



# ICAEW REPRESENTATION 34/16 REGULATORY REPRESENTATION

## Supply of Legal Services in England and Wales

ICAEW Professional Standards welcomes the opportunity to comment on the *Market Study into the Supply of Legal Services in England and Wales: Statement of Scope* published by Competition and Markets Authority (CMA) on 12 January 2016, a copy of which is available from this [link](#).

ICAEW has both regulatory and membership functions which operate independently in a single unitary body. On occasions representations are asked from both the regulatory and membership arms and this is one of those occasions. This response dated 3 February 2016 is made by Professional Standards, the regulatory arm. A separate representation in addition to this one has been made by the membership arm through their Business Law Committee.

We hope to work further with the CMA on this important study, and be able to contribute further, providing a reasoned analysis of our experience, taking account of the views of all our regulated firms in a way which has not been possible in the short time (22 days) during which the Statement of Scope has been open for comment.

ICAEW is a world-leading professional accountancy body. We operate under a Royal Charter, working in the public interest. ICAEW's regulation of its members, in particular its responsibilities in respect of auditors, is overseen by the UK Financial Reporting Council. We provide leadership and practical support to over 146,000 member chartered accountants in more than 160 countries, working with governments, regulators and industry in order to ensure that the highest standards are maintained.

ICAEW members operate across a wide range of areas in business, practice and the public sector. They provide financial expertise and guidance based on the highest professional, technical and ethical standards. They are trained to provide clarity and apply rigour, and so help create long-term sustainable economic value.

ICAEW was granted status as an Approved Regulator and Licensing Authority for the reserved legal service of probate in August 2014, and since that time has both authorised accountancy and other firms and licensed them as Alternative Business Structures (ABSs) for probate services.

In addition ICAEW as a regulatory body is;

- (a) the largest Recognised Supervisory Body (RSB) and Recognised Qualifying Body (RQB) for statutory audit in the UK, registering approximately 3,300 firms and 8,400 responsible individuals under the Companies Act 1989 and 2006.
- (b) the largest Prescribed Accountancy Body (PAB) and Recognised Accountancy Body (RAB) for statutory audit in Ireland, registering approximately 3,300 firms and 7,500 responsible individuals under the Companies Act 1990.
- (c) the largest single insolvency regulator licensing some 750 insolvency practitioners as a Recognised Professional Body (RPB) under the Insolvency Act 1986 out of a total UK population of 1,700.
- (d) a Designated Professional Body (DPB) under the Financial Services and Markets Act 2000 currently licensing approximately 2,300 firms to undertake exempt regulated activities under that Act.
- (e) a Supervisory Body recognised by HM Treasury for the purposes of the Money Laundering Regulations 2007 dealing with approximately 13,000 member firms.
- (f) an accredited body under the Financial Conduct Authority (FCA) Retail Distribution Review (RDR) arrangements.

In discharging these duties ICAEW are subject to oversight by the FRC's Conduct Committee, the Irish Auditing and Accounting Supervisory Authority (IAASA), the Insolvency Service, the Financial Conduct Authority and the Legal Services Board.

