



The Solicitors'
Profession:
Contribution to the
Irish Economy

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Executive Summary

As the professional body representing solicitors, the Law Society of Ireland has begun a process of examining and articulating the economic contribution of the profession and the wider legal services sector. This work is intended to help bring greater accuracy and objectivity to public discussion and analysis regarding the profession's economic role and contribution, and to shed greater light on some of the prevailing perceptions regarding its comparative recent performance. This report presents the finding from initial desk-research into the profession and wider legal services sector, and considers a number of aspects of its economic role.

The solicitors' profession plays a critical role in the wider justice system. Through providing representation, information, advice, and other legal services, it facilitates people's access to justice and the protection of important and socially-valued rights. In their role of facilitating enactment and enforcement of contracts and the protection of commercial rights, their economic role is also crucial, and much economic activity depends fundamentally on the existence of and access to such legal protections and assurances.

Key findings include the following.

Current Profile of the Profession

- There are some 9,226 solicitors issued with Practising Certificates by the Law Society in 2014;
- there are 2,176 law firms in 2014, 92% of which employ five or fewer solicitors;
- smaller firms are prevalent outside Dublin, and many of the smallest firms (which are the majority of firms) are located in medium and small towns throughout the country;
- the wider legal services sector, of which solicitors represent approximately 70% of professional practitioners, had more than 18,000 persons engaged in 2014, and contributed €1.46bn in gross value added to the economy that year;
- among a number of other key service sectors, the legal services sector was second only to telecommunications in its overall direct contribution to economic output, and had more people engaged than the engineering, telecommunications, advertising/market research or architecture sectors.

Recent Trends and Developments

- Following growth in 2008 and 2009, the overall number of law firms has declined each year since;

- reflecting patterns across the economy gross value added in the legal services sector declined by an annual average rate of 9% between 2008 and 2011, with 2012 halting the decline rather than bringing a rebound;
- between 2008 and 2012 the staff numbers engaged in the legal sector fell by 16%, while the number of employees fell by 21%;
- personnel costs and wages and salaries both fell by 20% over the 4 year period;
- data from the Revenue Commissioners shows that gross incomes for self-employed solicitors fell by 43% over the period 2007 to 2012. Higher rates of decline were incurred outside Dublin, and as much as 53% in the Border, Midlands and Western Region;
- there was a five-fold increase in the number of legal professionals in receipt of unemployment benefit/assistance between 2006 and 2009, and 2014 numbers remained three times higher;
- over the period 2008-12 the legal services sector experienced greater declines in gross value added than the accounting, real estate, telecommunications, and advertising and market research sectors;
- the decline in employment in legal services in Ireland between 2008 and 2011 was the highest within a cohort of 22 European countries;
- there is little evidence therefore that supports any contention that the legal services sector has been unaffected by the economic crisis, and much that confirms it has experienced its effect in ways as severe and far-reaching as many others.

Legal Costs

- The distinction between legal costs and the professional fees of legal advisors is rarely made in the debate about the costs associated with legal services and processes;
- defining and measuring legal costs and those of other services is not straightforward. Unlike for products there is little uniformity in the types of services delivered, and little basis to define identical “units” of output that can provide a basis for comparative price measurement;
- the Services Producer Price Index (SPPI) produced by the Central Statistics Office (CSO) is often used to monitor trends in legal costs. However the CSO itself currently categorises the entire series as an “experimental” index, and one which is “under development and may be subject to methodological improvement”;
- a number of concerns can legitimately be made regarding the accuracy and reliability of the legal services SPPI data, that relate to its small sample and questionable representativeness of both the sector as a whole and of the range of services it provides;
- the World Bank “Doing Business” Reports are frequently cited as evidence of the levels of legal costs in Ireland. In relation to legal costs however, it surveyed just 5 people in Ireland

for its 2015 Report (and 4 for its 2014 Report). The Reports and series have also been strongly critiqued in evaluations undertaken by the World Bank itself.

Economic Role and Contribution

- Beyond their direct contribution to employment, output and other economic variables, legal services are quite unique compared to other sectors in their role in encouraging and facilitating economic activity, growth and development. There is a large body of empirical literature that confirms the economic impact and importance of having a well-functioning judicial system that effectively serves to protect property rights and to enforce contracts;
- the legal system and the legal profession that services interaction with it, have a direct, facilitative role in enabling economic growth;
- the economic contribution is also important in local contexts as well as the national one, particularly in small towns with relatively small numbers of solicitors servicing both private individuals and commercial clients;
- competition, company growth, innovation, labour mobility, and credit availability are each enhanced where there are effective and efficient legal frameworks;
- World Economic Forum competitiveness data consistently show Ireland ranking comparatively highly under criteria relating to its legal system;
- there is also a large body of evidence showing the importance of the justice system and the efficiency of legal procedures in determining a country's attractiveness as a destination for Foreign Direct Investment (FDI). There is also compelling evidence of their importance in the competitiveness and attractiveness of Ireland as a destination for FDI;
- these benefits are not vague intangible ones at national level, they are mirrored at local level by the economic and socio-economic importance of local solicitors throughout the country. These professionals employ local people in their practices, enable local businesses to survive and thrive through provision of advice and services, support local families and individuals at many of the most difficult and important stages of their life cycle, and support local communities and civil society through local involvement and participation on an often voluntary and pro bono basis.

Conclusion

- The profession is neither sheltered nor protected from wider economic trends, conditions and sentiments, and has experienced declining demand, fee pressure, cost increases and reduced profitability just as have other service sectors operating in a recessionary economy;

- it is also a heterogeneous combination of different operators and practitioners, different firms of different sizes, with different specialisms, client bases and geographical reaches, all of which experience economic conditions differently and with different degrees of success;
- a key challenge is to improve the public's knowledge and appreciation of the work of solicitors and the reality regarding a sector too often inaccurately perceived as protected, universally profitable, uncompetitive, and immune from normal market forces;
- such perceptions remain for various reasons including poor communication, poor data (and no local data), data that is rarely clarified or challenged, and genuine complexities regarding the nature of legal work that don't lend themselves to simple generalisations about practitioners or the profession in aggregate.

1. Introduction

The solicitors' profession plays a critical role in the justice system. Whether through providing representation, information, advice, or other legal services, it facilitates people's access to justice and the protection of important and socially-valued rights. Their role of facilitating the enforcement of contracts and the protection of commercial rights, their economic role is also crucial. Much economic activity depends fundamentally on the existence of and access to such legal protections and assurances.

Since the economic crisis began in 2008, there has been a considerable focus in public policy making and discourse on the impact of the recession on different industries, groups and professions, on the effects of the adjustment on Ireland's economic competitiveness, and on the structural and other reforms prescribed and pursued in the interest of regaining national economic health. In many of these debates there has been an impression created of the legal profession as a "sheltered" sector that was not negatively affected, where disproportionate profits continually accrue, and where unwarranted and excessive costs are placed on the rest of the economy.

Solicitors, as the most populous part of the profession, tend to be the implied subject of these views, even where the evidence cited is not exclusively representative of Solicitors as a distinct profession. Furthermore, the evidence often cited itself has limitations and has a much weaker basis than the conclusions merit.

The legal system and the professions and practitioners that facilitate its operation and functioning play a critical social and economic role, but one that is seldom articulated. Instead the tendency is to paint a negative and simplistic picture that captures headlines or feeds negative perceptions, often on the basis of inaccurate or unrepresentative evidence.

For these reasons the Law Society of Ireland has begun a process of examining and articulating the economic contribution of the solicitors' profession and the wider legal services sector. This work is intended to bring greater accuracy and objectivity to public discussion regarding the sector's economic role and contribution, and to shed greater light on the prevailing simplistic perceptions regarding its comparative recent performance.

As with many service sectors however the measurement of the legal services sector's performance and impact is not straightforward, and data sources are imperfect. This Preliminary Report presents an initial summary of key characteristics of the sector based on available information. It will be followed by further phases of more in-depth and focused research with an overall aim of

detailing and communicating the economic role of the sector and supporting the profession in maximising its contribution to national economic recovery.

The report is structured as follows:

- Section 2 profiles the sector in its current status;
- Section 3 describes trends since the economic crisis began in 2007/08, and the evolution of the sector over that period;
- Section 4 presents an analysis of legal costs, their measurement and accuracy;
- Section 5 discusses the overall economic contribution of the sector; and
- Section 6 presents some conclusions.

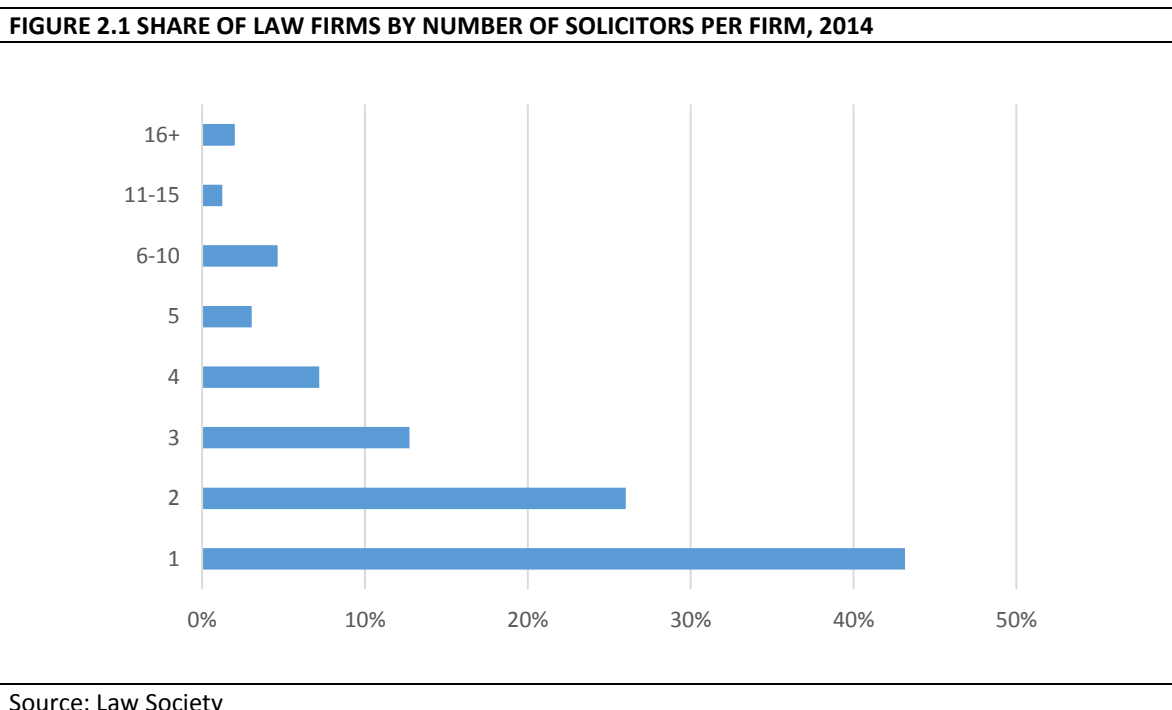
2. Current Profile of the Profession

2.1 Practising Solicitors in Ireland

There are 9,226 solicitors issued with Practising Certificates by the Law Society in 2014. The vast majority (approximately 82%) are employed in legal firms, while most of the remainder (16%) are employed in other private sector businesses. A small minority (c.2%) are employed in the public or voluntary sectors.

2.2 Law Firms

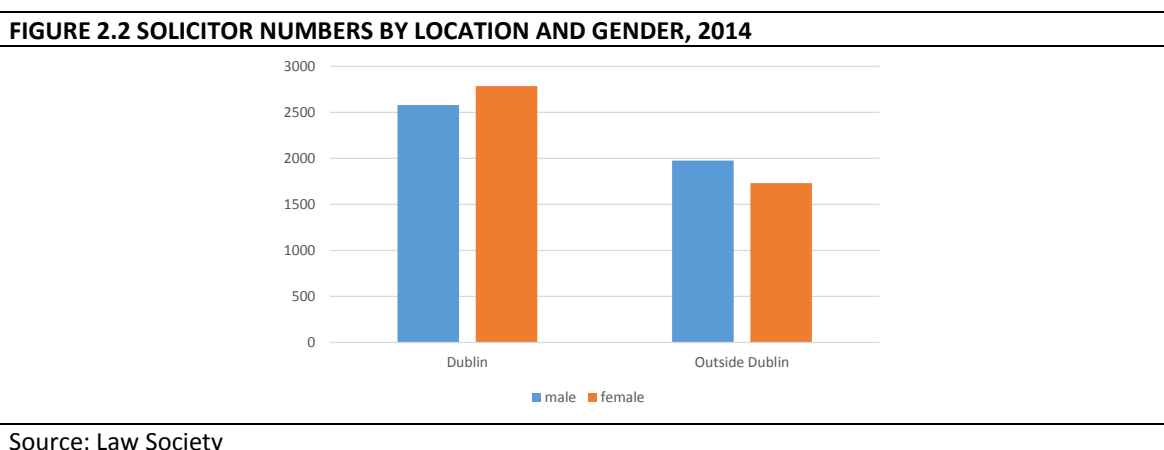
There are 2,176 law firms in 2014, the largest 15 of which employ approximately 22% of practising solicitors. Most firms however are small, with the majority having just one practising solicitor, and a high proportion with just two. Firms with five or fewer solicitors make up 92% of law firms in 2014.



