The prevalence of legal problems also varied with profitability status. Not surprisingly, businesses that were profitable were less likely to report legal problems than those that were not. Prevalence for those who were unsure of their profitability status fell in between. Compared to a raw data problem prevalence of 44.9% for unprofitable businesses, model estimates predicted prevalence of 32.1% for profitable businesses and 35.5% for the remainder.

Prevalence estimates from the model were similar to prevalence observed using raw data (44.9% for unprofitable businesses, 36.5% for profitable businesses and 36.3% for the remainder).\(^\text{19}\)

Contracts for legal services

Whether or not businesses had an on-going contract for the provision of legal services as required was also significantly related to problem prevalence. Where businesses had such a contract, or ‘retainer’, there was a significant increase in the likelihood of reporting one or more problems. Compared to a (raw data) prevalence of 35.7% for those businesses without a retainer for legal services, the model suggested an increase to 48.8% for those with one. While highly significant, this difference is substantially smaller than that observed using raw data (35.7% vs. 62.1%), indicating that those with retainers for legal services were also more likely to possess other characteristics associated with higher problem prevalence. For example, retainers for legal services became increasingly common as turnover (also significantly related to problem prevalence) increased.

\(^{19}\)The slightly larger difference between profitable and unprofitable businesses using model estimates suggests that profitability is more influential than it might appear when using raw estimates.
Contracts for HR services

Similarly, having a contract, or ‘retainer’ for HR services was associated with a highly significant increase in problem prevalence. In fact, this increase was somewhat larger than that associated with retainers for legal services. Compared to a raw data prevalence of 37.0% for those without a retainer for HR services, the model indicated an increase to 60.3% for those with a retainer. As with retainers for legal services, differences based on the model were again smaller than those observed using raw data (37.0% for those without a retainer for HR services vs. 87.0% for those with a retainer). Again, this means that businesses with retainers for HR services were more likely to have other characteristics associated with high prevalence. For example, as with retainers for legal services, retainers for HR services became increasingly common as turnover increased.

Internal legal expertise

Having internal legal expertise was also associated with significantly higher problem prevalence. Compared to a raw data prevalence of 36.6% for those without internal legal expertise, the model indicated an increase to 51.2% for those with internal legal expertise. As with retainers for both legal and HR services, differences based on model estimates (isolating the effect of internal legal expertise) were somewhat smaller than those observed using raw data (36.6% vs. 60.6%).

Years trading

The number of years a business had been trading was also strongly associated with the prevalence of legal problems. Figure 3.4 shows the relationship between the number of years businesses had been trading and problem prevalence, again using model estimates to isolate years trading by controlling for other factors, and with the prevalence rate for businesses that had been trading for less than one year was held at the raw data prevalence rate of 28.4%.

As can be seen, businesses trading for less than one year had the lowest problem prevalence, with generally higher prevalence for those trading for longer periods.
For the most part, problem prevalence estimates derived from model estimates were similar to those observed from raw data, suggesting that the number of years businesses had been trading was fairly independent of other variables associated with problem prevalence. However, one exception was in the case of businesses that been trading for more than 20 years. In raw data terms 40.8% of these businesses reported one or more problems. Again, this would indicate a tendency for these businesses to be somewhat more likely than other businesses to have other high prevalence characteristics.

Number of business relationships

The number of business relationships that businesses had (the sum of the number of suppliers and number of clients) was also strongly associated with problem prevalence.
Prevalence generally increased as the number of relationships increased. Figure 3.5 shows the relationship between the number of business relationships and problem prevalence, again using model estimates and holding those with fifty or more business relationships at their raw data prevalence rate of 51.5%.

Differences were greater still when examining raw data (not controlling for other variables). For example, the raw data problem prevalence was 12.6% for those businesses with no business relationships (presumably very small, new, dormant or contracting businesses), 24.2% for those with one to four relationships and 35.0% for those with five to nine. Once again, this reflected the tendency for high and low prevalence characteristics to cluster together.

BME and disability status

BME controlled businesses were significantly more likely than other businesses to report legal problems, even after controlling for a broad range of other business characteristics. Compared to a (raw data) prevalence of 37.3% for non-BME controlled businesses, model estimates predicted a highly significant increase to 47.9% for BME controlled businesses.

Again, while highly significant, this difference was smaller than that observed using raw data (37.3% vs. 55.9%), indicating that BME controlled businesses were more likely to have others of the characteristics associated with higher problem prevalence set out above.

A similar picture emerged for disabled controlled businesses, which were also significantly more likely to report legal problems. Compared to a (raw data) prevalence of 36.8% for non-disabled controlled businesses, model estimates suggested a highly significant increase to 47.0% for disabled controlled businesses. As with ethnicity, the difference between disabled and non-disabled controlled businesses predicted by the model (controlling for other factors) was smaller than the difference found using raw data (36.8% vs. 54.4%).

The Volume of Legal Problems

In all, 93,205 legal problems were reported by the 9,703 sample small businesses. The mean number of problems faced by businesses that had faced one or more problems was therefore 25 (9 across all businesses), with the median number being 3.

As can be seen from Figure 3.6, the mean was affected by the small number of businesses that experienced a large number of problems. For those small businesses that reported problems, 30.5% reported just one problem, a further 17.3% reported 2, 11.5% reported 3, 7.3% reported 4 and the remaining

20 91% of these businesses were single person businesses.
33.4% reported 4 or more. 132 small businesses experienced 50 or more problems, with 19 of these businesses reporting more than 1,000 problems.

When looking at businesses of different sizes, single person businesses that had experienced significant problems reported a mean of 11 problems (median = 2), compared to 37 (median = 3) for other micro businesses and 36 (median = 5) for other small businesses.

Figure 3.6 – Number of Problems Reported by Small Businesses

The Prevalence of Legal Problems of Different Types

Figure 3.7 sets out the prevalence of legal problems by problem category. Overall, businesses most often faced problems concerning trading (25.0%), followed by problems concerning employment of staff (9.0%), tax (8.7%), business premises (7.8%) and regulation (6.9%).
In terms of the volume of problems, those concerning trading were again most prevalent, with a mean of 3 problems per business, across the entire sample of 9,703 small businesses. However, unlike in simple prevalence terms, these were followed by problems concerning intellectual property (1.3), employment (1.1) and regulation (1.0); though problems concerning intellectual property were highly concentrated in the primary, production, communication and wholesale and retail trade sectors.

Within the trading problem category, the most often reported problems concerned the quality of purchased goods (8.3%), late/non-payment for sold goods (6.3%) and late delivery of purchased goods. Within the tax category, the most common problems concerned liability for tax or the amount of tax owed (5.2%). Within the employment category, they concerned staff misconduct (2.9%), staff dismissal (2.3%) and redundancy (2.2%). In the business premises category, they concerned maintenance by landlords (2.2%), terms of leases (1.8%) and rent arrears (1.8%). Within the intellectual property category, they concerned infringement of copyright (2.0%) and trademarks (1.3%). In the regulation category, they concerned health and safety (1.4%) and mandatory licenses/permits/accreditation (1.3%), and in the business structure category, the most common problems concerned the set-up (1.4%) and sale (0.9%) of businesses.

The prevalence rates of all the problem types included in the survey are set out in Table 3.1.
Table 3.1 - Prevalence of Detailed Problem Types (%)

Trading
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: 2.0
Good or services purchased by your business
- Not as described: 8.3
- Late delivery: 6.0
- 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
- 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: 1.0

Employment
- 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
- Adjustment to jobs/workplace for disabled workers: 0.4
- Complaints/grievances: 0.6
- Employment of non-EU nationals: 0.3

Business premises
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
### Debt
- 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

### Intellectual property
Infringement of your business’s intellectual property
- Trademarks: 1.3
- Copyright: 2.0
- 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

### Regulation
- Mandatory licenses/permits/accreditation: 1.3
- 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
- Other government regulation: 1.4

### Structure
- Technicalities of business start-up: 1.4
- Change of legal status: 0.7
- Break-up of partnership: 0.8
- Partnership/shareholder disputes: 0.8
- Merger: 0.4
- Take-over of another business: 0.6
- Sale of business: 0.9
- Joint venture: 0.7

### Other
- Defamation: 1.1
- Incorrect information held by a credit agency: 1.4

As is evident from Figure 3.2, some types of problem were particularly prevalent among larger small businesses. So, for example, while just 2.6% of
single person businesses reported problems concerning employees, the figure rose to 20.5% for other micro businesses and 50.9% for other small businesses. For businesses with 40 or more employees, the figure was 58.6%.

![Figure 3.8 – Prevalence of Legal Problems, by Type](image)

To explore patterns of experience of different categories of problems, we undertook a series of multinomial analyses (binary logistic regressions) to establish which business characteristics were most associated with each of the 9 problem categories included in the survey. Output from the analyses can be found in the statistical appendix (Tables A2-A10). As with ‘any problem’, the likelihood of each problem type was modelled on the basis of a broad range of business characteristics. In the paragraphs below we summarise the results for each problem category.

**Trading problems**

The likelihood of small businesses reporting trading problems varied by business sector. Businesses in the construction sector and, particularly, those in the production or wholesale/retail trade sectors were significantly more likely to report problems. Trading problems were least common in the financial, insurance and real estate sector and, particularly, in the education and not-for-profit/voluntary sectors.

With regard to legal status, problems were more common for sole traders and public limited companies, and less common for partnerships and businesses with some ‘other’ status. The likelihood of reporting trading problems also increased as businesses’ turnover increased.
Unprofitable businesses were somewhat more likely to report trading problems. On-going legal services, HR retainer contracts and internal legal expertise were also all associated with a significantly greater likelihood of businesses reporting trading problems.

Compared to businesses that had been trading for less than a year, those trading between 1 and 20 years were significantly more likely to report trading problems, though the increase was more modest for firms who had been trading for 21 years or more. Multiple person micro businesses and other small businesses were also both significantly more likely to report problems that single-person businesses (though the difference between multiple person micro businesses and other small businesses was small).

The likelihood of trading problems was also associated with the number of business relationships, with a greater number of relationships relating to a greater likelihood of problems.

Finally, both BME and disabled controlled businesses were associated with an increase in the likelihood of trading problems.

**Tax problems**

There was substantial variation in the experience of tax problems by business sector, with production sector and, particularly, transport/communication and primary sector businesses most likely to report such problems. Businesses in the not-for-profit/voluntary sector and ‘other business/public administration/defence’ sectors were far less likely to report problems.

Public limited companies were most likely to report tax related problems, and significantly more likely than sole practitioners (the reference category). Conversely, partnerships and, particularly, businesses with an ‘other’ status were significantly less likely to report tax issues.

Compared to businesses with turnover of less than £50,000, those with turnovers between £50,000 and £999,999 were significantly more likely to report tax related problems. However, this was not the case for those with turnover in excess of £1,000,000, whose likelihood of tax problems was broadly comparable to those with turnover less than £50,000. Again, profitability was also significantly related to problem experience, with unprofitable businesses more likely to report tax related problems.

Legal services, HR retainer contracts and internal legal expertise were also all associated with highly significant increases in the likelihood of businesses reporting tax problems. There was also a large and highly significant increase in the likelihood of tax problems associated with those businesses that had been trading for between 1 and 20 years, as compared to those that had been trading for less than a year. Again, the increase was more modest for businesses trading in excess of 21 years.
Size of business was also associated with problem incidence, with the lowest likelihood of problems associated with single-person businesses, followed by other micro businesses and then small businesses. Number of business relationships also had some association with the likelihood of reporting tax related problems, with problems more likely for businesses with more relationships. However, this finding was less clear-cut than for other problem types.

Finally, both BME and disabled controlled businesses were associated with an increase in the likelihood of problems concerning tax.

**Problems concerning employment**

Problems concerning employment were most likely in the education sector and least common in the finance, insurance and real estate sector. Such problems were also much more likely to be reported by public limited companies, as compared to sole traders, but less likely to be reported by partnerships.

Problem incidence increased with increasing turnover. It was also associated with profitability, with unprofitable businesses more likely to report problems concerning employment than profitable businesses (and those unsure about profits falling between the two).

Legal services, HR retainer contracts and internal legal expertise were also all associated with large, highly significant increases in the likelihood of businesses reporting problems. However, the number of years businesses had been trading was not associated with problems concerning employment, once other factors were controlled for.

Unsurprisingly, business size was a key predictor of problems concerning employment, with single-person businesses very much the least likely to report such problems. Small businesses with 10 or more employees were most likely to report problems concerning employment. Thus, while just 2.7% of single-person businesses reported problems concerning employment, the figure rose to 19.6% for other micro businesses and 48.0% for other small businesses.

While not neatly linear, there was some evidence of an association between number of business relationships and problems concerning employment, with, in particular, businesses with fewer than five relationships least likely to report problems.

Finally, BME controlled businesses were associated with a significantly higher likelihood of reporting problems concerning employment, while disability status had little effect.

**Problems concerning business premises**

Businesses in the construction and finance/insurance/real estate sectors and, particularly, those in the primary sector were most likely to report problems
concerning business premises. Such problems were least likely in the ‘other business/public administration/defence’ sector, though the majority of sectors were broadly comparable in terms of problem prevalence.

Legal status had relatively little effect on the prevalence of problems concerning business premises, compared to other problem types.

Turning to turnover, businesses with a turnover less than £50,000 were far less likely to report problems concerning business premises than most of those with higher turnover. However, prevalence did not increase steadily with turnover, with the increase for the ‘£1,000,000 or more’ turnover category not reaching significance (when compared to turnover less than £50,000).

Whether or not firms were profitable was also related to the likelihood of reporting problems, with unprofitable businesses significantly more likely than profitable businesses to report problems (and with the likelihood of reporting problems for those who were unsure falling between the two).

Legal services, HR retainer contracts and internal legal expertise were also all associated with highly significant increases in the likelihood of businesses reporting problems concerning business premises.

There was some evidence that the number of years businesses had been trading related to likelihood of problems, with those trading for less than a year least likely to report problems. However, overall differences were fairly modest. Similarly, while the number of business relationships had some association with the likelihood of experiencing problems concerning business premises, the relationship was rather muddled.

In contrast, business size was clearly associated with the experience of problems concerning business premises, with multiple person micro businesses far more likely than single person businesses to report problems, and other small businesses more likely still.

Finally, both BME and disabled controlled businesses were associated with a significant increase in the likelihood of problems concerning business premises.

Problems concerning debt

There was some variation in the likelihood of businesses in different sectors reporting problems concerning debt. Such problems were most common in the construction, wholesale and retail trade and primary sectors, and least likely in the health and not-for-profit/voluntary sectors. There was also some modest variation by legal status, with problems least likely for partnerships and businesses with an ‘other’ status and somewhat more common for private limited companies.

