



From the frying pan to the fire: the impact of small businesses' legal problems

Nigel J. Balmer and Pascoe Pleasence

Abstract: *Among LAW Survey respondents, 2,611 people (13%) described themselves as business owners. These business owners reported 984 business-related legal problems, 65 per cent of which resulted in adverse consequences (e.g. loss of income, illness or relationship breakdown). This not only impacted on business and the Australian economy, but also on business owners' private lives and their families. Providing timely and integrated legal assistance services to business owners has the potential to mitigate the impact of problems not just on businesses and the wider Australian economy, but also on private and family life.*

Source

This paper presents new findings from the Legal Australia-Wide Survey (LAW Survey). The first major findings for Australia as a whole were published in *Legal Australia-Wide Survey: legal need in Australia* by Christine Coumarelos, Deborah Macourt, Julie People, Hugh M. McDonald, Zhigang Wei, Reiny Iriana and Stephanie Ramsey (2012).

About the LAW Survey

The LAW Survey provides a comprehensive assessment of a broad range of legal needs of a representative sample of the population. It covered 129 different types of civil, criminal and family law problems. It examined the nature of legal problems, the pathways to their resolution and the demographic groups that struggle with the weight of their legal problems. With 20,716 respondents across Australia, the LAW Survey allows for in-depth analysis at both the state/territory and national level. The nine LAW Survey reports are available at www.lawfoundation.net.au/publications

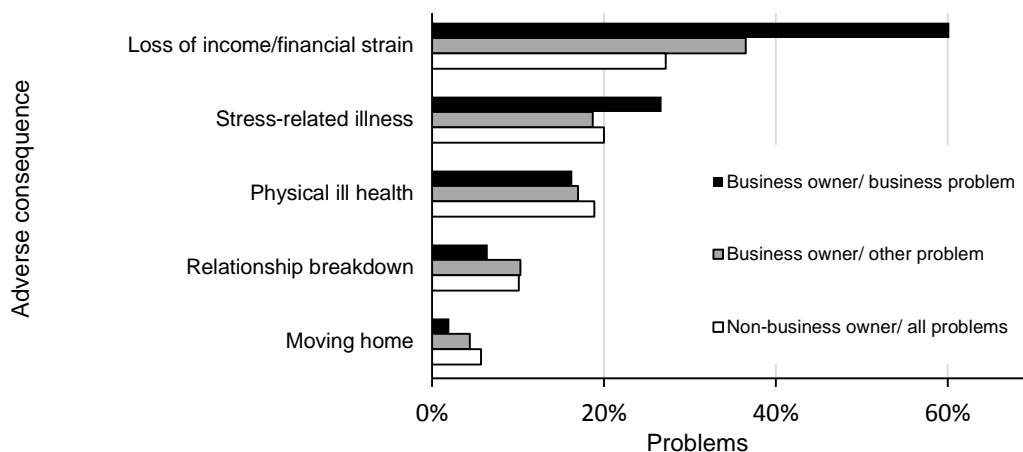
Introduction

The business and private lives of the more than two million¹ Australian business owners are intertwined. Stresses in one area can spill over into the other, and these stresses include the experience of legal problems.² Businesses operate in a “law thick”³ world. Their structure, activities and transitions all present opportunities for legal problems to arise.⁴ Building on earlier findings from the LAW Survey, this paper examines the impact of business-related legal problems on respondents and their families.

Impact of business-related legal problems

Among the 20,716 respondents in the LAW Survey, 2,611 (13%) identified themselves as having been business owners during the previous 12 months. Of these, 326 (13%) reported having experienced one or more business-related legal problems during the previous 12 months and 984 business-related legal problems in total.⁵ Respondents reported that 48 per cent of their business-related legal problems had a moderate to severe impact on everyday life.⁶



Figure 1: Adverse consequences following on from business and non-business related legal problems

Note: 3,070 non-business-related problems were reported by business owners, 222 business-related problems were reported by business owners, and 15,287 problems reported by other respondents. Seven business problems reported by these other respondents (from more than a year before) were excluded from analysis.

This was comparable to legal problems concerning personal injury or local government. While lower than the numbers recorded for many other problem types, it was still a very significant percentage. However, 65 per cent of business-related legal problems resulted in one or more adverse consequences, notably higher than the figure recorded for other problems (45%).⁷ Unsurprisingly, much of the disparity was due to an increased likelihood of loss of income/financial strain stemming from business problems, though the figures for other consequences, going beyond the businesses concerned – such as stress-related illness, physical ill-health and relationship breakdown – were also high (see Figure 1).

Implications

While reported business-related legal problems were less severe than other legal problems, the contrasting increased likelihood of business-related problems resulting in adverse consequences has implications for the Australian economy. In England and Wales, the economic cost of disruption to business caused by legal problems is estimated at tens of billions of pounds per year.⁸ Business-related legal problems come at the cost of economic growth.

LAW Survey data show that business-related legal problems commonly affect owners' health and roughly 1 in 15 contributes to a relationship breakdown. While not all relationship breakdowns are between family members, some will be.

This paper highlights the need to support businesses to deal with legal problems in the round. Business problems do not exist in a vacuum. These findings therefore reinforce the

wider case for timely and integrated legal assistance services.⁹

Endnotes

- 1 Australian Bureau of Statistics, *Counts of Australian business operators, 2011 to 2012*, cat. no. 8175.0, ABS, Canberra, 2013.
- 2 The term 'legal problem' is used throughout this paper for easy reference to a problem that is 'justiciable'. Justiciable problems have been defined by H Genn in *Paths to justice: what people do and think about going to law*, Hart, Oxford, 1999, as problems that raise civil legal issues, whether or not this is recognised and whether or not any legal service or process is utilised in their resolution.
- 3 GK Hadfield, 'Higher demand, lower supply? A comparative assessment of the legal resource landscape for ordinary Americans', *Fordham Urban Law Journal*, vol. 37, 2010, pp.129–156 at p.133.
- 4 P Pleasence, N J Balmer, R Blackburn & T Wainwright, *A framework for benchmarking small business consumers' need for and use of legal services*, Legal Services Board, London, 2012.
- 5 'Business-related problems' are here defined as problems with payments relating to business ownership or other problems relating to business ownership.
- 6 The relevant question asked, 'what impact has this (problem) had on your everyday life: none, slight, moderate or severe?'
- 7 149 of 230 business-related problems. Adverse consequences were covered in question A4.
- 8 P Pleasence & NJ Balmer, *In need of advice? Findings of a small business legal needs benchmarking survey*, Legal Services Board, London, 2013.
- 9 P Pleasence, C Coumarelos, S Forell & HM McDonald, *Reshaping legal assistance services: building on the evidence base: a discussion paper*, Law and Justice Foundation of NSW, Sydney, 2014.