2.3 Gender and Location of Practitioners

The City and County of Dublin, unsurprisingly has the highest density of solicitors (5,334, 60%). 24% of practising solicitors operate outside counties Dublin, Cork, Limerick and Galway, and their main urban centres.

Nationally, the profession as a whole is a very equal one in terms of gender balance, with almost equal proportion of male and female solicitors in 2014. Dublin is unique in having a higher concentration of female solicitors than the national trend.



Smaller firms are more evident outside Dublin, and many of the smallest firms (which are the majority of firms) are located in medium and small towns throughout the country.

2.4 Sectoral Activity Levels

2.4.1 Solicitors and the “Legal Activities” Sector

Most sources of CSO data relates to “legal activities” as a defined sub-sector within the services sector. Such data relates therefore to a more widely-defined grouping than just the solicitors profession. The wider definition includes activities carried out by solicitors, barristers and a number of related specialist legal service providers including trademark agents, notaries and patent agents¹.

¹ The full set of activities included in the “legal” sector in this case is “advice and representation in civil cases, advice and representation in criminal cases, advice and representation in labour disputes, advocate, arbitrators legal activities, articles of incorporation, attorney, bailiffs activities, barrister (own account), copyrights preparation, deeds preparation, law agent, law writing, legal activities n.e.c., legal counsel, legal documentation and certification activities, legal draughtsman, legal examiner activities, legal services in connection with the disposal of assets by auction, notaries activities, notary public activities, parliamentary agent, patent agent, patents preparation, preparation of legal documents, process server, public notary, referees (legal) activities, scrivener, searching legal documents, sheriff’s officer, software copyright consultancy activities, solicitor (own account), trademark agent, trusts preparation, writer to the signet, lawyer (own account), partnership agreements, wills preparation.

The CSO does not (and cannot²) provide information regarding sectoral activity disaggregated as between solicitors and other providers of legal services. However it is important to estimate the relative size of the solicitors' profession within this wider legal activities sector.

The 2011 Population Census reported that there were 12,292 people with the occupation of "solicitor or barrister" at the time of the Census. In 2011 there were 8,575 solicitors issued with Practising Certificates by the Law Society. The number of practising barristers that year is estimated at approximately 2,150³. Combined therefore, a total of approximately 10,700 solicitors or barristers may have been practising as such that year.

On this basis therefore practising solicitors comprise approximately 70% of qualified professional providers of legal service activities within this wider definition. This proportion moreover is unlikely to change significantly year-on-year.

2.4.2 Employment in Legal Activities Sector

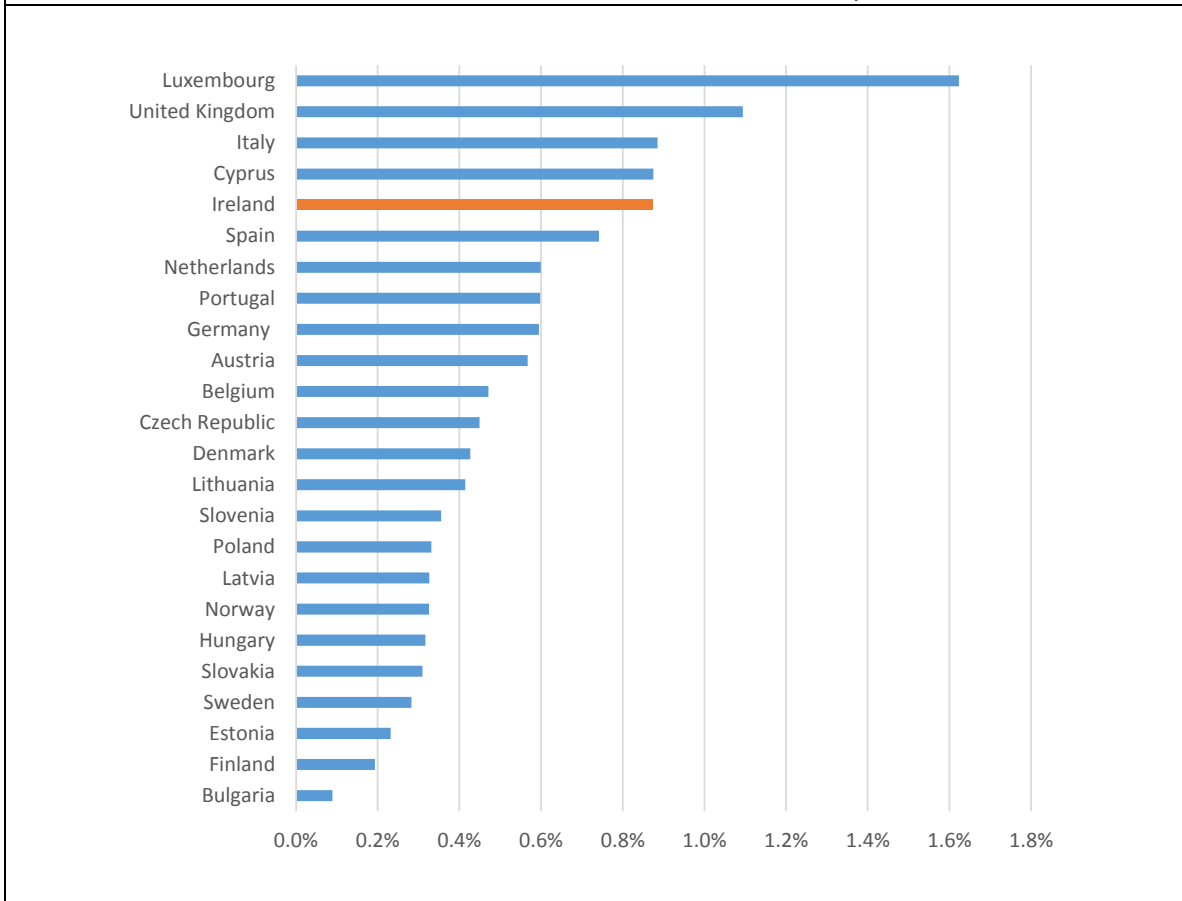
CSO data indicates that this more widely-defined legal services sector had just over 18,000 persons engaged in 2012, the most recent year for which data is available. This includes people who are employees, proprietors and partners, and it suggests that each professional on average has 0.5 persons engaged who are not a legal professional.

Comparable 2011 figures place Ireland relatively high in the European ranking in relation to the numbers engaged.

² The CSO identifies enterprises operating in the legal services sector based on administrative records from the Revenue Commissioners, where they have already been pre-categorised as such by the Revenue. It therefore has no information to allow further sub-categorisation within the sector.

³ The Law Library website states there were 2,199 barristers as of September 2012.

FIGURE 2.3 PERSONS ENGAGED IN LEGAL SERVICES AS % OF LABOUR FORCE, 2011



Source: Eurostat

2.4.3 Sectoral Economic Output

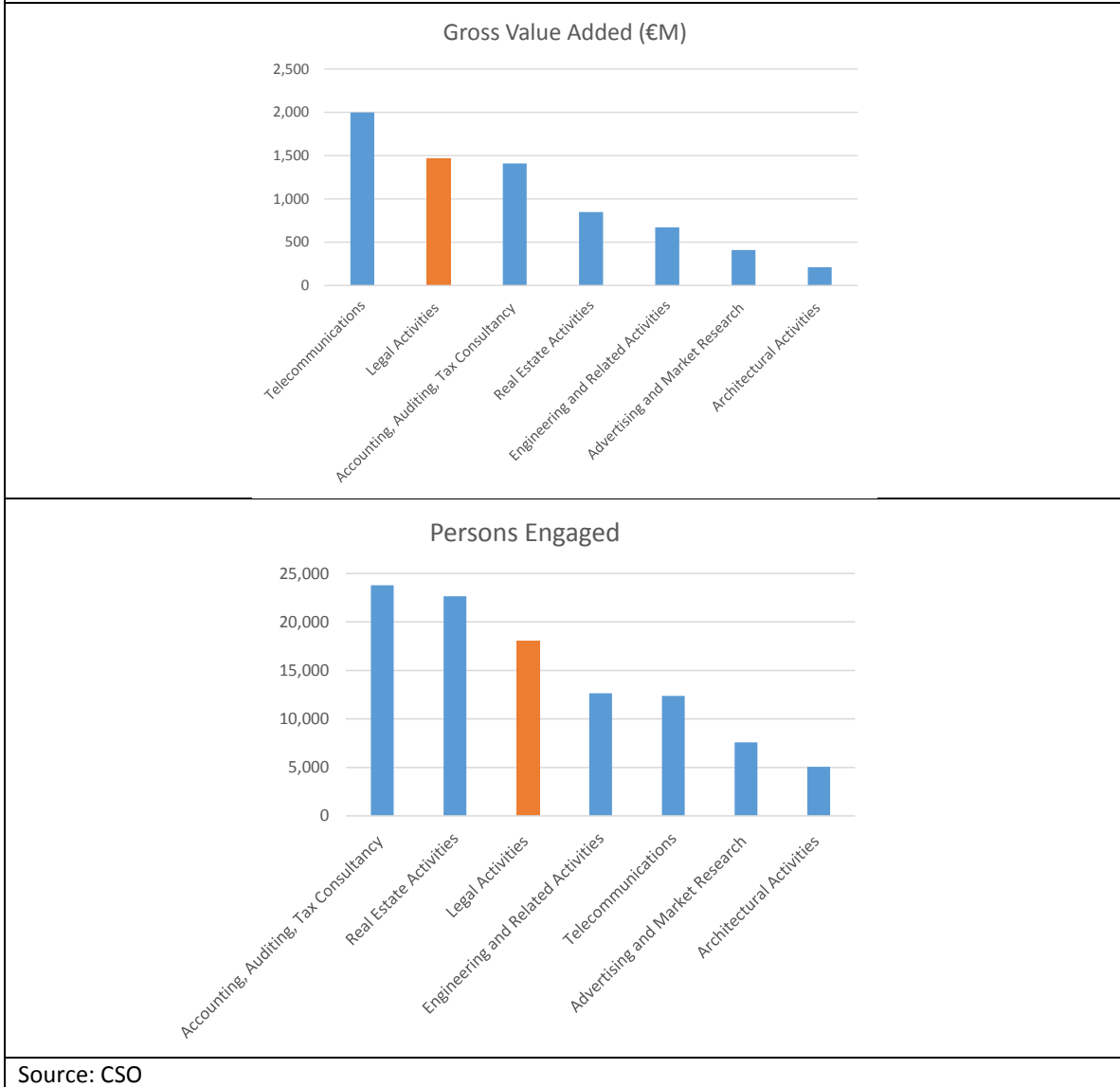
Total output (turnover) of the legal services sector in 2012, according to the CSO, was €2.46bn. Gross value added (GVA) produced in the sector (the value of sales less the value of intermediate purchases, or the contribution to national economic output) amounted to €1.46bn.

The direct economic importance of the sector is therefore substantial. To put it in context, Figure 2.4 compares the economic contribution of the sector to other service sectors in 2012.

Among the key service sectors shown, legal activities:

- was second only to telecommunications in its overall direct contribution to economic output;
- had more people engaged than the engineering, telecommunications, advertising/market research or architecture sectors.

FIGURE 2.4 LEGAL SERVICES SECTOR AND OTHER SERVICE SECTORS, 2012⁴

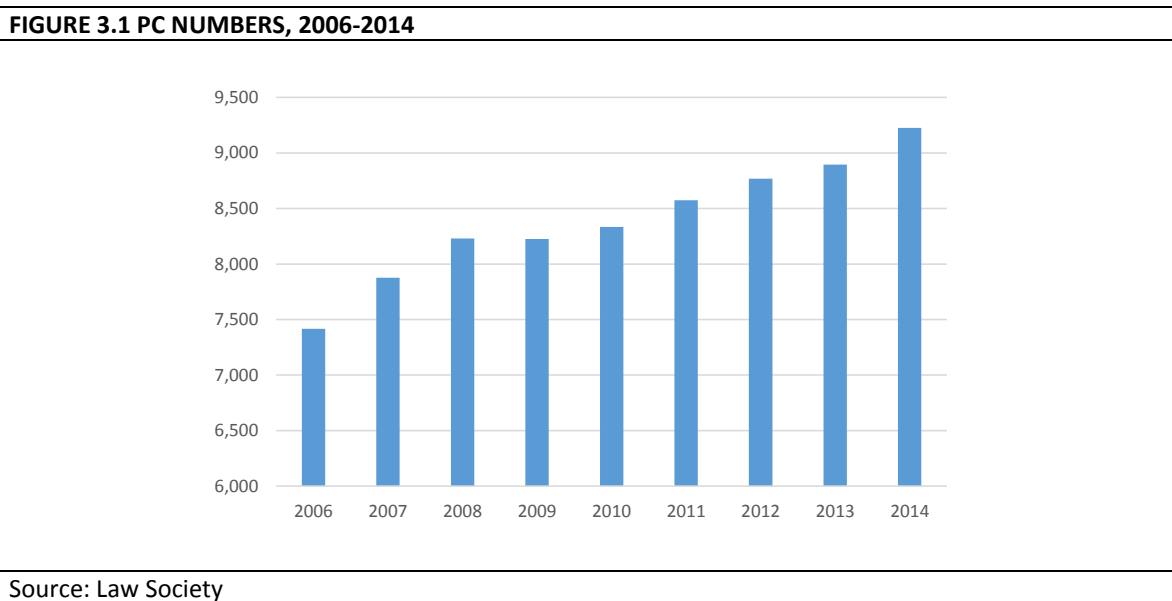


⁴ Data for "Engineering and Related Activities" sector relates to 2011.