While turnover was associated with problems concerning debt, the pattern was not particularly coherent (i.e. businesses with turnover of £1,000,000 or more or unknown turnover were least likely to report problems
and businesses with between £50,000 and £99,999 turnover most likely). In contrast, the relationship between whether or not firms were profitable and problems paying creditors was entirely clear, with unprofitable firms highly significantly more likely than profitable firms to report problems (and with those who were unsure falling between the two).

Businesses that had legal services retainer contracts, internal legal expertise and, in particular, HR services retainer contracts were all associated with highly significant increases in the likelihood of reporting problems concerning debt.

Turning to the number of years businesses had been trading, businesses that had been trading for less than a year were least likely to report problems, and highly significantly less likely than all other ‘years trading’ groups. Differences between other ‘years trading’ groups were far smaller, and there was no evidence that the risk of problems increasing consistently along with years trading.

There was also some association between size of firm and the likelihood of problems concerning debt, with problems least likely for single-person businesses, more common for other micro businesses and most common for other small businesses. However, the association between size and problem incidence was not as strong or significant as for the majority of other problem types. Also, the number of business relationships had little association with the likelihood that businesses would report problems concerning debt.

Finally, BME controlled businesses were associated with an increased likelihood of experiencing debt problems, but no significant difference was observed in the case of disabled controlled businesses.

Problems concerning intellectual property

The likelihood of businesses reporting problems concerning intellectual property varied significantly by sector. The transport/communication and production sectors were associated with the highest likelihood of problems, while sectors such as education and finance/insurance/real estate saw relatively few problems. There were also significant variations in the likelihood of reporting problems by legal status, with public limited companies most likely to report problems, and partnerships and businesses with an ‘other’ status the least.

There was limited evidence of an association between turnover and problems concerning intellectual property, and while businesses with turnover in excess of £50,000 were somewhat more likely than businesses with turnover less than £50,000 to report problems, the difference was comparatively small. There was no evidence that problem prevalence increased further as turnover increased. However, there was an association between profitability and the likelihood of reporting problems concerning intellectual property. Unprofitable
businesses were significantly more likely to report problems, though the difference was smaller than for many other problem types and there was little or no difference between profitable businesses and those that were unsure whether or not they were profitable.

Legal and HR services retainer contracts and internal legal expertise were all associated with highly significant increases in the likelihood of businesses reporting problems. In contrast, the number of years businesses had been trading had little bearing on the likelihood of them reporting problems, and while there was some variation in incidence by number of business relationships, the pattern of differences was fairly incoherent (though businesses with between 1 and 9 relationships appeared least likely to report problems and significantly less likely than those with a large number of relationships (50 or more)). Multiple person micro businesses and other small businesses were both significantly more likely than single person businesses to report problems, though there was little difference in incidence between multiple person micro and other small businesses.

Finally, both BME and disabled controlled businesses were associated with a highly significant increase in the likelihood of businesses reporting problems concerning intellectual property.

Problems concerning regulation

‘Other business/public administration/defence’ and consultancy service sector businesses were least likely to report problems concerning regulation, while construction and, particularly, primary sector businesses were most likely to do so. There were also significant variations in the likelihood of businesses reporting problems concerning regulation by legal status, with the highest likelihood for public limited companies, and lowest for businesses with an ‘other’ status.

Businesses with the lowest turnover (less than £50,000) were also least likely to report problems. However, there was no evidence of the likelihood of problems increasing consistently with turnover. Whether or not businesses were profitable was also associated with the likelihood of businesses reporting problems, with unprofitable businesses more likely than other businesses to do so.

Legal and HR services retainer contracts and, particularly, internal legal expertise were all associated with highly significant increases in the likelihood of businesses reporting regulation problems.

With regard to the number of years businesses had been trading, problem prevalence was at its lowest for businesses that had been trading for less than a year and at its highest for businesses trading for 3 to 5 years, though overall differences were fairly small. In contrast, business size had a highly significant association with regulation issues, with multiple person micro businesses and,
particularly, other small businesses more likely than single-person businesses to report problems. There was also evidence of a relationship between the number of business relationship and the likelihood of reporting problems. Specifically, those businesses with no business relationships or a small number (1-4) were least likely to report problems, and significantly less likely than those with a large number of business relationships (50 or more).

Finally, disabled and, particularly, BME controlled businesses were associated with a highly significant increase in the likelihood of reporting problems concerning regulation.

Problems concerning structure/ownership

Transport/communication and primary sector businesses were particularly likely to report problems concerning business structure/ownership. In contrast, education sector businesses were least likely to do so. There was also some variation in incidence with legal status, with the highest likelihood of problems associated with public limited companies. Businesses with an 'other' status had the lowest likelihood of reporting problems concerning structure/ownership.

Looking at turnover, businesses with turnover of less than £50,000 were least likely to report problems concerning structure/ownership. However, beyond this difference there was no evidence of the likelihood of problems increasing consistently with increasing turnover.

Whether or not businesses were profitable was also related to the likelihood of reporting problems, with unprofitable businesses significantly more likely to have experienced problems concerning structure/ownership.

Legal and, particularly, HR services retainer contracts and internal legal expertise were all associated with large, significant increases in the likelihood that businesses reported problems. The number of years a business had been trading also had a significant effect on the likelihood of reporting problems. Specifically, businesses that had been trading for less than a year were most likely to report problems with structure, with problems becoming increasingly less likely as the number of years businesses had been trading increased.

Business size was also a highly significant predictor of problems, with other multiple person micro businesses and, particularly, other small businesses highly significantly more likely than single-person businesses to report problems concerning business structure/ownership. Such problems were also broadly related to the number of business relationships businesses had, with businesses with no relationships having by far the fewest problems, and the likelihood of problems generally increasing with the number of relationships.

Finally, disabled and, particularly, BME controlled businesses were associated with a highly significant increase in the likelihood of problems concerning structure/ownership.
‘Other’ problems

Transport/communication and primary sector businesses were the most likely to report ‘other’ problems, while not-for-profit/voluntary sector businesses were the least likely. Legal status was also significantly related to the likelihood of businesses reporting such problems, with private limited companies and, particularly, partnerships significantly less likely than sole traders (the reference category) to report problems. In contrast, public limited companies had the highest likelihood of reporting ‘other’ problems.

There was little evidence of differences in problem prevalence by businesses turnover, though profitability was a significant predictor. Unprofitable businesses were more likely to report problems than others.

Legal and HR services retainer contracts and internal legal expertise were all related to large, highly significant, increases in the likelihood of reporting problems.

There was little evidence of the number of years businesses had been trading having any bearing on problem incidence, but size of business was a highly significant predictor of ‘other’ problem reporting, with multiple person businesses and other small businesses both highly significantly more likely than single-person businesses to report problems (though there was no difference between multiple person micro and other small businesses).

Problem incidence was also broadly related to number of business relationships, with the likelihood of businesses reporting a problem particularly low for those with no relationships and generally rising with the number of business relationships.

Finally, disabled and, particularly, BME controlled businesses were associated with a highly significant increase in the likelihood of problems concerning structure/ownership.

The Experience of Problems in Multiple Categories

Table 3.2 illustrates the extent to which problems of different types occur in combination. For each problem type (row), the table columns show how often businesses also reported problems of other types. So for example, of 760 businesses reporting problems with business premises, 304 (34.7 per cent) also reported problems concerning employment.

As shown in Table 3.2, it was common for trading problems to be reported as accompanying all other types of problems, with the highest overlap with intellectual property and ‘other’ problems. However, looking at the trading problem row, businesses reporting trading problems were less likely than business facing all other problem types to report each other problem type. This suggests that while trading problems were very common, they did not tend to cluster with other problem types, and experiencing trading problems did not
increase the likelihood of experiencing other problems types to the same extent as for other problems.
Table 3.2 - Extent to which problems of different types occur in combination, illustrating the number and percentage of those reporting each row problem types also reporting each of the column problems.

<table>
<thead>
<tr>
<th>Problem type</th>
<th>Trading (1,314)</th>
<th>Tax (419)</th>
<th>Employ’y (181)</th>
<th>Business premises (252)</th>
<th>Debt (160)</th>
<th>Intellectual property (175)</th>
<th>Regulation (257)</th>
<th>Structure (172)</th>
<th>Other (95)</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>%</td>
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<td>%</td>
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<td>%</td>
</tr>
<tr>
<td>Trading (2,429)</td>
<td>- - 444 18.3 478 19.7 420 17.3 187 7.7 304 12.5 398 16.4 289 11.9 205 8.4</td>
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<tr>
<td>Tax (842)</td>
<td>444 52.7 - - 291 34.5 272 32.3 179 21.2 182 21.6 297 35.3 201 23.8 156 18.5</td>
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<tr>
<td>Employment (876)</td>
<td>478 54.6 291 33.2 - - 304 34.7 135 15.4 212 24.2 296 33.8 248 28.3 170 19.4</td>
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<tr>
<td>Business premises (760)</td>
<td>420 55.2 272 35.8 304 40.0 - - 160 21.0 202 26.6 263 34.6 214 28.1 153 20.2</td>
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<tr>
<td>Debt (363)</td>
<td>187 51.5 179 49.2 135 37.2 160 44.0 - - 88 24.1 111 30.7 90 24.8 80 22.0</td>
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<tr>
<td>Intellectual property (467)</td>
<td>304 64.9 182 38.9 212 45.4 202 43.3 88 18.7 - - 191 40.8 164 35.1 150 32.2</td>
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<tr>
<td>Regulation (668)</td>
<td>398 59.6 297 44.5 296 44.3 263 39.4 111 16.7 191 28.5 - - 219 32.7 157 23.4</td>
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<tr>
<td>Structure (501)</td>
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<tr>
<td>Other (297)</td>
<td>205 69.0 156 52.4 170 57.4 153 51.7 80 26.8 150 50.6 157 52.8 150 50.4 - -</td>
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</table>

Table 3.3 - Extent to which problems experienced by single person businesses occur in combination, illustrating the number and percentage of those reporting each row problem types also reporting each of the column problems.

<table>
<thead>
<tr>
<th>Problem type</th>
<th>Trading (1,314)</th>
<th>Tax (419)</th>
<th>Employ’y (181)</th>
<th>Business premises (252)</th>
<th>Debt (160)</th>
<th>Intellectual property (175)</th>
<th>Regulation (257)</th>
<th>Structure (172)</th>
<th>Other (95)</th>
</tr>
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<tr>
<td>N</td>
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<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
</tr>
<tr>
<td>Trading (1,314)</td>
<td>- - 169 12.9 79 6.0 119 9.0 58 4.4 88 6.7 119 9.0 78 5.9 54 4.1</td>
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</tr>
<tr>
<td>Tax (419)</td>
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</tr>
<tr>
<td>Employment (181)</td>
<td>79 43.9 52 28.8 - - 43 23.7 23 12.8 34 19.0 45 25.0 39 21.3 31 17.0</td>
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</tr>
<tr>
<td>Business premises (252)</td>
<td>119 47.0 78 30.7 43 17.0 - - 60 23.8 49 19.3 59 23.4 45 17.9 33 12.9</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Debt (160)</td>
<td>58 36.6 66 41.5 23 14.5 60 37.6 - - 18 11.1 27 17.1 17 10.8 18 11.0</td>
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<tr>
<td>Intellectual property (175)</td>
<td>88 50.1 33 19.0 34 19.7 49 27.9 18 10.2 - - 36 20.4 32 18.6 32 18.5</td>
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<tr>
<td>Regulation (257)</td>
<td>119 46.3 93 36.4 45 17.6 59 23.1 27 10.6 36 13.9 - - 50 19.4 28 11.1</td>
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<tr>
<td>Structure (172)</td>
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<tr>
<td>Other (95)</td>
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</table>
Table 3.4 - Extent to which problems experienced by other micro businesses occur in combination, illustrating the number and percentage of those reporting each row problem types also reporting each of the column problems.

<table>
<thead>
<tr>
<th>Problem type</th>
<th>Trading</th>
<th>Tax</th>
<th>Employ't</th>
<th>Business premises</th>
<th>Debt</th>
<th>Intel. property</th>
<th>Regulation</th>
<th>Structure</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>%</td>
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<td>%</td>
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<td>N</td>
<td>%</td>
</tr>
<tr>
<td>Trading (925)</td>
<td>-</td>
<td>-</td>
<td>215</td>
<td>23.3</td>
<td>288</td>
<td>31.2</td>
<td>235</td>
<td>25.4</td>
<td>102</td>
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<tr>
<td>Tax (353)</td>
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<td>60.9</td>
<td>-</td>
<td>-</td>
<td>180</td>
<td>51.0</td>
<td>153</td>
<td>43.4</td>
<td>90</td>
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<td>Employment (507)</td>
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<td>180</td>
<td>35.5</td>
<td>-</td>
<td>-</td>
<td>193</td>
<td>38.1</td>
<td>88</td>
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<td>Business premises (409)</td>
<td>235</td>
<td>57.5</td>
<td>153</td>
<td>37.5</td>
<td>193</td>
<td>47.2</td>
<td>-</td>
<td>-</td>
<td>78</td>
</tr>
<tr>
<td>Debt (170)</td>
<td>102</td>
<td>59.7</td>
<td>90</td>
<td>52.9</td>
<td>88</td>
<td>51.8</td>
<td>78</td>
<td>45.8</td>
<td>-</td>
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<tr>
<td>Intellectual property (237)</td>
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<td>72.4</td>
<td>117</td>
<td>49.5</td>
<td>135</td>
<td>57.0</td>
<td>122</td>
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<td>54</td>
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<td>Regulation (332)</td>
<td>220</td>
<td>66.4</td>
<td>164</td>
<td>49.3</td>
<td>187</td>
<td>56.3</td>
<td>156</td>
<td>47.0</td>
<td>66</td>
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<tr>
<td>Structure (266)</td>
<td>168</td>
<td>62.9</td>
<td>124</td>
<td>46.7</td>
<td>162</td>
<td>60.8</td>
<td>133</td>
<td>50.0</td>
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<td>Other (170)</td>
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<td>73.5</td>
<td>101</td>
<td>59.5</td>
<td>112</td>
<td>66.0</td>
<td>97</td>
<td>56.8</td>
<td>46</td>
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</table>

Table 3.5 - Extent to which problems experienced by other small businesses occur in combination, illustrating the number and percentage of those reporting each row problem types also reporting each of the column problems.