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## MAJOR POINTS

### Scope of Market Study

#### The Supply of Legal Services and the Legal Profession

1. The supply of legal services in England & Wales has seen many changes in the last 8 years since the passing of the Legal Services Act 2007 (the act). The act sought to change the way legal services were offered and to provide openness and transparency in the way legal services were provided. Although the act has been quite successful in bringing about change, it is becoming a victim of its own success and starting itself to be a barrier to the development of the markets. We therefore welcome this review by the Competition & Markets Authority (CMA) as a timely intervention.
  2. The act introduced eight regulatory objectives which the regulators and regulated are bound by. Some of these compete against each other and the challenge is for the regulators to interpret these in a balanced fashion, and not to exclude any in their decision making. There is a slight concern in the statement of scope put forward by the CMA that whilst four of these objectives are referred to (consumer interest, access to justice, competition and public interest), the others are not, and if not taken into account in the final recommendations could cause some difficulty for regulators in putting such recommendations into practice. The rule of law and professional principles in particular are very important components that can dampen activity under the other four headings for good reason and therefore need as a minimum to be weighed up and understood whilst focusing on the consumer aspects.
  3. The statement of scope paper also makes certain all round assumptions around ABSs and their developments as being key benchmarks against which to assess improvements in the market for the consumer. This assumption in part misunderstands the nature of the ABS and indeed the authorised firms and perhaps takes focus away from an equally interesting market evolution around the sole practitioner. The assumption is that ABSs are the new multi-disciplinary practices bringing change in to the market through diversification and innovation. Thus is not quite accurate as;
    - 3.1. We are aware that a number of the ABS practices licensed by the SRA come about purely as a result of changes in ownership, for example introducing the non-qualified wife of a solicitor to the ownership. This has no impact or change on the end service provided and are not a market stimulus.
    - 3.2. We know that a number of firms we have authorised (as against licensed as an ABS) are accountancy firms where all the principals become authorised individuals. Because of the 100% authorisation they are not classified as ABS and are authorised through the traditional framework in the act. However they just as much as the ABSs are bringing new players and disciplines into the supply of legal services.
    - 3.3. Any sole trader, be they for example estate agent, valuer, accountant or financial advisor, if they acquire the appropriate qualifications can apply, certainly to ICAEW, to be authorised. These too form the new market but would be excluded from your review.
- ICAEW to date have accredited 181 firms of which 123 are licensed as ABS and 58 are authorised firms. However most with few exceptions are accountancy firms.
4. We note that the scope draws on some of the work that has been done by the Legal Services Board and the Legal Services Consumer Panel, but does not appear to take account of a relevant paper. This is the report on the Legal Needs of Small Businesses commissioned by the Legal Services Board in 2015 produced by the Small Business Centre Kingston University. This identifies some of the apparent buying patterns of small businesses and explores some of the behaviours. A synopsis of this paper is attached at appendix A.

## RESPONSES TO SPECIFIC QUESTIONS

### Q1: *Case studies*

- ☐ Do you agree with our three proposed case studies?
  - ☐ Do you agree with the scope of our case study on commercial law services?
5. The areas chosen for the case studies are not areas that hitherto many of our member firms have supplied services for. We are not therefore able to comment on them further. We are supportive of the areas chosen for case studies.
6. We are also content with the scope of the case study on commercial law services.

### *Theme 1: The ability of consumers to drive effective competition through making informed purchasing decisions*

- ☐ What information do consumers use to judge the quality of legal services and/or legal services providers? What price information is made available to consumers? Do consumers find it easy or difficult to compare the quality and prices of legal services?
- ☐ How do providers of legal services compete with each other in seeking to win new business? Do they face any difficulties in winning new business?
- ☐ Do intermediaries (such as estate agents, insurers and accountants) play a role in helping consumers to choose legal services providers?

7. We have to date limited experience on consumer choice in the area of legal services save that we know the probate offering serves as an adjunct to established estate administration practices. This provides the consumer with a one-stop shop rather than two separate service providers with the associated overlap of service and cost.
8. We have above drawn attention to the survey for the LSB that showed that a major issue for business is not so much one of choice but rather the willingness to make a purchase in the first place. A potential weakness of theme one is that it is dealing with a captive market where the consumer is already engaged, rather than where there is a lack of engagement. The theme accordingly deals with competition but not access to justice.
9. The LSB survey also confirmed our understanding of the differences in contact with small businesses in that accountants have regular contact with their clients through annual accounts and tax returns. They are better positioned to identify client need and refer them to legal services, either through legal firms with which they have a referral arrangement or increasingly offering the service from their own suite of services as they become licensed for the reserved activities.
10. As a new regulator we have encountered a number of instances where intermediaries have been giving uninformed advice to the consumer and do not appear to have caught up with the consequences of the Legal Services Act as regards the wider sort of provider that can now provide reserved legal services. These instances have now been corrected but included;
- 10.1. Advice by the Probate Office website that executors should seek a solicitor if they were unwilling to seek the grant of probate themselves
- 10.2. Refusal by the London Gazette to take advertisements for beneficiaries except from an executor or a solicitor. Thus a number of Authorised Individuals authorised by us for probate were initially unable to place such advertisements.
- 10.3. Unwillingness by the banks to open separate client accounts except for solicitors, thus leading to firms not being in compliance with the probate regulations. This was resolved in consultation with the British Banking Association.

- 10.4. Refusal by insurance companies to release monies due on life policies of the deceased to anyone other than a solicitor or executor. This caused some difficulty for a newly authorised practitioner dealing with vulnerable beneficiaries.
11. The experience has thus shown that the market may continue to be inhibited by intermediaries not being fully informed about the changes in the industry. They can accordingly play a role in simply getting their understanding of the law right and amending their customer advice sheets accordingly.