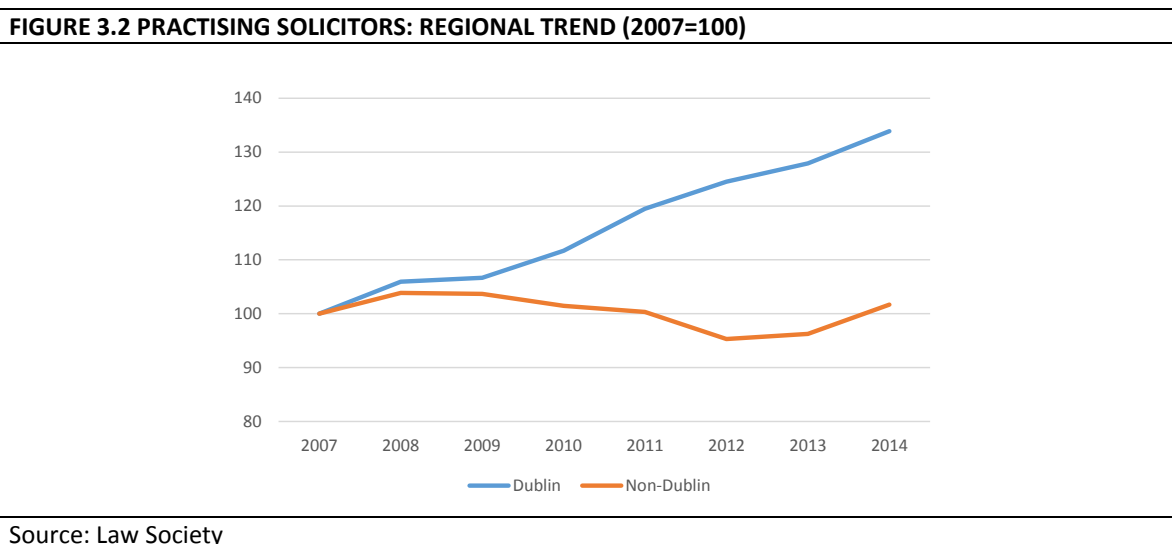
3. Recent Trends and Developments

3.1 Practitioners

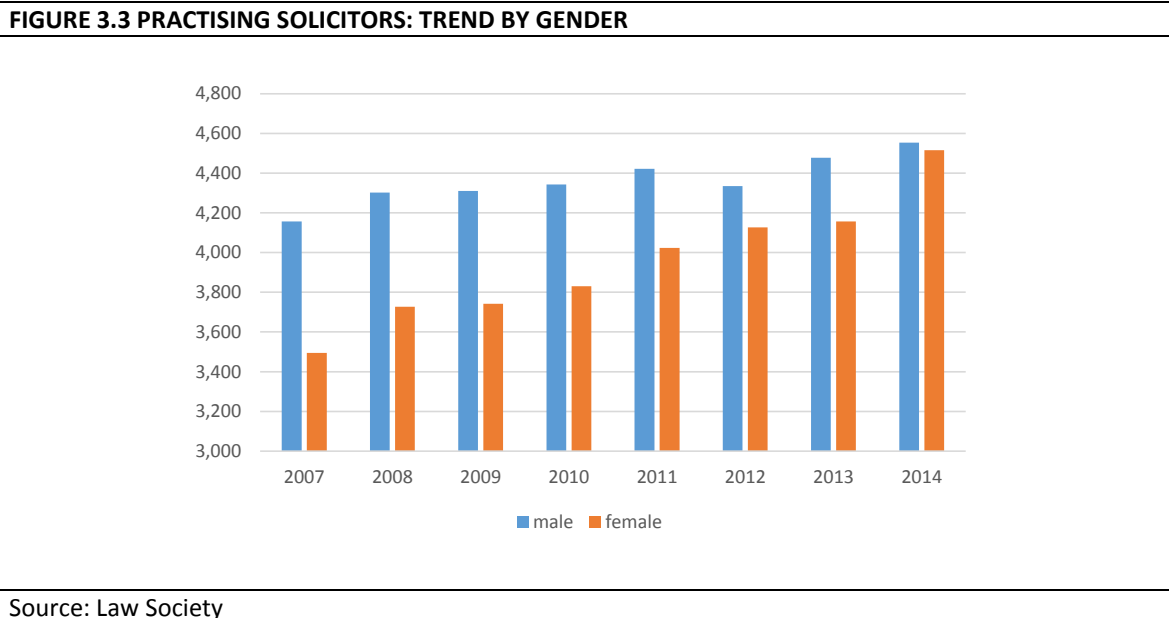
With the exception of 2008-09, there have been steady annual increases in the numbers of solicitors issued with practising certificates each year since 2006, and the numbers of practising solicitors in 2014 had grown by 24% over that period.



Increases in overall numbers have not been regionally balanced, however. The numbers based outside Dublin declined in many of the intervening years, only coming back to 2007 levels by 2014.

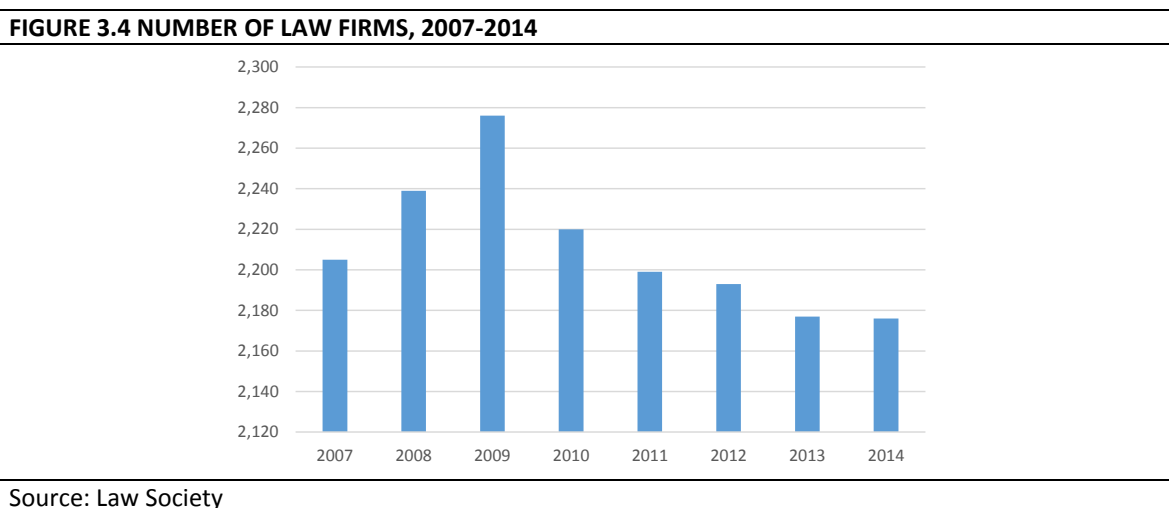


As well as a strong regional bias, the overall trends reflect a marked gender difference, whereby growth in the number of females practising has strongly driven overall growth. Nationally, the numbers of male solicitors in 2014 was less than 10% greater than in 2007, while outside Dublin the number was 3% lower than in 2007.



3.2 Firm Size

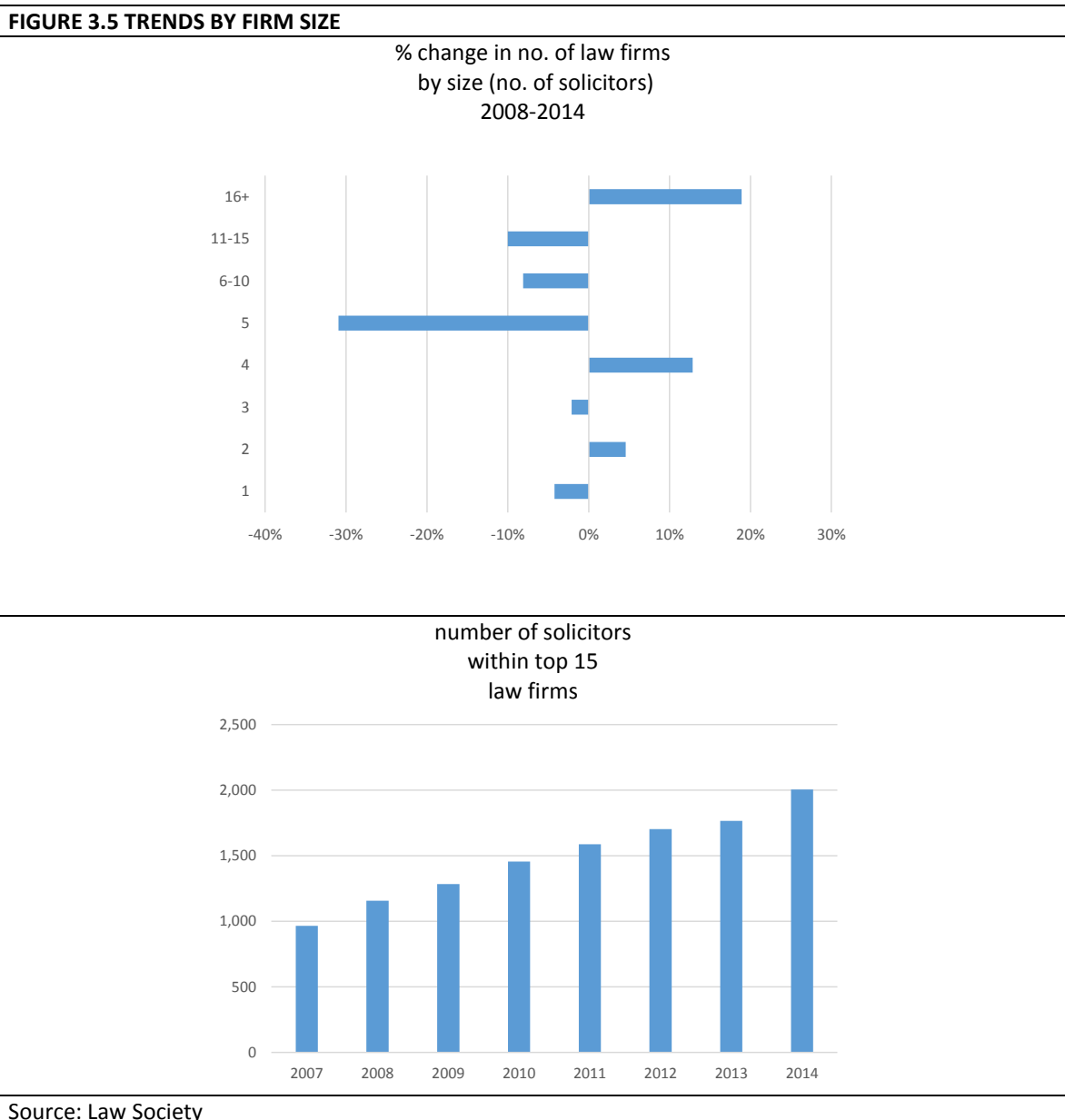
Following growth in 2008 and 2009, the number of law firms has declined each year since.



The overall trend once again does not represent uniform trends within the sector. There has been significant growth in the number of large firms, and varying levels of growth or decline in numbers

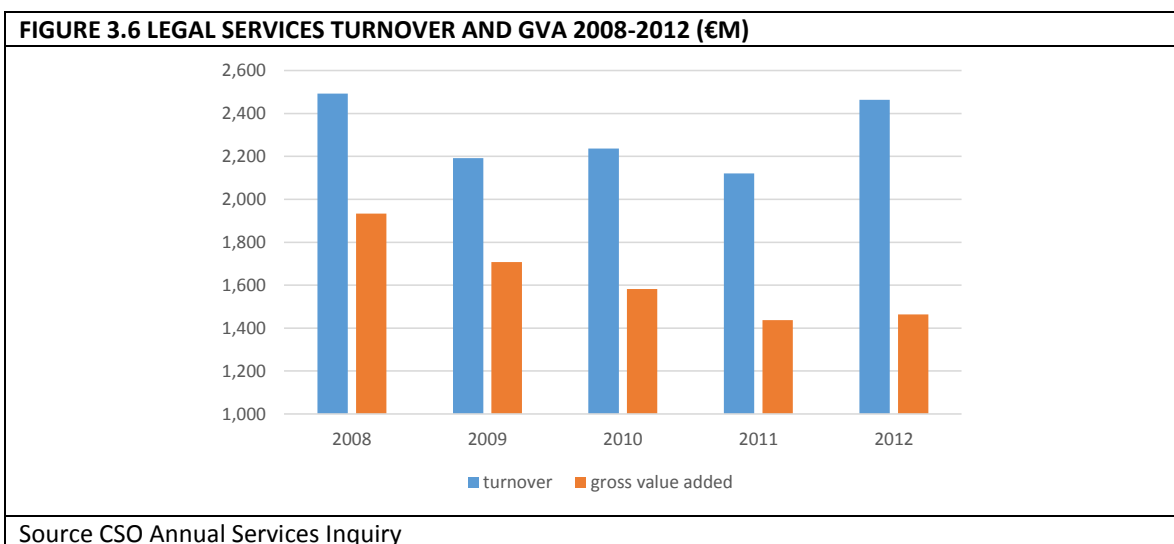
of medium and smaller firms. While the reasons may be numerous, some commentators suggest that mid-size firms have suffered from both the construction/investment decline as well as extreme price competition from larger firms in markets the latter were less inclined to pursue during the economic boom (e.g. institutional work). Growth in the large firm segment is also likely a reflection of their diversity of work and of their export propensity.