<table>
<thead>
<tr>
<th>Problem type</th>
<th>Trading</th>
<th>Tax</th>
<th>Employ't</th>
<th>Business premises</th>
<th>Debt</th>
<th>Intel. property</th>
<th>Regulation</th>
<th>Structure</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
<td>N</td>
<td>%</td>
</tr>
<tr>
<td>Trading (191)</td>
<td>-</td>
<td>-</td>
<td>60</td>
<td>31.2</td>
<td>111</td>
<td>58.1</td>
<td>66</td>
<td>34.8</td>
<td>27</td>
</tr>
<tr>
<td>Tax (79)</td>
<td>60</td>
<td>75.4</td>
<td>-</td>
<td>-</td>
<td>59</td>
<td>74.2</td>
<td>41</td>
<td>52.5</td>
<td>22</td>
</tr>
<tr>
<td>Employment (189)</td>
<td>111</td>
<td>58.6</td>
<td>59</td>
<td>31.0</td>
<td>-</td>
<td>-</td>
<td>68</td>
<td>35.8</td>
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<tr>
<td>Business premises (99)</td>
<td>66</td>
<td>67.0</td>
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<td>41.9</td>
<td>68</td>
<td>68.4</td>
<td>-</td>
<td>-</td>
<td>22</td>
</tr>
<tr>
<td>Debt (33)</td>
<td>27</td>
<td>81.3</td>
<td>22</td>
<td>67.3</td>
<td>24</td>
<td>71.4</td>
<td>22</td>
<td>65.9</td>
<td>-</td>
</tr>
<tr>
<td>Intellectual property (56)</td>
<td>44</td>
<td>79.7</td>
<td>31</td>
<td>56.6</td>
<td>43</td>
<td>77.1</td>
<td>31</td>
<td>56.3</td>
<td>16</td>
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<tr>
<td>Regulation (80)</td>
<td>59</td>
<td>73.9</td>
<td>41</td>
<td>50.6</td>
<td>64</td>
<td>79.9</td>
<td>48</td>
<td>60.2</td>
<td>19</td>
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<tr>
<td>Structure (63)</td>
<td>43</td>
<td>69.1</td>
<td>36</td>
<td>57.9</td>
<td>48</td>
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<td>75.5</td>
<td>27</td>
<td>87.7</td>
<td>24</td>
<td>76.7</td>
<td>17</td>
</tr>
</tbody>
</table>
Elsewhere, businesses that were facing debt problems or had ‘other’ problems were more likely than businesses facing other problems to also report tax problems, while those with business structure problems, and particularly those with ‘other’ problems, were more likely to also report issues concerning employees.

Those businesses with debt problems, problems concerning business structure, issues with intellectual property and ‘other’ problems commonly reported problems with business premises, while those with tax, business premises and ‘other’ problems more commonly reported debt problems.

The experience of problems concerning intellectual property was by far the most common for businesses reporting ‘other problems’, while issues with regulation were most common for those reporting problems concerning intellectual property, business structure and, again, ‘other’ problems. Finally, businesses reporting intellectual property, regulation and ‘other’ problems were more likely than businesses facing other problems to also report problems concerning business structure, while ‘other’ problems were most common for businesses that reported problems concerning intellectual property.

Tables 3.3 to 3.5 set out problem overlap for single person businesses, other micro businesses and other small businesses respectively. As with Table 3.2, for each problem type (row), the table columns show how often businesses also reported problems of other types. For example, 23.4 per cent of single person businesses that reported problems concerning business structure also reported problems concerning tax.

Generally, as can be seen by comparing Table 3.3 to 3.5, there was a significantly greater degree of problem overlap as business size increased. This was a simple consequence of the strong relationship between number of problems and size of business.

Problem clustering

Hierarchical cluster analysis\textsuperscript{21} was used to further explore how problems of different types overlap and cluster together. The dendrogram in Figure 3.9 represents the cluster analysis output. The closer the ‘forks’ or ‘branches’ are to the left of the dendrogram, the stronger the association between problem types was found to be.

As shown in Figure 3.9, tax and regulation problems were closely related, and formed a broader cluster with problems concerning employment and

\textsuperscript{21}Hierarchical cluster analysis was used to establish general and underlying connections between different problem types. Average between groups linkage was employed as the clustering method, with similarities between problems measured using Jaccard scores. The dendrogram presented in Figure 3.9 illustrates the complete clustering procedure and the divisions made at each stage of analysis.
business premises. Problems concerning intellectual property, ‘other’ issues and business structure also formed a problem cluster.

In contrast, trading and debt related problems did not belong to a well-defined problem cluster. In the case of trading problems, this suggested that despite being the most common problem type, and frequently occurring alongside other problem types (as shown in Table 3.2) they are not linked to other problems in a defined or predictable way. Rather they simply occur very frequently and commonly overlap with other problems as a result, without producing a discernible clustering pattern.

![Dendrogram illustrating how problem types tended to cluster together](image)

**Figure 3.9 - Dendrogram illustrating how problem types tended to cluster together**

**Problem clustering by size of business**

Exploring problem clustering further by size of business highlighted some differences. As with the overall picture (Figure 3.9), for single person businesses, tax and regulation problems were closely related. However, problems with business premises and inability to pay creditors were also related, forming a broader cluster with tax and regulation problems. Intellectual property and ‘other’ problems were again related, though not as strongly as in the overall analysis, as were problems concerning employment and business structure. Intellectual property, ‘other’ problems, problems concerning employment and business structure problems also formed a broader cluster. As with the overall picture, while common, trading problems did not belong to a defined cluster with other problem types.

Tax and regulation problems were also strongly related for other micro businesses, and formed a broader cluster with problems concerning employment and business premises. Intellectual property and ‘other’ problems were again
closely related, and formed a cluster with problems concerning business structure. For other micro businesses, neither trading problems nor debt problems belonged to a defined cluster.

Unlike single person and other micro businesses, where trading did not cluster with other problem types, for other small businesses there was a strong relationship between trading and employee problems. Problems with regulation and structure were also strongly related, and formed a broader cluster with tax, intellectual property and business premises problems. Finally, for other small businesses, there was also some evidence of a relationship between other problems and debt problems.

Common clusters overall, and by size of business are shown in Table 3.6.

<table>
<thead>
<tr>
<th>Table 3.6 – Common problem type clusters (derived using hierarchical cluster analysis) overall and by size of business</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Common Clusters</strong></td>
</tr>
<tr>
<td><strong>All businesses</strong></td>
</tr>
<tr>
<td>Tax, Regulation, Employment, Business premises</td>
</tr>
<tr>
<td>Intellectual property, Other, Structure</td>
</tr>
<tr>
<td><strong>Single person businesses</strong></td>
</tr>
<tr>
<td>Tax, Regulation, Business premises, Debt</td>
</tr>
<tr>
<td>Intellectual property, Other, Employment, Structure</td>
</tr>
<tr>
<td><strong>Other micro businesses</strong></td>
</tr>
<tr>
<td>Tax, Regulation, Employment, Business premises</td>
</tr>
<tr>
<td>Intellectual property, Other, Structure</td>
</tr>
<tr>
<td><strong>Other small businesses</strong></td>
</tr>
<tr>
<td>Trading, Employment</td>
</tr>
<tr>
<td>Regulation, Structure, Tax, Intellectual property, Business premises</td>
</tr>
<tr>
<td>Debt, Other</td>
</tr>
</tbody>
</table>

The Parties and Perceptions of Fault

48.8% of the sample small businesses’ problems concerned other businesses, 18.7% individual members of the public, 17.3% government, 10.6% employees and 7.1% other types of body (e.g. regulators, shareholders, partners, etc.).

22.5% of problems faced by single person businesses were with individual members of the public, compared to 16.0% for other micro businesses and 12.5% for other small businesses. In contrast, businesses with between 10 and 49 employees were most likely to have faced problems with employees (29%, compared to just 3.3% for single person businesses and 16.1% for other micro businesses).
Problems with other businesses most often concerned trading (65.4% did so), as did problems with individual members of the public (58.2% did so). Problems concerning a government body most often concerned tax (45.7% did so). Problems with employees most often concerned employment (66.9% did so).

48.0% of problems were said to have concerned something that 'the other side' had done wrong, 16.7% something that the respondent business had done wrong, 2.2% things that both sides thought the other had done wrong and 33.1% something that did not involve attribution of blame between parties.

The other side was more likely to have thought a problem was the fault of a respondent business if it was an individual member of the public (25.9% vs. 15.7%) or a government body (30.1% vs. 15.0%). In contrast, problems were more likely to be attributed to the other side if they were other businesses (60.9% vs. 33.6%).

This linked to problem type. For example, the other side much more often saw the respondent business as having caused problems in the case of problems concerning tax (32.3% vs. 14.7%).

Single person businesses were more likely to report that problems had been caused by the other side doing something wrong. 51.0% of single person businesses did so, compared to 45.7% of other micro businesses and 43.1% of other small businesses.

The Character and Severity of Legal Problems

As with the English and Welsh Civil and Social Justice Panel Survey, questions were included in the survey to explore how problems were characterised by respondents and how serious they were perceived to be.

Respondents were asked which of a range of descriptions best characterised their problem. Overall responses are set out in Figure 3.10.22 As can be seen, fewer than one in five problems was characterised as 'legal'.

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22 A small minority of problems (12.7%) were characterised in more than one way.
Looking at businesses of different sizes, Figure 3.11 shows that relatively little difference was evident as regards problem characterisation.
However, as Figure 3.12 shows, characterisation varied substantially between different problem categories. So, for example, while just 8.4% of problems concerning trading were characterised as legal, the figure was 48.2% for problems concerning intellectual property.\textsuperscript{23}

Turning to severity, single person businesses reported a greater proportion of problems rated in the least serious quartile (27.9%, compared to 21.2% for others).\textsuperscript{24} Problems concerning trading were also more often rated in the least serious quartile (33.6%), and less often in the most serious quartile (19.5%). Problems concerning business structure/ownership (15.2%) and business premises (16.9%) were least often rated in the least serious quartile, and more commonly featured higher up the severity scale. No other notable differences were apparent.

The Duration of Legal Problems

The Small Business Legal Needs Benchmarking Survey collected data concerning the duration of problems. As noted above, not all problems had concluded by the time of interview. However, we were able to include all problems in our analysis, so as not to disregard lengthier problems. We conducted an event history

\textsuperscript{23} \chi^2=265.16, p<0.001.

\textsuperscript{24} \chi^2=28.35, p<0.001.
analysis (also commonly known as survival analysis\textsuperscript{25}) to model problem duration by problem type and by whether or not respondents obtained legal advice. Further details and model output are set out in the statistical appendix.

The model in the statistical appendix was used to derive a survivor function which sets out how long problems of different types lasted. This is illustrated in Figures 3.13 and 3.14, which show the extent to which problems of different types without legal advice remained on-going over time (Figure 3.13) and the extent to which problems of different types with legal advice remained on-going over time (Figure 3.14).

There was significant variation in the extent to which problems of different types remained on-going over time. As can be seen in both figures, employment and trading problems tended not to last as long as other problem types. After two years, just over 20\% of these problems remained where no legal advice was obtained, and just over 30\% where advice was obtained. Other problems tended to last longest, with just under 50\% on-going after two years where no legal advice was obtained and just under 60\% where legal advice was obtained. The remaining problem types were broadly comparable in terms of duration.

Comparing figures 3.13 and 3.14 also illustrates that obtaining legal advice was related to significantly longer problem durations, presumably reflecting the different nature of problems about which legal advice is obtained.

\textbf{Figure 3.13 - Proportion of problems of different types that remained on-going over time (where no legal advice was obtained). Note that ‘Tax’ follows an almost identical path to ‘Business premises’ and is obscured behind it.}

\textsuperscript{25} For example, see Singer, J.D. and Willett, J.B. (1993)
Figure 3.14 - Proportion of problems of different types that remained on-going over time (where legal advice was obtained). Note that ‘Tax’ follows an almost identical path to ‘Business premises and is obscured behind it.
The Impact of Legal Problems

Summary
This section sets out details of the impact of legal problems. 45.1% of problems had a tangible impact on the sample small businesses, with significant differences in the likelihood of different problem types doing so.

Problems concerning business structure/ownership most often negatively impacted on businesses (59.6%). Other factors associated with negative impact were businesses’ legal status, sector, whether or not businesses contained legal expertise, had retainer agreements for legal services or had retainer agreements for HR/employment services, and whether or not businesses were BME or disabled controlled. No association was found between problems having had negative consequences and business size.

Adverse consequences most frequently involved loss of income (22.1%), followed by the incurring of additional costs (10.2%), damage to reputation (7.9%), loss of customers/contracts (7.1%) and damage to relationships with other businesses (6.6%).

A few differences were observed in the types of impact reported by businesses of different sizes. For example, larger small businesses more often reported that problems led to the loss of employees.

Where problems were reported to have consequences, the mean number of consequences was 1.5. There was no difference in this regard between businesses of different size or between problem categories.

The percentage of problems of different types that brought about each type of adverse consequence varied considerably. For example, problems concerning trading and intellectual property more often led to loss of income. Problems concerning tax and regulation were associated with the incurring of additional costs.

Excluding ten values of £1 million or more, the mean monetary value of adverse consequences was £13,812 (median = £1,235).

Different types of adverse consequence were associated with different levels of value, with problems that led to businesses having to cease trading among those associated with the highest values. Legal status, sector, number of years trading, turnover, problem type, legal expertise and businesses retaining legal services were also significantly associated with impact value. No association was found between the value of consequences and business size, or whether businesses were BME or disabled controlled.

18.2% of the 3,640 problems about which data was available adversely affected the health of one or more people in the business concerned. There were substantial differences in this regard between different problem categories.

As part of the Small Business Legal Needs Benchmarking Survey, respondents were asked whether and how one sample problem (randomly selected from the problems each business reported) had impacted on their business and those within their business. This section sets out details of the impact of legal

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26 The problem for follow-up was the most recent problem experienced in a randomly selected category of problems where problems had been identified through earlier questions. Owing to the different rates
problems. In this section findings are based on weighted data, so that the sample of problems matched the problems reported overall.\textsuperscript{27} Findings relating to specific problem types are weighted as in previous sections.

\textit{The Impact of Legal Problems on Small Businesses}

46.5\% of the problems that the sample small businesses reported were said to have had a tangible impact on businesses.

Multivariate analysis (binary logistic regression) was used to investigate the factors lying behind whether or not problems had a tangible impact on businesses. The analysis looked at impact in relation to business size, problem type, legal status, sector, turnover, profitability, legal expertise, legal services and HR/employment services retainers, number of years trading, number of business relationships, and BME and disabled control of businesses. Output is set out in the statistical appendix.

The analysis indicated that there was no significant difference in the likelihood of businesses of different sizes being adversely affected by problems. However, there were significant differences in the likelihood of different types of problem impacting on businesses. So, as suggested by Figure 4.1, problems concerning tax related problems were least likely to impact on businesses, while problems concerning regulation and business structure/ownership were most likely to do so. In raw data terms, 59.6\% of problems concerning structure/ownership brought about adverse consequences, and 54.0\% of problems concerning regulation 54.0\%. The corresponding figure for tax related problems was just 33.9\%.

