



Quarterly report

**Australian Small Business and
Family Enterprise Ombudsman
Quarter 4 – 2017**

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The highlights of 2017 included improved payment times, fairer small business loan contracts, lower penalty rates and a small business friendly budget.

Major issues on our agenda for 2018 include simplifying workplace relations, streamlining red tape, promoting small business in government procurement and access to justice.

As part of its response to my inquiry into payment times and practices, the Government announced reduced payment times of 20 calendar days for small business. It will make a significant difference to cashflow and investment for businesses that deal directly with the Commonwealth. I'm urging State Governments and big business to follow this positive example and still encouraging the Government to look at transferring this down through its procurement supply chains so small businesses can also indirectly benefit.

ASBFEO established the National Payment Transparency Register in December. The register provides an opportunity for big businesses to report and promote their payment performance. As the database builds, small business operators will be able to compare information and report inconsistencies with the terms on the register. I'm pleased to announce that some of Australia's biggest companies have dropped their payment times for small businesses.

Following my Small Business Loans Inquiry we have seen some positive steps from the big 4 banks in addressing unfair contract terms, timeframes and Code of Banking Practice. The introduction of the Australian Financial Complaints Authority (AFCA) is also welcome, but this does not address access to justice for past cases. I look forward to ongoing interaction with the Fintech industry to improve small business outcomes on transparency and disclosure.

My office has commenced an inquiry into access to justice for small business. Phase one is a research project where will examine best practice in other countries, consult with stakeholders and invite submissions before releasing a report for discussion around the middle of the year.

Our initiative to bring together 27 small business representative organisations in a policy forum to identify the core issues will continue to progress in the first quarter of 2018. We will also be establishing a Small Business Hub in our Canberra office for relevant organisations to use as a base when visiting the capital.

Kate Carnell AO
Australian Small Business and Family Enterprise Ombudsman

Summary of recent key activities

Outreach

- The Office launched a YouTube video series featuring the Ombudsman discussing hot topics and a small business tip of the week to viewers.
- Media interviews on topics including: banking code of conduct, access to finance and justice, National Payment Transparency Register, government procurement, penalty rates, energy costs, payment times for contractors, Fintech, government-backed business bank model.

Advocacy

- The year saw cultural change regarding small business issues including improved loan contracts by some banks and improved payment times by some larger businesses to their small business suppliers.
- We launched the National Payment Transparency Register in December 2017 following the Payment times Inquiry earlier in 2017.
- The National Strategy Group continued work to streamline red tape for small businesses and share information and resources.
- The Policy Forum working groups identified core issues impacting small business.
- We made cybersecurity a priority and released a useful guide for small business to reference for risk awareness.

Assistance

- 711 contacts received during the quarter (in addition to contact made directly to the Advocacy function).
- The majority of contacts (517) were requests for assistance with resolving disputes.
- Payment, contract, financial services provider and general business-to-business disputes dominate the requests for assistance.

Next Steps

Outreach

A grassroots marketing strategy is being developed to connect the ASBFEO with small business and family enterprise owners across Australia. We will grow our social media engagement on Facebook, Twitter, LinkedIn and YouTube through proactive posting and reposting/retweeting of relevant information or current issues affecting the small business sector.

We have launched an Access to Justice inquiry. In the first phase we will survey small businesses to identify what they consider is a problem or a dispute and what they do to resolve the problem or dispute.

Advocacy

We are continuing our work investigating and promoting small business interests from participating in government procurement.

The Policy Forum will issue a series of educational updates on mitigating rising energy costs, steps to digitise your business, protecting your business from cyber attacks, and how to work out the best plan to maximise access to the NBN.

We will continue to work with industry to remove unfair contract terms from standard form contracts in line with unfair contract terms legislation for small business.

We have refined and improved the dispute resolution information and tools available to small business through www.asbfeo.gov.au to provide targeted guidance on disputes.

Assistance

ASBFEO recently published its first refusal to participate in mediation, which was published on our social media platforms as well as in two relevant trade magazines.

We are in the final stages of establishing a list of the nation's premier dispute resolution specialists to conduct alternative dispute resolution (ADR) under our legislation, and work with us to help keep small businesses out of the courts. Our Office referred 26 disputes to ADR providers this quarter.

Outreach: Speaking up for—and reaching out to—small business

Awareness and Education

The Ombudsman continued engagement activities with the community, providing keynote addresses and contributing in panel discussions to explain and promote the ASBFEO's role in assisting and advocating on behalf of small business and family enterprise.

The Ombudsman promoted the Office at 25 Government and external events across Australia and provided insights into challenges faced by the small business sector and solutions to these issues.

The major issues small business operators raised with the Ombudsman were around access to finance, payment times, access to justice and cyber security.

The Ombudsman attended 11 meetings with the Government on behalf of small business and family enterprise; gave 14 speeches during panel and guest speaking roles; and had over 65 media mentions (radio, TV and print).

Keynote Appearances



Kate Carnell AO congratulates Canberra business, AMS Australia, on successful growth and innovation.
8 November 2017



The Ombudsman met with the State Small Business Commissioners.
16 November 2017

Social media stats

1 October – 31 December 2017



1,180 likes
81 posts
406 engagements
(reactions, comments, shares)



874 followers
79 tweets
554 engagements
(quotes, retweets, likes, replies)

Communication Channels



A total of 1,956 newsletter subscribers.