As well as growing numbers of large firms, there has also been significant growth within them. The largest 15 law firms employed more than twice as many solicitors in 2014 than in 2007.



3.3 Output

The CSO Annual Services Inquiry is the only authoritative source on trends in legal services activity, albeit using the more widely defined sectoral definition. Figure 3.6 charts trends in overall turnover and Gross Value Added (GVA) for the sector between 2008 and 2012.



The period saw overall sectoral turnover fall quite significantly but recover in 2012. 2009 saw an output decline of 12%, and following a slight rebound in 2010, a further decline of 5% in 2011. The upswing in 2012 brought overall sectoral turnover back to a level comparable to 2008.

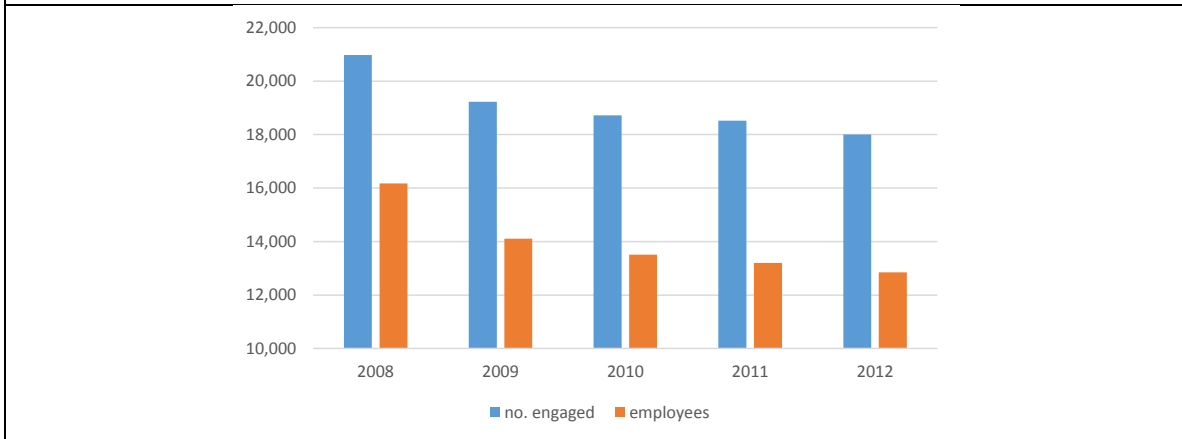
GVA, an indicator of wages and profits (and the more appropriate indicator of contribution to economic output), on the other hand has seen decline but with no similar recovery. It fell by an annual average rate of 9% each year between 2009 and 2011, with 2012 halting the decline rather than bringing a rebound.

Together the evidence is of some recovery in trading volumes after sharp declines, but no recovery in trading margins or profitability which deteriorated substantially.

3.4 Numbers Engaged and Employed

CSO service sector data captures both employment and the numbers of people engaged (with the latter including proprietors, partners, family members and others engaged as well as formal employees).

FIGURE 3.7 LEGAL SERVICES NUMBERS ENGAGED AND TOTAL EMPLOYMENT 2008-2012



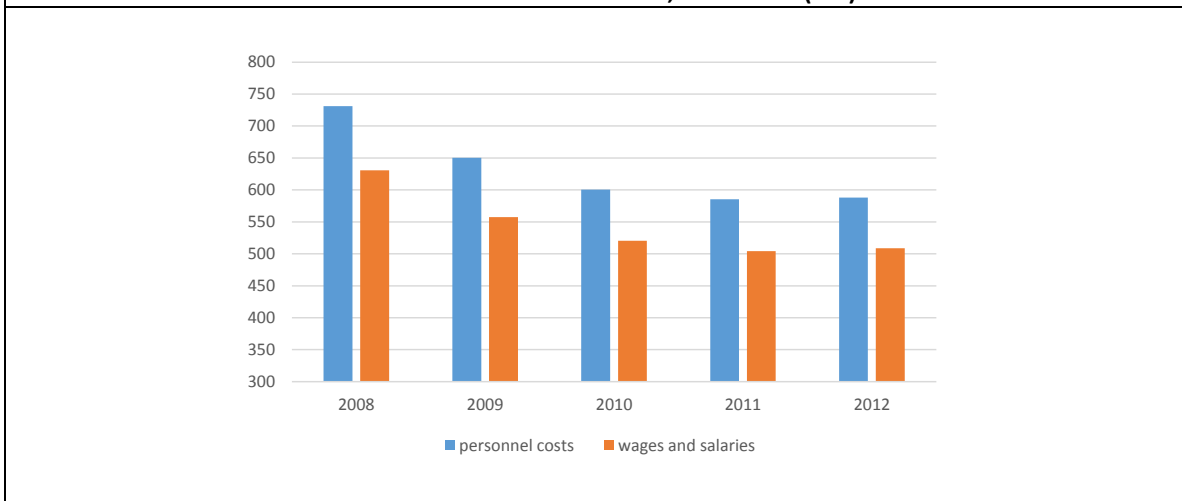
Source CSO Annual Services Inquiry

The trend in both has been downward each year between 2008 and 2012, with 2012 levels 16% lower than 2008 levels for the numbers engaged, and 21% lower for employees.

3.5 Income and Remuneration

Expenditure on personnel costs and on wages and salaries over the period 2008-2012 is shown in Figure 3.8⁵.

FIGURE 3.8 PERSONNEL COSTS AND WAGES AND SALARIES, 2008-2012 (€M)



Source: CSO Annual Services Inquiry

Both measures of personnel expenditure have declined significantly over the period, in both cases by 20%. 2012 was the first year when no decline was experienced, however the growth was negligible.

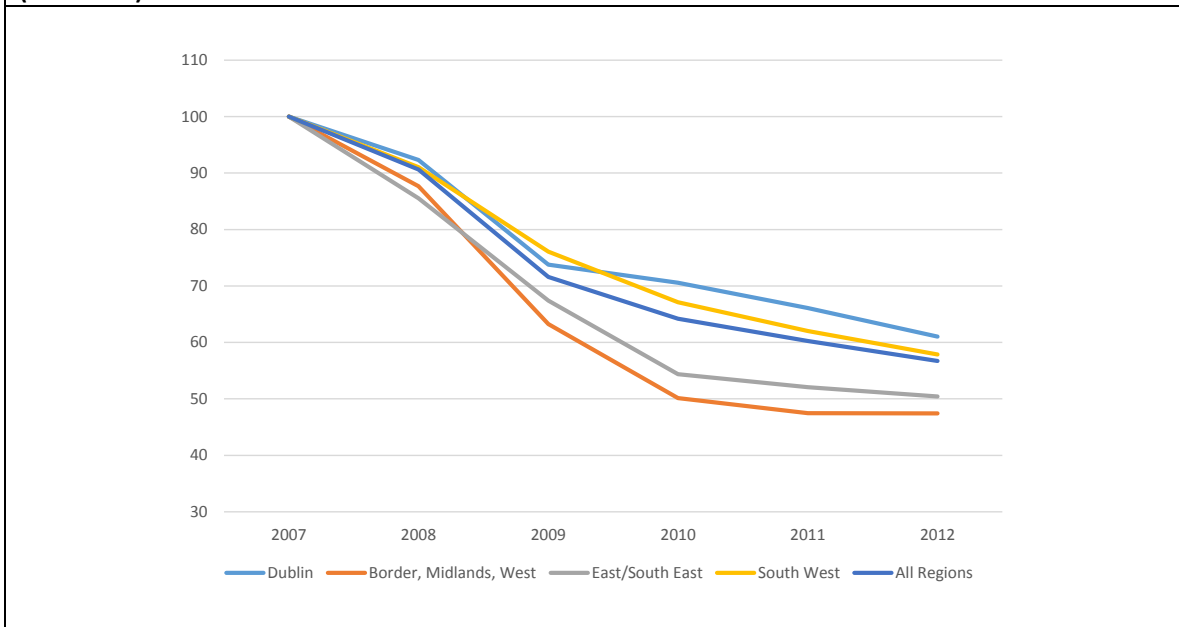
⁵ Personnel costs include wages and salaries, as well as social security costs and payments to employment agencies for the provision of workers.

As well as with total expenditure on personnel, average expenditure per person engaged in the sector also declined over the period. In 2012 total personnel costs per person engaged were 6.3% lower than in 2008 (having slightly recovered from being almost 10% lower in 2011). The fall in total outlay therefore reflects lower expenditure for each person engaged, as well as the lower numbers engaged.

Data on gross incomes within the sector was also sought from the Revenue Commissioners. While only data for the self-employed is available, the findings are nonetheless revealing. Between 2007 and 2012, the series shows that average gross income levels declined by 43%, which suggests stark variations and trends for different sub-categories and operators which are not revealed in the aggregated data from the CSO, and a likelihood that overall trends in outputs and incomes mask severe income declines for small, single person practitioners which typify practices in rural areas.

The Revenue data also provides further evidence of regional variation. While the national decline was 43%, it ranged from 52.6% in the Border, Midlands and West (Revenue) region, to 39% in the Dublin region.

FIGURE 3.9 AVERAGE GROSS INCOME OF SELF-EMPLOYED INDIVIDUALS IN LEGAL SERVICES SECTOR (2007=100)

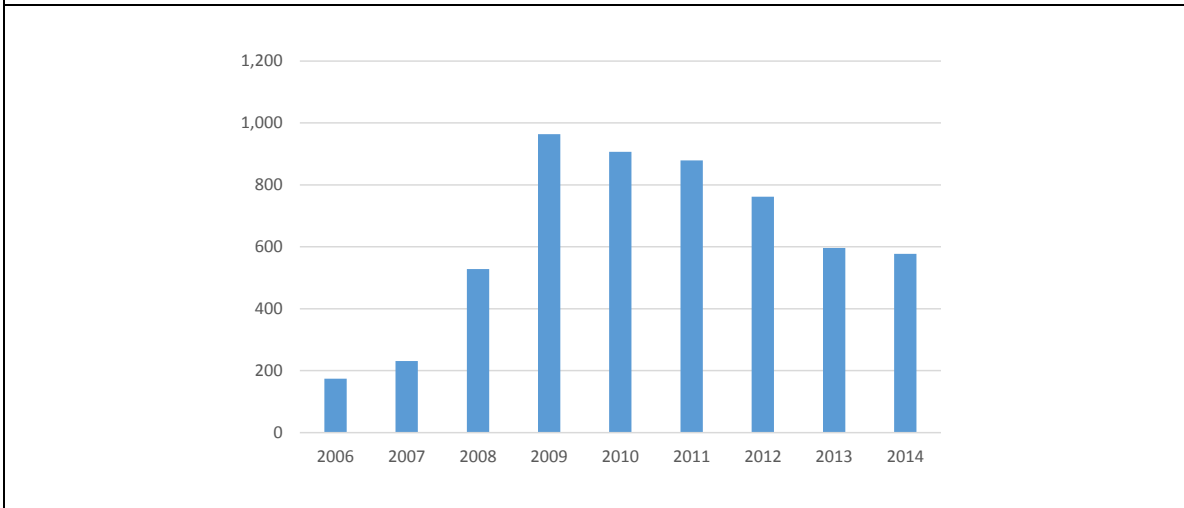


Source: Revenue Commissioners

3.6 Unemployment

Solicitors have not escaped the rise in unemployment. The Department of Social Protection provides data on unemployment benefit and unemployment assistance recipients according to occupation. Among legal professionals the figures rose dramatically between 2006 and 2009. There have been declines since, although the 2014 numbers remained more than three times higher than in 2006.