Businesses’ legal status was also associated with problems having had an impact, with problems faced by public limited companies much more often having done so. Using the regression model output, problems faced by public limited companies were found to be 85\% more likely to have negative consequences than problems faced by sole traders.

Business sector was also linked to problems having had an impact. The primary and transport and communication sectors were associated with an increased likelihood of problems adversely impacting on businesses. The reverse was the case for the health sector.

\textsuperscript{27} The volume of all problems reported was used as the basis for determining weights. When data were weighted, the total number of problems followed-up in detail was 3,640. This figure accounts for the sample structure and the actual proportions of problems reported.
Legal capability was also associated with problems having had an impact. So, problems were more likely to have had adverse consequences where businesses contained people with legal expertise, had retainer agreements for legal services or had retainer agreements for HR/employment services. In each case, problems were more than 50% more likely to have negative consequences.

Finally, problems were found to have been more likely to impact on businesses that were BME or disabled controlled.

![Figure 4.1 – Likelihood of tangible adverse impact by problem type](image)

No association was found between problems having had negative consequences and turnover, number of years trading, or number of business relationships.

Types of Impact

As can be seen from Figure 4.2, the most common impact was on income (22.4%), followed by the incurring of additional costs (10.2%), damage to reputation (7.9%), loss of customers/contracts (7.1%) and damage to relationships with other businesses (6.6%).

For most types of adverse consequence there was little difference in the pattern of reported impact by businesses of different sizes. However, as would be expected, larger small businesses more often reported that problems led to the loss of employees.\(^{28}\) So, whereas just 0.6% of problems reported by single person businesses resulted in the loss of employees, the figure was 2.7% for other micro businesses and 3.8% for other small businesses.

\(^{28}\) Excluding through disciplinary processes/redundancy.
Larger small businesses also more often reported that problems led to restructuring or additional costs. However, smaller businesses were more likely to report that problems led to a loss of income.

Where problems were reported to have consequences, the mean number of types of consequence was 1.6. Of problem that had consequences, 66.8% of had just one type of consequence, 19.3% had two types, 7.5% had three types and the remainder had 4 or more. There was no difference in this regard between businesses of different sizes. Neither was there any significant difference observed between problem categories.29

Table 4.1 shows the percentage of problems in each problem category that brought about each type of adverse consequence. As can be seen, the impact pattern of different problem categories varied considerably. For example, problems concerning trading and intellectual property more often led to loss of income. Problems concerning tax and regulation were associated with the incurring of additional costs. Problems concerning employment were more likely than others to impact on capacity to undertake work.

The Economic Impact of Legal Problems on Small Businesses

As well as being asked about the nature of the consequences of problems, respondents were also asked about the monetary value of adverse consequences.

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29 This is not to say that there is no difference between the patterns of impact of different problem types, in terms of number of types of impact. Some problem categories were poorly represented in this analysis (in numerical terms). Any future survey that collects data about a greater number of the rarer problem categories might shed different light.
Excluding ten values of £1 million or more, the mean value of adverse consequences for followed-up problems was £13,812, or £6,735 if the value was set at zero if no value was stated.\textsuperscript{30} The median (for stated values) was £1,235.

If the value of the adverse consequences of problems (assuming it was zero if no value was stated) is scaled up to the volume of all problems and the population of all United Kingdom businesses, it points to a loss to small businesses that may be more than £100 billion per year.

\textsuperscript{30} The highest values were excluded owing to the disjunct between the values provided and the nature of some of the businesses. For example, 5 businesses reporting impact valued at £1m or more had turnover of less than £50k. Including all cases, the mean was £88,825.71.
<table>
<thead>
<tr>
<th>Type of impact</th>
<th>Problem type</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Trading</td>
</tr>
<tr>
<td>Loss of customers/contracts</td>
<td>8.8%</td>
</tr>
<tr>
<td>Loss of income</td>
<td>24.5%</td>
</tr>
<tr>
<td>Additional costs</td>
<td>6.7%</td>
</tr>
<tr>
<td>Inability to take on new work</td>
<td>2.6%</td>
</tr>
<tr>
<td>Inability to complete scheduled work</td>
<td>6.8%</td>
</tr>
<tr>
<td>Damage to property</td>
<td>0.9%</td>
</tr>
<tr>
<td>Damage to reputation</td>
<td>5.7%</td>
</tr>
<tr>
<td>Business relationship damaged</td>
<td>5.8%</td>
</tr>
<tr>
<td>Loss of employees</td>
<td>0.4%</td>
</tr>
<tr>
<td>Had to cease trading</td>
<td>0.4%</td>
</tr>
<tr>
<td>Change in structure/ownership</td>
<td>0.4%</td>
</tr>
<tr>
<td>None of these</td>
<td>55.7%</td>
</tr>
<tr>
<td>Weighted N=</td>
<td>1,711</td>
</tr>
</tbody>
</table>

*Table 4.1 – Impact of Problems by Category of Problem*
Table 4.2 shows the percentage of values attributed to adverse consequences in bands. As can be seen, a value of less than £500 was attributed to almost one-third of problems that brought about adverse consequences. At the other end of the scale, a value of £10,000 or more was attributed to more than one in five of such problems.

Table 4.2. Businesses’ Estimates of the Monetary Costs of Adverse Consequences

<table>
<thead>
<tr>
<th>Monetary value</th>
<th>Where specified</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>N</td>
<td>%</td>
</tr>
<tr>
<td>Less than £100</td>
<td>109</td>
<td>13.2</td>
</tr>
<tr>
<td>£100-£499</td>
<td>157</td>
<td>18.9</td>
</tr>
<tr>
<td>£500-£999</td>
<td>85</td>
<td>10.3</td>
</tr>
<tr>
<td>£1,000-£2,499</td>
<td>138</td>
<td>16.7</td>
</tr>
<tr>
<td>£2,500-£4,999</td>
<td>79</td>
<td>9.5</td>
</tr>
<tr>
<td>£5,000-£9,999</td>
<td>81</td>
<td>9.8</td>
</tr>
<tr>
<td>£10,000-£49,999</td>
<td>106</td>
<td>12.9</td>
</tr>
<tr>
<td>£50,000-£99,999</td>
<td>35</td>
<td>4.2</td>
</tr>
<tr>
<td>£100,000+</td>
<td>37</td>
<td>4.5</td>
</tr>
<tr>
<td>None reported/specified</td>
<td>868</td>
<td>-</td>
</tr>
</tbody>
</table>

Generalized linear regression (log-gamma) was used to investigate which business and problem characteristics were associated with higher value adverse consequences.

Unsurprisingly, the different types of adverse consequence were associated with different levels of value. So, where problems led to businesses having to cease trading values were, accounting for other factors, 235% higher than in the case of problems with only other negative consequences. Where problems prevented new work being taken on values were 93% higher. In contrast, where the only impact was the incurring of additional costs, values were 52% lower.

While the raw data suggested that the monetary value of adverse consequences varied by size of business – with adverse consequences of problems reported by single person businesses having a mean value of £6,237 (median = £600), rising to £19,772 (median = £2,000) for other micro businesses and £31,111 (median = £3,000) for other small businesses – the regression analysis did not find a significant difference once other factors were taken into account. However, legal status was significantly associated with impact value, with the value of adverse consequences reported by private limited companies 280% higher than those reported by sole traders.

The value of problem consequences also varied by problem type. For example, the consequences of problems concerning regulation and business structure were, after accounting for other factors, 124% and 1222% higher than those of trading problems.

31 This figure excluded values of over £1 million. Including all values, the means were £30,954, £263,480 and £73,216, respectively.
Monetary value also varied by sector – with elevated values associated with the ‘production’, ‘finance, insurance and real estate’ and ‘other business, public administration and defence’ sectors – and how many years businesses had been trading – with values highest for those trading for under less than a year. Elsewhere, businesses with the lowest turnover (less than £50,000 per year), were associated with the lowest values, as were profitable businesses.

Finally, while businesses with internal legal expertise were associated with higher value consequences, those with retainers for legal services were associated with lower value consequences. No association was found between the value of consequences and whether businesses were BME or disabled controlled.

The Health Impact of Legal Problems on Those Working in Small Businesses

As well as asking about the impact of legal problems on the businesses concerned, the Small Business Legal Needs Benchmarking Survey also asked about the health impact of problems on those within the business. 19.8% of the 3,640 problems about which data was available were said to have adversely affected the health of one or more people in the business concerned. More specifically, businesses reported that 15.8% of problems led to stress related ill-health, 4.2% to another form of mental health problem, and 4.5% to a physical health problem.

There was no significant difference in health impact as between firms of different sizes, but there were substantial differences between different problem categories.\textsuperscript{32} So, for example, while just 10.3% of trading related problems resulted in somebody becoming ill within the relevant business, the figure was more than twice as high for problems concerning business premises (25.7%), regulation (24.5%), tax (23.2%) and employment (22.7%). Moreover, it was more than three times as high for problems concerning business structure/ownership (33.3%) and more than four times as high for the small number of debt problems detailed.

\textsuperscript{32} \chi^2_{81}=178.0, p<0.001.
Responses to Legal Problems

Summary

This section sets out how businesses responded to problems. 35.6% of the 3,640 problems about which respondents were individually asked concerned trading, 12.8% intellectual property, 10.8% tax, 10.6% regulation, 9.7% business premises, 8.9% employment, 6.7% ownership/structure and the remaining 5.0% other issues.

Businesses took no action to deal with 9.0% of problems, dealt with 51.9% on their own, and obtained independent help in respect of 29.0% (15.9% in the case of help from legal services).

Not accounting for other factors, there were significant differences in the strategies adopted by businesses of different sizes. However, multivariate analysis indicated that business size had little or no bearing on whether or not businesses took action to deal with problems. The key predictors of whether or not businesses took action were profitability of businesses and problem severity. There were also some modest differences in the likelihood of taking action by business sector, legal status, number of business relationships and problem type.

There were a greater number of significant predictors of whether or not businesses that took action to resolve problems obtained legal advice. Higher turnover, having a retainer contract for legal services, greater severity and, particularly, characterisation of problems as legal were all associated with higher rates of legal advice. There were also substantial differences in legal advice rates by problem type. Beyond these key predictors, a number of other factors also had some association with the use of legal advice. These included business sector, legal status, whether or not businesses were profitable, business size and the number of related problems businesses experienced.

The most common sources of independent help made use of by small businesses in respect of legal problems were solicitors (28.5% of all advisers), followed by accountants (19.0%), trade bodies/professional associations (8.4%), barristers (5.5%) and HR/employment services (4.6%). 27.8% of small businesses had contacted legal or other support services but found them unable to help.

Businesses made use of the Internet in connection with legal problems on 43.1% of occasions, with single person businesses doing so more often than others. Most commonly, the Internet was used for obtaining information on the law or how to deal with problems (72.2% of occasions). The Internet was used most often in relation to problems concerning regulation and intellectual property.

5.9% of problems involved formal process (2.3% resulted in court or tribunal hearings). 5.8% involved online dispute resolution and 5.3% mediation or conciliation.

Looking at the 30,443 additional problems of the same type about which respondents provided aggregated data (providing the most representative overall picture of responses to problems) 30.3% involved no action, 25.8% small businesses acting on their own, 21.2% help being obtained only from colleagues/friends, and 22.7% help being obtained from an independent source. Again, solicitors were the most frequently mentioned advisers, followed by accountants, trade bodies/professional associations, barristers, debt services and other legal services.
This section sets out how businesses responded to the 3,64033 problems about which respondents were individually asked and, separately, the 30,44334 additional problems of the same types that respondents summarised their responses to. It details the broad strategies small businesses adopted to deal with legal problems, their use of informal and formal help, and their use of process. In particular, this section explores the use of solicitors and other legal services.

Findings from the Detailed Data

This sub-section sets out findings relating to 3,640 problems respondents were individually asked about. 35.6% of these problems concerned trading, 12.8% intellectual property, 10.8% tax, 10.6% regulation, 9.7% business premises, 8.9% employment, 6.7% ownership/structure and the remaining 5.0% other issues (debt problems being included in the ‘other’ problem category in this and the next section, owing to the small number of debt problems about which detailed data was collected).

Problem Resolution Strategy

As can be seen from Figure 5.1, overall, businesses took (or had so far taken) no action to deal with 9.0% of 3,461 problems about which businesses were able to provide a definitive response. In the majority of cases (51.9%), businesses dealt (or had so far dealt) with problems entirely on their own. Independent help had been obtained in respect of 29.0% of problems, 15.9% in the case of help from (traditional or dedicated) legal services.

33 4,381 unweighted.
34 34,411 unweighted.
Figure 5.1 – Strategies Adopted to Deal With Legal Problems

The pattern of behaviour was broadly similar as between those problems that had concluded and those that had not yet concluded. As would be expected, businesses had taken action to deal with a greater percentage of concluded problems (93.1% vs. 87.6%). However, advice was more commonly reported in the case of ongoing problems, reflecting the fact that ongoing problems included more intransigent problems.

Not accounting for other factors, there were significant differences in the strategies adopted by businesses of different sizes. Single person businesses more often took no action to deal with problems (9.8%), more often acted entirely on their own (57.2%) and less often obtained independent help (11.3%), particularly from legal services (10.1%) (Figure 5.2). In contrast, businesses with between 10 and 49 employees obtained help from legal services on almost one-third of occasions (31.2%), and far less often acted entirely on their own (36.9%) or took no action at all (5.0%).

\[ \chi^2 = 182.99, p<0.001. \]
Significant differences were also evident in the resolution strategies reported for different types of problem.\textsuperscript{36} So, small businesses much more often dealt with problems concerning trading entirely on their own (65.9\% vs. 44.8\%). On the other hand, problems concerning trading were the least likely to involve independent help (18.3\% vs. 35.1\%). Help from legal services was most associated with problems concerning intellectual property, employment and ownership structure (27.2\%, 25.8\% and 25.8\%, respectively, compared to 11.1\% for other categories of problem). Help from independent services other than lawyers was most associated with problems to do with tax (24.9\% vs. 11.3\%).

\textsuperscript{36}X^2_{28}=317.83, p<0.001.
Modelling Strategy

As in the case of vulnerability to legal problems, the strategies adopted by small businesses to deal with such problems were evidently influenced by a range of factors. We therefore conducted multivariate analysis (binary logistic regression) to explore the factors associated with, first, taking action to resolve problems and, then, obtaining help from a (traditional or dedicated) legal service. The range of business characteristics modelled were the same as for the vulnerability models, and comprised size, sector, legal status, turnover, profitability, years trading, number of business relationships, whether legal or HR services were retained, whether businesses had internal legal expertise and whether businesses were BME or disabled controlled. In addition, problem severity, whether problems were characterised as ‘legal, problem type and how many other problems of a similar type businesses reported were also included as factors. Statistical output can be found in the statistical appendix (Tables A11 and A12) with a short note on model interpretation at the beginning of the statistical appendix.