***Theme 2: Whether information failures expose consumers to harm that is not being adequately addressed through existing regulation or redress mechanisms***

- ☐ Are current regulations effective in protecting consumers' interests?
  - ☐ Are consumers aware of the existing redress mechanisms? Are they being pointed to redress mechanisms by providers when appropriate?
  - ☐ Are redress mechanisms effective in addressing consumers' complaints?
12. This theme is addressing what is an unbalanced landscape. Legal services which are not reserved can be supplied by anybody under no regulatory supervision. There is no redress for the consumer when dealing with unregulated firms save under the Sale of Goods Act 1979 and Consumer Rights Act 2015. Where those services are provided by a members of a professional body who are not regulated by legal service legislation, there are additional remedies for the consumer through the professional bodies rules; those of ICAEW for example can require refund and reperformance of the service or paying for a third party to complete the work.
13. Where firms and individuals are accredited under the Legal Services Act 2007 then they have to participate in the Legal Ombudsman Scheme (LeO). It is a requirement of the legislation that consumers are signposted to LeO in their documentation which is often done as part of the engagement letter with the consumer. However these documents are very detailed these days and it will be interesting to find out from the research if the consumer loses sight of their rights within the detail.
14. There is no mention of technology in the theme and in particular the impact of the internet and the ability to supply legal services from overseas. Here services both reserved and unreserved can be supplied offshore and there would appear at present to be limited scope to secure redress and for the regulators, LeO and the LSB to apply enforcement. As legal service business is internationalised (similar to the development of audit in the 1990's) there will be an added risk to the consumer.

***Theme 3: Impact of regulations and the regulatory framework on competition***

- ☐ Do the current regulations create disproportionate barriers to entry and expansion into the legal services sector? What difficulties have new entrants faced?
  - ☐ Does the current regulatory framework impose disproportionate costs on legal services providers?
  - ☐ Are the rules governing ABSs unnecessarily restrictive such that they have hindered the entry and expansion of ABSs?
15. There are two tiers of barrier under the regulatory framework as it stands. This is firstly with regard to bodies that can authorise or license the firms that provide legal services, and then secondly the firms themselves. Our experience to date indicates that there are issues at both levels.

## Designation of bodies

16. The process for the approval of bodies that can authorise or license legal services is extremely long and tortuous and requires considerable investment by the applicant body. This means it is out of reach for the smaller trade bodies, which even if they had the experience and capability could not afford the paperwork and timescales required in order to secure the designation. In the case of ICAEW's designation, the application was submitted to the LSB in December 2012, it was recommended to the Lord Chancellor in December 2013, the Lord Chancellor agreed the recommendation in March 2014 and it just secured approval by parliament before the summer recess in July 2014; a period of 19 months. Had it missed that July window it would have been October – period of 22 months.
17. In contrast a similar application process for the designation of Recognised Supervisory Body to accredit firms for Local Audit under the Audit & Accountability Act 2014 was made by ICAEW a few months later. Arguably there is as much consumer interest and public interest at stake in connection with this designation; the application was submitted to the FRC in December 2014 and approved by the FRC in October 2015, a period of 11 months. Were it not for holidays the application could well have been cleared inside 8 months.
18. The two systems can be contrasted in that the FRC is trusted by the minister at BiS and parliament to fulfil the necessary oversight to ensure that the licensing body is capable and acceptable to protect consumers and the public interest. In the case of legal services that same trust is not placed in the Legal Services Board and the reference to the minister and then parliament is an over-engineered process. It would seem to us that parliament should have greater trust in the LSB and make additional changes to the rules and powers of that body if they consider them required to enable it to perform this oversight role consistent with other oversight bodies.

## Accreditation of firms

19. The current discussions that Whitehall departments are having concerning the red tape challenge and the determination of Business Impact Targets are highlighting the level of gold plating that can arise from regulation. In the case of audit we find that the core rules are determined in Brussels by EU Regulation and Directive; these in turn have to be implemented in UK law, and then the FRC as the oversight body make its own rules and these are devolved onto the Recognised Supervisory Bodies (RSBs); they in turn apply their own sets of regulations. Gold plating and indeed platinum plating can arise as the basic rules are added to down the 4 steps in this chain. These add-ons can add considerable regulatory cost to the firms seeking to provide audit under this structure with a consequent significant cost being put down to the consumer.
20. However the role of the RSBs as both a regulatory body and a membership body do push back to the ministry and the FRC where they believe the interpretation of EU/UK law is over-stated and there is a middle ground being achieved where the law and its objectives are applied but not excessively. This is resulting in a set of regulations that are tight and consistent with the core legislative objectives, and not over-burdensome to the supplier and thence consumer.
21. The legal services landscape is a bit more complex than this. There is for example legislation over and above the Legal services Act 2007 which affects some of the participants, such as the Solicitors Acts. When the regulators met in 2013 one of their first outputs was a summary of deregulatory steps currently being undertaken by them. In the case of new entrants to the market, of which ICAEW was one, there was very little offered simply because the regulations these new entrants had applied, be they complex, were the minimum permitted under the legislation.