FIGURE 3.10 LEGAL PROFESSIONALS IN RECEIPT OF UNEMPLOYMENT BENEFIT/ASSISTANCE AT END-YEAR⁶



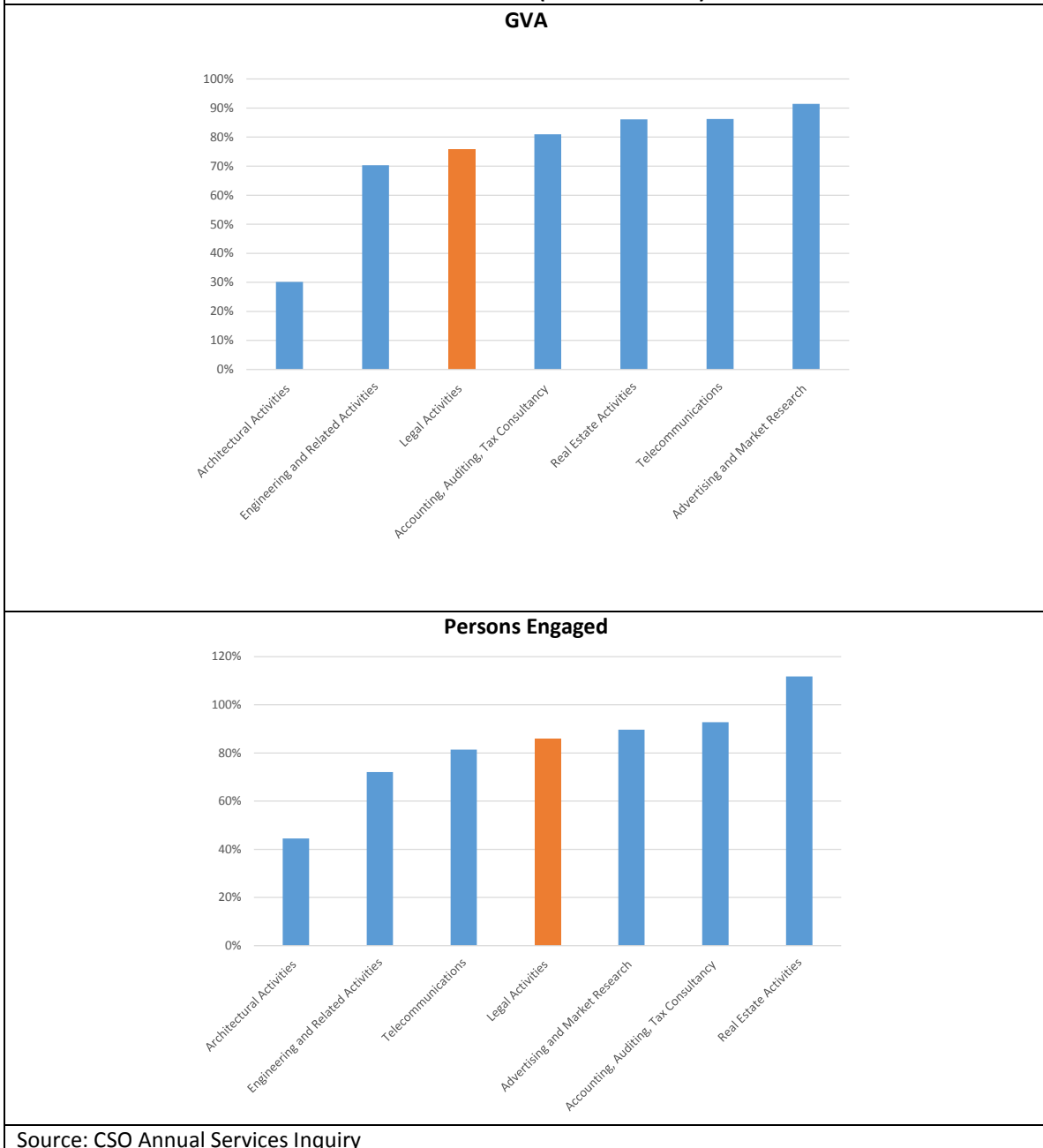
Source: Department of Social Protection

3.7 Comparison with other Service Sectors

How the legal services sector compares with other professional services sectors is possible to explore for a number of relevant indicators. Figure 3.11 compares trends in GVA and persons engaged in the legal services sector to those relating to telecommunications, real estate, accounting, architecture, engineering and advertising sector for the period 2008-2012.

⁶ 2014 figures at end-May

FIGURE 3.11 SERVICE SECTORS – VARIABLE CHANGES (2012 AS % 2008)

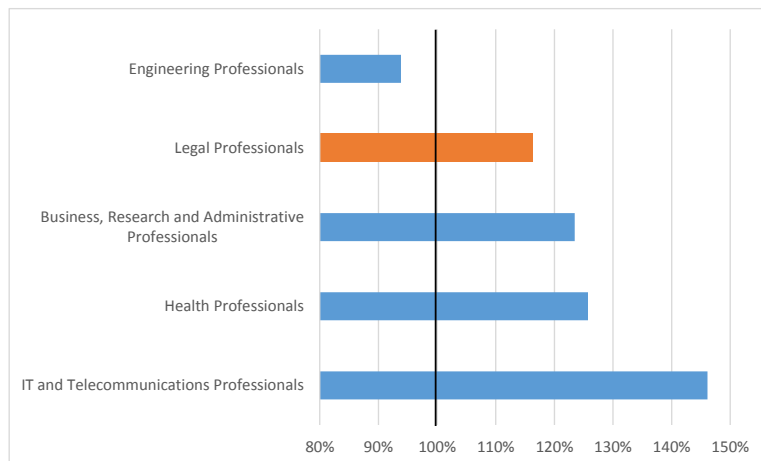


The decline in GVA for legal services was amongst the greatest across the sectors shown, and exceeded only by the service sectors most closely aligned to the construction industry. Similarly while its decline in the numbers of persons engaged was less dramatic than in construction-related services and in telecommunications, it was comparatively worse than in the advertising, accounting and real estate sectors.

Similar evidence comes from CSO occupational employment data (Figure 3.12). Here, while over a longer period (2007-14 rather than 2008-12), the CSO data confirms employment trends in legal

professional occupations having out-performed the engineering profession, but underperformed those in business, health and IT professional occupations over 2007 to 2014⁷.

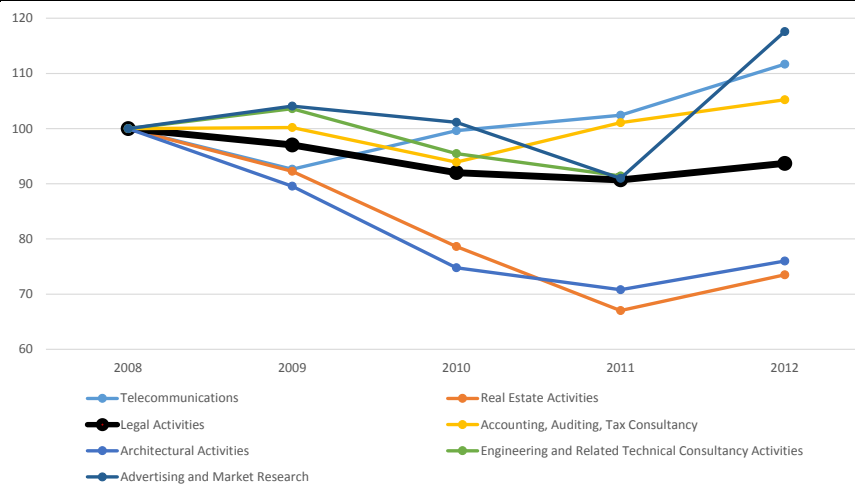
FIGURE 3.12 EMPLOYMENT BY OCCUPATION (Q1 2014/Q1 2007)



Source: CSO Occupational Employment

Indicators of income and remuneration, while imperfect, also show that trends in the legal services sector were quite average when compared to other service sectors. Between 2008 and 2012, personnel costs per person engaged in legal activities outperformed those in architecture and real estate activities, although they had also declined over the full period. In contrast those in accounting, advertising and telecommunications had all increased.

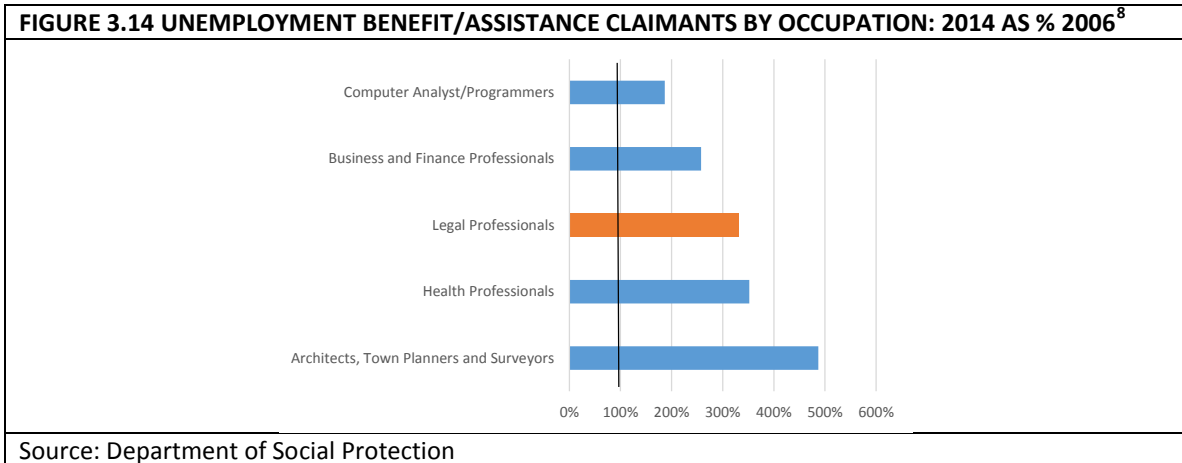
FIGURE 3.13 PERSONNEL COSTS PER PERSON ENGAGED, 2008-2012 (2008=100)



Source: CSO Annual Services Inquiry

⁷ The growth in employment shown in the occupation statistics is not inconsistent with the growth in unemployment among legal professionals shown in Figure 3.10, in that (a) both employment and unemployment can grow simultaneously, (b) some unemployment benefit/assistance claimants may work part time, and (c) the timeframes over which the trends are shown differ.

Trends in unemployment also do not single out the legal profession from others. Figure 3.14 compares the change in the numbers claiming unemployment benefit/assistance among legal professionals with those of other professional occupations over the period 2006-2014.

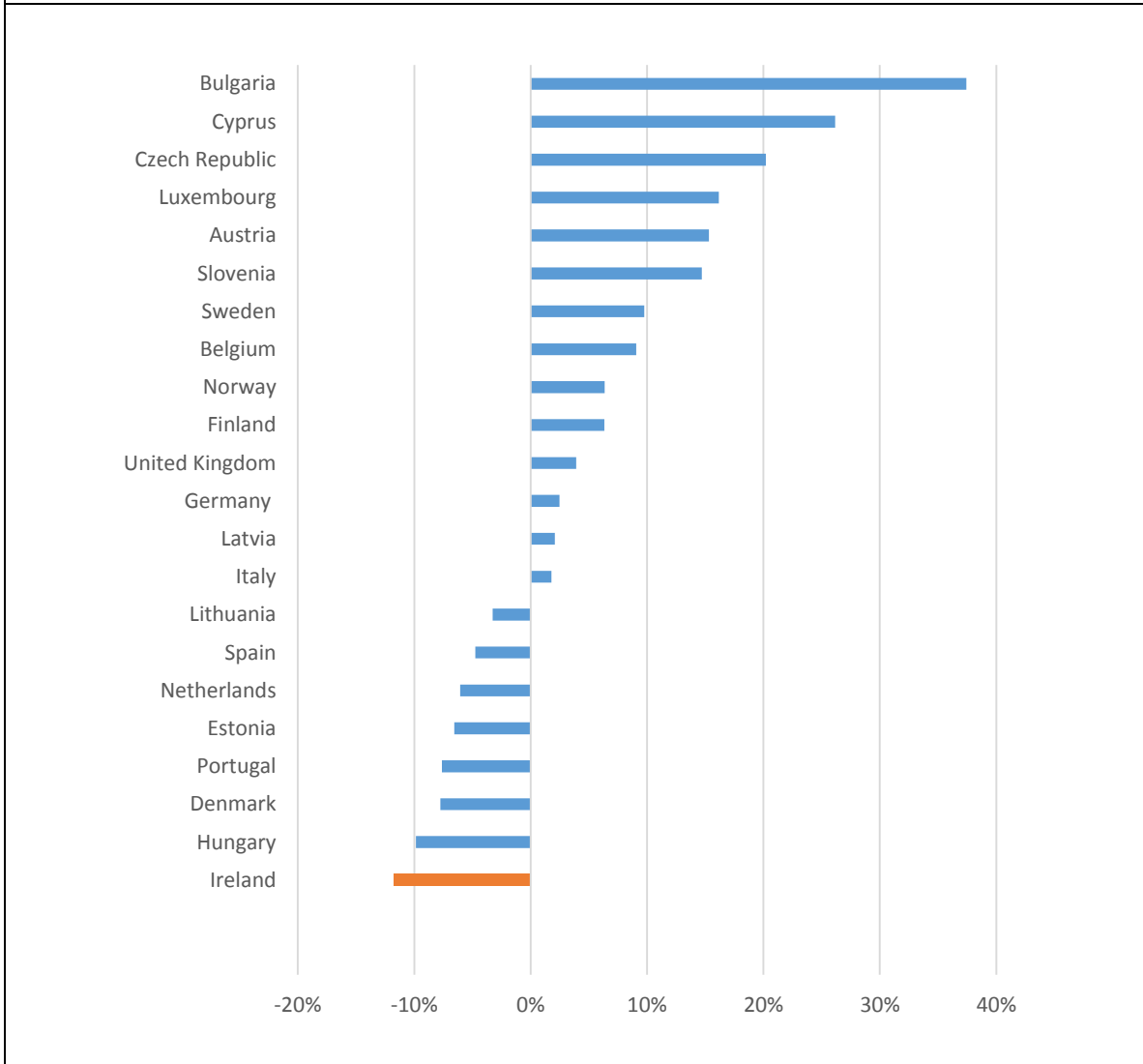


3.8 International Comparisons

Finally, although over a more limited timeframe (2011 being the most recent year with many comparable statistics), cross-country data on trends in legal services employment is available from Eurostat, which show Ireland’s sector having contracted most severely among a cohort of many European countries. Within a cohort of 22 comparable European countries, Ireland had the greatest fall in legal services employment between 2008 and 2011, indicating the extent of the sector’s exposure to the economic recession.