Modelling ‘any action’

Unlike vulnerability models, where the majority of predictors were ‘significant’, the majority of factors in the ‘any action’ model had relatively little association with whether or not businesses took action when faced with problems.
Controlling for other factors, business size had little or no bearing on whether or not businesses took action to deal with problems. The same was also true of the number of years businesses had been trading, turnover, number of problems of a similar type businesses had, whether or not problems were characterised as ‘legal’ and whether or not businesses were BME or disabled controlled.

The key predictors of whether or not businesses took action to resolve problems were profitability of businesses and problem severity. For profitability, unprofitable businesses and those who were unsure about their profitability were fairly comparable in their likelihood of taking action when faced with problems. However, profitable businesses were highly significantly more likely to take action. In percentage terms, compared to 87.3% of unprofitable businesses taking action when faced with problems, the model suggested a similar percentage for those who were unsure (87.6%), and a significant increase to 92.9% for profitable businesses. Turning to problem severity, splitting problem severity into four quartiles, the least severe quartile was associated with the lowest rate of action, with significant increases in rates of action for other quartiles, and the highest rate for the most severe quartile. In percentage terms, compared to small businesses acting to deal with 87.1% of problems in the least severe quartile, the model suggested an increase to 93.3% for the third quartile, 90.7% for the second quartile and 93.6% for the most severe quartile.

There were also some modest differences in the likelihood of taking action by sector, legal status of businesses, number of business relationships and between problems of different types. For sector, while the majority of differences were non-significant, construction sector businesses were the least likely to take action, and significantly less likely than those in the ‘other businesses/public administration/defence’ sector (the reference category in the model). In contrast, consultancy sector businesses were most likely to take action. For example, compared to an ‘other businesses/public administration/defence’ sector business with a 91.0% chance of taking action for a problem (which is the percentage for problems as a whole), the model suggested a fall to 82.7% for the construction sector and small rise to 93.6% for the consultancy sector. Modest differences by legal status were mainly because public limited companies were somewhat less likely to take action, particularly when compared to limited partnerships. For ‘number of business relationships’, a small number of businesses with no relationships were by far the most likely to do nothing, though there was little evidence of consistent increases in likelihood as the number of relationships increased. With respect to problem type, compared to problems concerning trading (the reference category), which had a raw data percentage of taking action of 91.9%, the model suggested that the lowest rate of action was associated with ‘other’ problems (85.6%) and intellectual property problems (87.3%), and the highest rate with employment problems (92.1%). However, variation by problems type was modest.
Modelling Obtaining Legal Advice for Problems

Compared to the ‘any action’ model, there were a far greater number of significant predictors and a far better fitting model for whether or not businesses obtained legal advice for problems. Turnover, whether or not businesses had an on-going contract for legal services, severity and, particularly, problems type and whether problems were characterised as ‘legal’ were all key predictors of legal advice. As turnover increased, so did the likelihood that businesses would seek legal advice for problems. Figure 5.4 shows the relationship between turnover and use of legal advice for problems using model estimates, holding those with a turnover of less than £50k at their raw data rate of 9.6% using legal advice.

Despite highly significant increases in the use of legal advice with increasing turnover, the modelled differences shown in Figure 5.4 were somewhat smaller than when using raw data. This would suggest that as turnover increases, so does the likelihood of other factors likely to be related to further increases in the use of legal advice.

Having an on-going retainer contract for legal services also related to a highly significant increase in the use of legal advice when faced with problems. Compared to the 13.3% of businesses without a retainer contract using legal advice (when looking at the raw data), the model suggested an increase to 24.1% for businesses with such a contract.37

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37 As with turnover, this difference was somewhat smaller than observed using raw data (29.9 per cent for those with an on-going contract). Again, this indicates that those with an on-going contract were more likely than those without to also have other business or problem characteristics associated with an increased use of legal advice.
Severity was also a key predictor of use of legal advice in response to problems, with increasing severity relating to increased use of legal advice. Figure 5.5 shows the relationship between problem severity (in four quartiles) and use of legal advice for problems (using model estimates), holding those in the least severe quartile at their raw data value of 7.7% using legal advice.

However, the most significant predictors of the use of legal advice were problem type and whether or not problems were characterised as legal. Looking at problem type first, particularly low rates of legal advice were observed for tax problems. This was in contrast to employment and, particularly, structure/ownership problems, which were the most likely to result in businesses obtaining legal advice. Figure 5.6 shows the relationship between problem type and use of legal advice (using model estimates), holding trading problems at their raw data value of 7.7% using legal advice. Again, despite the large differences shown in Figure 5.6, raw data differences were larger still. As with turnover and having on-going legal contracts, this suggested that problem types associated with higher rates of legal advice were also likely to link to other business or problem characteristics associated with high rates of legal advice.38

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38 Such as higher rates of “legal” characterisation, higher turnover or higher likelihood of having an on-going legal contract.
Turning to problem characterisation, where problems were not characterised as legal by businesses, 11.3% obtained legal advice. The model suggested this would increase to 33.3% for problems characterised as legal.39

Beyond the key predictors discussed above, there were also a number of other factors that had some association with the use of legal advice to address problems. These included sector, legal status, whether or not businesses were profitable, business size and the number of related problems businesses experienced. With respect to sector, the highest rates of legal advice were observed for education, finance/insurance/real estate and, particularly, consultancy sector businesses (20.8%, 21.8% and 23.8% respectively, using model predictions40). In contrast, the likelihood of obtaining legal advice was lower in the wholesale/retail trade and, particularly, the primary sectors (12.2% and 7.5% respectively). For legal status, public limited companies were associated with the highest use of legal advice. Keeping sole traders at their raw data value of 11.8% using legal advice, the model suggested rates of 10.3% for private limited companies, 22.6% for public limited companies, 15.3% for limited partnerships, 8.8% for partnerships and 13.9% for businesses with an ‘other’ status. Businesses suggesting that they were profitable were more likely than unprofitable businesses to obtain legal advice, though the difference was relatively small and only just reached statistical significance. Differences by business size, while reaching significance, were also relatively small and not entirely coherent. Specifically, while other multiple person micro businesses

39 Interestingly, unlike a number of other key predictors of legal advice, for legal characterisation, raw and modelled estimates were comparable. Looking at raw data, those who characterised problems as ‘legal’ used legal advice for 35.5 per cent of problems, compared to the model estimated 33.3 per cent. This would suggest that legal characterisation as well as being the most important predictor of legal advice, was also largely independent of other predictors.

40 Keeping the ‘other business/public administration/defence’ reference category at its raw data value of 16.5 per cent obtaining legal advice.
were more likely to use legal advice than sole traders, differences between other small businesses and sole traders were clearly non-significant. However, ‘number of related problems’ did show a more coherent pattern, with those reporting 1 to 9 problems of a related type most likely to obtain legal advice, with the likelihood of legal advice decreasing as the number of related problems increased. Holding 1 to 9 related problems at its raw data ‘use of legal services’ value of 16.6%, the model suggested reductions to 9.9% for 10 to 49 related problems and 5.5% for fifty or more.41

Finally, there was little or no evidence that the number of years businesses had been trading, whether or not they had internal legal expertise, their number of business relationships, whether they had an HR services retainer contract or whether they were BME or disabled controlled had any bearing on the likelihood of obtaining legal advice for problems.

Sources of External Help

The most common sources of help made use of by small businesses in respect of legal problems were solicitors (31.8% of problems about which help was obtained), followed by accountants (21.2%), trade bodies/professional associations (9.4%), barristers (6.1%) and HR/employment services (5.1%). Excluding problems where help was obtained only from friends or external colleagues, the figures were 39.4%, 22.2%, 8.9%, 5.9% and 5.6%.

Table 5.1 shows the rate of use of advisers of different types by size of business and overall. The ‘other’ legal services that respondents described included Citizens Advice Bureaux (used for 0.6% of problems) and, seemingly, a broad range of legal helplines (most notably that of the Federation of Small Businesses (used for 0.4% of problems)).

<table>
<thead>
<tr>
<th>Type of adviser used</th>
<th>Size of business</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single person</td>
</tr>
<tr>
<td>Solicitors’ firm</td>
<td>7.2%</td>
</tr>
<tr>
<td>Barrister</td>
<td>1.6%</td>
</tr>
<tr>
<td>Other legal service</td>
<td>1.8%</td>
</tr>
<tr>
<td>Accountant</td>
<td>6.0%</td>
</tr>
<tr>
<td>Other financial/tax adviser</td>
<td>0.7%</td>
</tr>
<tr>
<td>Debt recovery service</td>
<td>0.9%</td>
</tr>
<tr>
<td>HR/employment service</td>
<td>0.6%</td>
</tr>
</tbody>
</table>

41 Interestingly, percentages across these three groups are almost identical when looking at raw data. This would suggest that as number of related problems increases so does the likelihood of some other ‘high legal service use’ characteristics. This has the effect of masking the influence of the factor when looking at raw data, in the same way that the influence of illness/disability on problem incidence is masked by age in the CSJS. Controlling for these allowed the effect of the number of related problems on use of legal services to be uncovered.
As can be seen, single person businesses made proportionately less use of solicitors, barristers and other legal services than other small businesses. So, for example, while single person businesses made use of solicitors in respect of just 7.2% of problems, the figure was 16.9% for other micro businesses and 25.8% for other small businesses. A similar pattern could also be observed for many other services, including accountants and HR/employment services.

The use of independent advisers also varied considerably by problem type. As can be seen from Table 5.2, solicitors were less often used in relation to problems concerning trading (7.1%) or regulation (7.7%). In contrast, they (and barristers) were often used in relation to problems concerning business structure/ownership (22.7% (and 3.6%)) and intellectual property (20.8% (and 4.0%)). A small number of patent attorneys/agents were also mentioned (0.1% of problems) in relation to problems concerning intellectual property.

Unsurprisingly, accountants were most often used in conjunction with problems concerning tax (22.9%) or business structure/ownership (21.7%). And, HR/employment services were most commonly used in the case of problems concerning employment.

Trade bodies/professional associations were most commonly used in relation to problems concerning intellectual property (7.6%) and regulation (7.4%). Debt collection services were most often used in the context of trading problems.
### Table 5.2 – Percentage of Problems Involving Use of Advisers by Category of Problem

<table>
<thead>
<tr>
<th>Type of impact</th>
<th>Problem type</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Trading</td>
</tr>
<tr>
<td>Solicitors’ firm</td>
<td>7.1%</td>
</tr>
<tr>
<td>Barrister</td>
<td>1.0%</td>
</tr>
<tr>
<td>Other legal service</td>
<td>1.8%</td>
</tr>
<tr>
<td>Accountant</td>
<td>2.9%</td>
</tr>
<tr>
<td>Other financial/tax adviser</td>
<td>0.2%</td>
</tr>
<tr>
<td>Debt recovery service</td>
<td>2.3%</td>
</tr>
<tr>
<td>HR/employment service</td>
<td>0.3%</td>
</tr>
<tr>
<td>Loss adjuster</td>
<td>1.0%</td>
</tr>
<tr>
<td>Other specialist support service</td>
<td>1.1%</td>
</tr>
<tr>
<td>Trade body/prof. association</td>
<td>1.8%</td>
</tr>
<tr>
<td>Chamber of commerce</td>
<td>0.5%</td>
</tr>
<tr>
<td>Local enterprise agency</td>
<td>0.4%</td>
</tr>
<tr>
<td>Other trade/business org.</td>
<td>1.7%</td>
</tr>
<tr>
<td>Business Link</td>
<td>0.8%</td>
</tr>
<tr>
<td>Other government advice service</td>
<td>0.8%</td>
</tr>
<tr>
<td>Other</td>
<td>3.2%</td>
</tr>
</tbody>
</table>
And, of course, the use of services varied depending upon whether or not small businesses had retainer agreements for legal or HR/employment services. So, while legal services were used in respect of 13.3% of problems where there was no retainer for legal services (of any kind), the figure rose to 30.0% where there was. For retainers to HR/employment services the corresponding figures were 1.2% and 14.7%.

*Services Being Unable to Help*

As well as respondents being asked about the help their businesses obtained from independent legal and other support services, they were also asked about occasions on which businesses contacted services but found them unable to help. 27.8% of small businesses had contacted legal or other support services but found them unable to help. Mirroring the use of such services more generally, solicitors were often mentioned in this context (7.3%). However, accountants were the most frequently mentioned service (8.2%), with trade bodies/professional associations (4.2%), Business Link (4.1%), other government advice services (4.4%) and other legal services (4.0%) also commonly mentioned.

*Use of Internet and Self-help Materials*

Businesses made use of the Internet in connection with legal problems on 43.1% of occasions, with single person businesses doing so more often than others (45.7% vs. 42.7% for other micro businesses and 39.4% for other small businesses).

Most commonly, the Internet was used for obtaining information on the law or how to deal with problems (72.2% of occasions on which the Internet was used). On the remainder of occasions, the Internet was used to obtain contact details for sources of help. Where single person businesses did use the Internet to help deal with problems they did so to obtain contact details more often than did larger small businesses.

The Internet was used most often in relation to problems concerning regulation (58.1%) and intellectual property (55.3%), and least often in relation to problems concerning trading (34.7%) and business premises (36.1%)

Leaflets, booklets and books were used as self-help resources less frequently than the Internet, being used for only 4.5% of problems.

There was no difference in the use of leaflets, booklets and books by size of business, but they were used disproportionately often in relation to problems concerning regulation (14.5% vs. 3.1% for other problem categories).

*Process*
As can be seen from Figure 5.7, 5.9% of problems were reported to have involved formal process (including 3.3% that involved court proceedings). However, only 2.3% of problems resulted in a court or tribunal hearing. 5.8% of problems involved online dispute resolution and 5.3% mediation or conciliation.

As can be seen from Figure 5.8, with the exception of online dispute resolution, all forms of process were more common among larger small businesses. So, for example, while just 3.9% of problems involving single person businesses saw formal proceedings commence, the figure was 8.5% for other micro businesses and 10.2% for other small businesses. Similarly, while just 2.2% of problems faced by single person businesses saw a regulator or Ombudsman become involved, the figure was 4.8% for other micro businesses and 6.5% for other small businesses. In contrast, 9.0% of problems faced by single person businesses led to the commencement of an online dispute resolution process, compared to 3.0% of problems faced by other micro businesses and 1.7% of problems faced by other small businesses.

