



Quarterly report

Australian Small Business and
Family Enterprise Ombudsman
Quarter 1 – 2018

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If the first three months of this year are anything to go by, 2018 is going to be a very busy year.

Early on we released the *Cyber Security Best Practice Guide* to help small business operators understand the risks of and how to prevent cyber attacks, and reminded small businesses to prepare for the mandatory data breach reporting laws that came into effect in February.

On the anniversary of our second year of operation, we announced the additional signatories to our National Payment Transparency Register, which promotes businesses that pay their suppliers in less than 30 days.

We are pleased with our ongoing engagement with the fintech industry, bringing these lenders together to identify steps to allow an easy comparison of products and to ensure loan agreement contracts comply with the unfair contract terms legislation. The report released in February identifies a number of action items, which are due by June 2018.

We welcomed and continue to watch with interest the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry; the third phase of which will look at small business issues.

The dispute resolution information and tools available to small business through our website have been refined and improved to provide more targeted guidance on disputes. The number of dispute contacts continues to grow and the majority of these are resolved.

We have mapped out an ambitious program for 2018 and will continue to elevate small business issues on the national policy agenda.

Kate Carnell AO
Australian Small Business and Family Enterprise Ombudsman

Summary of recent key activities

OUTREACH

- Media appearances included SKY News Business, The Drum, A Current Affair, SKY The Enterprise, Matter of Fact with Stan Grant, David Koch's Business Builders, and media interviews on access to justice, small business loans, phoenixing, Amazon, digital reporting, data hacking, International Women's Day, fintechs, franchising, unfair contract terms, late payments.
- Dispute resolution case studies and small business success stories were published online and promoted via social media.

ADVOCACY

- New, fairer, loan contracts are in use by ANZ and NAB . This follows our review, with ASIC, of loan contracts against the unfair contract terms legislation. At 31 March, CBA and Westpac were still to comply. We also welcome the release of ASIC's report , *Unfair contract terms and small business loans*.
- The Policy Forum is developing tip sheets for small business covering broadband, energy costs and managing disputes.
- We continue to add signatories to the National Payment Transparency Register following its launch in December 2017.
- Phase one of the Access to Justice Inquiry commenced. A survey is underway to identify why or why not a small business will seek resolution for a dispute.

ASSISTANCE

- Assistance received 801 contacts during the quarter (in addition to contact made directly to the Advocacy function).
- The vast majority of contacts (735) were requests for assistance with resolving disputes.
- Payment, contract, financial services provider, leasing, liquidation, phoenixing, government infrastructure dominate the requests for assistance. alongside general business-to-business disputes.

Outreach : Spreading awareness of ASBFEO

Awareness and Education

The start of 2018 marked the beginning of a busy year for the ASBFEO. The Ombudsman has attended 18 meetings with government on behalf of small business and family enterprise; delivered 10 speeches in panel and keynote roles; and had over 90 media mentions (radio, TV, print and online).

The Ombudsman's personal Twitter and LinkedIn accounts are used for opinion pieces and topic-specific columns. Our social media accounts continue to rise in followers/connections, spiking after media notifications and Ombudsman appearances.

In the coming quarter, we will update ASBFEO's Social Media Strategy, further promote our YouTube channel to gain more subscribers, refresh the structure of our website, and distribute updated collateral, including new brochures and the Advocacy Agenda 2018 flyer.

Communication Channels



A total of 2,425 newsletter subscribers, with an average open rate of 25.9%.



The Ombudsman was mentioned more than 90 times via media channels.



Distributed 21 media releases with an average open rate of 25%.



This financial year, we've had 59,667 visits to the ASBFEO website.

Social media stats

1 January – 31 March 2018



1,312 likes
43 posts
214 engagements
(reactions, comments, shares)



1,522 followers
124 tweets
579 engagements
(quotes, retweets, likes, replies)



30 subscribers
5 videos



7,500+ connections
5 posts

Key Events & Appearances



Ombudsman with COBA Chair, Wendy Machin after presenting at a forum in March 2018.



Minister Laundy at the Small Business Commissioners' meeting on 16 March 2018.

Advocacy : Providing a voice on policy and legislation

Fintech lending to SMEs



- The report, *Fintech lending to small and medium-sized enterprises*, was released in February, outlining the steps taken by fintech lenders to increase transparency and disclosure, and become a trusted alternative source of finance.
- The report makes recommendations on best practice and identifies action items, for release in June 2018.

SUBMISSION: ATO tax debt reporting

- Impacts credit rating, which impacts access to finance.
- What if ATO wrong, cannot borrow, cannot operate.
- Record must be removed when debt retired.

SUBMISSION: Comprehensive credit reporting

- Direct impact on credit rating of small business owners.
- No visibility of how used by credit reporting bureaus.
- Data without consent can lead to misunderstanding.

National collaborative strategies



- Consultations with our Policy Forum, comprising 27 industry associations, found an overwhelming need for the simplification of the workplace relations system; leading to the development of a position paper for release in April.
- The National Strategy Group shared learnings on ways to minimise business disruption caused by infrastructure projects, and identified increased issues for small businesses with the NDIS.