⁸ 2014 figures at end-May

FIGURE 3.15 % CHANGE IN EMPLOYMENT IN LEGAL SERVICES 2008-2011, SELECTED EUROPEAN COUNTRIES



Source: Eurostat

3.9 Sectoral Performance – Interpreting the Evidence

Numerous factors have influenced conditions and trends in the legal services sector over the course of the last 5 years and longer. While many reflect the wider economic crisis, others are unique to the sector in terms of their influence and impact. What is clear however is that the sector is similar to practically all others in having been impacted by the negative effects of the wider economic contraction. It is also clear that different practitioners, firms and types of firms within the sector have experienced different challenges, conditions and effects depending on circumstances particular to them.

At an overall level the sector has no immunity from general economic conditions, and like others feels direct effects of economic decline, spending reductions, falling investment, and shrinking economic activity and confidence. To suggest such immunity exists for the legal sector would be to suggest the sector gained nothing from wider economic growth and buoyancy when such conditions prevailed, a proposition rarely made.

Despite commentary that often suggests otherwise, as a service sector operating predominantly in the national market, the solicitors' profession and the wider legal services sector is not a homogenous set of service providers and practitioners performing the same services to similar clients. It is made up of different professionals with different specialisms and competences. Services provided are numerous and diverse, including for example those relating to conveyancing, family law, litigation, commercial law, employment law, finance, taxation, investment, corporate structures, intellectual property, and many others. Firm sizes and structures differ, as do client mixes. The majority of firms are small, operate in local rather than national markets, typically employ one or two solicitors and predominantly provide services in conveyancing, probate, family law, and litigation to private individuals and small businesses. At the other end of the spectrum are large and diverse legal firms with up to 250 professionals, typically serving corporate clients and providing a breadth of services both nationally and internationally, that may include in areas as diverse as company law, employment, regulation, taxation, property, competition, banking, capital markets, intellectual property, international trade and environmental law.

The collapse of the property market that accompanied the economic decline had a direct knock-on effect on the market for conveyancing, most especially on small and local solicitors that depended on it and lacked a diversity of services specialisms or clients. Wider legal services that related to property and/or construction transactions or investments similarly experienced a sudden and devastating collapse in demand.

Small operators also suffered from reduced demand for other core business areas such as family law, probate, and employment law, that each contracted in unison with general economic decline, fallen incomes and reduced consumer spending, and the general erosion of economic confidence. Sharp contraction in the market for legal advisory services for the public sector has resulted from the national budgetary crisis and the innumerable cutbacks that followed, which has had effects throughout the sector, but perhaps most damagingly where providers had least scope to diversify. Mid-size firms also suffered severely from the unprecedented deterioration in trading conditions, but many were able to ride the storm through their greater diversity of clients and scale economies. However throughout most tiers of the sector the collapse in demand resulted in what had become increased numbers of operators pursuing radically reduced volumes of work, for more demanding yet fewer customers. All practices have at the same time suffered from cost pressures,

most notably in relation to professional indemnity insurance but also in rent, rates and other uncontrollable costs.

There is little evidence therefore that supports any contention that the legal services sector has been unaffected by the economic crisis, and much that confirms it has experienced its effect in ways as severe and far-reaching as many others. It is moreover a multi-layered business profession much like many others with unique strengths, weaknesses and characteristics at different levels, and statements that portray a generalised and uniform sector experiencing standard conditions and trading experiences are both oversimplified and often inaccurate.

4. Legal Costs

4.1 Debate on Legal Costs

Given the role of the legal system in protecting and supporting property and other rights, and therefore in facilitating trade and economic activity, it is desirable that legal costs be the subject of debate, and that transparency around them be sought and provided to the greatest degree possible.

Just as with defining and quantifying legal work and legal services, defining and measuring legal costs is not, however, straightforward. Measuring price levels within entire service sectors is more difficult than for products given the intangible nature of services and the heterogeneity of the services delivered. That is to say, there is little uniformity in the types of services delivered, and little basis to define identical “units” of output that can provide a basis for comparative price measurement.

Efforts to bring greater clarity to the question of legal costs also need to make the distinction between legal costs and the professional fees of legal advisors. Apart from the professional fee of a solicitor, total legal costs can include outlays such as court/registration fees, expert fees (medical, accounting, engineering etc.), enforcement costs and others. Many of these costs are set by the State and have increased successively in recent years.

In this regard it should be noted that solicitors are statutorily obliged to furnish clients, at the outset of a matter, with an estimation of their professional fee and the outlays likely to be incurred. A range of factors may affect the final fee outcome, including court procedures, delays, discoveries, unanticipated issues, timing and complexity of hearings and information retrieval. In these circumstances, where an estimation is no longer applicable, Solicitors are advised by the Law Society to communicate the revised estimate to their client. The Legal Services Regulation Bill will put this requirement on a statutory footing.

It is therefore critical that information on legal costs is accurate, and that where the complexity arising in measurement is high, that the complexity is understood by those interpreting and quoting reported legal cost information so that correct inferences are made.

4.2 Measurement of Legal Costs

4.2.1 Main Sources

The main sources of data commonly quoted as indicators of legal costs (or trends therein) are the CSO's Services Producer Price Index (SPPI), and the World Bank "Doing Business" Report. Both are quoted regularly in the National Competitiveness Council's publications, and both are also referenced in the Legal Services Regulation Bill Regulatory Impact Assessment.

4.2.2 CSO Services Producer Price Index

The CSO SPPI measures producer price trends across a range of service sectors, including a data series relating to legal activities. Its definition of legal services corresponds to the wider legal services sector (referenced in Section 2.4.1), which includes solicitors, barristers and others engaged in legal activities.

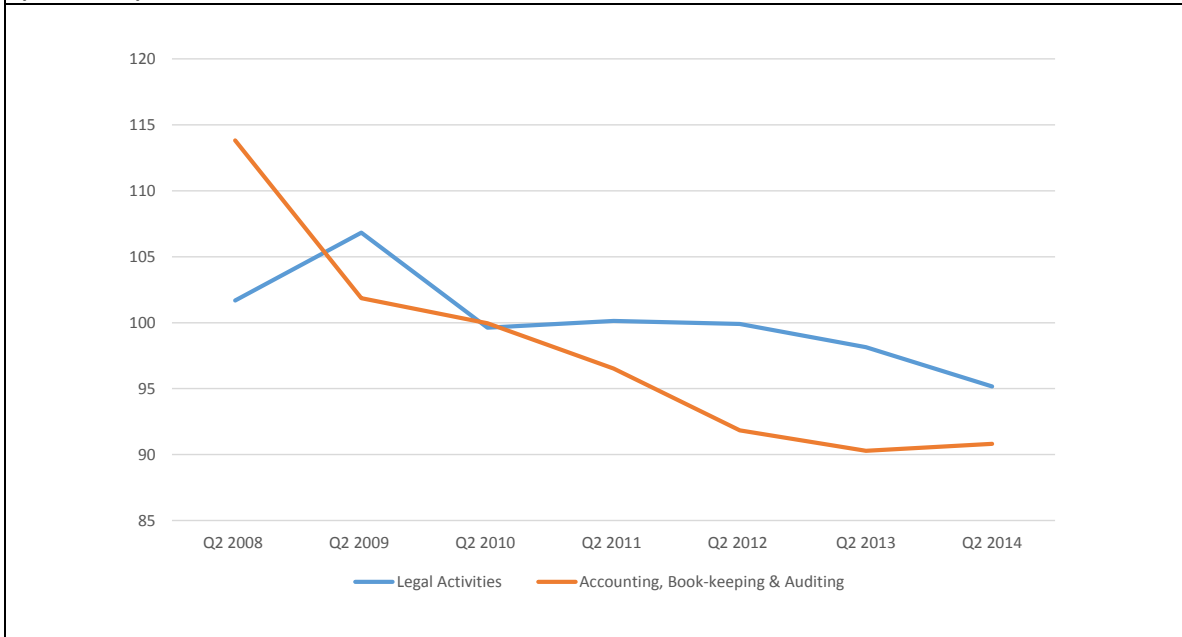
The CSO describes the SPPI as follows:

The experimental Services Producer Price Index (SPPI) measures changes in the average prices charged by domestic service producers to other businesses for a selected range of services. In most cases these services are provided to business customers only and so individual price indices should not be considered indicative of more general price trends in the economy. The index covers transaction costs from business to business and excludes consumers who are covered in the Consumer Price Index (CPI).

The individual price indices are aggregated together to create a "service industry" index that is limited in coverage. The indices are still under development and may be subject to methodological improvement. Figures should therefore be treated as provisional and subject to revision. These indices are being published to engage users in the ongoing development of the SPPI methodology.

Figure 4.1 charts the index for legal activities against that of "accounting, book-keeping and auditing activities", the index comparison most frequently made.

FIGURE 4.1 SERVICE PRODUCER PRICE INDICES FOR LEGAL AND ACCOUNTING ACTIVITIES, 2008-2014 (2010=100)

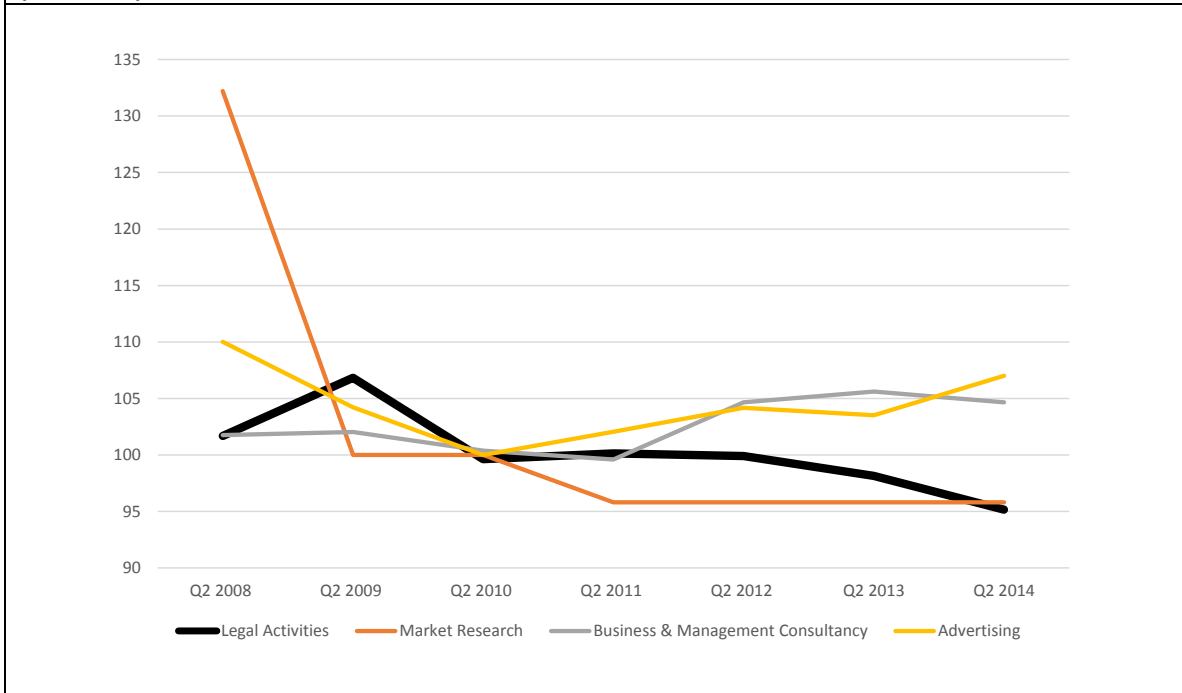


Source: CSO SPPI

As measured in the index, relative to 2010 producer price levels for accounting services reached their lowest level in Q4 2012, and have incrementally risen and remained above that level since. Over the same period prices in the legal category have fallen, and at an accelerating rate since Q4 2013.