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Formal process is here taken to include the commencement of formal appeals service, tribunal or court proceedings. It excludes involvement of a regulator or Ombudsman, ‘Ebay’ style online dispute resolution process, arbitration, conciliation or mediation.
Turning to problem type, Figure 5.9 shows that process varied considerably by problem category also. So, for example, while just 3.9% of problems concerning trading involved mediation or conciliation, the figure was 8.7% for employment problems. Employment problems also often resulted in hearings (3.8%), in contrast to, say, tax problems (0.7%). Unsurprisingly, regulators or an Ombudsman most frequently became involved in problems concerning regulation (7.1%), and least frequently in problems concerning trading (1.2%). Online dispute resolution was strongly associated with trading problems (9.7%) and problems concerning intellectual property (9.1%).
Finally, as can be seen from Figure 5.10, process varied by strategy. Most notably, those problems that saw help obtained from legal services much more often involved formal process (17.2%) and court or tribunal hearings (8.2%). However, this should not be taken to indicate that the involvement of legal services brings about an increase in the likelihood of formal process being utilised. The association could also be a reflection of the use of lawyers consequent upon process becoming inevitable, or the relative severity of the issues, or the nature of the problem.

![Figure 5.10 – Processes Utilised in relation to Legal Problems by Strategy](image)

**Findings From the Aggregated Strategy Data**

As well as asking about small businesses’ responses to a randomly selected single legal problem, the Small Business Legal Needs Benchmarking Survey also asked businesses about how they responded to other problems of the same type. In all, summary aggregated data was collected in respect of 30,443 additional problems. This data is informative as it gives the most representative picture of the overall pattern of response to legal problems faced by small businesses, although recall error is likely higher than in the case of questions about single problems.\(^43\)

Respondents provided details of additional problems in 31.8% of cases (where problems were reported). Generally, details were provided of fewer than 10 additional problems. However, 3.0% of respondents provided details of 100 or more problems.

\(^{43}\) The weighting adopted for analyses in previous sections cannot compensate for the likely very different responses to problems on the part of those facing many of them.
Problem Resolution Strategies – The Big Picture

Of the 30,443 additional problems about which summary aggregated problem resolution behaviour data was provided, 30.3% involved no action being taken, 25.8% small businesses acting entirely on their own, 21.2% help being obtained only from external colleagues/friends, and 22.7% help being obtained from an independent adviser, representative or support service.

The aggregate data therefore pointed to a greater proportion of problems being "lumped" or handled with only the help of external colleagues/friends, and fewer problems being handled by businesses on their own or (though this was the smallest difference) with independent help.44

As with the individual problem data, problem resolution behaviour varied markedly between differently sized businesses. So, whereas no action was taken in response to 48.6% of the additional problems reported by single person businesses, the figure was 21.2% for other micro and 27.2% other small businesses. In contrast, larger small businesses more often acted alone to resolve the additional problems. Businesses with between 10 and 49 problems handled problems on their own on 37.7% of occasions, compared to 20.8% for single person businesses and 26.4% of other micro businesses. Micro businesses other than single person businesses were most likely to resolve problems with the help of only external colleagues/friends (23.6%) and obtain help from independent sources (28.9%). The corresponding figures for single person and other small businesses were 16.1% and 15.2% in the first case, and 14.5% and 19.9% in the second.

Problem resolution behaviour was also again seen to vary considerably by problem type. So, while intellectual property problems were strongly associated with no action being taken (46.0%),45 handling problems alone was strongly associated with problems to do with trading (69.2%),46 and handling problems with only the help of external colleagues/friends, or with help from independent advisers, representatives or support services, was strongly associated with problems concerning regulation (32.4% and 32.6%) and business structure/ownership (29.9% and 33.4%).47

Fewer than 10% of problems concerning trading saw help obtained from independent advisers, representatives or support services.

Sources of Help – The Big Picture

44 It is to be noted that the question asking about overall responses to legal problems was phrased differently for single and aggregated problems. This may have led to different interpretations. For any future survey, the phrasing of these questions should be reviewed with the aim of achieving maximum consistency and removing any ambiguity.
45 In contrast to problems concerning trading (14.5%) and employment (18.1%).
46 In contrast to problems concerning business structure/ownership (8.1%) and regulation (8.5%).
47 In contrast, in the case of colleagues/friends, to problems concerning trading (7.0%), employment (16.1%) and intellectual property (7.6%) and, in the case of advisers, representatives and support services, trading (9.3%).
For the additional problems, businesses were also asked which – across all problems – support services they had made use of. Solicitors were most frequently mentioned (by 34.8% of respondents), followed by accountants (27.6%), trade bodies/professional associations (17.2%), barristers (16.3%), debt recovery services (10.6%) and other legal services (9.0%).

As with the individual problems, the use of solicitors (and barristers) was far less often reported by single person businesses (27.0% and 5.6%) than other micro (41.5% and 22.6%) and small businesses (47.6 and 18.2%), though the pattern was reversed for other legal advisers (13.5%, 9.0% and 6.3%, respectively). Accountants had most commonly been used to help with legal problems by micro businesses other than single persons businesses (34.6%), and least by single person businesses (16.9%). The same was also true of debt recovery services and HR/employment services. Debt recovery services had been used by 4.5% of small businesses that reported additional problems, 12.8% of other micro businesses and 10.5% of other small businesses. The figures were 6.7%, 14.3% and 11.9%, respectively, for HR/employment services. Trade associations/professional bodies were relatively rarely mentioned by businesses with 10-49 employees (8.4%), being most often reported by single person businesses (21.3%) and other micro businesses (11.6%).

Solicitors were most often mentioned in the context of problems concerning business premises (47.2%) and intellectual property (45.7%). Accountants were most often mentioned in the context of tax problems (63.3%). HR/employment services were most often mentioned in the context of problems concerning employment (26.0%), and trade bodies/professional associations in the context of problems concerning intellectual property (34.3%).
The Outcome of Legal Problems

Summary

In this section, we set out how legal problems concluded. The most common manner of conclusion was a negotiated settlement (42.7%). 13.4% of problems concluded through third parties of one form or another, with 5.3% concluding through a court/tribunal/appeals service decision. 4.4% of problems concluded through mediationconciliation. More than three-quarters of problems concluded in a manner favourable to the sample small businesses.

Larger small businesses more often saw their problems conclude through court/tribunal/appeals service decisions or mediationconciliation, while single person businesses much more often saw their problems conclude through online dispute resolution.

For all problem types, a negotiated settlement was the most common conclusion. Regulation problems saw the highest rate of conclusion through the courts. Problems concerning intellectual property, business premises and employment more often concluded through mediationconciliation.

Businesses that acted entirely on their own were less likely than others to see problems conclude with the decision of a court/tribunal/appeals service (2.8%) or through mediationconciliation (2.1%). Instead, both of these manners of conclusion were most common where businesses had obtained the help of an independent adviser, representative or support service (9.6% and 10.8%, respectively).

Businesses felt that most problems concluded in their favour. Single person businesses reported unfavourable outcomes for 19.1% of problems, with the figure being 14.0% and 9.4% for other micro and other small businesses, respectively. Tax problems most often ended unfavourably. The favourability of outcomes also varied by problem resolution strategy.

59.6% of problems had concluded, or most likely concluded, by the time of the survey. It was unclear or ‘too early to say’ whether a further 16.9% of problems had concluded. The remaining 23.5% of problems were on-going. In this section we set out how problems concluded, both in terms of the manner of conclusion and in terms of whether businesses considered problem outcomes to be favourable.

Manner of outcome of problems

For the 2,16848 problems which had concluded, or most likely concluded, respondents were asked about the manner of conclusion. As is shown by Figure 6.1, the most common manner of conclusion was a negotiated settlement (42.7%), with one in seven negotiated settlements being described as being ‘through somebody who was acting for [the] business’ (6.2% overall). Independent action on the part of one or other of the parties was also a common

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48 Unweighted, the number was 2,649.
manner of conclusion (21.2%, split broadly evenly between each party). And a further 8.1% of problems sorted themselves out.

13.4% of problems concluded through third parties of one form or another (i.e. courts, tribunals, appeals services, online dispute resolution and other third parties), with online dispute resolution figuring most prominently (6.1%). Though, this was largely a function of the predominance of trading problems in the sample (Table 6.2).

There were significant differences in the patterns of manner of problem conclusion by size of business. Most notably, larger small businesses more often saw their problems conclude through court/tribunal/appeals service decisions or mediation/conciliation, while single person businesses much more often saw their problems conclude through online dispute resolution. Also, while larger small businesses more often reached a negotiated settlement, single person businesses more often ended up simply putting up with problems.

Table 6.1 – Manner of Problem Conclusion by Size of Business

<table>
<thead>
<tr>
<th>Manner of problem conclusion</th>
<th>Single person businesses</th>
<th>Other micro businesses</th>
<th>Other small businesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Decision of court/tribunal/appeals service</td>
<td>4.7%</td>
<td>6.8%</td>
<td>8.4%</td>
</tr>
<tr>
<td>Online dispute resolution</td>
<td>9.9%</td>
<td>2.9%</td>
<td>1.2%</td>
</tr>
<tr>
<td>Action by a third party</td>
<td>0.7%</td>
<td>3.6%</td>
<td>2.2%</td>
</tr>
<tr>
<td>Mediation/conciliation</td>
<td>2.6%</td>
<td>4.6%</td>
<td>7.4%</td>
</tr>
<tr>
<td>Negotiated settlement</td>
<td>41.9%</td>
<td>43.6%</td>
<td>51.3%</td>
</tr>
<tr>
<td>Independent action by other side</td>
<td>9.9%</td>
<td>8.4%</td>
<td>5.9%</td>
</tr>
<tr>
<td>Independent action by business</td>
<td>10.1%</td>
<td>11.2%</td>
<td>8.6%</td>
</tr>
<tr>
<td>Problem sorted itself out</td>
<td>7.7%</td>
<td>6.9%</td>
<td>6.7%</td>
</tr>
<tr>
<td>Putting up with problem</td>
<td>7.9%</td>
<td>5.6%</td>
<td>3.7%</td>
</tr>
</tbody>
</table>

49 $\chi^2_{18}=131.40$, $p<0.001$. 

Figure 6.1 – Outcome of Legal Problems
<table>
<thead>
<tr>
<th>Unsure</th>
<th>4.7%</th>
<th>6.4%</th>
<th>4.5%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
Table 6.2 – Manner of Problem Conclusion by Problem Type

<table>
<thead>
<tr>
<th>Type of impact</th>
<th>Problem type</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Trading</td>
</tr>
<tr>
<td>Court/tribunal/appeals service decision</td>
<td>3.1%</td>
</tr>
<tr>
<td>Action by a third party</td>
<td>0.6%</td>
</tr>
<tr>
<td>Mediation/conciliation</td>
<td>1.7%</td>
</tr>
<tr>
<td>Negotiated settlement</td>
<td>44.9%</td>
</tr>
<tr>
<td>Independent action by other side</td>
<td>13.2%</td>
</tr>
<tr>
<td>Independent action by business</td>
<td>8.1%</td>
</tr>
<tr>
<td>Problem sorted itself out</td>
<td>7.4%</td>
</tr>
<tr>
<td>Putting up with problem</td>
<td>6.6%</td>
</tr>
<tr>
<td>Online dispute resolution</td>
<td>10.3%</td>
</tr>
<tr>
<td>Unsure</td>
<td>3.8%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
</tr>
<tr>
<td>Weighted N=</td>
<td>1144</td>
</tr>
</tbody>
</table>
Table 6.2 sets out the manner by which problems concluded by problem type. As can be seen, in all cases, a negotiated settlement was the most common conclusion, though this was only just the case in the case of problems concerning regulation, which saw the highest rate of conclusion through the courts, and through independent action taken by the business concerned.

Problems concerning trading less often concluded through a third party process or through independent action taken by the business. On the other hand, they were the most likely to conclude through an online dispute resolution process (10.3%).

As might be expected, tax problems less often concluded through independent action by the ‘other side’, sorted themselves out, got put up with or concluded through an online dispute resolution process.

The last of these conclusions was also the least frequent for problems concerning employment (none of 259 problems). As would be expected, given the nature of employment law, employment problems more often concluded through mediation/conciliation.

Problems concerning business premises and intellectual property also more often concluded through mediation/conciliation, with the latter type of problems being the most likely to do so (10.3%).

Problems concerning business premises also more often concluded through independent third parties other than courts/tribunals/appeals services.

Problems concerning business structure/ownership were the most likely to ‘sort themselves out’ (15.7%).

The manner of problem conclusion was also strongly associated with businesses’ problem resolution strategies. So, those businesses that acted entirely on their own were less likely than others to see problems conclude with the decision of a court, tribunal or appeals service (2.8%) or through mediation or conciliation (2.1%). Instead, both of these manners of conclusion were most common where businesses had obtained the help of an independent adviser, representative or support service (9.6% and 10.8%, respectively). Those businesses that acted entirely on their own most often saw problems conclude through a negotiated settlement (47.8%).

As would be expected, those businesses that had taken no action to resolve problems were the most likely to report that problems had just sorted themselves out (22.3%) or that they were just putting up with problems (25.0%).

However, in this context it is particularly important to recognise that strategies are self-selected and link to other factors (such as perceived prospects, business capability) that link to the manner of problem conclusion.

\( \chi^2_{36}=472.89, p<0.001 \)
The Favourability of Problem Outcomes

Businesses felt that most problems concluded in their favour. Of 2,168 concluded problems, businesses suggested that 997 concluded completely in their favour (46.0%) and 658 mostly in their favour (30.4%). Conversely, businesses felt that 169 problems concluded mostly not in their favour (7.8%) and 184 not at all in their favour (8.5%). The remaining 159 (7.3%) suggested that they did not know whether or not the problem concluded in their favour.

As is shown in Table 6.3, the favourability of outcomes varied significantly by business size. So, whereas single person businesses reported unfavourable outcomes for 19.1% of problems, the figures were 14.0% and 9.4% for other micro and other small businesses, respectively.

Table 6.3 – Favourability of Outcome by Size of Business

<table>
<thead>
<tr>
<th>Favourability of outcome</th>
<th>Size of business</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single person</td>
</tr>
<tr>
<td>Favourable</td>
<td>74.0%</td>
</tr>
<tr>
<td>Unfavourable</td>
<td>19.1%</td>
</tr>
<tr>
<td>Don’t know</td>
<td>6.9%</td>
</tr>
</tbody>
</table>

Turning to problem type, little difference was observed in the favourability of outcomes between problem categories – with the exception of problems concerning tax, which ended unfavourably on 23.7% of occasions, compared to 15.7% in the case of other problems.