22. At the accreditation level we have found working with the firms we license and authorise that the procedures and checks that are necessary are extremely detailed and laborious and in our view over-engineered given the outcomes we believe that the legislation is trying to achieve. ICAEW were a participant in the discussions between regulators that led to a letter to the Ministry of Justice in July 2015 suggesting in particular that schedules 11 and 13 of the legislation were excessive and asking too much detail. That submission has now resulted in a working group being set up jointly with the ministry to see if these rules can be less rigorous whilst sustaining the key objectives of the act.

### Separation

23. We are aware that the rules and practices of the larger legal services regulatory bodies surrounding their profession appear at times to be in conflict with the objectives of the act and the aims being sought by their regulatory arms. To this end a number of the regulatory bodies are now seeking legal separation from the membership body. This may be a suitable solution to address their particular problem, but it is not necessarily the right approach for other bodies that do not have these constraints.
24. The unitary body of regulator and membership has a number of strengths, one being the continuous challenge to red tape noted above, but another highly important one is the voluntary protection and upholding of quality that the membership body puts forward to the consumer on the unreserved areas of legal services (and in ICAEW's case accountancy). This voluntary protection would be diluted by a separation as the willingness of the member bodies to commit themselves to a process over which they had no say or control would be weakened and the member firms themselves would question this arrangement. There are further issues about doubling of costs and overheads in running two separate organisations, and the loss of quality through limited exchange and access to technical information. All these are factors to be considered in a separation which would adversely affect the consumer.
25. We would point to the Internal Governance Rules of the LSB which were drawn up under section 30 of the Act. In our view these set the tone and key outcomes that are required for the regulatory arm to be an independent function, and with appropriate checks and balances in our view this can be done without separation. Independence after all is not one of the statutory objectives listed in section 1 of the act. It is simply an enabler. It is disappointing that these have not been more rigorously followed by other bodies and it would seem the LSB appear to lack the gravitas and proportionate powers to enforce them. ICAEW for their part have taken steps to amend their charter and overhauled their regulatory governance to ensure these outcomes are secured and that the operational structure of the body does not lead to excessive or protective regulation.
26. Two points that are particularly relevant here that can affect the outcomes being sought by the access to market and competition;
- 26.1. The terms of ICAEW's designation as a legal services regulatory body included the requirement to be able license any organisation or person, not restricted to lawyer or accountant. This required a change in the ICAEW Charter but it is now built into the ICAEW probate regulations. It is not restricted to Chartered Accountants as is suggested in your note 21 on page 9 of the scope document, and is very much an opening of the market to any participant provided they have the right qualifications and personal standing. This is a case of the member body being flexible to accommodate such change. We are not sure many if any of the other bodies have this open entry.
- 26.2. The income of the regulatory arm of ICAEW is totally funded by its regulatory charges. The charges for practising certificate which seem to vex other bodies go wholly to the member arm, and a separate charge related to practice assurance is made by the regulatory arm. There is therefore no member control over the income of the regulatory arm affecting its strategy and management.

**□ What has been the impact of ABS entry on competition in the legal services sector, including on innovation, price and quality?**

27. We have limited data at the moment upon which to pass commentary and judgement on the impact of ABS and other non-legal authorised firms. In particular we have only been accrediting firms for 15 months and it takes time for these firms to establish and promote these new areas of practice. Our quality assurance programme however, under which each of the firms approved will receive a regulatory inspection visit that will assess technical as well as administrative compliance, will ensure the quality and consumer protection elements are in place and operating satisfactorily.
28. We have mentioned above that combining probate with existing estate administration services will reduce overall cost for the consumer through the use of the one stop shop. In addition the ability of firms to take on practising solicitors is allowing a wider service function to operate within the accountancy firms we license.