Figure 4.2 tracks trends for legal activities against those for other activities/sectors captured in the index over the same period (market research; advertising; and business and management consultancy). In comparison to these it is notable that up to the most recent set of results, legal activity price levels have declined to the greatest degree since the 2010 base year, with price trends for advertising and business and management consultancy actually inflationary rather than deflationary over the period.

FIGURE 4.2 SERVICE PRODUCER PRICE INDICES FOR LEGAL AND OTHER SERVICE ACTIVITIES, 2008-2014 (2010=100)



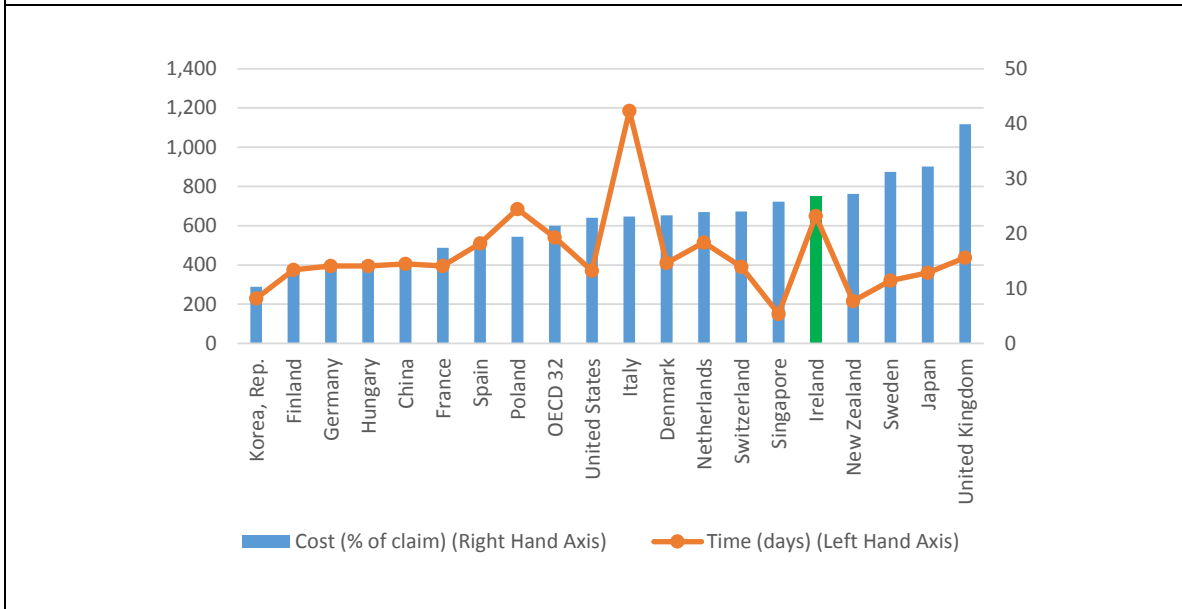
Source: CSO SPPI

4.2.3 World Bank “Doing Business” Report

The World Bank “Doing Business” Report is an annual publication that measures business regulations and the burdens they represent for small and medium businesses. It publishes its findings for 189 countries in respect of the ten regulatory following processes, including “enforcing contracts”. Here, according to its own description, the Report “assesses the efficiency of the judicial system by following the evolution of a commercial sale dispute over the quality of goods and tracking the time, cost and number of procedures involved from the moment the plaintiff files the lawsuit until payment is received”. Metrics relating to the time such a case takes to enforce, and the costs of such enforcement (including attorney fees), are those frequently referenced in debate about legal costs in Ireland.

The most recent Doing Business Report relates to 2015. Figure 4.3 presents its results for the cost and time involved in enforcing a hypothetical and standardised commercial contract.

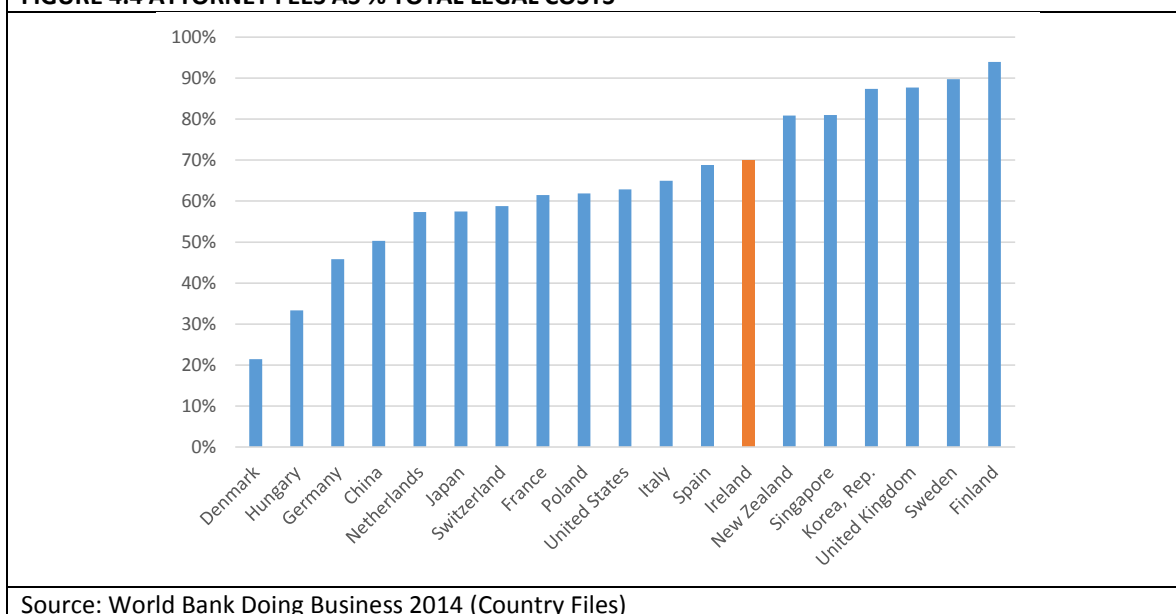
FIGURE 4.3 ENFORCING A CONTRACT: COST AND TIME



Source: World Bank Doing Business 2015

The data indicate that in Ireland the total cost involved in enforcing the hypothetical contract is equivalent to 26.9% of the value of the claim, positioning it 8th most expensive across OECD-32 countries. The results also place Ireland 6th longest among the OECD-32 in terms of the time required. In both cases these rankings are cited as evidence that Ireland is both an expensive and slow jurisdiction in which to enforce a commercial contract.

Also reported in the findings is a breakdown of the costs of enforcing the contract as between attorney fees, court fees and enforcement fees. Attorney fees, in Ireland’s case, were found to equate to 69.9% of total enforcement costs in the 2015 Report. Among the same cohort of countries as shown in Figure 4.3 above, Ireland’s position is much closer to the average than among the more expensive (Figure 4.4) under this more precise indicator of the costs of professional legal services.

FIGURE 4.4 ATTORNEY FEES AS % TOTAL LEGAL COSTS

4.3 Methods and Limitations of Main Data Sources

4.3.1 CSO Services Producer Price Index

The SPPI is described by the CSO as having two main uses: a short term indicator of the business cycle and to provide deflators for national accounts. It is currently categorised as an experimental index by the CSO, which is “under development and may be subject to methodological improvement”. In its use, the CSO also advises that “figures should therefore be treated as provisional and subject to revision. The index is published to engage users in the ongoing development of the methodology”.

Price trends in legal services as depicted in the SPPI define the sector according to a wider definition than just the services of solicitors (including those of barristers and a number of other service providers, as described in Section 2.4.1). The CSO has offered the following additional clarifications regarding SPPI data on legal services:

- the series involves having a selection of respondent legal service enterprises define a number of their standardised service offerings or unitary measurements of output at the outset, and then have them provide quarterly updates of the prices they individually charge for those offerings;
- 20 legal service providers are included in the sample, and the response rate is typically over 90%. The same 20 enterprises are surveyed each quarter;
- the services being priced do not change quarter to quarter, unless a respondent reports that such a service is no longer relevant to their business;

- the majority of enterprises are in the size category 10-49 employees, although the sample includes cases with less than 10 and more than 100 employees;
- while the sector definition includes them, barristers are not currently included in the sample nor their prices measured in the series;
- the representativeness of the current sample of the firms is difficult to determine, as is the representativeness of the services the prices of which are currently captured.

The CSO has commenced a redevelopment of the entire SPPI series, which is to involve new sample design, new questionnaire design, re-examining pricing methods, and redesign of processing systems. The redevelopment is taking a sector-by-sector approach, and the redevelopment of the series for the legal services sector has not yet begun. A timeline for each sector's redevelopment is likely to be issued in early 2015. In the area of legal service, the CSO has clarified that the redevelopment will seek to establish a representative sample, stratified by size and possibly by region if the review suggests there may be regional variation in price trends. The new sample will also include barristers. The review will also seek to ensure that prices measured fully reflect the full range of prices for services provided.

In light of these points, a number of concerns can legitimately be made regarding the accuracy and reliability of the legal services SPPI data:

- the number of firms providing data is very low relative to the number of firms providing legal services, and how representative the former is of the latter is unknown;
- while some measurements of output included are not service-specific (e.g. hourly fee rates of employees where these are standardised), the number of legal services the prices of which are measured is potentially low relative to the range of legal services the sector provides, and again how representative price trends of the former are of those of the latter is unknown;
- most firms providing pricing data for the series are in a distinct size category, but other data suggests that category represents a small minority of legal firms. Smaller firms are likely to be much more numerous in Ireland than their proportional representation in the sample.

4.3.2 World Bank Doing Business Report

The annual World Bank Doing Business Report is a unique publication that seeks to provide a distinct source of information on regulatory information that is comparable across countries. Its approach and methodology is therefore tailored to its specific aim and purpose. It is based on 11 individual indicators of different regulations affecting small and medium businesses throughout their life cycle, and seeks to objectively measure their efficiency or the burdens they impose in

ways that are comparable across countries and over time. The relevant indicator in the current context relates to “enforcing a contract”.

The specific method of measuring the time and costs associated with enforcing a contract involves the definition of a hypothetical legal case involving a commercial sale dispute that results in litigation, and through the successive steps of case filing, serving, trial, judgement and enforcement. Clear standardised assumptions are made regarding each phase and the case overall. For such a case, research is undertaken into the civil legal codes and procedures in each country, and questionnaires are issued to local contributors⁹.

The number of “contributors” that provide data in relation to each regulatory topic for each country is published. In the case of Ireland, the number of reported contributors under the topic of enforcing a contract is reported as 5 in the 2015 Report (and was 4 in the 2014 Report).

Two overriding concerns therefore arise regarding the resulting reported data on the costs of enforcing a contract in Ireland. Firstly, even leaving aside the lack of transparency on its basis, the fact that only four local contributors supported the research raises substantive concerns about its accuracy. In regard to costs, the relevant question in the Doing Business Questionnaire furthermore asks local contributors “In light of your recent experience, please indicate the average approximate costs incurred by Seller in the standardized scenario”, which adds to the likely subjectivity of the responses.

The second substantive concern relates to the non-representativeness of the case. While it is a methodological necessity to present a standardised and simple case built around various assumptions to allow comparability, a result of this is that the resulting findings are not representative of the range of legal services provided and the differing costs they may give rise to.

These as well as other concerns regarding the veracity of the Doing Business data and analysis have been highlighted in evaluations and reviews undertaken by the World Bank itself. For example, the figure below presents an extract from the Independent Evaluation Group’s 2008 Evaluation.

⁹ For more detail on the methodology see <http://www.doingbusiness.org/methodology/enforcing-contracts>

FIGURE 4.5 EXTRACT FROM WORLD BANK INDEPENDENT EVALUATION GROUP "EVALUATION OF DOING BUSINESS" (2008)

"DB (Doing Business) has created a unique information-gathering process based on a global network of volunteer informants. This process is capable of generating reliable data, but three areas of vulnerability need to be addressed.

First, the database is too dependent on a small number of informants, with some data points generated by just one or two firms.....The number and diversity of informants should be increased and their information validated more systematically. An increase in the informant base will require a systematic vetting process. Simplifying the questionnaire may also help to encourage more informants to contribute.

Second, DB makes easily available a great deal of data and explanatory material—arguably more than most comparable exercises. Yet it remains insufficiently transparent about the number and types of informants for each indicator in a country, the adjustments staff make to the information supplied by informants, and the changes made to previously published data. It does not adequately point out the possibilities of errors and biases.

Third, DB makes much of its country rankings. The rankings entail three weaknesses. Because most DB indicators presume that less regulation is better, it is difficult to tell whether the top ranked countries have good and efficient regulations or simply inadequate regulation. The small informant base makes it difficult to measure confidence in the accuracy of the individual indicator values, and thus in the aggregate rankings. Finally, changes in a country's ranking depend importantly on where it sits on the distribution; small changes can produce large ranking jumps, and vice versa. These factors contribute to anomalies in rankings."

While methodological improvements are made over successive iterations of the analysis and reporting, it is also apparent that core and fundamental concerns remain. The 2013 Independent Panel Review of the Doing Business Report¹⁰ for example critiqued many of the same issues, including sources, data collection methods, scope for misinterpretation, and transparency.