The favourability of outcomes varied by the strategy businesses adopted to deal with them. So, those businesses that took no action less often obtained a favourable result (54.4% vs. 77.9% for others). Those businesses that acted entirely on their own most often obtained a favourable result (80.2%). Again, it is important to recognise that strategies are self-selected and link to other factors (such as perceived prospects, business capability) that link to outcomes. To be clear, this does not mean that obtaining help worsens outcomes!

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51 \( \chi^2 = 23.15, p<0.001 \)
This final section sets out the attitudes to business risk, law and legal services of the 9,703 respondents to the *Small Business Legal Needs Benchmarking Survey*. 64.7% of respondents agreed with the statement "you can't get ahead in business without taking risks." 83.5% agreed that "sometimes, product or service quality is more important that profit margin." 60.7% of respondents disagreed that "being competitive involves taking shortcuts." 26.1% of respondents agreed that “it is more important to comply with the spirit than the letter of the law legal processes are essential for businesses to enforce their rights.” 54.0% of respondents agreed that "legal processes are essential for businesses to enforce their rights." 12.6% of respondents agreed that "lawyers provide a cost effective means to resolve legal issues."

Those in single person businesses less often agreed that you can’t get ahead in business without taking risks, that being competitive involves taking shortcuts, that law and regulation provide a fair environment for business to succeed, that it is more important to comply with the spirit than the letter of the law or that lawyers provide a cost effective means to resolve legal issues.

Respondents in small businesses that had a retainer agreement for legal services, or had formally utilised legal services during the preceding year, more often agreed that legal processes are essential for businesses to enforce their rights and that lawyers provide a cost effective means to resolve legal issues.

There were substantial differences in legal problems prevalence rates and problem resolving behaviour for businesses in which respondents exhibited different attitudes to business risk, law and legal services.

Three underlying attitudinal factors were identified through analysis: 'legal deference', 'business and legal risk' and 'business integrity. All three attitude factors had a highly significant relationship to problem prevalence. Increased legal deference was related to a significantly decreased likelihood of reporting legal problems. Conversely, both increased business integrity and increased business and legal risk were related to highly significant increases in the likelihood of legal problems. Increased business and legal risk was also associated with a significant decrease in the likelihood of taking action to resolve problems.

Increased legal deference was associated with a highly significant increase in obtaining legal advice. In contrast, higher business and legal risk related to a significantly lower likelihood of obtaining legal advice.
Looking first at attitudes to business risk, Table 7.1 shows that a good majority (64.7%) of respondents agreed with the statement “you can’t get ahead in business without taking risks.” However, an even higher proportion (83.5%) agreed that “sometimes, product or service quality is more important that profit margin.” Thus, 60.7% of respondents disagreed that “being competitive involves taking shortcuts.”

Turning to attitudes to law and legal services, 26.1% of respondents agreed that “it is more important to comply with the spirit than the letter of the law legal processes are essential for businesses to enforce their rights,” with 31.7% disagreeing. 54.0% of respondents agreed that “legal processes are essential for businesses to enforce their rights,” with 7.2% disagreeing. Finally, 12.6% of respondents agreed that “lawyers provide a cost effective means to resolve legal issues,” with 44.8% disagreeing.

Table 7.1 – Attitudes to Business, Law and Legal Services

<table>
<thead>
<tr>
<th>Question</th>
<th>Agree strongly</th>
<th>Agree</th>
<th>Don’t know</th>
<th>Disagree</th>
<th>Disagree strongly</th>
<th>Don’t know</th>
</tr>
</thead>
<tbody>
<tr>
<td>You can’t get ahead in business without taking risks</td>
<td>10.7%</td>
<td>53.7%</td>
<td>23.9%</td>
<td>7.6%</td>
<td>1.2%</td>
<td>2.8%</td>
</tr>
<tr>
<td>Sometimes, product or service quality is more important than profit margin</td>
<td>23.7%</td>
<td>59.8%</td>
<td>11.6%</td>
<td>2.2%</td>
<td>0.4%</td>
<td>2.3%</td>
</tr>
<tr>
<td>Being competitive involves taking shortcuts</td>
<td>1.6%</td>
<td>8.7%</td>
<td>26.2%</td>
<td>46.6%</td>
<td>14.1%</td>
<td>2.8%</td>
</tr>
<tr>
<td>Law and regulation provide a fair environment for business to succeed</td>
<td>4.1%</td>
<td>26.1%</td>
<td>42.0%</td>
<td>15.9%</td>
<td>6.5%</td>
<td>5.4%</td>
</tr>
<tr>
<td>It is more important to comply with the spirit than the letter of the law</td>
<td>3.9%</td>
<td>22.2%</td>
<td>37.6%</td>
<td>25.2%</td>
<td>6.5%</td>
<td>4.7%</td>
</tr>
<tr>
<td>Legal processes are essential for businesses to enforce their rights</td>
<td>7.2%</td>
<td>46.8%</td>
<td>33.5%</td>
<td>5.6%</td>
<td>1.6%</td>
<td>5.2%</td>
</tr>
<tr>
<td>Lawyers provide a cost effective means to resolve legal issues</td>
<td>1.8%</td>
<td>10.8%</td>
<td>35.7%</td>
<td>25.7%</td>
<td>19.1%</td>
<td>6.9%</td>
</tr>
</tbody>
</table>

There were differences in the attitudes of those in differently sized businesses. Those in single person businesses less often agreed that you can’t get ahead in business without taking risks (63.7%, compared to 71.2% for other micro and 77.2% for other small businesses), that being competitive involves taking shortcuts (8.7%, compared to 13.1% for other micro and 16.7% for other small businesses), that law and regulation provide a fair environment for business to succeed (32.5%, compared to 34.9% for other micro and 38.6% for other small businesses), that it is more important to comply with the spirit than
the letter of the law (25.4%, compared to 28.8% for other micro and 33.1% for other small businesses) or that lawyers provide a cost effective means to resolve legal issues (11.9%, compared to 17.9% for other micro and 22.5% for other small businesses).

As would be expected, respondents in those small businesses that had a retainer agreement for legal services more often agreed that legal processes are essential for businesses to enforce their rights (66.5% vs. 56.1%) and that lawyers provide a cost effective means to resolve legal issues (26.4% vs. 12.2%). A similar story unfolded for respondents in businesses that had formally utilised legal services during the preceding year (with figures of 65.7% vs. 55.0% and 22.2% vs. 11.4%, respectively).

As Table 7.2 shows, there were substantial differences in the legal problems prevalence rates for businesses in which respondents exhibited different attitudes to business risk, law and legal services. For example, as respondents exhibited greater levels of business risk aversion, legal problem prevalence rates decreased. So, while just 24.3% of those who disagreed strongly that you can’t get ahead in business without taking risks, the figure was 55.9% for those who agreed strongly. Similarly, the figures were 34.1% and 72.0% in the case of the statement that being competitive involves taking shortcuts.

Table 7.2 – Prevalence of Legal Problems by Attitudes to Business, Law and Legal Services

<table>
<thead>
<tr>
<th>Question</th>
<th>% prevalence for each level of agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Agree strongly</td>
</tr>
<tr>
<td>You can’t get ahead in business without taking risks</td>
<td>55.9%</td>
</tr>
<tr>
<td>Sometimes, product or service quality is more important than profit margin</td>
<td>42.0%</td>
</tr>
<tr>
<td>Being competitive involves taking shortcuts</td>
<td>72.0%</td>
</tr>
<tr>
<td>Law and regulation provide a fair environment for business to succeed</td>
<td>44.7%</td>
</tr>
<tr>
<td>It is more important to comply with the spirit than the letter of the law</td>
<td>53.2%</td>
</tr>
<tr>
<td>Legal processes are essential for businesses to enforce their rights</td>
<td>47.4%</td>
</tr>
<tr>
<td>Lawyers provide a cost effective means to resolve legal issues</td>
<td>59.2%</td>
</tr>
</tbody>
</table>

Turning to attitudes to law and legal services, it can be seen that problem prevalence increased along with the level of agreement that the spirit of the law is more important than the letter of the law. While 36.4% of those who disagreed strongly that it is more important to comply with the spirit than the letter of the
law reported that their business faced one or more problems, the figure was 53.2% for those who agreed strongly.

There were also substantial differences in the problem resolution strategies adopted by businesses in which respondents exhibited different attitudes to law and legal services.

So, for example, when respondents strongly agreed that law and regulation provide a fair environment for business to succeed they also reported that their businesses had dealt with legal problems with the help of a legal service 26.7% of the time, compared to 11.9% of the time when they strongly disagreed. Conversely, the businesses less often acted entirely alone or with the help of other types of independent service.

Similarly, when respondents strongly disagreed that the spirit is more important than the letter of the law, they reported that their businesses had dealt with legal problems with the help of a legal service 25.8% of the time, compared to 14.9% of the time when they strongly agreed. The businesses also less often took no action to resolve problems.

Again, looking at attitudes to whether legal processes are essential for businesses to enforce their rights, those who strongly agreed reported that their businesses had dealt with legal problems with the help of a legal service 22.4% of the time, compared to 7.4% of the time when they strongly disagreed. Here, though, the use of other independent services was also reported to be higher (14.5% vs. 5.9%).

Finally, looking at attitudes to whether lawyers provide a cost effective means to resolve legal issues, those who strongly agreed reported that their businesses had dealt with legal problems with the help of a legal service 28.4% of the time, compared to 8.3% of the time when they strongly disagreed. However, they also more often took no action to deal with problems (26.5% vs. 8.8%).

*Exploring Attitudes to Business Risk, Law and Legal Services in Greater Detail*

To explore attitudes to business risk, law and legal services we conducted factor analyses to establish whether the questions set out in Table 7.1 could be reduced to a smaller number of unobserved variables (or factors).

Factor analysis produced three underlying factors, explaining just over sixty per cent of the variance in the attitudinal questions. The first had particularly high loadings for ‘Law and regulation provide a fair environment for business to succeed’, ‘Legal processes are essential for businesses to enforce their rights’ and ‘Lawyers provide a cost effective means to resolve legal issues’. This factor was labelled ‘legal deference’. The second had particularly high loadings for ‘You can’t get ahead in business without taking risks’, ‘Being competitive involves taking shortcuts’ and ‘It is more important to comply with

52 Here referring to the single sampled problem asked about in detail.
the spirit than the letter of the law’. This factor was labelled ‘business and legal risk’. The third factor had high loadings for ‘You can’t get ahead in business without taking risks’ and ‘Sometimes, product or service quality is more important than profit margin’. This factor was labelled ‘business integrity’.

Each business within the survey had a score on each of these new factors. Legal deference had a mean score of -0.05 (standard deviation = 0.98, minimum = -3.34, maximum = 3.02). Business and legal risk had a mean score of -0.04 (standard deviation = 0.97, minimum = -3.48, maximum = 3.78). Business integrity had a mean score of -0.01 (standard deviation = 1.00, minimum = -4.77, maximum = 2.76). Factor scores were then used in models of problem incidence and strategy to explore whether they added to the predictors already included in models in section 3 (incidence) and section 5 (strategy). Factor analysis output is presented in Table A18 of the statistical appendix.

Modelling Problem Prevalence and Strategy Taking Account of Attitudes

To explore the role of attitudes in small businesses’ experience of legal problems, we re-ran the multivariate analyses of problem prevalence and problem resolution strategy incorporating the three factors found using factor analysis. Specifically, the three attitude factors were added to the statistical models illustrated in Table A3 (incidence of any legal problem), Table A15 (whether or not businesses took ‘any action’ when faced with problems) and Table A16 (whether or not businesses obtained legal advice when faced with problems).

Even having controlled for a range of other variables, all three attitude factors had a highly significant relationship to problem prevalence. Increased legal deference was related to a significantly decreased likelihood of reporting legal problems. Conversely, both increased business integrity and increased business and legal risk were related to highly significant increases in the likelihood of legal problems.

Adding the three attitude factors to the model of whether or not respondents took ‘any action’ when faced with problems also yielded statistically significant findings, with increased business and legal risk relating to a highly significantly decreased likelihood of taking action. Finally, for the model of whether or not businesses obtained legal advice when faced with problems, increased legal deference was related to a highly significant increase in obtaining legal advice. In contrast, higher business and legal risk related to a significantly lower likelihood of obtaining legal advice.
Summary of Findings

There are around 4.8 million private sector and 81,000 non-profit enterprises in the United Kingdom. The 99% of these with fewer than 50 employees account for more than 1/3 of turnover and around 1/2 of jobs outside the public sector.

Small businesses operate in a world that is ‘flooded with law’. Thus, how they deal with problems with a legal dimension may be critical to their development and growth. This report sets out the findings of a survey of small businesses’ experiences of, responses to and ability to cope with legal problems.

The survey was conducted via the Internet by YouGov, with respondents drawn from YouGov online panel members. In all, the achieved sample for the Small Business Legal Needs Benchmarking Survey comprised 9,703 small businesses, of which 4,389 (45%) were single person businesses, 4,266 (44%) other micro businesses (fewer than 10 employees), and 1,048 (11%) other small businesses (fewer than 50 employees). The sector spread of the sample businesses was broadly in line with official estimates. 51% of businesses were sole traders, 35% private limited companies, 8% partnerships, and the remaining 6% had another legal status. Legal status varied considerably by size of business.

Excluding single person businesses, 66% of businesses were family owned, 65% had a turnover of less than £100k (9% had a turnover of £1m or more), and 63% reported being profitable. These figures are similar to those reported from the BIS Small Business Survey.

6.4% of small businesses contained a qualified lawyer or person trained to handle legal issues, with the figure rising with size of business. The most common expertise was in contract law, though this changed to employment law among larger small businesses. 1.5% of businesses contained persons expert in 3 or more areas of law. Areas of legal expertise linked to the types of problems businesses faced.

9.1% of small businesses had retainer agreements for legal services, and 2.2% for HR/employment services. Having agreements for legal and HR/employment services were strongly related.

The likelihood of legal services being retained varied by business sector, legal status, turnover (with likelihood increasing with turnover), internal legal expertise (with likelihood increasing with legal expertise), size (with likelihood increasing with size), and experience of legal problems (with likelihood
increasing with the number of problems experienced). Businesses that had traded for less than a year were less likely than others to retain legal services.

Most factors associated with retainer agreements for legal services were also associated with HR/employment services. However, one difference was that both BME and disabled controlled businesses were associated with greater use of HR/employment services. Also, number of years trading was not associated with retainer agreements for HR/employment services. Further, while retention of HR/employment services generally increased with business size, there was a suggestion that the likelihood dropped back a little for the largest small businesses.