**□ Have there been opportunities for more competition in particular legal service areas as a result of regulatory reform?**

29. The entry of ICAEW into the market, and its designation of over 180 firms for probate means that there are 180 new firms providing legal services largely from the accountancy sector. This is an important opening of the market place.

**Other observations on theme 3**

30. We are concerned about two statements made in the scoping document in relation to theme 3. The first relates to regulations “that go beyond what is necessary to protect consumers”. The implication from this comment is that where this is the case then those regulations should be dismantled. In our view this is a rather myopic view of the act and the responsibilities attached to firms and those who regulate them. The act commences with the 8 statutory objectives, which include protecting and promoting the consumer interest. However there are 7 other objectives which have to be balanced and prioritised according to circumstance. In particular there can be circumstance where public interest and the rule of law must take precedent, yet appear to be beyond what is necessary to protect consumer interest. That is the intended ambiguity and fluidity of the act where the professional judgement of regulator and firm has to come into play. It would be wrong to superimpose an assumption that the consumer interest is the sole or overriding driver.
31. Secondly the observation that multiple regulators may be distorting the market seems to suggest that a monopoly is a better solution. This seems to us a paradoxical position for the CMA and fails to consider the deeper reasons why such multiple regulators exist and are used in other regulated areas. The specialisms of the patent attorneys and notaries for example are part and parcel of the quality assurance of the market that assures the consumer of the expertise of the supplier in niche areas of law and provides the breadth of choice. A one size fits all regulator would damage quality, reduce choice and inhibit competition.
32. Indeed the entry of the new bodies into the market has resulted in the SRA and the BSB having to look again at their regulatory frameworks as they are now starting to be disadvantaged by their peers. We have noted for example that those licensed by ICAEW to carry out probate are losing their AI status when moving to the SRA for licensing as the SRA are not applying rules of equivalence but rather setting higher entry requirements. This signifies an imbalance which market forces will quickly unravel to the benefit of the consumer – but not if there is a single regulator.



## **APPENDIX A**

### **Synopsis**

**The legal needs of small businesses – An analysis of small businesses' experience of legal problems, capacity and attitudes – Robert Blackburn, John Kitching and George Saridakis, Small Business Centre, Kingston University – For the Legal Services Board 2015**

### **Background**

The report, commissioned by the LSB, presents new empirical evidence on small businesses' experiences of legal problems and their strategies and actions in dealing with these problems in 2015.

The research is set within the broader context of the strategic goals of the LSB: breaking down the regulatory barriers to competition, growth and innovation; and enabling need for legal services to be met more effectively (LSB, 2015). There is evidence to suggest that many of the problems that small firms face are 'justiciable' and could be resolved by recourse to the legal system. Hence, access to justice is a crucial factor in creating a supportive environment within which small firms can thrive.

The sample included businesses across the full size range from 1 worker to 49 and businesses in all major sectors in the UK economy.

The number of small firms in the UK economy has been increasing in the past 20 years. Given their small size, firms often turn to utilising external resources as a means of overcoming their limited in-house capacities and capabilities (Bennett and Robson, 1999) and raising their competencies (Teece et al., 1997). This includes the search and acquisition of advice and support, through to help make strategic and practical decisions (eg. Payroll).

### **Key findings:**

The most common business problems related to trading, taxation and employment.

The large majority of firms had little contact with legal advisers. Less than one in 10 either employed in-house lawyers or had a retainer with an external provider. Over half of firms experiencing a problem tried to resolve it by themselves. When advice was sought, accountants were consulted more often than lawyers.

In addition to retainers, firms also reported using a range of professional services providers in the last 12 months. Most common among these are accountants (used by 43% of firms). Specialist legal services providers were used much less frequently: solicitors (used by 9%); a legal helpline (2%); barristers (1%); and another legal services (less than 1%).

Overall, respondents reported around 40,000 problems in the last 12 months. The most common problems were related to trading: almost 20% of firms reported such a problem, followed by employment (6.5% and then taxation (6.0%).

## Legal capacity and use of legal services

Respondents were also asked which, if any, of a range of independent professional services the business had made use of in the last 12 months (Table 2.2). Respondents reported using all of the prompted sources. Accountants are, by a considerable margin, the most commonly used external services provider in 2015, followed by solicitors and tax advisers. This is confirmed in numerous other studies (eg. Bennett and Robson, 1999; 2004; Blackburn et al., 2010; Gooderham et al., 2004) and most probably reflects the diversification of business services provided by accountants (eg Jarvis and Rigby, 2012; Sarens et al., 2015).