¹⁰ See <http://www.dbrpanel.org/sites/dbrpanel/files/doing-business-review-panel-report.pdf>

5. Economic Role and Contribution

5.1 The Economic Role of Legal Services

The analysis presented in Sections 2 and 3 relate to the direct economic contribution and scale of the solicitors' profession and wider legal services sector in Ireland, in terms of indicators such as employment, sales/output, and gross value added. In this sense it is comparable to any other product or service sector in the economy. By the nature of the work it involves however legal services are much more unique in encouraging and facilitating economic activity, growth and development, and this section describes this wider economic role of the sector both in general and in Ireland specifically.

Just as the protection and enforcement of individual rights serves undisputed social functions and roles, so the legal framework that facilitates and protects individuals, firms, organisations and government in engaging in economic activity serves a critical function in allowing and facilitating that activity to occur. Economic activity and the employment and incomes it generates are increasingly and perhaps universally dependent on the existence of the legal protection of those engaging in it. There is a large body of empirical literature that confirms the economic impact and importance of having a well-functioning judicial system that effectively serves to protect property rights and to enforce contracts¹¹. The legal system and the legal profession that services interaction with it, have a direct, facilitative role in enabling economic growth.

More specific positive economic effects result from effective and efficient legal frameworks. Competition has been found to be enhanced by strong systems of contract enforcement through helping to overcome the barriers to market entry represented by an absence of reputation that may yet be established for new firms or new business partners. Firm growth and development is positively associated with efficient judicial systems, particularly for economies with high concentrations of service and knowledge-based industries, through their protection of intangible assets, such as reputation and intellectual property. Similarly, such protection and the capacity of the legal structures to provide it has been found to encourage innovation, and specialisation in enterprises.

Labour participation and mobility is encouraged where there are well-developed systems of employment rights and employment law, and credit markets are enhanced under circumstances of

¹¹ A recent overview of the literature is presented in "The Economics of Civil Justice: New Cross-Country Data And Empirics" OECD Economics Department Working Papers no. 1060

clear and established systems of legal debt enforcement. Ireland's economy, in its size, underlying characteristics and current phase of emergence from recession, depends on all of these relationships and processes working effectively and smoothly, and just as in the past, the next phase of national economic growth and development will depend on having high quality and effective legal structures and services that protect and incentivise transactions, risk-taking and endeavour.

The economic contribution of the profession is also important in local contexts as well as the national one, particularly in small towns with relatively small numbers of solicitors servicing both private individuals and commercial clients. Here the contribution has a number of features:

- the solicitors' practices constitute SMEs and often micro enterprises, and provide direct and indirect employment in the communities in which they operate;
- they facilitate business transaction of all kinds, and act as an ongoing source of advice to new and existing local businesses;
- they facilitate personal and family transactions and management of personal financial affairs, often at difficult times in peoples' lives; and
- they tend to be active participants in many aspects of local, rural and community life, e.g. through membership of local development groupings, and through participation in community or civic fora.

5.2 The Contribution to International Competitiveness

The quality and strength of a country's legal system supports its economic activity and growth, but also its competitiveness with other countries. The contribution Ireland's system makes towards international competitiveness is rarely highlighted in public debate.

The World Economic Forum (WEF) defines competitiveness as "the set of institutions, policies, and factors that determine the level of productivity of a country. Its Global Competitiveness Index ranks countries and economies in terms of a range of competitiveness "pillars", including "institutions".:

In the 2013 WEF rankings Ireland was ranked 28th out of 148 countries for overall competitiveness. Under the "institutions" pillar a number of criteria are included that reflect features of the judicial system. These rankings are based on the results of executive opinion surveys undertaken in each country.

The individual criteria that reflect judicial systems include:

- the strength of property rights protection;
- the strength of intellectual property protection;
- the efficiency of the legal framework in settling disputes;
- the efficiency of the legal framework in challenging regulations; and
- the degree of legal protection of borrowers' and lenders' rights.

Table 5.1 presents Ireland's historical global rankings under these individual competitiveness criteria. It shows that:

- in 2014/15 Ireland is ranked in the top 20 countries under all headings, with just one exception (where it is ranked 21st most competitive country);
- in most cases such a high ranking has been consistently achieved over many years;
- in a number of cases, its ranking has increased significantly in recent times (e.g. with respect to the efficiency of the legal framework firstly for settling disputes and secondly for challenging regulations, and to legal rights for borrowers and lenders).

	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>
Property Rights	11	11	15	13	10	16	18	13
Intellectual Property Protection	19	16	16	15	10	15	19	14
Efficiency of Legal Framework in Settling Disputes			30	34	37	29	22	21
Efficiency of Legal Framework in Challenging Regulations			24	27	29	31	19	16
Legal Rights for Borrowers and Lenders	8	9	18	20	20	11	12	11

Source: World Economic Forum Global Competitiveness Reports

5.3 Foreign Direct Investment

Ireland's reliance on and success in attracting foreign direct investment (FDI), and the capital, employment, innovation, research and development, exports, tax revenue, skills development and other economic benefits it generates, is widely known and documented. The international evidence that underlines the important role played by public institutions, the judicial system and the efficiency of legal procedures as determinants of a country's FDI attractiveness, is also both developed and detailed.

The reasons strong judicial systems and legal service sectors support FDI attractiveness are in many ways similar to their role in supporting wider economic activity. A very recent study summarised the arguments supported in the literature as follows:

“well-functioning judiciaries could guarantee security of property rights and contractual enforcement, in turn strengthening economic agents' incentives to save and invest, as well as entrepreneurship in a broader sense, not least by dissuading opportunistic behaviour and reducing transaction costs: this is likely to promote competition, innovation, and growth¹²”.

A 2005 study¹³ explored the linkages between political risk, institutions and foreign direct investment across 83 countries over 20 years, and found that government stability, the absence of internal conflict, basic democratic rights and ensuring law and order are highly significant determinants of foreign investment inflows. Another study, characterising the research consensus that had emerged, describes the role of the legal system thus:

“It is argued that the ideal legal system for attracting FDI is efficient. An inefficient legal system increases transaction costs by failing to provide cheap mechanisms for enforcing legal rights and obligations. Low transaction costs are ensured where a host state's laws are of good quality - that is, modern - and its courts and bureaucracies are provided with adequate infrastructure, and trained and properly compensated staff. Although their

¹² Lorenzani D, Lucidi F “The Economic Impact of Civil Justice Reforms”, European Economy Economic Papers 530, European Commission, September 2014

¹³ Busse M, Hefeker C, “Political Risk, Institutions and Foreign Direct Investment”, Hamburg Institute of International Economics, Discussion Paper 315, 2005

*implementation is likely to be constrained by financial considerations, these recommendations are not particularly contentious*¹⁴.

Another study examined the linkages between inward FDI flows and a range of “institutions” in host countries, and found that “public efficiency in a broad sense (is) a major determinant of inward FDI. This includes tax systems, easiness to create a company, lack of corruption, transparency, contract law, security of property rights, efficiency of justice and prudential standards”¹⁵.

While there are many determinants of Ireland’s specific success in attracting inward FDI, the role of its public institutions, of the judicial system and the efficiency and certainty it offers regarding the protection of rights and enforcement of contracts, is therefore important to recognise. A recent survey for example singled out the ease of doing business, intellectual property protections, and regulatory incentives for investors among a range of high-scoring factors underpinning decisions to locate in Ireland¹⁶.

Another survey undertaken by the Economist Intelligence Unit meanwhile ranked “legal and fiscal stability” second only to “access to EU markets” among 12 potential competitive advantages Ireland offers overseas investors¹⁷.

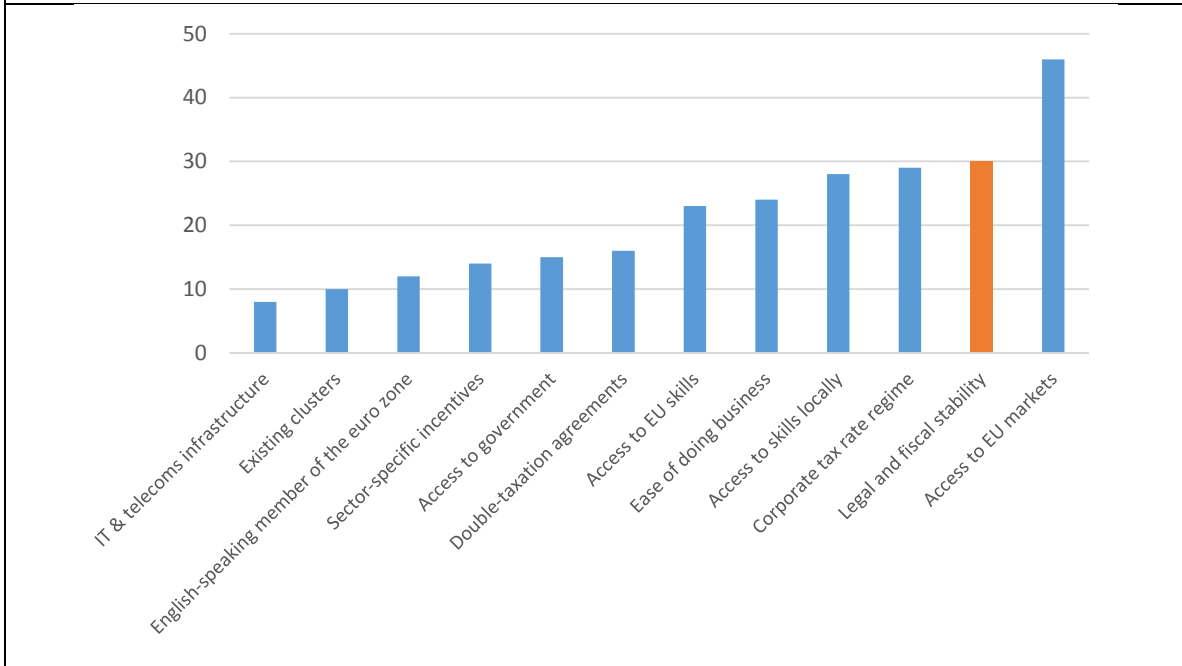
¹⁴ Perry, A, “An Ideal Legal System For Attracting Foreign Direct Investment? Some Theory And Reality”, American University International Law Review, 2000

¹⁵ Bénassy-Quéré A, Coupet M, Mayer T, “Institutional Determinants of Foreign Direct Investment”, CEPII, Working Paper No 2005-05

¹⁶ “Foreign Direct Investment in Ireland: Sustaining the Success”, Grant Thornton, July 2014

¹⁷ “Investing in Ireland. A Survey of Foreign Direct Investors” Economist Intelligence Unit, Sponsored by Matheson Ormsby Prentice, 2012

FIGURE 5.1 COMPETITIVE ADVANTAGES IRELAND OFFERS – SURVEY OF 315 GLOBAL CURRENT OR PROSPECTIVE INVESTORS IN IRELAND - % OF TOTAL RESPONSES



Source: EIU: Investing in Ireland - A survey of foreign direct investors

6. Conclusions

The solicitors' profession has and continues to make a real and substantive contribution to the Irish economy, both directly through its commercial activities, employment, and value added, but also and perhaps more importantly indirectly. It does this through its role in ensuring education about, access to, and security and assurance from an efficient and effective judicial system which supports the protection of property and other commercial rights, and facilitates the reliable enforcement of contracts. Such institutional attributes are ones on which all national economic activity, growth and prosperity depend.

The profession is neither sheltered nor protected from wider economic trends, conditions and sentiments, and has experienced declining demand, fee pressure, cost increases and reduced profitability just as have other service sectors operating in a recessionary economy. As with other sectors, it is also a heterogeneous combination of different operators and practitioners, different firms of different sizes, with different specialisms, client bases and geographical reaches, all of which experience economic conditions differently and with different degrees of success.

With the initial and tentative signs of economic recovery now evident, prospects for the solicitors' profession are beginning to improve, although significant challenges remain, including:

- gaining a level of operational stability after continuous market decline will be a priority for many practitioners and firms;
- after years of employment decline and loss of people, ensuring skills, competences and resources are in place to service emerging growth areas will be an important challenge;
- returning to profitability following years of more basic survival will remain an important challenge for many firms, particularly where a recovery in market conditions is not reflected in recovering or improving fee rates;
- replacing lost business through diversifying service offerings and identifying new market opportunities will hold a key to success for many firms;
- controlling and minimising costs, for example through the development of new types of operating models or through greater amalgamation so as to achieve scale economies and efficiencies is also a significant challenge for many parts of the profession.

A key challenge is to improve the public's knowledge and appreciation of the work of solicitors and the reality regarding a sector too often inaccurately perceived as protected, universally profitable, uncompetitive, and immune from normal market forces. Such perceptions remain for various reasons including poor communication, poor data (and no local data), data that is rarely clarified or challenged, and genuine complexities regarding the nature of legal work that don't lend

themselves to simple generalisations about practitioners or the profession in aggregate. The Law Society has an important role to play in addressing this key challenge, and this report is an important step in its response.