Access to Justice Inquiry



- A survey for small businesses, in consultation with other jurisdictions, was developed and implemented.
- The survey will identify what small business see as a problem and what they do to resolve these problems.

SUBMISSION: Open Banking



- Importance of accreditation for data transfer to allow competition.
- Complexity and imbalance of power with tiered risk based model.
- Complaints handling, ie, Australian Financial Complaints Authority.



Advocacy: Missed opportunities to reduce regulatory burden



The consequences of ASBFEO not providing input into proposed legislation include:

- Poor assumptions about small business conditions
- Inflexible compliance options
- Lack of transitional provisions
- Added cumulative burdens
- Added compliance costs
- Disincentives to growth and employment.

ASBFEO was not consulted on the Migration Amendment (Skilling Australians Fund) Bill 2017 and the Migration (Skilling Australians Fund) Charges Bill 2017.

The regulatory impact of this on small business is:

- business owners will have to pay an upfront training levy of up to \$8,000
- some required occupations are excluded from the new visa
- business owners will spend up to 80 hours filling out the paperwork
- the paperwork can take between seven and nine months to be processed
- business owners will just walk away if it is too hard.

ASBFEO was not consulted on the Small Business CGT Concessions – Treasury Laws Amendment (2018 Measures) Bill 2018.

The regulatory impact of this on small businesses is:

- the introduction of an alternative definition of small business led to an unjustified restriction on the number of small businesses that could benefit from the changes (\$2 million turnover – not ATO \$10 million)
- greater taxation complexity for small business
- added compliance costs.

Other ASBFEO Submissions

- Migration - Skilling Australians Fund
- Australian Dairy Industry Inquiry
- New model for procurement of legal services
- Improving Integrity of Small Business CGT Concessions
- Whistle-blower Protections



Assistance



**East Coast states
are the main source
for ASBFEO
contacts**

***NSW, Queensland and
Victoria represent the
majority of contacts***

Queensland	38%
New South Wales	24%
Victoria	18%
Australian Capital Territory	7%
South Australia	5%
Western Australia	4%
Tasmania	2%
Northern Territory	2%

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

Of the 735 requests for assistance to the Ombudsman in this reporting period, the vast majority (730) were from small business, family enterprise or identified as 'sole traders'. The very small number of other contacts were from large businesses. These trends are consistent with the previous reporting period.

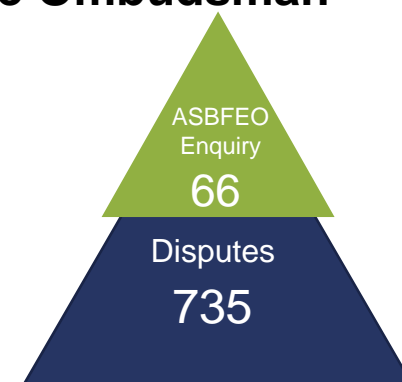
Of the 735 requests for assistance received, the vast majority (706) of requests related to business to business disputes.

Business to government disputes represented the next highest category of disputes (29 requests).

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

Disputes continue to dominate contacts with the Ombudsman

During the reporting period, the Ombudsman received 801 contacts via phone, email and web inquiry (this is in addition to the contacts made directly to the Advocacy function).



Resolution Pathways:

Referred to appropriate agency	32%
Necessary information provided	29%
Referred to State Small Business Commissioners	23%
In progress with ASBFEO	10%
Resolved / referred to mediation	6%

Next Steps

Outreach

- The revitalised Small Business Communications-Media Network will meet in May to discuss issues and activities (includes Australian Taxation Office, Fair Work Ombudsman, Family Business Australia, Small Business Commissioners).
- The Small Business Hub will officially open next quarter.
- Active involvement in National Scams Awareness Week campaign, state/territory Small Business Weeks and joint Small Business Webinar with ATO, FWO, ASIC and ACCC.

Advocacy

- Submissions will be made to the Franchising Code of Conduct Inquiry and to the review of the Food and Grocery Code of Conduct.
- The Access to Justice Inquiry survey results will be reviewed. An online version of the survey will be placed on our web site.
- The Affordable Capital for SME Growth Inquiry was launched this month. Reviews and consultations are underway.
- We will monitor progress by the fintech industry on the commitments made in December 2017.
- With the Business Council of Australia we will determine the terms of reference to review the effectiveness of Australian Supplier Payment Code.
- We will seek to develop a online, interactive, version of our National Payment Transparency Register.

Assistance

- We have shortlisted 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. We are currently entering agreements to engage the specialists. Our office referred five disputes to ADR providers this quarter.
- We are working with the CDPP to ensure an efficient and effective process to enforce and take action for breaches of statutory notices.
- We have recently advertised for Assistance Case Managers and will be commencing a recruitment process shortly.

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Other Useful Contacts**NSW Small Business Commissioner**

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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