### Use of Business Support Services in Past Year

External provider	2013 (%)	2015 (%)
Accountant	61.1	43.4
Solicitors' firm	18.8	8.8
Tax adviser	26.5	8.6
Financial adviser	22.7	8.4

The survey also suggests significant changes in the frequency of different problem types. The types of problems and their frequency are shown in the table below. Clearly, trading, taxation and employees are the source of most problems in both years.

### Number and percentage of problems experienced in Last 12 Months

Type of problem	% Number of problems reported , 2013	% Number of problems reported, 2015
Trading	33.9	37.5
Tax	10.3	22.0
Employees	11.3	14.5

A further way of examining legal problems is through the type of problem. Business owners' experiences of specific problems across the two survey periods are shown in the table below. This further unpacks the general finding that a higher percentage of firms reported experiencing *any* problem in 2013 than in 2015.

The most common problems were relating to trading: almost one in five firms reported such a problem in 2015, lower than in 2013 and the difference is found to be statistically different. Employment was the second most important legal problem in the sample (6.5% of all firms). Taxation presented the third most frequently cited problem (6%). Less than found in the 2013 survey (8%). The significance of taxation as a problem and its downward trend is confirmed elsewhere (BiS, 2015a: Table 8.5).

## Addressing legal problems

Research for some time has shown that owner-managers also have a strong sense of independence and resistance to external advice seeking (eg. Scase, and Goffee, 1987) so how they deal with legal problems is important to understanding their needs and how access to legal services may be developed.

In seeking advice and support for their most recent legal problem, the table below shows the diverse sources of advice used by respondents. These span specialist legal services, local advice organisations and membership bodies. Clearly, the strength of their on-going relationship with accountants is reflected in their choice of adviser.

	2015 (%)
Solicitor's firm	15.0
Independent barrister	4.8
Other organisation offering legal advice	2.6
Accountant	20.9

### Are lawyers used as a last resort?

Many business problems may not be sufficiently serious enough to access legal services. Second, when engaging with professional services for advice, business owners end to go to those suppliers that they have used previously and built up a relationship. In most cases, this involves accountants rather than lawyers although it is also argued that trust is context dependant (see for example, Blackburn et al., 2010; Gooderham et al., 2004).

### Conclusions and implications

The analysis is set within an economic and legal environment that is undergoing substantial changes. First, the significance and growing importance of small firms to the economy in terms of employment, output and innovation is widely acknowledged.

'Trading' followed by 'taxation', and 'employees' were the most frequently cited origin of legal problems.

It may be argued that there is not so much an unmet legal demand issue but rather a potential issue regarding the reluctance of very small firms to engage with the legal profession. This is all the more significant when it is considered that very small firms were less likely to report a legal problem in the first place while the economy shifts further towards micro and one-person firms.

### Small firms and engagement with external services: the role of trust

The weight of the evidence suggests that small firms use their accountants more frequently than any other provider and this is on the basis that it is a necessary relationship for taxation and compliance purposes and set within an 'institutional' trust framework (Blackburn et al., 2004). However, the research also suggests that the development of 'relational' trust is a crucial part of the external advice seeking process. Specifically, small business owners and their advisers required interaction and information exchange, particularly in order to convince the business owner that the adviser is appropriate and can deliver the advice required. In doing so, previous relations as well as recommendations from trusted parties where no prior experience is present, will be important for the small business owner. Private sector suppliers, such as providers of legal services, accountants and banks, benefit from having a relatively strong institutional trust because of their regulatory structures and codes of practice.

Many business owners will not have used a legal service previously for their business and so knowing who to approach may be a problem. Certainly, they perceive lawyers as expensive and they are not part of their trusted relational networks.

This analysis leads to the conclusion that most small business owners do not regard lawyers as part of their natural business problem resolution strategies and are not accessing legal services because of perceived and real barriers. In contrast, accountants benefit from both institutional and relational trust because of the frequency of contact and a greater understanding amongst firms of what accountants provide.

Given that small firms mainly rely on recommendations when looking for an external service in the first instance, the *legal profession needs to make stronger strategic ties with other key business support providers*. This will involve the legal profession strengthening ties with other intermediaries which small firms frequent. It will ensure that they are an embedded part of the support network.

For example, working with accountants, national agencies, local authorities, trade bodies and chambers of commerce may help put legal services providers on the 'map' and enhance a network of contacts. This adds weight to the need for legal services providers to be innovative and underpins the notion of promoting multidisciplinary service providers (ERC, 2015).