73.5% of small businesses had made use of an independent legal or other business support service with a likely legal dimension in the preceding 12 months. 27.2% of businesses had made use of a legal service, 19% formally. The most commonly used legal service was a solicitors’ firm (used by 20.3% of small businesses, 14.6% formally). Of other services, accountants were most often used (used by 62.5% of small businesses, 53.5% formally).

Use of services varied by size of business, with more usage among larger small businesses. 17.2% of single person business made use of recognised legal services (10.8% formally), 47.2% of other micro businesses did so (34.9% formally), along with 76.1% of other small businesses (65.7% formally).

Looking at communication with legal services, small businesses most commonly reported mainly communicating by telephone (33.8%), followed by face-to-face meetings (28.7%) and email (16.6%). Mode of communication varied by type of legal service provider.

Those businesses that made use of a legal service most often obtained help in relation to trading issues (35.9%), followed by issues concerning tax (34.9%), business ownership (33.1%), employment (30.8%) and business premises (30.8%). The subject matter of help varied by service provider and size of business.

38.6% of small businesses made use of online legal resources in the 12 months leading up to the survey, most often to obtain information about the law or regulations (24.1%) or download a document template (18.9%).

Overall, 38.1% of businesses reported one or more ‘significant’ legal problem in the past year. However, while just 28.8% of single person businesses experienced one or more significant problems, the figure rose to 55.5% for other micro businesses and 76.5% for other small businesses. Multivariate analysis also revealed that problem prevalence varied by (highest prevalence in brackets) business sector (production, wholesale and retail trade, and transport and communication sectors), legal status (public limited companies), turnover (higher), profitability (unprofitable), whether or not businesses had an on-going legal or HR services retainer contract (had such as contract) or internal legal expertise (had internal legal expertise), years trading, number of business relationships (higher), BME and disability status (BME or disabled controlled).
The mean number of problems faced by businesses was 9 (25 across businesses that reported 1+ problems), but a small number of businesses experienced a large number of problems, with larger businesses facing more problems.

Small businesses most often faced problems concerning trading (25.0%), followed by problems concerning employment of staff (9.0%), tax (8.7%), business premises (7.8%) and regulation (6.9%), although in terms of the volume of problems the most common were those concerning trading, intellectual property, employment and regulation. Problems concerning intellectual property were highly concentrated in the primary, production, communication and wholesale and retail trade sectors.

Each type of problem studied was associated with businesses of a particular character. However, most problem types were more common among larger businesses with more business relationships. All problem types were more commonly reported by unprofitable businesses, those with legal or HR services retainer contracts or internal legal expertise, and BME controlled businesses.

Looking at all sample problems, tax and regulation related problems were closely related and, along with problems concerning employment and business premises formed a broad cluster. Problems concerning intellectual property, 'other' issues and business structure also formed a problem cluster. Trading and debt related problems did not belong to any well-defined problem cluster.

There were some differences in the clusters identified for different size businesses. For example, for businesses with between 10 and 49 employees, problems concerning trading and employees formed a distinct cluster.

Just under half of problems concerned other businesses, with the remainder mostly concerning the public, government or employees. Just under half were also said to have concerned something that 'the other side' had done wrong, with a further third not involving attribution of blame between parties.

Fewer than one in five problems was characterised as 'legal'. However, while just 8.4% of problems concerning trading were characterised as legal, the figure was 48.2% for problems concerning intellectual property.

Turning to severity, Problems concerning trading were also more often rated in the least serious quartile (33.6%), and less often in the most serious quartile (19.5%). Problems concerning business structure/ownership (15.2%) and business premises (16.9%) were least often rated in the least serious quartile, and more commonly featured higher up the severity scale. No other notable differences were apparent.

Employment and trading problems tended not to last as long as other problem types. The remaining problem types were broadly comparable in terms of duration.

45.1% of problems had a tangible impact on the sample small businesses, with significant differences in the likelihood of different problem types doing so.
Problems concerning business structure/ownership most often negatively impacted on businesses (59.6%). Other factors associated with negative impact were businesses’ legal status, sector, whether or not businesses contained legal expertise, had retainer agreements for legal services or had retainer agreements for HR/employment services, and whether or not businesses were BME or disabled controlled. No association was found between problems having had negative consequences and business size.

Adverse consequences most frequently involved loss of income (22.1%), followed by the incurring of additional costs (10.2%), damage to reputation (7.9%), loss of customers/contracts (7.1%) and damage to relationships with other businesses (6.6%).

A few differences were observed in the types of impact reported by businesses of different sizes. For example, larger small businesses more often reported that problems led to the loss of employees.

Where problems were reported to have consequences, the mean number of consequences was 1.5. There was no difference in this regard between businesses of different size or between problem categories.

The percentage of problems of different types that brought about each type of adverse consequence varied considerably. For example, problems concerning trading and intellectual property more often led to loss of income. Problems concerning tax and regulation were associated with the incurring of additional costs.

Excluding ten values of £1 million or more, the mean monetary value of adverse consequences was £13,812 (median = £1,235).

Different types of adverse consequence were associated with different levels of value, with problems that led to businesses having to cease trading among those associated with the highest values. Legal status, sector, number of years trading, turnover, problem type, legal expertise and businesses retaining legal services were also significantly associated with impact value. No association was found between the value of consequences and business size, whether businesses were BME or disabled controlled.

18.2% of the 3,640 problems about which data was available adversely affected the health of one or more people in the business concerned. There were substantial differences in this regard between different problem categories.

Looking at the individual problems about which respondents were asked, businesses took no action to deal with 9.0% of problems, dealt with 51.9% on their own, and obtained independent help in respect of 29.0% (15.9% in the case of help from legal services).

Not accounting for other factors, there were significant differences in the strategies adopted by businesses of different sizes. However, multivariate analysis indicated that business size had little or no bearing on whether or not businesses took action to deal with problems. The key predictors of whether or not businesses took action were profitability of businesses and problem severity.
There were also some modest differences in the likelihood of taking action by business sector, legal status, number of business relationships and problem type.

There were a greater number of significant predictors of whether or not businesses that took action to resolve problems obtained legal advice. Higher turnover, having a retainer contract for legal services, greater severity and, particularly, characterisation of problems as legal were all associated with higher rates of legal advice. There were also substantial differences in legal advice rates by problem type. Beyond these key predictors, a number of other factors also had some association with the use of legal advice. These included business sector, legal status, whether or not businesses were profitable, business size and the number of related problems businesses experienced.

The most common sources of independent help made use of by small businesses in respect of legal problems were solicitors (28.5% of all advisers), followed by accountants (19.0%), trade bodies/professional associations (8.4%), barristers (5.5%) and HR/employment services (4.6%). If external business colleagues and friends were excluded, then the figures were 33.8%, 16.8%, 6.7%, 6.5% and 4.3%, respectively.

Single person businesses made proportionately less use of solicitors, barristers and other legal services than other small businesses. The use of independent advisers also varied considerably by problem type.

Small businesses were also asked about occasions on which they had contacted services but found them unable to help. 27.8% of small businesses had contacted legal or other support services but found them unable to help.

Businesses made use of the Internet in connection with legal problems on 43.1% of occasions, with single person businesses doing so more often than others (45.7% vs. 42.7% for other micro businesses and 39.4% for other small businesses). Most commonly, the Internet was used obtaining information on the law or how to deal with problems (72.2% of occasions on which the Internet was used). The Internet was used most often in relation to problems concerning regulation (58.1%) and intellectual property (55.3%), and least often in relation to problems concerning trading (34.7%) and business premises (36.1%)

5.9% of problems involved formal process (2.3% resulted in court or tribunal hearings). 5.8% involved online dispute resolution and 5.3% mediation or conciliation.

Looking at the 30,443 additional problems of the same type about which respondents provided aggregated data (providing the most representative overall picture of responses to problems, as large problem volume businesses are properly represented), 30.3% involved no action being taken, 25.8% small businesses acting entirely on their own, 21.2% help being obtained only from external colleagues/friends, and 22.7% help being obtained from an independent adviser, representative or support service.
As with the individual problem data, solicitors were most frequently mentioned advisers, followed by accountants, trade bodies/professional associations, barristers, debt recovery services and other legal services.

Returning to the individual problem data, the most common manner of conclusion of problems was a negotiated settlement (42.7%). 13.4% of problems concluded through third parties of one form or another, with 5.3% concluding through a court/tribunal/appeals service decision. 4.4% of problems concluded through mediation/conciliation. More than three-quarters of problems concluded in a manner favourable to the sample small businesses.

Larger small businesses more often saw their problems conclude through court/tribunal/appeals service decisions or mediation/conciliation, while single person businesses much more often saw their problems conclude through online dispute resolution.

For all problem types, a negotiated settlement was the most common conclusion. Regulation problems saw the highest rate of conclusion through the courts. Problems concerning intellectual property, business premises and employment more often concluded through mediation/conciliation.

Businesses that acted entirely on their own were less likely than others to see problems conclude with the decision of a court/tribunal/appeals service (2.8%) or through mediation/conciliation (2.1%). Instead, both of these manners of conclusion were most common where businesses had obtained the help of an independent adviser, representative or support service (9.6% and 10.8%, respectively).

Businesses felt that most problems concluded in their favour. Single person businesses reported unfavourable outcomes for 19.1% of problems, with the figure being 14.0% and 9.4% for other micro and other small businesses, respectively. Tax problems most often ended unfavourably. The favourability of outcomes also varied by problem resolution strategy.

64.7% of the 9,703 respondents to the Small Business Legal Needs Benchmarking Survey agreed with the statement “you can’t get ahead in business without taking risks.” 83.5% agreed that “sometimes, product or service quality is more important than profit margin.” 60.7% of respondents disagreed that “being competitive involves taking shortcuts.” 26.1% of respondents agreed that “it is more important to comply with the spirit than the letter of the law.” 54.0% of respondents agreed that “legal processes are essential for businesses to enforce their rights.” 12.6% of respondents agreed that “lawyers provide a cost effective means to resolve legal issues.”

Those in single person businesses less often agreed that you can’t get ahead in business without taking risks, that being competitive involves taking shortcuts, that law and regulation provide a fair environment for business to succeed, that it is more important to comply with the spirit than the letter of the law or that lawyers provide a cost effective means to resolve legal issues.
Respondents in small businesses that had a retainer agreement for legal services, or had formally utilised legal services during the preceding year, more often agreed that legal processes are essential for businesses to enforce their rights and that lawyers provide a cost effective means to resolve legal issues.

There were substantial differences in legal problems prevalence rates and problem resolving behaviour for businesses in which respondents exhibited different attitudes to business risk, law and legal services.

Three underlying attitudinal factors were identified through analysis: ‘legal deference’, ‘business and legal risk’ and ‘business integrity’. All three attitude factors had a highly significant relationship to problem prevalence. Increased legal deference was related to a significantly decreased likelihood of reporting legal problems. Conversely, both increased business integrity and increased business and legal risk were related to highly significant increases in the likelihood of legal problems. Increased business and legal risk was also associated with a significant decrease in the likelihood of taking action to resolve problems.

Increased legal deference was associated with a highly significant increase in obtaining legal advice. In contrast, higher business and legal risk related to a significantly lower likelihood of obtaining legal advice.

Comparing the Experience of Individuals and Businesses

As with individual citizens, small businesses operate in a world that is ‘flooded with law’, and as in personal lives, legal problems are ubiquitous in the world of business.

The proportion of small businesses found to have experienced legal problems, at 38%, is similar to the figure (of around one-third) that has been reported for individuals through surveys such as the English and Welsh Civil and Social Justice Survey (Pleasence et al. 2011); though the overall volume of legal problems reported by small businesses was much higher, reflecting the very high number of problems reported by some businesses engaged in high transaction activities. However, as Pleasence et al. (2013) have cautioned, the use of different methodologies entails that simple comparisons between ‘headline’ findings, such as rates of problem prevalence, are inherently problematic, and attention should be focused, rather, on similarities and differences in broad patterns of experience.

Looking at these broad patterns of experience, many interesting similarities and differences, as between individuals and small businesses, are evident.

For both individuals and small businesses, distinct patterns of vulnerability to problems are evident (both overall and in respect of particular problem types). For example, reflecting the economic nature of the society we live in, for both individual citizens and small businesses, the landscape of legal
problems is dominated by problems concerning trading, either from the consumer side or the supplier side. Also, survey findings concerning both individuals and businesses point, as suggested by participation theory, to the experience of legal problems being linked to the extent and manner in which individuals/businesses engage in social and economic life.

However, while the experience of legal problems by individuals is closely associated with socio-economic disadvantage, it is larger, higher turnover and longer-lived businesses that appear most vulnerable. This is likely a consequence of the far greater absolute level of disparity between the socio-economic participation of larger businesses and their smaller counterparts than that between that of the most advantaged and disadvantaged individuals. But, it is to be noted that unprofitable small businesses were more likely to experience problems than others, as also were BME and disabled controlled businesses. This last finding mirrors findings that individuals with a disability are among those most likely to experience legal problems.

Evidently, for both individuals and small businesses, legal problems can bring about significant adverse consequences, and in both cases the consequences commonly extend to ill-health.

Overall, the economic impact of legal problems affecting individuals and small businesses is high. It has been estimated that the impact of problems faced by individuals in England and Wales amounts to at least £13bn over a three-and-a-half year period. The impact of economic problems faced by small businesses would appear to be many times higher still, largely as a result of the much larger aggregate number of problems faced.

Turning to strategies adopted to resolve problems, similarities are evident between the behaviour of individuals and small businesses. Comparing the findings of the Small Business Legal Needs benchmarking Survey to those of the 2010 Civil and Social Justice Survey, very similar rates of inaction (9% and 10%, respectively), handling alone (46% and 51%, respectively), informal help (15% and 11%, respectively) and formal help (29% and 29%, respectively) were recorded for the sample of problems about which detailed information was collected. However, as with problem prevalence, methodological differences preclude much being drawn from this.

As with individuals, problem type, problem severity, problem characterisation, turnover (or income in the case of individuals) were all associated with obtaining legal advice. Also as with individuals, solicitors were (perhaps unsurprisingly) the most common source of independent help. And again as with individuals, a significant number of businesses sought help about problems from services that they subsequently found were unable to assist.

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53 When looking at the problems about which aggregated data was collected, similarities were less evident.
Similarities between the experience and behaviour of individuals and businesses are also evident in relation to how problems conclude. For both individuals and small businesses, it is unusual for problems to conclude through courts, tribunals, mediation or conciliation. The most common manner of conclusion for both individuals and small businesses is negotiated settlement, with third party interventions also relatively common.

Thus, in negotiating the law filled world of today, it would appear that the experiences of individuals and businesses, while distinct, exhibit many similarities – no doubt attributable to shared understandings, predispositions, opportunities and cost-benefit-assessments.