The Ombudsman and ASBFEO office were quoted over 70 times across all media channels.



The Ombudsman's LinkedIn connections grew to 6,706.



Distributed 19 media releases this quarter.



This financial year, we've had 29,321 visits to the ASBFEO website.

Advocacy : Providing a voice for small business on policy issues

National Transparency Register



- The National Payment Transparency Register launched on 14 December 2017. A recommendation stemming from the Payment Times Inquiry, the register has 11 initial signatories covering a broad spectrum of industries, with multiple prospective businesses close to joining.
- The register captures the payment time practices that businesses have pledged to their small business suppliers allowing suppliers to quickly assess working capital impacts before entering new agreements. It also provides an opportunity for these businesses to promote their commitment to best practice payment time terms.
- This is the first version of the register; it will be developed and expanded in subsequent iterations.

Access to Justice

The Access to Justice Inquiry was launched to gain a better understanding of small business disputes.

The first phase is to collect information and update existing data through;

- a. A survey of small businesses; and
- b. Consultations with external experts, governments, academics and industry.

Fintechs

A year of research and consultations led to the Fintech Roundtable in December 2017 where leading representatives agreed on a communique with **six pillars of industry self-regulation**.

This includes an Industry Code of Conduct or Charter, compliance with unfair contracts legislation, internal and external dispute resolution, standard comparative metrics and tools to improve transparency and disclosure to small business borrowers.

Policy Forum and National Strategy Group

- Following an ASBFEO webinar in August 2017, a total of 27 industry associations were invited to participate in an ongoing policy forum. Seven core issues were identified, working groups established and the collection and analysis of case studies from around Australia commenced.
- The National Strategy Group (NSG) held its second meeting and includes members representing all small business commissioners and representatives from Queensland and NT government.
- The NSG implemented information sharing regarding energy cost saving for small business, red tape reduction around the 'Easy to do Business' Initiative and all members raised awareness for family enterprises regarding the rule against perpetuities for family trusts.

Unfair Contract Terms



- The office worked successfully with ASIC to raise awareness of the unfair contracts legislation and its application to small business in the context of small business loans from banks and Fintechs.
- We liaised with the ACCC on implementation of unfair contract terms legislation including investigations and referrals.
- The assistance team successfully negotiated issues for small business impacted by unfair contract terms.

Government procurement



Government has a range of policies to increase opportunities for small to medium enterprises. Their participation is primarily as a subcontractor.



We are undertaking research into practices along the supply chain to ensure the expected economic uplift can be realised by small businesses.

Assistance



East Coast states are the main source for ASBFEO contacts


NSW, Queensland and Victoria represent the vast majority of contacts

Queensland	212
New South Wales	151
Victoria	117
Western Australia	71
South Australia	50
Australia Capital Territory	46
Tasmania	29
Northern Territory	10
Other	25

Small business owners and individuals constitute the bulk of contact with the Ombudsman

Of the 711 contacts to the Ombudsman in this reporting period, the vast majority (513) were from small businesses (e.g. companies). Another 147 contacts identified as 'sole trader' businesses.

These trends are consistent with the previous reporting period.

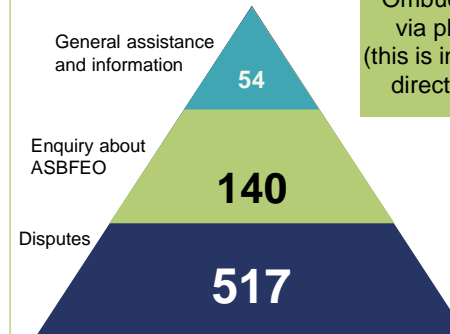
	Total	711
	Small business	513
	Sole traders	147
	General	51

Business to business disputes continue as the majority of disputes referred to the Ombudsman

In the reporting period, the Ombudsman received 517 contacts requesting help with resolving disputes.

Of these requests, the vast majority (474) of requests related to business to business disputes. Business to government disputes represented the next highest category of disputes (21 requests).

Disputes continue to dominate contacts to the Ombudsman



During the reporting period, the Ombudsman received 711 contacts via phone, email and web inquiry (this is in addition to the contacts made directly to the Advocacy function).



Resolution Pathways:

Referred to State Small Business Commissioners	30%
Necessary information provided	21%
Referred to appropriate agency	20%
Resolved/ referred to mediation	17%
In progress with ASBFEO	12%

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Other Useful Contacts**NSW Small Business Commissioner**

T 1300 795 534
E we.assist@smallbusiness.nsw.gov.au

SA Small Business Commissioner

T 1800 072 722
E sasbc@sa.gov.au

VIC Small Business Commissioner

T 138 722
E enquiries@vsbc.vic.gov.au

WA Small Business Commissioner

T 131 249
E info@smallbusiness.wa.gov.au

Australian Competition and Consumer Commission

T 1300 302 021
W www.accc.gov.au

Fair Work Ombudsman

T 1300 799 675
W www.fairwork.gov.au

Australian Securities and Investment Commission

T 1300 300 630
W www.asic.gov.au

Australian Taxation Office

T 13 72 26
W www.ato.gov.au